



**IN THE COURT OF THE CIVIL JUDGE & JMFC,
AT TURUVEKERE**

PRESENT:- **Sri. DEEPU B.C.,** B.A.L., LL.B.,
Civil Judge & JMFC,
Turuvekere.

Dated this the 27th day of July-2026

O.S. No.535/2023

Plaintiff/s : 1. Thimmegowda G. S/o
Late.Govindaiah,
Aged about 68 years.

2. H.G.Mudalagirigowda S/o
Late.Govindaiah,
Aged about 61 years.

Both are R/o Honakere Village,
Mayasandra Hobli,
Turuvekere Taluk,

(By Sri. D.T.R. Adv.)

V/s

Defendant/s : 1. Kempamma W/o
Late.Chikkarangappa,
D/o Late.Govindaiah,
Aged about 62 years.

2. Sowbhagyamma W/o
Late.H.G.Shivaramaiah,
Aged about 50 years.



3. H.S.Charan S/o
Late.H.G.Shivaramaiah,
Aged about 30 years.
4. Geetha W/o Arun,
D/o Late.H.G.Shivaraiah,
Aged about 27 years.

Defendant No.1 to 4 are
R/o Honakere Village,
Mayasandra Hobli,
Turuvekere Taluk.

5. Thimamma W/o Rangappa,
Aged about 58 years,
R/o Donkihalli Village,
Kasaba Hobli, Turuvekere Taluk.

(Exparte.)

Date of institution of the suit	09-11-2023		
Nature of the suit	Declaration and Prohibitory permanent injunction and Mandatory Injunction		
Date of commencement of recording of evidence	13-08-2024		
Date on which the Judgment was pronounced	27-07-2026		
Total duration of the suit	Year/s	Month/s	Day/s
	02	07	18



:: J U D G M E N T ::

The instant suit has been filed by the plaintiffs against the defendants for the relief of declaration of title, permanent injunction and Mandatory injunction in respect of suit schedule property.

2. The brief facts of case of the the plaintiff are that ;

The propositus of the family of the plaintiffs and defendants Govindaiah was having two wives, 1st wife Kempamma and 2nd wife Narasamma. Through 1st wife Kempamma, he had two children i.e., defendant No.1 and one H.G.Shivaramaiah, who died leaving behind his wife and children, who are the defendant No.2 to 4. Through 2nd wife, he had two sons and daughter i.e., the plaintiff No.1 and 2 and defendant No.5. The plaintiffs and defendants were the members of joint family. During the lifetime of propositus Govindaiah, he had purchased the property bearing Sy.No.302 measuring 4 acre 4 guntas under the sale deed dated 15-02-1966. In



pursuance to the same, said Govindaiah, plaintiffs and defendants were in possession and enjoyment thereof as joint owners upto 1994. On 10-06-1994, there was a partition between the said Govindaiah, plaintiffs, defendant No.1, husband of defendant No.2, 1st wife of Govindaiah and defendant No.5 and all of them put their signature on the unregistered partition deed dated 10-06-1994. In pursuance to the said partition deed, the suit schedule property is fallen to the share of plaintiffs jointly. Accordingly, the plaintiffs have been in possession and enjoyment of the suit schedule property. The said Sy.No.302/p total extent purchased under registered sale deed was 4 acre 4 guntas, but in the partition deed it is mentioned as 4 acre 3 guntas and out of which, 2 acre 1½ guntas fallen to the share of plaintiffs and remaining 2 acre 1½ guntas was fallen to the share of husband of defendant No.2 by name H.G.Shivaramaiah. Accordingly, a mutation was accepted in the name of H.G.Shivaramaiah to an



extent of 2 acre 1½ guntas of land under MR No.43/1998-99. Accordingly, RTC also entered into his name. After his demise, the defendant No.2 to 4 have been in possession and enjoyment of said 2 acre 1½ guntas of land. But in pursuance to the said partition deed 10-06-1994, the katha of suit property has not been effected into the name of plaintiffs due to the mistake committed by the Revenue authorities. The plaintiffs have also requested the Revenue authorities and gave requisition to change the revenue records in the name of plaintiffs, but they have not done so. But without having any manner of right, title and possession over the suit schedule property, the defendants have tried to interfere with their possession by denying their title and the same was constrained the plaintiff to file the suit.

3. After service of the suit summons, the defendants did not choose to appear before the court. Hence, they placed exparte and the matter was posted for plaintiffs' evidence.



4. In order to substantiate their case, the plaintiff No.2 got examined himself as PW-1 and got produced the documents at Ex.P-1 to P-10 and also got examined one witness as PW-2 and closed their side. Since, the defendants placed exparte, the cross-examination of PW-1 and 2 was taken as nil and the matter was posted for arguments.

5. Heard arguments on plaintiffs' counsel and perused the materials on records.

6. The points that arise for consideration are as under:-

POINTS

- 1.** Whether the plaintiffs prove that they are an absolute owners in possession of suit schedule property as on the date of suit?
- 2.** Whether the plaintiffs further prove that the alleged interference of the defendants?



3. Whether the plaintiffs are entitled for the relief sought ?

4. What order or decree ?

7. On perusal of materials on record, this court answered the above points are as under :-

Point No. 1 : ***In the Negative***

Point No. 2 : ***In the Negative***

Point No. 3 : ***In the Negative***

Point No. 4 : As per final order
for the following :-

:: R E A S O N S ::

8. Point No.1 and 2 :- Since these points are inter-connected with each other, they are taken together for common discussion in order to avoid repetition of facts and evidence.

9. As aforesaid, the specific case of the plaintiffs is that they and defendant No.5 are the children of propositus Govindaiah born through 2nd wife Narasamma. The defendant No.1 and one



H.G.Shivaramaiah are the children of propositus Govindaiah born through 1st wife Kempamma. The said H.G.Shivaramaiah was died, his wife and children i.e., defendant No.2 to 4. The property bearing Sy.No.302 measuring 4 acre 4 guntas was purchased by said Govindaiah on 15-02-1996 and by virtue of partition held between the Govindaiah, plaintiffs, defendant No.1 and husband of defendant No.2 and defendant No.5 dated 10-06-1994, the suit schedule property measuring 2 acre 1½ guntas of land fallen to the share of plaintiffs and remaining 2 acre 1½ guntas of land fallen to the share of husband of defendant No.2 by name H.G.Shivaramaiah and in pursuance to the said partition, revenue records got mutated into the name of said H.G.Shivaramaiah to an extent of 2 acre 1½ guntas of land. But the revenue records have not been effected into the name of plaintiffs, but they are in possession and enjoyment of the suit schedule property as an absolute owner. Though they have requested the revenue authorities



for change the revenue records, they have not done so. But by taking advantage of the same, the defendants have caused interference to their possession. Hence, they have knocked the doors of justice.

10. In order to substantiate their case, the plaintiff No.2 has entered into the witness box and got examined himself as PW-1. In lieu of his chief examination, he filed affidavit by reiterating the plaint averments. Apart from his oral evidence, he got produced documents as Ex.P-1 to P10. The Ex.P-1 is a registered sale deed dated 15-02-1966, Ex.P-2 to P-7 are RTC Extracts, Ex.P-8 is a MR Extract, Ex.P-9 is a E.C., Ex.P-10 is an unregistered partition deed.

11. On perusal of the Ex.P-1/sale deed, one Govindaiah S/o Puttaiah, father of the plaintiffs had purchased 4 acre 4 guntas of land in Sy.No.302 from one Lakshmiddevamma and her son Seenappa. Further, as per Ex.P-10/Unregistered partition deed,



there was a partition held between the Govindaiah and his 1st wife Kempamma and 2nd wife Narasamma and his sons Thimmegowda/plaintiff No.1, Mudalagirigowda/plaintiff No.2, G.Shivaramaiah and his daughters Kempamma/defendant No.1 and Thimmamma/defendant No.5 on 10-06-1994. In pursuance to the said partition, the suit property bearing Sy.No.302/p measuring 2 acre 1½ guntas of land along with other 17 properties were allotted to the share of plaintiffs.

12. Further, as per Ex.P-8/M.R.Extract, by virtue of partition, out of 4 acre 3 guntas in Sy.No.302, the katha of 2 acre 1½ guntas of land got mutated into the name of H.G.Shivaramaiah, the husband of defendant No.2 and father of defendant No.3 and 4. But no revenue records got mutated into the name of plaintiffs in respect of the suit properties based on the Ex.P-10/Unregistered partition deed.



13. As aforesaid, the plaintiffs are claiming their title and possession over the suit schedule property based on the unregistered partition deed/Ex.P-10. Now the question would arise that unregistered partition deed can be received as an evidence as proof of partition? It is settled principle of law that as per Section 17 of the Indian Registration Act, the partition deed shall be compulsorily registrable document. If it is not registered, it cannot be received as an evidence. In this regard, it is relevant to refer the decision of Hon'ble High Court of Karnataka in ***RSA No.32/16 dated 16-11-2023(H.M.Sadashiva v/s H.M.Rajashekarappa)***, wherein the Hon'ble High Court has clearly held that an unregistered partition deed does not create any right or absolute ownership upon the immovable property. Further, as per the decision reported in ***2011 (1) KCCR 314 (Sri. Pilla Muniyappa and others Vs H.Anjanappa)***, wherein it was held that “ an oral arrangement between the parties, several years prior to execution of the record



of family arrangement, whereby the parties had discussed the terms of settlement and had reduced it into writing, dividing the properties among themselves, in the name of partition deed, did not require for registration, but if the writing itself effected a division , it is registrable.

14. On careful perusal of aforesaid decisions, it would makes clear that if a partition deed records past division of properties or family arrangements, it does not require for registration. But if a partition deed itself effected a division of properties by metes and bounds, it shall be compulsory registrable. Herein this case, since the Ex.P-10/partition deed effected a division of properties between the family of plaintiffs and defendants, it shall be compulsory registrable. Hence unregistered partition deed/Ex.P-10 is not admissible in evidence as proof of partition.

15. Now the question would arise that whether is there any complete prohibition for receiving an



unregistered partition deed in evidence. ? As per proviso to section 49 of the Registration Act-1908, an unregistered partition deed may be received as an evidence for the collateral purpose such as demonstrating the intention to sever joint status or to show the possession, but not for prove the partition or establishing the title. In this regard, it is relevant to refer the decision of Hon'ble Apex court reported in ***(2015) 16 SCC 787 (Yellapu uma Maheswari Vs Budda Jagadeeswara Roa and others)***, wherein it is held that "In a suit for partition, an unregistered document can be relied upon for collateral purpose i,e severancy of title, nature of possession of various shares, but not for the primary purpose i,e division of joint family properties by metes and bounds. So under these circumstance, the Ex.P-10/unregistered partition deed cannot be admissible in evidence as proof of division of suit schedule properties by metes and bounds.



16. On careful perusal of the aforesaid decision, it would make clear that though the unregistered partition deed can be received in evidence as a collateral purpose, it cannot be admissible in evidence as a proof of partition among the members of the family. Herein this case, since the plaintiffs are claiming their title over suit properties based on unregistered partition deed/Ex.P10, the alleged partition deed cannot be admissible in evidence as proof of partition. Hence, it is not sufficient to hold that the suit schedule property was fallen to share of plaintiffs under Ex.P-10/Unregistered partition deed. Further, since the suit schedule property stands in the name of deceased Govindaiah, the plaintiffs cannot be alone conferred any title and possession over the suit schedule property under Ex.P-10. Hence, this court is of opinion that the plaintiffs have miserably failed to prove that they are absolute owners in possession of the suit schedule property.



17. In so far as alleged interference of the defendants is concerned, as aforesaid, since the plaintiffs have failed to prove their ownership and possession over the suit schedule property, the question of alleged interference of the defendants does not arise. Therefore, this court is of opinion that the plaintiffs have failed to prove their ownership and possession and alleged interference of the defendants over the suit schedule property. Thus, point No.1 and 2 are answered in the '**Negative**'.

18. Point No.3 :- In view of the findings on point No.1 & 2, this court is of opinion that since the plaintiffs have failed to prove their title, possession and alleged interference of the defendants over the suit schedule property, they are not entitled for any relief sought in the plaint. Thus, point No.3 is answered in the '**Negative**'.

19. Point No. 4 :- In view of foregoing discussion on the above point No.1 to 3, this court proceeds to



pass the following:

ORDER

The suit of the plaintiffs for the relief of declaration of title, permanent injunction and Mandatory injunction is hereby dismissed.

In view of the facts and circumstances of the case, parties bear their own costs.

Draw 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 **27th day of July 2026.**)

(DEEPU B.C.)
Civil Judge & JMFC,
Turuvekere.



::SCHEDULE::

1. The land bearing Sy.No.302/P totally measuring 4 acre 3 guntas, out of it suit schedule property is 2 acre 1½ guntas, bounded by East: land of Nanjegowda, West: land of H.T.Giriyappa, North: land of defendant No.2 to 4, South: land of K.Shivappa, situated in Mugaluru Village, Mayasandra Hobli, Turuvekere Taluk.

(DEEPU B.C.),
Civil Judge & JMFC,
Turuvekere.

ANNEXURE

1. **List of witnesses examined on behalf of the plaintiff/s:**

PW-1 : Mudalagirigowda H.G.
PW-2 : Konegowda

2. **List of documents relied on behalf of the plaintiff/s:**

Ex.P-1 : Sale deed
Ex.P-2 to 7 : RTC Extracts
Ex.P-8 : M.R.Extract
Ex.P-9 : E.C.



Ex.P-9 : Unregistered partition deed

3. **List of witnesses examined on behalf of the defendant/s:**

- Nil-

4. **List of documents relied on behalf of defendant/s :**

- Nil-

(DEEPU B.C.),
Civil Judge & JMFC,
Turuvekere.