

KABG400009002022



IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,

AT CHIKODI

: PRESENT :

**SHRI. ARUN KUMAR G., BA. LL.B.,
Prl. Senior Civil Judge, Chikodi.**

Dated this the 03rd day of August, 2026

OS No.318/2022

Plaintiffs : 1. Shri. Prakash Chanbasu Pandit,
Age: 70 years,
Occ: Retired & Agril.,
R/o: Nej, Tq: Chikodi,
Dist: Belagavi.
Now residing at Near New English
School, Mangalwar Peth, Miraj,
Tal: Miraj.

**... Plaintiffs
(Sri. S.V. Ballurgi, Adv.)**

V/s.

And : 1. Sri. Prabhakar Chanbasu Pandit,
Age: 84 years, Occ: Retired and Agril.,
R/o: Mission compound Kadoli,
Kolhapur, Dist: Kolhapur.

2. Sri. Pradeepkumar Prabhakar Pandit,
Age: 56 years, Occ: Private service,
R/o: Mission compound Kadoli,
Kolhapur, Dist: Kolhapur.

3. Sri. Praveenkumar Prabhakar Pandit,
Age: 55 years, Occ: Private service,
R/o: Mission compound Kadoli,
Kolhapur, Dist: Kolhapur.
4. Smt. Anandi W/o. Bhaskar Pandit,
Age: 79 years, Occ: Retired Nurse,
R/o: Plot No.50, Kagawadi Plot,
Shivaji Nagar, Nippani, Tal: Nippani,
Dist: Belagavi.
5. Smt. Varsharani W/o. Vikrant Kadam,
Age: 48 years, Occ: Household work,
R/o: Bharati Nagar, Morewadi,
Kolhapur, Dist: Kolhapur.
6. Shri. Jeevan S/o. Bhaskar Pandit,
Age: 45 years, Occ: Nurse,
R/o: Kagawade Plots, Shivaji Nagar,
Nippani, Tal: Nippani, Dist: Belagavi.
7. Sou. Jyoti W/o. Vikas Kurane,
Age: 42 years, Occ: Nurse,
R/o: Akash Apartments, Ganesh Nagar,
Sangli, Dist: Sangli.
8. Shri. Dinakar Chanbasu Pandit,
Age: 76 years, Occ: Agriculture,
R/o: Nej, Tal: Chikodi, Dist: Belagavi.

... Defendants

**(D1, 3 to 7 by Sri. R.B.Sangrole, Adv.,)
(D2 - Exparte,
(D8 by Sri.C.V.Majagaonkar/G.L.G., Adv.,)**

Date of institution of suit	:	14.11.2022
Nature of suit	:	Partition and Separation Possession

Date of recording evidence	:	30.01.2026		
Date of closing evidence	:	27.03.2026		
Date of pronouncement of Judgment	:	03.08.2026		
Duration of the suit	:	Year/s	Month/s	Day/s
		03	08	20

(Arun Kumar. G)
Prl. Senior Civil Judge,
Chikodi.

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

The plaintiff has filed this suit seeking relief of partition and separate possession of his share over suit properties.

2. The brief facts of the plaintiff's case is hereunder:

a) It is pleaded that the main propositus of the family of the plaintiff and defendants namely Shri. Chanbasu Dadu Pandit. The said propositus had got four sons namely (1) Shri. Prabhakar (2) Shri. Bhaskar (3) Shri. Dinakar and (4) Prakash. The second son of main propositus namely Shri. Bhaskar s/o Chanbasu Pandit was died leaving behind the present

defendants No. 4 to 7. The defendants No. 2 and 3 are the sons of the defendant No. 1.

b) It is pleaded that, the suit properties are the ancestral family properties of the plaintiff and defendants No. 1 and 4 to 8 and defendants No. 2 and 3 are the sons of the defendant No. 1. They are in joint possession and enjoyment of the same.

c) It is further pleaded that, there is no partition and separate possession between the parties to the suit or deceased Bhaskar, at any time in respect of the suit properties and they are in joint possession and enjoyment of the same.

d) Further it is pleaded that, recently plaintiff has came to know that the defendant No. 1 has given a waradi application to enter his sons name i.e., defendant No. 2 and 3 and their names are entered under M.R. H59/2014-15, dated: 29-11-2014 Hakku Biduagde. The relations of the plaintiff and the defendants are not cordial since in the year 2007 till today. The plaintiff and defendants have jointly raised the sugar cane crops in the suit land for every year. The plaintiff demanded his joint share from the defendants during the first week of October

2022, to which the defendants have refused the same and hence, the plaintiff is constrained to file this suit for the relief of partition.

3. On service of summons the defendant No.2 remain absent hence placed exparte.

4. The defendants No.1, 3 to 7 appeared through their counsel. The defendant No.5 filed her written statement. The defendants No. 1, 3, 4, 6 and 7 adopted the written statement of defendant No.5 by filing memo.

5. The contentions of the written statement of defendant No.5 is as here under;

i. The defendant No.5 denies the suit claim. Further admitted the genealogy furnished by the plaintiff, but denied that the suit property is the ancestral family property of the plaintiff and defendant No. 1 and 4 to 8. Further it is denied that they are in joint possession and enjoyment of the same.

ii. In fact, during the life time of father of plaintiff i.e., Chanbasu Dada Pandit, partition was effected and accordingly $\frac{1}{4}^{\text{th}}$ share each was allotted to Prabhakar, Bhaskar, Dinakar and Prakash sons of Chanbasu Pandit. Further, as per memo

of partition the same was effected on 11-11-1991 between the four sons of deceased Chanbasu i.e., Prabhakar, Bhaskar, Dinakar and Prakash. And so also the wife of Chanbasu i.e., Satyawwabai and two daughters viz., Pramila @ Anupama and Priyawanda @ Mangal were also the signatories to the said memo of partition. Accordingly the names of all the four sons of Chanabasu have been entered in the Record of Rights of the suit land.

iii. Further, as per the partition effected, the south-north strips were made in the suit property and accordingly allotted the shares from western side to eastern side. Accordingly the western side $1/4^{\text{th}}$ share was allotted to Prabhakar i.e., defendant No. 1 and abutting to it the 2^{nd} $1/4^{\text{th}}$ share was allotted to Bhaskar i.e., father of this defendant No. 5 to 7 and husband of defendant No. 4 and abutting to it the 3^{rd} $1/4^{\text{th}}$ share was allotted to Dinakar i.e., defendant No. 8 and abutting to Govt., Road 4^{th} $1/4^{\text{th}}$ share was allotted to Prakash i.e., present plaintiff. Accordingly all the sons of the Chanbasu had come in possession and enjoyment of their respective shares.

iv. Further, after the death of father of this defendant i.e., Bhaskar, the defendant No. 4 to 7 inherited the share of the Bhaskar and accordingly the names of defendant No. 4 to 7 entered in the Record of Rights of suit land and they have been in possession and enjoyment of the same.

v. Further, the defendant No.1 has executed relinquishment deed in respect of his share in favor of his sons i.e., defendant No. 2 and 3 and accordingly their names have been entered in the Record of Rights of the suit land to his share.

vi. Therefore, already partition has been effected and accordingly memo of partition was reduced in to writing and thereby as per the partition all the four sons of the Chanabasu were come in separate possession and enjoyment of their respective shares. Now, the plaintiff and defendants are in separate possession and enjoyment their respective shares as per the partition effected earlier. Therefore, there is no question of effecting partition in the suit property.

vii. Therefore, this defendant No. 5 makes the counter claim of declaration in respect of earlier partition effected as per

the memo of partition dated: 11/11/1991. Further claimed the relief of declaration that the partition if effected in suit properties $\frac{1}{4}$ th share each were to be allotted to the sons of Chanabasu i.e., Prabhakar, Bhaskar, Dinakar and Prakash as per memo of partition dated: 11/11/1991.

6. The defendant No.8 appeared through his counsel and filed his written statement by denying all the averments of the plaint. Further they contended that the suit property was purchased by the Father and Grand Father of plaintiff and Defendants deceased Channabasu Dada Pandit who died on 27.08.1991 due to old age. While late Channabasu Dada Pandit was alive he partitioned with proper demarcation of the suit properties to his four sons having equal share each i.e. $\frac{1}{4}$ among his four sons namely 1) Shri Prabhakar Channabasu Pandit, 2) Late Shri Bhaskar Channabasu Pandit, 3) Shri Dinakar Channabasu Pandit and 4) Shri Prakash Channabasu Pandit. The partition made with the above four brothers and demarcation was made by allotting $\frac{1}{4}$ share of East side to Prakash Channabasu Pandit, adjacent to him Dinakar Channabasu Pandit, after him Bhaskar Channabasu Pandit and at the West side Prabhakar Channabasu Pandit

respectively. The partition made by the deceased father of above four brothers was reduced on paper with consent of all as Memorandum (Partition Deed) mentioning the same as above on 11.11.1991.

Thus the suit properties were partitioned and accordingly there are separate, demarcated possession and conclusive ownership of the suit properties in the names of the above four brothers and their heirs at present. The mutation of the suit properties was made accordingly and the Diary created by the Revenue Officer on 12.10.1983 in Diary No.19783 following the legal course as per the partition made by the owner of the suit properties deceased Channabasu Pandit and Khata Number was also allotted to each separate share holder of suit properties as (Prabhakar Channabasu Pandit Khata No.1479, Bhaskar Channabasu Pandit Khata No.1477, Dinkar Channabasu Pandit Khata No.1476, Prakash Channabasu Pandit Khata No.1478) respectively.

The suit properties are purchased by the deceased Channabasu Dada Pandit and therefore the suit properties are his "Self Acquired" properties and he was the sole and conclusive owner of the suit properties. Therefore, by virtue of

the ownership the deceased late Channabasu Dada Pandit partitioned the suit properties among his above mentioned four sons.

The present suit is filed by the Plaintiff who is one of younger son of deceased Chanbasu Dada Pandit and therefore, the suit properties are not ancestral to the Plaintiff and therefore, the Plaintiff is not entitled to demand partition of the suit property contending that the suit property is ancestral family property. In fact the suit property is divided (partitioned) and separate possessions are being enjoyed by the present heirs of deceased Channabasu Pandit. Hence, amongst other reasons the defendant for dismissal of the suit with costs.

7. On the above pleadings of the parties, the following issues arise for consideration:

ISSUES

- (1) Whether the plaintiff proves that he himself and defendants constitute Hindu undivided joint family?
- (2) Whether the plaintiff proves that the suit properties are joint family properties of themselves and defendants?

- (3) Whether the plaintiff proves that he is entitled for share in the suit properties?
- (4) Whether the defendant No.8 proves that the partition has already taken place as pleaded in para No.4 of written statement?
- (5) Whether the defendant No.8 proves that the defendant No.1 inturn made alienation to defendant Nos.2 and 3?
- (6) Whether the plaintiffs prove that he is entitled to the relief sought for?
- (7) What order or decree?

8. In order to prove the suit claim, the plaintiff examined himself as P.W-1 and got marked 06 documents as Ex.P-1 to 6 and closed his side. The defendants in order to prove their defense, the defendant No.5 examined herself as D.W-1 by filing examination in chief affidavit and got marked two documents as Ex.D1 and D2 on her behalf.

9. Heard arguments and perused the records. The counsel for the defendant No.8 also filed his written notes of arguments on their behalf.

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

Issue No.1 : Affirmative,

Issue No.2 : Affirmative,

Issue No.3 : Affirmative,

Issue No.4 : Affirmative,

Issue No.5 : Affirmative,

Issue No.6 : Partly in the affirmative,

Issue No.7 : As per final order
for the following;

REASONS

11. **Issue No.1 to 3:-** These issues are inter connected to each other. Hence, in order to avoid repetition they have taken together for common discussion.

12. Plaintiff has filed above suit against defendants for the relief of partition and separate possession in respect of suit A schedule properties bearing R.Sy.No. 653 measuring an extent of 16 guntas 5 annas, R.S. No.273/13 an extent of 18 guntas and two open space bearing VPC No. 927 and 934 and house property bearing VPC No. 566. The plaintiff in order to prove the

existence of joint family he himself examined as PW-1 by filing examination in chief affidavit wherein he reiterated the entire suit averments and also got marked documents as Ex.P1 to Ex.P6.

13. Ex.P1 and P5 are the RTC extracts pertaining to suit -A schedule properties, Ex.P2 to P4 are the assessment extracts in respect of suit - B schedule properties. Ex.P6 is the copy of death certificate of one Chanbasu Dadu Pandit who is the father of plaintiff who died on 08-10-1991. In the cross-examination of PW-1 he clearly admitted that during the life time of Chanbasu Dadu Pandit as per partition dated 11.11.1991 the separate share had been allotted in the suit properties along with his four sons. From the date of partition they are in exclusive possession and enjoyment over the same. Further, PW-1 admitted about the relationship and their exclusive possession over the suit properties. Further admitted that as per partition the plaintiff is in possession of his $\frac{1}{4}^{\text{th}}$ share in the suit properties.

14. The defendants in order to prove their defense defendant No.5 examined herself as DW-1 and got marked document as Ex.D1 copy of partition deed dated 11.11.1991 which is alleged to be took place between children of Chanbasu Dadu Pandit. Ex.D2 is its translated copy.

15. On perusal of all above records and arguments canvassed by both counsels and written notes of argument filed by defendant No.8, it clearly goes to show that there is no dispute between the relationship and the existence of joint family between them. It is the specific contention of the defendants that on 11.11.1991 during the life time of father of the plaintiff by name Chanbasu Dadu Pandit they have partitioned all the joint family properties and wherein $\frac{1}{4}^{\text{th}}$ share was allotted in favour of plaintiff, defendant No.1, husband and father of defendants No.4 to 7 by name Bhaskar, defendant No.8. Further in the cross-examination PW-1 clearly admitted about the said partition and their exclusive possession.

16. Here in this case defendant No.5 through his written statement claimed counter claim seeking an order of partition as per memo of partition deed dated 11.11.1991 stating that though the partition was effected Khata of the suit properties were continued in joint names of both the parties. Further as per Ex.P1 clearly discloses that suit schedule -A property bearing Sy.No. 273/13 an extent of 18 guntas is in the name of plaintiff and defendants jointly. Further, as per Ex.P5 an extent of 4 acres 06 guntas is in the name of plaintiff. Further in the cross-examination of PW-1 it clearly admitted the partition deed dated 11.11.1991. But in order to prove that said partition chit was acted upon between the parties except Ex.D1 both the parties have not produced any material documents. Furthermore, as per Ex.P1 to P6 Khata of the suit properties were also continued in the joint name of plaintiff and defendants and their father by name Chanbasu Dadu Pandit. Therefore, plaintiff has

proved existence of joint family and their joint possession over the same.

17. Though parties have admitted the oral partition dated 11.11.1991 Khata was continued in the name of both the parties. Further, they have also admitted that as per advise made by their father during his life time they have partitioned the property bearing R.S.No. 537 an extent of 17 acres 5 guntas. But in order to prove that said partition deed was acted upon no documents were produced. Hence, being legal heirs deceased Chanbasu Dadu Pandit plaintiff is having an equal share in the suit properties. Furthermore, defendant No.5 through her written statement has also claimed equal share as per partition deed. Hence, they are having equal share in the suit properties. Hence, Issues No.1 to 3 are answered in **Affirmative**.

18. Issue No.4 and 5:- Defendant No.8 through his written statement taken specific contention that already there was a partition effected between the plaintiff and

defendants and in turn defendant No.1 made alienation to the defendants No.2 and 3. In order to prove the same except filing written statement defendant No.8 did not step into the witness box to lead oral and documentary evidence. In the cross-examination of PW-1 Ex.D1 original unregistered partition deed dated 11.11.1991 was marked. It clearly discloses that during the life time of father of the plaintiff by name Chanbasu Dadu Pandit they have partitioned all their joint family properties between themselves. Further, PW-1 in his cross-examination also clearly admitted the same. Furthermore, defendant No.5 also claimed her equal share in the suit properties as per partition deed dated 11.11.1991. Further, in the cross-examination of PW-1 he deposed that as per share allotted in favour of defendant No.1 he alienated his share in favour of defendant No.2 and 3. The same was admitted by the PW-1. Further admitted that property bearing R.S.No. 273/13 an extent of 18 guntas was not partitioned under

the said partition deed dated 11.11.1991 as the same was lessor extent and it was continued in joint possession of both the parties. It clearly goes to show that there was a partition between the plaintiff and defendants and by virtue of the same defendant No.1 has alienated his share in favour of defendants No.2 and 3 who are his sons. Therefore, as discussed above issues No.4 and 5 are answered in **Affirmative**.

19. Issue No.6:- The above suit is filed by the plaintiff for partition. In order to prove that plaintiff is entitled to an equal share in the suit properties has produced Ex.P1 and P5 RTC extracts with respect to suit – A schedule property which is in the name of plaintiff and defendants jointly. Further, suit -B schedule property was continued in the name of their father by name Chanbasu Dadu Pandit. It shows there was no partition between the parties and same was not acted upon. But in the cross-examination PW-1 clearly admitted that as per partition dated 11.11.1991 they are

in exclusive possession of their $\frac{1}{4}^{\text{th}}$ share in the suit properties and also admitted the said partition. Therefore, I am of the opinion that there is no impediment to grant the relief of partition as agreed by both the parties under partition deed dated 11.11.1991. Hence, issue No.6 is answered in **partly affirmative**.

20. **Issue No.7:-** In the light of aforesaid findings on the above said issues, I proceed to pass following:-

ORDER

The suit of the plaintiff is decreed in part.

In view of admission made by both the parties, plaintiff and defendants No.1 to 3 together, defendants No.4 to 7, 8 are entitled to $\frac{1}{4}^{\text{th}}$ share each in the suit properties by metes and bounds.

The plaintiff and defendants can work out their shares under Section 54 of CPC.

Considering the relationship between the parties, no order as to costs.

Draw preliminary decree accordingly.

(Dictated to the stenographer directly over the computer, typed by her, corrected, signed and then pronounced by me in the open court on this the 03rd day of August, 2026).

(ARUN KUMAR G.,)
Prl. Senior Civil Judge,
Chikodi.

A N N E X U R E

List of witnesses examined for the plaintiff/s:

P.W-1 : Prakash Chanbasu Pandit.

List of documents marked for the plaintiff/s:

Ex.P.1 : RTC extracts.

Ex.P.2 to 4 : Assessment extracts.

Ex.P.5 : RTC Extract.

Ex.P.6 : Death certificate.

List of witnesses examined for the defendant/s:

D.W-1 : Varsharani Vikrant Kadam.

List of documents marked for the defendant/s:

Ex.D1 : Memo of partition.

Ex.D2 : Translation of Ex.D1.

(ARUN KUMAR G.,)
Prl. Senior Civil Judge,
Chikodi.