

Govt. of Karnataka

C.R.P.67]

Form No.9 (Civil)
Judgment in Suits
(R.P.91)

TITLE SHEET FOR JUDGMENTS IN SUITS**IN THE COURT OF THE CIVIL JUDGE AT
BAGEPALLI**

PRESENT:

**Sri. PRAVEEN R.J.S,
B.A, LL.B****(Name of the Presiding Judge)****ORIGINAL SUIT.No 193/2014****Plaintiff/s:**

Smt. Venkataravanamma
W/o late.Venkatanarayanappa,
Aged about 38 years,
Agriculturist,
R/o Roddamvaripalli village,
Somaghatta post,
Chilamatur mandal,
Hindupur taluk, Ananthapur district,
Andhra Pradesh.

[Represented by Sri. M.K.Allabakash,
Advocate]

-vs-**Defendant/s**

Sri. Shivappa
S/o late Thimmanna
@ Jeerayappa
Aged about 50 years,
R/o Roddamvaripalli village,
Somaghatta post,
Chilamatur Mandal,
Hindupur taluk, Ananthapur district,
Andhra Pradesh.

[Represented by Sri.G.S.Nagaraj, Advocate]

**(PRAVEEN.R.J.S)
CIVIL JUDGE& J.M.F.C,
BAGEPALLI.**

The Plaintiff has filed this suit against the defendant for the relief of partition and separate possession with respect to suit schedule property & costs of this suit.

The Plaintiff has contended in her plaint that herself and the Defendant are the members of Hindu undivided joint family and the suit schedule property is joint family property of herself and the Defendant; that they are governed by Mithakshara School of Hindu Law; that one Thimmanna @

Jeerayappa S/o Thimmanna of Raddamvaripalli is the propositus of the family, he married Yellakka, they begot three sons namely Venkataramappa, Shivappa and Venkatanarayanappa respectively and constituted an undivided Hindu joint family; that the propositus Thimmanna had several properties including suit schedule property; that his elder son Venkataramappa has released from the joint family under a registered partition deed No.61/82-83 dated 15.4.1982 and the same was executed by Venkataramappa in favour of his father with respect to land bearing Sy.No. 192 measuring 3 acres 3 guntas, that thereafter, Thimmanna and his sons Shivappa and Venkatanarayanappa continued in joint family by enjoying the suit schedule property. According to the plaintiff, Thimmanna and Yellakka are no more now and after their death Shivappa and Venkatanarayanappa continued in joint family by enjoying the suit schedule property. It is further contended that Venkatanarayanappa S/o Thimmanna @ Jeerayappa died on 27.11.2013 leaving behind his widow Venkataravanamma i.e. the Plaintiff to succeed to his interest in the suit schedule property and also that after the death of Venkatanarayanappa,

the Plaintiff and Shivappa i.e. Defendant continued in joint family by enjoying the suit schedule property and the khata was mutated to the name of Defendant vide M.R.No.16/2007-2008 dated 11.3.2014; But the Defendant by taking advantage of the khata standing in his name is acting detrimental to the interest of the Plaintiff and trying to dispossess the Plaintiff from the suit schedule property. The Defendant has declined to effect partition of the suit schedule property and to allot the plaintiff's half share in the suit schedule property in the second week of September 2014 when demanded by the Plaintiff. Hence, the Plaintiff has been constrained to file this suit for partition and separate possession of her half share. Hence, prayed for Judgment and decree.

3. Suit summons was served on the defendant and he has appeared before this court through his counsel, but in spite of sufficient opportunity, the Defendant has failed to file his Written statement and to contest the suit. Hence, the Written statement of the Defendant is taken as not filed.

4. The Plaintiff in order to prove her case, got herself examined as P.W.1. The plaintiff produced and got marked 5

documents as Ex.P.1 to Ex.P.5. There is no evidence on behalf of defendant as defendant placed ex parte.

5. Heard the arguments and perused the case papers.

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

1. Whether plaintiff is entitled for the relief as sought?
2. What order or decree?

7. My answer to the above points are as follows:-

Point No.1 :- In the affirmative.

Point No.2 :- As per my final order for the following;-

REASONS

8. Point No.1:- The Plaintiff has filed this suit against the defendant for the relief of partition and separate possession with respect to suit schedule property .

9. In order to prove her case the plaintiff examined herself as P.W.1 and filed her affidavit in lieu of her Chief examination by reiterating the plaint averments and deposed that herself and the Defendant are the members of Hindu undivided joint family and the suit schedule property is their joint family

property and she has got ½ share in the suit schedule property.; that the suit schedule property was originally owned by her father in law Thimmanna @ Jeerayappa S/o late Thimmanna and the said Thimmanna and his wife Yellakka are no more and that they had three sons namely Venkataramappa, Shivappa and Venkatanarayanappa; that the elder son Venataramappa got released from the family vide registered partition deed dated 15.4.1982 and thereafter Thimmanna, his second and third sons Shivappa and Venkatanarayanappa were continued in the joint family; and that after the death of Thimmanna, the defendant and the husband of plaintiff namely Venkatanarayanappa continued in joint family; that the plaintiff's husband died on 27.11.2013 and she succeeded to his share and the defendant by taking advantage of khata standing in his name, is trying to dispossess the plaintiff from the suit schedule property and refused to effect partition. IN support of her case, she has produced the RTC and mutation as per Ex.P.1 and 2 for Land bearing Sy.No.189/1 measuring 1 acre 31 guntas standing in the name of defendant on the basis of partition, Ex.P.3 is

Mutation register extract in the name of defendant with respect to said Survey number. Ex.P.4 is the registered deed dated 15.4.1982 [release deed] executed by Venkataramappa the elder son of Thimmanna. Ex.P.5 is the death certificate of plaintiff's husband V.Venkatanarayanappa. The above said oral and documentary evidence adduced by the plaintiff is consistent with her pleadings. In spite of sufficient opportunities the defendant failed to file his written statement, and failed to either cross examine the plaintiff or lead any evidence on his behalf. Therefore the oral and documentary evidence of the plaintiff has remained unchallenged. Therefore I have no reasons to disbelieve the evidence of plaintiff and I hold that the plaintiff and defendant are the members of Hindu undivided joint family and they are in possession and enjoyment of the suit schedule property and the plaintiff is entitled for half share in the suit schedule property. Accordingly, I answer Point No.1 in the Affirmative.

10. **POINT NO.2** :- Based on the discussions made supra, it is clear that the plaintiff is entitled to the relief sought for and accordingly, I proceed to pass the following: -

ORDER

Suit of the plaintiff is hereby decreed.

The plaintiff is entitled for 1/2 share in the suit schedule property.

Draw preliminary decree accordingly.

(Dictated to the stenographer directly on the **computer**, corrected by me, signed then pronounced in the open court on this the **28th day of April 2016**).

(PRAVEEN.R.J.S)
CIVIL JUDGE AND J.M.F.C,
BAGEPALLI .

A N N E X U R E**1. Witnesses examined on behalf of the plaintiff/s**

P.W.1 - Venkataravanamma

6.4.2017

2. List of the documents exhibited on behalf of plaintiff/s

Ex.P.1 & 2	-	RTC extracts
Ex.P.3	-	Mutation register extract
Ex.P.4	-	Release deed
Ex.P.5	-	Death certificate

3. List of the witnesses examined on behalf of defendant/s

-NIL-

**4. List of the Documents exhibited on behalf of
defendant/s**

- NIL-

(PRAVEEN.R.J.S)
CIVIL JUDGE & J.M.F.C
BAGEPALLI.