

KABR410005022016



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

**AT. DODDABALLAPURA.**

**Dated this the 18<sup>th</sup> day of July 2026.**

**PRESENT: SMT.SHILPA.H.A**

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

**Senior Civil Judge & JMFC.,**

**Doddaballapura.**

**O.S.No.338/2016**

- PLAINTIFF/S:**
- 1. SRI. SATHISH PATIL**  
S/o Late Venkatanarasegowda,  
Aged about 39 years,
  - 2. SRI. RAMESH PATIL**  
S/o Late Venkatanarasegowda,  
Aged about 37 years,  
Both are R/at, Kodigehalli Village,  
Kasaba Hobli,  
Doddaballapura Taluk.

**(By Sri.S.R., Advocate for plaintiffs)**

**V/s**

**DEFENDANT/S: 1. SRI. SANDEEP PATIL**

S/o Late Venkatanarasegowda,  
Aged about 41 years,

**2. SRI. VISHWANATH**

S/o Late Eshwaraiah,  
Aged about 45 years,

**3. SMT. SAVITHRAMMA**

W/o Erappa,  
Aged about 53 years,  
All are R/at, Kodigehalli Village,  
Kasaba Hobli,  
Doddaballapura Taluk.

**(By defendant No.1 & 2 placed exparte  
and Sri.A.V., Advocate for defendant No.3)**

|                                           |                                       |         |       |
|-------------------------------------------|---------------------------------------|---------|-------|
| Date of institution of the suit           | 19.08.2016                            |         |       |
| Nature of the suit                        | For partition and separate possession |         |       |
| Date on which the judgment was pronounced | 18.07.2026                            |         |       |
| Total duration                            | Year's                                | Month's | Day's |
|                                           | 09                                    | 10      | 29    |

**(SHILPA H.A.)**

Senior Civil Judge & JMFC.,  
Doddaballapura.

**J U D G M E N T**

Plaintiffs have filed this suit for partition and separate possession seeking their 1/3<sup>rd</sup> share each in the suit schedule property by metes and bounds and to declare the Registered sale deed dated:27.03.1991 executed by plaintiffs father in favour of defendant No.2 and Registered sale deed dated:17.11.1994 executed by defendant No.2 in favour of defendant No.3 are not binding on plaintiffs with cost.

**2. The brief case of the plaintiffs are that,**

The Plaintiffs and defendant No.1 are the members of Hindu undivided joint family. Suit schedule properties originally belongs to one Arasegowda who is the grand father of plaintiffs and defendant No.1 and thus the same are their ancestral and joint family property. On 25.02.2016 some dispute arose in the family and defendant No.1 has shown hostile attitude towards the plaintiffs. Hence, the plaintiffs have requested the defendant No.1 to effect partition through metes and bounds. But he has refused to effect partition and disclosed that their father had alienated the same to defendant No.2 under Registered sale deed dated:27.03.1991 and thereafter defendant No.2 has alienated the

same in favour of defendant No.3 under Registered sale deed dated:17.11.1994. Since the suit schedule properties are the Ancestral and Joint Family properties of plaintiffs, their father had no absolute right to alienate the same in favour of 3<sup>rd</sup> parties. Plaintiffs father had not obtained consent or permission from them while alienating the suit schedule properties. The cause of action arose on 25.02.2016 when the defendants have refused to effect partition. Hence, this suit for partition and separate possession and declaration.

3. In pursuance of summons defendant No.3 has appeared through his counsel and filed written statement. Whereas defendant No.1 & 2 have remained absent and placed exparte. Defendant No.3 has denied joint family status and suit schedule properties are the ancestral and joint family property of the plaintiffs. According to the defendant No.3 the father of plaintiffs by name Venkatanarasegowda S/o Arasegowda had alienated the suit schedule properties in favour of defendant No.2 under Registered sale deed dated:27.03.1991 for valuable sale consideration to meet his family legal necessities. At that time the plaintiffs and defendant No.1 were minors and for their

maintenance and to meet the interest of the minors he had sold suit schedule properties. Thereafter defendant No.2 got mutated his name in the concerned authority and paid all the Taxes pertaining to the suit schedule properties and he was in possession and enjoyment over the said properties. Thereafter defendant No.2 has alienated the said properties in favour of defendant No.3 under Registered sale deed dated:17.11.1994 and thus she is the bonafide purchaser of the suit schedule properties for valuable consideration. On the basis of said sale deed she got mutated her name and she is in peaceful possession and enjoyment over the suit schedule properties. The suit of the plaintiff is hit by law of limitation as the said properties were alienated by plaintiffs father in the year 1991. Hence, the present suit filed after lapse of 26 years is hopelessly barred by law of limitation. It is admitted that plaintiffs are not in possession of the suit schedule property and therefore they ought to have paid court fee as per Sec.35(1) of KCF & SV Act. Hence, prays to dismiss the suit with exemplary cost in the interest of justice and equity.

4. On the basis of the aforesaid pleadings the following

Issues were framed:-

### **I S S U E S**

1. Whether the plaintiffs prove that suit schedule properties are their ancestral properties?
2. Whether the plaintiffs prove that the sale deed executed by father of plaintiffs in favour of defendant No.2 dated:27-03-1991 and the sale deeds executed by defendant No.2 in favour of defendant No.3 dated:17-11-1994 are not binding on the share of plaintiffs in the suit schedule properties?
3. Whether the defendants No.3 proves that, he is the bonafide purchasers of suit house property shown that Item No.1 and 2 of the schedule?
4. Whether the plaintiffs are entitled for the reliefs claimed in the plaint?
5. What order or decree?

5. In order to prove the case of plaintiffs, plaintiff No.2 is examined as PW.1 and got marked 4 documents as Ex.P1 to 4 and he got one witness as PW.2. On the other hand defendant No.3, her SPA holder is examined as DW.1 and got marked 13 documents and also got examined two witness as DW.2 & 3.

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

**7. 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 : As per final order for  
the following reasons.**

**R E A S O N S**

**8. ISSUE No.1 To 3:** Since these three issues are interconnected, they are taken up together for common discussion. It is the case of the plaintiffs that they along with defendant No.1 constitute Hindu Undivided joint family and suit schedule properties are their Joint family property and they are entitle for

1/3<sup>rd</sup> share each. Plaintiffs father had alienated the suit schedule properties in favour of defendant No.2 under Registered sale deed dated:27.03.1991 without the knowledge and consent of the plaintiff and inturn defendant No.2 has alienated the same in favour of defendant No.3 under Registered sale deed dated:17.11.1994 and the said sale deeds are not binding on plaintiffs.

9. To substantiate the contention of the plaintiffs, plaintiff No.2 is examined as PW.1 and got marked 4 documents as Ex.P1 to 4. PW.1 has reiterated the averments of plaint. Ex.P1 is the certified copy of the Registered sale deed dated:27.03.1991 and its recitals goes to show that plaintiffs father has alienated the suit schedule properties in favour of defendant No.2 for family necessities. Ex.P2 is the certified copy of the Registered sale deed dated:17.11.1994 and its recitals goes to show that defendant No.2 has alienated the suit schedule properties in favour of defendant No.3. The said sale deeds are remained unchallenged by the plaintiffs and defendant No.1 for a period of 25 years for the best reason known to them. Ex.P3 & 4 are the Tax paid receipt and Khatha

extract pertaining to suit schedule properties stands in the name of defendant No.3.

10. Though plaintiffs have filed this suit for partition and separate possession, they have not produced G-Tree or other identity proof documents to establish that they are the children of Venkatanarasegowda. They have also not produced any old documents to show that suit schedule properties are their Ancestral and Joint Family properties and khatha stood in the names of their ancestors. Apart from producing Registered sale deeds, Tax paid receipt and recent khata extract, plaintiffs have not placed any single piece of paper to show that said property was their Ancestral and Joint Family properties.

11. In this case only defendant No.3 has contested the matter and defendant No.1 & 2 have remained absent and placed exparte. It is the case of the defendant No.3 that plaintiffs father had alienated the suit schedule properties for the legal necessity and family benefit and therefore defendant No.2 was the bonafide purchaser and defendant No.3 has purchased the said properties for valuable consideration and thus he is an absolute owner in possession and enjoyment over

the suit schedule properties under Registered sale deed dated:17.11.1994.

12. In support of the contention of defendant No.3, her SPA holder is examined as DW.1 and got marked 13 documents and also got examined two witness as DW.2 & 3. Ex.D13 is the Special Power of Attorney executed by defendant No.3 in favour of DW.1 to prosecute the case on her behalf. Ex.D1 & 2 are the original Registered sale deeds dated:27.03.1991 and 17.11.1994 and its recitals are already discussed above. Ex.D3 to 11 are the demand register extracts and Tax Paid receipts pertaining to the suit schedule properties which stands in the name of defendant No.3. Ex.D12 is the Patta Book issued by Kodigehalli Gram Panchayath which discloses that based on MR.No.55/96-97 khatha has been transferred in the name of defendant No.3 and earlier khatha stood in the name of defendant No.2.

13. On perusal of the pleadings it goes to show that, plaintiffs have challenged the Registered sale deed dated:27.03.1991 executed by their father after lapse of 26 years stating that without their consent and permission the suit schedule properties were alienated and the same is not in

accordance with law and binding on the share of plaintiffs. On perusal of the age mentioned in the plaint it goes to show that plaintiffs were aged about 39 & 37 in the year 2016 and therefore in the year 1991 plaintiff No.1 was aged about 13 years and plaintiff No.2 was aged about 11 years. First of all plaintiffs have not produced any documents to show that suit schedule properties are their Ancestral and Joint Family properties and thereafter they have also not produced G-Tree to show that they are the children of vendor. Even if it is presumed that suit schedule properties were the Ancestral and Joint Family properties of the plaintiff and the same is alienated by the father then the children are entitle to challenge the alienation only on the grounds that said property was alienated not for the legal necessity and family benefit. But on entire reading of plaint averments there is no single averment that their father had not alienated the suit schedule properties for legal necessity or family benefit and even they have not alleged that their father had bad habits and to fulfill his bad desires suit schedule properties were alienated. Under such circumstances there is no cause of action for the plaintiffs to

challenge the alienation made by their father that too after lapse of 26 years.

14. On perusal of the age mentioned in the plaint, it appears that plaintiffs were minors in the year 1991 and therefore as per Art.60 of the limitation Act, the period of limitation to set aside transfer of property made by the guardian is 3 years when the ward attains majority. Under such circumstances it appears that plaintiffs have attained majority in the year 1996 and 1998 respectively and the period of limitation lapsed in the year 1999 & 2001 respectively and therefore the present suit filed after lapse of 17 & 19 years is hopelessly barred by law of limitation. Apart from that as per Art.109 of the limitation Act the period of limitation is 12 years to set aside father's alienation of ancestral property and as per Art.110 also the period of limitation is 12 years to enforce a right by a person excluded from the Joint family when the exclusion becomes known to the plaintiff. Under these provisions also the suit is hopelessly barred by law of limitation.

15. Apart from the ground of limitation, since plaintiffs have challenged the alienation made by their father and

defendant No.3 has taken defense of bonafide purchaser, the burden is on the purchaser to establish that suit schedule properties were alienated for legal necessity and family benefit. Nodoubt in the sale deed it is specifically mentioned that plaintiffs father has alienated the suit schedule properties for family necessities. Apart from that in the cross-examination of PW.1 he has specifically admitted that his father was looking after the welfare of the family and he had provided them education. He further admits that his father had alienated the suit schedule property on 27.03.1991 for family benefit and legal necessity and also admits that defendant No.2 is the bonafide purchaser. Hence, admitted fact need not be proved. Even then defendant No.3 has relied upon the Registered sale deed wherein it is specifically mentioned that plaintiffs father had alienated the suit schedule property for legal necessity and also elicited said aspect from the mouth of PW.1 in the cross-examination.

16. The only allegation of the plaintiffs is that their father had alienated the suit schedule property without their knowledge. When plaintiffs were minors the question of seeking

their permission or obtaining their consent does not arise. If they were aggrieved, they ought to have challenged father's alienation within the period of limitation only on the ground that the said alienation was not for legal benefit or family necessity. Under such circumstances there is no cause of action for the plaintiffs to file this suit and the one mentioned in the para No.7 of the plaint appears to be illusory and imaginary cause of action.

The defendant No.3 has relied upon two judgments in support of her case. In **Civil Appeal No(S).5340/2017 in the case of Dastagir Sab Vs Sharanappa** it was held that:-

**“Once the factum of existence of legal necessity stood proved, then, in our view no coparcener (son) has a right to challenge the sale made karta of his family. The plaintiff being her son was one of the coparceners along with his father Preetam Singh. He had no right to challenge such sale in the light of findings of legal necessity being recorded against him. It was more so when the plaintiff failed to prove by any evidence that there was no legal**

**necessity for sale of the suit land or that the evidence adduced by the defendants to prove the factum of existence of legal necessity was either insufficient or irrelevant or no evidence at all.”**

In **RFA.No.862/2023 dated:22.04.2026** in the case of **Narasimurthy and others Vs Mallesh and others** it was held that:-

**“The plaint that has been filed for cancellation of three sale deeds of 1980 and release deeds are 2020 and these release deeds and sale deed refer to the several Registered sale deeds dated:15.03.1944 onwards. In any event, since the grand father of the plaintiff has executed the registered instruments in the year 1944, the challenged by the plaintiffs in the present suit to a subsequent sale deed cannot be maintained.”**

By observing that the suit is barred by law of limitation the Hon'ble High Court has upheld the order of rejection of plaint by the trial court and accordingly dismissed the appeal. The

facts and circumstances of the above said citations aptly applies to the case on hand.

17. To sum up plaintiffs have failed to prove that suit schedule properties are their Ancestral and Joint Family properties and they are in joint possession and enjoyment over the same through oral and documentary evidence. They have also failed to prove that the Registered sale deeds dated:27.03.1991 and 17.11.1994 are not binding on them. On the other hand defendant No.3 has proved that defendant No.2 was the bonafide purchaser of the suit schedule properties and plaintiffs father being the karta of the Joint family had alienated the same for legal necessity and family benefit. The plaintiffs have challenged the said sale deed after lapse of 26 years and sought declaratory relief therefore the suit is also barred under Art.58 & 59 of the limitation Act. In addition to that suit is also barred under Art.60, Art.109 & Art.110 of the limitation Act. Defendant No.3 had established that he is absolute owner in possession and enjoyment over the suit schedule property under Registered sale deed dated:17.11.1994. Hence, **I answer**

**Issue No.1 & 2 in the Negative and Issue No.3 in the Affirmative.**

**18. ISSUE No.4:** As already discussed in issue No.1 to 3 plaintiffs have failed to prove that they are the members of Hindu Undivided joint family and suit schedule properties are their Ancestral and Joint Family properties and Registered sale deed dated:27.03.1991 and 17.11.1994 are not binding on them. On the other hand defendant No.3 has proved his title and possession over the suit schedule properties under Registered sale deed dated:17.11.1994 and she is a bonafide purchaser of the suit schedule properties. Apart from that suit is also barred by law of limitation. Hence, plaintiffs are not entitle for any reliefs as claimed. Hence, **I answer Issue No.4 in the Negative.**

**19. ISSUE No.5:** For the aforesaid reasons hence, I proceed to pass the following;

**ORDER**

**Suit of the plaintiffs 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 18<sup>th</sup> day of July 2026)

**(SHILPA.H.A)**

Senior Civil Judge & JMFC.,  
Doddaballapura.

**ANNEXURE**

**List of witnesses examined on behalf of Plaintiffs:**

- PW.1 : Sri.Ramesh Patil  
S/o Late Venkatanarasegowda,  
dated:20.11.2021.
- PW.2 : Sri.Arasegowda S/o Late Hanumantaraya  
Gowda, dated:14.12.2023.

**List of documents marked on behalf of Plaintiffs:**

- Ex.P.1 : Certified copy of the Registered sale deed,  
dated:27.03.1991.
- Ex.P.2 : Certified copy of the Registered sale deed,  
dated:17.11.1994.
- Ex.P.3 : Tax Paid Receipt.
- Ex.P.4 : Khata of Assessment extract.

**List of witnesses examined on behalf of Defendants:**

- DW.1 : Sri.Chandrashekar S/o Earappa,  
dated:05.12.2024.
- DW.2 : Sri.K.L.Mariyappa S/o Late Linganna,  
dated:14.01.2026.
- DW.3 : Sri.Ashwathappa.T S/o Late Timmegowda,  
dated:14.01.2026.

**List of documents marked on behalf of Defendants:**

- Ex.D.1 : Original Registered sale deed,  
dated:27.03.1991.
- Ex.D.2 : Original Registered sale deed,  
dated:17.11.1994.
- Ex.D.3 to 7 : Demand Register Extracts.
- Ex.D.8 to 11 : Tax Paid Receipts.
- Ex.D.12 : Patta Book.
- Ex.D.13 : Special Power of Attorney.

**(SHILPA.H.A)**

Senior Civil Judge & JMFC.,  
Doddaballapura.