**IN THE HIGH COURT OF KARNATAKA,**

**KALABURAGI BENCH**

**DATED THIS THE 5TH DAY OF FEBRUARY, 2025**

**BEFORE**

**THE HON'BLE MS JUSTICE J.M.KHAZI**

**REGULAR SECOND APPEAL NO.200367 OF 2017 (DEC/INJ)**

**BETWEEN:**

1. BOURAMMA
   W/O MALAKAPPA BENUR,
   AGE: 45 YEARS,
   OCC: H.H. WORK,
   R/O. LACHYAN NOW AT INDI.

…APPELLANT

(BY SMT. NEEVA M. CHIMKOD, ADVOCATE)

**AND:**

1. SHANTAPPA
   S/O TUKARAM WALIKAR,
   AGE: 65 YEARS,
   OCC: AGRICULTURE,
   R/O. INDI

2. RAVINDAR
   S/O JINADATTA DHANASHETTI
   AGE: 81 YEARS,
   OCC: BUSINESS & AGRICULTURE,
   R/O LACHAN IN INDI TALUKA

3. SIDDAPPA
   S/O RAMALING NIMBARAGI @
   RAMALING GURU YALLALING MUGALKHOD,

Digitally signed by SHIVALEELA DATTATRAYA UDAGI
Location: HIGH COURT OF KARNATAKA

AGE: 70 YEARS, OCC: AGRICULTURE,
R/O LACHNA IN INDI TALUK

4. GOURABAI
W/O SIDDAPPA TODAKAR
AGE: 60 YEARS,
OCC: H.H.WORK,
R/O KARAJAGI IN AKKALKOT TALUK

5. HANAMANTH
S/O RAMALING NIMBARAGI
@ RAMALING GURU YALLALING MUGALKHOD,
AGE: 55 YEARS,
OCC: AGRICULTURE,
R/O LACHAN IN INDI TALUK

6. SHAKUNTALA
W/O MALLAPPA HIREMAL @ MALI,
AGE: 50 YEARS,
OCC: H.H.WORK,
R/O LACHAN IN INDI TALUK

7. KASTURIBAI
D/O RAMALING NIMBARAGI @
RAMALING GURU YALLALING MUGALKHOD,
AGE: 48 YEARS,
OCC: H.H. WORK,
R/O ALOOR IN INDI TALUK

…RESPONDENTS

(BY SRI. HARSHAVARDHAN R. MALIPATIL, ADVOCATE FOR C/R1; SMT. RAJESHWARI MALLINATH, ADVOCATE FOR R3;
R2, R4 & R5 ARE SERVED
V/O DATED 16.07.2024 NOTICE TO R7 IS HELD SUFFICIENT;
APPEAL ABATED AGAINST DECEASED R6)

THIS REGULAR SECOND APPEAL IS FILED UNDER SECTION 100 OF CPC, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED:29.08.2017 PASSED IN R.A.NO.70/2013, ON THE FILE OF THE COURT OF I ADDITIONAL DISTRICT JUDGE AT VIJAYAPURA, AND CONFIRM THE JUDGMENT AND DECREE DATED:22.03.2013, PASSED IN O.S.NO.371/2007 ON THE FILE OF SENIOR CIVIL JUDGE INDI, AND ALLOW THE SECOND APPEAL FILED BY THE APPELLANT AND ALSO GRANT THE RELIEFS AS CLAIMED BY THE APPELLANT IN THE SUIT, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MS JUSTICE J.M.KHAZI

**ORAL JUDGMENT**

(PER: HON'BLE MS JUSTICE J.M.KHAZI)

Learned counsel for appellant and respondents are present.

On 25.07.2018, this appeal was dismissed for non-prosecution. I.A.Nos.1 and 2/2020 are filed for recalling the said order by condoning the delay. When notice on these applications were sent to respondent Nos.1 and 2

who are contesting respondents, they are returned unserved with an endorsement as respondent No.1 died on 17.07.2023 and respondent No.2 died on 13.04.2023. Despite the same, necessary steps have not been taken. Already appeal is abated so far as respondent Nos.1 and 2 are concerned and remaining respondents are formal parties.

In the light of the same, the appeal is dismissed as abated.

Sd/-
**(J.M.KHAZI)**
**JUDGE**

SDU
LIST NO.: 1 SL NO.: 21
CT: NI