

Form No.9  
(Civil)Title sheet  
for Judgment in  
suits( R.P.91)

Govt. of Karnataka  
TITLE SHEET FOR THE JUDGMENT IN SUITS  
**IN THE COURT OF CIVIL JUDGE AND JMFC.,  
BAGEPALLI**

Dated this the 02<sup>nd</sup> day of August-2021

**PRESENT :**    **Sri.S.M.ARUTAGI. B.com., LL.B. (Spl).**  
                         **Civil Judge & JMFC.,**  
                         **Bagepalli**

**O.S.No.187/2016**

Plaintiff :            Sri. Anjinappa  
                         S/o Late Venkatappa  
                         Aged about 55 Yrs  
                         R/o Kadhirannagarikote  
                         Village  
                         Chelur Hobli  
                         Bagepalli Taluk  
                         Chikkaballapur District.

(Rep.by Sri.M.B.G.Adv.,)

-V/S -

Defendant/s : 1.    Sri. Narayanappa  
                         S/o Late A.K.Venkatappa  
                         Aged about 65 Yrs

2. Sri. Ramappa  
S/o Late A.K.Venkatappa  
Aged about 63 Yrs
3. Sri. Nanjappa  
S/o Late A.K.Venkatappa  
Aged about 58 Yrs
4. (Smt. Lakshmamma  
D/o A.K.Venkatappa  
W/o Papanna  
Aged about 50 Yrs  
Since dead deleted  
as per the order dated  
7.11.2016.)
5. Smt. Parvathamma  
W/o Ramappa  
Aged about 55 Yrs
6. Sri. Papanna  
S/o Late Avulappa  
Aged about 60 Yrs  
All the defendants are the  
R/o Kadhirennagarikote  
Village  
Chelur Hobli  
Bagepalli Taluk  
Chikkaballapur District.  
Since dead the Lr's of D.6  
are Defe No.7, 8, 9 are  
already on record).

7. P. Venkataravanappa  
S/o Papanna  
Aged about 40 Yrs  
Agricultural Professor  
Kuruvuru Agricultural  
Farm, Kasaba Hobli  
Chinathamani Taluk  
Chikkaballapur District.
8. Smt. Nanjamma  
W/o Nanjappa  
Aged about 35 Yrs
9. Smt. Venkataravanamma  
W/o Anjinappa  
Aged about 30 Yrs  
Defendant No.8 and 9 are  
R/o Kadhiraannagarikote  
Village, Chelur Hobli,  
Bagepalli taluk  
Chikkaballapur District.

(Rep/by Sri. P.V.A. Adv., for D.1, 3, 5 &  
6 and Sri. R.C.S.Ad., for D.2)

|                                                          |                                           |
|----------------------------------------------------------|-------------------------------------------|
| Date of Institution of the suit                          | : 31.08.2016                              |
| Nature of the Suit                                       | : Partition and<br>Separate<br>possession |
| Date of the commencement of<br>Recording of the evidence | : 25.06.2018                              |

Date of which the Judgment  
Was pronounced : 02.08.2021

Total Duration : Year/s Month/s Days/s  
04 11 02

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

This is a suit filed by the plaintiff for the relief of partition and separate possession against the defendants with respect to the suit schedule properties and other reliefs.

2. It is the case of the plaintiff that himself and defendants are members of Hindu undivided joint family and the suit schedule properties are ancestral and joint family properties of himself and defendants and they are in joint possession and enjoyment of the suit schedule properties and there is no partition has been taken place in between himself and defendants with respect to the suit schedule properties and in order to show the detail relationship he got produced genealogical tree. The defendant No.1 is kartha of the joint family and he mis managing the joint family funds

without giving any proper accounts and therefore, the plaintiff had demanded his legitimate share over the suit schedule properties. The defendant No.1 has flatly refused to effect the same and now the defendants are tried to alienate the suit schedule properties and also tried to create 3<sup>rd</sup> party interest over suit schedule properties and therefore, he constrained to file the present suit.

3. On service of summons, the defendant No.1 to 6 appeared through their counsel and inspite of giving sufficient adjournment, the defendant No.2, 3, 5 & 6 not chosen to file their written statement and therefore, their written statement taken as not filed. The defendant No.1 filed his written statement through his counsel and during the pendency of the suit the defendant No.7 to 9 have been impleaded as necessary parties and they have also not filed their written statement despite of giving sufficient adjournment. In the written statement, the defendant No.1 denied all the plaint averments are false, frivolous and vexatious and not maintainable under law and on facts. It is contended that the item No.3 and item No.6 properties are exclusively belongs to defendant No.6 and the

defendant No.6 is not a member of the joint family and the plaintiff has no right and share in the above properties. It is contended that the father of the plaintiff and defendant No.1 has no independent source of income and even, except the item No.3 and 6 rest of the properties are belongs to mother of the plaintiff and defendant No.1 by name Panthulamma @ Gangamma and same has been inherited through her father by name Auvalappa under registered document dated 14.05.1947 and therefore, the plaintiff has no right in the suit properties. It is contended that the item No.9 of suit property is exclusively belongs to defendant No.2 and he purchased the tractor by taking hand loan and bank loan and therefore, the plaintiff has no right or share in the said property. It is contended that the suit of the plaintiff is bad for non joinder of necessary parties and properties and the plaintiff has not come before this court with clean hands and clear intention. On these grounds prayed for dismissal of suit with costs.

4. Thereafter, the plaintiff in order to substantiate his case, got himself examined as PW.1 and got produced 36 documents marked as Ex.P.1 to P.36 and

closed their side evidence. On the other hand the defendants in order to disprove the case of the plaintiff and to prove the contention taken in the written statement the defendant No.2 got himself examined as DW.1 and he got produced 8 documents marked as Ex.D.1 to D.8 and closed their side evidence.

5. Heard argument on both side.

6. On the above pleadings my predecessor in the office has framed the following issues.

### **ISSUES**

- 1) *Whether the plaintiff proves that himself and defendant No.1 to 5 are the members of Hindu Undivided Joint family and the suit schedule properties are their ancestral and joint family properties and are in joint possession and enjoyment of the same?*
- 2) *Whether the plaintiff proves that suit is bad for mis joinder of parties and the boundaries furnished to the schedule is wrong?*

3) *Whether the plaintiff is entitled to the relief as sought for in the plaint?*

4) *What order/decreree?*

7. My findings to the above issues are as under:-

Issue No.1 : In the Affirmative

Issue No.2 : Does not survive for  
consideration

Issue No.3 : In the Affirmative

Issue No.4 : As per the final order

For the following:

### **REASONS**

8. **Issue No.1 & 2** : As these issues are interlinked to each other and therefore common discussion and reasoning is given below.

9. The plaintiff in order to prove the issue No.1 and to substantiate his case, himself got examined as PW.1, by filing affidavit in lieu of examination in chief and he reiterated the entire plaint averments and in support of his case got produced 36 documents marked as Ex.P.1 to P.36. Ex.P.1 is Genealogical tree of plaintiff



family. Ex.P.2 to 4 certified copies of mutations. Ex.P.5 is endorsement issued by Tahasildar, Bagepalli. Ex.P.6 to 10 are certified copies manual RTCs. Ex.P.11 is certified copy computerized RTC. Ex.P.12 to P.15 are certified copies of manual RTCs. Ex.P.16 is certified copy of computerized RTC. Ex.P.17 to 21 are certified copies of manual RTCs. Ex.P.22 & 23 are certified copies of computerized RTC. Ex.P.24 is certified copy of manual RTC. Ex.P.25 to 27 are certified copies of computerized RTCs. Ex.P.28 & 29 are certified copies of house lists issued by PDO of Rashcheruvu Gramapanchyath. Ex.P.30 is certified copy of sale deed dated 29.03.1969. Ex.P.31 is certified copy of registered deed dated 08.04.1968. Ex.P.32 is certified copy of sale deed dated 19.07.1971. Ex.P.33 is certified copy of mortgage deed. Ex.P.34 & 35 are kandayam receipts. Ex.P.36 is vehicle particulars issued by RTO of Chikkaballapur.

10. On the other hand the defendants in order to disprove the case of the plaintiff and to prove the contention taken in the written statement, the defendant No.2 himself got examined as DW.1 by filing affidavit in lieu of examination in chief and he reiterated

the entire written statement averments. In support of his case got produced 8 documents marked as Ex.D.1 to 8. Ex.D.1 to 5 are bank challans. Ex.D.6 is statement given by DCB bank. Ex.D.7 & 8 are original RC smart cards.

11. On perusal of the pleadings and documents of both parties, the defendant No.1 in his written statement denied the relationship of themselves and plaintiff. The PW.1 in his chief examination reiterated the plaint averments and in the cross examination he totally denied the suggestion made by the counsel for defendants and he withstood the test of cross examination. On the other hand the DW.1 in his chief examination he reiterated the written statement averments, but in the cross examination he deposed that he does not seen the documents of suit schedule properties and all also deposed that all the properties are stood in the name of Narayanappa and does not know that the all the suit properties are stood in the name of his father Venkatappa. It is further deposed that the Ex.D.7 & 8 vehicles are purchased about 3 years ago and it is clearly admitted that the suit schedule properties are joint family properties and even

he clearly admitted that in order to purchase the Ex.D.7 & 8 vehicles, he has no sufficient independent income and admitted that the documents of Ex.D.7 & 8 are stood in the name of defendant No.1. He further admits that in order to show the purchase of Ex.D.7 & 8 properties for his own earnings, he has not produced any documents before this court.

12. On looking into the cross examination of DW.1, it is crystal clear that the suit schedule properties are joint family properties of plaintiff and defendants and in his cross examination he specifically admitted that “ ದಾವಾ ಸ್ವತ್ತುಗಳು ಒಟ್ಟು ಕುಟುಂಬದಲ್ಲಿ ಇರುತ್ತವೆ ಎಂದರೆ ಸರಿ. ನಿಡಿ.7 ಮತ್ತು 8 ನ್ನು ಕೊಂಡುಕೊಳ್ಳಲು ನಮಗೆ ಯಾವುದೇ ಸ್ವಂತ ಆದಾಯ ಇರುವುದಿಲ್ಲ. ನಿಡಿ.7 ಮತ್ತು 8 ವಾಹನಗಳು 1ನೇ ಪ್ರತಿವಾದಿಯ ಹೆಸರಿನಲ್ಲಿ ಇವೆ ಎಂದರೆ ಸರಿ. ” So, it is clear from the mouth of DW.1 that the suit properties are in joint possession and enjoyment of plaintiff and defendants and they have no personal income for purchase of Ex.D.7 & 8 properties. Though, the defendants have denied that the suit schedule properties are not ancestral and joint family of themselves and plaintiff and also the item No.3 & 6 properties are noway

concerned to the family of plaintiff and defendants. But in the cross examination the DW.1, himself admitted that all the suit properties are in joint possession of their family members including the plaintiff. Therefore, it is clear from the records and admission made by the DW.1 that the suit schedule properties are ancestral and joint family properties of plaintiff and defendants and the plaintiff has legitimate share in the suit schedule properties.

13. It is pertinent to note that on meticulously perusal of documents produced by the plaintiff ie., Ex.P.11 ie., certified copy of computerized RTC which is stood in the name of defendant No.1 to an extent of 3 acres. Ex.P.16 is RTC extract pertaining to item No.2 of suit schedule property which is stood in the name of defendant No.1. Ex.P.22 which is certified copy of computerized RTC pertaining item No.3 of suit property and it is stood in the name of father of the plaintiff and defendant. Ex.P.25 to 27 are certified copies RTCs pertaining to item No.4 to 6 of suit schedule properties which are stood in the name of A.K.Papanna and Ex.P.28 & 29 are stood in the name of defendant No.1 and defendant No.5.

14. On perusal of the entire documents it is crystal clear that the suit schedule properties are ancestral and joint family properties of plaintiff and defendants and even according to the defendants item No.3 & 6 properties are stood in the name of defendant No.6, who is noway concerned to the family of the plaintiff and defendants. But, in the cross examination the DW.1 clearly admitted that all the suit schedule properties are in joint possession and enjoyment of joint family members and they are joint family properties. Though, the defendant No.6, appeared through his counsel, but he has not filed his written statement and not adduced his evidence in order to show that the above properties are not belongs to the family of plaintiff and other defendants. Even as per the contention of defendants that the other properties are originally belongs to mother plaintiff and defendants by name Panthulamma and she was inherited the said properties from his father by name Avulappa. But, in this regard the defendants have not produced any cogent documents before this court to substantiate their contention and therefore, the contention taken by the defendants cannot be reliable and trustworthy.

15. It is pertinent to note that the defendants have taken specific contention that the item No.9 property ie., Tractor and Trailer exclusively belongs to defendant No.2 and he purchased the said vehicles by taking hand loan as well as bank loan and therefore, the plaintiff has no share in the above properties. Though, the defendants have taken the above contention, but on looking into the documents of item No.9 of suit schedule property ie., Ex.D8 & 9 original RC books are in the name of defendant No.1. As per the contention of the defendants, the said vehicles are belongs to the defendant No.2. However, in the cross examination the DW.1 ie., defendant No.2, himself admitted that he has no independent income to purchase the Ex.D.7 & 8 vehicles and the said vehicles are in the name of defendant No.1. So, looking into the admission of the DW.1 and contention taken in the written statement which are entirely different. On one breath the defendants have stated in the written statement that the item No.8 & 9 properties are belongs to defendant No.2 and he purchased the said Tractor by taking loan from others and bank. On another breath the DW.1 himself admitted that all the documents pertaining to the item No.9 of suit properties are stood in the name of

defendant No.1 and they have no independent income to purchase the said properties. So, looking into the contention of defendants it is crystal clear that, out of nucleolus joint family income the item No. 9 property had been purchased by the defendants and therefore, the said property is joint family property of plaintiff and defendants. Hence, the contention taken by the defendants cannot be believed at all in the absence of cogent and relevant documents.

16. It is further relevant to note that the defendants have taken specific contention in the written statement that the suit of the plaintiff is bad for non joinder of necessary parties and properties. But, during the pendency of the suit, the plaintiff has impleaded the defendant No.7 to 9 as necessary parties to the suit and therefore, when the plaintiff has impleaded the necessary parties in the suit, then the question of much discussion regarding this issue does not arise and this issue does not survive for consideration. On looking into the entire records and admission of the DW.1 it crystal clear that the plaintiff has proved that he is member of the Hindu undivided joint family and the suit schedule properties are ancestral and joint

properties of himself and defendants and even the documents produced by the plaintiff are consonance with his pleadings and on the other hand the documents produced by the defendants are not coupled with their contention and they have fails to establish that the plaintiff had given wrong boundaries to the schedule. Therefore, I have no hesitation whatever to come to conclusion that the plaintiff has proved the issue No.1. Accordingly, I answer **issue No.1 in the Affirmative and answer issue No.2 does not survive for consideration.**

**17. Issue No.3:** While I discussing issue No.1, I have already held that the plaintiff has proved the issue No.1 and therefore, in the above facts and circumstances of the case, I am of the opinion that the plaintiff is entitled for the relief as sought for. Accordingly, I answer **issue No.3 in the Affirmative.**

**18. Issue No.4:-** For the foregoing discussions and reasons assigned by me, I proceed to pass the following:-



**ORDER**

The suit of the plaintiff is hereby decreed with costs.

The plaintiff is entitled for partition and separate possession of his 1/5<sup>th</sup> share in the suit schedule properties by metes and bounds.

The suit schedule properties shall be treated as part and parcel of the decree.

Draw preliminary decree accordingly.

(Dictated to stenographer transcribed and computerized by her, script corrected and then signed by me on this the 02<sup>nd</sup> day of August-2021.)

(S.M.ARUTAGI)  
Civil Judge & JMFC,  
Bagepalli.

**ANNEXURE**

**List of Witness Examined for the plaintiff:-**

PW.1: Anjinappa

**List of Documents Exhibited for the plaintiff:-**

Ex.P.1: G.Tree of plaintiff family

Ex.P.2 to 4: C.C.of mutations

Ex.P.5: Endorsement

Ex.P.6 to 10: C.C.of manual RTCs

Ex.P.11: C.C.of computerized RTC

Ex.P.12 to 15: C.C.of manual RTCs

Ex.P.16: C.C.of computerized RTC

Ex.P.17 to 21: C.C.of manual RTCs

Ex.P.22 & 23: C.C.of computerized RTC

Ex.P.24: C.C.of manual RTC

Ex.P.25 to 27: C.C.of computerized RTCs

Ex.P.28 & 29: C.C.of house lists

Ex.P.30: C.C of sale deed dated 29.03.1969

Ex.P.31: C.C. of registered deed dated 08.04.1968

Ex.P.32: C.C.of sale deed dated 19.07.1971

Ex.P.33: C.C.of mortgage deed

Ex.P.34 & 35: Kandayam receipts

Ex.P.36: Vehicle particulars issued by RTO of  
Chikkaballapur.

**List of Witness Examined for the Defendant/s:-**

DW.1: Ramappa

**List of Documents Exhibited for the Defendant/s:-**

Ex.D.1 to 5: Bank challans

Ex.D.6: Statement given by DCB bank

Ex.D.7 & 8: RC books.

**Sd/-**

Civil Judge and JMFC.,  
Bagepalli.