



**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 03RD DAY OF JULY, 2026

O.S.No.173/2020

PLAINTIFF:

Rama W/o Uday Karant,
Before marriage
Renuka D/o Tippanna Pujar,
Age: 40 years, Occ: Household,
R/o Nadager Compound,
Saptapur, Dharwad.

(R/by Sri. V.V.Patil., Advocate)

Vs

DEFENDANTS:

1. Ratnavva W/o Tippanna Pujar,
Age: 60 years, Occ: Household,
R/o Mulagund Naka, Dasar Oni,
Gadag, Tq:Dist:Gadag.
2. Rangappa S/o Yankappa Pujar,
Age: 60 years, Occ: Household,
R/o Mulagund Naka, Dasar Oni,
Gadag, Tq:Dist:Gadag.
3. Shashikala W/o Bheemappa Pujar,
Age: 49 years, Occ: Household,
R/o Basaveshwar Oni,
Navalagund, Tq:Navalagund.

(Dft.No.1-R/by Sri.SVS/SAP/PJP., Advocates)

(Dft.No.2-R/by Sri.SSA/SAP/PJP., Advocates)

(Dft.No.3-R/by Sri.SAP/MTM/PJP., Advocates)

Date of institution of suit	:	19/12/2020
Nature of the suit	:	Partition and Separate Possession
Date of commencement of recording of Evidence	:	19/07/2021
Date of closure of evidence	:	06/03/2026
Date of judgment	:	03/07/2026
Total duration	:	Year/s Month/s Day/s 05 / 06 / 14

Sd/-03/07/2026
(G.R.SHETTAR)
Prl. Sr.Civil Judge & CJM,
GADAG

J U D G M E N T

Plaintiff has filed the present suit for partition and separate possession claiming half share in the suit properties.

Further prayed for appointing the Court Commissioner to make division in the suit properties.

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

One Tippanna is the propositus, who died leaving behind the plaintiff as daughter and defendant No.1 as his wife, suit properties are the ancestral and joint family properties, name of the plaintiff and defendant No.1 are

jointly appearing in the suit properties. After the marriage, the plaintiff started to reside at Dharwad. By taking undue advantage of her absence and by taking undue advantage of her name appearing in the record of rights, the defendant No.1 started to give the property on rent by creating false documents with an intention to dupe the legitimate share of the plaintiff and also tried to alienate the suit properties. When the plaintiff asked for her legitimate share, the defendant No.1 has refused to effect partition. Hence, the plaintiff constrained to file the suit. During pendency of the suit, defendant No.2 and 3 have been impleaded.

3. After appearance, defendant No.1 has filed written statement denying the plaint averments as false except the facts which are specifically admitted. The defendant No.1 has denied the existence of joint family consisting of herself and plaintiff and also contended that the plaintiff has to prove the existence of joint family and nature of the suit properties as joint family properties. It is contended that plaintiff married a person belongs to

Christian community and started to live separately, even the plaintiff has not looked after the age old mother i.e., defendant No.1 who is suffering from illness. After the death of her husband, the defendant No.1 is leading struggle life and managing the properties, plaintiff never looked after and not taken care of the defendant, but filed false suit by cooking up false story. No cause of action arose to file the suit, suit of the plaintiff is not properly valued and the Court Fee paid is not sufficient, suit of the plaintiff is not maintainable. The defendant No.1 also filed additional written statement reiterating the averments of the earlier written statement and denied the additional pleadings with regard to adding of properties and parties. Hence, prayed for dismissal of the suit with cost.

4. The defendant No.3 has filed written statement denying the plaint averments as false except the facts which are specifically admitted. It is contended that the plaintiff got married a person belongs to another community and she never looked after the mother i.e. defendant No.1. No cause of action arose to file the suit.

Plaintiff is not in possession of the suit properties, as such, valuation made by the plaintiff is not correct, Court Fee paid is not sufficient, suit suffers from mis-joinder of necessary parties. It is further contended that the defendant No.3 is also entitled for equal share in the suit properties. Hence, prayed for dismissal of the suit with exemplary cost of Rs.50,000/-.

5. On the basis of the above pleadings, following issues have been framed:

ISSUES

1. Whether the plaintiff proves that the suit schedule properties are ancestral properties of the plaintiff and defendants?
2. Whether the plaintiff proves that she has got legitimate share in the suit schedule properties?
3. Whether the plaintiff is entitled for the reliefs as claimed in the plaint for?
5. What order or decree?

ADDITIONAL ISSUES

1. Whether the defendant No.3 proves that, suit of the plaintiff is bad for non-joinder and mis-joinder of parties?

2. Whether the defendant No.3 proves that she is entitled for share in the suit properties as contended in the written statement?

6. The plaintiff has deposed as P.W.1 and got marked documents as Ex.P.1 to Ex.P.12.

7. The defendant No.3 has deposed as D.W.1 and defendant No.1 has deposed as D.W.2.

8. Heard the arguments.

9. 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

ADDL. ISSUE No.1 : In the Negative

ADDL. ISSUE No.2 : in the Affirmative

ISSUE No.4: As per the final order,

for the following:

REASONS

10. **ISSUE No.1 :** The plaintiff has contended that she and defendant No.1 constitute joint family as they are daughter and wife of propositus Tippanna, suit properties are the ancestral and joint family properties, no partition is taken place, name of the plaintiff is jointly appearing in the

property records. This being the fact, the defendant No.1 is trying to lend the property on rent and also trying to alienate. When the plaintiff asked for her legitimate share, the defendant No.1 refused to effect partition. Hence, plaintiff is before the Court.

11. Per contra, the defendant No.1 and 3 have admitted the relationship between the parties and also not disputed the nature of the suit properties as ancestral properties. It is specific contention of the defendants that about 30 years back, plaintiff married a person belongs to Christian community and left the house and started to reside separately, after the marriage, the plaintiff never looked after the defendant No.1 who is old aged lady and suffering from illness, as such, plaintiff has no share in the suit properties, plaintiff is not in possession of the suit properties, no cause of action arose to file the suit. Hence, prayed for dismissal of the suit.

12. In order to prove the case, plaintiff has deposed as P.W.1 by iterating the plaint averments. She has deposed that she and defendant No.1 constitute joint

family, they being the daughter and wife of Tippanna are having half share each in the suit properties, which are the ancestral and joint family properties, no partition is taken place. When the plaintiff asked for her legitimate share, defendant No.1 has refused to effect partition.

13. Plaintiff has produced the documents at Ex.P.1 to Ex.P.12 which are the CTS property cards pertaining to the suit properties. On going through the same, it could be seen that earlier, the suit properties were standing in the name of ancestors of the plaintiff and defendants and now, standing in the joint names of plaintiff and defendant No.1

14. The defendant No.3 has deposed as D.W.1 by iterating the written statement averments. She has deposed that plaintiff married a person belongs to another community without intimation to the defendants, after the marriage since 30 years, plaintiff is residing separately and filed the false suit solely for the purpose of claiming rights over the suit properties. further deposed that she is also entitled for an equal share in the suit properties . It is

further contended that the suit is bad for non joinder of necessary parties and non inclusion of properties.

15. The defendant No.1 has deposed as D.W.2 by reiterating the written statement averments. She has deposed that the plaintiff got married a person belongs to other community and after marriage, she started to reside separately, she never looked after the defendant No.1 during her old days and ill-health, as such, as such, she has no share in the suit properties, suit of the plaintiff is not maintainable.

16. Learned counsel for the plaintiff has argued with force that the relationship between the parties and the nature of the suit properties as joint family properties is not in dispute. Suit properties are standing in the names of plaintiff and defendants, the defendant No.3 also claimed share through her mother in the suit properties. The defendant No.1 has admitted the relationship but refused to give share on the ground that plaintiff got married the person belongs to other community. Said reason is not sustainable under law. Plaintiff is entitled for

share in the suit properties. Hence, prayed for decreeing the suit of the plaintiff.

17. Per contra learned counsel for the defendants has vehemently argued and also filed written arguments. It is contended that the plaintiff has failed to produced the complete and satisfactory documentary evidence to show that the suit properties continue to retain the character of joint and ancestral properties. The documents relied by the plaintiff themselves disclose that several properties have been already sold, alienated or leased in favour of third party, despite having knowledge of these transactions. The plaintiff has neither challenged the same nor impleaded the purchasers, transferees or lessees as parties to this suit, as such, suit suffers from non joinder of necessary parties. It is further contended that the plaintiff without seeking an appropriate declaration regarding her right, title and interest over the suit properties in question, suit of the plaintiff is not maintainable. Genealogy shown by the plaintiff is incomplete and insufficient. The omission to include some

persons, as such, suit is defective. Though the plaintiff fully aware that several properties have been alienated and leased long ago, but not produced the complete records pertaining to such transactions. The defendant No.1 is the elderly person, the plaintiff despite being aware of her age and health condition, has instituted present proceedings without genuine cause of action and unnecessarily subjected the defendants to hardship and harassment. Hence, prayed for dismissal of the suit with cost.

18. Learned counsel for the defendants have relied upon the Judgment passed by the Hon'ble Supreme Court of India in **Civil Appeal No.6389 of 2025** between **Saroj Salkan v/s Huma Singh and Ors** case, wherein it is observed that suit seeking partition in respect of the properties really do not exist is not maintainable.

Further relied upon the judgment reported in **2023 LiveLaw (SC) 372** between **Ramishetty Venkatanna & Anr Vs Nasyam Jamal Saheb & Ors** case, wherein it is held that for rejecting the plaint only averments made in the plaint to be considered and not the averments made in

the written statement. The plaint ought to be rejected when it is vexatious, illusory cause of action and barred by limitation and it is a clear case of clever drafting.

Further relied upon the judgment reported in **2022 LiveLaw (SC) 802** between **Moreshar Yadaorao Mahajan v/s Vyankatesh Sitaram Bhedi (D) Thr. Lrs. and others** case, wherein it is held that, A necessary party is a person who ought have been joined as party and in whose absence no effective decree could be passed.

19. I have gone through the entire material carefully. Plaintiff has filed the present suit seeking partition in the suit properties. In this case, relationship between the parties and nature of the suit properties as ancestral and joint family properties is not in dispute. The defendant No.3 has also claimed share in the suit properties. The defendant No.1 who is the mother of the plaintiff has admitted that the plaintiff is her daughter and suit properties are standing the joint names of the plaintiff and defendants but contended that plaintiff married a person

belongs to other community as such the plaintiff is not entitled for share in the suit properties.

20. The material speaks that the suit properties are the ancestral and joint family properties and names of plaintiff and defendants are jointly appearing in the property records. D.W.1 in her cross-examination has clearly admitted that:

"ನಮ್ಮ ತಾಯಿಯ ತಂದೆ ವೆಂಕಪ್ಪ ಪೂಜಾರ ಎಂದರೆ ಸರಿ. ಅವರಿಗೆ ತಿಪ್ಪಣ್ಣ ಹಾಗೂ ರಂಗಪ್ಪ ಇಬ್ಬರು ಗಂಡು ಮಕ್ಕಳು ಹಾಗೂ ನಮ್ಮ ತಾಯಿ ಒಬ್ಬಳೇ ಹೆಣ್ಣು ಮಗಳು ಎಂದರೆ ಸರಿ. ವಾದಿ ತಿಪ್ಪಣ್ಣನ ಮಗಳು ಹಾಗೂ 1 ನೇ ಪ್ರತಿವಾದಿ ತಿಪ್ಪಣ್ಣನ ಹೆಂಡತಿ ಎಂದರೆ ಸರಿ. ವಾದಿಯನ್ನು ಹೊರತುಪಡಿಸಿ ತಿಪ್ಪಣ್ಣನಿಗೆ ಬೇರೆ ಮಕ್ಕಳು ಇಲ್ಲ ಎಂದರೆ ಸರಿ. ನಮ್ಮ ತಾಯಿಗೆ ನಾನು ಮತ್ತು ನನ್ನ ಸಹೋದರಿ ಯಂಕಪ್ಪ ಇಬ್ಬರು ಮಕ್ಕಳು. ನನ್ನ ಸಹೋದರಿ ಯಂಕಪ್ಪ ತೀರಿಕೊಂಡಿದ್ದು ಅವರಿಗೆ ಅತ್ತಿಣ್ಣಿ, ಅಕ್ಕತಾ, ಅರ್ಚನಾ ಹಾಗೂ ಅಕ್ಕಯ ಎನ್ನುವ ಮಕ್ಕಳು ಇದ್ದಾರೆ. ನಮ್ಮ ತಾಯಿಯ ಪಾಲಿನಲ್ಲಿ ನನ್ನ ಅಕ್ಕನ ಮಕ್ಕಳಿಗೂ ಪಾಲು ಇದೆ ಎಂದರೆ ಸರಿ. ದಾವಾ ಆಸ್ತಿಗಳಲ್ಲಿ ಇದುವರೆಗೆ ವಾಟ್ಸಿ ಆಗಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಅದೆ ರೀತಿ ವಾದಿ ಹಾಗೂ 1 ನೇ ಪ್ರತಿವಾದಿಗೂ ಪಾಲು ಇದೆ ಎಂದರೆ ಸರಿ. ಕೈಪಿಯತ್ತು ಹಾಗೂ ಮುಖ್ಯ ವಿಚಾರಣೆಯನ್ನು ನಾನೇ ಹೇಳಿ ಬರೆಸಿದ್ದೇನೆ. ನನ್ನ ಪ್ರತಿವಾದ ಪತ್ರದಲ್ಲಿ ನನ್ನ ಸಹೋದರಿ ಯಂಕಪ್ಪನ ಮಕ್ಕಳ ಬಗ್ಗೆ ಬರೆಸಿಲ್ಲ ಎಂದರೆ ನನಗೆ ಬರಬೇಕಾದ ಪಾಲು ಬೇಕೆಂದು ಮಾತ್ರ ಬರೆಸಿದ್ದೇನೆಂದು ಹೇಳುತ್ತಾರೆ. 1 ನೇ ಪ್ರತಿವಾದಿ ಪಾಲು ಕೊಡಲು ನಿರಾಕರಿಸಿದ್ದರಿಂದ ವಾದಿ ದಾವೆ ಸಲ್ಲಿಸಿದ್ದಾಳೆ ಎಂದರೆ ಸರಿ. "

21. The defendant No.1 i.e., mother of the plaintiff has deposed as DW-2. In her cross-examination DW-2 has admitted that:

"ವಾದಿ ನನ್ನ ಖಾಸ ಮಗಳು ಎಂದರೆ ಸರಿ. ಮೂಲ ಪುರುಷ ವೆಂಕಪ್ಪ ನನ್ನ ಮಾವ. ಅವರಿಗೆ ತಿಪ್ಪಣ್ಣ, ರಂಗಪ್ಪ ಹಾಗೂ ಹನಮಪ್ಪ ಮಕ್ಕಳು ಎಂದರೆ ಸರಿ. ನನ್ನ ಗಂಡ ತಿಪ್ಪಣ್ಣ ಎಂದರೆ ಸರಿ. ನಮ್ಮ ಮಾವ ತೀರಿಕೊಂಡ ನಂತರ ದಾವಾ ಆಸ್ತಿಗಳಿಗೆ ಆತನ ಮಕ್ಕಳಾದ ತಿಪ್ಪಣ್ಣ, ರಂಗಪ್ಪ ಹಾಗೂ ಹನಮಪ್ಪ ಇವರ ಹೆಸರು ಜಂಟಿಯಾಗಿ ದಾಖಲಾಗಿದವು ಎಂದರೆ ಸರಿ. ನನ್ನ ಗಂಡ ತಿಪ್ಪಣ್ಣ ತೀರಿಕೊಂಡ ನಂತರ ವಾದಿ ಮತ್ತು ನನ್ನ ಹೆಸರು ವಾರಸಾ ನಾತೆಯಿಂದ ದಾಖಲಾದವು ಎಂದರೆ ಸರಿ. ದಾವಾ ಆಸ್ತಿ ವಿಚಾರವಾಗಿ ನಮ್ಮ ಕುಟುಂಬದಲ್ಲಿ ಪಾಲುವಾಟಿಯಾಗಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಈಗಲೂ ಸಹ ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ರಂಗಪ್ಪ, ಹನಮಪ್ಪ, ವಾದಿ ಹಾಗೂ ನನ್ನ ಹೆಸರು ಜಂಟಿಯಾಗಿ ಎಂದರೆ ಸರಿ. ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ತಿಪ್ಪಣ್ಣ, ರಂಗಪ್ಪ ಹಾಗೂ ಹನಮಪ್ಪ ಇವರಿಗೆ ತಲಾ 1/3 ಪಾಲು ಇದೆ ಎಂದರೆ ಸರಿ. ಹನಮಪ್ಪ ತೀರಿಕೊಂಡಿದ್ದು, ಪ್ರತಿವಾದಿಯ ನಂ.3 ಆಕೆಯ ಒಬ್ಬಳೇ ಮಗಳು ಎಂದರೆ ಸರಿ. ವಾದಿಯ ಮದುವೆ ಯಾವಾಗ ಆಗಿದೆ ಗೊತ್ತಿಲ್ಲ. ವಾದಿ ನನ್ನ ಮತ್ತು ಮನೆಯವರು ಇಬ್ಬರಿಗೂ ವಿರುದ್ಧವಾಗಿ ಮದುವೆಯಾಗಿದ್ದಾಳೆ ಎಂದರೆ ಸರಿ. ಆ ರೀತಿ ವಾದಿ ಮದುವೆಯಾಗಿ ಹೋದ ನಂತರ ನಾವು ವಾದಿಗೆ ಕುಟುಂಬದ ಆಸ್ತಿಯಲ್ಲಿ ಪಾಲು ಕೊಟ್ಟಿಲ್ಲ ಎಂದರೆ ಸರಿ."

"ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ವಾದಿಗೆ ಕಾನೂನುಬದ್ಧ ಹಕ್ಕಿದೆ ಎಂದರೆ, ವಾದಿಗೆ ಹಕ್ಕಿದ್ದರೂ ನಾನು ಪಾಲು ಕೊಡುವುದಿಲ್ಲ ಎಂದು ಹೇಳುತ್ತಾರೆ."

22. After going through the entire material, it is clear that admittedly suit properties are the ancestral and

joint family properties, standing in the joint names of plaintiff and defendants. D.W.1 and D.W.2 have clearly admitted that themselves as well as plaintiff are having share in the suit properties. Therefore, it is clear that the plaintiff is having legitimate share in the suit properties. The defendants though taken contention that some of the properties are alienated and leased out, but not produced any document to prove their contention. So, the contention raised by the defendants cannot be accepted. Therefore, I am of the considered opinion that the plaintiff has proved the issue No.1. Hence, issue No.1 is answered in the Affirmative.

23. **ADDL. ISSUE No.1** : The defendants have contended that the defendants have not impleaded the necessary parties and not included all the properties as such suit of the plaintiff is bad for non-joinder and mis-joinder of parties and non inclusion of the properties. It is pertinent to note that the plaintiff has impleaded the defendants No.2 and 3. The defendants though contended that some properties are alienated, leased out and said

persons are not included but not produced any material in support of their contention. Therefore, I am of the considered opinion that the defendant No.3 has not proved this Issue. Hence, this Issue is answered in the Negative.

24. **ISSUE No.2, 3 & ADDL. ISSUE No.2:**

As

discussed above it is clear that the suit properties are the ancestral and joint family properties of the plaintiff and defendants, there no partition between the parties in respect of the suit properties. Propositus Venkappa died leaving behind his three children i.e., Tippanna, Rangappa (defendant No.2) and Hanamavva. They got $1/3^{\text{rd}}$ share each. The plaintiff and defendant No.1 being the legal heirs of Tippanna are jointly entitled for $1/3^{\text{rd}}$ share of Tippanna i.e., $1/6^{\text{th}}$ share each. The defendant No.3 is the legal heir of Hanamavva and entitled for her share. So, the plaintiff is entitled $1/6^{\text{th}}$ share, the defendant No.1 is entitled for $1/6^{\text{th}}$ share, the defendant No.2 and 3 are entitled for $1/3^{\text{rd}}$ share each in the suit properties. Hence, these Issues are answered in the Affirmative.

25. **ISSUE No.4:** As discussed above suit of the plaintiff 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 plaintiff is decreed.

The plaintiff is entitled for 1/6th share in suit schedule properties with separate possession by metes and bounds.

The defendant No.1 is entitled for 1/6th share, the defendant No.2 and 3 are entitled for 1/3rd share each 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 **03rd day of July, 2026**)

Sd/-03/07/2026

(G.R. SHETTAR)

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

ANNEXURES**WITNESSES EXAMINED FOR PLAINTIFF:**

PW-1 : Rama W/o Uday Karant

DOCUMENTS EXHIBITED FOR PLAINTIFF:

Ex.P.1 to 12 : Property/CTS Extracts

WITNESSES EXAMINED FOR DEFENDANTS:

D.W.1 : Shashikala B.Pujar

D.W.2 : Ratnavva T.Pujar

DOCUMENTS EXHIBITED FOR DEFENDANTS:

-- NIL --

Sd/-03/07/2026

(G.R.SHETTAR)

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