



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
LAXMESHWAR, SITTING AT MUNDARGI**

DATED THIS 10TH DAY OF JULY 2026

:PRESENT:

SRI. BHARATH YOGESH KARAGUDARI,
B.A.L, LL.M.,

Senior Civil Judge And JMFC, Laxmeshwar,
Sitting at Mundargi

ORIGINAL SUIT NO.81/2022

PLAINTIFF/S:

1. Smt. Shreedevi W/o Basavareddi
Naduvinamani, Age: 45 years,
Occ: Household work, R/o: Mukkal,
Tq: Kalaghatagi, Dist: Dharwad.

(By Sri. S.B.K Advocate)

// V E R S U S //

DEFENDANT/S:

1. Thotappa S/o Gurupadappa Channalli(died),
Age: 56 years, Occ: Agricultural,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.
(Since, his LR's)
- 1(a) Channabasamma W/o Channabasappa Malli,
Age: 43 years, Occ: Housewife,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.
2. Smt. Annapurna W/o Thotappa Channalli,
Age: 50 years, Occ: Household work,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.
3. Smt. Premavva D/o Virupakshappa Gaddad,
Age: 35 years, Occ: Household work,
R/o: Annigeri, Tq: Annigeri, Dist: Dharwad.
4. Smt. Maretangevva W/o Virupakshappa
Gaddad, Age: 68 years, Occ: Household work,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.



5. Smt. Channamma W/o Mariyappa Gaddag,
Age: 45 years, Occ: Household work,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.
6. Yallappa S/o Pandappa Kuradagi,
Age: 48 years, Occ: Agricultural,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.
7. Andappa S/o Devappa Gaddad,
Age: 48 years, Occ: Agricultural,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.
8. Smt. Lalita W/o Andappa Gaddad,
Age: 45 years, Occ: Household work,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.
9. Chanabasappa S/o Devendragouda
Halakeri(died),
(Since, his LR's)
- 9a. Smt. Renamma W/o Channabasappa Halakeri,
Age: 45 years, Occ: Household work,
R/o: Shiruru, Tq: Yalaburga, Dist: Koppal.
- 9b. Smt. Sharanamma W/o Basareddeppa Aduru,
Age: 45 years, Occ: Household work,
R/o: Gudageri, Tq: Mundargi, Dist: Koppal.
- 9c. Smt. Annapurna W/o Vijaykumar
Naduvinamani, Age: 22 years, Occ: Student,
R/o: Mukkal, Tq: Kalaghatagi, Dist: Dharwad.
- 9d. Kumari. Ningamma D/o Chanabasappa
Halakeri, Age: 20 years, Occ: Student,
R/o: Shirur, Tq: Yalaburga, Dist: Koppal.
- 9e. Kumara. Viresh S/o Chanabasappa Halakeri,
Age: 21 years, Occ: Student,
R/o: Shirur, Tq: Yalaburga, Dist: Koppal.



10 Ningaraddi S/o Devappa Gaddag,
Age: 25 years, Occ: Agricultural,
R/o: Halligudi, Tq: Mundargi, Dist: Gadag.
(D-1 died),
(D-2 to 8 & 10 Ex-parte)
D-1(a) By Sri. U.C.H Advocate
D9a to c By. Sri. V.D.A Advocate

Date of institution of the suit	:	11-03-2022
Nature of the Suit	:	Partition and separate possession
Date of the commencement of recording of the evidence.	:	16-02-2023
Date on which the Judgment was Pronounced.	:	10-07-2026
Total duration.	:	<u>Year/s</u> <u>Month/s</u> <u>Day/s</u> 04 03 30

(BHARATH YOGESH KARAGUDARI)
Senior Civil Judge & JMFC, Laxmehswar.
Sitting at Mundargi.

JUDGMENT

The Plaintiff has filed this suit for Partition and Separate Possession against the Defendants with respect to the suit schedule properties.



1. The Plaintiffs has brought this suit in respect of the following:

SUIT SCHEDULE PROPERTIES

The suit properties are situated at Halligudi village of Mundargi Taluk, Gadag District.

SL. No.	R.Sy.No's	Measurement	Akar(Cent s)
1	R.Sy.No.322/1	04 acres 05 guntas	4.63
2	R.Sy.No.322/2	12 acres 10 guntas	13.73
3	R.Sy.No.322/1 ಉ+1 ಬಿ+1 ಕೆ/1	06 acres 05 guntas	6.86
4	R.Sy.No.317/5 ಬಿ+6/1	01 acre 24 guntas	2.39
5	R.Sy.No.315/6 ಬಿ+7/1	01 acre 18 guntas	4.63
6	R.Sy.No.315/2	02 acres 08 guntas	00.93
7	R.Sy.No.117/1	11 acres 01 gunta	30.87
8	R.Sy.No.62/5+6/1	03 acres 15 guntas	03.59
9	R.Sy.No.60/1+2	10 acres 19 guntas	9.43
10	R.Sy.No.60	10 acres 19 guntas	9.43



11	R.Sy.No.62/3	03 acres 10 guntas	3.45
12	R.Sy.No.56/1+2	12 acres 14 guntas	13.73
13	R.Sy.No.98/5 ன		
14	R.Sy.No.114/3	05 acres 00 guntas	5.40
15	R.Sy.No.54/4	03 acres 00 guntas	3.51
16	R.Sy.No.114/1	02 acres 22 guntas	2.70
17	R.Sy.No.111/6	04 acres 22 guntas Pota Kharab 16.00 guntas, 04 acres 06 guntas	2.85

And herein after referred as suit property for the purpose of brevity and convenience.

2. Brief case of the Plaintiffs are as under:

The plaintiff contends that Gurupadappa was the common ancestor (propositus) of the family and had four children, namely, Basamma @ Ningamma, Sulochana,



Maritangamma (Defendant No.4), and Totappa (Defendant No.1). The plaintiff and Defendant No.9 are the children of Basamma, while Defendant No.7 and the deceased Mariyappa are the sons of Sulochana. Defendant No.5 is the widow and Defendant No.10 is the son of the deceased Mariyappa. According to the plaintiff, the suit schedule properties are ancestral joint family properties originally belonging to Gurupadappa. After his death, his children succeeded to the properties and continued to hold them jointly. Defendant No.1, being the Karta of the family, was managing the joint family properties. It is alleged that, taking advantage of his position, Defendant No.1 caused certain ancestral properties to be entered in the names of Defendants No.2, 3 and 4 and subsequently alienated portions of the properties in favour of Defendants No.5 and 6. The plaintiff asserts that all such alienations relate to ancestral properties and are not binding on her lawful



share. Though certain properties were also transferred in favour of Defendants No.8 and 9, no relief is claimed against them and they have been impleaded only as proforma parties. The plaintiff further states that her mother died when she was about three to four years old, following which Defendant No.1 brought her up and performed her marriage. As her financial condition after marriage was not sound, she repeatedly requested Defendant No.1 to allot her lawful share in the ancestral properties, but he kept postponing the matter. In January 2021, when her demand for partition was again not considered, she verified the revenue records and found that her mother's name had not been entered in Mutation Register Entry No.819. Alleging that Defendant No.1 had deliberately deprived her of her legitimate share in the ancestral properties, she caused legal notices dated 29.10.2021 and 10.11.2021 to be issued. Though the



second notice was duly served, Defendant No.1 neither replied nor complied with the demand, thereby compelling the plaintiff to institute the present suit seeking partition and separate possession of her lawful share in the suit schedule properties.

3. In pursuance of the summons, the Defendants No.1(a) and 9(a) to 9(c) have appeared through their counsel and defendant No.1 and defendant No.9(a) to 9(e) have filed their written statement. Further the defendant No.2 to 8 & 10 failed to appear before the court. Hence, they are placed ex-parte.

• ***The Nutshell of the written statement of the Defendant No.1:***

4. The Written Statement filed by Defendant No.1 emphatically and categorically denies each and every allegation, averment, and contention contained in the



plaint. At the outset, Defendant No.1 submit that the present suit is wholly misconceived, untenable both in law and on facts, and liable to be dismissed in limine. The defendants further contend that the plaintiff has no right, title, interest, or share in the suit schedule properties and that she is in no way related by blood to his family. It is specifically denied that the plaintiff is the daughter of Defendant No.1's sister, and it is alleged that her claim that the suit properties are ancestral properties belonging to her family is wholly false. According to the defendants, the suit schedule properties are ancestral properties belonging exclusively to the family of Defendant No.1, and neither the plaintiff nor her mother has any right, interest, or share therein. The plaintiff's assertion that her mother, Smt. Ningamma W/o Devendragouda Halakeri, died prior to the death of her husband is stated to be a matter entirely unconnected with the defendants. The defendants further



deny that the plaintiff is entitled to an equal 1/7th share in the suit schedule properties and maintain that she has no legal entitlement whatsoever in the said properties. Consequently, the plaintiff and other defendants have neither right, title, interest, nor claim of any nature whatsoever over the said properties. View of the foregoing facts and circumstances, it is most respectfully submitted that the plaintiff has no semblance of right, title, or interest in the suit schedule properties. The suit is therefore frivolous, vexatious, and devoid of merit, and is liable to be dismissed with exemplary costs in the interest of justice and equity.

- ***The Nutshell of the written statement of the Defendant No.9(a) to 9(e).***

5. The Defendant Nos.9(a) to 9(e) admit the true and correct facts stated in the plaintiff's suit. They further admit that the genealogy, though not specifically



set out in the plaint, is true and correct. The plaintiff is the granddaughter of the family of Defendant No.1 and is the daughter-in-law of Defendant No.1 brother. It is further submitted that the suit schedule properties are the ancestral properties inherited from the ancestor by name Gurupadappa Honnappa Channalli. Defendant No.9(a) to 9(e) state that Defendant No.1 is the paternal uncle of their father. Therefore, Defendant No.9(a) to 9(e) pray that the plaintiff be allotted her lawful and legitimate share in the suit schedule properties in accordance with law.

6. On the basis of above said rival pleadings and the documents placed on record, the following issues have been framed by my predecessor.

ISSUES

1. Whether the Plaintiff proves that, herself and defendant No.1 are the joint family members and suit



schedule properties are the ancestral and joint family properties of them?

2. Whether the plaintiff proves that, the sale deed executed by defendant No.1 in favour of defendant No.6 is not binding upon her share?

3. Whether the plaintiff proves that, she is entitled for partition and separate possession of her 1/7th share each in the suit schedule properties?

4. What order or decree?

7. In order to prove the plaint averments, the Plaintiff has stepped into the box examined herself as PW-1 and three supporting witnesses as PW2 to PW4 and produced 24 documents which are marked as Ex.P1 to P24. Whereas the defendant No.1(a) stepped into the box got examined herself as DW1, but did not produced any documents in favour her.

8. I have heard the arguments of both the counsels. Perused, the materials on record.



9. My answers to the above Points are as under:

Issues No.1 : In the Negative

Issues No.2 : In the Negative

Issues No.3 : In the Negative

**Issues No.4 : As per the final Order
for the following.**

REASONS

10. **ISSUE NO.1:** the kernel and germane of the case is that, the plaintiff claims that the suit schedule properties are ancestral joint family properties inherited from the common ancestor, Gurupadappa, and that, being his descendant through Basamma @ Ningamma, she is entitled to her lawful share therein. She alleges that Defendant No.1, while managing the family properties as Karta, unlawfully mutated and alienated portions of the ancestral properties in favour of various defendants to deprive her of her legitimate share, thereby necessitating the present suit for partition and separate possession. Defendant No.1 has denied the plaintiff's



relationship with his family as well as her entitlement to any share in the suit properties, contending that the properties exclusively belong to his family and that the suit is frivolous and not maintainable. However, Defendant Nos.9(a) to 9(e) have supported the plaintiff's case by admitting the genealogy and asserting that the suit schedule properties are ancestral in nature, entitling the plaintiff to her lawful share.

11. In order to prove the plaint averments, the Plaintiff has stepped into the box examined herself as PW-1 and three supporting witness as PW2 to PW4 and produced 24 documents which are marked as Ex.P1 to 15 are the hand written and computerized RTC extracts, Ex.P16 is the ME.No.819, Ex.P17 to 19 are the death extracts, Ex.P20 to 24 are the School certificates. On the other hand the defendant No.1(a) stepped into the box



got examined as DW1, but did not marked any documents.

12. In a suit for partition and separate possession, the initial burden squarely rests upon the plaintiff to establish (i) the existence of a joint Hindu family, (ii) her relationship with the propositus of the family, and (iii) that the suit schedule properties constitute joint family properties available for partition. Unless these foundational facts are satisfactorily proved, no right to seek partition can be claimed. It is only after the plaintiff discharges this initial burden that the onus shifts upon the defendants to rebut the case put forth by the plaintiff.

13. In the present case, the plaintiff has pleaded that Gurupadappa is the common ancestor (propositus) of the family and that, upon his demise, the suit



schedule properties devolved upon his legal heirs and thereafter continued to remain joint family properties in the possession and enjoyment of all the coparceners. The principal defence of Defendant No.1 is not directed against the character of the properties, but against the very status of the plaintiff as a member of the family. According to Defendant No.1, the plaintiff's mother, Basamma @ Ningamma, was never the daughter of Gurupadappa and, consequently, the plaintiff cannot claim to be his granddaughter or seek any share in the suit schedule properties. On the other hand, Defendant Nos.9(a) to 9(e), in their written statement, have admitted the genealogy pleaded by the plaintiff and have supported her claim by asserting that the suit schedule properties are ancestral joint family properties in which the plaintiff is entitled to a share. Thus, the core controversy requiring adjudication is not merely the



nature of the properties but the very relationship of the plaintiff with the family of Gurupadappa. Unless the plaintiff establishes that Basamma @ Ningamma was the daughter of Gurupadappa, her claim for partition cannot succeed. Therefore, the burden of proving such relationship unmistakably lies upon the plaintiff.

14. The plaintiff has pleaded that Gurupadappa had four children, namely, Basamma @ Ningamma, Sulochana, Maritangamma and Totappa, and that she and Defendant No.9 are the children of Basamma. Defendant No.1, however, has categorically denied this genealogy and has asserted that Gurupadappa had only one son, Totappa, and two daughters, namely, Sulochana and Maritangamma, and that no daughter by the name Basamma ever existed. Consequently, the plaintiff's entire claim hinges upon proving that Basamma @ Ningamma was indeed the daughter of



Gurupadappa.

15. On careful appreciation of the documentary evidence, it is found that none of the documents produced by the plaintiff conclusively establish the alleged relationship. Ex.P-16, being Mutation Entry No.819, assumes considerable significance as it records the legal heirs of Gurupadappa after his death. The said mutation entry specifically mentions one son, Totappa, two daughters, namely Sulochana and Maritangamma, and also refers to his two wives. Significantly, the name of Basamma @ Ningamma is conspicuously absent. Had Basamma been one of the daughters of Gurupadappa, her name would ordinarily have found place in the mutation proceedings, particularly when the names of the other legal heirs have been recorded. Though mutation entries do not by themselves confer title, they nevertheless constitute relevant pieces of evidence



reflecting the contemporaneous recognition of legal heirs. The omission of Basamma's name in Ex.P-16, therefore, assumes evidentiary significance and creates a serious doubt regarding the genealogy projected by the plaintiff. The plaintiff has sought to rely upon the school records of Basamma, wherein her father's name is shown as Gurupadappa. However, it is a settled principle of law that entries in school records are not substantive or conclusive proof of parentage or relationship. Such entries are primarily maintained for educational purposes based upon the information furnished at the time of admission and, in the absence of independent corroboration, cannot by themselves establish lineage or legal status.

16. More importantly, during the course of her cross-examination, the plaintiff has admitted that she has not produced any independent documentary



evidence to establish that Basamma @ Ningamma was the daughter of Gurupadappa. The relevant portions of her testimony are extracted below:

"ಸದರಿ ಗುರುಪಾದಪ್ಪ ಚೆನ್ನಳ್ಳಿ ಇವರು ನನ್ನ ತಾಯಿಯ ತಂದೆ ಎಂದು ತೋರಿಸಲು ನ್ ಯಾಯಾಲಯಕ್ಕೆ ದಾಖಲೆ ಹಾಜರುಪಡಿಸಿದ್ದಿರಾ ಎಂದರೆ ಸಾಕ್ಷಿ ಹಾಜರುಪಡಿಸಿಲು ಆ ದಾಖಲೆ ಇಲ್ಲ ಎಂದು ನುಡಿಯುತ್ತಾರೆ."

"ಬಸಮ್ಮ ಹಾಗೂ ಗುರುಪಾದಪ್ಪ ಇವರಿಗೆ ನನ್ನ ತಾಯಿ ಮಗಳು ಎಂದು ತೋರಿಸಲು ನ್ಯಾಯಾಲಯಕ್ಕೆ ದಾಖಲೆ ಹಾಜರುಪಡಿಸಿದ್ದಿರಾ ಎಂದರೆ ಸಾಕ್ಷಿ ಇಲ್ಲ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ತಹಶೀಲ್ದಾರ ಇವರಿಂದ ತಂದು ವಾರಸು ಪ್ರಮಾಣ ಪತ್ರ ಹಾಜರುಪಡಿಸಿದ್ದಿರಾ ಎಂದರೆ ಸಾಕ್ಷಿ ಇಲ್ಲ ಎಂದು ನುಡಿಯುತ್ತಾರೆ."

"ನಾನು ಗುರುಪಾದಪ್ಪನ ಮೊಮ್ಮಗಳು ಎಂದು ತೋರಿಸಲು ದಾಖಲೆ ಹಾಜರುಪಡಿಸಿದ್ದಿರಾ ಎಂದರೆ ಸಾಕ್ಷಿ ದಾಖಲೆ ಇಲ್ಲ ನನಗೆ ಮಾತ್ರ ಗೊತ್ತಿದೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ಈಗಾದರೂ ದಾಖಲೆ ಹಾಜರುಪಡಿಸುತ್ತಿರಾ ಎಂದರೆ ಸಾಕ್ಷಿ ವಂಶಾವಳಿಯಲ್ಲಿ ನನ್ನ ತಾಯಿ ಹೆಸರು ತೆಗೆದಿರುತ್ತಾರೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ."

17. The aforesaid admissions assume considerable significance. Except for the school certificate, which has only limited evidentiary value, the plaintiff has failed to produce any public records, genealogical documents, revenue entries, family registers, birth records, or any other cogent evidence



capable of establishing the alleged relationship. In matters concerning succession and partition, where entitlement is founded entirely upon lineage, the relationship must be proved by clear, cogent and convincing evidence. Mere assertions in the plaint or oral testimony unsupported by reliable documentary evidence cannot suffice.

18. The explanation offered by the plaintiff for the absence of Basamma's name in the revenue records is that Basamma predeceased Gurupadappa and, therefore, her name was not incorporated in the mutation proceedings. This explanation does not inspire confidence. Even assuming that Basamma had predeceased Gurupadappa, her legal representatives, if otherwise entitled, could have questioned the mutation proceedings or sought correction of the revenue entries at the relevant point of time. No material has been



placed before this Court to show that any such attempt was ever made. The unexplained inaction over several decades materially weakens the plaintiff's version and renders her explanation unconvincing.

19. The evidence on record, when appreciated as a whole, falls short of establishing, on the touchstone of preponderance of probabilities, that Basamma @ Ningamma was the daughter of Gurupadappa and that the plaintiff is his granddaughter. Consequently, the plaintiff has failed to discharge the initial burden cast upon her to prove that she is a member of the joint Hindu family. Once the very foundation of her claim fails, the question of claiming a share in the suit schedule properties does not arise. In the absence of proof of her status as a coparcener or legal heir of the family, the suit schedule properties cannot be treated as joint family properties vis-à-vis the plaintiff so as to



confer upon her any enforceable right of partition. Accordingly, this Court holds that the plaintiff has failed to establish Issue No.1. Hence, **Issue No.1 is answered in the Negative.**

20. **ISSUE NO.2:** the burden of proving this issue squarely rests upon the plaintiff. The plaintiff has sought a declaration that the sale deed executed by Defendant No.1 in favour of Defendant No.6 is not binding upon her alleged share in the suit schedule properties. Such a declaration can be granted only if the plaintiff first establishes that she possesses a subsisting right, title or interest in the suit schedule properties on the date of alienation. While considering Issue No.1, this Court has already held that the plaintiff has failed to prove that she is the granddaughter of Gurupadappa through Basamma @ Ningamma and, consequently, has failed to establish that she is a member of the joint



Hindu family. In the absence of proof of such relationship, the plaintiff has not established any legal or proprietary interest in the suit schedule properties. It is a settled principle of law that only a person having an existing legal interest in the property is entitled to challenge an alienation on the ground that it is not binding upon his or her share. Since the plaintiff has failed to establish that she has any share or interest in the suit schedule properties, the question of examining the validity or binding nature of the sale deed executed by Defendant No.1 in favour of Defendant No.6 does not arise. Consequently, the plaintiff is not entitled to the declaration sought. Accordingly, **Issue No.2 is answered in the Negative.**

21. **ISSUE NO.3:** The burden of proving this issue also rests upon the plaintiff. The relief of partition and separate possession is founded upon the existence of a



legal right in the joint family properties. Therefore, before seeking partition, the plaintiff must establish that she is a coparcener or legal heir entitled to claim a share in the suit schedule properties. As discussed while answering Issue No.1, the plaintiff has failed to establish that Basamma @ Ningamma was the daughter of Gurupadappa and, consequently, has failed to prove her own status as a member of the joint Hindu family. In the absence of proof of such relationship, the plaintiff cannot claim any right, title or interest in the suit schedule properties. Since the plaintiff has failed to establish the very foundation of her claim, namely her entitlement to succeed to the joint family properties, she cannot seek partition and separate possession of the alleged 1/7th share. The evidence placed on record is wholly insufficient to confer upon the plaintiff any enforceable right in the suit schedule properties.



Accordingly, this Court holds that the plaintiff is not entitled to the relief of partition and separate possession as sought in the plaint. Hence, **Issue No.3 is answered in the Negative.**

22. **ISSUE NO.4:** For the foregoing discussions and reasons stated therein suit of the plaintiff does not succeed and deserves to be dismissed. In the result I proceed to pass the following:

ORDER

***The Suit of the plaintiff is
hereby dismissed with costs.***

Draw decree accordingly.

(Dictated to the Stenographer, direct on computer and typed by him and print out taken by him, and after corrections pronounced by me in the open Court on this the 10th day of July 2026).

Sd/-

(BHARATH YOGESH KARAGUDARI)

Senior Civil Judge & JMFC, Laxmehswar.
Sitting at Mundargi.

**ANNEXURE****1. List of witnesses examined for the Plaintiff/s:**

- PW 1 : Smt. Shreedevi W/o Basavaraddi Naduvinaimai
PW 2 : Mallappa @ Mallikarjun S/o Virupakshappa Gadda
PW 3 : Viranagouda S/o Devendragouda Halakeri
PW 4 : Smt. Shantavva W/o Mallappa Kadakol

2. List of witnesses examined for the Defendant/s:

- DW1 : Channabasamma W/o Channabasappa Malli

3. List of documents exhibited for the Plaintiff/s:

- Ex.P1 : Computerized RTC extract
Ex.P2 : Hand written RTC extract
Ex.P3 to 16 : Computerized RTC extracts
Ex.P17 : T/c of ME.No.819
Ex.P.17 to 19 : Death certificates
Ex.20 to 24 : School certificates

4. List of documents exhibited for the Defendant/s:

-Nil-

Sd/-

(BHARATH YOGESH KARAGUDARI)

Senior Civil Judge & JMFC, Laxmehswar.
Sitting at Mundargi.