



**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE
AND CJM, GADAG**

PRESENT

**SHRI. G.R.SHETTAR., B.com. LL.B (Spl)
PRL. SENIOR CIVIL JUDGE AND CJM, GADAG**

DATED THIS 01ST DAY OF JULY, 2026

O.S.No.239/2024

PLAINTIFFS:

1. Kasturevva W/o Irappa Neeralagi,
Age: 47 years, Occ:Agriculture,
R/o Kanaginhall, Tq:Dist:Gadag.
2. Akkamahadevi @ Gangavva W/o Balappa
Sandigod, Age: 45 years, Occ:Agriculture,
R/o Neeralagi, Tq:Dist:Gadag.

(R/by Sri S.B.Kuri., Advocate)

Vs

DEFENDANTS:

1. Gouramma W/o Basavantappa Bellad,
Age: 43 years, Occ:Agriculture,
R/o Vanageri, Tq:Yalaburga, Dist:Koppal.
2. Bharamavva W/o Irappa Ganiger,
Age : 48 years, Occ:Household,
R/o. Hirewaddatti, Tq:Mundargi,
Dist : Gadag.
3. Channamma W/o Basavaraj Maribasannavar,
Age : 29 years, Occ : Household Work,
R/o. Hirewaddatti, Tq:Mundargi,
Dist : Gadag.

4. Neelappa S/o Irappa Ganiger,
Age : 25 years, Occ : Agriculture,
R/o. Hirewaddatti, Tq:Mundargi,
Dist : Gadag.

5. Arun S/o Irappa Ganiger,
Age : 23 years, Occ : Agriculture,
R/o. Hirewaddatti, Tq:Mundargi,
Dist : Gadag.

(Dft.No.1-R/by Sri A.S.Mallapur., Adv)
(Dft.No.2 to 5-R/by Sri R.G.Meharwade., Advocate)

Date of institution of suit	:	07/06/2024
Nature of the suit	:	Partition and Separate Possession
Date of commencement of recording of Evidence	:	23/09/2024
Date of closure of evidence	:	18/06/2026
Date of judgment	:	01/07/2026
Total duration	:	Year/s Month/s Day/s 02 / 00 / 24

Sd/- 01/07/2026
(G.R.SHETTAR)
Prl. Sr.Civil Judge & CJM,
GADAG

J U D G M E N T

Plaintiffs have filed the present suit for partition and separate possession claiming 1/3rd share each in the suit properties.

2. Case of the plaintiff in brief is as under:

A) Plaintiffs have contended that Smt.Veeravva is the mother of themselves, Gouravva and Irappa @ Veerappa, she died on 18.01.2023. Veerappa died 14.07.2013 leaving behind the defendant No.2 to 5 as his Lrs. Husband of Veeravva by name Neelappa predeceased to her on 02.01.1994. Suit properties are the Streedhan properties of Veeravva having received from her genitive family. This being the fact Neelappa and his son Irappa @ Veerappa colluding with each other got entered their names to the suit property excluding the plaintiffs, though the plaintiffs and Irappa jointly succeeded all the suit properties. Out of the said properties Irappa @ Veerappa by taking undue advantage of his name appearing in revenue records has sold Sy.No.102/2 measuring 02-00 acres in favour of one Shivarudrappa s/o Irappa Kuradagi with the knowledge of the defendants No.2 to 5. After the death of Irappa @ Veerappa the defendants No.2 to 5 got entered their names to the suit property SlNo.1(B) and Sl.No.1(A) is

still in the name of Neelappa. As Irappa @ Veerappa has already sold his share including the share of defendants No.2 to 5 but the defendants No.2 to 5 have illegally got entered their names to suit 1(B) property in order to gulp the share of the plaintiffs.

B) It is further contended that when the fact came to the knowledge of the plaintiffs about fraud played by the defendants No.2 to 5, the plaintiffs asked them about entries in the ROR and told that Irappa @ Veerappa sold the land without consent of the plaintiffs, in which the plaintiffs were having legitimate share and requested to remove the names of the defendants No.2 to 5 but the defendants No.2 to 5 are not ready to heed the request of the plaintiffs. So for that plaintiffs have gathered the elders of the society, the elders have advised the defendants No.2 to 5 to remove their names from 1(B) property and to divide their specific share but the defendants No.2 to 5 did not heed the advise of the elders and request of the plaintiffs. As per the advise of the

elders the plaintiffs filed OS No.103/2023, in the said suit the defendants No.2 to 5 have appeared and agreed for compromise before elders. Believing the words of defendants No.2 to 5 the plaintiffs filed memo and got not pressed that suit. After withdrawal of the said suit the defendants No.2 to 5 started to drag the days to compromise and to remove their names from 1(B) property. Now they tried to alienate the 1(B) property in favour of the 3rd party and they are not ready to heed the request of the plaintiffs. Hence, plaintiffs constrained to file the suit.

3. After service of summons the defendants have appeared through their respective counsels. The defendant No.1 has not filed any written statement.

4. The defendant No.2 has filed written statement and said written statement is adopted by the defendant No.3 to 5. In the written statement, the defendant No.2 has denied the plaint averments as false except the facts which are specifically admitted. This defendant has

denied the allegations of the plaint that Neelappa and his son Irappa @ Veerappa got entered their names in the suit properties excluding the plaintiff and Irappa sold 2-00 acres of land with knowledge of the defendant No.2 to 5 and also denied the claim of the plaintiff as baseless. It is specifically contended that one Smt.Holeyavva D/o Veerabhadrapa Kuradagi was the absolute owner of R.S.No.102/1+2A measuring 07 acres 01 guntas of Neeralagi village. Said Holeyavva mutated name of Smt.Neelavva W/o Veerabhadrapa Kuradagi in property records by virtue of Potagi Vyavasta Patra in the year 1932. Same has been effected as per M.E.No.380 and certified on 24/01/1933. By virtue of the same, Neelavva Veerabhadrapa Kuradagi has become the absolute owner in possession of the said property, she was cultivating said land during her lifetime. Said Neelavva died on 15/03/1963 leaving behind daughter by name Holeyavva W/o Fakirappa Chavadi who was predeceased on 08/02/1958 itself. Then, name of Veeravva W/o Neelappa Ganiger has been mutated as per

M.E.No.3025 dated 10/03/1980. Said Veeravva Neelappa Ganiger acquired R.S.No.102/1+2A measuring 07 acres 01 gunta of Neeralagi village from her maternal grandmother by name Neelavva W/o Veerabhadrappa Kuradagi, as such, she was the absolute owner in possession of the said property. Due to love and affection, Veeravva Neelappa Ganiger made family settlement and divided the property in two parts i.e. 3 acre 1 guntas i.e. suit 1A property and allotted to her husband Neelappa and 04 acre was allotted to her son Veerappa by giving application to the revenue authority, accordingly, same has been mutated as per M.E.No.3607 dated: 17/06/1993. The sources of acquiring the above said lands by husband of Veerappa i.e., Neelappa and son Veerappa from her mother as such, they became the absolute owners of the respective properties and they were in possession and cultivating the same during their lifetime. Neelappa Ganiger died on 02/01/1994 leaving behind three daughters and a son. Sec.8 of The Hindu Succession Act, 1956, daughters and sons have inherited

the suit 1A property and became the joint owners and joint possession. They got equal share in suit 1A property. Plaintiff and defendant No.1 have got joint $\frac{1}{3}^{\text{rd}}$ share each in suit 1A property and Neelappa have got $\frac{1}{4}$ share in suit 1A property as per the provisions of said Section.

5. It is further contended that the defendant No.2 to 5 are the wife and children of Veerappa have inherited the share of Veerappa i.e. suit 1A as class-I legal heirs, they altogether entitled for $\frac{1}{4}^{\text{th}}$ share in suit 1A property. Similarly, son of Neelappa i.e. Veerappa has became absolute owner of R.S.No.102/2 measuring 04 acres and cultivating the said land during his lifetime. During his lifetime, Veerappa for his family and legal necessity sold 02 acres of land out of 04 acres in Sy.No.102/2 to one Shivarudrappa Veerappa Kuradagi and in Phodi proceedings, the said land has been divided and land suit 1B property bearing R.S.No.102/3 measuring 02 acres continued in the name of Veerappa

which is a subject matter of the suit. It is further contended that Veerappa retained the said property as an absolute owner in possession of suit 1B property. He died on 14/07/2013 leaving behind the defendant No.2 to 5 as his legal heirs. As such, defendant No.2 to 5 have become the absolute owners of suit 1B property. The plaintiff and defendant No.1 have not acquired any legal rights in R.S.No.102/2. The plaintiff and defendant No.1 have not challenged sale deed executed by Veerappa, as such, suit of the plaintiff in partial partition is not maintainable. It is further contended that plaintiff s have not produced any iota of documents in the suit to show that husband of defendant No.2 and father of defendant No.3 to 5 Veerappa and his father Neelappa got share in the suit schedule properties. As per the pleadings and documents produced by the plaintiff, it clearly shows that grandmother of the defendant No.3 to 5 and their father Veerappa acquired the suit schedule property from Smt.Veeravva. Therefore, the plaintiffs have no legal

rights to exclude the defendant No.2 to 5 from inheriting the suit properties.

6. It is further contended that the plaintiffs have denied the legitimate share of the defendant No.2 to 5 in the instant suit in respect of suit schedule properties. Therefore, the doctrine of estoppel applies to the facts and circumstances of the suit as per Sec.115 of Evidence Act and the plaintiffs have no legal rights to deny the share of the defendant No.2 to 5 in suit schedule 1A property. Admitted facts cannot prove as per Sec.85 of the Evidence Act. It is further contended that the plaintiffs had filed O.S.No.105/2023 and not pressed the said suit against defendant No.2 to 5 in respect of suit schedule properties, as such, the present suit is not maintainable and plaintiffs have not approached the Court with clean hands. It is further contended that after disposal of O.S.No.105/2023, plaintiffs No.2 have made a legal contract to purchase the suit 1B property from defendant No.2 to 5. On pursuance of such contract,

defendant No.2 to 5 have duly executed the registered agreement of sale deed in respect of suit schedule 1B property in favour of plaintiff No.2 after receiving the earnest money of Rs.2,40,000/- on 27/06/2023. The meaning thereby, plaintiff has admitted the title and possession of defendant No.2 to 5 in respect of the suit schedule 1B property. In the meantime, plaintiffs have filed this suit and canceled the registered agreement in respect of suit schedule 1B property on 10/06/2024. The conduct of the plaintiffs are not good, after thought to grab the share of the defendant No.2 to 5 in the suit schedule 1A property. Hence, prayed for dismissal of the suit with cost and compensatory cost.

7. On the basis of the above pleadings, following Issues have been framed:

ISSUES

1. Whether the plaintiffs prove that they and defendants constitute joint family?

2. Whether the plaintiffs prove that suit properties are the ancestral and joint family properties?
3. Whether the plaintiffs prove that defendant No.2 to 5 are not having share in the suit properties?
4. Whether the defendant No.2 to 5 prove that they are owners and in possession of the suit schedule 1B property as contended in the written statement?
5. Whether the plaintiffs are entitled for relief as sought in the suit?
6. What order or decree?
8. The plaintiff No.2 has deposed as P.W.1 and got marked documents as Ex.P.1 to Ex.P.8.
9. The defendant No.3 has deposed as DW-1 and got marked the documents at Ex.D.1 to Ex.D.8.
10. Heard the arguments.
11. My findings on the above issues are as under:
 - ISSUE No.1:** In the Affirmative
 - ISSUE No.2:** In the Affirmative
 - ISSUE No.3:** In the Affirmative
 - ISSUE No.4:** In the Negative
 - ISSUE No.5:** In the Affirmative
 - ISSUE No.6::** As per the final order,
for the following:

REASONS

12. **ISSUES No.1 to 4:** These Issues are inter linked with each other, finding on one issue is bearing on other. Hence, to avoid the repetition of facts and also for better appreciation of evidence on record, I take up all these Issues together for discussion.

13. The plaintiffs have filed this suit for partition claiming that the suit properties are Streedhan property of their mother having received from maternal ancestors. The plaintiffs' father Neelappa and brother Irappa @ Veerappa colluded with each other illegally got entered to the suit properties their names excluding the plaintiffs, then Irappa sold 02 acres land with knowledge of the defendant No.2 to 5 who are his legal heirs. Since Irappa @ Veerappa sold his share in the family properties, remaining properties i.e. suit properties are to be divided amongst the plaintiffs and defendant No.1 and defendant No.2 to 5 have no share in the suit properties. This being the fact, the defendants No.2 to 5 got mutated their

names to the suit 1B property and suit 1A property is still in the name of Neelappa, when the plaintiffs asked the defendants to remove their names from the suit 1B property and to effect partition, the defendants initially agreed but then refused. Hence, plaintiffs are before the Court.

14. Per contra, defendant No.2 has contended that originally, the suit property owned and possessed by Smt.Veeravva, during her lifetime, Veeravva made a family arrangements and divided the suit land Sy.No.102/1+2A measuring 07 acre 01 guntas in two parts i.e. 03 acres 01 guntas and allotted it to her husband Neelappa and allotted 04 acres to her son Irappa @ Veerappa as per varadi given by Veeravva, their names have been mutated and they become the absolute owners. Thereafter, Irappa @ Veerappa for his family and legal necessity sold 02 acres of land out of 04 acres. Accordingly, new hissa numbers have been given and the remaining property i.e. suit 1B property measuring 02

acres has been continued in the name of Irappa @ Veerappa as an absolute owner. After his death, defendants No.2 to 5 have inherited the said property and have become absolute owners, as such, plaintiffs and defendant No.1 are not having any share in the said property. However, defendant No.2 to 5 being the legal heirs of Irappa @ Veerappa are having legitimate share in the suit 1A property. Plaintiffs have filed suit by suppressing the material facts. Hence, prayed for dismissal of the suit.

15. In order to prove the case, plaintiff No.3 has deposed as P.W.1 by reiterating the plaint averments, she has deposed that originally suit properties were owned by Smt.Veeravva as Streedhan property, but her husband Neelappa and son Irappa @ Veerappa got mutated their names excluding the plaintiff and thereafter, Irappa @ Veerappa sold 02 acres of land i.e. more than his share in the family properties with knowledge of the defendants No.2 to 5.

16. The plaintiffs have produced the documents at Ex.P.1 to Ex.P.8. Ex.P.1 to 3 are the RTCs pertaining to suit properties. On going through the same, it could be seen that Sy.No.108/1 measuring 03 acres 01 guntas standing in the name of Neelavva, Sy.No.102/3 measuring 02 acres is standing in the joint names of defendant No.2 to 5, Sy.No.102/2 measuring 01 acre 06 guntas is standing in the name of one Shivarudrappa Veerappa Kuradagi. Ex.P.4 is the ROR pertaining to Sy.No.102/1+2A measuring 07 acre 01 guntas standing in the name of Veerappa W/o Neelappa Ganiger. Ex.P.5 is the copy of M.E.No.3026. On going through the same, it could be seen that Neelavva W/o Veerabhadrapa Kuradagi died on 15/03/1963 and her daughter Holeyavva died prior to death of Neelavva, as such, name of daughter of Holeyavva i.e., Veeravva W/o Neelappa Ganiger has been mutated to R.S.No.102/1+2A. Ex.P.6 is the death extract pertaining to Veeravva Ganiger, who died on 18/01/2023. Ex.P.7 is the death extract of Neelappa Irappa Ganiger, who died on 02/01/1994.

Ex.P.4 is the death extract of Irappa @ Veerappa Neelappa Ganiger, who died on 14/07/2013.

17. In order to prove their case the defendant No.3 has deposed as DW-1 by reiteration the written statement averments. She has deposed that her grandmother- Smt. Veeravva was the original owner of the property Sy.No.102/1+2A measuring 07 acre 01 guntas, having received from her maternal grandmother- Neelavva. During her lifetime, Smt. Veeravva due to love and affection made family settlement and divided the property in two parts and allotted 03 acres 01 gunta to her husband by name Neelappa and 04-00 acres to her son by name Veerappa by giving an application to Revenue Authority. Accordingly their names were mutated as per M.E.No.3607. By virtue of the same Neelappa became absolute owner of 03 acres 01 gunta and Veerappa became absolute owner of 04-00 acres. After the death of Neelappa the plaintiffs, defendant no.1 and Veerappa got $1/4^{\text{th}}$ each share in schedule-1A property as per Sec.8 of

Hindu Succession Act. DW-1 has further deposed that Veerappa being the owner of 04-00 acres has sold 02-00 acres to one Shivarudrappa Kuradagi and there remains 02-00 acres with Veerappa i.e., suit 1B property. Veerappa died on 14.07.2013. After his death the defendants No.2 to 5 being his legal heirs are entitled to said property. The plaintiffs and defendant No.1 have no rights in suit 1B property. This being the fact the plaintiffs have not produced any iota of evidence to show that Veerappa had no share in the suit properties.

18. DW-1 has further deposed that the plaintiffs had earlier filed OS No.105/2023 before this court for partition and separate possession claiming $1/4^{\text{th}}$ share in the suit properties but now denying the share of the defendants. Then they filed memo and not pressed the said suit. Therefore, doctrine of estoppels applies to the plaintiffs and they cannot deny the $1/4^{\text{th}}$ share of these defendants in suit 1A property. DW-1 has further deposed that after disposal of OS No.105/2023, the

plaintiff No.2 made a legal contract to purchase the suit 1B property from these defendants who have executed registered agreement for sale in respect of suit-1B property in favour of the plaintiff No.2 after receiving earnest money of Rs.2,40,000/- on 27.06.2023. Then the plaintiffs have filed this suit on 07.06.2024 but before the appearance of these defendants, the plaintiff No.2 got cancelled the said agreement for sale on 10.06.2024. Therefore, conduct of the plaintiffs is not good. After thought to grab the share of these defendants in suit-1A property the plaintiff have filed this false suit.

19. The defendants No.2 to 5 have produced the documents at Ex.D-1 to 8. Ex.D-1 to 3 are the mutation copies. M.E.No.380 speaks that name of Smt.Neelavva W/o Veerabhadrappa Kuradagi was mutated to Sy.No.102/1 as maintenance rights. ME No.3026 speaks that Smt.Neelavva died on 15.03.1963, her daughter-Holiyavva was predeceased to her as such name of the daughter of Holiyavva i.e., Smt. Veeravva has been

mutated to the property. ME No.3607 speaks that Smt. Iravva for some family affairs she effected partition in the property Sy.No.102/1 and allotted 03 acres 01 guntas to her husband Neelappa and 04-00 acres to her son by name Veerappa by giving Varadi.

20. Ex.D-4 is the copy of registered agreement for sale dated:19.06.2023. On going through the same it could be seen that the defendants No.2 to 5 have executed the said agreement for sale agreeing to sell the property bearing Sy.No.102/3 measuring 02-00 acre in favor of plaintiff No.2-Smt.Akkamahadevi for Rs.2,60,000/- and received Rs.2,40,000/-. Ex.D-5 is the deed for cancellation of registered agreement for sale dated:10.06.2024. On going through the same it could be seen that the plaintiff No.2 and defendants No.2 to 5 have got cancelled the registered agreement for sale executed between them dated:27.06.2023 due to their inconvenience and the defendants No.2 to 5 have repaid the earnest money.

21. Ex.D-6 to 8 are the copies of order sheet, plaint and memo in OS No.105/2023 on the file of this court. On going through the same it could be seen that the present plaintiffs and defendant No.1 had filed the said suit for partition and separate possession claiming $1/4^{\text{th}}$ share each in the suit properties which are the same suit properties of this case. On 19.04.2024 the plaintiffs filed memo in the said suit stating that matter is settled out of court as such the plaintiffs have no interest to proceed with the matter and requested to dispose of the suit as not pressed. Accordingly said suit has been disposed of as settled.

22. Learned counsel for the plaintiff has argued with force that it is not in dispute that suit land Sy.No.102/1+2A measuring 07 acres 01 guntas was owned by Smt.Veeravva as a Streedhan property having received from her maternal ancestors and she was absolute owner in possession of the said property during her lifetime. This being the fact, husband of Veeravva

i.e., Neelappa and his son by name Irappa @ Veerappa got mutated their names to the suit property without the knowledge and consent of the plaintiff and defendant No.1. Thereafter, Irappa @ Veerappa sold 02 acres of land with knowledge of the defendant No.2 to 5, who are his wife and children. It is further argued that total extent of family properties was 07 acre 01 guntas, Irappa @ Veerappa was having $\frac{1}{4}$ share, but he has already sold 02 acres land i.e. more than the extent of his $\frac{1}{4}$ th share, as such, defendant No.2 to 5 who are claiming through Irappa @ Veerappa have no any share in the remaining properties i.e. suit properties. It is further argued that the DW-1 in her cross examination has admitted that her father Veerappa has sold 02-00 acres out of 04-00 acres land standing in his name and also admitted that when the plaintiffs and defendant No.1 questioned the sale of land father of the DW-1 i.e., Veerappa and mother i.e., defendant no.2 had told them that for their family necessity they sold their share and share of the plaintiffs and defendant No.1 is remaining

there. It is also admitted that the defendants No.2 to 5 were intending to sell the reaming 02-00 acre i.e., suit 1B property. Admitted fact need not be proved.

23. It is further argued that Smt.Veeravva had not relinquished the property in favour of her husband of son. To relinquish the title in immovable property it must be made through registered document but the defendants No.2 to 5 have not produced any document to prove the flow of title to Veerappa and Neelappa. Learned counsel for the plaintiffs has relied upon the judgment passed by the **HON'BLE HIGH COURT OF KARNATAKA DHARWAD BENCH IN RSA No.100351/2022 (PAR/POS)** between **MEHARUNNISA W/O KASIMSAB SHEKHASANADI & OTHERS Vs ALLASAB @ ALLABAKSHA S/O PAPASAB HANASI & OTHERS DATED:15.07.2025** wherein it is held that: “ *It is settled law that no right, title or interest in an immovable property, the value which more than Rs.100/- cane be created by merely submitting Varadhi or by the effect of*

revenue entries.” The Hon'ble High Court was pleased to rely on the judgment passed in the case of **MADIVALAPPA S/O.KARIYAPPA MUGABAVA, SINCE DECEASED BY HIS L.RS. VS. MOHAMMAD JAFAR S/O. HUSSINSAB KALLIMANI**, wherein also same proposition law was upheld. It is further argued that no title was passed to Veerappa on the basis of mere mutation as such the defendants No.2 to 5 have no property after sale of 02-00 acres by Veerappa. Hence, prayed for decreeing the suit by allotting 1/3rd share each to the plaintiffs in the suit properties.

24. Per contra Learned counsel for the defendants No.2 to 5 has vehemently argued that First of all the plaintiffs have not paid the requisite court fee on the plaint as such suit is not maintainable. It is further argued that Smt.Veeravva was the owner of 07 acre 01 guntas, she gave Varadi to mutate the name of her husband by name Neelappa to 03 acre 01 guntas and name of her son by name Veerappa to 04-00 acre

property and by virtue of the same names of Neelappa and Veerappa have been mutated and they became the owners of respective properties. Then Veerappa sold 02-00 acres and 02-00 remained with him. After the death of Veerappa the defendants No.2 to 5 being his legal heirs have become the absolute owners of suit-1B property. After the death of Neelappa they being the legal heirs are entitled to share in suit 1A property. It is further argued that the plaintiffs by admitting the title of the defendants No.2 to 5 have entered into registered agreement for sale agreeing to purchase the suit-1B property and then got cancelled it. When the plaintiffs admitted the title of the defendants No.2 to 5 over suit 1B property they are estopped from denying the title of the defendants No.2 to 5 over suit 1B property. Earlier the very same plaintiffs had filed OS No.105/2023 admitting the share of these defendants, and then they got not pressed the said suit and now denying the rights of the defendants No.2 to 5 without valid grounds. Hence, prayed for dismissal of the suit of the plaintiffs in respect of suit 1B property and to

award 1/4th share to the defendants No.2 to 5 in suit 1A property.

25. I have gone through the entire material carefully. As per M.E.No.3026 and ROR i.e. Ex.P.4, it is clear that Smt.Veeravva W/o Neelappa Ganiger received the land Sy.No.102/1+2A measuring 07 acre 01 guntas from her maternal grandmother, as such, said property through Streedhana property and Veeravva was the absolute owner in possession of the said property. The defendant No.2 to 5 have contended that during her lifetime, Veeravva made family arrangements and divided the property in two parts and allotted 03 acres 01 guntas to her husband Neelappa and allotted 04 acres to her son Irappa @ Veerappa, they relied on ME No.3607. The plaintiffs have denied the flow of title to Neelappa and Irappa @ Veerappa to the property. It is settled law that for effecting any mutation, it must be based on any registered document, decree from competent court or order from any competent authority but ME No.3607

speaks that it was effected based on Varadi but no any Varadi or document is produced. Further it is settled law that to transfer any right, title or interest over any immovable property worth more than Rs.100/-, it must be made through registered document but no such document is produced by the defendants No.2 to 5 to prove the title of Irappa @ Veerappa to 04-00 acres property. The defendants have not adduced any evidence of any witness to prove that Smt.Veeravva had relinquished her rights in the property in favor of Neelappa and Irappa @ Veerappa. Therefore, after the death of Smt.Veeravva the plaintiffs and defendant No.1 and Irappa @ Veerappa being the legal heirs of Smt.Veeravva got 1/4th share in the entire property to the extent of 07 acres 01 guntas.

26. The plaintiffs have contended that after getting mutation of name of Irappa @ Veerappa has sold 02 acres land to one Shivarudrappa Veerappa Kuradagi. Said fact is neither disputed nor denied by the defendant No.2 to

5. The defendant No.2 to 5 have claimed that since Smt.Veeravva had relinquished the said property to Irappa @ Veerappa, he was absolute owner of 04-00 acres of land, out of which, he sold 02-00 acres land and after his death, the defendant No.2 to 5 being the class-I legal heirs of Irappa @ Veerappa have become the absolute owners and remaining 02-00 acres of land i.e. suit 1B property R.S.No.102/3. On the other hand the plaintiffs have contended that out of total 07 acre land left by Smt.Veeravva Irappa @ Veerappa was having $1/4^{\text{th}}$ share i.e., less than 02-00 acre but he has sold 02-00 acre which is more than his share in total property and Irappa @ Veerappa had agreed that he sold his share in the family property and remaining property i.e., suit properties are the share of the plaintiffs and defendant No.1 as such the defendants have no share in the suit properties.

27. The defendant No.3/DW-1 in her cross examination has admitted as under:

"ಮೂಲತಃ ಆಸ್ತಿ 7 ಎಕರೆ 1 ಗುಂಟೆ ಇತ್ತು ಎಂದರೆ ಸರಿ. ಈರವ್ವ ಇರುವವರೆಗೆ ಸಂಪೂರ್ಣ ಆಸ್ತಿ ಆಕೆಯ ಮಾಲ್ಕಿ ಮತ್ತು ಸ್ವಾಧೀನದಲ್ಲಿತ್ತು ಎಂದರೆ ಸರಿ. ನಮ್ಮ ಅಜ್ಜಿ ಈರವ್ವ 2023 ರಲ್ಲಿ ತೀರಿಕೊಂಡಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಈರವ್ವ ಅನಕ್ಷರಸ್ಥಳಾಗಿದ್ದಳು ಎಂದರೆ ಸರಿ,"

"ಈರವ್ವ ಅಜ್ಜಿ ಆಸ್ತಿಯನ್ನು ನಮ್ಮ ತಂದೆ ಹಾಗೂ ಅಜ್ಜನಿಗೆ ಬಿಟ್ಟುಕೊಟ್ಟ ಬಗ್ಗೆ ದಾಖಲೆ ಇದೆಯೋ ಇಲ್ಲವೋ ಗೊತ್ತಿಲ್ಲ."

"ನಮ್ಮ ಹೆಸರು ದಾಖಲಿಸಿಕೊಂಡ ನಂತರ ನಮ್ಮ ತಂದೆ ಹಾಗೂ ನಮ್ಮ ಅಜ್ಜ ಸದರಿ ಆಸ್ತಿಯನ್ನು 4 ಎಕರೆ ಹಾಗೂ 3 ಎಕರೆ 1 ಗುಂಟೆ ಎಂದು ವಿಭಾಗಿಸಿದರು ಎಂದರೆ ಸರಿ."

"ನಮ್ಮ ತಂದೆ ಈರವ್ವ 4 ಎಕರೆ ಜಮೀನನ್ನು ತನ್ನ ಹೆಸರಿಗೆ ಮಾಡಿಕೊಂಡು ಅದರ ಪೈಕಿ 2 ಎಕರೆ ಜಮೀನನ್ನು ಶಿವರುದ್ರಪ್ಪ ಕುರುಡಗಿ ಇವರಿಗೆ ಮಾರಾಟ ಮಾಡಿದ್ದಾನೆ ಎಂದರೆ ಸರಿ."

"ಸದರಿ ಜಮೀನು ಮಾರಲು ನಮ್ಮ ಅತ್ತೆಯಂದಿರು ಅಂದರೆ ವಾದಿಯರು ಹಾಗೂ ಪ್ರತಿವಾದಿ ನಂ.1 ಸಹ ಒಪ್ಪಿಗೆ ನೀಡಿದ್ದರು ಎಂದು ತೋರಿಸಲು ಯಾವುದೇ ದಾಖಲೆ ಇಲ್ಲ. ನಮ್ಮ ತಂದೆ 2 ಎಕರೆ ಜಮೀನು ಮಾರಾಟ ಮಾಡಿದಾಗ ನಮ್ಮ ಅತ್ತೆಯಂದಿರು ಬಂದು ಹೇಳಿದ್ದು ಆಗ ನಮ್ಮ ತಂದೆ ಮತ್ತು ನಮ್ಮ ತಾಯಿ ನಮಗೆ ಅಡಚಣೆ ಇದ್ದ ಕಾರಣ ನಮ್ಮ ಪಾಲಿನ ಜಮೀನು ನಾವು ಮಾರಿದ್ದೇವೆ ಎಂದು ಹೇಳಿದ್ದರು ಎಂದರೆ ಸರಿ. ನಿಮ್ಮ ಪಾಲಿನ ಆಸ್ತಿ ಅಲ್ಲಿಯೇ ಉಳಿದಿದೆ ಎಂದು ನಮ್ಮ ತಂದೆ ವಾದಿ ಮತ್ತು ಪ್ರತಿವಾದಿ ನಂ.1 ರವರಿಗೆ ಹೇಳಿದ್ದರು ಎಂದರೆ ಸರಿ."

"ನಮ್ಮ ತಂದೆ ತೀರಿಕೊಂಡ ನಂತರ ನಾವು ಉಳಿದ ದಾವಾ ಆಸ್ತಿಗಳಿಗೆ ನಮ್ಮ ಹೆಸರು ದಾಖಲಿಸಿಕೊಳ್ಳಲು ಯಾವುದೇ ಪ್ರಯತ್ನ ಮಾಡಿಲ್ಲ ಎಂದರೆ ಸರಿ."

"ನಮ್ಮ ಅಜ್ಜಿ 18.01.2023 ರಂದು ತೀರಿಕೊಂಡಿದ್ದಾರೆ. ನಮ್ಮ ಅಜ್ಜಿ ತೀರಿಕೊಳ್ಳುವ 2 ವರ್ಷ ಮುಂಚಿನಿಂದ ಅನಾರೋಗ್ಯದಿಂದ ಹಾಸಿಗೆ ಹಿಡಿದಿದ್ದಳು ಎಂದರೆ 5-6 ತಿಂಗಳು ಮಾತ್ರ ಅನಾರೋಗ್ಯವಾಗಿದ್ದಳು ಎಂದು ಹೇಳುತ್ತಾರೆ. ನಮ್ಮ ಅಜ್ಜಿ ತೀರಿಕೊಳ್ಳುವ 2 ವರ್ಷ ಮುಂಚಿನಿಂದ 1 ನೇ ವಾದಿಯ ಮನೆಯಲ್ಲಿದ್ದು ಅವರೇ ಜೋಪಾನ ಮಾಡುತ್ತಿದ್ದರು ಎಂದರೆ ಸರಿ."

"ನಾವು ನಮ್ಮ ತಂದೆಯ ಹೆಸರಿನಲ್ಲಿದ್ದ ಆಸ್ತಿಗೆ ವಾರಸಾ ಎಂಟ್ರಿ ಮಾಡಿಕೊಂಡ ನಂತರ ವಾದಿಯರಿಗೆ ಈ ದಾವೆ ಹೂಡುವ ವಾದ ಕಾರಣ ಉಂಟಾಯಿತು ಎಂದರೆ ಸರಿ."

"ನಮ್ಮ ಹೆಸರು ದಾಖಲಿಸಿಕೊಂಡ ನಂತರ ಆ 2 ಎಕರೆ ಜಮೀನನ್ನು ನಾವು ಮಾರಾಟ ಮಾಡಲು ಹೋಗಿದ್ದೆವು ಎಂದರೆ ಸರಿ. ಆ ಸಮಯದಲ್ಲಿ ವಾದಿಯರು ಮತ್ತು 1 ನೇ ಪ್ರತಿವಾದಿ ಬಂದು ತಕರಾರು ಮಾಡಿದ್ದರು ಎಂದರೆ ಸರಿ."

"ಆಗ ವಾದಿಯರು ಹಾಗೂ ಪ್ರತಿವಾದಿಯರು ನಮ್ಮ ವಿರುದ್ಧ ಓ ಎಸ್ ನಂ.105/2023 ದಾಖಲಿಸಿದರು ಎಂದರೆ ಸರಿ. ಆ ಕೇಸಿನಲ್ಲಿ ನಮಗೆ ಸಮನ್ ಜಾರಿಯಾಗಿತ್ತು ಆದರೆ ನಾವು ಹಾಜರಾಗಿಲ್ಲ. ನಂತರ ಹಿರಿಯರ ಸಮಕ್ಷಮ ರಾಜೀ ಮಾತುಕತೆಯಾಯಿತು ಎಂದರೆ ಸದರಿ ಆಸ್ತಿ ಖರೀದಿ ಮಾಡುವ ಬಗ್ಗೆ ಮಾತುಕತೆಯಾಯಿತು ಎಂದು ಹೇಳುತ್ತಾರೆ. ಮಾತುಕತೆಯಾದ ನಂತರ ವಾದಿಯರು ಮತ್ತು 1 ನೇ ಪ್ರತಿವಾದಿ ಸದರಿ ದಾವೆಯನ್ನು ವಾಪಸ್ ಪಡೆದರು ಎಂದರೆ ಸರಿ."

28. DW-1 in her cross examination has admitted that total 07 acre 01 property was owned by Smt.Veeravva having received for her maternal ancestors, said property was under her title and possession till her

death in 2023, said Smt.Veeravva was illiterate, there is no document to show that Smt.Veeravva relinquished the property in favour of her husband and son. It is further admitted after getting entry of their names to the property father and grandfather of DW-1 got divided the property as 03 acre 01 guntas 04-00 acre, out of said 04-00 acres father of this witness i.e., Veerappa sold 02-00 acres land. The DW-1 has specifically admitted that when the plaintiffs and defendant No.1 questioned about selling of 02-00 acre land, father and mother of DW-1 i.e., Veerappa and present defendant No.2 told them that they sold 02-00 land for their family necessity and share of the plaintiffs and defendant No.1 remains there. So, there is clear admission by the DW-1 that her father Veerappa and defendant No.2 admitted that Veerappa has sold the property to the extent of his share and remaining suit properties are the share of the plaintiffs and defendant No.1 only.

29. The DW-1 has stated that Smt.Veeravva during her life time entered the names of defendant No.2 to 5 to suit 1B property but the DW-1 in her cross examination has stated that they got entered their names to suit 1B property in 2022, Smt.Veeravva died on 18.01.2023, DW-1 also admitted that Smt.Veeravva was suffering from illness and she was residing with plaintiff No.1 since 02 years prior to her death and the plaintiff No.1 was taking care of Smt.Veeravva. It creates doubt about the say of the DW-1 that Smt.Veeravva entered the names of defendants No.2 to 5 to suit 1B property.

30. The defendants No.2 to 5 have taken another contention that the plaintiffs had entered in to sale agreement by admitting their title as such the plaintiffs are estopped from denying the title of the defendants No.2 to 5 over the suit 1B property. They relied upon Ex.D-4 and 5 i.e., agreement for sale and its cancellation deed. The plaintiffs have contended that since the defendants No.2 to 5 were in hurry to alienate the suit

1B property, the plaintiffs have opposed the same, at that time the defendants No.2 to 5 have assured to delete their names from the revenue records of the suit property and as it will take more time, in order to restrict them the village elders asked to execute a document, for that the defendants No. 2 to 5 had executed the said document but it was not the actual sale agreement.

31. It is pertinent to note that those documents are between the plaintiff No.2 and defendants No.2 to 5. The plaintiff No.1 and defendant No.1 are neither parties nor signatories to said documents as such same are not binding on them. The DW-1 in her cross examination has admitted that they were intending to sell the suit 1B property, at that time the plaintiffs and defendant No.1 have objected for that. The defendants No.2 to 5 have contended that the Ex.D-4 and 5 show that the plaintiffs have admitted their title and if, it was real sale agreement. If it was real sale agreement the defendants No2 to 5 ought to have prove the same by examining any

of the witness to said documents and there was no hurdle for the defendants No.2 to 5 to take legal steps for enforcement of the alleged sale agreement. However said sale agreement for sale has been cancelled on consent of both the parties as such said documents are not helpful to the case of the defendants No.2 to 5.

32. The defendants No.2 to 5 have also contended that the plaintiffs had earlier filed OS No.105/2023 for partition and separate possession admitting that the defendants No.2 to 5 are having 1/4th share and now denying their share, said suit was withdrawn by the plaintiffs as such now the plaintiffs cannot deny the share of the defendants No.2 to 5 in suit 1A property. The defendants No.2 to 5 have relied upon the Ex.D-6 to 8 i.e., order sheet, plaint and memo in OS No.105/2023. The plaintiffs have contended that after filing of the said suit the village elders were gathered and after discussion the defendants No.2 to 5 agreed to delete their names from suit 1B property as such the plaintiffs

got withdrawn the said suit by filing memo. It is pertinent to note that though the defendants have denied the contention of the plaintiffs that the defendants No.2 to 5 have agreed to delete their names from suit 1B property but the DW-1 in her cross examination has clearly admitted that, after the discussion the plaintiffs got withdrawn the OS No.105/2023. It shows that after filing OS No.105/2023 there was discussion for settlement between the parties as such the plaintiffs got withdrawn the said suit.

33. After going through the entire oral and documentary evidence and admission by the DW-1 in her cross examination, it is clear that total 07 acres 01 guntas was left by Smt.Veeravva, after her death, plaintiff, defendant No.1 and Irappa @ Veerappa got $1/4^{\text{th}}$ share each in the entire property. It is undisputed fact that Irappa @ Veerappa has already sold 02 acres of land i.e. more than his $1/4$ share in 07 acre 01 guntas. In other words Irappa @ Veerappa had already taken his share in

the family property. The DW-1 has admitted that after selling of 02 -00 acres of land, her father and mother told the plaintiffs and defendant No.1 that they sold their share and remaining property is the share of plaintiffs and defendant No.1. Now only 05 acres 01 guntas land is remaining. Since Irappa @ Veerappa has already sold the property more than his share in the total joint family property, the defendants No.2 to 5 who are claiming through Irappa @ Veerappa cannot claim the absolute title over the suit schedule 1B property measuring 02-00 acres land and they cannot claim share in the suit 1A measuring 03 acres 01 guntas. So, the remaining property i.e. suit property measuring 05 acre 01 guntas is to be divided amongst the plaintiffs and defendant No.1 only. Therefore, I am of the considered opinion that the plaintiffs have proved the Issues No.1 to 3 and the defendants No.2 to 5 have not proved the Issue No.4. Hence, the Issues No.1 to 3 are answered in the Affirmative and Issue No.4 is answered in the Negative.

34. **ISSUE No.5:** As discussed above, it is clear that total 07 acres 01 guntas land was received by Smt.Veeravva in which, plaintiff, defendant No.1 and deceased Irappa @ Veerappa got having $1/4^{\text{th}}$ share. But Irappa @ Veerappa has already sold 02-00 acres of land i.e. more than the extent of his share in the total family property, as such, the defendant No.2 to 5 who are claiming through Irappa @ Veerappa have no share in the remaining 05 care 01 guntas i.e. suit properties. Therefore, plaintiffs and defendant No.1 are having $1/3^{\text{rd}}$ each share in the suit properties. Hence, the Issue No.5 is answered in the Affirmative.

35. **ISSUE No.6:** As discussed above suit of the plaintiffs is required to be decreed. Since it is a partition suit it is just and proper to direct both parties to bear their own cost. Hence, I proceed to pass the following:

ORDER

Suit of the plaintiffs is decreed.

The plaintiffs No.1 and 2 are entitled
for $1/3^{\text{rd}}$ share each in the suit properties

with separate possession by metes and bounds.

The defendant No.1 is entitled for 1/3rd share in the suit properties.

Both parties shall bear their own cost.

Draw preliminary decree accordingly.

Office is directed to register suo-moto FDP after completion of appeal period.

(Dictated to Stenographer, transcribed by him printed and then corrected and pronounced by me in the open Court on this **01st day of July, 2026**)

Sd/- 01/07/2026

(G.R.SHETTAR)

**Prl. Senior Civil Judge & CJM,
GADAG**

ANNEXURES

WITNESSES EXAMINED FOR PLAINTIFFS:

PW-1 : Akkamahadevi @ Gangavva Sandigod

DOCUMENTS EXHIBITED FOR PLAINTIFFS:

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Ex.P.1 to 3 : RTC Extracts
Ex.P.4 : ROR
Ex.P.5 : Mutation copy
Ex.P.6 to 8 : Death Extracts

WITNESSES EXAMINED FOR DEFENDANTS:

DW-1 : Channamma Basavaraj Maribasannavar

DOCUMENTS EXHIBITED FOR DEFENDANTS:

- Ex.D.1 to 3 : Mutation copies
Ex.P.4 : Copy of sale agreement
Ex.P.5 : Cancellation of sale agreement deed
Ex.P.6 : Copy of order sheet in OS No.105/2023
Ex.P.7 : Copy of plaint in OS No.105/2023
Ex.P.8 : Copy of Memo filed in OS No.105/2023

Sd/- 01/07/2026

(G.R.SHETTAR)

**Prl. Senior Civil Judge & CJM.,
GADAG**