

When the matter is posted for the Chief of DW1, Learned Advocate for the defendants has sought for production of an unregistered partition deed dated 27.11.2001 and submits that the said document shows partition which has taken place between the plaintiffs and the defendants and hence, seeks for laying upon the said document.

2. Learned advocate for the plaintiff has objected to marking of the said document as it is an unregistered partition.

3. Learned Advocate for the defendant relies upon the judgment of Hon'ble Apex Court in the case of ***Mohammad Salim S/o Jamaluddin and 2 others Vs Abdul Kayyum S/o Jamaluddin in Civil Writ Petition No. 4561/2025*** and submits that the unregistered partition deed can be relied upon for the collateral purpose and hence, seeks for marking of the said document.

4. It is relevant to note that the document which is sought to be relied upon by Learned advocate for the defendant is an unregistered partition deed dated 27.11.2001. The defendants are seeking for relying upon the said document for collateral purpose and with respect to the said collateral purpose Hon'ble Apex Court in the case of **P. Anjanappa v. A.P. Nanjundappa**, reported in **(2026) 4 SCC 492**, has held as under,

34. *An unregistered partition deed, including the palupatti in the present case, may be relied upon for the limited collateral purposes of proving severance of the joint family status and title, explaining the nature of possession, recording the arrangement made thereunder, and evidencing the parties' subsequent conduct as was observed by this Court in various judgments such as Sita Ram Bhama v. Ramvatar Bhama [Sita Ram Bhama v. Ramvatar Bhama, (2018) 15 SCC 130, para 13 : (2019) 1 SCC (Civ) 116] , Yellapu Uma Maheswari v. Buddha Jagadheeswararao [Yellapu Uma Maheswari v. Buddha Jagadheeswararao, (2015) 16 SCC 787, para 16 : (2016) 3 SCC (Civ) 767] and K.G. Shivalingappa v. G.S. Eswarappa [K.G. Shivalingappa v. G.S.*

Eswarappa, (2004) 12 SCC 189, para 14] . The same has been clearly expounded by this Court in Thulasidhara v. Narayanappa [Thulasidhara v. Narayanappa, (2019) 6 SCC 409 : (2019) 3 SCC (Civ) 295] in the following paragraphs : (SCC pp. 422-23, para 9)

“9. ... 9.4. It is required to be noted that the deed dated 23-4-1971, under which the suit property had gone/devolved in favour of Krishnappa, was reduced in writing before the panchayat and panchas, and the same was signed by the village people/panchayat people and all the members of the family including even the plaintiff. Though the plaintiff disputed that the partition was not reduced in writing in the form of document Ext. D-4, on considering the entire evidence on record and even the deposition of the plaintiff (cross-examination), he has specifically admitted that the oral partition had taken place in the year 1971. He has also admitted that he has got the share which tallies with the document dated 23-4-1971 (Ext. D-4). Execution of the document/partition deed/Palupatta dated 23-4-1971 has been established and proved by examining different witnesses. The High Court has refused to look into the said document and/or consider document dated 23-4-1971 (Ext. D-4) solely on the ground that it requires registration and therefore as it is unregistered, the same cannot be looked into. However, as observed by this Court in Kale [Kalev. State of U.P., (1976) 3 SCC 119 : AIR 1976 SC 807]

that such a family settlement, though not registered, would operate as a complete estoppel against the parties to such a family settlement. In the aforesaid decision, this Court considered its earlier decision in S. Shanmugam Pillai v. K. Shanmugam Pillai [S. Shanmugam Pillai v. K. Shanmugam Pillai, (1973) 2 SCC 312] in which it was observed as under : (SCC pp. 319 & 321, paras 13 & 22)

‘13. Equitable principles such as estoppel, election, family settlement, etc. are not mere technical rules of evidence. They have an important purpose to serve in the administration of justice. The ultimate aim of the law is to secure justice. In the recent times in order to render justice between the parties, courts have been liberally relying on those principles. We would hesitate to narrow down their scope.

22. As observed by this Court in T.V.R. Subbu Chetty's Family Charities case [T.V.R. Subbu Chetty's Family Charities v. M. Raghava Mudaliar, 1961 SCC OnLine SC 142 : AIR 1961 SC 797] that if a person having full knowledge of his right as a possible reversioner enters into a transaction which settles his claim as well as the claim of the opponents at the relevant time, he cannot be permitted to go back on that agreement when reversion actually falls open.

9.5. As held by this Court in Subraya M.N. [Subraya M.N. v. Vittala M.N., (2016) 8 SCC 705 : (2016) 4 SCC (Civ) 163] even without registration a written

document of family settlement/family arrangement can be used as corroborative evidence as explaining the arrangement made thereunder and conduct of the parties. In the present case, as observed hereinabove, even the plaintiff has also categorically admitted that the oral partition had taken place on 23-4-1971 and he also admitted that 3 to 4 panchayat people were also present. However, according to him, the same was not reduced in writing. Therefore, even accepting the case of the plaintiff that there was an oral partition on 23-4-1971, the document, Ext. D-4 dated 23-4-1971, to which he is also the signatory and all other family members are signatory, can be said to be a list of properties partitioned. Everybody got right/share as per the oral partition/partition. Therefore, the same even can be used as corroborative evidence as explaining the arrangement made thereunder and conduct of the parties. Therefore, in the facts and circumstances of the case, the High Court has committed a grave/manifest error in not looking into and/or not considering the document Ext. D-4 dated 23-4-1971.”

5. In view of the dictum laid down by the Hon'ble Apex Court in *P. Anjanappa v. A.P. Nanjundappa*, (2026) 4 SCC 492, and the line of authorities referred to therein, this court is of the opinion that the unregistered partition

deed dated 27.11.2001 can be permitted to be marked, subject to the following conditions:

1. The Learned Advocate for the defendants shall specify, on record, the precise collateral purpose for which the said document is sought to be relied upon, namely [severance of joint family status / nature of possession / subsequent conduct of parties as applicable], and the same shall be recorded by this court before the document is taken on record.

2. The defendants shall pay the deficit stamp duty along with the penalty as applicable under the Indian Stamp Act, on or before the next date of hearing, and produce proof of such payment before this court.

3. Subject to compliance with conditions (1) and (2) above, the said document shall be marked as Exhibit, strictly and exclusively for the collateral purpose so specified and

recorded, and not for the purpose of proving the factum of partition, severance of status by virtue of the deed itself, or transfer/extinguishment of title thereunder.

4. The marking of the document for the limited collateral purpose aforesaid shall not be construed as a finding on its genuineness, validity, or evidentiary value, which shall be considered at the time of final adjudication based on the evidence as a whole.

With the above observations and directions, the matter is posted for further chief-examination of D.W.1 on 16.06.2026.

**Addl. Senior Civil Judge & JMFC
Mudhol**