

KACD320006962018



**IN THE COURT OF PRL. CIVIL JUDGE
AND JMFC, AT HIRIYUR**

Present :- **Shridhara, H.D.,**
B.A. L.L.B,
Prl. Civil Judge & JMFC,
Hiriyuru.

Dated: this 24th day of March, 2026

O.S. No.115/ 2018

PLAINTIFF/S : 1) Sri. Ramachandrappa,
S/o Late Obanna,
Aged about 43 years,
R/o Hemadala Village,
Aimangala Hobli,
Hiriyur Taluk,
Chitradurga District..

(By Sri. N.T.S., Advocate)

//Versus//

DEFENDANTS: 1) Hanumanthappa,
S/o Sanna Hanumanthappa,
Aged about 70 years,
Agriculturist,
2) Siddappa,
S/o Sanna Hanumanthappa,
Aged about 63 years,
Agriculturist,

- 3) Rangaswamy,
S/o Sanna Hanumanthappa,
Aged about 60 years,
Agriculturist,
- 4) Kenchamma,
W/o late Thippeswamy,
Aged about 40 years,
House hold work,
- 5) Sharadamma,
W/o late Thippeswamy,
Aged about 38 years,
House hold work,
- 6) Putteeramma,
W/o late Hanumanthappa,
Aged about 28 years,
House hold work,
- 7) Manjula,
W/o late Hanumanthappa,
Aged about 27 years,
House hold work,
- 8) Sharadamma,
W/o late Sanjeevappa,
Aged about 56 years,
House hold work,

Def. No.1 to8 are
R/o Hemadala,
Village, Hiriyur Taluk,
Chitradurga District.

- 9) Kenchamma,
W/o Hanumanthappa,
D/o Obanna,

Aged about 54 years,
R/o Hemadala
Village, Hiriyr Taluk,
Chitradurga District.

- 10) Gangamma,
W/o Thippaiah,
D/o Obanna,
Aged about 50 years,
R/o Hemadala
Village, Hiriyr Taluk,
Chitradurga District.
- 11) Ashaa D/o Late. B. K. Thippeswamy,
Aged about 28 years,
House hold work,
- 12) Sathisha S/o Late. B. K. Thippeswamy,
Aged about 28 years,
Agriculturist,
- 13) Obalesh S/o Late. B. K. Thippeswamy,
Aged about 27 years,
Agriculturist,

Defe No.9 to 13 are
R/o Hemadala
Village, Hiriyr Taluk,
Chitradurga District.

(D-1 to 3 By Sri. D.G.G., Advocate)

(D-4& 6 By Sri.K.B.T., Advocate)

**(Defendant No.5, 7 to 9
and 11 to 13 Ex-parte)**

1.	Date of institution.	13.06.2018		
2.	Nature of the Suit.	Partition and Separate Possession		
3	Date of commencement of recording evidence	04.02.2019		
4.	Date of closing of recording evidence	13.08.2025		
5.	Judgment pronounced	24.03.2026		
6.	Total duration.	Year/s 07	Month/s 09	Day/s 11

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

J U D G M E N T

The plaintiff has filed the present suit seeking the reliefs of partition and separate possession of his 1/4th share in the suit schedule properties against the defendants.

2. The brief facts of the case of plaintiff are as follows:-

The plaintiff and defendants belong to the same family. The grandfather of the plaintiff, namely Burujana Mallappa S/o Sanjivappa, is the common ancestor. He had two wives. The first wife was Topamma and the second wife was Kenchamma. Through the first wife, he had one son by name Sanna

Hanumanthappa. Through the second wife, he had three sons, namely Budda Kencheppa, Sanjeevappa and Obanna. All these persons are now dead. The plaintiff is the only son of Obanna. Defendant Nos.1 to 3 are the children of Sanna Hanumanthappa. Budda Kencheppa had two sons, namely Thippeswamy and Hanumanthappa, and they are also no more. The Sanjeevappa also died leaving behind his wife, who is Defendant No.8. It is the case of the plaintiff that the suit schedule properties originally belonged to Burujana Mallappa and they are ancestral and joint family properties. The plaintiff and defendants were jointly cultivating and enjoying the said properties. The plaintiff further contends that on 10-01-2000, Defendant No.1 to 3, without his knowledge and consent, have entered into a partition deed, including the suit properties, with an intention to defraud his rights. It is also contended that the plaintiff is a blind person, and taking advantage of his condition, the defendants have acted behind his back. The plaintiff states that on 10-05-2018, when he went to cultivate the suit properties, Defendant No.1 to 3 obstructed him and

denied his rights. Thereafter, when he verified the RTC extracts, he found that the khata of the properties stands in the names of Defendant No.1 to 3 and others. Therefore, stating that he is entitled to 1/4th share, and since the defendants are denying his rights, the plaintiff has filed this suit.

3. On being served with the suit summons, the defendant No.1 to 4 and 6 have appeared through their counsel and filed written statement. The defendant No.5, 7 to 9 and 11 to 13 were placed ex-parte.

4. **Gist of the written statement is as follows:-**

Defendant No.1 to 4 and 6 have filed written statement denying the plaint averments. They have contended that the genealogy given by the plaintiff is not correct. According to them, Kenchamma is the first wife and Topamma is the second wife of Burujana Mallappa. They have also contended that Thippeswamy never married Defendant No.5, and Defendant No.5 is not a member of the family. Similarly, Hanumanthappa never married Defendant No.7, and she is also not a member of

the family. The defendants admit that Burujana Mallappa is the propositor of the family and that he owned certain properties, namely the lands in Sy.No.151/2, Sy.No.262, Sy.No.368 and Sy.No.53/1B of Hemadala village. Hiriyur. However, they contend that in the year 1963, Sanjeevappa and Obanna, without having proper right, have sold the said properties in favour of Siddanna S/o V. Sanneerajjagala Doddamallappa, under a registered sale deed dated 02-12-1963. They further contended that possession was not delivered. It is further contended that in the year 1988, Defendant No.1 to 3 along with B.K. Hanumanthappa and B. K. Tippeswamy raised objections regarding the said sale and a panchayat was held. In the said panchayat, certain properties were left in favour of Siddanna, and with respect to the remaining properties, an agreement dated 27-12-1988 was entered into. Based on the said agreement, the khata of the suit properties was mutated in the names of Defendant Nos.1 to 3, B. K. Hanumanthappa and B. K. Tippeswamy, and they are in possession and enjoyment of the properties. The defendants further contend

that since the properties were sold in 1963, the branch of Sanjeevappa and Obanna lost their rights. The plaintiff has not challenged the sale deed or the subsequent agreement. Therefore, the plaintiff has no right over the suit properties. On these grounds, the defendants pray that the suit is liable to be dismissed and costs.

5. On the basis of pleadings and materials available on record, the issues are framed as under:-

ISSUES

1. Whether the plaintiff proves that the plaintiff and defendants constituting Hindu undivided joint family and suit schedule properties are joint family properties?
2. Whether the plaintiff proves that the defendant No.1 to 3 without the consent of plaintiff, they get divided the property on 10.01.2000?
3. Whether defendant No.1 to 3 proves that, along with B. K. Hanumanthappa and B. K. Thippeswamy get executed the agreement dated:

27.12.1988, as per the said agreement, the names of defendant No.1 to 3, 4 and 6 and their children names mutated in the revenue records?

4. Whether defendants prove that, the suit of the plaintiff is bad for non-joinder of necessary parties?

5. Whether defendant No.1 to 3 proves that, the plaintiff did not have any right over the suit schedule properties, since the suit schedule properties are joint family property of defendants only?

6. Whether plaintiff is entitle for 1/4th share in the suit schedule properties?

7. Whether plaintiff is entitle for the relief as claimed in the plaint?

8. What Order or decree?

6. To prove his case, the plaintiff himself is examined as PW.1. In support of his oral evidence, he produced 06 documents at Ex.P-1 to 6. In support of his case he examined another two witnesses as PW.2 and 3 and closed his side

evidence. Per contra the defendant No.3 examined as DW.1 and got marked 20 documents as Ex.D.1 to 20 and examined one witnesses as DW.2 and closed their side evidence.

7. Heard both sides and perused the materials available on record.

8. After careful scrutiny of evidence and material available on record, the findings of this Court to the above Issues are as follows:-

ISSUE No.1 : In the Partly Affirmative,

ISSUE No.2 : In the Negative,

ISSUE No.3 : In the Affirmative,

ISSUE No.4 : In the Negative,

ISSUE No.5 : In the Affirmative,

ISSUE No. 6: In the Negative,

ISSUE No.7 : In the Negative,

ISSUE No.8 : As per final order,

for the following: -

REASONS

9. ISSUE No.1 :- To prove his case, the plaintiff himself is examined as PW.1. In support of her oral evidence, he produced 06 documents at Ex.P-1 to 6. In support of his case he

examined another two witnesses as PW.2 and 3. Out of the documents produced by the plaintiff, Ex.P.1 is the G-Tree, Ex.P.2 is the Jubani partition deed dated:10.01.2000, Ex.P.3 is the certified copy of Mutation Register extract, Ex.P.4 and 5 are the RTC extracts, Ex.P.6 is the death certificate of Obanna.

12. Per contra the defendant No.1 examined as DW.1 and got marked 20 documents as Ex.D.1 to 20 and examined one witnesses as DW.2. Ex.D.1 is the certified copy of registered sale deed dated: 02.12.1963, Ex.D.2 to Ex.D.7 are the hand written RTC extracts, Ex.D.8 is the certified copy of MR No.04/1998-99, Ex.D.9 to 20 are the hand written RTC extracts.

13. The burden of proof is on the plaintiff. The plaintiff must prove both the relationship between the parties and the joint family nature of the suit properties. In the present case, the plaintiff has not produced any proper genealogy tree. Ex.P1 is not issued by any competent authority. It is also not supported by any independent evidence. Therefore, Ex.P1 cannot be relied upon to prove the genealogy.

14. However, during cross-examination, DW1 has clearly admitted that Burujina Mallappa is the common ancestor of both the plaintiff and the defendants. This admission is important. Admission is a strong piece of evidence. Based on this admission, it can be safely held that the plaintiff and defendants belong to the same family. But proving relationship is not sufficient. The plaintiff must further prove that the suit properties are still joint family properties. In this case, Ex.D.1, the registered sale deed dated 02-12-1963, clearly shows that Sanjeevappa and Obanna had sold certain properties to Siddanna. These persons belong to the branch of the plaintiff. This document is not challenged by the plaintiff. Further, Ex.P3 mutation extract shows that the khata was changed based on an agreement. PW1 has also admitted that there was a panchayat and agreement in the year 1988. This shows that the properties were dealt with and rearranged. Therefore, the evidence shows that the properties were not continuously held as joint family properties. The earlier sale and later arrangement have broken the joint family character.

Hence, this Court hold that the plaintiff has failed to prove that the suit properties are joint family properties. Accordingly, issue No.1 answered Partly in the **Affirmative**.

15. Issue No.2:- The plaintiff contends that Defendant Nos.1 to 3 have entered into a partition deed dated 10-01-2000. The plaintiff has produced Ex.P.2 as the said partition deed. On perusal of Ex.P.2, it is clear that it is an unregistered document. In law, a partition of immovable property must be registered. An unregistered document cannot be used to prove partition. Therefore, Ex.P.2 cannot be accepted as proof of partition. Further, the plaintiff has not proved that this document was acted upon. There is no evidence to show that mutation entries were made based on this document. On the contrary, the RTC extracts at Ex.D.7 and Ex.D.19 shows that mutation was already effected earlier based on the application as per Ex.P.3 mutation register. Another important point is that the plaintiff has not explained how he got the original document. The plaintiff himself says that he was not a party to the partition at Ex.P.2. Normally, such document will remain with the persons

who executed it. This creates doubt about the genuineness of the Ex.P.2 partition. Therefore, this Court is of the opinion that the plaintiff has failed to prove that any illegal partition took place on 10-01-2000. Accordingly, issue No.2 answered In the **Negative.**

16. Issue No.3:- The defendants have contended that there was an agreement on 27.12.1988. They have not produced the original agreement. Normally, this would weaken their case. However, Ex.P3, which is produced by the plaintiff, clearly shows that mutation was done based on an agreement and with the consent of Siddanna. This document supports the case of the defendants. Further, PW1 has admitted in his cross-examination that a panchayat was held and an agreement was entered into in the year 1988. This admission is important. It supports the defence case. Thus, even though the original agreement is not produced, the surrounding evidence clearly shows that such agreement existed and was acted upon. Accordingly, issue No.3 answered In the **Affirmative.**

17. Issue No.4:- The defendants have taken the contention that the suit is bad for non-joinder of necessary parties. However, they have not clearly stated who are the necessary parties. They have also not shown how the absence of such parties affects the decision of the case. Without proper pleading and proof, this contention cannot be accepted. Therefore, the defendants have failed to prove this issue. Accordingly, issue No.3 answered In the **Negative**.

18. Issue No.5:- Ex.D.1 clearly shows that the plaintiff's father Obanna and Sanjeevappa had sold the properties in the year 1963. This sale deed is not challenged by the plaintiff. Further, Ex.P3 and other evidence show that there was an agreement in the year 1988 and mutation was done based on that agreement. This arrangement is also not challenged by the plaintiff. Ex.P6 shows that the plaintiff's father was alive till 2008. He had sufficient time to challenge the sale or the agreement. But he did not take any steps. Further, the plaintiff has also not challenged these documents even after filing the suit. Without challenging these documents, the plaintiff cannot

claim any right. Also, the suggestion made by the plaintiff's counsel in cross-examination of DW.1 shows that even according to the plaintiff, there was a sale. This creates inconsistency in his case. Therefore, the plaintiff has failed to prove that he has any right over the suit properties. Accordingly, issue No.5 answered In the **Affirmative**.

19. Issue No.6:- The plaintiff can claim share only if he proves that the properties are joint family properties and that he has a subsisting right. In this case, the plaintiff has failed to prove both. The properties are already sold and later rearranged. The plaintiff has not challenged those transactions. Therefore, the plaintiff is not entitled to any share. Accordingly, issue No.6 answered In the **Negative**.

20. Issue No.7:- The plaintiff has not challenged the sale deed of 1963. He has also not challenged the agreement of 1988. He has also not properly challenged the alleged partition deed of 2000. When earlier documents affect the rights of a person, he must seek declaration that they are not binding. Without such relief, a suit for partition cannot be maintained. Therefore,

plaintiff is not entitled to any relief claimed. Accordingly, issue No.7 is answered in the **Negative**.

21. ISSUE No.8:- In view of discussion on issue No 1 to 7, this Court proceed to pass the following :-

ORDER

The suit of the Plaintiff is hereby dismissed with cost.

Draw decree accordingly.

(Dictated to the stenographer directly on Desk-top, the same is corrected by me and then pronounced by me in the open Court on this the 24th day of March, 2026)

(Sri.Shridhara. H.D.)
Prl Civil Judge & JMFC,
Hiriyur.

ANNEXURES

List of the Witnesses examined on behalf of Plaintiff

P.W.1 : Ramachandrappa
P.W.2 : Giriyappa
P.W.3 : Obala Giriyappa

List of the Documents marked on behalf of Plaintiff:

Ex.P.1 : G-Tree,
Ex.P.2 : Jubani partition deed dated:10.01.2000,
Ex.P.3 : C/copy of Mutation Register extract,

Ex.P.4 and 5 : RTC extracts,

Ex.P.6 : Death certificate of Obanna.

List of the Witnesses examined on behalf of Defendants:

D.W.1 : Rangaswamy,

D.W.2 : Thippeswamy,

List of the Documents marked on behalf of Defendants:

Ex.D.1 : C/copy of registered sale deed dated: 02.12.1963,

Ex.D.2 to 7 : Hand written RTC extracts,

Ex.D.8 : C/copy of MR No.04/1998-99,

Ex.D.9 to 20: Hand written RTC extracts.

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