

Decree for partition

IN THE COURT OF SENIOR CIVIL JUDGE AND PRL. J.M.F.C.
AT TARIKERE.

O.S.No.44/2014

Plaintiffs:

1. N.M. Parameshwarappa S/o late Marulappa, since dead by his Lrs.

1(a) Jayapadma D/o late N.M. Parameshwarappa, W/o B.S. Palakashappa, aged about 51 years, R/o #7 Shiva Ganga Complex, Taluk Office Road, Bhadravathi, Bhadravathi Taluk.

1(b) N.P. Geetha D/o late N.M. Parameshwarappa, W/o Ravi Kumar H.M., aged about 48 years, R/o #162, Trupti, Gandhinagar, Near Bhadra Barsing Home, Bhadravathi.

1(c) N.P. Choodamani D/o late N.M. Parameshwarappa, W/o Dayanad Swamy, aged about 46 years, R/o Ammanaghatta, Gubbi (Rural) Tumkur District.

1(d) N.P. Hemanth Kumar, S/o late N.M. Parameshwarappa, aged about 43 years, R/o #7/19, 1st Plase, Nehru Road, Girinagar, Bangalore-560085.

2. N.M. Shivalingappa S/o late Marulappa, aged about 74 years, Agriculturist, R/o Gejjegondanahalli village/post, Ajjampura Hobli,

Tarikere Taluk, Chikkamagaluru District.

3. N.M. Onkarappa S/o late Marulappa, aged about 63 years, Agriculturist, R/o IDK-97/B New Town, Umblebail road, Bhadravathi Town, Shivamogga District.

Versus

Defendant's: **1.** M. Nanjundappa S/o late Marulappa, aged about 65 year, Agriculturist, R/o Narayanapura village, Javuru Post, Shivani Hobli, Tarikere Taluk, Chikkamagaluru District.

2. Smt Suvarnamma W/o Shekarappa, D/o late Rajappa, aged about 53 years, Agriculturist, R/o Arabagatta Post, Ramagiri Hobli, Holalkere Taluk.

3. Uday Kumar S/o late Rajappa, aged about 74 years, R/o Kuppal village, Mattigatta post, Kadur Taluk, Chikkamagaluru District.

4. Kumarappa S/o late Rajappa, aged about 48 years, R/o Biligere village, Bandigudda post, Bhadravathi Taluk, Shivamogga District. Dead by Lrs.

4(a) Smt. Shanthamma W/o late Kumarappa, aged about 45 years,

4(b) Bharath S/o late Kumarappa, aged about 18 years,

4(c) Sharath S/o late Kumarappa, aged about 16 years, minor, Represented by his mother as natural guardian,

All are R/o Biligere village, Bandigudda post, Bhadravathi Taluk, Shivamogga District.

5. Smt. Shakuntalamma W/o Parameshwaappa D/o Rajappa, aged about 46 years, R/o Arabagatta post, Ramagiri Hobli, Holalkere Taluk. Dead by Lrs.

5(a) Pushpa D/o Parameshwarappa, aged about 22 years,

5(b) Kavana D/o Parameshwarappa, aged about 20 years,

5(c) Bhavya D/o Parameshwarappa, aged about 19 years,

5(d) Swamy S/o Parameshwarappa, aged about 18 years,

All are R/o Arabagatta village, Ramagiri Hobli, Holalkere Taluk, Chitradurga District.

6. Smt. Tenavati W/o Manjappa, D/o Rajappa, aged about 42 years, R/o Hullibare village, Gopal Post, Lakkavalli Hobli, Tarikere Taluk.

7. Smt. Nirmala W/o Shashidara, D/o Rajappa, aged about 38 years, R/o Basavanagudi, Antaragange village, Bhadravathi Taluk.

8. Smt. Shivamma W/o Prakasha (Prakash D/o Rajappa), aged about 35 years, Agriculturist, R/o Hullibare village, near M.C. Halli village, Gopal Post, Lakkavalli Hobli, Tarikere Taluk.

9. Shashidara S/o late Prakash, major, R/o Hullibare village, near M.C. Halli village, Gopal Post, Lakkavalli Hobli, Tarikere Taluk.

10. Jananesh S/o late Rajappa, aged about 30 years, R/o Biligere village, Bandigudda post, Bhadravathi Taluk, Shivamogga District.

11. Ramachandrappa S/o late Govindappa, aged about 55 years, Agriculturist, R/o Anne village, G.G. Halli post, Anjanapura Hobli, Tarikere Taluk, Chikkamagalu District.

12. Smt. Subadramma W/o Banappa, D/o late Govindappa, aged about 65 years, R/o Muddappara-Basappana mane, Shivani Hobli, Tarikere Taluk, Chikkamagalu District.

13. Smt. Annapoorna W/o Murthappa, D/o late Govindappa, Household work, aged about 55 years, R/o Haladamma street, Bhadravathi Town, Shivamogga District.

14. Smt. Nagarathna W/o Omkarappa, D/o late Govindappa, aged about 48 years, R/o Baguru village, Banashankaramma street, Hosadurga Taluk, Chitradurga District.

15. Sarojamma W/o Shivamurthy, D/o late Govindappa, aged about 45 years, Agriculturist, R/o Halli village /post, Bhadravathi Taluk, Shivamogga District.

16. Smt. Bharathi W/o late Ranga Swamy, aged about 38 years, R/o Muttajjara Basappana Mane, Shivani village-post, Tarikere Taluk.

17. H.R. Nagappa S/o late Rangappa, aged about 85 years, Agriculturist, R/o Honne village, G.G. Halli post, Tarikere Taluk.

18. Smt. Shakuntala W/o H.N. Gangadrappa, aged about 38 years, household, R/o Honne village, G.G.Halli post, Tarikere Taluk.

19. Smt. Jayasheela D/o H.N. Gangadharappa, aged about 28 years, R/o Hanne village, G.G.Halli post, Tarikere Taluk.

20. Attimagge Basappa @ B. Basappa S/o late Basappa, dead by his Lrs.

20(a) Lokeshappa S/o Basappa, major, R/o Ajjampura Taluk at and post, Attimogge, Chikkamagaluru.

20(b) Suresh S/o Basappa, major R/o Ajjampura Taluk at and post, Attimogge, Chikkamagaluru.

20(c) Kanthamma W/o Nagarajappa, Major, R/o Girinagara, Tarikere, Chikkamagaluru.

20(d) Drakshayanamma W/o Malleshappa, Major, R/o Chikkanayakanahalli, Kadur Taluk, Chikkamagaluru.

20(e) Jayamma W/o late Thippeshappa, Major, R/o Attimogge, Ajjampura Taluk at and post, Attimogge, Chikkamagaluru.

SUIT FILED ON 30-10-2014

RELIEFS:- The plaintiffs prays court be pleased to pass a judgment and decree in favour of the plaintiffs and against the defendants :-

- 1)** For partition and separate possession of plaintiff 1/5th share each together 3/5th share in the suit schedule property by metes and bounds:
- 2)** For declaration that the registered sale deed dated 06-12-1980 vide SR.No.1720/1980-81 purportedly executed by defendant No.1 M.Nanjundappa S/o late Marulappa in favour of defendant No.17, H.R. Nagappa S/o Late Rangappa allegedly conveying 0-22½ guntas in Sy.No.10/1 of Hanne Village, Ajjampura Hobli, Tarikere Taluk out of total extent of 2 acres 0-16 guntas is illegal, void fraudulent and not binding to the extent of plaintiffs shares in the suit schedule property.
- 3)** For declaration that the registered sale deed dated 06-12-1980 vide SR.No.1721/1980-81 purportedly executed by defendant No.1

M.Nanjundappa S/o late Marulappa in favour of now Late H.N.Govindappa S/o Nagappa, namely the father of defendant No.11 to 15 allegedly conveying 0-22½ guntas in Sy.No.10/1 of Hanne Village, Ajjampura Hobli, Tarikere Taluk out of total extent of 2 acres 0-16 guntas in illegal, void fraudulent and not binding to the extent of plaintiffs shares in the suit schedule property.

- 4) For declaration that the registered gift deed dated 11-12-2002 vide SR.No.1897/2002-03 purportedly executed by defendant No.17 H.R. Nagappa along with his wife Smt. Hombalamma gifting 0-22½ guntas in Sy.No.10/1 of Hanne Village, Ajjampura Hobli, Tarikere Taluk out of total extent of 2 acres 0-16 guntas in favour defendant No.18 Smt.Shakuntala is illegal, void fraudulent and not binding to the

extent of plaintiffs shares in the suit schedule property.

- 5)** For declaration that the registered sale deed dated 27-01-2012 vide SR.No.4936/2011-12 purportedly executed by defendant No.18 Smt.Shakuntala W/o H.N.Ganga dharappa in favour of defendant No.19, Smt.Jayasheela D/o H.N.Ganga dharappa allegedly conveying 0-22½ guntas in Sy.No.10/1 of Hanne Village, Ajjampura Hobli, Tarikere Taluk out of total extent of 2 acres 0-16 guntas is illegal, void fraudulent and not binding to the extent of plaintiffs shares in the suit schedule property.
- 6)** For declaration that the registered sale deed dated 26-05-1976 vide SR. No.343/1976-77 purportedly executed by now deceased M.Rajappa the father of defendant No.2 to 7 and 10, the father-in-law of defendant No.8 and

grand father of defendant No.9 in favour of the defendant No.20, allegedly conveying 0-30 guntas in Sy.No.10/2 of Hanne Village, Ajjampura Hobli, Tarikere Taluk is absolutely unrelated and unconnected to the suit schedule property whereby the said purchaser derived absolutely no right whatsoever and even otherwise it is illegal, void fraudulent and not binding to the extent of plaintiffs shares in the suit schedule property.

- 7) For permanent injunction restraining the defendants or their authorized agents from alienating, encumbering, transferring or creating any type of charges in or upon the suit schedule property or any partion thereof in any manner whatsoever until such time the plaintiffs 3/5th share is carved out by meets and bounds and put

them in physical and actual possession of their respective shares.

8) For litigation costs and expenses:

9) And grant such appropriate reliefs as the court deems just and expedient under the facts and circumstances of the case in the interest of justice, equity and good conscience.

This suit coming on **1st** day of **June** 2022 for final disposal before Sri.**M.C. Nanje Gowda., B.A.L., LL.M.**, Senior Civil Judge & Prl. JMFC., Tarikere in the presence of Sri.**S.N.Mallegowda**, Advocate for plaintiffs and Sri. **A.R.M.**, Advocate for Defendant No.**1** Sri. **T.N.Mahade vappa**, Advocate for Defendant No.**2, 6 to 8 and 10**, Sri.**C.S.Shivaprasad**, Advocate for Defendant No.**11, 18** and **19**, Sri.**D.C.Parameshwarappa**, Advocate for Defendant No.**20-(a) to (e)**, Defendant No.**3** is **In-person**, Defendant No.**4-(a) to (c)** are **absent**, and Defendant No.**5(a) to (d) D-9, 12 to 17** are placed exparte,

After contest, by pronouncing judgment, it is ordered that, the suit of the plaintiffs is hereby dismissed.

It is further ordered and decreed that, there is no order as to cost.

Given under my hand and the seal of this court on 1st day of **June** 2022.

Sd/-

**SENIOR CIVIL JUDGE
TARIKERE.**

DECREE SIGNED ON: 14-06-2022.

Sd/-

**SENIOR Civil Judge
TARIKERE.**

MEMORANDUM OF COST INCURRED IN THIS PETITION.

Sl. No	Particulars	By the Plaintiffs	By the defendants
1	Court fee paid on plaint	750-00	-
2	Advocate Fee	- [F.c not Filed]	- [F.C Filed]
3	Service of Process	746-00	-
	Total	1,495-00	-

Sd/-

**SENIOR Civil Judge
TARIKERE.**

SCHEDULE

The Agricultural land bearing Sy.No.10/1, ad measuring southern partion of 2 acres 0-16 guntas out of total extent 4 acres 0-32 guntas assessed to land revenue at Rs.13.92 ps situated at Hanne Village, Ajjampura Hobli, Tarikere Taluk, Chikkamagalore District and bounded by :-

East by :- Lands of Siddanna and Ganesh Murthy

West by :- Hanne Village

North by :- Lands allotted to the share of Nanjappa's
branch measuring 2 acres 0-16 guntas

South by :- Lands of Shantha Kumara

**SENIOR Civil Judge
TARIKERE.**

VALUATION SLIP

1) For partition and separate possession of plaintiff
1/5th share each together 3/5th share in the suit
schedule property by metes and bounds:

- 2)** For declaration that the registered sale deed dated 06-12-1980 vide SR.No.1720/1980-81 purportedly executed by defendant No.1 M.Nanjundappa S/o late Marulappa in favour of defendant No.17, H.R. Nagappa S/o Late Rangappa allegedly conveying 0-22½ guntas in Sy.No.10/1 of Hanne Village, Ajjampura Hobli, Tarikere Taluk out of total extent of 2 acres 0-16 guntas is illegal, void fraudulent and not binding to the extent of plaintiffs shares in the suit schedule property.
- 3)** For declaration that the registered sale deed dated 06-12-1980 vide SR.No.1721/1980-81 purportedly executed by defendant No.1 M.Nanjundappa S/o late Marulappa in favour of now Late H.N.Govindappa S/o Nagappa, namely the father of defendant No.11 to 15 allegedly conveying 0-22½ guntas in Sy.No.10/1 of Hanne Village, Ajjampura Hobli, Tarikere Taluk out of total extent of 2 acres 0-16 guntas in illegal, void fraudulent and not binding to the extent of plaintiffs shares in the suit schedule property.
- 4)** For declaration that the registered gift deed dated 11-12-2002 vide SR.No.1897/2002-03 purportedly

executed by defendant No.17 H.R. Nagappa along with his wife Smt. Hombalamma gifting 0-22½ guntas in Sy.No.10/1 of Hanne Village, Ajjampura Hobli, Tarikere Taluk out of total extent of 2 acres 0-16 guntas in favour defendant No.18 Smt.Shakuntala is illegal, void fraudulent and not binding to the extent of plaintiffs shares in the suit schedule property.

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in favour of the defendant No.20, allegedly conveying 0-30 guntas in Sy.No.10/2 of Hanne Village, Ajjampura Hobli, Tarikere Taluk is absolutely unrelated and unconnected to the suit schedule property whereby the said purchaser derived absolutely no right whatsoever and even otherwise it is illegal, void fraudulent and not binding to the extent of plaintiffs shares in the suit schedule property.

7) For permanent injunction restraining the defendants or their authorized agents from alienating, encumbering, transferring or creating any type of charges in or upon the suit schedule property or any partion thereof in any manner whatsoever until such time the plaintiffs 3/5th share is carved out by meets and bounds and put them in physical and actual possession of their respective shares.

8) For litigation costs and expenses:

9) And grant such appropriate reliefs as the court deems just and expedient under the facts and circumstances of the case in the interest of justice, equity and good conscience.

In so far as the relief No.1 for partition and separate possession of plaintiff's 1/5th share is concerned it is in joint possession of the plaintiffs and the defendants. It is assessed to land revenue at Rs.12.92 ps. Hence the market value comes to $12.92 \times 25 = \text{Rs.}323/-$. The real market value is Rs.3,60,000/- per acre. In other words the total value of the suit schedule property measuring 2 acres 0-16 guntas comes to Rs.8,64,000/- The plaintiff's 1/5th share each is valued at Rs.1,72,800/- and plaintiff's 3/5th share together comes to Rs.5,18,400/-. The plaintiff has paid Rs.200/- each on the respective shares under section 35(2) of the Karnataka Court Fees and Suits Valuation Act. Thus court fee of Rs.600/- is paid on relief No.1.

In so far as the declaratory relief No.2 to 6 are concerned, each relief is valued at Rs.1000/- under section 24(d) of the Karnataka Court Fees and Suits Valuation Act and court fee of Rs.25/- each is on each reliefs and in all Rs.125/- is paid.

In so far as the relief No.7 for permanent injunction is concerned, it is valued at Rs.1000/- under section 26(c) of the Karnataka Court Fees and Suits Valuation Act.

The rest of the reliefs do not attract the payment of court fees.

Hence the total court fee of Rs.750/- paid on the plaint is proper and correct. For the purpose of pecuniary jurisdiction the suit is valued at Rs.5,24,400/-. Therefore, this court has jurisdiction to try and dispose of the case.

SENIOR CIVIL JUDGE

TARIKERE

