

E Umamahesha vs E Basavaraj

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Court : Karnataka

Decided On : Nov-03-2025

Judge : B M Shyam Prasad

Appeal No. : WP/31506/2025

Appellant : E Umamahesha

Respondent : E Basavaraj

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF NOVEMBER, 2025 BEFORE THE
HON'BLE MR. JUSTICE B M SHYAM PRASAD WRIT PETITION NO.
31506 OF 2025 (GM-CPC) C/W WRIT PETITION NO. 23236 OF 2025
(GM-CPC)

IN WP No. 31506/2025 BETWEEN: E UMAMAHESHA AGED ABOUT 58 YEARS,
R/AT K M ROAD AT POST KADUR - 577548 CHIKMAGALUR DISTRICT.
PETITIONER Digitally signed by (BY SRI. ONKARA K B.,ADVOCATE)
VANAMALA N AND: Location: HIGH COURT OF E BASAVARAJ KARNATAKA
S/O LATE ERA NAGAVBOVI SINCE DEAD BY LRS

1. UMADEVI W/O LATE E BASAVARAJ AGED ABOUT 55 YEARS -2-
2. ROOPASHREE D/O LATE E BASAVARAJ AGED ABOUT 30 YEARS
3. MURALIDHARA S/O E BASAVARAJ AGED ABOUT 24 YEARS
RESPONDENT NO.1 TO 3 ARE RESIDING AT 1ST FLOOR, OPP TO KIRAN
STORES 3RD MAIN, 13TH CROSS, VINOBHANAGAR, DAVANAGERE -
577004. E NAGARAJ SINCE DEAD BY LEGAL HEIRS
4. SMT. SARASWATHI W/O LATE E NAGARAJ AGED ABOUT 67 YEARS
5. SRI MANOJ S/O LATE E NAGARAJ AGED ABOUT 34 YEARS
6. SRI CHAITHRA D/O LATE E NAGARAJ AGED ABOUT 37 YEARS RES NO. 4
TO 6 ARE RESIDING AT WARD NO.129, 38TH MAIN, SHIRIDI SAI BABA ROAD
AMBEDKAR COLLEGE, NAGARABHAVI BENGALURU - 560072. -3-
7. E VINODH KUMAR AGED ABOUT 55 YEARS R/AT K M ROAD AT POST
KADUR - 577548 CHIKMAGALUR DISTRICT.
8. E MANJUNATHA AGED ABOUT 52 YEARS R/AT K M ROAD, AT POST
KADUR - 577548 CHIKMAGALUR DISTRICT. E CHANDRAMMA D/O LATE ERA
NAGABOVI SINCE DEAD BY LEGAL HEIRS
9. SMT. BHAGYA D/O LATE CHANDRAMMA AGED ABOUT 37 YEARS
10. SRI NANDA D/O LATE E CHANDRAMMA AGED ABOUT 35 YEARS
11. SMT. NALINA D/O LATE E CHANDRAMMA AGED ABOUT 33 YEARS
12. SMT. NITHYA D/O LATE E CHANDRAMMA AGED ABOUT 29 YEARS RES
NO.5 (A) TO (D) ARE RESIDING AT K M ROAD AT POST, KADUR - 577548 -4-
CHIKMAGALUR DISTRICT.
13. SMT. DHANALAKSHMI D/O ERA NAGABOVI W/O G PUTTARAJU AGED
ABOUT 54 YEARS R/O ANANTHARAMAIAH COMPOUND MYSORE ROAD
BANGALORE - 560018.

14. SMT. KRISHNA KUMARI D/O ERA NAGABOVI W/O S RAMESH AGED ABOUT 51 YEARS R/O BYATARAYANAPURA YELAHANKA MAIN ROAD BANGALORE - 560064.

15. E CHANDRASHEKAR 2ND DIVISION CLERK COMMERCIAL TAX OFFICE 17TH CIRCLE, 1ST MAIN GANDHINAGAR BANGALORE - 560009. RESPONDENTS THIS W.P. IS UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 02.07.2025 PASSED IN FDP NO. 4/2016 BY THE SENIOR CIVIL JUDGE AT KADUR REJECTING THE APPLICATION FILED BY THE PETITIONER UNDER ORDER VIII RULE 1(A) OF CIVIL -5-

PROCEDURE CODE SEEKING TO FILE LIST OF DOCUMENTS AS PER ANNEX-A; CONSEQUENTLY, ALLOW THE WRIT PETITION PERMITTING THE PETITIONER TO FILE OBJECTIONS AND LIST OF DOCUMENTS AS PRAYED FOR IN I.A.NO. 12 AS PER ANNEXURE-B IN FDP NO. 4/2016 FILED UNDER ORDER VIII RULE 1(A) OF CIVIL PROCEDURE CODE PENDING BEFORE THE SENIOR CIVIL JUDGE AT KADUR. IN WP NO. 23236/2025 BETWEEN: E UMAMAHESHA AGED ABOUT 46 YRS R/AT K.M.ROAD AT POST KADUR 577 548 CHIKMAGALUR DISTRICT. ...PETITIONER (BY SRI. ONKARA K B.,ADVOCATE) AND: E BASAVARAJ S/O LATE. ERA NAGABOVI SINCE DEAD BY LRS

1. UMADEVI W/O.LATE E. BASAVARAJ AGED ABOUT 55 YEARS -6-

2. ROOPASHREE D/O. LATE E.BASAVARAJ AGED ABOUT 30 YEARS

3. MURALIDHARA S/O.E.BASAVARAJ AGED ABOUT 24 YEARS RESPONDENT NO.1 TO 3 ARE R/AT 1ST FLOOR, OPP TO KIRAN STORES, 3RD MAIN, 13TH CROSS VINOBHANAGAR, DAVANGERE-577004. E NAGARAJ S/O LATE ERA NAGABOVI, SINCE DEAD BY LRS,

4. SMT.SARASWATHI.B.N. W/O LATE.E.NAGARAJ AGED ABOUT 67 YEARS.

5. SRI. MANOJ S/O LATE E. NAGARAJ AGED ABOUT 34 YEARS

6. SRI.CHAITHRA D/O LATE. E. NAGARAJ AGED ABOUT 37 YEARS. RES NO 4 TO 6 ARE RESIDING AT WARD NO. 129, 38TH MAIN, SHIRIDI SAI BABA ROAD AMBEDKAR COLLGE NAGARAABHAVI BENGALURU - 560 072. -7-

7. E VINODH KUMAR AGED ABOUT 55 YRS R/AT K.M.ROAD AT POST KADUR-577 548 CHIKMAGALUR DISTRICT.

8. E MANJUNATHA AGED ABOUT 52 YRS R/AT K.M.ROAD AT POST KADUR 577 548 CHIKMAGALUR DISTRICT. E CHANDRAMMA D/O LATE ERA NAGABOVI SINCE DEAD BY LEGAL HEIRS.

9. SMT. BHAGYA D/O LATE, CHANDRAMMA AGED ABOUT 37 YEARS.

10. SRI NANDA D/O LATE E CHADNRAMMA AGED ABOUT 35 YEARS

11. SMT.NALINA D/O LATE E CHANDRAMMA AGED ABOUT 33 YEARS

12. SMT.NITHYA D/O LATE E. CHANDRAMMA AGED ABOUT 29 YEARS RES NO.5 (A) TO (D) ARE R/AT K.M.ROAD AT POST, -8- KADUR 577 548 CHIKMAGALUR DISTRICT.

13. SMT DHANALAKXMI D/O ERA NAGABOVI W/O G PUTTARAJU AGED ABOUT 54 YRS R/O ANANTHARAMAIAH COMPOUND MYSORE ROAD, BANGALORE - 560 018.

14. SMT KRISHNA KUMARI D/O ERA NAGABOVI W/O S RAMESH AGED ABOUT 51 YRS R/O BYATARAYANAPURA YELAHANKA MAIN ROAD BANGALORE - 560 064.

15. B.S. CHANDRASHEKAR

2ND DIVISION CLERK COMMERCIAL TAX OFFICE, 17TH CIRCLE 1ST MAIN GANDHINAGAR, BANGALORE-560 009. ...RESPONDENTS THIS WP IS FILED UNDER ARTICLES 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT,

ORDER OR DIRECTION IN THE NATURE OF

CERTIORARI SETTING ASIDE THE IMPUGNED ORDER

DATED 02-07-2025 PASSED IN FDP NO. 4/2016 BY THE SENIOR CIVIL JUDGE AT KADUR REJECTING THE APPLICATIONS IA NO.11 AND IA NO.12 FILED BY THE PETITIONER UNDER SECTION 151 AND ORDER VIII -9- RULE 1 (A) OF CIVIL PROCEDURE CODE SEEKING TO FILE OBJECTIONS TO THE PETITION AND TO PRODUCE THE LIST OF A IN THE INTEREST OF DOCUMENTS AS PER ANNEXURE JUSTICE AND EQUITY;

(2) CONSEQUENTLY, ALLOW THE WRIT PETITION

PERMITTING THE PETITIONER TO FILE OBJECTIONS AND LIST OF DOCUMENTS AS PRAVED FOR IN I.A.NO.11 AND 12 AS PER ANNEXURE IN FDP NO. RULE 1 (A) OF CIVIL PROCEDURE CODE PENDING BEFORE THE SENIOR CIVIL JUDGE AT KADUR. THESE PETITIONS, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner is the third defendant in O.S.No.157/2001 on the file of the Civil Judge [Sr.Dn], Kadur [the civil Judge] which is decreed by the judgment and decree dated 22.12.2005 [Annexure-B] in part holding that the deceased plaintiff [now represented by the first to sixth respondents] will be entitled to one ninth share in the suit schedule properties dismissing the plaint as - 10 - against 'B' schedule property holding that the petitioner is the absolute owner thereof.

2. The petitioner's appeal as against this

judgment and decree in RFA No.598/2006 [PAR] is

disposed of by this Court on 03.02.2023 [Annexure- C]. The Court, insofar as the petitioner's case that he has borrowed huge loans and developed item Nos.6 and 7 of the plaint schedule 'A' properties, has observed thus: "However, since it is contended by Sri.E.Uma Mahesha that he had raised huge amounts of loan and had improved item Nos.6 and 7, it would be open for him to plead and prove this

fact before the Final decree Court and request that the repayment of the loan be taken into account, while dividing the properties." The final decree proceedings filed after the Civil Court's judgment and decree dated 22.12.2005 is continued for partition by metes and bounds. - 11 -

3. The petitioner, in terms of the liberty

reserved by this Court, has filed applications [IA Nos.11 and 12]. The petitioner's application in IA No.11 is for leave to file objections to the final decree petition and the application in IA No.12 is for leave to produce documents. The civil Court viz., the Senior Civil Judge, Kadur has disposed both these applications observing thus after adverting to the liberty reserved by this Court in the first appeal.

"In view of the aforesaid specific observations, it is open to the 2nd respondent to establish that he has raised huge amounts of loan and had improved item No.6 and 7 properties and it is also open for him to request this court that the repayment of loan to be taken into account while dividing the property. It is also observed that it is also open for the 2nd respondent to seek for allotment of item No.6 and 7 properties to his share, if he is able to establish that he had in-facts raised huge loans and improved the said properties. If the aforesaid specific findings are taken into consideration, the enlisted documents referred above are not at all relevant for the purpose of - 12 -

observations made by the Hon'ble High Court of Karnataka. Hence, this application is also devoid of merits and same is liable to be dismissed. Accordingly, the points No.1 and 2 under consideration are answered in the Negative."

4. Sri Onkara K.B., the learned counsel for

the petitioner, submits that the petitioner is indeed aggrieved by the civil Court's refusal to permit leave to file objections to the application for final decree but the petitioner's grievance would be redressed if this Court disposes of the petition observing that the petitioner's right to seek equity in terms of this Court's

observation based on the pleadings in the original proceedings is not prejudiced because of the observations by the civil Court.

5. As regards the leave to produce

documents, Sri Onkara K.B. submits that these documents are essentially the bank statement, a copy of sale deed, affidavit signed by the propositus and - 13 - loan documents. The learned counsel submits that these documents would demonstrate that the petitioner has expanded his own finances and also borrowed money to develop item Nos. 6 and 7 of the suit schedule 'A' property and therefore he is entitled to seek allotment of these properties exclusively to his share as observed by this Court.

6. The question of interference with the Civil Court's impugned order is examined in the light of these two submissions, and the questions are:

[a] Whether this Court must interfere in W.P.No.23236/2025 and permit the petitioner to file Objections to the Final Decree petition. [b] Whether this Court must interfere in W.P.No.31506/2025 and permit the petitioner to produce additional documents.

7. This Court must first observe that the

petitioner's right to prove his assertion that he has - 14 - availed loans to improve Item Nos.6 and 7 of the suit schedule 'A' property stands vindicated by this Court's order in RFA No.598/2006 [PAR]. Therefore, he must be at liberty to rely upon this Court's observation in this regard and also the pleadings, if any, in the original proceedings. Therefore, the petition in W.P.No.23236/2025 must be disposed of with such observation.

8. As regards the petitioner's grievance with

the Civil Court's decision to reject the application for leave to produce documents, this Court must observe that the Civil Court has considered none of the reasons assigned. This Court is of the view that the Civil Court should have examined the merits of the request in the light of the liberty reserved so that the petitioner's right

to seek allotment on the afore grounds is not rendered illusory. As such, the following: - 15 -

ORDER

[A] The writ petition in W.P.No.31506/2025 is allowed in-part

setting aside the Civil Courts' order

insofar as it rejects the petitioner's application [IA.12] for leave to produce documents restoring the application for consideration after due opportunity to the respondents, and [B] The petition in W.P.No.23236/2025 stands disposed of with the observation as aforesaid. Sd/- (B M SHYAM PRASAD) JUDGE SA ct:sr

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