***THE HON'BLE SRI JUSTICE M.LAXMAN**

+ SECOND APPEAL Nos.935 AND 975 2016

% 14—09—2022

Kandula Guravaiah

…Appellant

vs.

$ Buddi Chandramouli

… Respondent

!Counsel for the Appellant: Sri S.Rahul Reddy

^Counsel for Respondent: Sri K.Lakshmi Manohar

<Gist :

>Head Note :

? Cases referred

1. 1991 MS Law Journal
2. I.L.R.(2017)M.P., 1718
3. 2000 SCC OnLine Pat 721
4. AIR 1967 SC 272
5. AIR 1981 AP 16
6. (2015) 2 ALD 284
7. (2005) 6 SCC 622

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

* * * *

SECOND APPEAL Nos.935 AND 975 2016

S.A.No.935 of 2016:

Between:

Kandula Guravaiah …Appellant

And

Buddi Chandramouli … Respondent

S.A.No.975 of 2016:

Between:

Kandula Guravaiah …Appellant

And

Buddi Chandramouli & Another … Respondents

JUDGMENT PRONOUNCED ON: 14.09.2022

THE HON'BLE SRI JUSTICE M.LAXMAN

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? :

2. Whether the copies of judgment may be Marked to Law Reporters/Journals? :

3. Whether His Lordship wishes to see the fair copy of the Judgment? :

M.LAXMAN, J

THE HON'BLE SRI JUSTICE M. LAXMAN

SECOND APPEAL NoS.935 AND 975 OF 2016

COMMON JUDGMENT:

1. This Court intends to dispose of both the appeals by way of this common judgment since the subject matter in both the appeals is one and the same.

2. Both appeals are arising out of a common judgment and decree dated 13.10.2016 in A.S.No.33 of 2008 and A.S.No.4 of 2009 on the file of Principal Senior Civil Judge, Mancherial (lower appellate Court), wherein and whereby the common judgment dated 31.07.2007 in O.S.Nos.987 and 854 of 2005 by the Junior Civil Judge, Mancherial (trial Court), was reversed.

3. The appellant in both these appeals filed O.S.No.987 of 2005 for declaration of title and recovery of possession. Respondent No.1 in both these appeals filed O.S.No.854 of 2005 for simplicitor injunction. The trial Court decreed O.S.No.987 of 2005 and dismissed O.S.No.854 of 2005 by its common judgment. Aggrieved by the same, respondent No.1 preferred A.S.Nos.33 of 2008 and 4 of 2009 before the lower

appellate Court. Both the appeals were allowed. Aggrieved by the same, the present two appeals are filed.

4. For the sake of convenience, the parties hereinafter are referred to as they were referred in O.S. No.987 of 2005. Any reference of pleadings of the plaintiff includes his plaint and written statement pleadings. Similarly, the pleadings of defendant include his pleadings in written statement and plaint.

5. The sum and substance of case of the plaintiff is that originally, the suit lands belonged to Kandula Laxmaiah and he died leaving behind Raju, Pocham, and Ramaiah. The plaintiff and 2nd defendant are the sons of Pocham. Ramaiah was issueless. The 2nd defendant went in adoption to Ramaiah. The plaintiff claimed title to the entire extent of land fell to the share of Pocham i.e., an extent of land admeasuring Ac.2-37 gts., in Sy.No.99, situated at Mulkalla village of Mancherial Mandal. The present suit is concerned to the extent of Ac.1-18 gts., (hereinafter called "suit property"). According to him, he became the absolute owner of the entire land to an extent of Ac.2-37 gts., after death of

Pocham being the only son as the 2nd defendant went in adoption. The 2nd defendant behind his back, obtained mutation proceedings in his name in respect of the suit land and sold out the same in favour of 1st defendant through a registered sale deed document No.1932 of 1999 claiming title and possession over the suit land. Then, he lodged objection to the Mandal Revenue Officer in respect of mutation entries and thereafter, when no action is taken by Mandal Revenue Officer, the present suit has been filed.

6. The short case of the defendants is that they denied the adoption of defendant No.2 by Kandula Ramaiah. They also denied the exclusive right of the plaintiff over entire extent of land i.e., Ac.2-37 gts., in Sy.No.99 including the suit land. According to the defendants, the plaintiff has already sold out an extent of Ac.0-33¾ gts., to one Mohammed Saleem vide registered sale deed document No.1519 of 1995. The plaintiff has got only Ac.0-24 gts., which is the remaining land fell to his share. The plaintiff cannot claim any right over the suit land. The defendant No.2 is the absolute owner of the suit land, and therefore, the defendants are entitled to protect

their possession. On the above pleadings, they prayed to dismiss the suit.

7. Basing on the above pleadings, the primary Court framed the following issues:

> "Issues in O.S. No.987 of 2005:
>
> 1. Whether the plaintiff is owner of the suit land bearing No.99/A/3, admeasuring Ac.1-18 gts., situated at Mulkalla village of Mancherial Mandal and that whether he is entitled to declaration as prayed for?
>
> 2. Whether the plaintiff is entitled to the declaration that the sale deed No.1932 of 1999 dt.13.07.1999 on the file of the Sub-Registrar, Mancherial as null and void?
>
> 3. Whether the suit is barred by limitation?
>
> 4. Whether the plaintiff is entitled for recovery of possession of the plaint schedule property?
>
> 5. To what relief?
>
> Issues in O.S. No.854 of 2005:
>
> 1. Whether the plaintiff is entitled for grant of perpetual injunction as prayed for?
>
> 2. To what relief?"

8. The plaintiff in O.S. No.987 of 2005 in order to prove his case examined P.Ws.1 to 3 and relied upon Exs.A-1 to A-10. On behalf of defendants, D.Ws.1 to 3 were examined and got marked Exs.B-1 to B-15.

9. The plaintiff in O.S. No.854 of 2005 in order to prove his case examined P.Ws.1 to 3 and relied upon Exs.A-1 to A-15. On behalf of defendant, D.Ws. 1 to 3 were examined and got marked Exs.B-1 to B-9.

10. The trial Court on appreciation of the evidence adduced by the plaintiff and the defendants, found that the plaintiff in O.S.No.987 of 2005 has made out case for declaration and recovery of possession since defendant No.2 went in adoption and the said suit was decreed. The suit of first defendant filed for injunction was dismissed by a common judgment. Aggrieved by the same, the first defendant preferred first appeal against the judgments and decrees in both the suits.

11. The lower appellate Court, after appreciating the evidence on record, upheld the findings of the trial Court with regard to adoption of defendant No.2, but the decree of plaintiff's suit was reversed on the ground that defendant No.2 has got vested right in the suit property in spite of adoption. The declaratory and recovery relief granted by the trial Court in favour of the plaintiff was reversed and his suit was dismissed. The lower appellate Court also found that

defendant No.1 was in possession of suit property and consequently injunction was granted by reversing the judgment and decree of the trial Court. Hence, the present appeals are at the instance of the plaintiff.

12. This Court has framed the following substantial questions of law are framed:

1. Whether the findings of both Courts in holding that the 2nd defendant went in adoption, suffer from any perversity?
2. Whether the findings of appellate Court in dismissing the suit of the plaintiff on the ground that the 2nd defendant has vested interest in the property before his adoption, suffers from any perversity?
3. Whether the suit filed by the plaintiff is within limitation?

Substantial question No.1:

13. Heard learned counsel for both sides on the above substantial questions of law.

14. The plaintiff to support his case of adoption has placed reliance on Ex.A-4 – certified copy of voters' list, oral evidence of P.W.s 2 and 3, apart from his own evidence. Defendant No.2 did not enter into witness box. Defendant No.1 who purchased the suit property from defendant No.2, to substantiate his case, examined DWs. 1 to 3.

15. The pleadings of the plaintiff are silent with regard to date of adoption, age of the child, consent of the natural and adoptive parents and performance of ceremony of giving and taking of child in adoption, which are essential to prove the adoption.

16. The plaintiff relied upon the evidence of PWs. 2 and 3 witnesses to the adoption. The evidence of PWs. 2 and 3 shows that they were the witnesses to the adoption, but the pleadings of the plaintiff and his own evidence are silent with regard to presence of PWs. 2 and 3 at the time of adoption. PW.2 in the cross-examination claimed that he was a witness to the adoption and his evidence also shows that after the death of Pocham (natural father of defendant No.2), the land left by him was partitioned equally by the plaintiff and defendant No.2.

17. The revenue records under Exs.B-4 to B-9 show that after the death of Pocham in the year 1987 or 1988, the land to an extent of Ac.2-37 gts., in Sy.No.99 was equally divided in between the plaintiff and defendant No.2. Such entries in the revenue records are carried till the date of sale made by

the defendant No.2 in favour of defendant No.1. Prior to the present impugned sale, the plaintiff himself sold an extent of Ac.0-33¾ gts., in the suit survey number in favour of one Saleem, which is also not in dispute. The recording of names of the plaintiff and defendant No.2 in revenue records as successor to the estate of Pocham would weaken the plea of adoption. The conduct of the plaintiff is also relevant. The plaintiff is silent without regard to entries in revenue records up to the sale made by defendant No.2 in favour of defendant No.1. The plaintiff did not object to the revenue entries whereunder the property of Pocham was equally divided in between the plaintiff and defendant No.2 after his demise.

18. The contention of the learned Counsel for the appellant/plaintiff is that the plaintiff being an illiterate, he is unaware of revenue entries. This contention has some merit, if the plaintiff has not sold out any land in Sy.No.99. When he sold Ac.0-33 3/4th gts., in 1995, he must be aware of mutations entries. If really he had claim for entire extent, he would not have kept silent till defendant No.2 exercised his right.

19. The trial Court as well as lower appellate Court, without looking into the foundational pleadings and without there being any point for consideration, have blindly found that there was adoption of defendant No.2, basing on the evidence of PWs. 1 to 3. The presence of PWs. 2 and 3 to the adoption is very doubtful since the plaintiff has not at all averred and pleaded about the same in his pleadings. Even in his evidence the plaintiff has not deposed about the presence of PWs. 2 and 3 to the adoption. The Courts below considered Ex.A-4-voters' list whereunder the father's name of defendant No.2 was referred as Ramaiah. Mere reference of name is not a sufficient proof of adoption. It may be one of the circumstances. The plaintiff claimed that in the Educational Certificates, father's name of defendant No.2 was referred as Ramaiah, but such certificates are not produced in evidence. The plaintiff must plead and prove the plea of adoption. The plaintiff vaguely took the plea of adoption without proper pleadings and failed to prove the adoption. Thus, both the Courts below grossly erred in holding that there was adoption. Such findings of Courts below suffer from perversity and require to be set aside.

Substantial question No.2:

20. The trial Court accepted the plea of adoption and held that the plaintiff being only surviving son of Pocham is entitled for entire extent of land inherited from Pocham as absolute owner and possessor. Consequently, the suit was decreed. The trial Court has not dealt with acquisition of right by birth by defendant No.2 in the ancestral property. On the contrary, the lower appellate Court has found that defendant No.2 by birth takes right in the property which was ancestral property and such right which he got by birth, is not affected by adoption in the light of the Section 12(b) of the Hindu Adoption & Maintenance Act, and consequently, the suit of the plaintiff was dismissed, and the suit filed by the defendant No.1 was decreed.

21. The contention of the learned counsel for the appellant/plaintiff is that there is no dispute that the property held by Pocham is an ancestral property which he got in the partition in between sons of late Kandula Laxmaiah. According to him, the right acquired by the coparcener in the coparcenery property is not a vested right

which is only saved under Section 12(b) of the Hindu Adoption & Maintenance Act. Such right becomes only vested when there is a partition. Till then, such right cannot be said to be a vested right. Under the Hindu Adoption & Maintenance Act, only the vested right by the child is saved. At the time of adoption, there was no vested right with the 2nd defendant, and hence, the question of his getting any right in the coparcenery property held by the plaintiff and his father does not arise. In support of his contention, he relied upon the following judgments:

01 **DEVGONDA Vs. SHAMGONDA**[1]

02 **RANCHHOD Vs. RAMCHANDRA**[2]

03 **SANTOSH KUMAR JALAN ALIAS KANHAYA LAL JALAN Vs. CHANDRA KISHORE JALAN**[3]

04 **SATRUGHAN ISSER Vs. SABUJPARI**[4]

22. Learned Counsel for the respondent/defendant No.1 has contended that admittedly when defendant No.2 was born, there was coparcenery property and the male child gets by birth right in the coparcenery property and such right is a

[1] 1991 ms Law Journal
[2] I.L.R.(2017)M.P., 1718
[3] 2000 SCC OnLine Pat 721
[4] AIR 1967 SC 272

vested right though it is subject to fluctuation. To support his contention, he relied upon the decision of Division Bench of our own High Court in **YARLAGADDA NAYUDAMMA Vs. THE GOVERNMENT OF ANDHRA PRADESH, REPRSENTED BY THE AUTHORISED OFFICER, LAND REFORMS, ONGOLE**[5].

23. The lower appellate Court, while reversing the findings of the trial Court by observing that 2nd defendant has no right in coparcenery property by virtue of adoption, has placed reliance on the judgment of learned Single Judge of this Court in **MADALA YATHIRAJULU Vs. MADALA CHINA ANANTHAIAH**[6] and held that child by birth gets vested right and it is saved.

24. In the light of the said contention, it is apt to refer Section 12 of the Hindu Adoption & Maintenance Act which reads as under:

> "**12 Effects of adoption**. —An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed

[5] AIR 1981 AP 16
[6] (2015) 2 ALD 284

> and replaced by those created by the adoption in the adoptive family: Provided that—
>
> (a) the child cannot marry any person whom he or she could not have married if he or she had continued in the family of his or her birth;
>
> (b) any property which vested in the adopted child before the adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in the family of his or her birth;
>
> (c) the adopted child shall not divest any person of any estate which vested in him or her before the adoption."

25. As per the proviso (b) of Section 12, vested right of adopted child before adoption is only saved and by virtue of adoption his relationship with natural family severs the moment he went in adoption.

26. In the judgments relied upon by the learned Counsel for the appellant/plaintiff relating to Division Bench decisions of Patna High Court, Madhya Pradesh High Court and Maharashtra High Court, in which a specific reference was made in respect of ratio laid down by the Division Bench in case of **YARLAGADDA NAYUDAMMA** (supra). The Division Benches of other High Courts have not agreed with the ratio laid down by the Division Bench of this Court on the ground that the nature of interest held by the coparcener in the

coparcenery property is only right to joint possession and enjoyment and the coparcener would get a vested right only on seeking partition. Till then, the right held by the coparcener is not a vested right.

27. The Division Bench of this Court in case of **YARLAGADDA NAYUDAMMA** (supra), by placing reliance on the text of Hindu Law of Adoption, Maintenance Minority and Guardianship Act, held at para No.3 as follows:

> "From the provisions of the aforesaid Statute it is quite manifest that the Legislature has enacted a special provision i. e., proviso (b) to Section 12 of the Act which is explicit and unequivocal in its language and intention. The property as per the said proviso (b) which vested in the adopted child before the adoption shall continue to vest in such person. It is further added that property will be subject to the obligations, if any, attached to the ownership of such property. Therefore it is the undoubted view of the Legislature that a person even after being given in adoption, takes along with him the property from his natural family which vested in him and continues to vest in him, adoption notwithstanding, whether that property vested in him either due to partition or otherwise. The texts of the Mitakshara Law, which we will presently see, are emphatic with regard to the vesting of the property in the coparcener. The property vests in a coparcener by birth and hence he gets a vested right in that property by virtue of inheritance. The position would have been probably different, if the proviso (b) was not enacted in Section 12. Be that as it may, in so far as the proviso (b) is concerned, it makes perfectly clear that the person even after adoption, takes the property along with him which was earlier vested in that person."

28. Learned Counsel for the respondent/defendant No.1 has also relied upon the decision of the Hon'ble Supreme Court in the case of **SATRUGHAN ISSER** (supra) whereunder the Apex Court while considering widow's right to get the share of property held by her husband being the coparcener in coparcenary property, found that the widow, on death of her husband, is vested with same interest which her husband had at the time of death in the coparcenary property under the Act, but such right becomes defined when she seeks partition. Such right would become of vested right only if she seeks partition during her lifetime. If she fails to seek partition, upon her death, her right re-merges with the coparcener interest.

29. There is a direct authority of the Hon'ble Supreme Court on this issue in the case of **VELLIKANNU Vs R. SINGAPERUMAL**[7] wherein it was held in para Nos.11 and 13 as follows:

> "11. So far as the property in question is concerned, there is a finding of the courts below that the property is a coparcenary property and if that being so, if Defendant 1 had not murdered his father then perhaps things would have taken a different shape. But what is the effect on the succession of the property

[7] (2005) 6 scc 622

of the deceased father when the son has murdered him? If he had not murdered his father he would have along with his wife succeeded in the matter. **So far as the rights of coparceners in the Mitakshara law are concerned, the son acquires by birth or adoption a vested interest in all coparcenary property whether ancestral or not and whether acquired before or after his birth or adoption, as the case may be, as a member of a joint family**. This is the view which has been accepted by all the authors of the Hindu law. In the famous principles of Mulla, 15th Edn. (1982) at pp. 284 and 285, the learned author has stated thus:

> 'The essence of a coparcenary under the Mitakshara law is **unity of ownership**. **The ownership of the coparcenary property is in the whole body of coparceners.** According to the true notion of an undivided family governed by the Mitakshara law, no individual member of that family, whilst it remains undivided, can predicate, of the joint and undivided property, that he, that particular member, has a definite share, one-third or one-fourth. His interest is a fluctuating interest, capable of being enlarged by deaths in the family, and liable to be diminished by births in the family. It is only on a partition that he becomes entitled to a definite share. The most appropriate term to describe the interest of a coparcener in coparcenary property is 'undivided coparcenary interest'. The nature and extent of that interest is defined in Section 235.
>
> The rights of each coparcener until a partition takes place consist in a common possession and common enjoyment of the coparcenary property. As observed by the Privy Council in Katama Natchiar v. Rajah of Shivagunga, (1863) 9 MIA 543, 'there is community of interest and unity of possession between all the members of the family, and upon the death of any one of them the others may well take by survivorship that in which they had during the deceased's lifetime a common interest and a common possession.'

13. In N.R. Raghavachariar's Hindu Law — Principles and Precedents, 8th Edn. (1987) at p. 230 under the heading "Rights of Coparceners" it is said thus:

> "The following are the rights of a coparcener:- (1) Right by birth, (2) Right of survivorship, (3) Right to partition, (4) Right to joint possession and enjoyment, (5) Right to restrain unauthorised acts, (6) Right of alienation, (7) Right to accounts, and (8) Right to make self-acquisition."

While dealing with "Right by Birth" learned author says thus:

> 'Every coparcener gets an interest by birth in the coparcenary property. This right by birth relates back to the date of conception. This, however, must not be held to negative the position that coparcenary property may itself come into existence after the birth of the coparcener concerned.'

While dealing with right of survivorship, it is said thus:

> "The system of a joint family with its incident of succession by survivorship is a peculiarity of the Hindu law. In such a family no member has any definite share and his death or somehow ceasing to be a member of the family causes no change in the joint status of the family. Where a coparcener dies without male issue his interest in the joint family property passes to the other coparceners by survivorship and not by succession to his own heir. Even where a coparcener becomes afflicted with lunacy subsequent to his birth, he does not lose his status as a coparcener which he has acquired by his birth, and although his lunacy may under the Hindu law disqualify him from demanding a share in a partition in his family, yet where all the other coparceners die and he becomes the sole surviving member of the coparcenary, he takes the whole joint family property by survivorship, and becomes a fresh stock of descent to the exclusion of the daughter of the last predeceased coparcener, a case of leprosy of the last surviving coparcener. The beneficial interest of each coparcener is liable to fluctuation, increasing by the death of another coparcener and decreasing by the birth of a new coparcener." Therefore, it is now settled that a member of a coparcenary acquires a right in the property by birth. His share may fluctuate from time to time but his right by way of survivorship in coparcenary property in Mitakshara law is a settled proposition."

(emphasis supplied)"

30. From the above decision of the Apex Court, it is clear that the coparcener right by birth in the coparcenary is a vested right. This judgment was referred with approval in the recent judgment of the Hon'ble Supreme Court in **Vineet**

Sharma Vs. Rakesh Sharma and Ors (Civil Appeal No.32601 of 2018) and also dealt with the difference between obstructed heritage (Sapratibandha daya) and un-obstructed heritage (Apratibandha daya). In obstructed heritage, there is *spes successionis* and the interest held is contingent which interest would become vested interest upon the happening of an event which is condition precedent. Whereas in un-obstructed heritage the person gets right the moment he takes birth. The property in which a person acquires right by birth is called un-obstructed heritage and thereby, he gets a vested right.

31. This contention can also be tested in another. Any coparcener, who has no vested right in the coparcenery, has no right to seek partition. When he has right to seek partition, it presupposes the existence of right with him and such right may not be a crystallized right but it is fluctuating. The moment the partition is sought by the coparcener, fluctuating vested right which he held, gets crystallized. If coparcener has only contingent right, he has no right to seek partition until event contemplated is happened; then

contingent right becomes vested right. This contingent right comes under the principles of obstructed heritage and vested right comes under unobstructed heritage. Ultimate conclusion is that the right acquired by a child in the coparcenery by birth is vested right and not contingent right. Merely because the coparcener has no definite share on account fluctuation in share until partition is effected, such right cannot be said to be contingent right. I hold that the right held by the coparcener in the coparcenery property is a vested right.

32. As per Section 12(b) of Hindu Law of Adoption, Maintenance Minority and Guardianship Act, the vested right held by a child is protected. This means, the child which he got the right by birth in the coparcenery is protected. When defendant No.2 joined in coparcenery by birth, he was holding 1/3rd share along two other coparceners i.e. his father and plaintiff. By adoption, he is ceased to be coparcener of coparcenary of natural family and whatever vested right he possess immediately prior to adoption is alone saved and not more than that. This means, the 2nd defendant is only entitled

to 1/3rd share in coparcenary property. The share of deceased coparcener i.e. natural father of plaintiff must go to the plaintiff. The findings of both the courts below in granting 1/2nd share to defendant No.2 in the coparcenary property available is not sustainable. However, as per my finding on the adoption hereinbefore, I held that the findings of both the Courts with regard to acceptance of adoption suffer from perversity. Therefore, the plea raised with regard to vested right has become only an academic.

Substantial question No.3:

33. The suit is filed for declaration of title and recovery of possession of suit property. Before going further, it is apt to refer to Section 3 of the Limitation Act for the purpose of determining this issue which is hereunder:

> "**3. Bar of limitation:-**
>
> (1) Subject to the provisions contained in sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed, although limitation has not been set up as a defence."

34. A reading of the above provision would clearly indicate that it is the duty of the Court to see whether the suit is within limitation even if there is no pleading from both

parties. Therefore, this Court has to see whether the present suit filed by the plaintiff for declaration of title and for recovery of possession is within time or not.

35. The limitation for recovery possession is 12 years and the limitation for declaration is 3 years. When the larger limitation is available, the relief of declaration which is having shorter limitation has no significance.

36. The entire reading of the pleadings of the plaint, there is no reference to the date of dispossession and the cause of action for filing the suit. The pleadings show that it is 10.01.2001 which is the date of knowledge of the plaintiff about the existence of sale deed executed by defendant No.2 in favour of defendant No.1. There are no pleadings and evidence to show when the possession of the defendants became adverse to the plaintiff in order to commence limitation to file suit under Article 65 of the Limitation Act. The pleadings are silent as to when the cause of action arose. The revenue records under Exs.B-4 to B-7 clearly show that from 1991 onwards the name of defendant No.2 has been reflecting as pattedar and possessor. If 1991 is taken, the

possession of defendant No.1 becomes adverse to the plaintiff's possession. When the suit is filed in 2004, the suit is hopelessly barred by limitation.

37. The own evidence of plaintiff particularly the evidence of PW.2 shows that immediately after death of Pocham, natural father of the plaintiff and defendant No.2, the land held by him was equally partitioned including the suit land. This evidence is un-challenged. If this is accepted, the entries under Exs.B-4 to B-9 are said to be correct entries. If such entries are taken into consideration, the suit is hopelessly barred by limitation and the suit of the plaintiff is also liable to be dismissed on the ground of limitation. These aspects were not considered by both the Courts below in granting reliefs. Accordingly, this substantial question is answered in favour of defendant No.1.

38. Accordingly, both the appeals are dismissed confirming the common judgment and decree dated 13.10.2016 in A.S.No.33 of 2008 and A.S.No.4 of 2009 on the file of Principal Senior Civil Judge, Mancherial, but on different grounds. There shall be no order as to costs. As a sequel,

pending miscellaneous applications, if any, shall stand closed.

M. LAXMAN, J

DATE: 14.09.2022
Note: L.R. Copy to be marked.
B/o.BDR