



**IN THE COURT OF THE III ADDITIONAL SENIOR
CIVIL JUDGE & J.M.F.C., AT DEVANAHALLI.**

PRESENT

SRI. YASHAVANTH KUMAR R., B.A.L., LL.B.,

III Addl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

Dated this the 21st Day of July, 2026.

O.S.No.507/2011

PLAINTIFF/S :

1. Sri. Narasimhappa,
S/o. Munitirumalappa,
Aged about 21 years.

2. Kum. Nagaveni @
Narayanamma,
D/o. Munithirumalappa,
Aged about 19 years.

Master Manjunath,
S/o. Munitirumalappa,
Aged about 19 years.
Since minor,
Represented by
Her Mother and
Natural Guardian
Smt. Rathnamma
W/o. Munitirumalappa,
Aged about 40 years.



All are R/at:
Yemrahalli Village,
Kasaba Hobli,
Devanahalli Taluk,
Bangalore Rural District.

(By Sri. V.V.S.G., Advocate)

- V/s -

DEFENDANT/S : **1.** Sri. Munitirumalappa,
S/o. Late Pedanna @ Peddiga,
Aged about 53 years.

2. Smt. Y.T.Mariyamma,
D/o. Sri. Munitirumalappa,
W/o. Sri. Ravi,
Aged about 23 years.

Both are R/at:
Yemrahalli Village,
Kasaba Hobli,
Devanahalli Taluk,
Bangalore Rural District.

3. Sri. Aravind Kumar Parekh,
S/o. Mangilal,
Aged about 43 years,
R/at: No.20, 3rd Cross,
Gandhinagar,
Bangalore – 560009.



(D1 – By Sri. D.S.H., Advocate)

(D2 – Exparte)

(D3 – By Sri. R.V.L., Advocate)

Date of institution of the: suit		21.10.2011	
Nature of the suit	:	Partition & Separate Possession	
Date of commencement Date of recording of the evidence	:	14.09.2012	
Date on which the Judgment was pronounced	:	21.07.2026	
Total duration		Year/s	Month/s
		14	09
			Day/s
			00

Sd/-

(YASHAVANTH KUMAR. R)III Addl. Senior Civil Judge & J.M.F.C.,
Devanahalli.**J U D G M E N T**

The present suit is filed for Partition and Separate Possession, Declaration and such other reliefs.



2. The brief facts of plaintiffs case are as hereunder:-

One Sri. Pedanna was the propositus of the plaintiffs and the defendant No.1 and 2's family. The suit schedule property was granted in favour Late Sri. Pedanna by the Government. The plaintiffs and the defendant No.1 and 2 family have also another property which was property bearing Sy.No.95 measuring 2 Acres. Sri. Pedanna during his lifetime executed registered Will in favour of the second son namely Sri. Munithirumalappa(first defendant) by bequeathing the suit property to him. The first defendant without there being any necessity sold the suit property to the third defendant through a registered Sale Deed. The same is not binding on plaintiffs share. The first defendant has no absolute right to sell the suit property to the third defendant. The grandmother of the plaintiffs filed suit for Partition and Separate Possession. Since she got her



share in the Compromise, the said suit was compromised. The plaintiffs were not parties to the said proceedings. The plaintiffs have demanded their legitimate share in the suit schedule properties. Since the defendants have refused to make partition, the present suit is filed and prayed to decree the suit.

3. On the other hand, the third defendant has filed written statement contending that the suit property was the absolute property of Late Sri. Pedanna. He bequeathed the same to the defendant No.1 through a registered Will. Therefore, the first defendant has become the absolute owner of the suit properties. Being the absolute owner of the suit property, he sold the same to the defendant No.3 through a registered Sale Deed. The suit of the plaintiff is barred by Law of limitation. There is



no cause of action for the present suit. Hence, it is prayed to dismiss the suit.

4. The defendant No.1 and 2 have not filed written statement though they have appeared.

5. Based on the above pleadings, the following issues have been framed:

ISSUES

- 1) Whether the plaintiffs prove that they are the members of Hindu undivided joint family and the suit schedule property is their joint family property ?
- 2) Whether plaintiffs prove that they are entitle for Partition and Separate Possession of 1/5th share in the suit property ?



3) Whether the plaintiffs prove that the Sale Deed dated 22.11.2005 executed by the defendant No.1 in favour of the defendant No.3 is not binding on them ?

4) Whether the plaintiffs prove that order passed on 16.03.2010 in O.S.No.453/2008 is not binding on the shares of the plaintiffs ?

5) Whether the plaintiffs are entitled for the relief a sought for ?

6) What order or decree?

6. In order to prove the plaintiffs case, the plaintiff No.1 and 2 have been examined as PW.1 and 4 and other witnesses are also examined as PW.2 & 3. The plaintiffs have also produced 10 documents which are marked as Ex.P1 to 10. On the other hand, the third



defendant has been examined as DW.1 and he has produced 7 documents which are marked as Ex.D1 to 7.

7. Heard the arguments of the both side.

8. Based on the materials available on record, the answers to the above said issues are as follows:

<i>Issue No.1</i>	:	<i>In the Negative</i>
<i>Issue No.2</i>	:	<i>In the Negative</i>
<i>Issue No.3</i>	:	<i>In the Negative</i>
<i>Issue No.4</i>	:	<i>In the Negative</i>
<i>Issue No.5</i>	:	<i>In the Negative</i>
<i>Issue No.6</i>	:	<i>As per the final order for the following;</i>

REASONS

9. **ISSUE NO.1 to 4:** These Issues are interlinked with each other, hence they have taken up together for common discussion to avoid repetition of facts.



10. Before saying anything on the controversial facts, it is just and necessary to narrate the admitted facts by the parties. It is an admitted fact that one Sri. Pedanna @ Peddiga is the propositor of the plaintiffs and the defendant No.1 and 2's family. He had wife namely Smt. Narasamm. They had 4 daughters and 2 sons namely Smt. Muniyamma, Smt. Tirumalamma, Smt. Veeramma and Smt. Narayanamma. Sons namely Sri. Narasimha and Sri. Munitirumalappa. It is also an admitted fact that Late Sri. Pedanna had 2 properties. That is the property bearing Sy.No.95 measuring 2 Acres and the property bearing Sy.No.114/B1 measuring 2 Acres(the suit property). It is also an admitted fact that Sri. Narasimha had taken 2 Acres land in the joint family and he was separated. The other 2 Acres had bequeathed by Late Sri. Pedanna in favour of Munitirumalappa who is the defendant No.1 in the above case. It is also an



admitted fact that the suit schedule property was originally granted in favour of Sri. Pedanna during his lifetime by the Government. The plaintiffs have further contended that Sri. Munitirumalappa had 2 wives namely Smt. Munirathnamma and Smt. Rathnamma. Through his first wife he had 3 children namely plaintiff No.1 and 2 and the defendant No.2. Through his second wife he has the plaintiff No.3. To that extent also, there is no dispute between the parties.

11. The plaintiffs have further contended that the suit schedule property was not the absolute property of Late Sri. Pedanna. He had no absolute right to bequeath the same to the first defendant through registered Will dated 22.06.1982. Based on the registered Will, the first defendant is not the owner of the suit schedule property. The suit schedule property is the joint family property of



the plaintiffs and the defendant No.1 and 2. Though it is joint family property, Sri. Munitirumalappa who is the first defendant sold the suit property to the defendant No.3 through a registered Sale Deed dated 22.11.2005. The plaintiffs have demanded their legitimate share. At that time, the plaintiffs came to know that the first defendant sold the suit property to the defendant No.3 through a registered Sale Deed. Immediately, the defendant No.2 filed suit in O.S.No.453/2008 for Partition and Separate Possession. The said suit has been withdrawn illegally by the defendant No.2 though the plaintiffs have right in the suit schedule property. Therefore, the plaintiffs have contended that the suit schedule property is the joint family property of the plaintiffs and the defendant No.1 and 2 family.



12. On the other hand, the defendant No.3 has filed the written statement contending that the suit property was originally belonging to Late Sri. Pedanna. The same was granted by the Government to Late Sri. Pedanna. Sri. Pedanna bequeathed the suit property to the first defendant herein. After death of Sri. Pedanna and his wife Smt. Narasamma, the first defendant became the absolute owner of the suit property. For the family necessities, the defendant No.1 sold the suit property to the defendant No.3. From the date of purchase, the defendant No.3 is in peaceful possession and enjoyment of the suit schedule property. Therefore, the defendant No.3 has contended that the suit of the plaintiffs is not maintainable.

13. As stated herein above, it is specific case of the plaintiff that suit property was granted in favour of Late



Sri. Pedanna by the Government in the year 1997. The said property has been bequeathed to the defendant No.1 through a registered Will dated 22.06.1983. The counsel for the plaintiffs has argued that on careful perusal of the said Will, it is clear that the Will is nothing but a Partition Deed. Because, according to him Sri. Narasimha had already taken his 2 Acres of land. The remaining 2 Acres of land has been allotted to Sri. Munitirumalappa that is defendant No.1. Therefore, he has contended that the suit schedule property is the ancestral and joint family property of the plaintiffs and the defendant No.1 and 2. The said contention is not acceptable because, on careful perusal of the registered Will that is Ex.P1, it is clear that the suit property was granted to the defendant No.1 by the Government. It has been written in the Will that the suit property was the absolute property of Late Sri. Pedanna. It is also written that being the owner of



the suit property and since the first defendant has taken care of Sri. Pedanna and his wife namely Smt. Narasamma, he bequeathed the suit property to the defendant No.1. It is also an obligation on the defendant No.1 that he has to perform the another daughter's marriage. At this stage, it is also necessary to re-write the plaint averments. In the plaint, the plaintiffs have specifically admitted that the suit schedule property was the absolute property of the first defendant. The relevant para of the plaint as here under:

“The first defendant became absolute owner in respect of suit schedule property by having all revenue records by virtue of the registered Will dated 23.06.1983”.

From the above said recitals and materials available on the record, it is clear that the suit schedule property is not available for the Partition as on the date of suit.



Because, the same was absolute property of the Late Sri. Pedanna and he transferred to the first defendant.

14. As stated herein above, the plaintiffs themselves have contended that in view of the Will executed by Late Sri. Pedanna in favour of the first defendant, the defendant No.1 has become the absolute owner of the suit schedule property. His name has been duly mutated as per the registered Will dated 23.06.1983. When the plaintiffs themselves have admitted in their plaint that the first defendant became the absolute owner of the suit property in view of the Will, contending that the plaintiffs have share or right in the suit schedule property is not correct.

15. The plaintiffs have further contended that the first defendant was not managing the suit property and



family in a good terms. He addicted for bad habits. To fulfill his bad habits, the defendant No.1 used to mismanage the suit schedule property. The plaintiffs have also contended that the first defendant sold for his illegal purpose the suit schedule property to the defendant No.3. The said Sale Deed is not binding on them. As stated herein above, the plaintiffs have contended that it is absolute property of the defendant No.1. The recitals of the Sale Deed, clearly says that the suit property sold by the first defendant for the family necessity. The relevant portion of the Sale Deed as here under:

“Vendors not in a possession to cultivate and to maintain the suit schedule land for their benefit of their family and they are in need of funds for the family necessities for the educational expenses of minor children of the



vendor No.1, for the development of other properties, discharge of hand loans and the invest the better earnings etc., they deserves to sell the property to the defendant No.3”.

In the entire plaint, these recitals have not been disputed by the plaintiffs. It is an admitted fact that at the time of execution of Sale Deed, the plaintiffs were minors except the defendant No.2. The recitals of the Sale Deeds says that for the education of minors, the property was sold. That has not been denied by the plaintiffs. Therefore, the contention of the plaintiffs that the first defendant never sold the suit property for the benefit of the family is not correct and the same is not believable.

16. The plaintiffs have further contended that immediately after the sale, the second defendant filed suit in O.S.No.453/2008 for the relief of Partition and



Separate Possession. At that time, the plaintiffs herein are the defendants and they were minors. Though the second defendant filed suit for Partition contending that it is joint family property, without their being a representation on behalf of the minor, the suit was settled in the Lok-Adalath. Accordingly, the suit filed by the second defendant was dismissed as settled with Lok-Adalath. The entire process is not in accordance with Law. Therefore, the plaintiffs have contended that the order of dismissal of the suit is not binding on the plaintiffs. It is well established principle that if the suit is decided in the Lok-Adalath, the aggrieved party can approach the Hon'ble High Court of Karnataka under the writ jurisdiction to question the validity of the compromise which recorded in the Lok-Adalath. Now, the plaintiffs can't file a separate suit. They have no right to separate suit. They have not explained in the plaint why



they have not chosen to approach the Hon'ble High Court of Karnataka. Therefore, to that extent also, the case of the plaintiffs, it is not maintainable. Moreover, as stated herein above, the plaintiffs have clearly admitted that the first defendant become the absolute owner of the suit schedule property by virtue of the Will. Before, that Sri. Pedanna was the absolute owner. Since the first defendant was taking care of Late Sri. Pedanna and his wife, the suit property has been bequeathed to the first defendant. To that extent also, the recitals of the Ex.D1 is clear. Therefore, the contention of the plaintiffs that the suit schedule property is the ancestral property, the plaintiffs have right in the same is not believable.

17. The plaintiffs have further contended that on careful perusal of the recitals of Will dated 26.03.1983, it is nothing but a partition between the family members.



They have also contended that Sri. Narasimha has got his share earlier to execution of Will. In view of the Will, the first defendant has got his share. Therefore, the plaintiffs have contended that they have birth right in the suit property. On careful perusal of the Will dated 26.03.1983, it is clear that the absolute property of Late Sri. Pedanna transferred to the defendant No.1 in view of the Will. Since the first defendant has received since he has took care of Late Sri. Pedanna and his wife, then the said property becomes his absolute property. The plaintiffs have no birth right. Hence, the contention of the plaintiffs that the Will is nothing but Partition Deed is not acceptable. Hence, the said contention is also wrong.

18. The plaintiffs are failed to prove that the suit schedule property is available for Partition. Since, they are failed to prove that they are having 1/5th share in the



suit schedule property and the plaintiffs are not entitled for any share. On the other hand, the defendant No.3 has proved that the Sale Deed executed by the first defendant in favour of the third defendant on 22.11.2005 is binding on the plaintiffs share. Therefore, **the Issue No.1 to 4 are held in the Negative.**

19. ISSUE NO.5:- The plaintiffs have not proved that the plaintiffs and the defendant No.1 and 2 are the joint family members. They have also not proved that the suit schedule property is joint and ancestral property of the plaintiffs and the defendant No.1 and 2. The plaintiffs have not proved that the suit schedule property is available for Partition as on the date of suit. on the other hand, the defendant No.3 has proved that the suit property is his absolute property by virtue of registered Sale Deed dated 22.11.2005. Hence, the plaintiffs are not



entitled for any share under the Will as prayed for.

Accordingly, **the Issue No.5 held in the Negative.**

20. ISSUE NO.6:- In view of the above said reasons while discussing issue No.1 to 5, the following;

ORDER

*The suit of the plaintiffs is
hereby dismissed with costs.*

Draw decree accordingly.

(Dictated to the stenographer, typed by her, corrected by me and then pronounced in the open court on this the 21st day of July, 2026).

Sd/-

(YASHAVANTH KUMAR. R)

III Addl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

ANNEXURE

List of witnesses examined on behalf of the plaintiff:-

PW.1	:	Sri. Narasimhappa
PW.2	:	Sri. Munithimmarayappa
PW.3	:	Sri. Munithimma



PW.4 : Smt. Nagaveni

List of witnesses examined on behalf of the defendants:-

DW.1 : Sri. Arvind Kumar Parekh

List of documents exhibited on behalf of the plaintiff:

Ex.P1 : Certified Copy of Sale Deed
Ex.P2 : Mutation Registers
Ex.P3 : R.T.C
Ex.P4 : Order Sheet in O.S.No.453/2008
Ex.P5 : Memo in O.S.No.453/2008
Exs.P6 & 7 : Chief Examination of PW1 and 2 in
O.S.No.453/2008
Ex.P8 : Complaint in O.S.No.453/2008
Exs.P9 & 10 : Written Statement of defendant No.1
and 5 in O.S.No.453/2008



List of documents exhibited on behalf of the defendants:-

Ex.D1	:	Certified Copy of Will
Exs.D2 & 3	:	R.T.Cs
Ex.D4	:	Certified Copy of Sale Deed
Ex.D5	:	Receipt
Ex.D6	:	R.T.C
Ex.D7	:	Mutation Register

Sd/-

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