



Presented on : 27-01-2020  
Registered on : 27-01-2020  
Decided on : 29-07-2026  
Duration : 06Y.6M.2D

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

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

**Dated this the 29<sup>th</sup> day of July, 2026**

**ORIGINAL SUIT No.30/2020**

**PLAINTIFFS :**

- 1. Fakeer Appanna Korawar @ Bhajantri**  
Age: 65 years, Occ: Coolie,  
R/o Hupari, Tq:Dist: Kolhapur.
- 2. Chandrakant Babu Korawar @ Bhajantri**  
Age: 42 years, Occ: Coolie,  
R/o Kanakanatti, Tq: Gokak, Dist: Belagavi
- 3. Ramesh Shrikant Korawar @ Bhajantri**  
Age: 40 years, Occ: Agriculture  
R/o Ingali Village, Tq: Hukkeri Dist: Belagavi
- 4. Yashawant Babu Korawar @ Bhajantri,**  
Age: 38 years, Occ: Coolie,  
R/o Kadoli Village, Tq:Dist: Belagavi
- 5. Gangappa Babu Korawar @ Bhajantri**  
Age : 35 years, Occ: Agriculture  
R/o Ingali Village, Tq: Hukkeri,  
Dist: Belagavi



The plaintiffs No.1 to 5 are represented by  
**Shri. Ravindra Gurusidda Khatedar,**  
Age: 42 years, Occ: Agriculture  
R/o Ingali Village, Tq: Hukkeri, Dist: Belagavi

**[Represented by Sri. N.G.Kulakarni, Advocate ]**  
**V/s.**

**DEFENDANTS :**

- 1. Suresh Maruti Korawar @ Bhajantri,**  
Age: 45 years, Occ: Agriculture  
R/o Ingali Village, Tq: Hukkeri  
Dist: Belagavi.
- 2. Meenaxi D/o Ashok Korawar @ Bhajantri**  
Age: 22 years, Occ: Household  
R/o Ingali Village, Tq: Hukkeri  
Dist: Belagavi.
- 3. Vijay Ashok Korawar @ Bhajantri,**  
Age: 20 years, Occ: Agriculture,  
R/o Ingali Village, Tq: Hukkeri  
Dist: Belagavi.
- 4. Padmavati Ramesh Korawar @ Bhajantri,**  
Age: 48 years, Occ: Household,  
R/o near Marathi School, Anagol, Belagavi  
Tq: Dist: Belagavi



**5. Shankar Appanna Korawar @ Bhajantri,**

Age: 51 years, Occ: Coolie,  
R/o Koravi Galli, Anangol, Belagavi  
Tq: Dist: Belagavi

**6. Mahmadasab Nabisab Baligar @ Multani,**

Age: 68 years, Occ: Agriculture  
R/o Labour Camp, Hidakal Dam  
Tq: Hukkeri, Dist: Belagavi

**7. Imambi Dastageer Baligar @ Multani,**

Age: 55 years, Occ: Household,  
R/o Labour Camp, Hidakal Dam  
Tq: Hukkeri Dist: Belagavi

**8. Ibrahim Nabisab Baligar @ Multani,**

Age: 65 years, Occ: Agriculture  
R/o Ingali Village, Tq: Hukkeri  
Dist: Belagavi

***[Defts No.1 to 3 and 7 placed exparte]***

***[Defts No.4 & 5 R/by by S.R.B, Advocate]***

***[Deft No.8 R/by Shri. M.K.Patil/ I.K.Hulikatti Advocate]***

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

**1.** The plaintiffs have filed this suit seeking the relief of partition and separate possession in respect of 01Ac-04Gs.

**2.** The court notice has been issued to the advocate for the plaintiffs and also the plaintiffs. Both of them are absent.



None of them appeared before this court, even though the case was called from last ten dates of hearing since 21/2/2026.

**3.** Hence, their evidence has been taken nil, and the case is taken up for disposal on merits.

**4.** The defendants have not appeared before the court, even though they have filed their written statement. They have not lead evidence.

**The brief facts of the case as projected by the plaintiff is as under :-**

**5.** The suit property is bearing Survey No. 165/B measuring 8 Acres including 3 Guntas of Kharab, situated at Ingli village, Gokak taluk.

**6.** It is the contention of the plaintiffs that they have 1 Acre 4 Guntas, 10 Anas in Survey No. 165/B of Ingli village. It is also stated that the defendant Nos. 1, 2, and 3 have 14 Guntas, 14 Anas, 22 Paise in the said property. Accordingly, defendant No. 4 has 14 Guntas, 14 Anas, 22 Paise in the said property. It is also stated that the defendant Nos. 6 to 8 have 1



Acre 4 Guntas, 10 Anas, 66 Paise in the said property. It is also stated that defendant No. 5 has 14 Guntas, 14 Anas, 22 Paise in the said property.

7. It is stated that the plaintiffs and the defendants are cultivating their properties as stated above and now they have filed this suit seeking the relief of partition as the property is not divided by metes and bounds, and that there is no demarcation of their share as stated above, in the land and that it has become difficult for them to get loans from the nationalized banks. It is said that the defendants are not coming forward to effect the partition by metes and bounds or for demarcation of the boundaries. Therefore, this suit has been filed. The cause of action is said to have arisen in the month of December 2020.

### **DEFENCE OF THE DEFENDANTS**

8. On the other hand, the defendant Nos. 1, 2, 3, 6, and 7 have not appeared before the court, even though they were served with the summons. Therefore, they are placed *ex-parte*. The defendant No. 8 has appeared through his advocate, M. K.



Patil, and he has filed his written statement.

**9.** The defendant Nos. 4 and 5 have appeared through their advocate S. R. Bhajantri, Belagavi. The defendant No. 8 in his written statement has denied the entire plaint averments as false. He also denies the fact that the properties have been divided earlier.

**10.** The contention of the defendant No. 8 is that the suit property is totally measuring 8 Acres at Ingli village and there is 4 Guntas of Kharab in that land, and therefore the land available for cultivation is 7 Acres 36 Guntas. Out of that land, 4 Acres 26 Guntas has been acquired by the Karnataka Niravari Nigam. And in the remaining land, the land of the defendant Nos. 1, 2, and 3 comes to the extent of 14 Guntas, and the defendant No. 4 gets 14 Guntas, defendant No. 5 is having 14 Guntas, and the plaintiffs are having 1 Acre 4 Guntas, the defendant Nos. 6 to 8 are having 1 Acre 4 Guntas 10 Anas, and all these properties are adjacent to one another, forming a common block.



**11.** It is stated that the plaintiffs and the defendants have divided their properties and they are separately enjoying them. It is said that the defendant Nos. 6 to 8 have divided their properties and have invested about 3 to 4 Lakhs and have improved the lands, whereas the defendant Nos. 6 to 8 have improved by loading soil in their lands and they have made their land very level for the purpose of growing crops, and they state that they have not asked for partition at any point of time to the plaintiffs.

**12.** It is said that the plaintiffs are in the attempt of alienating their 1 Acre 4 Guntas and only with an intention to sell that property, they have filed this suit. It is said that if the plaintiffs are willing to sell their property, the defendant No. 8 is ready to purchase the said property by paying the market price. And therefore he prays for an order from the court, that the plaintiffs should not alienate the properties to any other persons except the defendant No. 8. He also states that the suit is not maintainable on the ground of res judicata as there has been already earlier partition.



**13.** Whereas the defendant Nos. 4 and 5 have filed their separate written statement denying the entire plaint averments as false, and they claim that the suit is filed on imaginary cause of action by suppressing material facts, and the plaintiffs have not come with clean hands.

**14.** It is stated that the plaintiffs have clearly stated as to how much share has been allotted to each parties, and the plaintiffs and defendants are already in possession of their respective properties as stated in paragraph No. 1 of the plaint, therefore partition for the second time cannot be effected by way of decree, and therefore they pray to dismiss the suit. It is also stated that the remedy for the plaintiffs lies before the revenue authorities and not before this court for partition.

**15.** It is stated that the plaintiffs should file application before the revenue officers for separation of the RTC according to their own share in Survey No. 165/B. It is stated that there is no cause of action for the present suit, and the request itself is false and misleading. Therefore, they claim that the



plaintiffs have no right over the properties shown in Item No.1.

**16.** On the basis of above pleadings, the following issues were framed by my predecessor-in-office:

**:: ISSUES ::**

1. Whether the plaintiffs prove that the suit property is joint family property of the plaintiffs and defendants and they are in joint possession of the same ?
2. Whether the defendants No.4, 5 and 8 prove that there was an earlier partition ?
3. Whether the suit of the plaintiffs is maintainable ?
4. Whether the plaintiffs are entitled for the relief as sought for ?
5. What order or decree ?

**Recasted Issue :** Whether the plaintiffs prove that , they and the defendants being the members of the joint family, earlier have divided the suit properties as per the description given in the plaint at para No. 3 and that they are entitled for partition by metes and bounds as per the earlier partition ?



**17.** As stated earlier the plaintiffs have not appeared before the court, even though they were served with the court notice. On the other hand, the defendants have also not lead evidence to prove their claim. The court notices were issued to the parties several times and they have not appeared before the court.

**18.** The advocate for the plaintiff and the defendants were served with the notice . They have not appeared before the court. As the defendants have admitted the earlier partition as per the claim of the plaintiffs, this court deems it fit not to dismiss the case of the plaintiffs for not leading evidence. As the defendants have admitted in their written statement , about the earlier partition as stated in para No. 3 of the plaint, the same amounts to judicial admission.

**19.** The advocate for the plaintiff has not argued the case. And has not lead evidence. At the same time, the defendants advocate also has not canvassed his side of arguments or lead evidence. Perused the pleadings and the documents and other materials placed on record.



**20.** After going through the oral and documentary evidence and the pleadings, this Court answers the above issues for the reasons stated below as hereunder :

***Issue No.1 : Partly in the Affirmative***

***Issue No.2 : Partly in the Affirmative***

***Issue No.3 : In the Affirmative***

***Issue No.4 : In the Affirmative***

***Recasted Issue : In the affirmative***

***Issue No. 5 : As per final order for the***

***FOLLOWING:***

**:REASONS:**

**21. Issue No. 1 to 3 and re-casted issue :-** All these issues are taken up for common discussion in order to avoid the repetition of the facts.

**22.** The plaintiffs have sought for partition as per the earlier partition in their family. The plaintiffs submit that they have 1acre 4 guntas 10 Anas in Sy.No. 165/B measuring 8 acres of Ingali village of Hukkeri Taluk.

**23.** It is seen from the order sheet that the plaintiffs have not appeared before the court even though they have filed this



case for partition. The court made all the endeavors to call the plaintiffs and their advocate. A notice was issued by the court.

**24.** The issue also has been recasted as per the application made by the plaintiffs, and the said issue reads as:  
Recasted Issue : Whether the plaintiffs prove that they and the defendants, being the members of the joint family, earlier have divided the suit properties as per the description given in the plaint at para No. 3 and that they are entitled for partition by metes and bounds as per the earlier partition?

**25.** It is the contention of the plaintiffs that there was an earlier partition between plaintiffs and the other defendants, and plaintiffs have been given 1 Acre 4 Guntas, 10 Anas in the said Sy.No. 165/B ; the defendant Nos. 1, 2, and 3 have 14 Guntas, 14 Anas; whereas the defendant No. 4 has 14 Guntas, 14 Anas, and the defendant Nos. 6 to 8 have 1 Acre 4 Guntas, 10 Anas, and the defendant No. 5 has 14 Guntas, 14 Anas, 22 Paise. And it is the claim of the defendants that the said partition has been already effected. The defendants admit the said partition as per the pleading of the plaintiff . The



defendants state that they have improved their portion / share by investing huge amount . Now the plaintiffs cannot be permitted to reopen the said partition. And the defendants contend that there can be no partition. Whereas the plaintiffs claim that even though the partition has been made, it has not been effectively made and there has been no demarcation of the boundaries. The defendants claim that the remedy to the plaintiffs lies before the revenue court and they cannot file a suit for partition.

**26.** To be specific, as per the defendant No. 8, the relief for the plaintiffs lies before the Revenue Court. They can make an application before the Revenue Court and they can get the property divided as per the earlier partition.

**27.** But it is also seen that nothing bars the plaintiffs from claiming partition as per the earlier partition. It is seen that there was no demarcation and division of the rights of the parties. The plaintiffs specifically contend that , there has been no demarcation of the land in reality. Therefore, there was no measurement of the properties in real, and there has



been no demarcation by the Surveyor. Therefore, if the parties are permitted to divide their properties by appointing the Court Commissioner, as per the earlier partition, the purpose would be served. Therefore, even though this suit has been filed for partition, but it is in the nature of drawing a final decree proceedings. Under Order XII Rule 6 of the Code of Civil Procedure (CPC), a court may pass a judgment on admissions made by a party, either orally or in writing, at any stage of a suit. The Supreme Court of India has ruled that such an admission must be clear, categorical, unequivocal, and unconditional. Here also the defendants have admitted unequivocally that there was earlier partition, as per the pleadings in para no .2 and 3 of the plaint. Therefore I am of the considered opinion that the plaintiffs are entitled for a share in the suit properties as per the pleadings in paragraph No. 2 and 3 of the plaint. And the same is admitted in the Written Statement of the defendants No. 4, 5 and 8 and that amounts of judicial admission. The same is held in the case of Hon'ble Apex Court in ***Uttam Singh v. United Bank of India, (2000) 7 SCC 120*** and also in the judgment of the Hon'ble



Delhi High Court in ***ITDC Limited v. Chander Pal Sood and Son, (2000) 84 DLT 337 (DB)***. The Hon'ble Supreme Court has clarified that it is not necessary that the judgment may be passed based on the admission made in the pleadings, rather the judgment could be passed at any stage dehors the pleadings i.e. either in any document or even in the statement recorded in the Court. Therefore, by applying the said principles, I am of the opinion that the plaintiffs are entitled for demarcation of their share , i.e., 1acre 4 gunts and 10 Anas in the suit property as contended in paragraph No. 3 of the plaint. Therefore, for the afore-mentioned reasons, this Court answers the issue No. 1 and 2 partly in the affirmative and hold that suit property is the joint family property and that they are in joint possession of the same and that the defendants No. 4,5,8 have partly proved the earlier partition, but the same is not taken place in reality on the land , by demarcation of the shares by metes and bounds. The suit of the plaintiffs is very much maintainable.

**28. ISSUE NO. 4 and 5 :** The plaintiffs are entitled for the partition as prayed for. The defendants are also entitled for



their share as stated in their written statement. Hence I proceed to pass the following :

**:O R D E R:**

***The suit of the plaintiffs is partly decreed with costs.***

***The plaintiffs are entitled for 1 Acre 4 Guntas, 10 Anas, 67 Paise in Survey No. 165/B of Ingali village.***

***The defendant Nos. 1, 2, and 3 are entitled for 14 Guntas, 14 Anas, 22 Paise in the Survey No. 165/B of Ingali village.***

***The defendant Nos. 4 is entitled for 14 Guntas, 14 Anas, 22 Paise in the Survey No. 165/B of Ingali village.***

***The defendant Nos. 6 to 8 are also entitled for 1 Acre 4 Guntas, 10 Anas in the Survey No. 165/B of Ingli village.***

***The defendant No. 5 is entitled for 14 Guntas, 14 Anas, 22 Paise.***

***The contention of the defendant No. 8 that as the said partition also has been admitted by the defendant No. 8, and he***



***claims that the plaintiffs are given 1 Acre 4 Guntas and the plaintiffs are trying to alienate their properties, and if they alienate the properties, he would be put to loss as he is having an adjacent land to the land of the plaintiff, is hereby REJECTED. Therefore the claim of the defendant No. 8 is rejected.***

***The plaintiffs are at liberty to alienate or part with their respective share/land after the demarcation of the land, as per their own wish and defendant No.8 can also participate in the sale proceeding if he is willing to.***

***Draw preliminary decree accordingly.***

***Put up the case for drawing final decree on 17/8/2026***

*(Dictated to the Stenographer , typed by her , corrected and then pronounced by me in the open Court on this the 29<sup>th</sup> day of July, 2026).*

**(Aditya R. Kalal)  
Civil Judge and JMFC  
Hukkeri.**



**:A N N E X U R E:**

**I. List of witnesses examined from plaintiff side.**

NIL

**II. List of documents exhibited on behalf of plaintiff: -**

NIL

**III. List of witnesses examined from defendants:-**

NIL

**IV. List of documents exhibited on behalf of defendants:-**

NIL

(Aditya R. Kalal)  
Civil Judge and JMFC  
Hukkeri.

KABG610002052020



(Order pronounced in open court vide separate judgment)

**ORDER**

Civil Judge and JMFC,  
Hukkeri