



**IN THE COURT OF I ADDL SENIOR CIVIL JUDGE & JMFC,**  
**DEVANAHALLI.**

Present: Sri Lokesh M.G., B.A.L.,LL.B.,

**O.S.No.961/2020**

**Dated this the 25<sup>th</sup> day of April, 2026.**

**PLAINTIFF:**

**1.** Sri. Nagaraj N.,  
Aged about 62 years,  
S/o. Venkatalakshamma &  
Narayanappa,  
R/at. No.02, 24<sup>th</sup> Main Road,  
J.C.Nagar, Kurubarahalli,  
Bengaluru – 560086.

**2.** Sri. Srinivas N.,  
Aged about 59 years,  
S/o. Venkatalakshamma &  
Narayanappa,  
R/at. No.671, Church Road,  
2<sup>nd</sup> Cross, 1<sup>st</sup> Main Road,  
Kamalanagara,  
Bengaluru – 560079.

**3.** Sri. Jayaram N.,  
Aged about 55 years,  
S/o. Venkatalakshamma &  
Narayanappa,



R/at. No.99, Eshwara  
Temple Road,  
Dommasandra, Anekal  
Taluk, Bengaluru Rural  
District.

**4.** Smt. Manjula N.,  
Aged about 52 years,  
D/o. Venkatalakshamma &  
Narayanappa,  
R/at. No.332,  
Kasamarahalli Village,  
Gunjuru Post, Bengaluru  
East Taluk, Bengaluru –  
560087.

**5.** Sri. Sathyanarayan N.,  
Aged about 50 years,  
S/o. Venkatalakshamma &  
Narayanappa,  
R/at. No.125, 9<sup>th</sup> Main Road,  
J.C.Nagar, Kurubarahalli,  
Bengaluru – 560086.

(By Sri. S.R.N., Advocate)

**Vs.**

**DEFENDANTS:**

**1.** Smt. Gopamma,  
Aged about 73 years,  
D/o. Late Muniyappa,



W/o. Late Gopalappa,  
R/at. Kakol Road, Near  
Syndicate Bank,  
Rajanakunte, Bengaluru  
North Taluk, Bengaluru  
Rural District.

**2.** Sri. Gopalappa,  
Aged about 70 years,  
S/o. Late Muniyappa.

**3.** Smt. Soubhagya,  
Aged about 39 years,  
D/o. Gopalappa,  
W/o. Shankar.

**4.** Sri. Venkatesh,  
Aged about 37 years,  
S/o. Gopalappa,

**5.** Smt. Nethravati,  
Aged about 29 years,  
W/o. Venkatesh.

**6.** Sri. Sriram,  
Aged about 35 years,  
S/o. Gopalappa,

**7.** Smt. Revathi,  
Aged about 23 years,  
W/o. Sriram G.



**8.** Sri. Somashekhar G.,  
Aged about 31 years,  
S/o. Gopalappa,

**9.** Smt. Ranjitha,  
Aged about 23 years,  
W/o. Somashekhar G.

**10.** Smt. Nagarathnamma,  
Aged about 68 years,  
W/o. Gopalappa,

**11.** Smt. Jayalakshamma,  
Aged about 65 years,  
D/o. Late Muniyappa,  
W/o. Adeppa.

Defendants No.2 to 11 are  
R/at. Aradeshanahalli  
Village, Kundana Hobli,  
Devanahalli Taluk,  
Bengaluru Rural District.

**12.** Sri. Chethan Kumar C.,  
Aged about 36 years,  
S/o. Channappa,  
R/at. Juttanahalli Village,  
Kundana Hobli,  
Devanahalli Taluk,  
Bengaluru Rural District.



(D1 to 10 - Exparte)  
(D11 - By Sri. G.V., Advocate)  
(D12 - By Sri. B.N.M.,  
Advocate)

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Nature of the Suit : Suit for Partition

Date of filing : 18.11.2020

Date of Commencement of  
record of evidence : 20.02.2023

Date on which the  
Judgment is pronounced : 25.04.2026

Duration of suit : Year/s Month/s day/s

**05            05            07**

Sd/-  
**(Loksha.M.G.)**  
**I Addl Sr.Civil Judge & Jmfc.,**  
**Devanahalli.**



## **JUDGMENT**

The plaintiffs have filed suit for partition seeking 1/4th share in the suit properties and for declaration.

**2.** It is the case of the plaintiffs that plaintiffs are the brothers and sister and children of Venkatalakshamma and Nayaranappa. Defendant No.1 and 11 are the aunts. Defendant No.2 is brother-in-law of plaintiffs. Defendant No.3, 4, 7 and 9 are the cousins of plaintiffs and children of defendant No.2. Defendant No.5 is the wife of defendant No.4. Defendant No.8 is the wife of defendant No.7. Defendant No.10 is the wife of defendant No.9. Defendant No.12 is the malafide purchaser of ancestral properties of plaintiffs and defendant No.1 to 11. One Gopalaiah was the original propositor and Narasamma was his wife. They had only one son namely Muniyappa. Gangamma was his wife. Both are no more. The mother of plaintiffs namely Venkatalakshamma, defendant No.1, 2, 11 and late Narasamma are the children of Late Muniyappa and



Gangamma. The plaintiffs are the children of late Venkatalakshamma and grandchildren of Muniyappa and Gangamma. Narasamma who is daughter of Muniyappa got married and died without any issues due to wedlock. Hence, she is not party. During the lifetime, late Muniyappa son of Gopalaiah acquired many properties which are ancestral properties and they are the suit properties. Muniyappa and Gangamma passed away long ago intestate leaving behind the plaintiffs mother and defendant No.1, 2, 11 and late Narasamma. After their death, mother of plaintiffs, defendant No.1, 2, 11 and Narasamma constituted Hindu Undivided Joint Family and they are in joint possession and enjoyment of suit properties and they are joint family members. They jointly worked together for the upliftment of the joint family. Defendant No.2 become kartha of the joint family after death of his father. He continued with mother of the plaintiffs and defendant No.1 and 11 as joint family member. The position of defendant No.2 has become fiduciary and has lot of responsibilities and liabilities. The kartha is responsible to maintain all the members of joint



family. If he improperly excludes any members from allotting their legitimate share in the joint family property, his act becomes infructuous. After death of Muniyappa, defendant No.2 got transferred all the revenue entries in his name. He made promise to allot equal share between the family members. Hence, they have not objected for transferring katha. Plaintiffs and their mother Venkatalakshamma came to know that defendant No.2 colluded with defendant No.1, 3 to 11, without knowledge of mother of plaintiffs, without making partition between family members, sold some joint family properties in favour of defendant No.12 for huge sale consideration. The plaintiffs came to know that their act is collusive and illegal. They have sold item No.2 and 3 properties in favour of defendant No.12 on 15.06.2017 for valuable consideration without making partition between family members and without knowledge of the mother of the plaintiffs. Defendant No.12 purchased the said properties maliciously and it is illegal. Thereafter, he got transferred his name in the revenue records. The mother of plaintiffs and plaintiffs met defendant No.2 at his house and



opposed illegal act done by him and requested to make partition. Initially he has agreed. Later, he has not allotted share. The mother of plaintiffs met defendant No.1 to 11 also and requested to make partition. Defendants have promised to allot share equally and later they have not allotted the share. Plaintiffs have decided to wait till June 2020 since defendants have stated that survey related work is pending and partition work is going on and it will be completed within June 2020. Initially defendants have agreed to allot equal share and later they have not allotted. The mother of plaintiffs died on 13.08.2020 leaving behind the plaintiffs as her sole legal heirs. Defendant No.1 to 11 have colluded with each and sold item No.2 and 3 properties without knowledge of the plaintiffs with intent to cheat the plaintiffs. After death of their mother, plaintiffs approached the defendant No.1 to 11 and requested to allot share. The defendants have colluded with each other and threatened the plaintiffs stating that they have no share. Defendants in collusion with each other are trying to sell the suit properties without making proper partition. Their act is illegal and void. Suit



properties are the ancestral properties and plaintiffs and defendant No.1 to 11 are the co-owners and shareholders. The mother of plaintiffs contributed to the joint family in upflitment of the joint family. Hence, Sale Deeds in favour of defendant No.12 are not binding on the share of the plaintiffs. Mother of plaintiffs is co-parcener and she has distinct share in the suit properties. It can't be denied. The mother of the plaintiffs has invested her income in the joint family. Hence, plaintiffs are entitled to share in the suit properties. Accordingly, the suit is filed.

**3.** Defendant No.1 to 10 have not appeared after service of summons and hence they are placed exparte. Defendant No.11 has filed written statement stating that suit is not maintainable. The genealogy is admitted. Other plaint averments are admitted. It is stated that Muniyappa acquired suit properties. It is also stated that defendant No.2 got transferred revenue entries in respect of suit properties after death of Muniyappa. It is also stated that defendant No.11 has not signed to the Sale Deeds executed in favour of defendant No.12 and hence Sale



Deeds are not binding on the defendant No.11. It is prayed for share.

4. Defendant No.12 has filed written statement stating that suit is not maintainable. Plaintiff averments are false. Plaintiffs have not approached the Court with clean hands. They have suppressed material facts. Plaintiffs are not entitled to any relief. Plaintiffs have no right to seek relief. The relationship is denied. It is stated that defendant No.12 is not the malafide purchaser. He is the subsequent bonafide purchaser of the suit property item No.2 and 3. After purchase, defendant No.12 is lawful possession and enjoyment of said properties and he is absolute owner of the said properties. Nobody could interfere with his enjoyment. After verification of the documents, he purchased the said properties. Hence, he is the bonafide purchaser for value. Defendant No.1 to 11 are in need of funds for their family necessity and also to discharge their family debts and for the benefit of their minor children, sold the suit properties by receiving entire



sale consideration. Until and unless Sale Deed is canceled, the suit for partition is not maintainable. He reserved liberty to produce documents. Hence, it is prayed to dismiss the suit.

**5.** On the basis of rival pleadings of the parties, my learned predecessor in Office has framed the following issues;

### **ISSUES**

1. Whether the plaintiffs prove that they themselves and defendants No.1 to 11 constitute Hindu Undivided Joint Family ?
2. Whether the plaintiffs prove that the suit schedule properties are the ancestral and joint family properties of themselves and defendant No.1 to 11 ?
3. Whether the plaintiffs prove that the Sale Deed executed in favour of defendant No.12 dated 15.06.2017 is not binding on them ?
4. Whether the plaintiffs prove that they are entitled for share in the suit property ?



5. Whether the defendant No.12 proves that the defendant No.1 to 11 on their behalf and also on behalf of their minor children have alienated the suit property to meet legal necessity ?

6. What order or decree ?

6. To prove the case plaintiff No.5 is examined as PW.1. Ex.P1 to Ex.P16 are marked. On the other hand, to disprove the case of the plaintiffs, General Power of Attorney holder of defendant No.12 is examined as DW.1. Ex.D1 to 30 are marked.

7. Heard and perused the materials on record. Upon appreciation of evidence on record in the background of arguments advanced by learned counsel for defendants, my findings on the above issues are as follows:

- Issue No.1: In the Negative;
- Issue No.2: In the Negative;
- Issue No.3: In the Negative;
- Issue No.4: In the Negative;



Issue No.5: In the Affirmative ;  
Issue No.6: As per the final order  
for the following:

### **REASONS**

**8. ISSUE Nos.1 to 3 & 5:-** As these issues require discussion on same set of facts, I have taken up these issues together for consideration to avoid repeated discussion.

**9.** It is the burden of the plaintiffs to prove that they and defendant No.1 to 11 have constituted Hindu Undivided Joint Family and suit properties are ancestral and joint family properties. It is also their burden to prove that Sale Deeds executed in favour of defendant No.12 on 15.06.2017 in respect of item No.2 and 3 properties are not binding on them. Accordingly, it is the burden of defendant No.12 to prove that defendant No.1 to 11 on their behalf and also on behalf of their minor children have alienated the suit property to meet legal necessity. To prove the case, plaintiff No.5 is examined as PW.1 and he



has reiterated the pleading averments. He has marked Ex.P1 to 16. Per contra General Power of Attorney holder of defendant No.12 is examined as DW.1 and he has reiterated the written statement averments and he has produced Ex.D1 to 30 to disprove the case of the plaintiffs.

**10.** Ex.P1 is the Family Tree. It shows that Gopalaiah is the propositus. His wife is Narasamma. They have son namely Muniyappa. His wife is Gangamma. They are no more. It also shows that Muniyappa and Gangamma have children namely Venkatalakshamma, Gopamma, Gopalappa, Narasamma and Jayamma. It also shows that plaintiffs are the children of Venkatalakshamma. Ex.P2 is the IHR. It shows that item No.1 property came to be mutated in the name of Gopalappa as per the say of his mother after death of Muniyappa who is his father. Ex.P3 is the Record of Right in the name of Gopalappa. It is in respect of item No.2 and 3 properties. Ex.P4 is the R.T.C in respect of item No.1 property standing in the name of Gopalappa son of Muniyappa. Ex.P5 is the R.T.C. Ex.P6 is



R.T.C in respect of item No.2 property in the name of Gopalappa. Ex.P7 is R.T.C in respect of item No.2 property in the name of Gopalappa. Ex.P8 is R.T.C in respect of item No.3 property in the name of Gopalappa. Ex.P9 is also R.T.C in respect of item No.3 property in the name of Gopalappa. Ex.P10 and 11 are the Demand Register and Assessment List in respect of item No.4 property in the name of Gopalappa. Ex.P12 is the Certified Copy of Sale Deed dated 15.06.2017. It is in respect of item No.2 property. It has been executed by defendant No.1 to 11 in favour of defendant No.12. It is mentioned in the said Sale Deed that vendors are interested to purchase agricultural properties and for their family necessity and to clear their mortgage loan in Vyavasaya Seva Sahakara Sangha Niyamita Ardeshanahalli vide Mortgage Deed dated 08.01.2013 and in order to clear the same, vendors have come forward to sell the suit property to the purchaser. The purpose of sale is mentioned in Ex.P12. It is in respect of item No.2 property. There is also certified copy of Sale Deed dated 15.06.2017 and it is not marked. It is in respect of item No.3 property. It is also executed by



defendant No.1 to 11 in favour of defendant No.12. The purpose of sale is also mentioned as to purchase agricultural properties and for their family necessity and to clear their hand loans. Hence, to clear the same, vendors have come forward to sell the schedule property to the purchaser. Ex.P13 to 16 are the Mutation Register and R.T.Cs in respect of item No.2 and 3 properties. They show that after purchase, the name of defendant No.12 has been mutated in respect of those properties. There is also Death Certificate on the record. It is pertaining to Venkatalakshamma. Date of death is mentioned as 13.08.2020. It is also not marked. In the said document, the mother name and father name of Venkatalakshamma are shown in blank. On perusal of Ex.P1 to 16, it is clear that the name of Jayamma is mentioned as Jayalakshamma in the cause title. But, in the Family Tree at Ex.P1, it is mentioned as Jayamma. 4<sup>th</sup> Daughter name is Narasamma as per Ex.P1. She is not made as party in the suit. It is stated in paragraph No.4 of the plaint that Narasamma married and died without any issues. No documents are produced to show that



Narasamma married and died without any issues. Hence, without production of material documents, the plaint version can't be believed. Hence, suit is also bad for non joinder of necessary parties. In Ex.P1, it is mentioned that Venkatalakshamma is the daughter of Muniyappa and Gangamma. In Ex.P12, Ex.D2 and 3 which are the Sale Deeds in respect of item No.2 and 3 properties, Venkatalakshamma is not party. Defendant No.11 is party in the said documents. The plaintiffs have not produced any other material documents to show that Venkatalakshamma is the daughter of Muniyappa and Gangamma except Ex.P1. They have also not produced any material documents to show that plaintiffs are the children of Venkatalakshamma. Proper death certificate having full details of parents names pertaining to Venkatalakshamma is also not produced. The produced document which is not marked doesn't show the full details. In the written statement, defendant No.12 has denied the relationship. Since their relationship is denied, it is the burden of the plaintiffs to prove the same by producing cogent documents. In this case, except Ex.P1,



plaintiffs have not produced material documents. Hence, case of the plaintiffs with respect to relationship to show that they are joint family members along with defendant No.1 to 11 fails. The purpose of sale is mentioned in Ex.P12. It is corroborated by Ex.P4, 6, 7 to 9 which are R.T.Cs. In the said documents, in column No.11, encumbrance is mentioned. It is also mentioned in the said documents that there is loan in PLD Bank Devanahalli. It also shows that there was mortgage in favour of PLD Bank Devanahalli. To support the same, advocate for defendant No.12 has produced the documents. They are not marked. But, they support Ex.P4, 6, 7 to 9 documents. On perusal of entire materials on the record, it is clear that to clear the mortgage loan, item No.2 and 3 properties have been sold. The recitals in Ex.P12 are corroborated by the materials on the record. Hence, the purpose of sale is for bonafide reason for the family necessity of the defendant No.1 to 11. With respect to plaintiffs, they have not produced sufficient documents to show that they are children of Venkatalakshamma and they have not produced documents to show that



Venkatalakshamma is the daughter of Muniyappa and Gangamma. Hence, their version can't be believed. With respect to defendant No.1 to 11, it can be stated that the Sale Deeds in respect of item No.2 and 3 properties are binding on the defendant No.1 to 11. Defendant No.11 has filed written statement stating that Muniyappa and Gangamma are no more. She has admitted the relationship of the plaintiffs. She has sought for share in the suit properties. She has also stated that she has not affixed signature in the Sale Deeds in favour of defendant No.12 and hence she states that Sale Deed is not binding on her. But, on perusal of Ex.D2 and 3, it is clear that defendant No.11 has put her signature. It is also clear that she went to the Sub-Registrar Office at the time of execution of said Sale Deeds. Hence, she is estopped from saying anything. It is clear that to support the case of the plaintiffs, defendant No.11 has contended so in the written statement. It is the burden of the plaintiffs to prove their case as pleaded.



**11.** Ex.D1 is General Power of Attorney executed by defendant No.12 in favour of DW.1. Ex.D2 and 3 are the Sale Deeds in respect of item No.2 and 3 properties. Ex.D2 is pertaining to item No.3 property. Ex.D3 is pertaining to item No.2 property. They are same as Ex.P12. They also show that defendant No.11 has put her signature in the Sale Deeds and she has also affixed her thumb impression in the office of sub-registrar. Ex.D4 and 26 are the Mutation Registers. Ex.D5 to 25 and Ex.D27 to 30 are the R.T.Cs in respect of item No.2 and 3 properties. They show that there was loan in PLD Bank Devanahalli. They also show that the said properties were standing in the name of defendant No.2. They also show that from 2001 to 2017, the said properties were standing in the name of defendant No.2 and thereafter after purchase, the name of defendant No.12 has been mutated.

**12.** PW.1 has been cross-examined. He has stated that ದಾವಾ ಸ್ವತ್ತಿಗಳು ನಮ್ಮ ತಾಯಿಯ ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿಗಳು. ನಮ್ಮ ತಾಯಿ ಮರಣ ಹೊಂದಿರುತ್ತಾರೆ. ದಿನಾಂಕ: 13.08.2020 ರಂದು ಮರಣ ಹೊಂದಿರುತ್ತಾರೆ.



The nature of properties is not disputed. On perusal of entire materials on the record, it can be clearly stated that suit properties are joint family and ancestral properties. To show the death of his mother, no proper death certificate is marked. He has also stated that ನಮ್ಮ ತಾಯಿಯ ತಂದೆಯ ಮನೆಯವರು ಆಸ್ತಿಗಳನ್ನು ನಮ್ಮ ತಾಯಿ ಜೀವಿತಾಧಿಯಲ್ಲೇ ಮಾರಾಟ ಮಾಡಿದ್ದರು ಎಂದರೆ ಸರಿ. ನಮ್ಮ ತಾಯಿ 2 ನೇ ಪ್ರತಿವಾದಿಯನ್ನು ಆ ಬಗ್ಗೆ ಪ್ರಶ್ನಿಸಿದ್ದರು. ದಾವಾ ಆಸ್ತಿಯ ಬಗ್ಗೆ , ಕ್ರಯಪತ್ರ ಆಗಿರುವ ಬಗ್ಗೆ , ನನ್ನ ಗಮನಕ್ಕೆ 2015 ನೇ ಇಸವಿಯಲ್ಲಿ ಬಂದಿರುತ್ತದೆ. This is contrary statement. Because, Ex.P12, Ex.D2 and 3 were executed in the year 2017. Hence, it can be clearly stated that PW.1 is not aware of the details of transactions and joint family of defendant No.1 to 11.

**13.** PW.1 has also stated that suit properties originally belonged to Gopalappa and they are the ancestral properties. Later he has stated that he doesn't know. He has also stated that ನನ್ನ ತಾತ ಬದುಕಿದ್ದಾಗ ಮನೆಯ ಯಜಮಾನಿಕೆಯನ್ನು 2 ನೇ ಪ್ರತಿವಾದಿ ಮಾಡುತ್ತಿದ್ದರು. 2 ನೇ ಪ್ರತಿವಾದಿ ಮತ್ತು



ಅವರ ಕುಟುಂಬದವರಿಗೆ ವ್ಯವಸಾಯ ಬಿಟ್ಟು ಬೇರೆ ಆಧಾರ ಇರಲಿಲ್ಲ ಎಂದರೆ ನಿಜ. 2 ನೇ ಪ್ರತಿವಾದಿ ರಾಗಿ ಬೆಳೆಯುತ್ತಿದ್ದರು. ಅವರಿಗೆ ರಾಗಿ ಬೆಳೆ ಬಿಟ್ಟು ಬೇರೆ ಆದಾಯದ ಮೂಲ ಇರಲಿಲ್ಲ. 2 ನೇ ಪ್ರತಿವಾದಿ ಅವರ ಕುಟುಂಬದ ಪೋಷಣೆಗೋಸ್ಕರ ಎಷ್ಟು ಸಾಲ ಮಾಡಿದ್ದರು, ಎಲ್ಲಿ ಮಾಡಿದ್ದರು ಎಂದು ಗೊತ್ತಿಲ್ಲ. ಐಟಂ ನಂ.2 ಮತ್ತು 3 ಆಸ್ತಿಗಳನ್ನು ಬ್ಯಾಂಕಿನಲ್ಲಿ ಅಡಮಾನ ಇಟ್ಟಿದ್ದ ಬಗ್ಗೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಐಟಂ ನಂ.2 ಮತ್ತು 3 ಆಸ್ತಿಗಳ ಮೇಲೆ ಗೋಪಾಲಪ್ಪನವರು 1988 ರಲ್ಲಿ ಒಂದು ಸಲ, 2004 ರಲ್ಲಿ ಒಂದು ಸಲ, 2013 ಒಂದು ಸಲ ವಿವಿಧ ಬ್ಯಾಂಕುಗಳಿಂದ ಆ ಜಮೀನುಗಳನ್ನು ಒತ್ತೆ ಇಟ್ಟು ಸಾಲ ಪಡೆದಿದ್ದರು ಎಂದರೆ ಗೊತ್ತಿಲ್ಲ. ನನ್ನ ತಾಯಿ ಮದುವೆ ಮತ್ತು ಅವರ ಅಕ್ಕ ತಂಗಿಯ ಮದುವೆ ಮತ್ತು ಕುಟುಂಬ ಪೋಷಣೆಗೆ 2 ನೇ ಪ್ರತಿವಾದಿ ಸಾಲ ಮಾಡಿದ್ದರು ಎಂದರೆ ಗೊತ್ತಿಲ್ಲ. ನನ್ನ ತಾಯಿಗೆ 1957-1958 ರಲ್ಲಿ ಮದುವೆ ಆಗಿತ್ತು. ಗೋಪವ್ವ ಮತ್ತು ಜಯವ್ವನ ಮದುವೆ ಯಾವಾಗ ಆಗಿದೆ ಎಂದು ಗೊತ್ತಿಲ್ಲ. On perusal of cross-examination of PW.1, it is clear that he doesn't know about the family details of defendant No.1 to 11 and doesn't know about the marriage of defendant No.1 and 11. He has pleaded ignorance with respect to loan obtained by mortgaging item No.2 and 3 properties. But, there are materials on the record to show the same. Ex.P4, 6, 7 to 9 are there on the record and they are contrary to the statement of PW.1. PW.1 has also stated that 2 ನೇ ಪ್ರತಿವಾದಿ ಸಾಲಕೋಸ್ಕರ ಮತ್ತು



ಕುಟುಂಬ ಪೋಷಣೆಗೆ ಮಾರಾಟ ಮಾಡಿದ್ದಾರೆ ಎಂದು ಕ್ರಯಪತ್ರದಲ್ಲಿ ವಕ್ರಣೆ ಇದೆ ಎಂಬ ವಿಚಾರ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. But, there is Ex.P12 which goes against the statement of PW.1. He has also stated that without his knowledge, said properties are sold in the year 2017. On perusal of cross-examination of PW.1, it is clear that the family of defendant No.2 was not having sufficient income except agricultural and hence it can be stated that there was family necessity to sell the item No.2 and 3 properties. There are also documents on the record to show that the said properties are mortgaged to the Banks. It is also clear that PW.1 is not aware of details of family members of defendant No.1 to 11 and sale transactions in respect of suit properties. Hence, evidence of PW.1 is not helpful to the plaintiffs to prove the case.

**14.** DW.1 has stated in the cross-examination that defendant No.12 is doing business and hence he can't come to depose before the Court and hence General Power of Attorney is given and he has given information to prepare General Power of Attorney and Affidavit. He has



pleaded ignorance with respect to purchase of properties by defendant No.12. He has also stated that ದಾವಾ ಆಸ್ತಿ ಸರ್ವೆ ನಂ.99 ಮತ್ತು 100 ನ್ನು ದಿನಾಂಕ: 15.06.2017 ರಲ್ಲಿ ಖರೀದಿ ಮಾಡಿದ್ದಾರೆ. ನಿಡಿ-2 ಮತ್ತು 3 ದಾಖಲೆಗಳನ್ನು ಬಿಟ್ಟು ಬೇರೆ ಯಾವುದೇ ವ್ಯವಹಾರ ಸದರಿ ಆಸ್ತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಆಗಿಲ್ಲ. ಒಂದು ಆಸ್ತಿಗೆ ರೂ.1,03,50,000/- ಕೊಟ್ಟಿದ್ದಾರೆ, ಇನ್ನೊಂದು ಆಸ್ತಿಗೆ ರೂ.78 ಲಕ್ಷ ಕೊಟ್ಟಿದ್ದಾರೆ. ಮುನಿಯಪ್ಪ ಮತ್ತು ಗಂಗಮ್ಮನಿಗೆ ವೆಂಕಟಲಕ್ಷ್ಮಮ್ಮ ಎನ್ನುವ ಮಗಳು ಇದ್ದಾಳೆ ಎಂದರೆ ಸುಳ್ಳು. ನಾವು ಆಸ್ತಿಯನ್ನು ಖರೀದಿ ಮಾಡುವಾಗ ಕಾನೂನು ಅಭಿಪ್ರಾಯ ಪಡೆದುಕೊಂಡಿದ್ದೇವೆ. ನಿಡಿ-2 ರಲ್ಲಿ ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿಗಳು ಎಂದು ಹೇಳಿದ್ದೇವೆ ಎಂದರೆ ನಿಜ. The nature of properties is not in dispute. Because, there are documents on the record to show the nature of suit properties. He has also stated that ಐಟಂ ನಂ.2 ಮತ್ತು 3 ಆಸ್ತಿಗಳ ಮೇಲೆ ಸಾಲ ಇತ್ತು. ಯಾವ ವರ್ಷದಲ್ಲಿ ಸಾಲ ಇತ್ತು ಎಂದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ. But, there are record of rights to show the same. He has also stated about mortgage of properties. He has denied that to defraud the plaintiffs, joint family property was purchased.

**15.** On perusal of entire materials on the record, I am of the opinion that the plaintiffs have not proved the pleading



by adducing cogent and independent evidence. They have not proved the relationship. They can't take advantage of the cross-examination by defendants and written statement of defendant No.11 to show their relationship. Apart from this, defendant No.12 has shown that item No.2 and 3 properties were purchased for family necessity. The purpose of sale is also mentioned in Ex.P12, Ex.D2 and 3. The said documents are corroborated by the record of rights which are on the record. Therefore, the Sale Deeds in respect of item No.2 and 3 properties are binding on defendant No.1 to 11. Defendant No.11 has signed on Ex.D2 and 3 and she has also put her thumb impression in the sub-registrar office in the Sale Deeds. But, she has stated in the written statement that she has not signed on the Sale Deeds. But, Ex.D2 and 3 are against to her statement. Accordingly, it can be stated that defendant No.12 is the bonafide purchaser of item No.2 and 3 properties. It is also shown that the said properties are sold for family necessity. The plaintiffs have not proved that defendant No.12 is not bonafide purchaser. Since plaintiffs have not proved the relationship, question of



considering the aspect that Sale Deed is binding on the plaintiffs or not doesn't arise in this case. But, with respect to defendant No.1 to 11, the Sale Deeds at Ex.D2 and 3 are binding. The plaintiffs can't take advantage of the weakness of the case of the defendants and answers given by DW.1. It is their bounden duty to prove the case as pleaded. It is not proved. Defendant No.12 has also proved that defendant No.1 to 11 on their behalf and on behalf of their minor children have sold the properties to meet legal necessity. Accordingly, I answer Issue No.1 to 3 in the "**NEGATIVE**" and Issue No.5 in the "**AFFIRMATIVE**".

**16. ISSUE No.4:-** It is the burden of the plaintiffs to prove that they and defendant No.1 to 11 have constituted Hindu Undivided Joint Family and suit properties are ancestral properties of plaintiffs and defendant No.1 to 11. They have not proved the same. They have also not proved that Sale Deeds at Ex.D2 and 3 in favour of defendant No.12 are not binding on them. As per the above said



discussion in the earlier issues, I am of the opinion that plaintiffs have not established their case. With respect to item No.1 and 4 properties, no opinion can be formed. Because, the plaintiffs have not proved the relationship as pleaded. They have also not stated about anything with respect to another daughter of Muniyappa namely Narasamma. Hence, suit is also bad for non joinder of necessary parties. Defendant No.1 to 10 have not appeared to say anything about the case. Hence, the plaintiffs are not entitled to the share. Accordingly, I answer Issue No.4 in the "**NEGATIVE**".

**17. ISSUE NO.6:** As per the above discussion and the reasons assigned therein, I pass the following:

**ORDER**

The suit of the plaintiffs for Partition and Declaration is hereby dismissed with cost.



Draw decree accordingly.

(Dictated to the Stenographer, transcribed and computerized by her, transcript revised, corrected and pronounced by me, in the Open Court, dated this the **25<sup>th</sup>** day of **April, 2026**).

Sd/-  
**(Lokesha.M.G.)**  
**I Addl Sr.Civil Judge & Jmfc.,**  
**Devanahalli.**

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

**Witnesses examined for the plaintiffs:**

PW.1 : Sri. Sathyanarayana N.

**Documents exhibited on behalf of the plaintiffs:**

Ex.P1 : Family Tree  
Ex.P2 : IHR  
Ex.P3 : Record of Right  
Exs.P4 to 9 : R.T.Cs  
Ex.P10 : Assessment List  
Ex.P11 : Demand Register  
Ex.P12 : Certified Copy of Sale Deed



Ex.P13 : Mutation Register  
Ex.P14 : R.T.C  
Ex.P15 : Mutation Register  
Ex.P16 : R.T.C

**Witnesses examined for the defendants:**

DW.1 : Sri. Prakash H.

**Documents exhibited on behalf of defendants:**

Ex.D1 : General Power of Attorney  
Exs.D2 & 3 : Online Copy and Certified Copy of Sale Deeds  
Ex.D4 : Mutation Register  
Exs.D5 to 25 : R.T.Cs  
Ex.D26 : Mutation Register  
Exs.D27 to 30: R.T.Cs

Sd/-

**(Loksha.M.G.)  
I Addl Sr.Civil Judge & Jmfc.,  
Devanahalli.**

