

KABR600013172022



IN THE COURT OF II ADDL. SENIOR CIVIL JUDGE AND JMFC.,
NELAMANGALA

Present: Sri. Kishor Kumar M.,

B.A. LL.B.,

II Addl. Senior Civil Judge & JMFC., Nelamangala

Dated this 17th day of October, 2025

FDP/25/2022

1. **Smt.Chowdamma**
D/o Late.Gangarangaiah
W/o Late.Bylappa
Aged about 72 years,
R/at Melekathiganooru Village,
Sompura Hobli, Nelamangala Taluk,
Bangalore Rural District.
2. **Smt.Chowdamma**
D/o Late.Gangarangaiah,
W/o Late.Bylappa
Aged about 70 years,
R/at Muppenahally Village,
Soluru Hobli, Magadi Taluk,
Ramanagara District.

...Petitioners/Plaintiffs

(By Sri. B.G., Adv.,)

V/s.

1. **Sri.Rangaswamaiah**
S/o late.Gangarangaiah,

Aged about 67 years,
R/at Near office of the Agricultural Department,
Lohith Nagara, Kasaba Hobli,
Nelamangala Town,
Bangalore Rural District.

2. **Smt.Lakshmamma**
W/o late.Melagiraiah
Aged about 65 years,
3. **Smt.Rangamma**
D/o late.Melagiraiah
Aged about 53 years,
4. **Smt.Byramma**
D/o late.Melagiraiah
Aged about 50 years,
5. **Sri.Narayanaswamy**
S/o late.Melagiraiah
Aged about 47 years,
6. **Sri.Sreenivasa**
S/o late.Melagiraiah
Aged about 43 years,
7. **Sri.Manjanna**
S/o Late.Melagiraiah
Aged about 39 years,

Respondent No.2 to 7 are
R/at Melekathiganooru Village,
Sompura Hobli, Nelamangala Taluk,
Bangalore Rural District.

...Respondents/Defendants

(Respondent No.1 is placed Exparte)
(Respondent No.2 to 7 by Sri. K.R.G., Advocate)

:-: O R D E R :-:

The petitioners have filed the present petition under Order XX Rule 18 read with Section 54 of the Code of Civil Procedure, 1908, seeking a final decree for partition and separate possession of their 1/4th share each in the suit schedule property, in terms of the judgment and preliminary decree passed in O.S. No. 485/2021.

2. The petitioners had earlier instituted O.S. No. 485/2021 before this Court against the respondents, praying for a decree of partition and separate possession of their legitimate share in the suit schedule property. The said suit was decreed on 19.07.2022, declaring that each of the plaintiffs was entitled to a 1/4th share in the suit property. Consequently, the present petition has been filed to draw the final decree in accordance with the preliminary decree passed in O.S. No. 485/2021. The petitioners now seek division of their respective 1/4th shares in the suit property.

3. In response to notice issued by this Court, Respondents No. 2 to 7 entered appearance through their learned counsel and submitted no objection to the appointment of a Court Commissioner for preparing a scheme of partition in terms of the preliminary decree. In spite of due service of notice, Respondent No. 1 failed to appear before the Court and was hence placed ex parte.

4. The Court has heard the arguments of the learned counsel for the petitioners as well as the learned counsel for

Respondents No. 2 to 7, and has perused the entire material available on record.

5. The points that arise for my consideration are as follows:

- 1. *Whether the petitioners have made out sufficient grounds for drawing the final decree as per the scheme prepared by the Court Commissioner?***
- 2. *What order or decree?***

6. My findings on the above points are as follows, for the reasons discussed hereunder:

Point No. 1: In the Affirmative

Point No. 2: As per the Final Order

REASONS

7. Point No.1:- The petitioners have filed this petition under Order XX Rule 18 read with Section 54 CPC. The record clearly reveals that the petitioners had filed O.S. No. 485/2021 before this Court, seeking partition and separate possession of their respective shares in the suit schedule property. The suit was decreed on 19.07.2022, granting each plaintiff a 1/4th share in the suit property.

8. It is an undisputed fact that the plaintiffs, Defendant No. 1, and Late Mela Giraiah (husband of Defendant No. 2 and father of Defendant Nos. 3 to 7) are the children of late Gangarangaiah and Byamma. Although the operative portion of the judgment did not expressly declare the share of Defendant No.

1, paragraph 16 of the judgment (page 9) clearly states that upon the demise of Gangarangaiah, succession opened and his children succeeded to his estate by operation of law. Accordingly:

- Plaintiff No. 1 and Plaintiff No. 2 (daughters) are each entitled to a **1/4th share**;
- Defendant No. 1 (son) is entitled to a **1/4th share**; and
- Defendant Nos. 2 to 7, being legal heirs of the deceased **Mela Giraiah**, are collectively entitled to a **1/4th share** as Class-I heirs.

Hence, the petitioners are entitled to a final decree in accordance with the preliminary decree passed in O.S. No. 485/2021.

9. At the instance of the petitioners, the Tahsildar, Nelamangala Taluk was appointed as Court Commissioner to prepare a scheme of partition in respect of the suit property. The Commissioner accordingly submitted his report and sketch, dividing the property in accordance with the preliminary decree.

10. The learned counsel for the petitioners and Respondents No. 2 to 7 have filed no objections to the Commissioner's report. The Commissioner has divided the suit property into four equal parts.

11. It is not the case of any party that an appeal has been preferred or is pending against the preliminary decree in O.S. No. 485/2021. The said decree has therefore attained finality. Upon perusal of the Commissioner's report, it is evident that the division has been made in accordance with the preliminary decree,

ensuring that no party gains any unjust advantage. Hence, there exists no legal impediment to the drawing of the final decree.

12. The Commissioner has divided the suit property by metes and bounds, allotting specific blocks as follows:

Block No. I — allotted to Petitioner No. 1

Block No. II — allotted to Petitioner No. 2

Block No. III — allotted jointly to Respondent Nos. 2 to 7

Block No. IV — allotted to Respondent No. 1

Accordingly, the scheme of partition prepared by the Commissioner is fair, proper, and in consonance with the preliminary decree. Therefore, it is liable to be accepted, and a final decree shall be drawn based on it. Hence, Point No. 1 is answered in the '***Affirmative***'.

13. Point No. 2:- In view of my finding on the above point, the petition deserves to be allowed. Accordingly, I proceed to pass the following:-

ORDER

The petition filed by the petitioners is hereby allowed.

The report and sketch submitted by the Tahsildar, Nelamangala Taluk (Court Commissioner), preparing the scheme of partition in respect of the suit property in accordance with the preliminary decree passed in O.S. No. 485/2021 dated 19.07.2022, are hereby accepted.

The division of the suit property shall be as follows:

Block No. I — allotted to Petitioner No. 1

Block No. II — allotted to Petitioner No. 2

Block No. III — allotted jointly to Respondent Nos. 2 to 7

Block No. IV — allotted to Respondent No. 1 (as shown in the sketch prepared by the Tahsildar, Nelamangala Taluk)

A Final Decree is ordered to be drawn in terms of the preliminary decree passed in O.S. No. 485/2021 and in accordance with the Commissioner's report and sketch.

The Commissioner's report and sketch shall form an integral part of the Final Decree.

Draw Final Decree accordingly.

(Dictated to the Adalat AI on my laptop, corrected by me, printout taken by the Stenographer, and then pronounced by me in open court on this the **17th day of October, 2025.**)

(Sri. Kishor Kumar .M.,)

II Addl. Senior Civil Judge & JMFC.,
Nelamangala.

:: ANNEXURE ::

1. List of witnesses examined by the petitioners:-

None

2. List of documents marked by the petitioners:-

Nil

3. List of witnesses examined by the respondents:-

None

4. List of documents marked by the respondents:-

Nil

II Addl. Senior Civil Judge & JMFC.,
Nelamangala.