



**IN THE COURT OF CIVIL JUDGE AND JMFC
AT HUKKERI.**

Present: ADITYA R. KALAL., B.A.L. LL.B. LL.M (Symbiosis)
Civil Judge and JMFC.,
Hukkeri.

Dated, on this 19th day of June 2025

ORIGINAL SUIT No.06/2015

Between:

Basavva D/o Shetteppa Holer @ Bangari and others

... PLAINTIFFS

-AND-

Dundevva Balavva Holer @ Bangari and others

...DEFENDANTS

PARTIES IN IA

Between:

Deft No.2: Ghoolappa Balappa Holer @ Bangari

Deft No.4: Kempavva Satteppa Talawar

Deft No.6: Swapna Ghoolappa Holer @ Bangari

....APPLICANTS

And:

Plaintiffs : Basavva d/o Shetteppa Holer @ Bangari
and others

....OPPONENTS

ORDERS ON PRELIMINARY ISSUE

1. An issue was framed with regard to the pecuniary jurisdiction of this court on 10/1/2024 by my predecessor-in-office and the same is extracted here under :

ADDITIONAL ISSUE NO.5

Whether the defendants No.2, 4 and 6 prove that, this court has no pecuniary jurisdiction to try the suit ?

2. The defendants No.2, 4 and 6 in their written statement have taken a specific contention that the suit properties are fertile irrigated lands and there is a canal on the western side abutting to it , which is in existence from last 40 years and the value of 01 acre of the suit land is more than Rs.20,00,000/-. Therefore the value of the entire suit property is more than Rs.60,00,000/-. Hence they have contended that this Court has no pecuniary jurisdiction to try this suit.

3. The plaintiffs No.1 to 8 have filed this suit seeking the relief of partition and separate possession with respect to the suit property and the plaintiffs are seeking $\frac{1}{2}$ share in the suit properties. The plaintiffs in their valuation slip have valued the suit property at Rs.4,00,000/- and for their $\frac{1}{2}$ share i.e. Rs.2,00,000/-, they have paid the Court Fees under

Sec.35(2) of Karnataka Court Fees and Suit Valuation Act 1958.

4. The suit properties are agricultural lands bearing Sy No. 475 measuring 04 acre 01 guntas including 09 guntas of kharab and another property is bearing Sy No. 374 measuring 16 guntas, both are situated at Gudas Village, Tq: Hukkeri.

5. Heard the learned Advocates appearing for both the plaintiff and the defendants .

6. Perused the plaint as well as the valuation slip and other relevant documents which are necessary for the purpose of determination of this question.

7. The point that would arise for the consideration of this Court is as under:

Point No. 1 : Whether this Court lacks pecuniary jurisdiction to try this suit ?

Point No. 2 : What order ?

8. After going through the documents and for the reasons narrated hereunder, this Court answers the above point No. 1 in the **NEGATIVE** for the following:

REASONS

9. Point No.1: The plaintiffs have filed this suit seeking the relief of partition and separate possession with respect to the suit properties. The suit properties are the agricultural lands and the plaintiffs have pleaded that the suit properties are their ancestral and joint family properties and they are in the joint possession and enjoyment of the same. The plaintiffs are seeking $\frac{1}{2}$ share in the suit properties and have valued the suit properties at Rs.4,00,000/- for the purpose of the pecuniary jurisdiction and the plaintiffs' $\frac{1}{2}$ share comes to Rs.2,00,000/- . Therefore the plaintiffs have contended that this Court has the pecuniary jurisdiction to try the suit.

10. On the other hand, the learned advocate for the defendants No.2, 4 and 6 has drawn the attention of this Court to the cross-examination portions of the P.W.1 and 2 and has contended that the plaintiffs themselves have admitted that the suit properties are all irrigated lands and that there is a canal which is abutting the suit lands and there are borewells and the suit properties are all irrigated lands and the plaintiffs have deliberately shown a lesser value. He states that the suit lands are all irrigated lands and as per Ex.P-20 , which is the valuation given by the Sub-Registrar (Guidance value for the

year 2015-16), the value of the property exceeds the pecuniary jurisdiction of this court.

11. On the other hand the plaintiffs' advocate has contended that the suit is well within the pecuniary jurisdiction of this court and the suit properties are agricultural lands and it is not an irrigated land as contended by the defendants, but it is categorized as "Maradi" land and the value of the said property in the year 2015-16, at the time of the institution of the suit was Rs.1,40,000/- per acre and the total extent of the property is 04 acre 17 guntas. Therefore by the said calculation, he contends that the suit is well within the pecuniary jurisdiction of this court.

12. It is relevant to note Sec.20(2) of CPC which outlines where a suit can be instituted. It states that a suit can be filed where the defendant resides, carries on business, or personally works for gain. Additionally, it allows for suit to be filed where the cause of action, either wholly or in part, arises.

13. Section 21 of CPC states that no objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of justice. Further subsection (2) of section 21 of CPC states that no objection as

to the competence of a court with reference to the pecuniary limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the court of first instance at the earliest possible opportunity, and , in all cases where issues are settled , at or before such settlement , and unless there has been a consequent failure of justice. Therefore it is seen that the objection as to the pecuniary jurisdiction of the court has to be taken at the earliest possible opportunity and in all cases , where the issues are settled, at or before such settlement.

14. In this case, this suit was filed in the year 2015 and the evidence has been completed by both the parties and the case was posted for arguments and at this stage this application came to be filed by the defendants. Be that as it may, the same is taken up for consideration on merits without looking to the technicalities.

15. Even though the contention was taken in the written statement, neither parties brought to the knowledge of the court with regard to the question of pecuniary jurisdiction and my predecessor in office framed the issue on 10.01.2024 and the said issue was taken up for examination.

16. It is relevant to mention that both the parties have filed the valuation (guidance value) with respect to the suit properties. Ex.P-20 is the Guidance Market Value with respect

to the suit properties for the year 2015-16 and the same is extracted hereunder :

ಪ್ರತಿ ಎಕರೆಗೆ (ರೂ.ಗಳಲ್ಲಿ)					
ಗ್ರಾಮ	ಬಾಗಾಯತ್ ಕಾಲುವೆಯಿಂದ	ಬಾಗಾಯತ್ ಭಾವಿ ಬೋರವೆಲ್ ಪಂಪ್‌ಸೆಟ್ ಗಳಿಂದ	ಯರಿ	ಮಸಾರಿ	ಮರಡಿ
ಗುಡಸ	ರೂ.452000/-	ರೂ.404000/ -	ರೂ.191000/-	ರೂ.165000/-	ರೂ.140000/-

17. The contention of the defendants advocate is that there is a canal which is running abutting the suit property and therefore the said property is an irrigated land. But on perusal of the RTC extracts of the suit properties, which have been marked in this case as Ex.P-1 to 4, at column No.6, the nature of the lands, is specifically written as “Maradi”. Therefore, the suit lands are not irrigated lands as contended, but they are dry lands. The category of the lands, as per the Karnataka Land Revenue Act takes precedence than the oral evidence of the parties. The parties might have made efforts by dint of their hardwork and labour to make the lands irrigated by digging borewells or pump wells, and that does not take away the nature of the lands and that does not mean that the suit properties become the irrigated lands. The RTC extracts which have an evidentiary value u/s 133 of the Karnataka Land Revenue Act, 1964.

18. The jurisdiction of a court may be classified into several categories. The important categories are (i) Territorial or local jurisdiction; (ii) Pecuniary jurisdiction; and (iii) Jurisdiction over the subject matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. In this case, the case is posted for arguments and even at that stage, after litigating for more than 10 years, again relegating the parties would not be proper. Further the contention of the defendants that this court has no pecuniary jurisdiction is also a futile attempt in thwarting the litigation in the midway.

19. Further , the RTC extracts of the suit property from last 20 years show that the nature of the suit lands is Maradi and not an irrigated lands. Therefore the documentary evidence of RTC prevails over the oral evidence of the parties. Therefore in this case, the nature of the land is not an “irrigated land”, but it is a non-irrigated land which shown in the category of “Maradi”. The value of 01 Acre of land is Rs.1,40,000/- as per the guidance value. Therefore, the market value of the suit property would be Rs.6,19,500/- and the plaintiffs are claiming $\frac{1}{2}$ share and that would be

Rs.3,09,750/-. Therefore, as per Ex.P-20, the value of the suit property , does not exceeds the pecuniary jurisdiction of this court. Therefore for these reasons, this Court answers the above point No. 1 in the negative.

20. POINT No.2:- In view of the above discussion, I proceed to pass the following:

ORDER

This Court has the pecuniary jurisdiction to try this suit. The said additional issue No. 5 is answered in negative.

The contention of the defendants No. 2,4 and 6 is hereby rejected.

(Dictated to the Stenographer, typed by her and the transcript revised and corrected by me and pronounced in the open Court, on this 19th day of June 2025).

**(ADITYA R. KALAL)
Civil Judge & JMFC,
Hukkeri.**

(Order pronounced in open court,
vide separate order)

ORDER

**Civil Judge & JMFC
Hukkeri**