

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,**  
**AT BANAHATTI.**

DATED THIS THE 07<sup>th</sup> DAY OF MARCH 2022.

**Present:** Sri.Kirankumar. D.Wadigeri, *B.A.L.,L.L.B.*,  
Senior Civil Judge & JMFC  
Banahatti.

**O.S.No.23/2018.**

**Plaintiffs:**

1. Smt. Savita W/o: Anil Alagur,  
Age: 35 years, Occ: Agriculture,  
& Household work, R/o: Halingali,  
Tq: Jamkhandi, Dist: Bagalkot.
2. Smt. Sarojini W/o: Bhujabali Bhairannavar,  
Age: 62 years, Occ: Household work,  
R/o: Halingali, Tq: Jamkhandi,

(By pleader **Sri.A.N.A/M.G.K**)

**-Versus -**

**Defendants:**

1. Payappa S/o: Parish Bhairannavar,  
Age: 75 years, Occ: Agriculture,  
R/o: Halingali, Tq: Jamkhandi,  
Dist: Bagalkot.

(Since deceased by her Lrs)

**(Amended carried out as per order on  
IA.No.V)**

- 1(A). Smt. Laxmibai W/o: Payappa  
Bhairannavar, Age: 65 years, Occ:  
Household work, R/o: Halingali,  
Tq: Jamkhandi, Dist: Bagalkot.
- 1(B). Dhanapal S/o: Payappa Bhairannavar,  
Age: 43 years, Occ: Agriculture,  
R/o: Halingali, Tq: Jamkhandi,  
Dist: Bagalkot.
- 1(C). Smt.Sankavva W/o: Bhujabali Hulkund,  
Age: 40 years, Occ: Household work,  
R/o: Halingali, Tq: Jamkhandi,  
Dist: Bagalkot.
- 1(D). Shripal S/o: Payappa Bhairannavar,  
Age: 38 years, Occ: Agriculture,  
R/o: Halingali, Tq: Jamkhandi,  
Dist: Bagalkot.

(By pleader **Sri. K.D.T**, for D.1(A)  
to D.1(D), & D.1 Dead)

**IA.No.9**

Applicants : Smt. Savita W/o: Anil Algur  
& Another.

**-versus-**

Opponents : Payappa S/o: Paris  
Bhairannavar (Since deceased by his  
LR's D.1(A) to D.1(D).

**ORDERS**

1. This application is filed by the plaintiffs under section 151 of CPC to club this suit with OS.No.68/2018 filed by them for recording common evidence in the said suit in OS.No.68/2018.
2. The plaintiff No.2 in her affidavit filed along with this application has stated that, they have filed the suit for partition and separate possession in OS.No.68/2018 which is pending before this court. That the suit properties and parties involved in the both suits are one and the same and if both suits club together it will avoid multiplicity of the suits and separate verdicts. Further it will not cause any harm or injustice to the defendants if both suits clubbed together and hence, prayed to allow IA.No.9.
3. The defendants in their objections have denied the entire contents of evidence of the plaintiff No.2 filed along with this application. It is contended that in order to drag on the proceedings the plaintiffs have filed this application. In the said suit instead cross-examination of DW-1. These plaintiffs

have taken adornment to cross-examine and finally he died. The plaintiffs after giving admissions in their cross-examination in the said suit and who have failed to produced material documents and in order over come these defects the plaintiffs have filed this suit and filed this application to club the both suits. This application is not maintainable and deserve to be dismissed.

4. Heard both sides on IA.No.9.

5. Then the following points arise for consideration of this court are as under:-

1. Whether the plaintiffs have made out grounds to club this suit in OS.No.68/2018 and to recording common evidence in the said suit?
2. What order?

6. The findings of this court on the above points are as under:

**Point No.1 - In the Affirmative.**  
**Point No.2 - As per final order,**  
**for the following:**

### **REASONS**

7. **Point No.1** :- The plaintiffs have filed the suit for declaration to declare that they are the owners in possession of the suit

properties and consequential relief of permanent injunction. It is stated that, one Parish is their propositus, who had sons by name Payappa who is defendant, Jinnappa, Bhujabali who is husband of plaintiff No.2 and father of plaintiff No.1 in this suit, Babu and Mahaveer. As per family arrangements partition took place in the year 1991 and these suit properties have been fallen to share of the plaintiffs as they are class-I heirs of deceased Bhujabali.

**8.** On the other hand this defendant No.1 and other two sons and other properties situated at Shegunashi village, Athani taluka. This being the fact the defendant No.1 who was manage the family arrangements after the death of propositus Parish and accordingly his name is entered in the revenue records and in spite of that the family arrangements and allotment of the shares of the plaintiffs the name of the defendant No.1 was appearing in the revenue records. Thereafter the defendant on 16.04.2009 has executed the relinquishment deed in favour of plaintiff No.1 in respect of suit properties for lifting his name duly entered in the record of rights with the consent of other coparncers of the family. Accordingly, the plaintiff No.1 and

defendant gave Vardi to the Tahasildar Jamkhandi and name of plaintiff No.1 got entered. In spite of that the defendant has challenged the said mutation entry before Assistant Commissioner Jamkhandi in RTS.AP.No.102/2015-16 and same was allowed and against which they preferred the appeal before Deputy Commissioner Bagalkot which is pending. Now the defendant has denied their title and possession over the suit properties and hence they filed the suit.

**9.** The defendant has denied entire case of the plaintiffs. He has contended that, the suit properties and other properties came him through his father under partition as per ME.No.4127 dated 10.01.1990. Therefore these plaintiffs have not rights in the suit properties and plaintiffs are claiming their title under unregistered relinquishment deed which is not maintainable.

**10.** As per the contents of defendants who are legal heirs of deceased defendant in the possession to this application, the said suit when the case was posted for cross-examination of DW-1 he died then it appears that already the said suit is at fag end but in the said suit also these properties are included and both suits

parties are also the same. Moreover the said suit is for partition and separate possession in respect of all the properties including this suit property which is broader suit and by giving opportunities both the parties to led their additional evidence, these both suits can be clubbed. Further it will more useful for the court for common adjudication of the issues involved in the both suits and also it will helpful of the both parties to save the time. Further the said suit was broader suit including all the issues and hence it is just and proper to club both suits. Hence, my finding to **point No.1 is in the Affirmative.**

**11. Point No.2:** In view of the reasons and finding given to point No.1, the following is made-

**::ORDER::**

IA.No.9 filed by the plaintiffs under section 151 of CPC is hereby allowed and accordingly this suit is clubbed with OS.No.68/2018 and it is also ordered to record the common evidence in OS.No.68/2018.

The office is directed to put up the suit  
with OS.No.68/2018

(Dictated to the Stenographer, transcribed and computerized by her,  
corrected and then pronounced by me in the open court on 07<sup>th</sup> day of  
March 2022).

Sd/-  
(Kirankumar D.Wadigeri)  
Senior Civil Judge & JMFC.,  
Banahatti.