

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

AT:CHINTAMANI.

O.S.No.275/2017

**Present: Sri.Hanumanth Satwik.,
LL.M,
Prl. Civil Judge & JMFC. Chintamani.**

DATED : THIS THE 26TH DAY OF AUGUST 2019.

PLAINTIFF:

Sri. Aanjappa,
S/o Late Gownapalli Venkatarayappa,
Aged about 45 years,
R/at Basavapura Village,
Chilakalanerpu Hobli,
Chintamani Taluk.

(Sri. S.J.H. Advocate)

V/s

DEFENDANTS:

1. Sri. Venkatappa,
S/o Late Gownapalli Venkatarayappa,
Aged about 50 years.
R/at Basavapura Village,
Chilakalanerpu Hobli,
Chintamani Taluk.
2. Smt. Venkata Lakshamma,
D/o Late Gownapalli Venkatarayappa,
Aged about 50 years,
R/at Paragoodu Village and Mandal,
Bagepalli Taluk,
Chikkaballapura District.

**(Defendant no.1 is Place Ex-parte)
(Smt. K.L.P. Advocate for Defendant no.2)**

Date of Institution of suit : **04.11.2017**

Nature of Suit : **Partition and separate possession.**

Date of Commencement of evidence: **16.08.2018**

Date of Judgment : **26.08.2019**

Duration : **Years Months Days**
01 09 22

J U D G M E N T

The present suit is for partition and separate possession.

2. It is the case of the plaintiff that he and the defendants are the children of one late Gownpalli Venkatarayappa and Late Narayanamma. The said Gownpalli Venkatarayappa died long back and Narayanamma died on 14.07.2007. He and the defendants constitute joint family. The suit schedule properties are the joint family properties. Defendant No.1 got transferred the Katha of the suit schedule properties in his name clandestinely. He requested for partition of the suit schedule properties, the defendant refused to effect partition. In this regard the plaintiff prays as above.

3. Defendant no.2 in her written statement stated that defendant no.1 illegally acquired the suit schedule properties. Defendant no.1 did not look after her and the plaintiff. In this regard defendant no.2 prays to decree the suit and further prays to allot her share in the suit schedule properties.

4. Considering the pleadings of both the parties following issues were framed

ISSUES

1. Whether the plaintiff is entitled for the relief sought for ?
 2. Whether defendant no.2 is entitled for the relief sought for?
 3. What order or decree?
5. The plaintiff in support of his case got himself examined as PW1 and got marked Ex.P.1 to 19 and closed his side. Defendant no.2 submitted no evidence from her side.
6. Heard arguments of both counsel.
7. My findings for the above issues are as under.

Issue No.1: In the partly affirmative,

Issue No.2: In the affirmative,

Issue No.3: As per final order

For the following,

REASONS

ISSUE NO.1 AND 2:-

8. For the sake of convenience and to avoid repetition of facts these issues are taken together for common discussion. In the case at hand defendant no.2 did not dispute anything to show that the suit schedule properties are not the joint and ancestral properties of plaintiff. Further, defendant no.1 remained exparte, as such the plaint averments, the averments of PW1 and the documents remained undisputed and uncontroverted by defendant no.1. In these circumstances, it is clear that the suit schedule properties are the joint and ancestral properties of plaintiff. In the case at hand considering Ex.P.2 and 4 it is clear that the father of plaintiff and defendants must have died before the year 2000. As such defendant no.2 is not entitled for share at par with the plaintiff and defendant no.1. Be it stated, plaintiff and defendant no.1 being brothers, are each entitled for $\frac{4}{9}$ th share in the suit schedule properties. Further, defendant no.2 being the sister of plaintiff and defendant no.1, whose father died before the year 2000, is entitled for $\frac{1}{9}$ th share in the suit schedule properties. Accordingly, I answer issue no.1 in the partly affirmative and issue no.2 in the affirmative.

ISSUE NO.3:-

9. In view of reasons on issue no.1 and 2 and in the interest of Justice and equity, I proceed to pass the following,

ORDER

Suit of the plaintiff is hereby by partly decreed with cost.

Plaintiff and defendant no.1 are each entitled for 4/9th share in the suit schedule properties. Further, defendant no.2 is entitled for 1/9th share in the suit schedule properties.

Draw preliminary decree accordingly.

(Dictated to the Stenographer directly on the computer, typed by her corrected by me and then pronounced in the open court on this the 26th day of August 2019.)

(Hanumanth Satwik)

Prl. Civil Judge & JMFC.,
Chintamani.

ANNEXURE**List of witnesses examined on behalf of Plaintiff:**

PW1: Aanjappa S/o Late Gownapalli Venkatarayappa.

List of documents produced on behalf of Plaintiff:

Ex.P1 :Geneological tree.

Ex.P2 : Mutation register.

Ex.P3 to P16 : RTC Extract's.

Ex.P17 : Letter dated: 30.06.2017.

Ex.P18 & P19 : Letter dated: 07.09.2017 and 09.10.2017.

List of witnesses examined on behalf of Defendant no.2:

-NIL-

List of documents produced on behalf of Defendant no.2:

-NIL-

**Prl. Civil Judge & JMFC.,
Chintamani.**