

IN THE COURT OF PRL. CIVIL JUDGE & JMFC., HIRIYUR

DATED ON THIS THE 15th DAY OF DECEMBER, 2017.

Present:-

Smt.Nisarathbanu Babasaheb Shaikh,

B.A.,LLB(Spl)

Prl., Civil Judge & JMFC, Hiriya.

O.S.NO.182/2015

- PLAINTIFF/S:-**
- 1] Kamalamma W/o Gowranna,
Aged about 46 years,
R/o Vedavathi Nagara,
Hiriya town.
 - 2] Onkaramma W/o Kariyappa,
Aged about 44 years,
R/o Uppalagere Village,
Hiriya Taluk.
 - 3] Pushpavathi W/o Kanumanna,
Aged about 38 years,
R/o Kariramanahally village,
Baragur Post, Sira Taluk.

(Reptd. By Shri. S.J., Advocate)

V/s

DEFENDANT/S:- 1] **Rangappa S/o Karadi Kariyappa**
Dead by LR's

D1(a) Kariyamma W/o Late Rangappa,
Aged about 75 years,
R/o K.R. Hally Village,
J.G. Hally Hobli, Hiriur Taluk.

2] Ranganatha S/o Rangappa,
Aged about 56 years,
R/o Ramanna Building, 16th Cross,
Shivapura, peenya Post,
Bangalore-560 058.

3] Dhanaraja S/o Rangappa,
Aged about 54 years,

4] R. Shivanna S/o Rangappa,
Aged about 48 years,

5] Kariyappa s/o Rangappa,
Aged about 40 years,
Defendant No.3 to 5 are
R/o K.R. Hally Village,
Hiriur Taluk.

(D1 dead, D2 to D5-Exparte)

Date of filing of suit	: 28-10-2015
Nature of suit	: Suit for Partition and Separate Possession.
Date of commencement of Recording of evidence	: 27-11-2017
Date of Judgment	: 15.12.2017

Total Duration	:	Years	Months	Days
		02	01	17

(N.B.Shaikh)
Prl. Civil Judge & JMFC.,
Hiriyur.

J U D G E M E N T

This suit filed by the plaintiffs for the relief of partition, separate possession about the suit schedule properties as mentioned below:

SCHEDULE

1] That the land bearing Sy.No.14/3, measuring 07-acres, 02 guntas,

2] The land bearing Sy.No.13/1p7, measuring 02-acres, 34-guntas, both are situated at Vaddanahally village, J.G.Hally Hobli, Hiriyur taluk, and both properties are adjacent each other having common boundaries as follows:

East	:	Land of Rudrappa
West	:	Land of Shivanna
North	:	Land of Hallappa @ Haralapa
South	:	Land of Lakshmanappa.

2] **Brief facts of the case of the plaintiffs are as follows :-**

It is the case of the plaintiffs that they are daughters of defendant no 1 and sisters of defendant no. 2 to 5. The suit schedule properties are joint family properties of plaintiffs and defendants. Plaintiffs and defendants are constituting Hindu undivided joint family. The plaintiff and defendant jointly in possession and enjoyment of the suit schedule properties. This being the fact, the defendants are trying to alienate the suit schedule properties behind the back of plaintiffs, with an ill intention to gulp the share of plaintiffs. Therefore the plaintiffs have demanded their legitimate their share out of suit schedule property. The defendants have refused to give any share to the plaintiffs. Therefore plaintiff filed this present suit.

3] The defendants after issuance of summons did not appeared before the court, placed Ex-parte.

4] From the above pleadings, following points arises for consideration.

Point no 1] Whether plaintiffs proves that suit schedule properties are joint family properties of plaintiffs and defendants and they are constituting Hindu undivided joint family.?

Point No 2] Whether plaintiffs are entitled for 1/8th share each in the suit schedule properties.?

Point No 3] what order or decree?

- 5] The plaintiffs in order to substantiate her claim plaintiff no 1 got examined herself as Pw 1 and she has placed reliance upon the documents marked as Ex.P.1 to Ex 7, and closed her side
- 6] Heard the arguments of plaintiff's counsel.
- 7] My findings to the above points are as follows:

Point No 1: In the Affirmative

Point No 2: In the Affirmative

Point no 3: As per final order

For the following:

REASONS

8] **Point No 1**

It is the case of the plaintiffs that plaintiffs are daughters of defendant no1 and sister of defendant no 2 to 5. The suit schedule properties are joint family and ancestral properties of plaintiffs and defendants. The plaintiffs are requested the defendants to effect a partition in the suit schedule properties and demanded their legitimate share from the same. The defendants have refused to gave their share. Further plaintiff contended that they are jointly possession of suit schedule properties with defendants. In order to

prove her case the plaintiff no 1 deposed as pw1 by way of affidavit and placed reliance the document Ex p 7 is genealogy, which is showing that plaintiffs are daughters of defendant no.1 and defendant no 2 to 5 are brothers of the plaintiffs. The Ex p 1 is Patta receipt book in the said document, the suit schedule properties are standing in the name of defendant no 1, Ex p 2 to Ex p 5 are village form no 1 which are revenue documents showing that defendant no 1 inherited the suit schedule property from his ancestors. Ex p 6 are RTC Extract in respect of suit schedule property, under which defendant no 1 name is appearing as absolute owner and in possession and same are showing that the defendant no 1 has acquired the suit schedule property in the family partition. The suit schedule properties are ancestral properties of the plaintiffs and defendants. The defendants neither present before the court no filed their written statement. They did not opposed the case of the plaintiff by way of pleading or by way of evidence. The case of the plaintiff remains unchallenged. The plaintiff in order to substantiate their case produced cogent documentary evidence before the court and examined herself as a pw1 by way of oral evidence. The plaintiffs have established that plaintiffs and defendants are constituting Hindu undivided joint family. The suit schedule properties are ancestral properties of plaintiffs and defendants. Therefore, for all these reasons and above made discussions this court holds point no 1 in the affirmative.

9] Point no 2:

As the point no 1 holds in the affirmative, the plaintiffs have established plaintiffs and defendants are constituting Hindu undivided joint family and properties are their ancestral and joint family properties of plaintiff and defendants. The plaintiff is entitle for the 1/8th share in the suit schedule property. For these reasons this court holds point no 2 in the affirmative.

10] Point no 3 :

The reasons and discussion given in point no 1 and 2 this court proceed to pass the following,

ORDER

The suit of the plaintiff is hereby decreed with cost.

The plaintiff is entitled for the 1/8th share each in the suit schedule properties.

Draw decree accordingly.

(I myself directly typed on my Lap-top, the same is corrected by me and then pronounced by me in the open court on this the 15th day of December 2017)

(N.B. Shaikh)

Prl. Civil Judge & JMFC.,
Hiriyur

ANNEXURE

1. List of witnesses examined for the plaintiff/s:

P.W.1 : Kamalamma

2. List of documents marked for the Plaintiff/s:-

Ex.P.1 : Receipt Patta

Ex.P.2 to 5: Certified copies of Form No.2

Ex.P.6 : RTCs

Ex.P.7 : G. Tree

3. List of witnesses examined for the defendant/s:-

Nil

4. List of documents marked for the defendant/s:-

Nil

(N.B. Shaikh)
Prl. Civil Judge & JMFC.,
Hiriyur.