

KABR410002612011



IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC AT
DODDABALLAPURA.

Dated this the 4th day of April 2026.

PRESENT : SMT. SHILPA.H.A

B.A.L.,LL.B.,

Senior Civil Judge & JMFC.,

Doddaballapura.

O.S.No.9/2011

PLAINTIFF/S: 1. SMT. SHANTAMMA
W/o Yellappa,
D/o Anjinappa,
Aged about 40 years,
R/at, Thogarighatta Village,
Kasaba Hobli,
Doddaballapura Taluk.
(By Sri. A.N.L., Advocate for plaintiff)

V/s

DEFENDANT/S: 1. SRI. ANJINAPPA
S/o Munishamappa,
Aged about major.
2. SMT. SAROJAMMA
D/o Anjinappa,
Aged about major.

Both are R/at, No.717,
II Main, II Cross,
R.K. Heggadenagar,
Arabic Collage Post, Bangalore.

3. SRI. ABDUL KAREEM

S/o Mohammed Khasim,
Aged about major,
R/at, No.2637, Chickpet,
II Ward, Doddaballapura-561203.

4. SRI. VENKATESH

S/o Late Govindappa,
Aged about 45 years,

5. SRI. NANJUNDAPPA

S/o Late Govindappa,
Aged about 41 years,
Both are R/at, Rayadurganahalli Village,
Gulur Hobli, Nallapareddy Post,
Bhagepalli Taluk,
Chikkaballapura District.

**(By defendant No.1 & 2 placed exparte,
Sri. A.K., Advocate for defendant No.3 and
Sri. K.N.S. Advocate for defendant No.4 & 5)**

Date of institution of the suit	07.01.2011		
Nature of the suit	For partition and separate possession		
Date on which the judgment was pronounced	04.04.2026		
Total duration	Year's	Month's	Day's
	15	02	28

(SHILPA H.A.)

Senior Civil Judge & JMFC.,
Doddaballapura.

J U D G M E N T

Plaintiff has filed this suit for partition and separate possession seeking her half share each in the suit schedule property by metes and bounds and to declare the Registered sale deed dated:01.12.2006 executed by defendant No.1 in favour of defendant No.3 is not binding on plaintiff.

2. The brief case of the plaintiff is that,

Originally one Munishamappa was the propositus of the Joint family. He had 2 wives namely Munivenkatamma and Venkatamma. The 1st wife Munivenkatamma has 3 children namely Muniyallappa Anjinappa and Gangappa. After the 2nd marriage, the 1st wife and children have separated from Munishamappa. During that time Munishamappa have given some Ancestral and Joint Family property to his 1st wife and children. After the death of Munishamappa and Muniyellappa, the wife of Muniyellappa by name Papamma and Anjinappa and Gangappa have divided the Ancestral and Joint Family properties as per MR.No.2/1998-99. Said Anjinappa was married to one Ramakka and due to the said wed lock they had a daughter by name Anjinamma. Said Anjinamma was married to one

Govindappa and had 3 children namely Shantamma ie., the plaintiff, Venkatesh and Nanjundappa. During the life time of Anjinamma he got 2nd marriage with one Huchamma and had a daughter by name Sarojamma ie., defendant No.2.

3. The plaintiff further submits that the suit schedule property bearing Sy.No.123 measuring 19 guntas has been acquired by her father. The khata of suit schedule property came to be mutated in the name of defendant No.1. The defendant No.1 being the eldest member in the Joint family was managing the suit schedule property and Joint family affairs. The plaintiff and defendants are in joint possession and enjoyment over the suit schedule property and the same has not divided between them. The defendant No.1 is acting detrimental to the interest of the plaintiff and not at all concerned about her welfare. Hence, plaintiff has demanded her share and also convened Panchayath but the defendant No.1 to 3 have refused to allot her share and informed that the defendant No.1 has alienated the suit schedule property in favour of defendant No.3. The 1st defendant has got no right to alienate the plaintiff's share in the suit schedule property. Hence the Registered sale deed dated:01.12.2006 is not binding on

the plaintiff. The defendant No.1 has deserted his 1st wife Ramakkka and hence she had filed maintenance case in which maintenance was awarded in her favour. Said Ramakkka had executed Will in favour of plaintiff on 06.05.2008 in respect of suit schedule property. Accordingly plaintiff has succeeded to the suit schedule property and became the absolute owner. The cause of action arose on 23.12.2010 when the plaintiff has demanded partition and separate possession and the same was refused by the defendants. Hence, this suit for partition and separate possession.

4. In spite of service of summons defendant No.1 and 2 have remained absent and placed exparte. In pursuance of summons defendant No.3 to 5 have appeared through their counsel and filed written statement. The defendant No.3 in his written statement has denied the plaint averments as false and further contended that he is the bonafide purchaser of the suit schedule property from defendant No.1 under Registered sale deed dated:04.12.2006 and since then he is in lawful possession and enjoyment over the suit schedule property. At the time of purchasing the suit schedule property, he had made all possible enquiries with regard

to ownership, title and possession over the suit schedule property and also about the heirs of defendant No.1. The defendant No.2 being the daughter of defendant No.1 has also executed sale deed. The alleged 1st wife Ramakka was not the wife of defendant No.1. Even otherwise no wife is entitle to any share in the Ancestral and Joint Family property of the husband during his life time. Hence, the claim of the plaintiff is unsustainable in the eye of law. Hence, there is no cause of action for the suit and the same is liable to be dismissed at the threshold. Hence, prays to dismiss the suit with exemplary cost in the interest of justice and equity.

5. Defendant No.4 & 5 have admitted the plaint averments as true and they have further contended that suit schedule property is the Ancestral and Joint Family property plaintiff and defendant No.1, 2, 4 & 5 and the same is not divided between them. They have further admitted that defendant No.1 has alienated the suit schedule property in favour of defendant No.3 without having any exclusive right as such they have also claimed that the said sale deed is not binding on them. They have further admitted that defendant No.1 has neglected 1st wife Ramakka and kept one Huchamma as his 2nd wife. Suit schedule property was

cultivated by Ramakka and her grand children and after her death plaintiff and defendant No.4 & 5 have demanded for partition and separate possession but the defendant No.1 has refused. Hence, prays to decree the suit by allotting share to the plaintiff and defendant No.1, 2, 4 & 5 in the interest of justice and equity.

6. On the basis of the aforesaid pleadings the following Issues were framed:-

ISSUES

1. Whether the plaintiff proves that the suit property is the ancestral joint family property of the plaintiff and the defendants No.1 and 2?
2. Whether the plaintiff proves that the sale deed executed by the defendant No.1 in favour of the defendant No.3 in respect of the suit property bearing document No.DBP-1-0855-2006/07 dated:04.12.2006 is not binding on the share of the plaintiff?
3. Whether the defendant No.3 proves that the defendant No.3 is a bonafide purchaser of the suit property for valuable consideration?
4. Whether the plaintiff proves that the plaintiff and the defendants No.1 and 2 are in joint possession and enjoyment of the suit property?

5. Whether the defendant No.3 proves that the defendant No.3 is in actual and physical and enjoyment of the suit property since 04.12.2006?
6. Whether the plaintiff is entitled for the relief claimed?
7. To what shares the parties are entitled?
8. What order or decree?

7. In order to prove the case of plaintiff, she herself is examined as PW.1 and examined 1 witness as PW.2 and got marked 31 documents. On the other hand defendant No.3 is examined as DW.1 and marked 10 marked documents as Ex.P1 to 10.

8. Heard both the learned counsels and perused the materials placed before me.

9. My findings to the afore said issues are as follows:

- ISSUE No.1 : In the Negative**
- ISSUE No.2 : In the Negative**
- ISSUE No.3 : In the Affirmative**
- ISSUE No.4 : In the Negative**
- ISSUE No.5 : In the Affirmative**
- ISSUE No.6 : In the Negative**
- ISSUE No.7 : In the Negative**
- ISSUE No.8 : As per final order for the following reasons.**

REASONS

10. ISSUE NO.1 & 4: Since these two issues are inter-related, they are taken up together for common discussion. It is the case of the plaintiff that she along with defendant No.1, 2, 4 & 5 are the members of the Hindu undivided joint family and suit schedule property is their Ancestral and Joint Family property and so far partition is not effected between them. It is the specific case of the plaintiff that defendant No.1 had 2 wives namely Ramakka and Huchamma, one Anjinamma was born to Ramakka and plaintiff is the daughter of said Anjinamma. The defendant No.1 said to be the grandfather of plaintiff and defendant No.2 said to be the daughter through 2nd wife have remained exparte and failed to contest the matter. The defendant No.4 & 5 who claims to be the grand children of Ramakka have admitted the plaint averments as true. Whereas the defendant No.3 being the purchaser of suit schedule property has seriously disputed the relationship of the plaintiff and contended that she is neither grand daughter of defendant No.1 nor member of Joint family property and they have further contended that defendant No.1 has only one daughter i.e., defendant No.2 and both of them have jointly alienated the

suit schedule property. In spite of the defendant No.3 being the purchaser of the suit schedule property has seriously disputed the relationship, so far plaintiff has not produced any single piece of paper to show that she is the grand daughter of defendant No.1 and member of Joint family. In the partition suits, it is mandatory to produce G-Tree and establish their relationship with the defendants. But in this case neither plaintiff nor defendant No.4 & 5 who claims to be the members of Joint family have produced any document to prove their relationship. The plaintiff has not only failed to produce G-Tree, she has also utterly failed to produce I.D proof documents like Adhar Card, Ration Card or Election I.D card in support of her claim.

11. Plaintiff has examined one witness as PW.2 who is resident of Menasi Village and he has supported her case stating that plaintiff is cultivating the suit schedule property since 25 years. Whereas in his cross-examination he has deposed that he do not know the husband name of the plaintiff and about her brothers and sisters. This evidence goes to show that PW.2 is neither resident of Kestur Village in which the suit

schedule property is situated nor the resident of Village of defendant No.1 and 2 and hence his evidence is not helpful to the case of the plaintiff to prove her possession. Plaintiff has utterly failed to examine any of the local witnesses belongs to Kestur Village to prove her relationship or produce any authenticated document. Apart from that she herself has produced the copy of the judgment and decree passed in OS.No.368/2006 and vehemently argued that, her grand mother Ramakka had filed maintenance suit against the defendant No.1 and obtained decree wherein charge was created on the suit schedule property and later she had bequeathed the same in favour of plaintiff under Will dated:06.05.2008. As per these contentions, her grand mother was the absolute owner of suit schedule property and in view of the Will she has become the absolute owner. On the contrary she has claimed partition and separate possession in respect of half share. Therefore plaintiff has blown hot and cold at the same breath without any substantive piece of document.

12. Though plaintiff has relied upon the certified copy of the judgment and decree pertaining to OS.No.368/2006, she

has not got it marked. Hence, the defendant No.3 had obtained the certified copy of the plaint and judgment and decree copy and got it marked as Ex.D8 to 10. On perusal of these documents it goes to show that Ramakka who is the wife of the defendant No.1 herein has filed maintenance suit claiming monthly maintenance of Rs.1000/- and create charge over the suit schedule property. In the said plaint Ramakka has specifically contended that she was married to defendant No.1 about 30 years back and she has no children through him and after active company with one Huchamma he has deserted and abandoned the 1st wife. As per the recitals of the plaint averments said Ramakka had no children but plaintiff is claiming that she had one daughter by name Anjinamma and plaintiff is her daughter. But so far she has not placed any document to show that she is either the daughter of Anjinamma or granddaughter of Ramakka and Anjinappa. On perusal of the judgment and decree it goes to show that the defendant No.1 herein has not contested the matter and the suit came to be decree by awarding maintenance of Rs.1000/- to said Ramakka but no charge was created on the suit schedule property. Under such circumstances no right is transferred over the said

Ramakka and therefore there is no question of bequeathing suit schedule property in favour of the plaintiff. Apart from that the 1st wife of defendant No.1 herself has stated before the Court that she has no children through defendant No.1 and in the judgment also it is observed that Ramakka has no children and the said judgment has attained its finality and therefore the question of Ramakka having a daughter by name Anjinamma and granddaughter by name Shantamma does not arise. Hence, for the above said reason plaintiff has utterly failed to prove that she is the grand daughter of defendant No.1 and member of Hindu Undivided joint family. No doubt as per Ex.P1 & 4 the defendant No.1 has acquired the suit schedule property through partition effected between his brothers on 10.01.1995 which was acted upon vide MR.No.2/98-99. But plaintiff has failed to prove that she is the grand daughter of Ramakka and Anjinappa and suit schedule property is her Ancestral and Joint Family property and she is in joint possession and enjoyment over the same through oral and documentary evidence. Hence, I answer **Issue No.1 & 4 in the Negative.**

13. ISSUE NO.2, 3 & 5: Since these three issues are inter related they are taken up together for common discussion. Plaintiff has contended that the Registered sale deed dated:04.12.2006 executed by defendant No.1 in favour of defendant No.3 is not binding on her share on the other hand defendant No.3 has contended that he is the bonafide purchaser and he is in actual and physical possession and enjoyment over the suit schedule property since 04.12.2006. Since plaintiff has utterly failed to prove that she is the member of Joint family and the same is her Ancestral and Joint Family property, she is not entitle for the said declaratory relief. In support of the contention of defendant No.3, she herself is examined as DW.1 and relied upon 10 documents. Ex.D2 is the original Registered sale deed dated:01.12.2006 and its recitals speaks that defendant No.1 has acquired the suit schedule property under Parikath dated:10.01.1995 and he along with his only daughter i.e., defendant No.2 are jointly alienating the same in favour of defendant No.3 for sale consideration of Rs.1,42,500/-. The defendant No.1 & 2 being the absolute owners in possession of the suit schedule property has sold the same in favour of defendant No.3 and accordingly title has been legally transferred

in his favour. Ex.D3 to 7 are the RTCs, MR extract, Sketch and Encumbrance Certificate which also speaks about alienation and transfer of khata in favour of defendant No.3 and also he is in physical possession and enjoyment over the same. Hence, defendant No.3 has proved that he is the bonafide purchaser and he is in actual and physical possession over the suit schedule property since 01.12.2012 through oral and documentary evidence. Hence, I answer **Issue No.2 in the Negative and 3 & 5 in the Affirmative.**

14. ISSUE NO.6 & 7: Since these two issues are inter-related, they are taken up together for common discussion. In view of the discussion made above plaintiff has utterly failed to prove her case through oral and documentary evidence and hence she is not entitle for any relief. Hence, I answer **Issue No.6 & 7 in the Negative.**

15. ISSUE NO.8: For the aforesaid reasons hence, I proceed to pass the following;

ORDER

**Suit of the plaintiff is
hereby dismissed with cost.**

Draw decree accordingly.

(Dictated to the Stenographer, transcribed, typed and printout taken by her, corrected by me and then pronounced in the open Court on this the 4th day of April 2026)

(SHILPA.H.A)

Senior Civil Judge & JMFC.,
Doddaballapura.

ANNEXURE**List of witnesses examined on behalf of Plaisntiffs:**

- PW.1 : Smt. Shantamma W/o Yellappa,
dated:15.02.2022.
- PW.2 : Sri. Manjunath.M S/o Muniyappa,
dated:28.11.2024.

List of documents marked on behalf of Plaintiffs:

- Ex.P.1 : MR.No.2/1998-99.
- Ex.P.2 : Certified copy of sale deed,
dated:01.12.2006.
- Ex.P.2A : Certified copy of the 11-E Sketch.
- Ex.P.3 : Death Certificate of Ramakka.
- Ex.P.4 : RTC of Sy.No.123 for the year 2010-2011.
- Ex.P.5 to 23 : Photos.

Ex.P.24 to 27 : C.Ds.
Ex.P.28 & 29 : Vijay Karnataka New Paper.
Ex.P.30 : Praja Vani News paper.
Ex.P.31 : Vijaya Vani New Paper.

List of witnesses examined on behalf of Defendants:

DW.1 : Sri. Abdul Kareem S/o Late
Mohammed Khasim,
dated:22.02.2025.

List of documents marked on behalf of Defendants:

Ex.D.1 : RTC of Sy.No.123 for the year 2020-2021.
Ex.D.2 : Certified copy of the sale deed,
dated:01.12.2006.
Ex.D.3 & 4 : RTCs of Sy.No.123 for the year 2024-2025.
Ex.D.5 : MR.No.33/2006-2007.
Ex.D.6 : Certified copy of the Survey Sketch.
Ex.D.7 : Encumbrance Certificate.
Ex.D.8 : Certified copy of the amended plaint of
OS.No.368/2006.

Ex.D.9 : Certified copy of the judgment of
OS.No.368/2006.

Ex.D.10 : Certified copy of the decree of
OS.No.368/2006.

(SHILPA.H.A)
Senior Civil Judge & JMFC.,
Doddaballapura.