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**IN THE COURT OF THE SENIOR CIVIL JUDGE & PRL.
JMFC., KUMTA, AT: KUMTA, UTTARA KANNADA**

Dated this the 10th day of September, 2025

PRESENT

**Smt. B.S.Rayannawar, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC, Kumta.**

O.S.No.10/2023

Plaintiff: Mahadeva Parameshwar Naik,
Age: 70 years,
Occ: Agriculturist,
R/o. Chittekambi, Post: Hegade,
Kumta Taluk, (U.K)

(By Sri. B.D.S - Advocates)

V/s

Defendants: 1. Rama Parameshwar Naik,
Aged about 80 years,
Occ: Agriculturist,
R/o. Chittekambi, Post: Hegade,
Kumta Taluk, (U.K)

2. Shekhar Parameshwar Naik,
Aged about 68 years,
Occ: Agriculturist,

R/o. Chittekambi, Post: Hegade,
Kumta Taluk, (U.K)

3. Subraya Parameshwar Naik,
Aged about 65 years,
Occ: Agriculturist,
R/o. Chittekambi, Post: Hegde,
Kumta Taluk, (U.K)
4. Jaya Manjunath Naik,
Aged about 45 years,
Occ: Agriculturist,
R/o. Chittekambi, Post: Hegade,
Kumta Taluk, (U.K)
5. Shyamala Uttam Naik,
Aged about 48 years,
Occ: Agriculturist,
R/o. Doddakoppa Post: Hegade,
Kumta Taluk, (U.K)
6. Mankali Nagaraj Naik,
Aged about 46 years,
Occ: Agriculturist,
R/o. Doddakoppa, Post: Hegade,
Kumta Taluk, (U.K)
7. Ramachandra Devappa Naik,
Aged about 44 years,
Occ: Agriculturist,
R/o. Doddakoppa, Post: Hegade,
Kumta Taluk, (U.K)

(Def. 2 by Sri. N.S. – Advocate)

(Def. 3 by Sri. N.M.N. - Advocate)

(Def. 4 to 7 by Sri. C.M.P. - Advocate)

(Def.1 is Exparte)

Date of institution of the suit : 11.09.2023

Nature of the suit : Suit for partition

Date of the commencement of Recording of the evidence : 06.01.2025

Date on which the Judgment was pronounced : 10.09.2025

Total Duration : Years Months Days
01 11 09

JUDGMENT

Plaintiff has filed this suit for partition and separate possession of his 1/6th share in the suit properties.

2. The facts of the plaintiffs case is as follows:

The suit properties are the landed properties and house properties which are more particularly described in plaint schedule. In para -3 of the plaint genealogy of the family of plaintiff and defendant No.1 to 7 has been depicted. It is averred that propositus was one Parmeshwar Rama Naik who died intestate on 12.10.1970 leaving behind him his sons

Mahadev-Plaintiff, Rama-Defendant No.1, Shekhar-Defendant No.2, Subray- defendant No.3 and Daughters Bommakka and Parmeshwari. Among these persons, the daughters Bommakka and Parmeshwari died leaving behind the defendants No.4 to 7.

3. After the death of Parmeshwar Naik the suit schedule properties mutated in mutation entry no.9451 into the name of elder son that is first defendant as the kartha of the family. Suit properties are the joint family properties. There is no partition took place in these properties and the plaintiff got equal share in the suit property.

4. It is further averred that, the house constructed by their father was in dilapidated stage, hence some years ago the plaintiff and defendant No.1 to 3 have constructed separate houses and started residing separately along with their family members. Later on they constructed the houses under Gram Panchayat government scheme. But the defendant No.1 to 3 without the consent of plaintiff have constructed three residential houses in Sy.No.858/2 with joint

family funds and got mutated their names. At the time of construction the defendant No.1 to 3 convinced the plaintiff that the said houses are for entire family and are joint family property, believing the same the plaintiff not objected for construction of said houses and he financially helped them. The defendant No.1 to 3 have constructed the houses with the joint family funds. And these all three houses are joint family properties. The defendant No.1 to 3 are residing in H.No.410, H.No.408A, and H.No.555 of Hegade Grampanchath, they illegally got entered their name separately in revenue documents. But when the plaintiff intends to construct the house by demolishing old house the defendants No.1 to 3 obstructed the plaintiff from constructing house. The defendant No.1 to 3 are residing in the houses constructed by joint family fund. The house of the plaintiff is in delineated stage, but the defendant No.1 to 3 not allowing the plaintiff to construct the house.

5. In the month of October 2022 the plaintiff intends to construct new house by demolish H.No.408 in Sy.No.858/2

hence plaintiff asked the defendant No.1 to 3 to effect partition which was turned down by them. Hence plaintiff on 14.10.2022 issued notice to the defendants, though notice served the defendants not co-operated. This compelled him to file this suit.

6. Defendant No.2 and 3 appeared through their counsel in pursuance of suit summons and among them, defendant No.2 has filed the written statement. Though suit summons served defendant No.1 and Defendant No.4 to 7 not appeared before the court and hence defendant No.4 to 7 placed exparte. In this case inspite of sufficient opportunity defendant No.3 not filed his written statement, hence written statement by defendant no.3 taken as not filed.

7. Defendant No.2 has filed the written statement inter alia denying the contents of the plaint. However, as far as relationship between the parties to the suit is concerned, it is admitted. Admitted that his father died on 12.10.1970 at Hegade Village, and after death of his father the properties are

mutated in the name of defendant No.1 as karta of the joint family and his name entered in revenue record in Mutation Entry no.9451. Further contended that the H.No.408 is joint family property and not the self property of plaintiff, this defendant also got right in the said property. Further admitted that till today there is no partition in their family properties.

8. Further contended that, the 'A' schedule properties granted by land tribunal confirming the occupancy right of plaintiff and defendant No.1 to 3 hence the plaintiff and defendant No.1 to 3 are only entitled for 1/4rd share in 'A' schedule property and not the defendant No.4 to 7.

9. Further contended that one Sankrappa Shivappa Naik who also called as Sukru Shivappa Naik, has also filed application for occupancy rights with respect to 'A' schedule properties that is land meg 0-1-10 in Sy.No.858/1A, 0-1-6 in Sy.No.858/1B and land meg 0-1-4 in Sy.No.858/1K but his application was rejected by tribunal, though his name appeared in revenue documents, but he has no right in the

above said properties, but the plaintiff has not averred the same in his plaint.

10. H.No.408 is standing in the name of plaintiff and defendant No.1 to 3, hence the plaintiff and defendant No.1 to 3 are entitled for equal share in the said property. As the family of plaintiff and defendants expanded, the number of family members increased and when they could not able to reside together in the said property, the defendant No.2 decided to construct the separate house, and filed application to panchayath in his wife name. House property granted in the year 2007, and with the earnings of his wife and children and under the scheme of government has constructed the house therein, which is numbered as H.No.408A, now the same is standing in the name of his wife, and the same is his self acquired property. Hence nor the plaintiff neither the other defendants got any share in the said property.

11. Likewise the 'B' schedule property H.No.410 Hegade Village is belongs to defendant No.1 and H.No.555 belongs to

defendant No.3, hence this defendant has no objection towards these properties. Hence this defendant prays to allot 1/4th share in 'A' schedule property and in house property No.408. Further filed counter claim to declare that the H.No.408A is separate property of this defendant No.2, hence prays to decree the suit.

12. The plaintiff also filed the objection to counter claim filed by the defendant No.2.

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

ISSUES

1. Whether the plaintiff proves that the plaint 'A' schedule properties are the Hindu undivided ancestral joint family properties of himself and the defendants?
2. Whether the plaintiff proves that the plaint 'B' schedule properties are the Hindu undivided joint family properties of himself and the defendants?
3. Whether the plaintiff proves that the house bearing No.408 existing in item No.2 of the

plaint 'A' schedule properties is his self-acquired property?

4. Whether the defendant No.2 proves that the plaint 'B' schedule house bearing No.408A is his self-acquired property?
5. Whether the defendant No.2 proves that the defendant Nos.4 to 7 have no right over the plaint schedule properties?
6. Whether the plaintiff is entitled for 1/6th share in the plaint schedule properties?
7. Whether the defendant No.2 is entitled for 1/4th share in the plaint 'A' schedule properties and the aforesaid house bearing No.408?
8. Whether the plaintiff is entitled for the reliefs sought in the plaint?
9. Whether the defendant No.2 is entitled for the reliefs claimed in his written statement?
10. What order or decree?

14. In order to prove the case of the plaintiff, the plaintiff got himself examined as PW1 and got marked 9 documents at Ex.P1 to Ex.P.9 and counsel for Defendant No.2 confronted Ex.D1 to Ex.D8 during cross examination of PW1.

Defendant No.2 got examined as DW1 but not got marked any documents.

15. Heard arguments addressed by the learned counsel for plaintiff and defendant No.2.

16. Findings of this court on the above issues are as follows:

Issue No.1 : In the Affirmative
Issue No.2 : In the Affirmative
Issue No.3 : In the Affirmative
Issue No.4 : In the Affirmative
Issue No.5 : In the Affirmative
Issue No.6 : In the Affirmative
Issue No.7 : In the Negative
Issue No.8 : In the Affirmative
Issue No.9 : In the Affirmative
Issue No.10 : As per final order
For the following;

REASONS

17. **Issue Nos.1, 2 and 5** : Since these three issues are interlinked to each other, they are taken up together for common discussion in order to avoid repetition of facts and evidence.

18. It appears that there is little dispute between parties with regard to nature of suit schedule 'A' and 'B' schedule properties. As far as it is the contention of plaintiff and defendant No.2 that the suit schedule H.No.408 and 408/A are their self acquired property.

19. To prove his case the plaintiff got himself as PW.1 and filed his chief affidavit by reiterating the contents of plaintiff averments. In support of his oral evidence has produced has produced Ex.P.1 Record of right with respect to land Sy.No.858/2, Ex.P.2 is Mutation Entry after death of parameshwar Naik properties mutated into the name of his children, Ex.P.3 is certified copy of Mortgage Deed, Ex.P.4 is certified copy of Mutation Entry, Ex.P.5 to Ex.P.9 are the RTC's standing in the name of plaintiff and defendants.

20. During cross examination of PW.1 counsel for defendant no.2 confronted Ex.D.1 certified copy of petition in TNCTSR No.1325, Ex.D.2 is Certified copy of the order passed in above said petition, Ex.D.3 is Certified copy of patta, Ex.D.4

is Certified copy of order in LRTSR No.12327, Ex.D.5 is Certified copy of Patta, Ex.D.6 is Certified copy of application submitted by One Sukrappa Shivappa Naik with respect to land bearing Sy.No.858/1B and 858/1K, the application filed by the Sukrappa Shivappa Naik was dismissed the certified copy of said order marked as Ex.D.7, Ex.D.8 is Certified copy of Mortgage Deed executed by the wife of defendant infavour of panchayath.

21. On the other hand the defendant No.2 got examined as DW.1 filed his chief affidavit by reiterating the contents of his written statement.

22. In this case admitted facts in this case are that the plaintiff and defendant Nos.1 to 3 are the brothers and defendant No.4 to 7 are the children of sisters of plaintiff and defendant No.1 to 3. Hence relationship is not in dispute. The Genealogy produced by the plaintiff is admitted by defendant No.2. Further PW.1 and DW.1 deposed that their sisters have relinquished their right in suit properties, and hence the

defendant No.4 to 7 who are the children of the late Bommakka and late Parmeshwari the sister of plaintiff and defendant No.1 to 3 appeared before the court through their advocated, but not contested the matter. Further it is admitted fact that the suit schedule properties are granted by tribunal to plaintiff and defendant No.1 to 3. The sisters of plaintiff and defendant No.1 to 3 are married sisters never cultivated the lands.

23. PW1 in his cross examination has admitted that the land tribunal granted suit schedule properties to plaintiff and defendant No.1 to 3. The defendant No.2 during cross examination of PW.1 has confronted Ex.D.1 the certified copy of application filed to land tribunal in TNCTRS 1325 and Ex.D.2 is certified copy of order passed by land tribunal, PW.1 further admitted that he and defendant No.1 to 3 having $1/4^{\text{th}}$ share in the suit schedule properties.

24. PW.1 further admitted that one Sukrappa Shivappa Naik also filed application for grant of land with respect to land bearing Sy.No.858/1B, 858/1K but his application was

dismissed. Though the name of Sukrappa Shivappa Naik shown in RTC, but he has no right in the above said properties, hence Shivappa Naik is not made as party to the suit. Defendant No.2 produced and confronted Ex.D.6 the certified copy of the application filed by Sukrappa Shivappa Naik and Ex.D.7 the certified copy of dismissal order.

25. During cross examination DW.1 also admitted that the suit schedule property is granted land to plaintiff and defendant No.1 to 3, in the present case the defendant No.4 to 7 the children of sisters of plaintiff and defendant No.1 to 3 not contested the matter and claiming any share in the property. Though the defendant No.3 appeared before the court through his advocate, but not filed his written statement and not contested the matter. Hence in this case there is no dispute with respect to landed properties between the parties. Hence the plaintiff proves that the landed properties in 'A' and 'B' schedule are the Hindu undivided joint family properties, hence plaintiff and defendant No.1 to 3 are entitled for 1/4th

share in the said suit schedule properties. **Hence Issue No.1, 2 and 5 answered in the Affirmative.**

26. **ISSUE NO.3, 4 and 7:** It is the contention of the plaintiff that house bearing No.408 existing in item No.2 of plaint 'A' schedule is his self acquired property.

27. Further it is the contention of defendant No.2 that the plaint 'B' schedule house bearing No.408A is his self acquired property.

28. PW.1 further admitted that in the year 2007 house property granted to defendant No.2 and he executed mortgage deed as per Ex.D.8, the house granted in the name of wife of defendant No.2 which has been numbered as 408A, which is still standing in the name of Parvati Shekhar Naik. Plaintiff is in possession of house No.408 allotted to him. H.No.410 allotted to defendant No.1, H.No.408A allotted to defendant No.2, H.No.555 allotted to the share of defendant No.3. Further admitted that after the order passed by the land tribunal in M.R.No.243/2005-2006 mutation entered into his

and in the defendant No.1 to 3, he has no objection to adjust his residential house property along with its surrounding area towards his 1/4th share, likewise he has no objection to allot H.No.408/A the residential house along with open space to the share of defendant No.2.

29. Hence at this stage it is necessary to reproduce the cross examination of PW.1

“2 ನೇ ಪ್ರತಿವಾದಿ ಶೇಖರ ಪರಮೇಶ್ವರ ನಾಯ್ಕ ಇವರ ಹೆಂಡತಿಯ ಹೆಸರು ಪಾರ್ವತಿ ಶೇಖರ ನಾಯ್ಕ ಎಂದರೆ ಸರಿ. ಇವರಿಗೆ 2007 ನೇ ಸಾಲಿನಲ್ಲಿ ಪಂಚಾಯತಿಯಿಂದ ಒಂದು ಮನೆ ಮಂಜೂರಾದಂತೆ ಪಂಚಾಯತಿಗೆ ಅವರು ಅಡವು ಕರಾರು ಬರೆದುಕೊಟ್ಟಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿ ಅದರ ದೃಢೀಕೃತ ನಕಲನ್ನು ನೋಡಿ ಗುರುತಿಸಿದ್ದು ನಿಡಿ-8 ಎಂದು ಗುರುತಿಸಲಾಯಿತು. ಪಾರ್ವತಿ ಶೇಖರ ನಾಯ್ಕ ಇವರಿಗೆ ಮಂಜೂರಾದ ಇಮಾರತ್ತಿಗೆ ಪಂಚಾಯತಿಯವರು 408 ಎ ಎಂದು ನಂಬರ ಕೊಟ್ಟಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ಇಮಾರತ್ತು 408 ಎ ಈವರೆಗೂ ಪಾರ್ವತಿ ಶೇಖರ ನಾಯ್ಕ ಇವರ ಹೆಸರನಲ್ಲಿ ಮುಂದುವರೆದುಕೊಂಡು ಬಂದಿದೆ ಎಂದರೆ ಸರಿ. ದಾವಾ ಪರಿಶಿಷ್ಟದ ಹೆಗಡೆ ಗ್ರಾಮ ಇಮಾರತ್ತಿನ ಪೈಕಿ 408 ನನ್ನ ಭಾಗಕ್ಕೆ ಇಮಾರತ್ತು ನಂ. 410 ಒಂದನೇ ಪ್ರತಿವಾದಿಯ ಭಾಗಕ್ಕೆ, ಇಮಾರತ್ತು ಸಂಖ್ಯೆ 408 ಎ ಎರಡನೇ ಪ್ರತಿವಾದಿಯ ಭಾಗಕ್ಕೆ ಇಮಾರತ್ತು ನಂ. 555 ಮೂರನೇ ಪ್ರತಿವಾದಿಯ ಭಾಗಕ್ಕೆ ವಿಂಗಡಣೆ ಮಾಡಲು ನಮ್ಮ ಯಾವುದೇ ತಕರಾರು ಇಲ್ಲ ಎಂದರೆ ಸರಿ. ಎಮ್ ಆರ್ ನಂ. 243/2005-2006 ನೇ ವ್ಯುಟೇಶನ್ ರಜಿಸ್ಟರ ಭೂ ನ್ಯಾಯ ಮಂಡಳಿಯ ಆದೇಶದ ನಂತರ ಕರ್ನಾಟಕ ಸರ್ಕಾರದಿಂದ ನನ್ನ ಹಾಗೂ 1 ರಿಂದ 3 ನೇ ಪ್ರತಿವಾದಿಯರ ಹೆಸರಿಗೆ ವ್ಯುಟೇಶನ್

ಮಂಜೂರಾಗಿದೆ ಎಂದರೆ ಸರಿ. ನಮ್ಮ ವಾಸ್ತವ್ಯದ ಮನೆ ಮತ್ತು ಅದರ ಸುತ್ತಮುತ್ತಲು ಇರುವ ಪ್ರದೇಶವನ್ನು ನನ್ನ $\frac{1}{4}$ ಹಕ್ಕಿಗೆ ಹೊಂದಾಣಿಕೆ ಆಗುವ ರೀತಿಯಲ್ಲಿ ಆಸ್ತಿ ವಿಂಗಡಣೆ ಮಾಡಲು ಹಾಗೂ 2 ನೇ ಪ್ರತಿವಾದಿಯ ಮನೆ ಹಾಗೂ ಸುತ್ತಲಿನ $\frac{1}{4}$ ಸ್ಥಳವನ್ನು ಅವರಿಗೆ ಹೊಂದಾಣಿಕೆ ಆಗುವ ರೀತಿಯಲ್ಲಿ ವಿಂಗಡಣೆ ಮಾಡಲು ನನ್ನ ಯಾವುದೇ ತಕರಾರು ಇಲ್ಲ."

DW.1 deposed in his cross examination that;

ದಾವಾ ಸ್ವತ್ತು ವಾದಿ, ಪ್ರತಿವಾದಿ 1 ರಿಂದ 3 ರವರಿಗೆ ಭೂ ನ್ಯಾಯ ಮಂಡಳಿಯಿಂದ ಮಂಜೂರಾದ ಸ್ವತ್ತು ಎಂದರೆ ಸರಿ. ನನ್ನ ಸಹೋದರಿಯರಾದ ಬೊಮ್ಮಕ್ಕ ಹಾಗೂ ಪರಮೇಶ್ವರಿ ಇವರ ಮಕ್ಕಳ ಸಂಬಂಧ ನಮ್ಮೊಂದಿಗೆ ಚೆನ್ನಾಗಿದ್ದು ಅವರು ಈಗಲೂ ನಮ್ಮಲ್ಲಿಗೆ ಬಂದು ಹೋಗುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ಬೊಮ್ಮಕ್ಕ ಹಾಗೂ ಪರಮೇಶ್ವರಿ ಬದುಕಿದ್ದಾಗಲೂ ದಾವಾ ಆಸ್ತಿಯನ್ನು ಸಾಗುವಳಿ ಮಾಡಿದ್ದು ಇಲ್ಲ ಎಂದರೆ ಸರಿ. ಅವರ ಮಕ್ಕಳು ಕೂಡ ಈವರೆಗೂ ಯಾವತ್ತೂ ಸಾಗುವಳಿ ಮಾಡಿಲ್ಲ ಎಂದರೆ ಸರಿ. ನಾನು ಹಾಗೂ 1 ರಿಂದ 3 ನೇ ಪ್ರತಿವಾದಿಯರು ವಾಸವಾಗಿದ್ದ ಮೂಲ ಮನೆ ನೆರೆಹಾವಳಿ ಬಂದಾಗ ಬಿದ್ದು ಹೋಗಿತ್ತು ಎಂದರೆ ಸರಿ. ಆ ನಂತರ ಪಂಚಾಯತಿಯಿಂದ ನಮ್ಮ 4 ಜನರಿಗೆ ಪ್ರತ್ಯೇಕವಾದ ಮನೆಗಳು ಮಂಜೂರಾಯಿತು ಎಂದರೆ ಸರಿ. ವಾದಿ ಪಂಚಾಯತಿಯಿಂದ ಮಂಜೂರಾದ ಮನೆಯನ್ನು ರಿಪೇರಿ ಮಾಡಿಕೊಂಡು ಇದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಆ ಮನೆ ನಂಬರ ಹೆಗಡೆ ಗ್ರಾಮ ಪಂಚಾಯತಿ ನಂ. 408 ಎಂದರೆ ಸರಿ. ನಾನು ಆ ನಂತರ ನನ್ನ ಪತ್ನಿಯ ಹೆಸರಿನಲ್ಲಿ ಮನೆ ನಂ.408 ಎ ಮಾಡಿಕೊಂಡಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ. 1 ನೇ ಪ್ರತಿವಾದಿ ಪಂಚಾಯತಿಯಿಂದ ಮಂಜೂರಾದ ಮನೆಯನ್ನು ಸ್ವಲ್ಪ ರಿಪೇರಿ ಮಾಡಿ ಕಟ್ಟಿಕೊಂಡು ಇರುವ ಮನೆ ಸಂಖ್ಯೆ 410 ಎಂದರೆ ಸರಿ. 3 ನೇ ಪ್ರತಿವಾದಿ ಪಂಚಾಯತಿಯಿಂದ ಮಂಜೂರಾದ ಮನೆಯನ್ನು ಕಟ್ಟಿಕೊಂಡಿದ್ದು ಅದರ ನಂ.555 ಎಂದರೆ ಸರಿ. ನಾನು ಕಟ್ಟಿಕೊಂಡ ಮನೆಯ ಖರ್ಚನ್ನು ಪಂಚಾಯತಿ ವೆಚ್ಚ ಹಾಗೂ ನನ್ನ ಖರ್ಚಿನಲ್ಲಿ

ಕಟ್ಟಿಕೊಂಡಿದ್ದೇನೆ. ಅದೇ ರೀತಿ ವಾದಿ ಹಾಗೂ 1 ಹಾಗೂ 3 ನೇ ಪ್ರತಿವಾದಿಯವರು ಕೂಡ ಈ ಮೇಲೆ ಹೇಳಿದ ಅವರವರ ಮನೆಗಳನ್ನು ಗ್ರಾಮ ಪಂಚಾಯತಿ ವೆಚ್ಚ ಹಾಗೂ ಅವರ ವೆಚ್ಚದಿಂದ ಕಟ್ಟಿಕೊಂಡಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ವಾದಿ ಕಟ್ಟಿಕೊಂಡ ಮನೆಯನ್ನು ಅವರ ಪಾಲಿಗೆ ಹಾಗೂ 1 ಹಾಗೂ 3 ನೇ ಪ್ರತಿವಾದಿ ಕಟ್ಟಿಕೊಂಡ ಮನೆಯನ್ನು ಅವರ ಪಾಲಿಗೆ ಹಾಗೂ ನಾನು ಕಟ್ಟಿಕೊಂಡಿರುವ ನನ್ನ ಪತ್ನಿ ಹೆಸರಿನಲ್ಲಿರುವ ಮನೆಯನ್ನು ನನ್ನ ಹಿನ್ನೆಗೆ ವಿಂಗಡಣೆ ಮಾಡಲು ತಕರಾರು ಇಲ್ಲ. ಜಾಗ ಅವರವರ ಮನೆಯ ಸುತ್ತಮುತ್ತಲೂ ಇರುವ ಜಾಗವನ್ನು ಅವರವರ $\frac{1}{4}$ ಹಕ್ಕಿಗೆ ಸರಿಹೋಗುವಂತೆ ವಿಂಗಡಿಸಲು ನನ್ನ ಯಾವುದೇ ತಕರಾರು ಇಲ್ಲ.”

30. Hence it shows that the plaintiff and defendant No.1 to 3 are residing separately by constructing their house. Hence in their house properties. Hence plaintiff proves that the house bearing No.408 existing In item No.2 of plaint schedule ‘A’ is his self acquired property and defendant No.2 proves that plaint ‘B’ schedule house bearing No.408/A is his self acquired property. In view of the admission during cross of DW1 shows that the house bearing No.408 belongs to plaintiff. Hence defendant No.2 not entitled for 1/4th share in the said property. **Hence, issue No.3 and 4 answered in the affirmative, issue No.7 answered in the Negative.**

31. Issue No.6, 8 and 9 : As in this case though defendant No.3 appeared before the court through his counsel not contested the matter by filing written statement. Though summons served defendant No.1 not appeared before the court and placed exparte. Defendant No.4 to 7 relinquished their right in the suit schedule property. The plaintiff and defendant No.2 who got contested the matter have proved that house bearing No.408 is self acquired property of plaintiff and 408/A belongs to defendant No.2. Hence the plaintiff and defendant No.1 to 3 are entitled for 1/4th share in the suit 'A' schedule property equally. Hence **issue No.6, 8 and 9 answered in the affirmative.**

32. Issue No.10: As per the above discussion, this court proceed to pass the following;

ORDER

The suit filed by the plaintiff is hereby partly decreed.

The plaintiff and defendant No.1 to 3 are entitled for 1/4th share in the suit 'A' schedule property.

It is held that the house property situated in Sy.No.858/2 the panchayath H.No.408 of Hegade Village is self property of plaintiff.

The counter claim of defendant No.2 is hereby decreed. It is held that the house property situated in Sy.No.858/2 the panchayath H.No.408/A of Hegade Village is self property of defendant No.2.

Suit schedule property shall be partitioned as per Sec.54 of code of civil procedure, 1908.

Considering the relationship between the parties, costs are made easy.

Draw preliminary decree accordingly.

(Directly dictated to the stenographer to the computer, corrected and then pronounced by me in the open Court on this the 10th day of September, 2025)

(Smt. B.S.Rayannawar)
Senior Civil Judge
& Prl. JMFC., Kumta.

ANNEXURE**List of witnesses examined for plaintiffs:**

PW1 : Madeva Parameshwar Naik

List of documents exhibited for the plaintiffs:

Ex.P1 : Certified copy of Record of right with
respect to land Sy.No.858/2,
Ex.P2 : Certified copy of Mutation Entry,
Ex.P3 : Certified copy of Mortgage Deed
Ex.P4 : Certified copy of Mutation Entry,
Ex.P.5 to Ex.P.9 : RTC's.

List of witnesses examined for defendants:

DW1 : Shekhar Parameshwar Naik

List of documents exhibited for the defendants:

Ex.D1 : Certified copy of application filed to land
tribunal in TNCTSR 1325,
Ex.D2 : Certified copy of order passed by land tribunal,
Ex.D3 : Certified copy of Patta,
Ex.D4 : Certified copy of order in LRTSR No.12327
Ex.D5 : Certified copy of Patta
Ex.D6 : Certified copy of application filed to land
tribunal in TNCTSR 8306,
Ex.D7 : Certified copy of order passed by land tribunal,
Ex.D8 : Form No.3

(Smt. B.S.Rayannawar)
Senior Civil Judge
& Prl. JMFC., Kumta.