

KABG510030192025



**IN THE COURT OF THE ADDL CIVIL JUDGE & JMFC,
AT : GOKAK.**

PRESENT

SMT. CHAITRA V. KULKARNI,
B.A.,LL.B., LL.M.
ADDL CIVIL JUDGE & J.M.F.C.,
GOKAK.

ORIGINAL SUIT NO.226/2025

DATED THIS THE 06th DAY OF JUNE, 2026

Plaintiff/s	1. Smt. Indira W/o Adivappa Sindhihatti, Age : 42 years, Occ : House hold work & Agriculture, R/o : Iranahatti, Tq : Gokak, Now at C/o : Aakash Siddammanavar, At /Po : Madanabhavi, Tq : Bailhongal, Adhar Card No.8723 2805 3405. (By Sri.S.R.D., Adv.,)
Defendant/s	1. Shri. Mallikarjun S/o Mallappa Sindhihatti, Age : 55 years, Occu : Agriculture, R/o : Near Bus-Stand Beside Samaj Mandir Iranahatti, Tq : Gokak, Dist : Belagavi.

	2. Smt. Shantavva W/o Balappa Patil, Age : 50 years, Occu : House hold work, R/o : Iranahatti, Tq : Gokak, Dist : Belagavi. 3. Smt. Gangavva W/o Hanamant Hadimani, Age : 42 years, Occu : Household work, R/o : Hadimani Farm House Belkud, Tq : Chikkodi. 4. Smt. Vijayalaxmi W/o Mallappa @ Mallikarjun Sindhihatti, Age : 45 years, Occu: Household work, R/o : Iranahatti, Tq : Gokak. (By Sri.A.S.K., Adv.,)		
Date of institution of suit	26.03.2025		
Nature of suit	Partition and Separate Possession		
Date of commencement of recording of evidence	03.01.2026		
Date of pronouncement of judgment	06.06.2026		
Total duration	Year/s	Month/s	Day/s
	01	02	11

:: JUDGMENT ::

This is a suit for partition and separate possession of share.

The schedule "A" of the suit properties:-

An agricultural landed properties situated within the village limits of Madawal in Gokak taluk.

SL.No.	R.S.No.	Area Ac-Gs	Assessment Rs-Ps	Market Value Rs-Ps
1	270/1A	00-12	00-94	1,50,000/-
2	270/1B	00-09	00-71	1,00,000/-
3	270/2	00-20	01-57	3,00,000/-
4	271/1	00-16	01-18	1,75,000/-
5	270/3+4/B	00-31	02-44	1,60,000/-
	out of it	00-15-08 Anna	Total=	8,85,000/-

The schedule "B" of the suit properties:-

1. GPC No.1070/1 coming under Gram Panchayat Madawal in Gokak Taluka situated within the village limits of Iranahatti the Market value Rs.3,00,000/-.

2. GPC No.446 coming under Gram Panchayat Madawal in Gokak Taluka situated within the village limits of Iranahatti the Market value Rs.3,00,000/-.

2. The brief facts of the case of plaintiff:

It is the case of plaintiff that, the defendant No.1 to 3 are the brother and sisters of her husband and her mother in law and father in law have died. Further, the plaintiff was married to one Adivappa who is brother of defendant No.1 to 3 in the year 2010 and out of their marriage no issues were born and on 18.7.2013 her husband has died by leaving behind the plaintiff as his legal heir and also the joint family properties.

3. Further, the suit properties are ancestral joint family properties of plaintiff and defendants and they are in the joint possession of the same by cultivating. The plaintiff requested the defendants to give her share in the suit properties which are joint family properties, but the defendants did not heed the request of plaintiff, hence plaintiff constrained to institute the present suit.

4. In response to suit summons, the defendants appeared through their counsel. Despite, sufficient time, did not file written statement as such, their written statement is taken as nil.

5. On the basis of plaint and documents placed on record, following points arise for my consideration:

POINTS

1. Whether plaintiff proves that, Suit Schedule Properties are ancestral and joint family properties of plaintiff and defendants?
2. Whether plaintiff proves that, she is entitled for legitimate share in the Suit Schedule Properties?
3. Whether plaintiff is entitled for the relief claimed?
4. What order or decree?

6. The plaintiff to prove her case, plaintiff got examined herself as PW-1 and got marked as Ex.P1 to Ex.P10 viz Ex.P1 to 5 are the record of right of suit schedule A item No.1 to 5 properties, Ex.P6 and 7 are property certificates of suit schedule B item No.1 and 2 properties, Ex.P.8 is mutation extract, Ex.P9 is death certificate of husband of plaintiff, Ex.P.10 is Aadhaar Card of plaintiff. The evidence of defendants is taken as nil.

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7. Heard, the learned Counsel appearing for plaintiff.

Perused oral and documentary evidence placed on record and my answer to above points is as under:

Point No.1 :- In the Affirmative,

Point No.2 :- In the Affirmative,

Point No.3 :- In the Affirmative,

Point No.4 :- As per final order

for the following;

REASONS

8. Point No. 1 & 2:- These points are related to nature of suit property and quantum of share to which plaintiff is entitled as such, I have taken them for common discussion to avoid repetition of discussion.

9. So as to prove her case, plaintiff got examined herself as PW-1 and filed affidavit in lieu of examination in chief. The PW-1 categorically deposed that, originally suit properties belonged to ancestors of plaintiff and defendants. After death of propositus Mallappa, the children of Mallappa I.e., defendant No.1 is husband of plaintiff inherited to the suit schedule properties. plaintiff and defendants inherited

suit property jointly as such, they are in joint possession and enjoyment of suit property. The plaintiff and defendants being co-sharers have got 1/ 4th share each in suit schedule properties. The plaintiff approached defendants to divide her share in suit properties but they dodged the same on one or other pretext. Albeit, sufficient time, defendants did not cross examine PW-1 as such, evidence of PW-1 remained unchallenged.

10. It is pertinent to state that, as per “Synopsis 221 of Mulla on Hindu Law, all properties inherited by a male Hindu from his father, father’s father or father’s father’s father are ancestral properties. The essential feature of ancestral properties according to Mitakshara law is that the sons, grand sons and great-grandson of the person, who inherits it. In view of above, this Court carefully perused Ex.P1 to 5/RTC, wherein it appears that, suit properties are standing in the name of deceased husband of the plaintiff and defendants No.1 which have been entered by way of inheritance which is evident from col no 10 of Ex.P1 to 5. This goes to show that the suit schedule properties are the

ancestral properties of the plaintiff and defendants.

Further, Ex.P.9 is the death certificate of deceased Adivappa which discloses that husband of plaintiff is dead. It is pertinent to state that, plaintiff claimed that, suit properties originally belonged to plaintiff and defendants ancestor and after death of said ancestor, plaintiff and defendants jointly inherited the same which is evident from Ex.P1 to 5. Further, with respect to suit schedule B item No.1 and 2 properties, which are standing in the name of defendant No.4 and propositus Mallappa respectively show that, as per Ex.P.6 the said item No.1 property is standing in the name defendant No.4, in the plaint, plaintiff has not averred anything about how and why the name of defendant No.4 has entered in the Ex.P.6. It is to be noted that, the said property which is standing in the name of defendant No.4 appears to be belonged to her and there are no documents to show that the said property is joint family property but standing the name of defendant No.4. It is settled law that, if the property is standing in the name of women, then it has to be considered as her absolute

property unless otherwise proved, therefore in the case on hand the suit schedule B item No.1 property appears to be standing in the name of defendant No.4 who is wife of defendant No.1, hence it is considered to be absolute property of defendant No.4, if at all plaintiff would have produced any document to show that before the name of defendant No.4, the said property was standing in the name of propositus, then it could have been considered that, the said property was originally belonged to propositus of the family of plaintiff and defendants but entered in the name of wife of defendant No.1 ie. defendant No.4, but no such evidence placed on record to show the same, therefore the plaintiff has not proved the suit schedule B item No.1 property as ancestral joint family property. The suit schedule item No.2 property is standing in the name of propositus Mallappa, which can be said that it is belonging to the joint family.

11. On cumulative reading of evidence of PW-1 and Ex.P1 to Ex.P10, it is clear that, suit schedule properties are ancestral and joint family properties of plaintiff and

defendants and plaintiff has got 1/4th share in the suit schedule A item No.1 to 5 and suit schedule B item No.2 properties. **Hence, I answer these points in the Affirmative.**

12 Point No.3:- This point is framed with respect to entitlement of relief claimed by plaintiff. While answering Point No. 1 and 2, I have concluded that, suit schedule properties except suit schedule B item No.1 property are ancestral and joint family properties of plaintiff and defendants and plaintiff being wife of one of coparceners has got 1/4th share in the suit schedule A and B properties except suit schedule B item No.1 property. It is also the case of plaintiff that, despite several requests, defendants have not given her share in the suit schedule properties. This being the case, in order to facilitate plaintiff to get her share in the suit schedule properties, it is necessary to pass decree for partition and separate possession of her share in suit schedule property and there is no impediment in any other law to grant such decree. Thus, plaintiff is entitled for the relief of partition and separate possession of her share

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in the suit schedule properties except suit schedule B item
No.1 property. **Thus, I answer these points in the
Affirmative.**

13. Point No.4:- In view of discussion and conclusion
arrived at Point No.1 to 3, suit of plaintiff deserves to be
decreed. Looking into relationship of parties to the suit,
awarding of cost is not necessary. Accordingly, I proceed to
pass the following:

ORDER

The suit of plaintiff is decreed in
part.

It is ordered and decreed that,
plaintiff and defendants are entitled for
1/4th share in the Suit Schedule
Properties except suit schedule B item
No.1 property.

The Suit Schedule Properties being
agricultural lands are ordered to be
divided by appointing Court
Commissioner under section 54 of CPC.

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Parties to bear their own costs.

Draw preliminary decree
accordingly.

(Dictated to Stenographer, directly on the computer, typed by him, correct, signed and then pronounced by me in the open Court on this the 06th day of June 2026)

(Smt. Chaitra V Kulkarni.)
Addl. Civil Judge & JMFC,
GOKAK.

ANNEXURE

1. List of witnesses examined for the plaintiff side.

PW-1 : Indira W/o Adivappa Sindhihatti,

2. List of documents exhibited for the plaintiff side.

Ex.P-1 to 5 : RTC Extracts,
Ex.P-6 & 7 : Property Certificates,
Ex.P-8 : C/c of Mutation Entry No.7802,
Ex.P-9 : Death Certificate,
Ex.P-10 : Attested copy of Aadhaar Card,

3. List of witnesses examined for the defendants side.

-NIL-

4. List of documents exhibited for the defendants side.

-NIL-

(Smt.Chaitra V Kulkarni)
Addl. Civil Judge & JMFC,
GOKAK.