



Govt.of Karnataka

C.R.P.67

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

TITLE SHEET FOR JUDGMENTS IN SUITS

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
PRINCIPAL J.M.F.C., TARIKERE**

***Present : SRI M.C. NANJE GOWDA, B.A.L., LL.M.,
SENIOR CIVIL JUDGE & PRL. JMFC.,
Tarikere.***

Dated this 27th day of July 2022

ORIGINAL SUIT NO.8/2022

Plaintiff/s: Smt. Lalithamma W/o
Thirthachar S/o late
Chandrachar, aged about 48
years, Housewife, R/o KEB
Road, Chandranagara,
Basavanahalli Post,
Chikkamagaluru.

[By Sri. H.O. Veerabhadrapa , Adv.]

Versus



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- Defendant/s:
1. C.Rangaiahchar S/o late Chandrachar, aged about 50 years, Carpenter and Agriculturist,
 2. Smt. Kamalamma W/o late Malleshachar, S/o late Chandrachar, aged about 44 years,
Both are R/o Asandi village, Chowlahiriyuru Hobli, Kadur Taluk.
 3. L.A.O and Sub-Division Officers, Upper Bhadra Project - 04, Minividhanasoudha, Tarikere.

[Exparte]

Date of Institution of Suit:	06.01.2022		
Nature of the suit:	For Partition		
Date of the commencement of recording of the Evidence.	08.07.2022		
Date on which the Judgment is pronounced:	27.07.2022		
Total Duration	Years 00	Months 06	Days 19



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J U D G M E N T

The plaintiff has filed this suit against the defendants for the relief of partition and separate possession of his alleged 1/3rd share in the suit schedule property by metes and bounds and for such other reliefs.

2. The case of plaintiff in nutshell is that:

One Chandrachar and Smt. Kamma are the progenitors of the family of the plaintiff and defendants. They had 3 children who are plaintiff and defendant No.1 and 2. The plaintiff and defendants are the members of the joint family and suit property is their joint family property. The property was standing in the name of the father of the plaintiff and defendants No.1 and 2. Recently, the 1st defendant has got mutated his name in the



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said property by inheritance. The plaintiff met the defendants and demanded for partition, but they have prolonged to conduct partition on one or other reasons. The 1st defendant alone is enjoying the suit property and income their from and not paying any income to the plaintiff. Out of the suit schedule property some portion has been acquired by the defendant No.3 for Upper Bhadra Project and awarded compensation. But the defendant No.1 is making hectic efforts to receive the said amount without giving share to the plaintiff. Hence, the present suit.

3. After registration of this case, suit summons were issued to defendants. Though the



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defendants were duly served with summons have not appeared and filed written statement.

4. The plaintiff in order to prove her case, has examined herself as P.W.1 and got marked 4 documents at Ex.P1 to Ex.P4. On the other hand, as the defendants did not chose to appear and file written statement, there is no cross-examination and documents on their behalf.

5. On the basis of the materials available on record, the following points would arise for consideration of this court:

1. Whether the plaintiff proved that the suit schedule properties are ancestral and joint family



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properties of her and
defendants No.1 and 2?

2. Whether the plaintiff is entitled
for share/partition in the suit
schedule property, if so what is
the quantum of share?

3. What order ?

6. On hearing of learned counsel for the
plaintiff and perusal the oral and as well as
documentary evidence placed on record, this court
answers to the above points as under:

Point No.1 : In the Affirmative

Point No.2 : In the Affirmative

Point No.3 : As per final order
for the following:



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REASONS

7. **Point No.1** : It is specific case of the plaintiff that One Chandrachar and Smt. Kamma are the progenitors of the family of the plaintiff and defendants. They had 3 children who are plaintiff and defendant No.1 and 2. The plaintiff and defendants are the members of the joint family and suit property is their joint family property. The property was standing in the name of the father of the plaintiff and defendants No.1 and 2. Recently, the 1st defendant has got mutated his name in the said property by inheritance. The plaintiff met the defendants and demanded for partition, but they have prolonged to conduct partition on one or other reasons. The 1st defendant alone is enjoying the suit property and income their from and not paying



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any income to the plaintiff. Out of the suit schedule property some portion has been acquired by the defendant No.3 for Upper Bhadra Project and awarded compensation. But the defendant No.1 is making hectic efforts to receive the said amount without giving share to the plaintiff. Hence, the present suit.

8. The plaintiff in order to prove above plaint averments, has got examined herself as Pw1 and reiterated the plaint averments. She has produced documents such as G. Tree, RTCs and a mutation as per Ex.P-1 to 4. Ex.P-1 disclose that she is the daughter of Chandrachar and Smt. Kamma. Ex.P-5 disclose that the suit property has been mutated in the name of the defendant No.1, after the death of his father Chandrachar by inheritance. Ex.P-2 and 3



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disclose that presently the suit property standing in the name of defendant No.1. As such, these documents clearly shows that the suit property is the ancestral and joint family property of plaintiff and defendants. The defendants have not appeared in-spite of due service of summons issued by this court. Therefore, there is no cross-examination and defence evidence by the defendants. As such, the evidence of the plaintiff is remained unchallenged. The revenue records produced by plaintiff show that, the suit schedule property is standing in the name of defendant No.1. In the absence of cross-examination and written statement by the defendants, at this juncture, there is nothing on record to disbelieve or discard the version of PW1 and documents supplied by her. On



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perusal of the oral and documentary evidence, it is clear that, suit schedule property is ancestral and joint family properties in nature and they were originally acquired by the father of the plaintiff and defendants - sri. Chandrachar and later it has been mutated in the name of the defendant No.1. Therefore, it shall be deemed that all the suit schedule property is ancestral and joint family properties of the plaintiff and defendant No.1 and 2. Hence, under these reasons, as far as point no.1 is concerned this court answers in the **AFFIRMATIVE.**

9. **Point No.2:** The plaintiff specifically pleaded and proved that she and the defendants are the members of Hindu undivided joint family and the suit schedule property is ancestral property



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of plaintiff and defendants. As mentioned above, the plaintiff and defendants being legal heirs of deceased Chandrachar have succeeded to the plaint schedule property. Therefore, the defendant No.1 alone does not have any absolute and independent right to sell the suit property to third parties or receive the alleged compensation by the defendant No.3. The plaintiff has specifically pleaded that the defendants have not effected the partition of the suit property in-spite of specific demand made by her. This allegation of the plaintiff has not been traversed by the defendants as they have not appeared. Under these circumstances, this court relying upon the oral and documentary evidence supplied by the plaintiff is of the opinion



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that she is entitled for partition and separate possession in the plaint schedule property.

10. In so far as shares are concerned, admittedly the plaintiff and defendants No.1 and 2 are the children of late Chandrachar. Therefore, all of them, have got equal share in the plaint schedule property. As such, the suit schedule property totally has to be divided into 3 shares and the plaintiff is entitled for 1/3rd share in the suit schedule property. Accordingly, Point No.2 is answered in the **AFFIRMATIVE.**

11. **Point No.3:** For the reasons and discussions made above and the findings on the above points, this court proceed to pass the following:



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ORDER

The suit filed by the plaintiff against the defendants is hereby decreed.

The plaintiff is entitled for 1/3rd share in the plaint schedule property.

Having regard to the nature of the suit and circumstances of the case, there is no order as to costs.

Draw decree accordingly.

(Directly dictated to the stenographer, directly computerized by her, corrected and then pronounced by me in the open court on this the 27th day July, 2022.)

SD/-
(M.C. NANJE GOWDA)
SENIOR CIVIL JUDGE & PRL. JMFC.,
TARIKERE.

A N N E X U R E

List of witnesses examined for the plaintiff/s:

PW.1 : Smt. Lalithamma

List of witnesses examined for the defendant/s:

- Nil -



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List of documents marked for the plaintiff/s:

Ex.P.1 : G.Tree
Ex.P.2-3 : RTCs
Ex.P.4 : MR extract

List of documents marked for the defendants:

- Nil -

Sd/-
**SENIOR CIVIL JUDGE & PRL. JMFC.,
TARIKERE.**