

KABR500012332017



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE
AND JMFC AT HOSKOTE**

Present: -Sri. Satisha B.,
Prl. Civil Judge and JMFC., Hoskote

Dated this the 14th day of July, 2026.

Original Suit No.116/2017

Plaintiffs ..

1. Smt. Jayamma
W/o. Late Venkataramaiah,
Aged about 65 years,
2. Smt. Munirathnamma,
W/o. B.M. Nagaraja,
Aged about 39 years,

Both residing at: Mylapura Village,
Jadigenahalli Hobli, Hosakote Taluk,
Bengaluru Rural District.

**(By Pltf. No.1 by Sri. Nitesh Adv., &
Pltf. No.2 by Sri. K.M. Venkatesh
Adv.)**

-V/s-

Defendants ..

1. Sri. V. Manjunatha
S/o. Late Venkataramaiah,
Aged about 45 years,

2. Smt. Manjula,
W/o V. Manjunatha,
Aged about 40 years,

Def. No.1 & 2 are residing at:
Muninarayanappa building,
Chikkamariyamma Temple,
Kurubrapet, Hosakote Town,
Bengaluru Rural District.

3. Sri. V. Raghu
S/o. Late Venkataramaiah
Aged about 42 years,

4. Smt. Madhushree,
W/o Late Shivaraj,
D/o Nagarajappa,
Aged about 30 years,
Residing at: Gattahalli Village,
Usakur Post, Anekal Taluk,
Bengaluru Rural District.

5. Kum. Abhi,
D/o. Late Shivaraj,
Aged about 15 years,
Since minor represented by her natural
guardian and mother Smt. Madhushree
Residing at: Gattahalli Village,
Usakur Post, Anekal Taluk,

Bengaluru Rural District.

**(Def No.1 and 3-By Sri. B.M. Ananda
Def No.4- Sri. K.M. Venkatesh Adv.,
Def No.2 and 5- Ex-parte)**

- | | | | |
|--|---------------------|------------------------------------|--------------------|
| 1. Date of institution of the suit: | .. | 27.04.2017 | |
| 2. Nature of the suit: | .. | Partition &
Separate Possession | |
| 3. Date of the commencement of the
recording of the evidence. | .. | 23.06.2026 | |
| 4. Date on which the Judgment was
Pronounced: | .. | 14.07.2026 | |
| 5. Total duration | <u>Year/s</u>
09 | <u>Month/s</u>
02 | <u>Day/s</u>
17 |

JUDGMENT

The plaintiff No.1 has filed the present suit against the defendants for the relief of partition and Separate Possession.

Schedule Property

The land bearing Survey No.31/4, measuring 0.07 ½ guntas out of 0.10 guntas, situated at Mylapura Village, Jadigenahalli Hobli, Hosakote Taluk, Bengaluru Rural District:

Bounded by:

East : Land of Nagaraja;

West : Land of Veeranjanyaswamy Temple;
North : Road;
South : Land of Venkatagiriappa.

2. In nutshell plaintiffs case is that:-

2.1. Plaintiffs and defendants are constituted members of Hindu un-divided joint family and the suit schedule property is their ancestral joint family property. One Venkataramaiah was the propositus of the joint family and he had acquired the suit schedule property. The said propositus died leaving behind his wife Jayamma/plaintiff and four children namely V.Manjunath/Defendant No.1; V.Raghu/Defendant No.3; Munirathnamma/Defendant No.4 and Shivaraj. Among the said children, Shivaraj died leaving the behind defendant No.5 and 6 as his legal heirs. There is no partition between plaintiff and defendants with respect to the suit schedule property. The defendant No.1 behind the back of the plaintiff colluding with revenue officials got mutated the katha of the suit schedule property in

his name vide photivirasath and subsequently, he bequeathed the same in favour of his wife i.e., defendant No.2 under the registered Gift deed dated 10.12.2012 and the alleged gift deed is not binding upon the plaintiff share. In the second week of March, 2017 when, plaintiff demanded for partition of the suit schedule property, defendants have denied. The suit schedule property is liable to be divided into 5 share and plaintiff is entitled to one such share. Hence, the present suit for the above said relief.

3. In pursuance to the summons issued by this Court, the defendant No.2, 5 and 6 remained absent and they have been placed ex-parte. The defendant No.1, 3 and 4 entered their appearance and defendant No.1 and 3 did not choose to file written statement. The defendant No.4 resisted the suit by filing written statement. **The defendant No.4 in her written statement admitted plaint averments in part and specifically contended as under:**

3.1. The defendant No.4 has demanded partition of the suit schedule property. But, the other defendants denied the same. Therefore, the suit schedule property is liable to be partitioned into 5 shares and she is entitled to one such share. As such, she prayed to decree the suit and claimed a 1/5th share in the suit schedule property.

4. On the basis of above pleadings, the following issues framed:

1. Whether the plaintiff proves that suit schedule property is the joint family property of herself and defendants?
2. Whether the plaintiff proves that the suit schedule property is liable to partition into 5 equal shares and she is entitled to one such share?
3. Whether the defendant No.4 is entitled to relief as claimed in the counter claim?
4. Whether the plaintiff is entitled for relief claimed in the suit?
5. What order or decree?

5. During the pendency of the proceedings, the defendant No.4/Smt. Munirathnamma transposed as plaintiff No.2. In order to establish the plaintiffs case, the defendant No.4/plaintiff No.2 herself examined as PW.1 and Exs.P1 to P19 marked and closed their side. On the other hand, defendant No.1 and 3 did not choose to cross-examination of PW.1.

6. Heard the arguments of Learned Counsel for the plaintiffs and meticulously perused the material on record.

7. My answer to the above said issues are as follows:

Issue No.1 : In the Affirmative;

Issue No.2 : In the Partly Affirmative;

Issue No.3 : In the Affirmative;

Issue No.4 : In the Partly Affirmative;

Issue No.5 : As per final order,

for the following:

-. REASONS:-

8. **Issue No.1 and 2:-** Since these two issues are interlinked they are taken up together for common discussion to avoid repetition of appreciation of evidence. The plaintiff No.1 has filed the present suit against the defendants for partition and

separate possession of the suit schedule property. In order to substantiate their case, the plaintiff No.2 got examined as PW.1 by filing affidavit evidence. In the course of affidavit evidence, PW.1 reiterated the contentions taken in the course of the plaint. Therefore, I need not recapitulate those facts again at this stage. To corroborate oral evidence produced 19 documents, which are marked as Ex.P1 to P19.

- Ex.P1 : RTC Extract of land bearing Sy.31, Hissa-4, measuring 0.10 guntas situated at Mylapura Village for for the period of 2015-16;
- Ex.P2 : RTC Extracts of land bearing Sy.31, Hissa-4, measuring 0.10 guntas situated at Mylapura Village for for the period of 2020-21 to 2023-24;
- Ex.P6 : RTC Extract of land bearing Sy.31, Hissa-*, measuring 4.01 guntas situated at Mylapura Village for for the period of 2024-25;
- Ex.P7 : RTC Extract of land bearing Sy.31, Hissa-*, measuring 4.01 guntas situated at Mylapura Village for for the period of 2025-26;
- Ex.P8 : MR. No.8/2012-13;
- Ex.P9 : Certified copy of Encumbrance Certificate of land bearing Sy.No.31/4, measuring 0.10 guntas of Mylapura Village, Hosakote Taluk for the period 01.04.2004 to 22.06.2026;
- Ex.P10 : Certified copy of Gift Deed Dated

10.12.2012;

- Ex.P11 : MR. No.2/1989-1990;
- Ex.P12 : Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1968-69 to 1972-73;
- Ex.P13 : Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1973-74 to 1977-78;
- Ex.P14 : Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1978-79 to 1982-83;
- Ex.P15 : Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1983-84 to 1987-88;
- Ex.P16 : Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1988-89 to 1989-90;
- Ex.P17 : Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1,

measuring 1 acre 23 guntas of Mylapura Village for for the period of 1993-94 to 1996-97;

- Ex.P18 : Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1997-98 to 2001-2002;
- Ex.P19 : Genealogical Tree.

9. The Learned counsel for the plaintiffs argued that the oral and documentary evidence led by the plaintiffs clearly shows that the suit schedule property is the ancestral joint family property of the plaintiffs and defendants and there is no partition between the parties. The alleged gift deed executed by the defendant No.1 infavour of the defendant No.2 is null and void and not binding to the extent of the plaintiffs' share. The plaintiffs being the legal heirs of the deceased Venkataramaiah, are entitled to one such share each in the suit schedule property. The case of the plaintiffs remained unchallenged. Therefore, the suit schedule property is liable to be divided among the plaintiffs and defendants. As such, he prayed to decree the suit.

10. It is worth to refer decision of the Hon'ble Apex Court in the case of Shasidhar and Others -Vs- Ashwini Uma Mathad and Another reported in (2015) 11 SCC 269, wherein it is held at para No.20 that, **a well-settled principle of law that in a suit filed by a co-sharerer, coparcener, co-owner or joint owner, as the case may be, for partition and separate possession of his/her share qua others, it is necessary for the Court to examine, in the first instance, the nature and character of the properties in suit such as who was the original owner of the suit properties, how and by which source he/she acquired such properties, whether it was his/her self-acquired property or ancestral property, or joint property or coparcenery property in his/her hand and, if so, who are/were the coparceners or joint owners with him/her as the case may be. Secondly, how the devolution of his/her interest in the property took place consequent upon his/her death on surviving members of the family and in what proportion, whether he/she died intestate or left behind any testamentary succession in favour of any family member or outsider to inherit his/her share in properties and if so, its effect. Thirdly whether the properties in suit are capable of being partitioned effectively and if so, in what manner? Lastly,**

whether all properties are included in the suit and all co-sharerers, coparceners, co- owners or joint-owners, as the case may be, are made parties to the suit? These issues, being material for proper disposal of the partition suit, have to be answered by the Court on the basis of family tree, inter se relations of family members, evidence adduced and the principles of law applicable to the case. It is also worth refer decision of the Hon'ble Apex Court in the case of Adivappa and Others -Vs- Bhimappa and Another reported in (2017) 9 SCC 586 wherein it is held at para No.19 that, **it is a settled principle of Hindu law that there lies a legal presumption that every Hindu family is joint in food, worship and estate and in the absence of any proof of division, such legal presumption continues to operate in the family. The burden, therefore, lies upon the member who after admitting the existence of joint ness in the family properties asserts his claim that some properties out of entire lot of ancestral properties are his self-acquired property.**

11. Now let us examine the case of the plaintiffs, a perusal of Ex.P19/Genealogical Tree shows that one Venkataramaiah was the propositus of the joint family and he had wife/Jayamma/plaintiff

No.1 and four children namely V.Manjunath/ defendant No.1; V. Raghu/defendant No.3; Munirathnamma/Plaintiff No.2 and Shivaraj. The said propositus died leaving behind the plaintiffs and defendants. A perusal of Ex.P11/Certified copy of MR No.2/1989-90 shows that the propositus had acquired the suit schedule property by way inheritance. A perusal of Ex.P16/Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1988-89 to 1989-90; Ex.P17/Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1993-94 to 1996-97 and Ex.P18/Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1997-98 to 2001-2002 shows that the name of the propositus duly mutated as per MR No.2/1989-90. A cumulative perusal of Ex.P11 and P16 to P18 substantiates that the suit schedule property is the ancestral joint family property of the plaintiffs and defendants.

12. In the case on hand, the plaintiffs specifically claimed that the defendant No.1 behind the back of the plaintiff colluding

with revenue officials got mutated the katha of the suit schedule property in his name vide photivirasath and subsequently, he bequeathed the same in favour of his wife i.e., defendant No.2 under the registered Gift deed dated 10.12.2012 and the alleged gift deed is not binding upon the plaintiff share. A perusal of Ex.P1/RTC Extract of land bearing Sy. No.31, Hissa-4, measuring 0.10 guntas situated at Mylapura Village for for the period of 2015-16; Exs.P2 to P5/RTC Extracts of land bearing Sy. No.31, Hissa-4, measuring 0.10 guntas situated at Mylapura Village for for the period of 2020-21 to 2023-24 and Ex.P8/MR No.H5/2012-13 shows that the defendant No.1 got mutated the suit schedule property in his name by way of photivirasath. A perusal of Ex.P10/Certified copy of Gift Deed Dated 10.12.2012 shows that the defendant No.1 bequeathed the suit schedule property in favor of his wife under the registered gift deed 10.12.2012. A perusal of Ex.P9/Certified copy of Encumbrance Certificate of land bearing Sy.No.31/4, measuring 0.10 guntas of Mylapura Village, Hosakote Taluk for the period 01.04.2004 to 22.06.2026 shows execution of gift deed dated 10.12.2012 infavour of defendant No.2 and it further shows that the defendant No.2 had executed cancellation deed in respect of gift deed dated 10.12.2012.

13. As discussed above, the suit schedule property is the ancestral joint family property and there is no partition among the plaintiffs and defendant No.1. Therefore, defendant No.1 had no exclusive right over the suit schedule property to convey the same. It is worth to refer decision of the Hon'ble High Court of Karnataka in the case of Smt. Munithayamma and Others -Vs- Sri. Byanna and Others reported in 2022 SCC OnLine Kar 1692, wherein it is held at para No.52 that,... **Thus, if the sale by a coparcener is in excess of his share, the same would be void in so far as the other coparceners are concerned and there would be no need to seek for any declaration in respect of such a void act.** In view of above ratio, a person who is not a party to alienation of coparcenary property need not seek cancellation of sale deed or a declaration and if sale by a coparcener is in excess of his share, the same would be void in so far as the other coparceners. On other hand, the defendant No.1 and 3 appeared through their counsel and did not choose to file written statement. Therefore, the testimony of PW.1 and documentary evidence at Exs.P1 to P19 unchallenged. Ongoing through the affidavit evidence of PW1 and documentary evidence at Exs.P1 to 19 there

is no reason made out to disbelieve the assertion of the plaintiffs that the suit schedule property is the ancestral joint family property of the plaintiffs and defendants. The plaintiff No.1 being wife of the deceased Venkataramaiah and not a coparcener. Therefore, the plaintiff No.1 is entitled for notional share in the share allotted to the deceased Venkataramaiah. Therefore, plaintiff No.1 is not entitled to equal share as claimed in the suit. Accordingly, I answer issue No.1 in the '**Affirmative**' and issue No.2 in the '**Partly Affirmative**'.

14. **Issue No.3 and 4:-** This issues are framed with regard to the entitlement of shares in the suit schedule property. As discussed, the suit schedule property is the joint family property of the plaintiffs and defendants. Plaintiff No.1 being the wife of the deceased Venkataramaiah is entitled to 1/25th share, Plaintiff No.2, defendant No.1/V. Manjunatha and defendant No.3/V.Raghu being coparcener are entitled to 6/25th share each and defendant No.4/Madhushree and Defendant No.5/Abhi are entitled to 6/25th share together in the suit schedule property. Hence, I answer issue No.3 in the '**Affirmative**' and issue No.4 in the '**Partly Affirmative**'.

15. **Issue No.5:-** In view of reasons and discussion arrived at issue No.1 to 4, I proceed to pass the following:

ORDER

Suit of the plaintiffs is decreed in part with costs.

Plaintiff No.1 is entitled to 1/25th share in the suit schedule property;

Plaintiff No.2 is entitled to 6/25th share in the suit schedule property;

Defendant No.1/V. Manjunatha and defendant No.3/V.Raghu are entitled to 6/25th share each in the suit schedule property;

Defendant No.4/Madhushree and Defendant No.5/Abhi are entitled to 6/25th share together in the suit schedule property;

Draw preliminary decree accordingly.

(Typed to my dictation by the Stenographer directly on the computer, corrected and signed by me and then pronounced in the open court on this the 14th day of July, 2026)

(Satisha B.)
Prl. Civil Judge & JMFC.,
Hosakote

ANNEXURE

List of witness examined by plaintiffs:-

PW.1- Sri. Munirathnamma.

List of documents exhibited for plaintiffs:-

- Ex.P1 : RTC Extract of land bearing Sy.31, Hissa-4, measuring 0.10 guntas situated at Mylapura Village for for the period of 2015-16;
- Ex.P2 to 5 : RTC Extracts of land bearing Sy.31, Hissa-4, measuring 0.10 guntas situated at Mylapura Village for for the period of 2020-21 to 2023-24;
- Ex.P6 : RTC Extract of land bearing Sy.31, Hissa-*, measuring 4.01 guntas situated at Mylapura Village for for the period of 2024-25;
- Ex.P7 : RTC Extract of land bearing Sy.31, Hissa-*, measuring 4.01 guntas situated at Mylapura Village for for the period of 2025-26;
- Ex.P8 : M.R.No.8/2012-13;
- Ex.P9 : Certified copy of Encumbrance Certificate of

land bearing Sy.No.31/4, measuring 0.10 guntas of Mylapura Village, Hosakote Taluk for the period 01.04.2004 to 22.06.2026;

- Ex.P10 : Certified copy of Gift Deed Dated 10.12.2012;
- Ex.P11 : M.R.No.2/1989-1990;
- Ex.P12 : Certified copy of hand written RTC extract of land bearing Sy.No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1968-69 to 1972-73;
- Ex.P13 : Certified copy of hand written RTC extract of land bearing Sy.No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1973-74 to 1977-78;
- Ex.P14 : Certified copy of hand written RTC extract of land bearing Sy.No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1978-79 to 1982-83;
- Ex.P15 : Certified copy of hand written RTC extract of land bearing Sy. No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1983-84 to 1987-88;
- Ex.P16 : Certified copy of hand written RTC extract of land bearing Sy.No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1988-89 to 1989-90;
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Ex.P18 : Certified copy of hand written RTC extract of land bearing Sy.No.31, Hissa-1, measuring 1 acre 23 guntas of Mylapura Village for for the period of 1997-98 to 2001-2002;

Ex.P19 : Genealogical Tree.

List of witness examined by defendants:-

-Nil-

List of documents exhibited for defendants:-

-Nil-

**Prl. Civil Judge & JMFC.,
Hoskote.**

14.07.2026

Pltf.: By KMV Adv.;

Def.1 and 3: By BMA Adv.;

Judgment

// Judgment pronounced in the open court //
(Vide separate Judgment)

ORDER

Suit of the plaintiffs is decreed in part with costs.

Plaintiff No.1 is entitled to 1/25th share in the suit schedule property;

Plaintiff No.2 is entitled to 6/25th share in the suit schedule property;

Defendant No.1/V. Manjunatha and defendant No.3/V.Raghu are entitled to 6/25th share each in the suit schedule property;

Defendant No.4/Madhushree and
Defendant No.5/Abhi are entitled to 6/25th
share together in the suit schedule property;

Draw preliminary decree accordingly.

**Prl. Civil Judge & JMFC.,
Hosakote.**