

KABG500000112020



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE,
GOKAK.**

**Present: Shri. Umesh S.Atnure
B.Com., LL.B.(Spl)
Prl. Senior Civil Judge, Gokak**

ORIGINAL SUIT No.7/2020

DATED THIS 11th DAY OF AUGUST-2026

Plaintiff: 1. Khalil S/o Mainuddin Jamakhandi,
Age: 45 years, Occ: Business,
R/o: Gokak.

-VERSUS-

Defendants: 1. Smt. Shamshadbegum W/o Mainuddin
Jamakhandi,
Age: 55 years, Occ: Household work,
R/o: Maratha Galli, Behind Banashankari
Temple, Gokak, Tq: Gokak.

2. Smt. Asma W/o Shafiahamad Kamatanur,
Age: 32 years, Occ: Household work,
R/o: Maratha Galli, Behind Banashankari
Temple, Gokak, Tq: Gokak.

3. Buranuddin S/o Mainuddin Jamakhandi,
Age: 30 years, Occ: Business,
R/o: Maratha Galli, Behind Banashankari
Temple, Gokak, Tq: Gokak.

4. Juberahamed S/o Mainuddin Jamakhandi,
Age: 28 years, Occ: Business,
R/o: Maratha Galli, Behind Banashankari
Temple, Gokak, Tq: Gokak.

5. Smt. Kousarbanu W/o Umarfaruq Chachadi,
Age: 26 years, Occ: Household work,
R/o: Ghataprabha, Tq: Gokak.
6. MammadKhashim S/o Mainuddin Jamakhandi,
Age: 22 years, Occ: Business,
R/o: Maratha Galli, Behind Banashankari
Temple, Gokak, Tq: Gokak.
7. Meerasab S/o Budansab Jamakhandi,
Since deceased by his LRs
- 7(a). Najeerahamad S/o Meerasab Jamakhandi,
Age: 60 years, Occ: Business,
R/o: Aditya Nagar, Gokak Tq: Gokak.
- 7(b). Ammajan W/o Nasiruddin Jarman,
Age: 58 years, Occ: Household,
R/o: Near Arkat Masjid, Sangam Nagar,
Gokak, Tq: Gokak.
- 7(c). Mumtaj W/o Saifuddin Faniband,
Age: 54 years, Occ: Household,
R/o: Near Arkat Masjid, Sangam Nagar,
Gokak, Tq: Gokak.
- 7(d). Farheen @ Fatima W/o Iyajahamad Kazi,
Age: 52 years, Occ: Household,
R/o: Kurubar Galli, Anagol Belagavi,
Tq: Belagavi.

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Plaintiff By Sri.B.S.K., & Sri.N.S.G., Advocates
Defendants No.1, 3, 4 & 6 by Sri.R.M.K., Advocate
Defendants No.2 & 5 by Sri.R.N.R., Advocate
Defendant No.7(a) to (d) by Sri.B.K.K., Advocate

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Date of institution of the Suit	:	03-01-2020
Nature of the Suit	:	Partition & Separate Possession
Date of commencement of recording of evidence	:	13-08-2024
Date of pronouncement of Judgment	:	11-08-2026

Total duration	:	Years /s 06	Month/s 07	Day/s 08
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J U D G M E N T

1. This is a suit for partition and separate possession of plaintiff's share in the suit schedule properties.
2. The brief facts of the plaintiff's case is as follows;

It is the case of the plaintiff;s that the propositus by name Budansab Kashimsab Jamakhandi died on 06.10.1979 leaving behind him his wife and two sons namely Meerasab i.e., defendant No.7 and Mainuddin. After the death of Budansab, his two sons succeeded the rights and liabilities of Budansab. During the lifetime of Budansab, he owned Sl.No.1 and 2, after his death his two sons succeeded the said properties as tenants-in-common. The suit property bearing R.S.No.57/3 was succeeded by Meerasab and Mainuddin and their names are jointly appearing in the record of rights of the suit properties. The properties at Sl.No.3 to 6 i.e., property bearing CTS.No.1682-B, 1682-A, 1518-A1A1A1A4 and CTS.No.2138/D1/A and NA Plot No.30 are purchased by the father of the plaintiff by name Mainuddin in his name and name of Mainuddin is appearing in the property extracts of the said properties. After the death of Mainuddin the plaintiff and defendants No.1 to 6 have succeeded his properties and they are in joint possession of the said properties as tenants-in-common. The Mainuddin had been Hajj Yatra in the year 2015, due to

heart attack he died in the month of December 2015 and his funeral ceremony was took place at Gokak. The Mainuddin was the Urdu Primiray School Teacher, he was getting pension from the Government, after his death the defendant No.1 is getting the family pension. The Mainuddin had got a first wife by name Tarama, out the wedlock of Mainuddin and Tarama, the plaintiff was born, Tarama died about 40 years back. After the death of Tarama, Mainuddin married the defendant No.1, out of their wedlock the defendants No.2 to 6 are born. The defendant No.1 never treated the plaintiff with love and affection, as such the relationship in between the plaintiff and defendant No.1 was not cordial. The defendant No.1 has received the death certificate of Mainuddin when the dead body of the Mainuddin was brought to Gokak and by producing the same the defendant No.1 was getting family pension. When the plaintiff was need of death certificate of his father in order to enter his name in the property extracts as the successor of his father, he requested the defendant No.1 for giving the copy of the death certificate of Mainuddin and defendant No.1 did not furnish the copy of the death certificate. He made correspondence with the treasury and Syndicate bank but they have also not furnish the copy of the death of certificate of Mainuddin. Now his relationship with the defendants No.1 to 6 is restrained, as such he decided to separate from the defendants by effecting partition in the suit properties. Hence, he approach the defendants on 15.12.2019 with a request to effect the partition in the suit properties but the

defendants have refused to effect the partition. The plaintiff, defendant No.3, 4 and 6 each are entitled for $1/8^{\text{th}}$ share in Sl.No.3 to 6 properties and Sl.No.3 to 6 in schedule-A(I)(A), in schedule-A(I)(B) CTS.No.1682B, 1682-A, 1518A1A1A4, 2138/B1/A, NA plot No.30 out of R.S.No.138 the defendant No.1 is entitled for $1/8^{\text{th}}$ share and defendants No.3 to 5 each are entitled for $3/16^{\text{th}}$ share and plaintiff, defendants No.3, 4, 6 are entitled for $1/16^{\text{th}}$ share and the defendants No.2 and 4 each are entitled for $3/16^{\text{th}}$ share, the defendant No.7 has got $1/16^{\text{th}}$ share in the Sl.No.1 and 2 of schedule-A(I)(A) and suit schedule-A(I)(C). The defendant No.7 has got $1/2$ share in CTS.No.168, 825, land bearing R.S.No.57/3. As such, the plaintiff prayed to decreed the suit.

3. In pursuance of the service of the suit summons the defendants No.1 to 6 are appeared through their respective counsels. During the pendency of the suit the defendant No.7 died, his legal heirs are brought on record and they have not filed written statement. The defendant No.1 filed her written statement same is adapted by defendants No.3, 4, 6 and 2.
4. The defendant No.1 in her written statement denied the contention of the plaintiff and further contended that the plaintiff has not included other properties belonging to their family and not included the other family members in this suit as such, suit is bad for non-joinder of necessary parties and non-inclusion of necessary properties. Further

she contended that there is no dispute with regard to the relationship in between them and the plaintiff. The property bearing CTS.No.2138/D1/A of Gokak is renumbered as CTS.No.2138C/1 of Gokak the defendant No.1 is the absolute owner of the said property, she acquired the same out of own earnings from bangle business as such, the said property is her self acquired property which is purchased by her under registered sale deeds dated 01.04.1985 and 27.09.1995. As such she is to be declared as absolute owner of property bearing CTS.No.2138C/1 and she is ready to pay the requisite court fee. Further the defendant No.1 contended that the suit is not maintainable for want of including non-agricultural open site measuring East-West 16 feet, South-North 75 feet out of R.S.No.149B of Gokak which was acquired by her husband in the name of plaintiff on 21.05.1993 under registered sale deed. When the sale deed was came to be executed at that time the plaintiff was not earning. In the said property herself and defendants No.2 to 6 have got undivided joint right, title and interest. Further ht plaintiff purposely omitted to add one more property bearing CTS.No.1682C. Now the said property is jointly stands in the name of her husband Mainuddin and his elder brother Meerasab. Therefore, in this property also along with the plaintiff, herself and defendants No.2 to 7 are having undivided joint right, title and interest. Until and unless the plaintiff includes the agricultural plots in R.S.No.149D of Gokak and CTS.No.1682/C the suit is not maintainable one. Further she contended that her husband

died on 30.12.2015 at Gokak and defendant No.7 died on 09.08.2020 during the pendency of this suit. She is also entitled for partition in the properties described at Sl.No.1 to 5 of schedule-A(I)(A), (B) and (C) and also in the property bearing CTS.No.1682/C and NA site measuring East-West 16 feet South-North 75 feet out of R.S.No.149D of Gokak. Further she contended that she is to be declared as exclusive owner of CTS.No.2138/C/1 of Gokak and in the said property neither the plaintiff nor other defendants have to any right, title and interest. Hence, she prayed to dismiss the suit.

5. The plaintiff got amended the plaint by inserting the property bearing CTS No.1862/C. After including the property bearing CTS.No.1862/C by way of amendment the defendant No.1 has filed additional written statement contending that the plaintiff intentionally under valued the said property and it is just and necessary to direct the plaintiff to value the same on the basis of prevailing present market value.
6. Based on the above pleadings the following issues have been framed:

ISSUES

1. Whether plaintiff proves that the defendants and himself are the tenants-in-common in respect of the suit schedule properties?
2. Whether the plaintiff proves his entitlement of $1/8^{\text{th}}$ and $1/16^{\text{th}}$ share in the respective suit schedule properties?

3. Whether the defendants prove that the suit of the plaintiff is bad for non-inclusion of all the properties?
 4. Whether the defendants prove that the defendant No.1 is the absolute owner in possession and enjoyment of the item No.6 of property mentioned at schedule(A) of the suit schedule properties?
 5. Whether the defendants prove that the court fee paid on the plaint is insufficient?
 6. Whether the defendant No.1 proves that she is entitled for a share in the suit schedule properties?
 7. Whether the plaintiff is entitled for the reliefs claimed?
 8. What order or decree?
7. In support of the case of the plaintiff, the plaintiff is got examined himself as PW1 and got marked Ex.P1 to 15 and got examined one witness as PW2. The PW2 has not tendered for cross-examination hence, cross-examination of PW2 is taken as nil. The defendant No.4 is examined as DW1 and he got marked Ex.D1 to 30. The defendant No.1 is examined as DW2 and closed their side.
8. Heard the arguments of both side and perused the material available on record.
9. My answer to the above issues are as follows;

Issue No.1

:- Partly in the Affirmative

Issue No.2	:-	Partly in the Affirmative
Issue No.3	:-	Does not survive for consideration
Issue No.4	:-	In the Affirmative
Issue No.5	:-	In the Negative
Issue No.6	:-	Partly in the Affirmative
Issue No.7	:-	Partly in the Affirmative
Issue No.8	:-	As per final order for the following;

REASONS

10. **Issue No.1:-** From the contention of both the parties it is clear that defendants No.2 to 6 are the children of deceased Mainuddin Budanasab Jamakhandi and defendant No.1. Further it is also clear that the plaintiff is the son of deceased Mainuddin and his first wife Tarama. After the death of Tarama the Mainuddin contacted second marriage with the defendant No.1 and out of their wedlock they have begotten defendants No.2 to 6 and defendant No.7 is the elder brother of Mainuddin.
11. The plaintiff contended that after the death of propositus Budansab Kashimsab Jamakhandi, his two sons namely Meerasab i.e., defendant No.7 and deceased Mainuddin who is the father of the plaintiff and defendant No.2 to 6 and husband of defendant No.1, they have succeeded the properties of Budanasab Kashimsab Jamakhandi i.e., Sl.No.1 and 2 properties. The Sl.No.3 to 7 properties were purchased by the Mainuddin after the death of Mainuddin himself and defendants No.1 to 6 have succeeded the schedule-A(I)(A) properties at Sl.No.1 to 6 and schedule-B and

schedule-C properties and they are in tenants-in-common over the said properties.

12. It is the contentions of the defendants that the property bearing CTS.No.2138/D1/A which is renumbered as CTS.No.2138/C/1 of Gokak is the absolute property of the defendant No.1 and she purchased the said property in her name and she was doing bangle business and out of her business income she purchased the said property under registered sale deeds dated 10.04.1985 and 27.09.1995 as such, it is her absolute property, in that property the plaintiff and other defendants are not having right, title and interest.
13. Further it is the contention of the defendants that a non-agricultural open site measuring East-West 16 feet, North-South 75 feet out of R.S.No.149D of Gokak was acquired by the husband of the defendant No.1 and father of plaintiff and defendants No.2 to 6 by name Mainuddin Budansab Jamakhandi in the name of the plaintiff on 31.05.1983 and the said property is not included in this suit and at the time of purchasing the said property the plaintiff was not having any earnings. In the said property also they are having joint right, title and interest and apart from these two properties i.e., CCTS.No.2138/D1/A now renumbered as CTS.No.2138/C/1 and agricultural open site measuring East-West 16 feet South-North 75 feet of R.S.No.149D of Gokak other properties belonging to the deceased Mainuddin and they are tenants-in-common over the said property and they are also having right, title and interest over the

said property and they also prayed for effecting the partition in the said property and allotting their legitimate share.

14. From this contention of the both the parties it is clear that apart from the property bearing CTS.No.2138D1A, now renumbered as 2138/C/1 of Gokak and agricultural open site measuring East-West 16 feet and South-North 75 feet out of R.S.No.149/D there is no dispute in between the parties with regard to these properties were owned and possessed by deceased Mainuddin and they are tenants-in-common over those properties.
15. The plaintiff in support of his contention got examined himself as PW1 and he got marked CTS extracts of the suit properties as per Ex.P1 to 6, RTC extract of R.S.No.1384 Plot No.30 as per Ex.P8, RTC extract of R.S.No.57/3 as per Ex.P7 and CTS extract of property bearing CTS.No.1382C as per Ex.P9. By perusing the CTS extracts marked as per Ex.P1 to 6 they clearly goes to shows that the properties shown in schedule-A(I)(A) i.e., CTS.No.1681, 825, 1682B, 1682A, 1518A1A1A4, 1862C were standing in the name of Mainuddin and the property bearing CTS.No.2138/D1/A now CTS.No.2138/C/1 is standing in the name of defendant No.1.
16. Further the defendants got examined the defendant No.4 as DW1. In his examination-in-chief he deposed as per contentions taken by them. He got marked CTS extracts of the suit properties as per Ex.D1 to 7, RTC extracts of R.S.No.138 Plot No.30 as per Ex.D8, RTC extract of R.S.No.149 as per Ex.D9, RTC extract of R.S.No.57/3 as per

Ex.D10 to 18, MR.No.H-148/2015-16 as per Ex.D20, MR.No.H-78/2019-20 as per Ex.D21, certified copies of the sale deeds as per Ex.D21 to 29 and by perusing these documents produced by the defendants they clearly goes to shows that the property bearing CTS.No.2138/C/1 marked as per Ex.D6 is standing in the name of defendant No.1 and by perusing the RTC extract of R.S.No.149 marked as per Ex.D9 it shows that the said property is standing in the name of plaintiff.

17. By perusing the cross-examination of the PW1 and DW1 it is clear that the agricultural open plot situated in R.S.No.149 is purchased in the name of plaintiff and the defendants have also produced the certified copy of the said sale deed as per Ex.D29. Further by perusing the Ex.D6 which is the ruled card of CTS.No.2138C/1 and certified copy of the sale deed marked as per Ex.D26 and 27 it is clear that the property bearing CTS.No.2138/C/1 was purchased in the name of defendant No.1.
18. It is the contention of the plaintiff that the property bearing CTS.No.2138/C/1 was purchased by Mainuddin in the name of defendant No.1 and she was not having any independent source of income as such, the said property is absolute property of the Mainuddin. Further in the cross-examination of DW1 and 2, the plaintiff contended that the open plot situated in R.S.No.149 was purchased by the plaintiff in the year 1993 out of his own income as he was doing rice business, as such in the sale deed his occupation

was mentioned as student and business as such, it is his absolute property. In that property the defendants are not having any right, title and interest.

19. In this suit the parties are Mohammadans they are governed by Mohammadan Law. Under Mohammadan law a property purchased in the name of one of the family member is exclusively the absolute and individual property of that specific person. The Muslim Personal Law does not recognized the concept of joint family, co-parcenary or joint family nucleus and owner. In this case on hand the open plot situated in R.S.No.149 and property bearing CTS.No.2138C/1 are purchased in the plaintiff and defendant No.1 respectively, no matter who paid the sale consideration amount but it matters in whose name the property was purchased that person is the absolute owner of the said property, his brothers and sisters are not having any preexisting right in that property and the person whose name is appearing in the sale deed is sole owner, other family members including his parents, spouse or children have no legal share or co-ownership right in it just because they leave together or contributed. Hence, the contention of both the parties that the plaintiff is tenants-in-common over the property purchased in the name of defendant No.1 i.e., CTS.No.2138C/1 and the contention of the defendants that the an agricultural open plot purchased in the name of plaintiff in R.S.No.149 they are also having right, title and interest is not acceptable one. The defendant No.1 is the absolute owner of the

property bearing CTS.No.2138C/1 and plaintiff is the absolute owner of open site situated agricultural land bearing R.S.No.149. Hence, these two properties the plaintiff and defendants cannot be considered as tenants-in-common.

20. So far as other properties are concerned i.e., the Sl.No.1 to 5 and 7 of schedule-A(I)(A) and schedule-B are concerned these properties were held by deceased Mainuddin and after his death the plaintiff and defendants No.1 to 6 being wife, sons and daughters, they will become tenants-in-common over the said properties. Hence, it is clear that apart from property mentioned at Sl.No.6 in schedule-A(I)(A) and open plot situated in R.S.No.149 of Gokak, in other suit properties the plaintiff and defendants No.1 to 6 are the tenants-in-common. Hence, whatever contentions taken by the defendants in the cross-examination of PW1 and whatever contention taken by the plaintiff in the cross-examination of DW1 and 2 with regard to purchase of open plot in R.S.No.149 and CTS.No.2138C/1 are not acceptable one. Hence, by considering the entire oral and documentary evidence I am of the considered view that the plaintiff and defendants No.1 to 6 are the tenants-in-common over the property at Sl.No.3 to 5 and 7 and NA plot No.30 which is schedule-B of the schedule properties and the plaintiff, defendants No.1 to 7 are in tenants-in-common over item No.1 and 2 of schedule-A(I)(A) and schedule-C properties. **Hence, I answered the Issue No.1 in the partly in the Affirmative.**

21. **Issue No.3:-** The defendants contended that the plaintiff has not included the property bearing CTS.No.1682C in this suit, as such suit is not maintainable. After filing the written statement by the defendants, the plaintiff has got included the property bearing CTS.No.1682C as Sl.No.7 property of schedule-A(I)(A). **Hence, the issue No.3 does not survive for consideration.**
22. **Issue No.4:-** The defendants contended that the defendant No.1 is the absolute owner in possession and enjoyment of item No.6 of schedule-A(I)(A) property. In support of this contention the defendants have produced the certified copy of sale deeds as per Ex.D26 and 27 and also they have produced the CTS extract as per Ex.D6. By perusing the Ex.D26 and 27 it is clear that those sale deeds are standing in the name of defendant No.1 and she has purchased the property bearing CTS.No.2138C/1 and 2138D1 from Kadappa Sangappa Madiwalar and others under two different sale deeds dated 09.04.1980 and 27.09.1985. As the parties to this suit are Mohammadans and the property is purchased in the name of defendant No.1 under registered sale deed marked as per Ex.D26 and 27. As such, I am of the considered view that whatever property purchased in the name of an individual who is a Mohammadan that property is his absolute property no matter who has paid the sale consideration amount. Hence, I am of the considered view that the defendant No.1 is the absolute owner of property bearing CTS.No.2138/D1/A i.e. item No.6 of schedule-A(I)(A) property now

numbered as CTS.No.2138C/1, in the said property neither the plaintiff nor other defendants have got any right, title and interest.

Hence, I answered the Issue No.4 in the Affirmative.

23. **Issue No.5:-** The defendants contended that the court fee paid by the plaintiff is insufficient. In this regard apart from this contention in the written statement the defendants have not adduced any acceptable material evidence and nothing is brought on record to show that the court fee paid by the plaintiff is insufficient. By perusing the plaint it is clear that the plaintiff has valued the suit properties as per Section 35(2) of Karnataka Court Fee and Suits Valuation Act and accordingly paid maximum court fee of Rs.200/-. The court fee paid by the plaintiff is sufficient and in accordance with law. **Hence, I answered the Issue No.5 in the Negative.**

24. **Issue No.6:-** The defendant No.1 contended that she is also entitled for share in the suit schedule properties and the plaintiff is contending that he is entitled for share in all the suit schedule properties mentioned in schedule-A(I)(A), schedule-B and schedule-C.

25. In this case it is an admitted fact that the property bearing old number 2138/D1/A new numbered CTS.No.2138C/1 is the absolute property of the defendant No.1 and apart this property the other suit properties were held by deceased Mainuddin. After his death the plaintiff and defendants No.1 to 6 are tenants-in-common over the suit schedule properties as such, the plaintiff, defendants No.3, 4 and 6 being the sons, defendant No.1 being the wife, defendant No.2 and 5

being the daughters of deceased Mainuddin Jamakhandi, they are tenants-in-common over the suit properties and apart from Sl.No.6 of schedule-A(I)(A) property the plaintiff and defendants are entitled for their share in the suit schedule properties. Hence, I am of the considered view that the defendant No.1 is entitled for her share in the suit schedule properties and the plaintiff is also entitled for share in the suit schedule properties except item No.6 of the schedule-A(I)(A) of the suit schedule property. **Hence I answered the issue No.6 in the affirmative.**

26. **Issue No.2 and 7:** The plaintiff contended that himself, defendant No.3, 4 and 6 each are entitled for $1/8^{\text{th}}$ share in suit properties Sl.No.3 to 6 in schedule A(I)(A) and schedule A(I)(B) i.e., CTS No.1682-B, CTS No.1682-A, CTS No.1518/A1A1A1A4, CTS No. 2138/D1/A and NA Plot No.30 out of R.S.No.138/4 of Gokak. Likewise the defendant No.1 is entitled for $1/8^{\text{th}}$ share defendant No.2 and 5 are entitled for $3/16^{\text{th}}$ share each in the above said properties. Himself, defendant No.3, 4 and 6 each are entitled for $1/16^{\text{th}}$ share and defendant No.2 and 4 each are entitled $3/16^{\text{th}}$ share and defendant No.7 is entitled for $1/16^{\text{th}}$ share in the suit schedule Sl. No.1 and 2 in schedule A(I)(A) and in schedule A(C) properties. The defendant No.7 has got $1/2$ share in properties bearing CTS No.1681, 825 and agriculture land bearing R.S.No.57/3 of Bellad-Begewadi village, Tq: Hukkeri.

27. Under Mohammedan law the wife gets fixed $1/8^{\text{th}}$ share. In the remaining $7/8^{\text{th}}$ share the sons will get the double the share of daughters as they are the Residuaries they do not have a fixed share instead they inherits whatever is left over after the wife takes her share. The sons exactly gets double the share of daughter i.e., 2:1 extent. Hence the defendant No.1 being the wife of Mainuddin she gets $1/8^{\text{th}}$ share. The plaintiff, defendant No.3, 4 and 6 being the sons of Mainuddin will gets $7/40^{\text{th}}$ share each and defendant No.2 and 5 daughters of deceased Mainuddin will gets $7/80^{\text{th}}$ share each in schedule A(I)(A) item No.3 bearing CTS No.1682-B, item No.4 CTS No.1682-A, item No.5 CTS No.1518-A1A1AA4, item No.7 CTS No.1682-C and schedule (B) non-agriculture plot bearing No.30.
28. Further in the item No.1 and 2 of schedule A I (A) i.e., CTS No.1681, CTS No.825 and in schedule (C) agriculture land bearing R.S.No.57/3 of Bellad-Bagewadi village the deceased the deceased defendant No.7 and deceased Mainuddin will gets $1/2$ share each. Out of the $1/2$ share of Mainuddin the defendant No.1 being the wife of Mainuddin she gets $1/16^{\text{th}}$ share. The plaintiff, defendant No.3, 4 and 6 being the sons of deceased Mainuddin will get $7/80^{\text{th}}$ share each and defendant No.2 and 5 being the daughters of deceased Mainuddin gets $7/160^{\text{th}}$ share each in schedule A I (A) i.e., CTS No.1681, CTS No.825 and in schedule (C) agriculture land bearing R.S.No.57/3 of Bellad-Bagewadi village. Hence I am of the considered view that the the plaintiff is not entitled for $1/8^{\text{th}}$ share and $1/16^{\text{th}}$ share in the suit

schedule properties as claimed by him but, the defendant No.1 being the wife of Mainuddin she gets $1/8^{\text{th}}$ share. The plaintiff, defendant No.3, 4 and 6 being the sons of deceased Mainuddin will get $7/40^{\text{th}}$ share each and defendant No.2 and 5 being the daughters of deceased Mainuddin will get $7/80^{\text{th}}$ share each in schedule A(I)(A) item No.3 bearing CTS No.1682-B, item No.4 CTS No.1682-A, item No.5 CTS No.1518-A1A1AA4, item No.7 CTS No.1682-C and schedule (B) non-agriculture plot bearing No.30. Further the defendant No.1 being the wife of Mainuddin she gets $1/16^{\text{th}}$ share. The plaintiff, defendant No.3, 4 and 6 being the sons of deceased Mainuddin will get $7/80^{\text{th}}$ share each and defendant No.2 and 5 being the daughters of deceased Mainuddin get $7/160^{\text{th}}$ share each in schedule A I (A) i.e., CTS No.1681, CTS No.825 and in schedule (C) agriculture land bearing R.S.No.57/3 of Bellad-Bagewadi village. **Hence I answered the issue No.2 in the negative and issue No.7 in the affirmative.**

29. **Issue No.8:** In view of above discussions made on the above issues, I proceed to pass the following;

ORDER

The suit is decreed in part with costs.

The defendant No.1 being the wife of Mainuddin she gets $1/8^{\text{th}}$ share. The plaintiff, defendant No.3, 4 and 6 being the sons of deceased Mainuddin will get $7/40^{\text{th}}$ share each and defendant No.2 and 5 being the daughters of deceased Mainuddin will get $7/80^{\text{th}}$ share each in schedule A(I)(A) item No.3 bearing CTS

No.1682-B, item No.4 CTS No.1682-A, item No.5 CTS No.1518-A1A1AA4, item No.7 CTS No.1682-C and schedule (B) non-agriculture plot bearing No.30.

Further the defendant No.1 being the wife of Mainuddin she gets $1/16^{\text{th}}$ share. The plaintiff, defendant No.3, 4 and 6 being the sons of deceased Mainuddin will get $7/80^{\text{th}}$ share each and defendant No.2 and 5 being the daughters of deceased Mainuddin gets $7/160^{\text{th}}$ share each in schedule A I (A) i.e., CTS No.1681, CTS No.825 and in schedule (C) agriculture land bearing R.S.No.57/3 of Bellad-Bagewadi village.

Further it is declared that the item No.6 of schedule A (I) (A) property bearing CTS No.2138/D1/A is the absolute property of defendant No.1.

Draw preliminary decree accordingly.

In view of the directions issued in the Civil Appeal No.6406-6407/2010, by the Hon'ble Supreme Court of India, final decree proceedings are to be initiated suo-moto Under Order XX Rule XVIII of CPC. Hence, Office is directed to register separate FDP and put up on 11.11.2026.

(Dictated to the stenographer, typed and translated by him and same is corrected, signed and then pronounced by me in the open court on this the 11th DAY OF AUGUST-2026)

(Umesh S. Atnure)
Prl. Senior Civil Judge, Gokak

ANNEXURES

LIST OF WITNESSES EXAMINED BY THE PLAINTIFF/S :

P.W-1 : Khalil S/o. Mainuddin Jamakhandi
P.W-2 : Imtiyaz S/o. Allasaheb Dilawarnaik

LIST OF DOCUMENTS EXHIBITED BY PLAINTIFF/S :

Ex.P1 to 6 : C/C of plain ruled cards
Ex.P7 & 8 : RTC extracts
Ex.P9 : C/C of plaint ruled card
Ex.P10 : Endorsement given by Sub-Treasury, Gokak
Ex.P11 : Letter of Treasury Office, Belagavi
Ex.P12 : Application given to Syndicate Bank
Ex.P13 : Postal acknowledgment
Ex.P14 : Endorsement given by A. G. office
Ex.P15 : Endorsement given by Syndicate Bank

LIST OF WITNESSES EXAMINED BY DEFENDANT/S :

D.W-1 : Zuberahmed S/o. Mainuddin Jamakhandi
D.W-2 : Smt. Shamshadbegum W/o. Mainuddin Jamakhandi

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF DEFENDANT/S :

Ex.D1 to 7 : C/C of ruled cards
Ex.D8 to 18 : C/C of RTC extracts
Ex.D19 : C/C mutation extract
Ex.D20 & 21 : C/C of mutation register extracts
Ex.D22 to 29 : C/C of sale deeds
Ex.D30 : RTC extract
Ex.D24(a) to 29(a) : Typed copies of Ex.D24 to Ex.D29

(Umesh S.Atnure)
Prl. Senior Civil Judge, Gokak