Chowdappa vs Hanumantharayappa on 6 August, 2026

2026 INSC 816

NON-REPORTA

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. OF 2026
(@ SPECIAL LEAVE PETITION (CIVIL) NOS. OF 2026)
(@ SPECIAL LEAVE PETITION (CIVIL) DIARY NOS. 10525 OF 2026)

CHOWDAPPA … APPELLAN

VERSUS

HANUMANTHARAYAPPA AND OTHERS … RESPONDENT

JUDGMENT

S.V.N. BHATTI, J.

1. Delay condoned.

2. Leave granted.

3. We have heard Ms. Kiran Suri, Learned Senior Counsel for the Appellant, and Mrs. Prabha Swami, Learned Counsel for the Respondents.

4. The Learned Counsel appearing for the parties have addressed this Court on the failure of the High Court in considering and disposing of I.A. No. 1/25 filed for receiving additional evidence by the Appellant.

5. Respondent Nos. 5 and 6 before this Court filed O.S No. 485 of 1999 in the Court of the Senior Civil Judge, Devanahalli, which has been renumbered as O.S. No. 86 of 2006 for partition and separate possession of Plaint Schedules ‘A’, ‘B’ and ‘C’. On 12.09.2006, the said Suit was decreed by the Trial Court, resulting in Respondent Nos. 1 to 4 filing RFA No. 2076 of 2006 in the High Court of Karnataka, Bengaluru. C/W RFA Cross Objection No. 17 of 2012 was filed by the Appellant. The Appellant is arrayed as Defendant No. 1 in the Original Suit.

6. On 16.12.2025, the RFA as well as the cross-objections were dismissed by the High Court. Hence, the Civil Appeal at the instance of the Respondent No. 3 in RFA No. 2076 of 2006.

7. Ms. Kiran Suri argues that the Impugned Judgment, though the High Court has considered a few of the controversies between the parties and confirmed the view taken by the Trial Court, still, the Judgment under appeal is liable to be set aside on the short ground that the Additional Evidence Application in I.A. No. 1/25 has not been heard and decided. The learned Senior Counsel further argues that the Additional Evidence was filed in conformity with the requirements of Order XLI Rule 27 of the Code of Civil Procedure, 1908 ("CPC"). The additional evidence establishes the infirmity in the case of the Plaintiffs. The Appellant was denied an opportunity by the High Court, and the Appellant cannot, by referring to those documents, assail the findings of the view taken by the Trial Court and the High Court. She places reliance on Jatinder Singh and another v. Mehar Singh and others,1 North Eastern Railway Administration, Gorakhpur v. Bhagwan Das (Dead) By LRs.,2 1 (2009) 17 SCC 465.

2 (2008) 8 SCC 511.

Namdeo v. Tukaram S/o Marotrao Jadhav,3 Iqbal Ahmed (Dead) by LRs. and another v. Abdul Shukoor,4 G. Shashikala (dead) Thr. LRs v. G. Kalawati Bai (dead) Thr. LRs and others,5 and pray for setting aside the Impugned Judgment.

8. Advocate Prabha Swami, appearing on caveat for the contesting Respondents, has taken time on 15.05.2026 to verify whether the objection now taken before this Court is factually tenable or not.

9. One of the Respondents, C. Muniraju, has filed an Affidavit. The Affidavit reads thus:

> "2. It is submitted that the present Special Leave Petition was filed by the Petitioner challenging the impugned final judgement and order dated 16.12.2025 in RFA No. 2076/2006 and R.F.A CROB No. 17/2012 passed by the High Court of Karnataka at Bengaluru.
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> 3. I state that the Application to bring on record Additional documents/evidence was filed by the Petitioner on 28.10.2025 (ANNEXURE P-9 at Page 213 of the Special Leave Petition Paperbook). I further state that pursuant to the same, the matter was listed before the high Court on 04.11.2025 for final hearing along with applications filed for production of additional documents and for condonation of delay. The High Court by its order dated 04.11.2025 stated "Heard. Reserved for orders." I humbly state that the final judgement and order was passed thereafter on 16.12.2025. A copy of the extract of the cause list for 04.11.2025 is annexed hereto and marked as Document -1.

A copy of the order dated 04.11.2025 passed by the High Court of Karnataka at Bengaluru in RFA No. 2076/2006 and R.F.A CROB No. 17/2012 is annexed hereto and marked as Document-2."

10. Therefore, it is argued that it is not a case where the Application for Additional Evidence has not been heard but a case where it is not actually disposed of.

4 (2025) SCC OnLine SC 1787.

5 (2019) 15 SCC 201.

11. In the above background, we refer to Order XLI, Rule 27 of the CPC hereunder:

> "Order XLI Rule 27. Production of Additional Evidence in Appellate Court.
>
> (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if-
>
> (a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or (aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or
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> (b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined.
>
> (2) Whenever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission."

12. The decisions relied on by the Appellant can be captured and summarised as follows:

> 12.1 An Appellate Court has a statutory duty to deal with an Application for Additional Evidence on its merits. The application cannot be ignored while the Court proceeds to pronounce the final Judgment.6 12.2 The Application must be considered simultaneously with the hearing of the main Appeal on its merits to determine whether the Court "requires" the documents to pronounce Judgment or for any other substantial cause.7 6 Jatinder Singh (supra) 7 North Eastern Railway Administration (supra) 12.3 The Appellate Court must pass a specific order either allowing or rejecting the application. If the production of documents is allowed, the Court is obligated to record its reasons for admission.8 12.4 Before undertaking the exercise of evaluating the additional evidence, the Appellate Court must first examine the party's pleadings to ensure that the foundational case set up supports the introduction of the proposed evidence.9 12.5 Dismissing an appeal without deciding a pending application for additional evidence constitutes a jurisdictional error and results in a severe miscarriage of justice.10

13. Leading to the conclusion that, in the present matter, the High Court of Karnataka dismissed the Cross-Objection without referring to, considering, or adjudicating the Application filed under Order XLI Rule 27 CPC for the production of crucial documents, including the Judgments from O.S. 369 of 1997, bank loan discharges, and surveyor sketches. The High Court committed a direct jurisdictional error by completely ignoring the Application while disposing of the Appeal, directly contravening the principles laid out in the decisions supra. The High Court had a duty to evaluate the Application at the final hearing to determine whether the documents were necessary to pronounce Judgment in a more satisfactory manner. The failure to pass a reasoned order either allowing or rejecting this Application before sustaining 8 Namdeo (supra).

9 Iqbal Ahmed (supra).

10G. Shashikala (supra).

the Trial Court's decree resulted in a procedural failure and a miscarriage of justice.

14. In view of the above, the Impugned Judgment dated 16.12.2025 is set aside. The Civil Appeals are allowed. The RFA No. 2076 of 2006 is restored together with cross objections and remanded to the High Court for fresh disposal.

15. Pending Application(s), if any, shall stand disposed of accordingly.

.....J. [S.V.N. BHATTI] .....J. [N.V. ANJARIA] New Delhi;

August 6, 2026.