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**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.120/2023

DATED THIS 01st DAY OF JULY-2026

Plaintiffs:

1. Nagappa S/o. Kadappa Hulloli,
Age: 51 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
2. Veerabhadra S/o. Kadappa Hulloli,
Age: 38 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
3. Shivaling S/o. Kadappa Hulloli,
Age: 36 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
4. Smt. Shantavva W/o. Kempanna Hulloli,
Age: 42 years, Occ: Agriculture & Household,
R/o: Nandagaon, Tq: Gokak.
5. Smt. Niramala W/o. Sanju Salapur,
Age: 28 years, Occ: Agriculture & Household,
R/o: Soppadla, Tq: Savadatti.
6. Basavaraj S/o. Kempanna Hulloli,
Age: 24 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
7. Smt. Neelavva W/o. Kadappa Hulloli,
Age: 65 years, Occ: Agriculture & Household,
R/o: Nandagaon, Tq: Gokak.

8. Laxman S/o. Kadappa Hulloli,
Age: 40 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
9. Balappa S/o. Kadappa Hulloli,
Age: 35 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
10. Dundappa S/o. Gurappa Hulloli,
Age: 62 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
11. Shivanand S/o. Dundappa Hulloli,
Age: 38 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
13. Gurappa S/o. Dundappa Hulloli,
Age: 28 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.

-VERSUS-

- Defendants:
1. Kempanna S/o. Ningappa Hulloli,
Age: 65 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
 2. Shivalingappa S/o. Ningappa Hulloli,
Age: 60 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
 3. Balappa S/o. Yamanappa Hulloli,
Age: 55 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
 4. Smt. Sushila W/o. Ramappa Hulloli,
Age: 43 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
 5. Chandrashekhar S/o. Ramappa Hulloli,
Age: 43 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.

6. Suresh S/o. Ramappa Hulloli,
Age: 40 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.
7. Nagappa S/o. Dundappa Hulloli,
Age: 55 years, Occ: Agriculture,
R/o: Nandagaon, Tq: Gokak.

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Plaintiffs By Sri.S.S.N., Advocate (Retired)

Plaintiffs I/P

Defendant No.1, 2, 4 to 6 R/by Sri.S.M.B., Advocate

Defendants No.3 & 7 Exparte

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Date of institution of the Suit	:	15-02-2023
Nature of the Suit	:	Partition & Separate Possession
Date of commencement of recording of evidence	:	17-02-2023
Date of pronouncement of Judgment	:	01-07-2026
Total duration	:	Years /s Month/s Day/s 03 04 16

J U D G M E N T

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

It is the case of the plaintiffs that themselves and defendants are constituted joint Hindu family. The propositus Kadappa and his wife died leaving behind them four sons namely Ningappa, Yamanappa, Dundappa and Gurappa. After the death of propositus Kadappa, his four sons were succeeded the properties held by propositus Kadappa

and they are jointly enjoying the suit schedule property. From last some years there is no cordial relationship in between them, as such apart from the suit property they have effected partition in other joint family properties and they are separately enjoying their shares. The suit property is situated on the bank of the Ghataprabha river and they have left the said land for grazing the cattle and all are jointly enjoying the said property. Now the elder son of propositus Ningappa and his wife sharavva died leaving behind them the defendants No.1 and 2 as their class-I legal heirs and they have succeeded the properties Ningappa. The second son of propositus by name Yamanappa and his wife Guravva died leaving behind them one deceased Virupaxi, deceased Ramappa and defendant No.3 as their class-I legal heirs. Now, the Virupaxi is died leaving behind his wife Gangavva, son Suresh, daughter Drakshiyini as his class-I legal heirs. The deceased Virupaxi and his son Suresh for their family and legal necessity they have sold their joint share infavour of their brothers Ramappa and Balappa as such they have not impleaded Virupaxi, his wife, son and daughter in this suit. Now 1/4th share of Yamanappa is in the possession of Ramappa and Balappa. Now Ramappa died leaving behind him, his wife and sons who are defendants No.4 to 6 and they have succeeded the property held by Ramappa but the said property is standing in the name of Balappa. The third son of propositus by name Dundappa and his wife Dundavva died leaving behind them deceased Kadappa and defendant No.9 as their class-I

legal heirs and they have succeeded the properties of Dundappa. Now the Kadappa has died leaving behind him, his wife and two sons who are defendants No.7 to 9 and their names are mutated to the suit property jointly after the death of Kadappa. The fourth son of propositus by name Gurappa and his wife Neelavva died leaving behind them one deceased Kadappa and plaintiff No.10 as their class-I legal heirs. After the death of Gurappa, the name of deceased Kadappa and Dundappa were mutated to the property held by deceased Gurappa. Now the Kadappa and his wife Balavva died leaving behind them one deceased Kempanna, plaintiffs No.1 to 6 as their class-I legal heirs and they have succeeded the properties of Kadappa. Further the plaintiff No.10 in his old age he has given up his 1/8th share infavour of his sons who are plaintiffs No.11 and 12 and accordingly the names of defendants No.11 and 12 are appearing in the RTC extract. Now the dispute was arose in between them in the joint possession and enjoyment of the suit property and it is very difficulty for them to continue the joint possession over the suit property as such they have filed this suit. Further the plaintiffs contended that the property bearing GPC.No.244 situated at Nandagaon village is originally belongs deceased Ramappa Yamanappa Hulloi and defendant No.3 and the said property is their self acquired property. The Ramappa during his lifetime relinquished his right over the said property infavour of his brother defendant No.3, accordingly the name of defendant No.3 was mutated to the GPC.No.244 of Nandagaon

village as such, the said property is the absolute property of the defendant No.3. Apart from defendant No.3 none others are having any right, title, interest over the said properties. Hence they prayed to allot their $\frac{1}{2}$ share in the suit schedule property.

3. In pursuance of service of suit summons the defendants No.3 and 7 placed exparte. The defendants No.1, 2 and 4 to 6 appeared through their counsel and filed their written statement. These defendants denied the entire contentions of the plaintiffs and further they contended that apart from the suit property their family is having some other properties but the plaintiffs have not included those properties in this suit, as such the suit is not maintainable one. Further they contended that the property bearing GPC.No.244 of Nandagaon village is not the absolute property of defendant No.3 and defendant No.3 and his son without the knowledge of the other family members illegally got mutated to the name of defendant No.3 to GPC.No.244, as such the defendants prayed to dismiss the suit.
4. Based on the above pleadings the following issues have been framed:

ISSUES

1. Whether the plaintiffs prove that the defendants and themselves are the members of the Hindu joint family and the suit schedule property is their joint family property and are enjoying them jointly?

2. Whether the plaintiffs prove that they are entitled for $\frac{1}{2}$ share in the suit schedule property?
3. Whether the defendants No.1, 2, 4 to 6 prove that they are in exclusive possession and enjoyment of the suit schedule property?
4. Whether the defendants No.1, 2, 4 to 6 prove that the court fee paid on the plaint is insufficient?
5. Whether plaintiffs are entitled for the reliefs claimed?
6. What order or decree?

ADDITIONAL ISSUE

1. Whether plaintiffs prove that property bearing R.S.No.244 is the absolute property of Ramappa Yamanappa Hulloli and Balappa Yamanappa Hulloli, as such during the lifetime of Ramappa Yamanappa Hulloli relinquished the same infavour of his brother Balappa Yamanappa Hulloli?
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5. In support of the case of the plaintiffs, the plaintiff No.12 is got examined himself as PW1 and got marked Ex.P1 and 2 and closed their side. The defendant No.6 is examined as DW1 and he has not marked any documents in support of their contentions and closed their side.
 6. Heard the arguments of both side. Perused the material available on record.

7. My answer to the above issues are as follows;

Issue No.1	:-	In the Negative
Issue No.2	:-	In the Negative
Issue No.3	:-	In the Negative
Issue No.4	:-	In the Negative
Addl.Issue No.1	:-	In the Negative
Issue No.5	:-	In the Negative
Issue No.6	:-	As per final order for the following;

REASONS

8. **Issue No.1:-** It is the contentions of the plaintiffs that themselves and defendants are the members of the Hindu joint family as the dispute was arose in between the family members, apart from the suit schedule property they have partitioned the other joint family properties and they are enjoying their share separately. The suit schedule property was kept jointly for grazing the cattle, now it is not possible for them to remain in joint possession of the suit property. The suit property is also their joint family property and they are entitled for their $\frac{1}{2}$ share in the suit schedule property. The defendants denied the entire contentions of the plaintiffs and contended that apart from the suit schedule property there are other properties belonging to their family, those properties are not included in this suit. As such, the suit is not maintainable one.
9. In support of the case of the plaintiffs, the plaintiff No.12 is examined as PW1. In his examination-in-chief he reiterated the plaint averments. He got marked the RTC extract of the suit property for

the year 2021-22 as per Ex.P1. By perusing the same it goes to shows that the suit property is jointly standing in the name of defendant No.1 to 3, 7 and plaintiffs No.2 to 8 and apart from that the name of one Gurappa Dundappa Hulloli, deceased Ramappa Yamanappa Hulloli, Balappa Kadappa Hulloli, Niramala Sanju Salapur are appearing. Further the plaintiffs have produced MR.No.H-23/2020-21 as per Ex.P2, by perusing the same it goes to shows that the names of above said persons are jointly mutated to the suit schedule property.

10. Apart from the Ex.P1 and 2 the plaintiffs have not produced any other documents to show that the suit property is belonging to their ancestors and after their death they have succeeded this property and in the other family properties they have partitioned and enjoying their respective shares. No doubt the names of defendant No.1 to 3, 7 and plaintiffs No.2 to 8 and apart from that the name of one Gurappa Dundappa Hulloli, deceased Ramappa Yamanappa Hulloli, Balappa Kadappa Hulloli, Niramala Sanju Salapur are jointly appearing in the RTC extract of the suit property it shows that they are in joint possession and enjoyment of the suit property.
11. In the cross-examination of PW1, he deposed that an another suit is pending in respect of present suit property in OS.No.497/2022. Further he deposed that Kadappa died about 20-30 years back and Neelavva is the wife of deceased Kadappa and they have not shown the Neelavva in the G-tree. Further he deposed that the deceased

Kadappa having four sons namely Dundappa, Gurappa, Kadappa and Yamanappa. Further he deposed that they have not included son Kadappa in this suit but they have included the sons of Kadappa in this suit. Further he admitted that his grandfather Kadappa having one daughter by name Yamanavva and they have not made the said Yamanavva as party to this suit as the said Yamanavva died. Further he admitted that Satteppa, Kempanna, Balappa, Neelavva and Kasturi are the legal heirs of Yamanavva and they have not impleaded the above said persons. Further he admitted that the propositus Kadappa had another daughter by name Ningavva Mallappa Bastawad now she died. He don't know who are the legal heirs of said Ningavva Mallappa Bastawad. He deposed that as Yamanavva and Ningavva died, as such they have not impleaded them as parties to this suit. Further he deposed that the son of Kadappa by name Ningappa had four sons out of them they have impleaded only two sons, they have not impleaded two daughter namely Muddavva and Kempavva. Further he deposed that now Muddavva died leaving behind her four sons and two daughters namely Kallappa, Shivalingappa, Arun, Gangavva and Gouravva and they have not impleaded the above said persons in this suit as they told them that they are not interested to get any share in the suit schedule property, in this regard he has not produced any documents. Further he deposed his ignorance that Yamanappa had got three sons and three daughters namely Virupaxi, Ramappa, Balappa, Gangavva,

Sushevva and Annavva. Now Virupaxi died leaving behind his wife Gangavva, Suresh and Drakshayini. Further he deposed that his great grandfather Kadappa had four sons and three daughters namely Doddayamanavva, Sannayamanavva and Ninguravva. Doddayamanavva married and she has got her husband and children, he don't know their names and they have not impleaded the heirs of Doddayamanavva in this suit. Further he deposed that he don't know the husband name of Sannayamanavva and he don't know how many issues they have got and he further deposed that he also don't know the husband name of Ninguravva and they have got two sons and two daughters and he denied that as they have not included all the family members in this suit, as such their suit is not maintainable. He further denied that already the partition was effected in the suit schedule property, only with an intention to harass the defendants, they have field this false suit.

12. From the cross-examination of the PW1 it clearly goes to shows that the plaintiffs have not impleaded the daughters of propositus of Kadappa and they have also not included all the heirs of four sons of propositus Kadappa and three daughters of propositus Kadappa. As this is a suit for partition and separate possession the presence of all the joint family members is just and necessary and in the absence of any of the family members the suit cannot be adjudicated effectively. The PW1 in his cross-examination deposed that as the daughters of Kadappa by name Yamanavva and Ningavva were died, as such they

have not impleaded them in this suit but from the cross-examination of PW1 it is clear that they have died leaving behind their legal heirs but they have not impleaded in this suit as the daughters of Kadappa are also the members of the joint family, they are also having interest in the suit schedule property. Further it is also clear that the plaintiffs have not included the three daughters of propositus Kadappa by name Doddayamanavva, Sannayamanavva and Ninguravva. In their absence the suit cannot be adjudicated effective and without impleading all the joint family members the contentions of the plaintiffs that themselves and defendants are constituted the joint family and the suit schedule property is their joint family property is not acceptable one.

13. The defendant No.6 is examined as DW1, in his examination-in-chief he deposed as per contentions taken by them but the plaintiffs are not chosen to cross-examine this witness. The entire oral evidence adduced by the DW1 is remained uncontraverted and unchallenged. Hence, by perusing the oral and documentary evidence adduced by the both the parties it is clear that the plaintiffs are seeking partition of their $\frac{1}{2}$ share in the suit schedule property alleging that themselves and defendants are constituted Hindu joint family and the suit schedule property is their joint family property but the plaintiffs have not impleaded the three daughters of propositus and daughters of one Kadappa who is son of third son of the propositus. In their absence the contentions of the plaintiffs that themselves and

defendants are constituted joint Hindu family is not acceptable one and the plaintiffs have failed to prove that themselves and defendants are constituted joint Hindu family and the suit schedule property is their joint family property. **Hence, I answered the Issue No.1 in the Negative.**

14. **Issue No.2:** The plaintiffs are contended that themselves and defendants are constituted joint Hindu family and they have got $\frac{1}{2}$ share in the suit schedule property but in this suit the plaintiffs have not impleaded the three daughters of propositus namely Doddayamanavva, Sannayamanavva and Niguravva and also daughters of the third son of propositus in this suit. In their absence the plaintiffs cannot claim that they being the heirs of fourth son of propositus and they are entitled for $\frac{1}{2}$ share in the suit schedule property. Hence, I am of the considered view that the plaintiffs are failed to prove that they are entitled for $\frac{1}{2}$ share in the suit schedule property. **Hence, I answered the Issue No.2 in the Negative.**

15. **Issue No.3 and 4:** The defendants No.1, 2, 4 to 6 contended that they are in exclusive possession and enjoyment of the suit schedule property and the plaintiffs are not in possession of the suit property, as such the court fee paid by the plaintiffs is insufficient. Apart from the contention taken in written statement and in the oral evidence these defendants are not adduced any other acceptable documentary evidence to show that they are in exclusive possession and enjoyment of the suit property. By perusing the Ex.P1 the names of defendants

No.1, 2, 4 to 6 are jointly appearing along with the names of plaintiffs. Under such circumstances, the contention of the defendants No.1, 2, 4 to 6 that they are in exclusive possession and enjoyment of the suit schedule property is not acceptable one.

16. Further the defendants No.1, 2, 4 to 6 contended that the court fee paid by the plaintiffs is insufficient. Apart from this contention they have not put forth any acceptable material evidence on what grounds the court fee paid by the plaintiffs is insufficient. The plaintiffs have filed this suit seeking the relief of partition and separate possession alleging that they are the members of the Hindu joint family and the suit schedule property is their joint family property and they have valued the suit for Rs.50,00,000/- and according to Section 7 and 35(2) of Karnataka Court Fee and Suit Valuation Act, they have paid court fee of Rs.15/- which is sufficient. Hence, I am of the considered view that the defendants No.1, 2, 4 to 6 have failed to prove that the court fee paid by the plaintiffs is insufficient. **Hence, I answered the Issue No.3 and 4 in the Negative.**

17. **Additional Issue No.1:** The plaintiffs are contending that the property bearing GPC.No.244 of Nandagaon village is belonging to deceased Ramappa Yamanappa Hulloli and Balappa Yamanappa Hulloli and it is their self acquired property, as such during the lifetime of Ramappa Yamanappa Hulloli he relinquished his right over the said property in favour of his brother i.e., defendant No.3. As such, the name of defendant No.3 is mutated to the said property but

in this regard apart from the contention taken in the plaint the plaintiffs have not adduced any documentary evidence to show that the property bearing GPC.No.244 is the self acquired property of deceased Ramappa Yamanappa Hulloli and Balappa Yamanappa Hulloli and during the lifetime of Ramappa Yamanappa Hulloli he relinquished his right infavour of his brother i.e., defendant No.3. Hence, without there being any documentary evidence the contention of the plaintiffs that the property bearing GPC.No.244 of Nandagaon village is the self acquired property deceased Ramappa and defendant No.3 is not acceptable one and so also the contention of the plaintiffs that during the lifetime of Ramappa, he relinquished his right over the said property infavour of defendant No.3 is not acceptable one.

Hence, I answered the Additional issue No.1 in the Negative.

18. **Issue No.5:** The plaintiffs are failed prove that themselves and defendants are the members of the Hindu joint family and the suit schedule property is their joint family property. Further in the cross-examination of PW1 it is clearly brought on record that the plaintiffs have not impleaded the three daughters of propositus by name Doddayamanavva, Sannayamanavva and Ninguravva and so also they have not impleaded the daughters of third son of the propositus by name Kadappa. In their absence the suit cannot be adjudicated effectively and the plaintiffs without impleading all the joint family members claiming that themselves and defendants are the joint family members and they are entitled for ½ share in the suit schedule

property is not acceptable one. Hence, I am of the considered view that the plaintiffs are not entitled for the relief sought by them.

Hence, I answered the Issue No.5 in the Negative.

19. **Issue No.6:** In view of above discussions made on the above issues, I proceed to pass the following;

ORDER

The suit is hereby dismissed with costs.

Draw decree accordingly.

(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 **01st DAY OF JULY-2026**)

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

ANNEXURES

LIST OF WITNESSES EXAMINED BY THE PLAINTIFF/S :

P.W-1 : Gurappa S/o. Dundappa Hulloli

LIST OF DOCUMENTS EXHIBITED BY PLAINTIFF/S :

Ex.P1 : RTC extract

Ex.P2 : Mutation register extract

LIST OF WITNESSES EXAMINED BY DEFENDANT/S :

D.W-1 : Suresh S/o. Ramappa Hulloli

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF DEFENDANT/S :

-NIL-

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