

IN THE COURT OF SENIOR CIVIL JUDGE, AT SIRUGUPPA

PRESENT: **SMT.LATHA,**

Senior Civil Judge,

Siruguppa.

DATED THIS 8TH DAY OF JANUARY 2016

ORIGINAL SUIT No.6 OF 2014

PLAINTIFF : -

Smt. Sharanabasamma wife of Late. N.Vishwanathashetty, 50 years, household and agriculturist, resident of Mannur-Sugur, Siruguppa taluk, Ballari district. Now residing at Vijayanagar Colony, Gangavathi, Koppal district.

(By Sri Vaijanathswamy Hiremath, Advocate)

// V E R S U S //

DEFENDANTS : -

1. Smt. Yankamma wife of N.Veerayyashetty, 48 years, household and agriculturist, resident of Mannur-Sugur Siruguppa taluk, Ballari district.
2. Smt. Pankajamma wife of Venkanna Shetty, 46 years, household and agriculturist, resident of Mannur-Sugur, Siruguppa taluk, Ballari district.
3. Smt. Jayamma @ Bhagyamma wife of K.Prakash Shetty, 44 years, household and agriculturist, resident of Virupapur Gangavathi, Koppal district.

4. Smt. Vijayalaxmi wife of Rangabatha Shetty, 42 years, household and agriculturist, resident of Nadavi, Siruguppa taluk, Ballari district.

5. Smt. Rindamma @ Soumya wife of Illur Panduranga Shetty, 40 years, household and agriculturist, resident of Main Bazar, near S.B.M. Bank Tavaragera, Kustagi taluk, Koppal district.

(By Miss Radha.S.A. Advocate for defendant No.1, 3 and 5)

(By Sri.N.Ayyappa, Advocate for defendant No.2 and 4)

Date of Institution of the suit : 6.1.2014

Nature of the suit : Suit for Partition & Separate Possession

Date of commencement of recording evidence : 10.8.2015

Date of Pronouncing Judgment: : 8.1.2016

Duration of the suit:	<u>Year</u>	<u>Months</u>	<u>Days</u>
	2	-	2

Senior Civil Judge,
Siruguppa

J U D G M E N T

- 1) This is a suit filed by the plaintiff against the defendants seeking for partition and separate possession in the suit schedule property.
- 2) According to the plaintiff, the plaint schedule properties are the properties of their father namely father of defendant No.1 to 5 and herself. After the death of their father she demanded partition in the petition schedule property. But the defendants postponed the process of partition and defendant No.2 and 4 colluding together are trying to alienate the suit schedule property. Hence, plaintiff has filed this suit seeking her legitimate share in the suit schedule property.
- 3) In pursuance of receipt of suit summons the defendants appeared through their counsel. The defendant No.3 filed written statement. The defendant No.1 and 5 have adopted the written statement filed by defendant No.3. Defendant No.2 and 4 have not chosen to file written statement. The defendant No.1, 3 and 4 have also admitted the claim of

plaintiff and they have claimed their legitimate share by paying court fee in respect of their separate share.

4) On the basis of pleadings, this court has framed following issues :

1. Whether the plaintiff is entitled to the relief claimed in the suit?
2. Whether the defendant No.1, 3 and 5 are entitled to any share in the suit schedule properties if so, at what quantum?
3. What Order or Decree?

5) In order to prove the case of plaintiff, plaintiff got herself examined as PW.1 and got 12 documents as Ex.P.1 to 12, closed her side of evidence. On the other hand defendant No.1 is examined as DW.1 and got 2 witness examined as DW.2 and 3 and closed their side of evidence.

6) Heard arguments of counsel for plaintiff and defendants.

7) My answers to the above issues are as under :-

Issue No.1 and 2 : In the Affirmative

Issue No.3 : As per final order for the following;

R E A S O N S

8) ISSUE No.1 and 2 :- Since these two issues are inter-related and closely connected to each other, they are taken up together for common consideration to avoid repetition.

9) The plaintiff has come before the court with definite case, their suit schedule properties are her father's properties and after his death the defendant No.1 and 5 and herself have equal share in the suit schedule properties and defendants failed to give her share in the suit schedule properties. In order to substantiate her contention she got herself examined as PW.1, she has also got 12 documents marked as Ex.P.1 to 12. The documents produced by the plaintiff clearly go to show that earlier the suit schedule properties were standing in the name of their father Basappa Shetty and after his death the same of the properties got mutated in the name of their mother. It appears their mother is also no more. The defendant No.1, 3 and 5 have also undisputed the claim of plaintiff. On the other hand they have also claimed their legitimate share in the suit

schedule property. Defendant No.2 and 4 have not put forth their defence by filing written statement. Hence, absolutely, there are no hurdle to this court to declare 1/6th share of plaintiff over the suit schedule property. Likewise, each of the defendants have 1/6th share in the suit schedule property. Accordingly, suit of the plaintiff is decreed with cost. Hence, Issue No.1 and 2 are answered in the Affirmative.

- 10) **ISSUE No.3:-** For the foregoing findings given on Issue No.1 and 2, I proceed to pass the following:-

ORDER

The suit of the plaintiff is hereby decreed with costs.

It is declared that the plaintiff and each of the defendants are entitled to 1/6th share in the suit schedule property. Accordingly, they are entitled to be allotted and have their separate share in the suit schedule property by metes and bounds.

Draw Preliminary decree accordingly.

((Dictated to the Stenographer, transcribed and computerized by her on computer, corrected by me and pronounced in the open Court on this 8th day of January 2016)

(LATHA)
Senior Civil Judge,
Siruguppa.

A N N E X U R E

LIST OF WITNESSES EXAMINED FOR PLAINTIFF ;

P.W.1.. Smt. Sharanabasamma

LIST OF DOCUMENTS MARKED ON BEHALF OF PLAINTIFF:

Ex.P.1 to 9: 9 Record of Rights

Ex.P.10 & 11: Tax Demand Register

Ex.P.12: Two receipts

LIST OF WITNESSES EXAMINED FOR DEFENDANTS :

DW.1: Yankamma

DW.2: Smt.Jayamma @ Bhagyamma

DW.3: Smt.Rindamma @ Soumya

LIST OF DOCUMENTS MARKED ON BEHALF OF DEFENDANTS ;

- N I L -

Senior Civil Judge,
Siruguppa