

Hemalatha vs Devappa Naik

Hemalatha vs Devappa Naik

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Court : Kerala Orders

Decided On : May-30-2022

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : AS/312/1997

Appellant : Hemalatha

Respondent : Devappa Naik

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
MONDAY, THE 30TH DAY OF MAY 2022 / 9TH JYAISHTA, 1944 AS
NO. 312 OF 1997 AGAINST THE DECREE AND JUDGMENT DATED
31-10-1996 IN OS APPELLANT(2nd DEFENDANT) : HEMALATHA,
D/O. UMMAKKE AND W/O. SOMANATHA NAIK, RESIDING AT
BALLIMOGARU, KUDLU VILLAGE, KASARAGOD TALUK, P.O.
KUDLU. BY ADVS. SRI.D.KRISHNA PRASAD SRI.M.HARISHARMA
SRI.JOJI VARGHESE RESPONDENT (PLAINTIFFS & DEFENDANTS 1
AND 4 TO 21) :

1 DEVAPPA NAIK (DIED) S/O SUBBU HENGUSU, RESIDING AT
BANABATTU, KUDLU VILLAGE, P.O. KUDLU, KASARAGOD TALUK

AND DISTRICT. 2 RAJEEVI, S/O. SUBBU HENGUSU, RESIDING AT ADKATHBAIL VILLAGE, P.O. KASARAGOD, KASARAGOD TALUK AND DISTRICT. 3 RAJU NAIK, S/O. SUBBU HENGUSU, RESIDING AT AJAYANAGAR, NEAR VIVEKANANDA COLLEGE, PADNUR VILLAGE AND POST, PUTTUR TALUK, DAKSHINA KANNADA DISTRICT, KARNATAKA STATE. A.S Nos.312 of 1997 & 676 of 1998 2 *4 MANAKKE (DIED) W/O AITHAPPA NAIK, RESIDING AT BALARKODE, KUDLU VILLAGE, KASARAGOD TALUK AND DISTRICT,P.O.KUDLU. * (IT IS RECORDED THAT THE 4TH RESPONDENT IN THE APPEAL IS DEAD AND RESPONDENTS 13 AND 14 ARE RECORDED AS HER LEGAL REPRESENTATIVES AS PER

ORDER DATED 2.2.2000 IN MEMO DATED 23.1.98 WITH

CF NO.1281/98. 5 KALYANI, W/O. BANTAPPA NAIK, RESIDING AT RAMANAGAR, BIKARNAKATTE MANGALORE TOWN VILLAGE, MANGALORE TALUK, P.O.BIKARNNAKATTE D.K. DISTRICT, KARNATAKA STATE. 6 SARASWATHI, D/O. BANTAPPA NAIK, RESIDING AT RAMANAGAR, BIKARNAKATTE MANGALORE TOWN VILLAGE, MANGALORE TALUK, P.O.BIKARNNAKATTE D.K. DISTRICT, KARNATAKA STATE. 7 BABY, W/O SUBBAPPA NAIK, RESIDING AT YERIKALA, MADHUR VILLAGE, P.O.MADHUR, KASARAGOD TALUK AND DISTRICT. 8 MOHANA, S/O. BANTAPPA NAIK, RESIDING AT RAMANAGAR, BIKARNAKATTE MANGALORE TOWN VILLAGE, MANGALORE TALUK, P.O.BIKARNNAKATTE D.K. DISTRICT, KARNATAKA STATE. 9 HEMAVATHI, D/O AKKU HENGUSU, RESIDING AT BARAKE, MANNAGUDDE, MANGALORE TOWN AND VILLAGE, MANGALORE TALUK, MANGALORE-3, D.K.,KARNATAKA STATE. 10 SEETHAMMA (DIED), W/O BABU NAIK, RESIDING AT SOORLU, NEAR SHANGARAGURI, KUDLU VILLAGE, P.O.RAMADASNAGAR, KASARAGOD TALUK & DISTRICT.

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11 BHAVANI, W/O. SESAPPA, RESIDING AT MARA, PUTTUR VILLAGE AND POST, PUTTUR TALUK, DAKSHINA KANNADA DISTRICT, KARNATAKA STATE. 12 MALLINGA NAIK (DIED), S/O. AKKU HENGUSU, RESIDING AT KOLLAMBADY, KASARAGOD KASBA VILLAGE, P.O.KASARAGOD, KASARAGOD TALUK AND DISTRICT. 13 SARASWATHI, W/O KRISHNA NAIK, RESIDING AT BULARKODU, KUDLU VILLAGE, KASARAGOD TALUK, P.O. KUDLU. 14 CHANDRAVATHI, D/O. KRISHNA NAIK, RESIDING AT BULARKODU, KUDLU VILLAGE, KASARAGOD TALUK, P.O. KUDLU. 15 JANARDHANA D. NAIK, S/O DOOMANNA NAIK, RESIDING AT KALLANGANDI HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR. 16 CHANDRAKANTHA D. NAIK, S/O.DOOMANNA NAIK, RESIDING AT KALLANGANDI HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR. 17 LALITHA D. NAIK, D/O.DOOMANNA NAIK, RESIDING AT POOKARE HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR. *18 MANOHAR D. NAIK, S/O.DOOMANNA NAIK, RESIDING AT KALLANGANDI HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR. *(IT IS RECORDED THAT THE 18TH RESPONDENT IN THE APPEAL IS DEAD. RESPONDENTS 19 TO 22 ARE RECORDED AS THE LEGAL REPRESENTATIVES OF THE DECEASED RESPONDENT AS PER ORDER DATED 2.2.2000 IN MEMO DATED 23.1.1998 WITH C.F.NO.1280/98.)

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19 SAROJINI, W/O MANOHARA D.NAIK, RESIDING AT KALYARGODI HOUSE, KUDLU VILLAGE, P.O.RAMADASNAGAR, KASARAGOD. 20 NANDAKUMAR (DIED), S/O. MANOHARA D.NAIK, RESIDING AT KALYARGODI HOUSE, KUDLU VILLAGE, P.O.RAMADASNAGAR, KASARAGOD. 21 NITHIN, S/O. MANOHARA D.NAIK, RESIDING AT KALYARGODI HOUSE, KUDLU VILLAGE, P.O.RAMADASNAGAR,

KASARAGOD. 22 CHANDUKUMAR, S/O. MANOHARA D.NAIK, RESIDING AT KALYARGODI HOUSE, KUDLU VILLAGE, P.O.RAMADASNAGAR, KASARAGOD.

ADDITIONAL R23 TO 36 SOUGHT TO BE IMPLEADED 23 RATNA, D/O.SEETHAMMA AND W/O.KAMALAKSHA, RESIDING AT GANGA CROZZ ROAD, RAMDASNAGAR P.O., KASARGOD-671 125. 24 SUNITHA, D/O.SEETHAMMA, RESIDING AT GANGA CROZZ ROAD, RAMDASNAGAR P.O., KASARGOD-671 125. 25 SHYAM SUDER, S/O.SEETHAMMA AND W/O KAMALAKSHA, RESIDING AT GANGA CROZZ ROAD, RAMDASNAGAR P.O., KASARGOD-671 125. 26 POORNIMA, D/O.SEETHAMMA, RESIDING AT GANGA CROZZ ROAD, RAMDASNAGAR P.O., KASARGOD-671 125. ADDITIONAL RESPONDENTS 23 TO 26 ARE IMPLEADED AS THELEGAL HEIRS OF DECEASED 10TH RESPONDENT VIDE

ORDER DATED 11-3-2022 IN I.A NO.13 OF 2009.

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27 YAMUNA, W/O.DEVAPPA NAIK, BANA BETTU HOUSE, KORUVOIL KUDLU- 671 124, KASARAGOD. 28 RAMA NAIK, S/O.LATE DEVAPPA NAIK, POOKARE HOUSE, KUDLU- 671 124, KASARAGOD. 29 ASHOKA, S/O.LATE DEVAPA NAIK, GANGA ROAD, R.D.NAGAR, KUDLU, KASARAGOD DISTRICT 671125. 30 RAVI, S/O.LATE DEVAPPA NAIK, ABHAYA ROAD, THALIPADAPPU - 671121, KASARAGOD. 31 PUSHPAVATHI, W/O.KRISHNA NAIK, ONITHOR HOUSE, KOKKADA, BELTHANGADI TALUK, DISTRICT KASARGOD 32 GIRISH NAIK, S/O.LATE DEVAPPA NAIK, BANA BETTU HOUSE, KORUVOIL KUDLU 671 124. ADDITIONAL RESPONDENTS 27 TO 32 ARE IMPLEADED AS THE LEGAL HEIRS OF DECEASED 1ST RESPONDENT VIDE

ORDER DATED 11-3-2022 IN I.A NO.12 OF 2011.

33 SAROJINI, W/O. MAHALINGA NAIK, KOLAMBADI HOUSE, KASARAGOD- 671 121. 34 NAVEEN, S/O. MAHALINGA NAIK, KOLAMBADI HOUSE, KASARAGOD- 671 121 35 DEEPA, D/O. MAHALINGA NAIK, KOLAMBADI HOUSE, KASARAGOD- 671 121 ADDITIONAL RESPONDENTS 33 TO 35 ARE IMPEADED AS THE LEGAL HEIRS OF DECEASED 12TH RESPONDENT VIDE

ORDER DATED 11-3-2022 IN I.A NO. 10 OF 2011.

A.S Nos.312 of 1997 & 676 of 1998 6 36 AMBA, W/O. MANOHARA D. NAIK, RESIDING AT KALYARGADI HOUSE, KUDLU VILLAGE, RAMDASNAGAR P.O., KASARAGOD- 671 121. R21 & R22 ARE RECORDED AND ADDITIONAL 36 IS IMPEADED AS THE LEGAL HEIRS OF DECEASED 20TH RESPONDENT VIDE ORDER DATED 11-03-2022 IN I.A NO.5 OF 2015. BY ADVS. SRI.P.SHRIHARI FOR R13 SRI.R.SURENDRAN FOR R14 SRI.A.P.CHANDRASEKHARAN FOR R14 SMT.P.VANI FOR R13 SRI.KODOTH PUSHPARAJAN FOR R14. THIS APPEAL SUITS HAVING BEEN FINALLY HEARD ON 30.05.2022, ALONG WITH AS.676/1998, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN MONDAY, THE 30TH DAY OF MAY 2022 / 9TH JYAISHTA, 1944 AS NO. 676 OF 1998 AGAINST AS 17/1997 OF DISTRICT COURT, KASARAGOD. APPELLANT/4TH DEFENDANT : SMT.HEMALATHA, AGED 37 YEARS, W/O.SOMANATHA NAIK, AND D/O.UMMAKKE, HINDU, AGRICULTURIST, RESIDING AT BALLIMOGARU OF KUDLU VILLAGE, KASARAGOD TALUK, P.O.KUDLU. BY ADVS. SRI.D.KRISHNA PRASAD SRI.JOJI VARGHESE RESPONDENT (PLAINTIFF/D2, D6 TO 8, 10 TO 13, 15 TO 20, 22 TO 25 :

1 CHANDRAVATHI, AGED ABOUT 25 YEARS, D/O.KRISHNA NAIK, HINDU, CULTIVATOR, RESIDING AT BULARKODU IN KUDLU

VILLAGE, KASARAGOD TALUK, P.O.KULDU 2 SARASWATHI, AGED ABOUT 48 YEARS, WIDOW OF KRISHNA NAIK, HINDU, CULTIVATOR, RESIDING AT BULARKODU IN KUDLU VILLAGE, KASARAGOD TALUK, P.O.KUDLU. 3 KALLAYANI, AGED ABOUT 53 YEARS, WIDOW OF BANTAPPA NAIK, HINDU, HOUSEHOLD, RESIDING AT RAMANGAR, BIKARNAKATTE, MANGALORE, MANGALORE TALUK, KARNATAKA STATE (D.K).

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4 SARASWATHI, AGED ABOUT 35 YEARS, WIFE OF KORAGA NAIK, HINDU, HOUSEHOLDER, RESIDING AT RAMANGAR, BIKARNAKATTE, MANGALORE, MANGALORE TALUK, KARNATAKA STATE (D.K). 5 BABY, AGED ABOUT 33 YEARS, WIFE OF SUBBAPPA, HINDU, HOUSEHOLD, RESIDING AT YERIKKALA IN MADHUR VILLAGE, KASARAGOD TALUK, P.O.MADHUR. 6 MOHANA, AGED 31 YEARS, SON OF BANTAPPA NAIK, HINDU, DRIVER, RESIDING AT RAMANAGAR, BIKARNAKATTO, MANGALORE, MANGALORE TALUK, KARNATAKA STATE(D.K). 7 HEMAVATHI,AGED ABOUT 40 YEARS, D/O.DECEASED AKKU HENGUSU AND WIFE OF NARAYANA SHETTY, HINDU, MERCHANT, RESIDING AT BARKE NEAR MANNAGUDDA, MANGALORE-3, MANGALORE TALUK, KARNATAKA STATE (D.K). 8 SEETHAMMA (DIED) AGED ABOUT 38 YEARS, WIFE OF BABU NAIK, HINDU, HOUSEHOLDER, RESIDING AT SOORLU, NEAR SHANKARAGURI IN KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR.(DIED) 9 BAVANI, AGED ABOUT 35 YEARS, WIFE OF SESAPPA NAIK, HINDU, HOUSEHOLD, RESIDING AT MURA OF PUTTUR KASABA VILLAGE, PUTTUR TALUK, KARNATAKA STATE (D.K). 10 MALINGA NAIK (DIED) AGED ABOUT 33 YEARS, SON OF DECEASED AKKU HENGUSU, HINDU, DRIVER, K.S.R.T.C, RESIDING AT KELLAMPADY, KASARAGOD KASABA VILLAGE, KASARAGOD TALUK. 11 DEVAPPA NAIK (DIED) AGED ABOUT 63

YEARS, SON OF SUBBU HENGUSU, HINDU, WORKER IN A SAW MILL AT BANABETTU, KUDLU VILLAGE, KASARAGOD TALUK, P.O.KUDLU.

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12 RAJEEVI, AGED ABOUT 58 YEARS, D/O.SUBBA HENGUSU, WIFE OF P.NARAYANA NAIK, HINDU, HOUSE HOLD, RESIDING AT ADKATHBAIL VILLAGE, KASARAGOD TALUK, P.O.KASARAGOD. 13 RAJU NAIK, AGED ABOUT 53 YEARS, SON OF SUBBU HENGUSU, HINDU, WORKING IN AGRICULTURAL DEPARTMENT, RESIDING NEAR VIVEKANANDA COLLEGE, PUTTUR TALUK, KARNATAKA STATE, P.O.PUTTUR (D.K). 14 JANARDHANA NAIK, AGED ABOUT 54 YEARS, SON OF DOOMA NAIK, HINDU, AGRICULTURIST, RESIDING AT KALLANGANDI HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR. 15 CHANDRAKANTHA NAIK, AGED ABOUT 51 YEARS, SON OF DOOMA NAIK, HINDU, AGRICULTURIST, RESIDING AT KALLANGANDI HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR. 16 LALITHA, AGED ABOUT 46 YEARS, D/O.DOOMA NAIK AND WIFE OF KRISHNA NAIK, HINDU, HOUSEHOLD, RESIDING AT POOKARE HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR. 17 SAROJINI, AGED ABOUT 38 YEARS, WIDOW OF MANOHARA, HINDU, HOUSEHOLD, RESIDING AT KALLANGANDI HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR. *18 NANDAKUMAR (DIED) AGED 10 YEARS *19 NITHIN, AGED 8 YEARS

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*20 CHANDU KUMAR, AGED 7 YEARS *(MINOR CHILD OF LATE MANCHARA HINDUS) RESIDING AT KALLANGANDI HOUSE, KUDLU VILLAGE, KASARAGOD TALUK, P.O.RAMADASNAGAR, REPRESENTED BY THEIR GUARDIAN ADVOCATE SRI.RAVINDRAN

NAMBIAR, KASARAGOD. 21 RATNA, D/O SEETHAMMA AND W/O KAMALAKSHA, REISDING AT GANGA CROZZ ROAD, RAMDASNAGAR PO, KASARGOD - 671125. 22 SUNITHA, D/O SEETHAMMA, REISDING AT GANGA CROZZ ROAD, RAMDASNAGAR PO, KASARGOD - 671125. 23 SHYAM SUNDER, S/O SEETHAMMA AND W/O KAMALAKSHA, REISDING AT GANGA CROZZ ROAD, RAMDASNAGAR PO, KASARGOD - 671125. 24 POORNIMA, D/O SEETHAMMA, REISDING AT GANGA CROZZ ROAD, RAMDASNAGAR PO, KASARGOD - 671125.

ADDITIONAL R21 TO R24 ARE IMPEADED AS THE LEGAL HEIRS OF DECEASED R8 VIDE ORDER DATED 11-3-2022 IN I.A NO.13 OF 2009. 25 SAROJINI, W/O MAHALINGA NAIR, KOLLAMBADI HOUSE, KASARGOD - 671121. 26 NAVEEN S/O MAHALINGA NAIR, KOLLAMBADI HOUSE, KASARGOD - 671121. A.S Nos.312 of 1997 & 676 of 1998 11 27 DEEPA, W/O CHANDRASHEKER, BEERANTHOLI, BHOOOTHANGODI HOUSE, KASARGOD - 671121. ADDITIONAL R25 TO R27 ARE IMPEADED AS THE LEGAL HEIRS OF DECEASED R10 VIDE ORDER DATED 11-03- 2022 IN I.A NO.10 OF 2011.

28 YAMUNA, W/O DEVAPPA NAIK, BANA BETTU HOUSE, KORUVOIL KUDLU - 671124, KASARGOD. 29 ADDL.R29.RAMA NAIK, S/O LATE DEVAPPA NAIK,POOKARE HOUSE, KUDLU, 671124, KASARGOD. 30 ASHOKA, S/O LATE DEVAPPA NAIK, GANGE ROAD, RD NAGAR, KUDLU, KASARGOD DISTRICT - 671125. 31 RAVI, S/O LATE DEVAPPA NAIK, ABHAYA ROAD, THALIPADAPPU, 671121 KASARGOD. 32 PUSHPAVATHI, W/O KRISHNA NAIK, ONITHOR HOUSE, KOKKADA, BELTHANGADI TALUK, DISTRICT KASARGOD. 33 GIRISH NAIK, S/O LATE DEVAPPA NAIK, BANA BETTU HOUSE, KORUVOIL KUDLU 671124.

ADDITIONAL R28 TO R33 ARE IMPEADED AS THE LEGAL HEIRS OF DECEASED R11 VIDE ORDER DATED 11-3-2022 IN I.A NO.12 OF 2011. A.S Nos.312 of 1997 & 676 of 1998 12 *34 AMBA, W/O MANOHARA D NAIK, RESIDING AT KALYARGADI HOUSE, KUDLU VILLAGE, RAMDASNAGAR P.O.,

KASARGOD - 671 121. *R19 & R20 ARE RECORDED AND ADDITIONAL R34 IS IMPEADED AS THE LEGAL HEIRS OF DECEASED R18 VIDE ORDER DATED 11-03-2022 IN I.A NO.4 OF 2015. BY ADVS. SRI.R.SURENDRAN SRI.A.P.CHANDRASEKHARAN SR.FOR R1 SRI.A.DINESH RAO FOR ADDL.R21 TO R27 SMT.PRABHA R.MENON SRI.P.SHRIHARI SRI.R.SURENDRAN SRI.SUNIL SHANKER FOR R2 SMT.P.VANI THIS APPEAL SUITS HAVING BEEN FINALLY HEARD ON 30.05.2022, ALONG WITH AS.312/1997, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
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P.SOMARAJAN, J.

----- A.S Nos.312 of 1997 & 676 of 1998
----- Dated this the 30th day of May, 2022.

JUDGMENT

The learned counsel for the appellants sought permission to withdraw the appeals. Hence, permission granted. Both the appeals will stand dismissed as withdrawn.
Sd/- P. SOMARAJAN, JUDGE amk

P.SOMARAJAN, J.

----- A.S Nos.312 of 1997 & 676 of 1998 -----
Dated : 30-05-2022.

JUDGMENT

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