

KABR610016872015



**IN THE COURT OF PRL CIVIL JUDGE & J.M.F.C.,  
NELAMANGALA**

**DATED THIS THE 15<sup>th</sup> DAY OF JUNE-2026**

**SMT. POOJA SHETTI, B.A., LL.B (Hons)  
Prl. Civil Judge & J.M.F.C.,  
Nelamangala.**

**O.S.No.237/2015**

**Plaintiff/s:-**

1. Smt. Siddagangamma,  
D/o late Siddabyraiah,  
Aged about 45 years,
2. Smt. Siddalakshamma,  
D/o late Siddabyraiah,  
Aged about 40 years.
3. Smt. Gangamma,  
D/o late Siddabyraiah,  
Aged about 38 years.
4. Smt. Nanjamma,  
D/o late Siddabyraiah,  
Aged about 30 years.
5. Ambika,  
D/o late Siddabyraiah,  
Aged about 28 years.

All are R/at: Yalachagere Village,  
Kasaba Hobli,  
Nelamangala Taluk,  
Bengaluru Rural District.

**(By Sri. A.S., Advocate)**

- V/S -

**Defendant/s:-**

1. Sri. Siddabyra,  
S/o late Siddaiah,  
Since dead by Lrs.
- 1(a). Gangalakshamma,  
W/o late Siddabyra,  
Aged about 50 years.  
R/at: Yalachagere Village,  
Kasaba Hobli,  
Nelamangala Taluk,  
Bengaluru Rural District.
2. Nagaraju,  
S/o late Siddaiah,  
Aged about 50 years,

Defendant No.1 and 2 are R/at:  
Yalachagere Village,  
Kasaba Hobli,  
Nelamangala Taluk,  
Bengaluru Rural District.

3. Smt. Gangamma,  
D/o Siddaiah,  
Aged about 50 years,  
R/at: Bennekoppa Village,  
Sigannahalli Post,  
Hebbur Hobli,  
Tumkuru Taluk and District.
4. Smt. Sukamma,  
D/o late Siddaiah,  
Aged about 38 years,  
R/at: Yalachagere Village,  
Kasaba Hobli,  
Nelamangala Taluk,  
Bengaluru Rural District.
5. Smt. Lakshamma,  
D/o late Siddaiah,  
Aged about 36 years,

R/at: Yalachagere Village,  
Kasaba Hobli,  
Nelamangala Taluk,  
Bengaluru Rural District.

6. Byamma,  
D/o Siddabyraiah,  
Aged about 30 years,  
W/o Anjanappa,  
R/at: Bavikere Village,  
Kasaba Hobli,  
Nelamangala Taluk.

**(By Sri.V.L.R., Advocate for D2 to 5)  
(D6 Exparte)**

**I.A. No.6**

<b>APPLICANT</b>	:	Nagaraju.
<b>-V/S-</b>		
<b>OPPONENTS</b>	:	Siddagangamma and others.

**ORDER ON IA No. 6**

This is an application filed by counsel for defendant No. 2 under Order VII Rule 11 (a), (b) and (d) read with section 151 of CPC with prayer to reject the plaint, as there is no cause of action and suit is barred by law of limitation.

2. It is the submission of the applicant that the plaintiffs herein have filed present suit against the defendants for the relief of partition and separate possession. However the suit is bad for non-joinder of necessary party and mis-joinder of unnecessary party.

3. Further according to applicant, the Bairalingaiah, who is the propositus of the plaintiff's family, had five children and the plaintiff has not made Smt. Lakshamma alias Lakkamma, who is mother of plaintiffs and other legal representative of Siddhabhraiah as party. Hence suit is bad for non-joinder of necessary party and mis-joinder of unnecessary parties.

4. Further according to defendant No.2, first son of late Bairalingaiah alias Boralingaiah i.e. Gangabairaiyah had sold his one third share in the joint family properties to one Mayanna under a registered sale deed dated 28.05.1959 itself, hence the said transaction itself goes to show that there was a partition among the family members of plaintiffs and defendants.

5. Further according to applicant, uncle of plaintiffs by name Gangabairaiyah has sold his 1/3<sup>rd</sup> share in the joint family properties to one Mayanna on 28.05.1959 and after partition, father of plaintiffs and father of defendants were living separately by enjoying their respective shares.

6. Further according to applicant, father of plaintiffs herein has filed a suit against his brothers before the Court of Munsiff, Doddapallapura in OS No. 236/1973 seeking the relief of declaration and permanent injunction and in the said suit he has clearly mentioned that in a partition which has taken place between himself and his brothers, 'A' schedule property was given to the share of Gangabairaiyah, 'B' schedule property was given to the share of Siddaiah i.e. father of defendant No.2

and 'C' schedule property was allocated to the share of father of plaintiffs herein. Accordingly property in Survey No. 106/1, 83/6, 106/3, 52/2, 63 and a vacant site has fallen to the share of father of plaintiff as per partition which has taken place on 23.03.1969.

7. Hence as plaintiff has suppressed all those facts and as plaintiff has filed suit after the lapse of nearly 60 years of partition, the suit itself is not maintainable. Hence prays to reject the same.

8. On the other hand in spite of sufficient opportunity the plaintiffs did not file objection to the present application.

9. Heard advocate for defendant, counsel for plaintiff did not address the argument. Perused materials available on record.

10. The following points arise for my consideration:

**POINTS**

1. Whether the defendant No.2 has made out grounds to allow the application filed by him under order VII rule 11 (a), (b) and (d) read with section 151 of CPC?

2. What order?

11. My answer to the above points are;

**Point No.1 : In the Affirmative.**

**Point No.2 : As per the final order,  
for the following.**

## **REASONS**

**12. Point No.1 :** In the present application, it is the submission of the applicant that though partition has taken place between father of plaintiffs and his brothers nearly 60 years ago itself and though there exist no joint family between plaintiffs and defendants, the plaintiffs by suppressing material facts have filed present suit against the defendants.

13. At the time of hearing, counsel for defendant relied upon paragraph No.3 of the plaint and on perusal of the same, in paragraph No.3 of the plaint, the plaintiffs themselves have stated that one Gangabairaiyah who is brother of father of plaintiffs, has sold his 1/3 rd share in the joint family property to one Mayanna under registered sale deed dated 28.05.1959. However, the plaintiffs herein have claimed that only he has taken his share and father of plaintiffs and father of defendants continued to be in joint possession of suit schedule property.

14. However, the counsel for defendant No.2 has also filed photocopy of order sheet and plaint in OS No. 236/1973 instituted by Siddabyappa @ Siddabyraiah, who is the father of plaintiffs herein and on perusal of the same, in the pleadings, father of plaintiffs herein himself has stated that there was a partition/family arrangement between himself and his brothers, wherein 'C' schedule properties were allocated to the father of plaintiffs herein.

15. Further in OS No. 236/1973, father of plaintiffs has averred that in accordance with schedule 'C' of Palupatti,

properties in Survey No. 106, 183, 106, 152, 166 and a vacant site has fallen to his share. Further in paragraph No.4 of the aforesaid plaint, he himself has deposed that the said partition has taken place on 23.09.1969 itself, which amounts judicial admission.

**16. The Hon'ble Supreme Court in K. Akbar Ali Vs K. Umar Khan and others reported in (2021) 14 Supreme Court Cases 51 held that " Clever drafting creating illusions of cause of action are not permitted in law and a clear right to sue should be shown in the plaint. Similarly, the Court must see that the bar in law of the suit is not camouflaged by devious and clever drafting of the plaint. Moreover, the provisions of order 7 rule 11 are not exhaustive and the Court has the inherent power to see that frivolous or vexatious litigations are not allowed to consume the time of Court.**

**17.** In view of aforesaid judgment of Hon'ble Supreme Court, when the plaintiffs did not even file objection to the present application and when document produced by the defendant belonging to undisputed point of time goes to show that there was a partition of joint family properties between father of plaintiffs and his brothers, suit of the plaintiff is hopelessly barred by limitation.

**18.** Further when the plaintiffs have filed present suit by suppressing material facts and by creating imaginary cause of action and when suit is barred by law of limitation and when

the plaintiffs did not approach the court with clean hand, by disclosing earlier proceedings, the plaint needs to be rejected. Hence, I answered point number 1 in the affirmative.

**19. Point No.2** : For the reasons stated in Point No.1, I proceed to pass the following;

**ORDER**

The application filed by defendants under Order VII Rule 11(a), (b) and (d) read with section 151 of CPC is hereby allowed.

Accordingly, plaint is rejected.

Draw decree accordingly.

(The order dictated to the Stenographer directly on computer, transcribed and typed by her and corrected, signed and pronounced by me in the open court on this 15<sup>th</sup> day of June 2026)

**Pri. Civil Judge and JMFC.,  
Nelamangala.**