

KABG310008502013



IN THE COURT OF PRL. CIVIL JUDGE AND J.M.F.C,
AT: BAILHONGAL

:Present:

Smt. Rohini D. Basapur .,
LL.M.

Prl. Civil Judge & JMFC, Bailhongal.

DATED THIS THE 06th DAY OF JUNE 2026

O.S.NO.207/2013

1. Shri. Shivaji S/o Suresh Hadkar
@ Karimudakannavar,
Age: 35 years, Occ: Agriculture,
2. Shri. Nagaraj S/o Suresh Hadkar
@ Karimudakannavar, Age: 20 years,
Occ: Student, Both R/o: Neginahal, Tq: Bailhongal
Now residing at Chidambarnagar, Soundatti
Tq: Soundatti, Dist: Belagavi

.....Plaintiffs

[By Sri. BFP Advocate]

-V/s-

1. Shri. Suresh S/o Yallappa Hadkar @
Karimudakannavar, Age: 62 years,
Occ: Nil, R/o: Neginahal Tq: Bailhongal
Dist: Belagavi

2. Shri. Mallappa S/o Yallappa Hadkar
@ Karimudakannavar,(Since deceased by heirs.)
- 2.(a) Shri. Mahadev S/o Mallappa Hadkar @
Karimudakannavar, Age: 61 years, Occ: Agriculture
R/o: Neginahal, Tq: Bailhongal, Dist: Belagavi
- 2(b) Shri. Shivaji S/o Mallappa Hadkar @ Karimudakannavar
Age: 59 years, Occ: Agriculture
R/o: Neginahal, Tq: Bailhongal, Dist: Belagavi
- 2(c) Shri. Sambhaji S/o Mallappa Hadkar @
Karimudakannavar, Age: 57 years, Occ: Agriculture
R/o: Neginahal, Tq: Bailhongal, Dist: Belagavi
- 2(d) Smt. Nagamma W/o Chandru Fijolli
Age: 52 years, Occ: House hold, R/o: Awarolli
Tq: Khanapur, Dist: Belagavi
3. Sri. Vittal S/o Yallappa Hadkar
@ Karimudakannavar, (Since deceased by heirs.)
- 3.(a) Smt. Gangawwa W/o Vittal hadkar @
Karimudakannavar, Age: 52 years,
Occ: House hold, R/o: Marutigalli
Khasbhag, Post Shahapur,Belagavi Dist: Belagavi

3.(b) Shri. Babu S/o Vital Hadkar @

Karimudakannavar, Age: 35 years,

Occ: Weaver, R/o: Marutigalli

Post Shahapur. Khasbhag, Tq & Dist: Belagavi

3. (c) Smt. Meenaxi W/o Parusharam Junjari

Age: 33 years, Occ: House hold, R/o: Waddara

Chawl, Marutigalli, Khasabag, Post: Shahapur

Tq & Dist: Belagavi

3.(d) Shri. Raju S/o Vital Hadkar@ Karimundakannavar

Age: 28 years, Occ: Weaver, R/o: Marutigalli

Khasabag, Post: Shahapur, Tq & Dist: Belagavi

.....Defendants

[D-1 By Sri. BRA Advocate]

(D-2 (a) to 2 (d) by Sri. MMM Advocate)

(D-3 (a) to 3 (d) by Sri. BSH Advocate)

Date of Institution of the suit	21.06.2013
Nature of the suit	Declaration, Partition and separate possession and permanent injunction.
Date of commencement of evidence	05.08.2015
Date of judgment	06.06.2026

Total duration	Year/s	Month/s	Day/s
	12	11	16

(SMT. ROHINI D BASAPUR)
Prl. CIVIL JUDGE & J.M.F.C.,
Bailhongal

JUDGMENT

This is a suit filed by the plaintiffs seeking partition and separate possession of their legitimate share in the suit schedule properties and also for declaration.

2. The case of the plaintiffs, in brief, is as under:

(a). That, the suit schedule agricultural lands and house properties are ancestral joint family properties belonging to the family of propositus Yallappa Mallappa Hadkar @ Karimudakannavar and the Yallappa was the original owner and possessor of the suit schedule properties.

(b). It is their specific case that Yallappa died in the year 1982 leaving behind his widow Kallawwa and three sons namely Mallappa, Vittal and Suresh, who are arrayed as Defendant Nos.2, deceased Defendant No.3 represented by

Defendant Nos.3(a) to 3(d) and Defendant No.1 respectively and his wife Smt. Kallawwa subsequently died in the year 1986.

(c). The plaintiffs contend that they are the sons of Defendant No.1 and grandsons of propositus Yallappa. After the death of Yallappa, the family continued as a Hindu joint family and the eldest son Mallappa managed the affairs of the family and there was no partition was effected amongst the members of the family and all the properties continued to remain joint family properties. The plaintiffs further contend that though the name of Yallappa continued in the revenue records due to illiteracy and ignorance of the family members, Defendant No.2 in collusion with Defendant Nos.3(a) to 3(d) got their names mutated in respect of certain properties without the knowledge of the plaintiffs and those entries are not binding upon their rights.

(d). The plaintiffs assert that Defendant No.1, Defendant No.2 and deceased Vittal were entitled to $1/3^{\text{rd}}$ share each in the ancestral properties and that the plaintiffs, being sons of

Defendant No.1, are entitled to claim their share in the 1/3rd share of their father.

(e). The plaintiffs further plead that due to disputes within the family, Defendant No.1 ill-treated them and their mother. Ultimately they were compelled to reside separately. It is alleged that certain lands and a house were temporarily given to them for their livelihood until actual partition. Subsequently, Defendant Nos.1 and 2 attempted to interfere with their possession and refused to allot their legitimate share despite repeated demands and legal notice. Therefore, the present suit came to be filed.

3. After service of summons, Defendant Nos.1 and 2 appeared and filed written statement. Defendant No.3 was placed ex-parte. During the pendency of the suit, the defendant No.2 and 3 were dead and their legal heirs are brought on record as defendant No.2 (a) to 2 (d) and Defendant No.3(a) to 3(d).

4. The defendants No.2 to 3(d) admit that the suit properties originally belonged to Yallappa and that the

properties are ancestral in nature. However, they deny that the plaintiffs are entitled to the extent claimed by them. Defendant No. 1 to 3(d), admitted that the suit properties are ancestral joint family properties and that there has been no partition amongst the parties and further asserted that Defendant No.2 and Defendant Nos.3(a) to 3(d) are entitled to their respective shares in all the suit properties including Sy.No.187/2.

5. The Defendant No.1 specifically contends that the genealogy furnished by the plaintiffs is incomplete. According to him, after the plaintiffs and their mother started residing separately, he contracted a second marriage with one Premawwa and through her he has three sons namely Yallappa, Manjunath and Sanju and one daughter Savita. Therefore, according to Defendant No.1, all the children born through both wives are entitled to equal share in his one-third share. It is further contended that the plaintiffs are residing separately at Ramapur along with their mother and are not in possession of the suit properties. Defendant No.1 also

contends that there has been no partition among himself and his brothers and unless such partition takes place, the plaintiffs cannot seek partition separately. Defendant No.1 asserts that even if the plaintiffs are held entitled to a share, each plaintiff would be entitled only to 1/21st share in the suit properties.

6. Defendant No.3(b), while stating that, on behalf of Defendant Nos.3(a) to 3(d), admitted that the suit properties are ancestral joint family properties and that there has been no partition amongst the parties. He further asserted that Defendant No.2 and Defendant Nos.3(a) to 3(d) are entitled to their respective shares in all the suit properties including Sy.No.187/2.

7. From the above pleadings, the following Issues have been framed:

ISSUES

1. Whether the plaintiffs prove that the suit properties are ancestral joint family properties of plaintiffs and defendants?
2. Whether the plaintiffs are entitled for the shares in the suit properties? If so, what would be their shares?
3. Whether Defendant No.2 and Defendant Nos.3(a) to 3(d) are entitled for shares in the suit properties including R.S.No.187/2 situated at Neginahal village?
4. Whether the plaintiffs are entitled for the relief as sought for?
5. What decree or order?

8. In order to prove their case, Plaintiff No.1 examined himself as PW-1 and got marked Ex.P-1 to Ex.P-21. The defendant No.1 has got examined as DW-1, one witness has been examined as and Defendant No.3(b) has examined as DW-3 and got marked 8 documents as Ex.D-1 to Ex.D-8.

9. Heard the Counsel for plaintiffs and also submitted additional written arguments and heard the Counsel for the defendant and also submitted reply arguments.

10. My findings to the above issues are as under:

Issue No.1: In the Affirmative.

Issue No.2: Partly in the Affirmative.

Issue No.3: In the Affirmative.

Issue No.4: Partly in the Affirmative.

Issue No.5: As per final order,
for the following:

REASONS

11. **Issue No.1 :** The burden lies upon the plaintiffs to establish that the suit schedule properties are ancestral joint family properties and that they are entitled to claim partition therein.

12. The plaintiff No. 1 has examined as PW-1 and has reiterated the plaint averments in his examination-in-chief. He has specifically deposed that the suit schedule properties belonged to propositus Yallappa and after his death the family

continued as a joint Hindu family and no partition has taken place till date.

13. To substantiate the same, the plaintiffs have produced RTC extracts at Ex.P-1 to Ex.P-15, which are the revenue records disclose that the suit lands stood either in the name of Yallappa or his family members. Ex.P-16 and Ex.P-17 are death certificates of Yallappa and Kallawwa respectively. Ex.P-18 is the mutation entry No. 5753, Ex.P-19 to Ex.P-21 are legal notice and postal records. The oral evidence of PW-1 that the properties originally belonged to Yallappa has not been seriously disputed.

14. On the contrary, DW-1 has categorically admitted in paragraph No.3 of his affidavit evidence that all suit properties were originally standing in the name of Yallappa. He has further admitted that Yallappa and his sons constituted a Hindu joint family and that after the death of Yallappa the sons succeeded to his properties. Significantly, DW-1 has also admitted that there has been no partition among the brothers till date.

15. Further, DW-3, who is one of the legal representatives of deceased Defendant No.3, has specifically admitted that the suit properties are ancestral joint family properties and that there has been no partition amongst the plaintiffs and defendants. DW-3 has further admitted that Defendant Nos.2 and 3 are entitled to shares in all the suit properties. These admissions are highly material.

16. It is a settled principle of law that admitted facts need not be proved. Once the defendants themselves admit the ancestral nature of the properties and the absence of partition, the burden upon the plaintiffs stands substantially discharged. Accordingly, Issue No.1 is answered in the Affirmative.

17. **Issue No.2:** The next question that arises for consideration is regarding the share of the plaintiffs in the suit schedule properties. The evidence on record clearly establishes that the suit schedule properties are ancestral joint family properties originally belonging to propositus Yallappa. It is also established that Yallappa died in the year

1982 leaving behind his three sons namely Defendant No.1-Suresh, Defendant No.2 -Mallappa and Vittal, whose legal representatives are Defendant Nos.3(a) to 3(d).

18. There is no evidence on record to show that any partition had taken place amongst the three branches after the death of Yallappa. On the contrary, both PW-1 and DW-1 have admitted that no partition has been effected till this day. Therefore, each branch is entitled to $1/3^{\text{rd}}$ share in the suit schedule properties.

19. The plaintiffs are admittedly the sons of Defendant No.1 born through his legally wedded wife Seetawwa. Defendant No.1 has contended that he subsequently married one Premawwa and through her, he has three sons and one daughter and therefore they also have shares.

20. Though Defendant No.1 has produced Ex.D.1 to Ex.D.7 to show existence of the said children, mere proof of their existence does not confer upon them the status of coparceners in the ancestral joint family property. Defendant No.1 himself admits that his first wife Seetawwa was alive when he

contracted the second marriage with Premawwa. There is no material to show dissolution of the first marriage. Therefore, the subsequent marriage is void in the eye of law.

21. The present suit concerns partition of ancestral joint family properties. The alleged children through the void marriage cannot be treated as coparceners in the ancestral properties of propositus Yallappa so as to reduce the share of the plaintiffs.

22. The plaintiffs, being legitimate sons of Defendant No.1 and coparceners in the joint family, are entitled to claim partition in the $1/3^{\text{rd}}$ share falling to the branch of Defendant No.1.

23. The Defendant No.1 and the present two plaintiffs constitute the coparcenary in Defendant No.1's branch for the purpose of partition of the ancestral properties. Therefore, the $1/3^{\text{rd}}$ share of Defendant No.1's branch has to be divided equally among Defendant No.1, Plaintiff No.1 and Plaintiff No.2. Accordingly, each of them is entitled to: $1/3 \times 1/3 =$

1/9th share in the suit schedule properties. Hence, Plaintiff No.1 and Plaintiff No.2 are each entitled to 1/9th share in the suit schedule properties. Accordingly, Issue No.2 is answered partly in the Affirmative.

24. **Issue No.3:** The Defendant No.2 and Defendant Nos.3(a) to 3(d) have specifically claimed their shares in the suit properties. DW-3 has categorically deposed that no partition has taken place and that Defendant No.2 and the branch of deceased Vittal are entitled to shares in all the suit schedule properties including Sy.No.187/2. The evidence of PW-1 also establishes that no partition has taken place after the death of Yallappa. There is no material to show that Sy.No.187/2 is an exclusive property of any one party. On the contrary, the evidence discloses that it forms part of the joint family estate. Therefore, Defendant No.2 is entitled to one-third share and Defendant Nos.3(a) to 3(d), representing the branch of deceased Vittal, are jointly entitled to one-third share in all the suit schedule properties including

Sy.No.187/2. Accordingly, Issue No.3 is answered in the Affirmative.

25. **Issue No.4:** In view of the findings recorded on Issue Nos.1 to 3, it is clear that the suit properties are ancestral joint family properties and that no partition has taken place. The plaintiffs being coparceners are entitled to seek partition. However, they are not entitled to the extent claimed by them, their entitlement is restricted to the share determined by this Court. Hence, the plaintiffs are partly entitled to a preliminary decree for partition and separate possession of their respective shares. Accordingly, Issue No.4 is answered Partly in the Affirmative.

26. **Issue No.5:** In view of the foregoing discussion, this Court proceeds to pass the following:

ORDER

The suit of the plaintiffs is hereby partly decreed.

The Plaintiff No.1 and 2 are entitled to 1/9th share each in the suit schedule properties.

The Defendant No.1 is entitled to 1/9th share in the suit schedule properties.

The Defendant Nos.2(a) to 2(d), jointly representing the branch of deceased Mallappa, are entitled to 1/3rd share in the suit schedule properties.

The Defendant Nos.3(a) to 3(d), jointly representing the branch of deceased Vittal, are entitled to 1/3rd share in the suit schedule properties.

There shall be final decree proceedings under Order XX Rule 18 read with Section 54 of CPC to divide the suit schedule properties by metes and bounds and to allot separate possession in favour of the parties.

No order as to costs.

Draw preliminary decree accordingly.

(Dictated to the Stenographer, directly on computer, typed by her, corrected by me and then pronounced in the open court on this the 06th day of June 2026).

(SMT. ROHINI D.BASAPUR)
PRL. CIVIL JUDGE & J.M.F.C., BAILHONGAL

ANNEXURE**1. Witnesses examined on behalf of the plaintiff/s**

P.W.1 : Shivaji S/o Suresh Hadkar @ Karimudakannavar

2. List of the documents exhibited on behalf of plaintiff/s

Ex.P.1 to 15 : RTC

Ex.P.16 : Certified copy of death certificate of Yallappa

Ex.P.: 17 : Certified copy of death certificate of Kallavva

Ex.P.18 : Certified copy of Hakku patrike

Ex.P.19 : Legal notice

Ex.P.20 : Postal receipt

Ex.P. 21 : Postal acknowledgment

List of witnesses examined on behalf of defendant/s:

D.W.1: Sri. Suresh Yallappa Hadakar @ Karimudakannavar

DW.2 : Chandrashekhar Irappa Ghanti

DW.3 : Sri. Babu S/o Vithal Hadkar @ Karimkudakannavar

List of exhibits marked on behalf of defendant/s:

Ex.D.1: Leaving certificate of Sanju Suresh Karimudakannavar

Ex.D.2 & 3 : School certificate of Yallappa Karimudakannavar

Ex.D.4 : Voters register

Ex.D.4 (a) to (d) : Signatures

Ex.D.5 : True copy of Aadhar card of Manjunath

Karimudakannavar

Ex.D.6: True copy of Aadhar card of Yallappa

Karimudakannavar

Ex.D.7 :Ration card

Ex.D.8 : RTC

Sd/-

(SMT. ROHINI D. BASAPUR)

PRL CIVIL JUDGE & J.M.F.C., BAILHONGAL

(Judgment pronounced in the open court vide separate order)

ORDER

The suit of the plaintiffs is hereby partly decreed.

The Plaintiff No.1 and 2 are entitled to 1/9th share each in the suit schedule properties.

The Defendant No.1 is entitled to 1/9th share in the suit schedule properties.

The Defendant Nos.2(a) to 2(d), jointly representing the branch of deceased Mallappa, are entitled to 1/3rd share in the suit schedule properties.

The Defendant Nos.3(a) to 3(d), jointly representing the branch of deceased Vittal, are entitled to 1/3rd share in the suit schedule properties.

There shall be final decree proceedings under Order XX Rule 18 read with Section 54 of CPC to divide the suit schedule properties by metes and

bounds and to allot separate possession in favour of the parties.

No order as to costs.

Draw preliminary decree accordingly.

(SMT. ROHINI D.BASAPUR)

PRL. CIVIL JUDGE & J.M.F.C., BAILHONGAL