



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

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

O.S.No.1007/2023

Dated this the 28th day of April, 2026.

PLAINTIFFS:

1. Sri. Narayanaswamy,
S/o. Late Muniyappa,
Aged about 55 years.

2. Smt. Subbamma,
D/o. Late Muniyappa,
Aged about 48 years.

3. Smt. Shanthamma,
D/o. Late Muniyappa,
Aged about 45 years.

4. Sri. Avalappa,
S/o. Late Muniyappa,
Aged about 78 years.

Plaintiffs No.1 to 4 are R/at:
Bidaluru Village,
Kasaba Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

(By Sri. A.B.M., Advocate)



Vs.

DEFENDANTS:

- 1.** Sri. M.Muniyappa
S/o. Late
Chikkanarayanappa,
Aged about 75 years.
- 2.** Sri. M.Muniraju,
S/o. M.Muniyappa,
Aged about 50 years.
- 3.** Sri. M.Manjunatha,
S/o. M.Muniyappa,
Aged about 48 years.
- 4.** Smt. Bhagyamma,
D/o. M.Muniyappa,
Aged about 44 years.
- 5.** Smt. Munirathnamma,
D/o. M.Muniyappa,
Aged about 28 years.
- 6.** Sri. Muniraju,
S/o. Late Muninarayanappa,
Aged about 40 years.
- 7.** Sri. Narasimhamurthy,
S/o. Late Muninarayanappa,
Aged about 33 years.



8. Sri. D.M.Munigangappa,
S/o. Late Munidhoddappa,
Aged about 75 years.

9. Smt.
Munilakshamma,
D/o. Late D.M.Muniyappa,
Aged about 40 years.

10. Smt. Basamma @
Bhagyamma,
D/o. Late. D.M.Muniyappa,
Aged about 48 years.

Defendants No.1 to 10 are
R/at: Bidaluru Village,
Kasaba Hobli,
Devanahalli Taluk,
Bengaluru Rural District.

11. Sri. M.D.Jayavelu,
S/o. S.A.Dharmalingam,
Aged about 75 years.

Represented by his General
Power of Attorney Holder.

Sri. Diwakar Awasthi,
S/o. Late Dr. Surendra
Kumar Awasthi,
Aged about 50 years,



R/at: No.189/144,
1st Floor, Shalimar Arcade,
10th Cross, Wilson Garden,
Bengaluru – 560027.

(D1 to 5 - Exparte)
(D6 & 7 – Sri. A.M., Advocate)
(D8 to 11 - Exparte)

Nature of the Suit : Suit for Partition & Separate Possession

Date of filing : 23.09.2023

Date of Commencement of record of evidence : 03.02.2026

Date on which the Judgment is pronounced : **28.04.2026**

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

02 07 05

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



JUDGMENT

The plaintiffs have filed the suit for the relief of Partition seeking half share in the suit property and for Declaration.

2. The brief facts of the plaintiffs case are that one Thimmaiah was the propositus of the Hindu Undivided Joint Family consisting of plaintiffs and defendant No.1 to 7. He died intestate. Plaintiffs and defendant No.1 to 7 are the joint family members. Defendant No.8 to 11 are the alleged purchasers. Plaintiffs and defendant No.1 to 7 have constituted Hindu joint family and they are in joint possession and enjoyment of suit property. After death of propositus, concerned records were mutated in favour of two sons of Mottappa namely Gaviyappa and Benachappa. After their death, records were mutated in favour of Muniyappa through IHR proceedings. Suit property is the ancestral property. After death of propositus, his sons got suit property by way of inheritance. They are in peaceful possession and enjoyment of suit property till date without any interference. Suit property is the ancestral



and joint family property and there was no partition taken place among them. Plaintiffs are entitled to half share jointly in the suit property. Plaintiffs requested the defendant No.1 to 7 to effect partition. It was denied. Recently on verification of the documents, they came to know that defendant No.1 to 7 by colluding with defendant No.8 to 10 executed Sale Deed on 07.03.2009 in favour of defendant No.11 in respect of suit property without knowledge and consent of the plaintiffs. By taking advantage of the same, defendant No.11 is making hectic effort to alienate the suit property in favour of third parties. Plaintiffs finally demanded the defendants on 01.08.2023 to effect partition. It was denied. Defendants have no absolute right over the suit property. Plaintiffs can't stop the illegal acts of the defendants. They are trying to dispossess the plaintiffs from their share in the suit property. If their act is not stopped, it will lead to multiplicity of proceedings and greater hardship will be caused to the plaintiffs. Hence, suit is filed.



3. Defendant No.6 and 7 have appeared. But, they have not filed written statement. Defendant No.1 to 5 and 8 to 11 have not appeared after service of summons. Hence, they are placed exparte. The case is posted for evidence.

4. In order to prove the case, the plaintiff No.1 is examined as PW.1 and got marked Ex.P1 to P42. To disprove the case of the plaintiffs, there is no oral and documentary evidence on the record on behalf of the defendants.

5. Heard. Perused the materials on the record.

6. On perusal of the plaint and documents and after hearing the plaintiffs side, the following points are arisen for my consideration.

POINTS

1. Whether the plaintiffs are entitled to the relief ?
2. What order or decree ?



7. By considering the evidence and arguments, I answer the following points as under :

Point No.1: In the Affirmative;

Point No.2: As per the final order

for the following:

REASONS

8. **POINTS NO.1:-** It is the burden of the plaintiffs to show the relationship as pleaded. Plaintiffs have led evidence through plaintiff No.1 who has marked Ex.P1 to 42. Advocate for defendant No.6 and 7 has filed memo to decree the suit. It is also burden of the plaintiffs to prove that they are in joint possession and enjoyment of suit property and suit property is the ancestral property and they constitute joint family members. It is also their burden to prove that sale it is not binding on them in respect of suit property and defendants are trying to alienate the suit property. They have also stated that there was no partition taken place between them. It is also stated that without knowledge and consent, there has



been alienation in respect of suit property in favour of defendant No.11 by defendant No.1 to 10.

9. Documents are marked. Ex.P1 is the Family Tree. It shows that Thimmanna is the propositus. He has 2 sons namely Muniavalappa alias Avalappa and Motappa. Motappa died. His sons are Gaviyappa and Benachappa. Both are dead. Muniavalappa has wife namely Narasamma. Both are dead. Said Avalappa got 2 sons namely Muniyappa and Chikkanarayanappa. Muniyappa has son namely Avalappa through his first wife Muniyamma. Muniyappa has children namely Narayanaswamy, Subbamma and Shanthamma through his second wife Muniakkayamma. So also Chikkanarayanappa has son namely Muniyappa through his second wife Thimmakka and he has children namely Muninarayanappa through his first wife Chikkamuniyamma. Anjinamma is the wife of Muninarayanappa. They have children namely Muniraju and Narasimhamurthy. Plaintiffs are the legal heirs of Muniyappa who is the son of Avalappa. Defendant No.6



and 7 are the legal heirs of Muninarayanappa who is the son of Chikkanarayanappa. Defendant No.1 to 5 are the legal heirs of Chikkanarayanappa.

10. Ex.P2 to 6 are the R.T.Cs. They are in respect of suit property. They are standing in the name of Muniyappa. They also show that he got the suit property by way of inheritance. The record of rights also show the names of Munidhoddappa, Gaviyappa and Benachappa. Ex.P9 is the Mutation Register. Ex.P10 and 11 are the Sketches. Ex.P12 is the Akarband in respect of suit property. Ex.P13 to 29 are the R.T.Cs in respect of suit property. They are standing in the name of Muniyappa. He got the said property by way of inheritance. Ex.P30 is standing in the name of defendant No.11. It shows that he purchased the suit property and mutated his name. Ex.P31 to 35 are standing in his name. Ex.P36 is the Mutation Register. It shows that the name of defendant No.11 is mutated in respect of suit property and the name of Muniyappa is removed. Ex.P37 and 38 are the Encumbrance Certificates to show the sale transactions. Ex.P39 is the Online Copy



of Sale Deed dated 07.03.2009 executed by defendant No.1 to 5 and defendant No.8 to 10 in favour of defendant No.11. It is in respect of suit property. Defendant No.6 and 7 and the plaintiffs are not parties to the said Sale Deed. The said Sale Deed has been executed after 20.12.2004. Ex.P40 to 42 are the R.T.Cs in respect of suit property. They are standing in the name of defendant No.11. To say anything contrarily as against the case of the plaintiffs, defendants have not led evidence. Defendant No.6 and 7 have appeared and submitted to decree the suit. Per contra other defendants have not appeared to say anything contrarily. Hence, evidence of PW.1 remains unchallenged. There is no contrary evidence on the record. The oral evidence of PW.1 is corroborated by the documents on the record. The materials on the record show that suit property is the ancestral property. There are no documents on the record to show that suit property is the self acquired property of any joint family members. Defendant No.11 has not appeared to prove that he is the bonafide purchaser of suit property for valuable consideration and the suit property was sold in his favour



for family and legal necessity. Hence, on perusal of entire materials on the record, I am of the opinion that the plaintiffs have established their case as pleaded. Accordingly, they are entitled to the legitimate share in the suit property. Sale Deed is not binding on the plaintiffs since it has been executed without consent and knowledge of the plaintiffs. As per the proviso to Section 6(1) of Hindu Succession Amendment Act 2005, any alienation made prior to 20.12.2004 has been saved. But, this sale transaction has been done after 20.12.2004. Hence, it is to be proved by the purchaser as he is bonafide purchaser and purchased the suit property for family necessity. It is not proved so. Therefore, Sale Deed in respect of suit property in favour of defendant No.11 is not binding on the share of the plaintiffs and defendant No.6 and 7. As per Ex.P1, plaintiffs are the legal heirs of Muniyappa who is the son of Avalappa. There are two branches. The plaintiffs are pertaining to the branch of Muniyappa. There is another branch namely branch of Chikkanarayanappa. The legal heirs of Chikkanarayanappa are together entitled to half share in



the suit property. The defendant No.6 and 7 together being the children of Muninarayanappa are entitled to 1/4 share in the suit property. The defendant No.1 to 5 together are entitled to 1/4 share in the suit property. Accordingly, plaintiffs together are entitled to half share in the suit property. Hence, I answer this Point in the **"AFFIRMATIVE"**.

11. POINT No.2: As per the above discussion and the reasons assigned therein, I pass the following:

ORDER

The suit of the plaintiffs for Partition, Separate Possession and Declaration is hereby decreed.

It is declared that, the Sale Deed dated 07.03.2009 executed by defendant No.1 to 5 and defendant No.8 to 10 in favour of defendant No.11 in respect of suit property is not binding on the plaintiffs share.



The plaintiffs together are entitled to half share in the suit property.

The defendant No.6 and 7 together are entitled to 1/4 share in the suit property.

The defendant No.1 to 5 together are entitled to 1/4 share in the suit property.

Draw preliminary decree accordingly.

To take steps under Order 20 Rule 18 of CPC.

(Dictated to the Stenographer, transcribed and computerized by her, transcript revised, corrected and pronounced by me, in the Open Court, dated this the **28th** day of **April, 2026**).

Sd/-
(Loksha.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. Narayanaswamy

Documents exhibited on behalf of the plaintiffs:

Ex.P1 : Family Tree
Exs.P2 to 6 : R.T.Cs
Ex.P7 : Acknowledgment
Ex.P8 : Endorsement
Ex.P9 : Mutation Register
Exs.P10 & 11 : Sketches
Ex.P8 : Akarband
Exs.P13 to 35 : R.T.Cs
Ex.P36 : Mutation Register
Exs.P37 & 38 : Encumbrance Certificates
Ex.P39 : Online Copy of Sale Deed
Exs.P40 to 42 : R.T.Cs

Witnesses examined for the defendants:

NIL



Documents exhibited on behalf of defendants:

NIL

Sd/-

(Loksha.M.G.)

**I Addl Sr.Civil Judge & Jmfc.,
Devanahalli.**