NC: 2024:KHC-D:17981
MFA No. 100129 of 2023

**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 9TH DAY OF DECEMBER, 2024

**BEFORE
THE HON'BLE MR. JUSTICE C.M. POONACHA**

MISCELLANEOUS FIRST APPEAL NO.100129 OF 2023 (CPC)

BETWEEN:

THE KUDACHI DARGA ESTATE COMMITTEE,
REPRESENTED BY ITS CHAIRMAN,
SAHEBLAL S/O. GUDUSAB ROHILE,
AGE: 64 YEARS, OCC: AGRICULTURE,
R/O: KUDACHI – 591 311,
TQ: RAIBAG, DIST: BELAGAVI.

...APPELLANT

(BY SRI SHRIHARSH A. NEELOPANT, ADVOCATE)

AND:

1. RAVSAB RAJAGOUDA PAYAPARAPPA,
AGE: 54 YEARS, OCC: AGRICULTURE,
R/O: SHEDABAL – 591 315,
TQ: ATHANI, DIST: BELAGAVI.

2. SHRISHAIL HALAPPA GHALI,
AGE: 40 YEARS, OCC: AGRICULTURE,
R/O. SIRAGUR – 591 311,
TQ: RAIBAG, DIST: BELAGAVI.

3. BHARAMAPPA SHRIMANT PATIL,
AGE: 52 YEARS, OCC: AGRICULTURE,
R/O: GUNDAWAD – 591 311,
TQ: RAIBAG, DIST: BELAGAVI.

4. AJIT SHRIMANT PATIL,
AGE: 49 YEARS, OCC: AGRICULTURE,
R/O: GUNDAWAD – 591 311,
TQ: RAIBAG, DIST: BELAGAVI.

5. SMT. SAVITRIBAI W/O. SANGANABASAPPA JOGI,
AGE: 69 YEARS,
OCC: HOUSEHOLD AND AGRICULTURE,

Digitally signed by VISHAL NINGAPPA PATTIHAL
Location: High Court of Karnataka

R/O: NAGARAL – 591 247,
TQ: CHIKODI, DIST: BELAGAVI.

6. BALU S/O. BHARAMA HEGGANNAVAR,
AGE: 57 YEARS, OCC: AGRICULTURE,
R/O: NAGARAL – 591 247,
TQ: CHIKKODI, DIST: BELAGAVI.

7. VIJAYALAXMI W/O. BASAVARAJ ITI @ YETI,
AGE: 31 YEARS,
OCC: HOUSEHOLD AND AGRICULTURE,
R/O: NAGARAL – 591 247,
TQ: CHIKKODI, DIST: BELAGAVI.

9. SIDDAPPA S/O. BALU HEGGANNAVAR,
AGE: 26 YEARS, OCC: AGRICULTURE,
R/O. NAGARAL – 591 247,
TQ: CHIKKODI, DIST: BELAGAVI.

10. SANGAMESH S/O. BALU HEGGANNAVAR,
AGE: 26 YEARS, OCC: AGRICULTURE,
R/O: NAGARAL – 591 247,
TQ: CHIKKODI, DIST: BELAGAVI.

…RESPONDENTS

THIS MFA IS FILED U/O.43 RULE 1(d) OF THE CODE OF CIVIL PROCEDURE, PRAYING TO SET ASIDE IMPUGNED ORDER DTD 30.01.2018 PASSED IN C. MISC. NO. 06/2015 PASSED BY THE SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS RAIBAG AND RESTORE THE CIVIL MISC. NO. 06/2015 ON THE FILE OF SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS RAIBAG AND ALSO RESTORE THE SUIT BEARING OS NO. 70/2012 ON THE FILE OF SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS RAIBAG, AND ETC.,

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE C.M. POONACHA)

It is forthcoming that the present appeal is filed challenging the order dated 14.06.2017 passed in Civil Misc.No.6/2015 by the Senior Civil Judge and JMFC., Raibag[1] whereunder Civil Misc.No.6/2015 is filed under Order IX Rule 9 R/w Section 151 of the Code of Civil Procedure[2] to recall the order dated 28.01.2015 passed in O.S.No.70/2012.

2. It is forthcoming from the order dated 30.01.2018 passed in Civil Misc.No.6/2015 that the Trial Court has dismissed the petition for non-prosecution.

3. Having regard to the fact that the order dated 30.01.2018 is one wherein the petition has been dismissed for non-prosecution, the question of the appellant pointing out that the said order is erroneous does not arise.

[1] Hereinafter referred to as 'the Trial Court'

[2] Hereinafter referred to as 'CPC'

4. In view of the aforementioned, the appeal is disposed of reserving liberty to the appellant to avail such other remedies that are permissible under law.

Sd/-
(C.M. POONACHA)
JUDGE

SSP/CT-ASC
List No.: 1 Sl No.: 7