



Presented on : 23-11-2022
Registered on: 23-11-2022
Decided on : 19-06-2026
Duration : 03 years, 6 months, 26 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE &
JMFC, TARIKERE**

P R E S E N T

MUZAFFAR A. MANJARI,
B.A., LL.B.
SENIOR CIVIL JUDGE & JMFC, TARIKERE

DATED THIS THE 19TH DAY OF JUNE - 2026

ORIGINAL SUIT NO.185/2022

PLAINTIFF :

Master Chiranth K.M S/o
Muthuswamy K.L., aged about
10 years, R/at No.1, Puttegowda
Street, Boovanahalli Village,
Hassan Taluk, Hassan District-
573220, Since Minor Represented
by his Mother Smt. Nethravathi
K.T.

(By Sri. N.K.Prakash, Adv.)

-V/s-

DEFENDANTS :

1. Smt. Mayamma W/o Late
Krishnappa, aged about 76 years,
R/o Kenchapura Village, Nandi Post,

Lingadahalli Hobli, Tarikere Taluk,
Chikkamagaluru District.

2. Lakshmana S/o Late Krishnappa,
aged about 60 years, R/o
Kenchapura Village, Nandi Post,
Lingadahalli Hobli, Tarikere Taluk,
Chikkamagaluru District.
3. Smt. Gangamma W/o Lakshmana,
aged about 58 years, R/o
Kenchapura Village, Nandi Post,
Lingadahalli Hobli, Tarikere Taluk,
Chikkamagaluru District.
4. Smt. Manjamma D/o Lakshmana,
aged about 45 years, R/o
Kenchapura Village, Nandi Post,
Lingadahalli Hobli, Tarikere Taluk,
Chikkamagaluru District.
5. Muthuswamy K.L., S/o Lakshmana,
aged about 42 years, R/o
Kenchapura Village, Nandi Post,
Lingadahalli Hobli, Tarikere Taluk,
Chikkamagaluru District.

**(D1 to D4 – In person and D5 by
Sri. B.S.Niranjan Murthy, Adv.)**

Date of filing the suit	23.11.2022
Nature of the suit	Partition
Recording of evidence	27.10.2023
Date of judgment	19.06.2026

Total duration

Year/s	Month/s	Day/s
03	06	26

**SENIOR CIVIL JUDGE & JMFC,
TARIKERE**

J U D G M E N T

This suit is filed by plaintiff through his next friend against defendants for partition and separate possession seeking 1/3rd share out of 1/4th share of the defendant No.5 in suit item No.1 property and 1/3rd out of 1/3rd share of the defendant No.5 in suit item No.2 to 4 properties and for such other reliefs.

2. The brief facts of the case of the plaintiff is as under:

The properties involved in this suit are (1) land Sy.No.86/1 measuring 4 acres situated at Kenchapura Village, Lingadahalli Hobli, Tarikere Taluk, Chikkamagaluru District, (2) land Sy.No.7/10 measuring 1 acre situated at Kenchapura Village, Lingadahalli Hobli, Tarikere Taluk, Chikkamagaluru District, (3) land Sy.No.85 measuring 2 acres 4 guntas situated at Hosahalli Village, Lingadahalli Hobli, Tarikere Taluk,

Chikkamagaluru District and (4) house bearing Gramatana No.140 measuring East to West 30 feet and North to South 50 feet totally measuring 1500 square feet situated at Kenchapura Village, Lingadahalli Hobli, Tarikere Taluk, Chikkamagaluru District. The plaintiff has described the suit properties in detail in schedule of the plaint along with its boundaries, etc.

3. The plaintiff has averred in his plaint that one Krishnappa is original propositus of the family consisting of him and defendants. The said Krishnappa has died leaving behind his wife namely Smt. Mayamma i.e. defendant No.1 and children namely Lakshmana i.e. defendant No.2, Chandrappa, Ganeshappa, Nagaraja and Armuga. The defendant No.3 is wife and defendants No.4 and 5 are children of the defendant No.2 whereas, the plaintiff is son of the defendant No.5, grandson of the defendant No.2 and great grandson of the original propositus Krishnappa. The plaintiff and defendants are members of a joint Hindu family which is governed by Mithakshara School of Law. The other children of the defendant No.1 and propositus i.e. Chandrappa, Ganeshappa, Nagaraja and Armuga are not made parties in the suit since partition is already effected among them and defendant No.1 in the ancestral properties.

4. The plaintiff has further averred that land Sy.No.86 totally measuring 4 acres 4 guntas situated at Kenchapura Village, Lingadahalli Hobli, Tarikere Taluk originally belonged to one Krishnappa S/o Nanjama Shetty who had acquired the same by way of grant under Karnataka Land Reforms Act and accordingly, his name was mutated thereto vide M.R.No.8/1968-69 but subsequently, he entered into partition with his brother namely Krishnappa S/o Nachumuttu i.e. original propositus and defendant No.1 and in the said partition, the said land fell to the share of the propositus and defendant No.1 jointly and accordingly, katha was mutated in their joint names vide M.R.No.13/2001-02 dated 06.07.2011. Subsequently, the propositus died and thereupon, katha was mutated in the name of the defendant No.1 vide M.R.No.H23/2011-12 dated 10.07.2012 and thereafter, out of the said land, 4 guntas was sold by the defendant No.1 and her children under a registered sale deed dated 12.02.2015 whereas, the remaining land of 4 acres continued to be the family property which is described as suit item No.1 property in this plaint.

5. The plaintiff has further averred that land bearing Sy.No.7/P5 and new Sy.No.7/1 totally

measuring 5 acres situated at Kenchapura Village, Lingadahalli Hobli, Tarikere Taluk belongs to the defendant No.1 but she partitioned the said property among her and children vide M.R.No.13/2000-01 dated 03.02.2002 and out of the 5 acres land, 1 acre land fell to the share of the defendant No.2 and accordingly, katha was entered in his name vide M.R.No.13/2001-02. The said land was subsequently phoded and new Sy.No.7/10 was allotted to the said land of 1 acre which is suit item No.2 property. Further, suit item No.3 property was granted in favour of the defendant No.2 and accordingly, katha is mutated in his name vide M.R.No.H-10/2018-19. Similarly, suit item No.4 property is standing in the name of the defendant No.2. Thus, all the suit properties are ancestral and joint family properties of the family of plaintiff and defendants and the father of the plaintiff i.e. defendant No.5 has legitimate share in the said properties and out of the said share, the plaintiff is entitled to his legitimate share.

6. The plaintiff has also averred that despite the above facts, the defendant No.5 is not taking care of him since 2019 but he is in the custody of his mother who is living in a rented house in Hassan. The defendant No.5 is not providing food, shelter, cloth or education to the

plaintiff and therefore, for the benefit of the plaintiff, his mother demanded his legitimate share in the suit properties on 12.11.2022 but the defendants No.2 to 5 refused to effect partition. Therefore, the plaintiff was constrained to file this suit and accordingly, for all these reasons, he has prayed to decree his suit.

7. In pursuance of service of suit summons, the defendants No.1 to 4 have appeared before this court in person and the defendant No.5 has appeared through her counsel but they have failed to file their written statements and to contest the suit.

8. In order to prove his case, the plaintiff has led his evidence by getting examined his next friend as P.W.1 and by getting marked documents as per Ex.P1 to Ex.P25.

9. I have heard arguments of the counsel for the plaintiff and perused record of the case.

10. In view of the claim put-forth by the plaintiff, the following points arise for my consideration :

P O I N T S

1. Whether plaintiff proves that he and defendants constitute a joint Hindu family?

2. Whether plaintiff further proves that the suit properties are joint family properties of his family?
3. Whether plaintiff is entitled to reliefs sought by him?
4. What order or decree?

11. On hearing the arguments and perusal of the record, my findings to the above points are as under :

POINT NO.1: In the **AFFIRMATIVE**

POINT NO.2: **PARTLY** in the **AFFIRMATIVE**

POINT NO.3: **PARTLY** in the **AFFIRMATIVE**

POINT NO.4: As per final order for the following :

REASONS

12. **POINTS NO.1 TO 3** : Since all these points are inter-connected with each other and involve common discussion, they are taken up together for consideration in order to avoid repetition of facts and discussion.

13. In order to prove his claim in this suit, the plaintiff has led his evidence by getting examined his next friend namely Nethravathi K.T W/o Muthuswamy K.L as P.W.1 and by getting marked as many as 25 documents as per Ex.P1 to Ex.P25.

14. P.W.1 has filed her affidavit in lieu of examination-in-chief by reiterating the averments of the

plaint. She has testified that the plaintiff is her son whereas, the defendant No.5 is her husband. She has further testified that the defendant No.2 is her father-in-law, the defendant No.3 is her mother-in-law, the defendant No.4 is her sister-in-law and that the defendant No.1 mother of the defendant No.2 and as such, the plaintiff and defendants constitute a joint Hindu family.

15. In support of the above claim, the plaintiff has not produced any genealogy of his family but the above relationship is not denied by the defendants by filing their written statements to the plaint. Therefore, in the absence of denial of the relationship, I hold that the plaintiff has proved his relationship with the defendants and as such, the plaintiff has duly proved that he and defendants are members of joint Hindu family.

16. P.W.1 has further testified that the suit properties are ancestral and joint family properties of the family of plaintiff and defendants and the defendant No.5 is entitled to his legitimate share in the said properties and accordingly, the plaintiff is also entitled to his legitimate share in the share of the defendant No.5. PW.1 has further testified that land Sy.No.86 totally measuring 4 acres 4 guntas of Kenchapura Village belonged to one

Krishnappa S/o Nanjama Shetty who had acquired the same by way of grant from the government but subsequently, he entered into a partition with his brother namely Krishnappa S/o Nachumuttu i.e. original propositus of the family of plaintiff and defendants and in the said partition, the said entire land fell to the share of the propositus and defendant No.1 jointly. She has further testified that katha was mutated in the joint names of the propositus and defendant No.1 to the said land on the basis of the partition vide M.R.No.13/2001-02 dated 06.07.2011 and subsequently, after the death of the propositus, the katha was mutated in the name of the defendant No.1 vide M.R.No.H23/2011-12 dated 10.07.2012 and thereafter, out of the said land, 4 guntas was sold by the defendant No.1 and her children under a registered sale deed dated 12.02.2015 whereas, the remaining land of 4 acres continued to be the family property which is nothing but suit item No.1 property.

17. In support of the above testimony, the plaintiff has produced a copy of mutation extract in respect of M.R.No.13/2001-02 dated 02.02.2002 as per Ex.P22 which reveals that land Sy.No.86 measuring 4 acres 4 guntas of Kenchapura Village was mutated in the name of husband of the defendant No.1 i.e. Krishnappa S/o

Nachumuttu on the basis of a partition. He has also produced record of rights in respect of the said land pertaining to years from 2001-02 to 2013-14 as per Ex.P-1 to Ex.P-12 which reveal that the said land was standing in the name of husband of the defendant No.1 i.e. Krishnappa. He has also produced a copy of mutation extract in respect of M.R.No.H23/2011-12 dated 10.07.2012 as per Ex.P.23 which reveals that the said land was transferred in the name of the defendant No.1 by pavathi varasu after the death of her husband Krishnappa. He has also produced record of rights of the said land pertaining to years 2014-15 as per Ex.P-14 which reveals that the said land was standing in the name of the defendant No.1. Similarly, he has produced record of rights of the suit item No.1 property i.e. Sy.No.86/1 measuring 4 acres of Kenchapura Village pertaining to years from 2015-16 to 2022-23 as per Ex.P15 to Ex.P21 which reveal that the said land is presently standing in the name of the defendant No.1. Thus, this fact gives inference that out of land measuring 4 acres 4 guntas in Sy.No.86, the defendant No.1 and her children have sold land to an extent of 4 guntas and the remaining land measuring 4 acres i.e. suit item No.1 property is continued to be the family property.

18. The above documents support the claim of the plaintiff that suit item No.1 property is ancestral and joint family property of his family which has been inherited by the family from his great grandfather i.e. Krishnappa and as such, he is entitled to his legitimate share in the said property. The above documents so also claim of the plaintiff in respect of suit item No.1 property are not denied by the defendants by filing their written statements, cross-examining PW.1 or leading their evidence and therefore, I believe and accept the said claim since the same is supported by the documents and testimony of PW.1.

19. PW.1 has further testified that land bearing Sy.No.7/P5 and new Sy.No.7/1 totally measuring 5 acres of Kenchapura Village belongs to the defendant No.1 but she has partitioned the said property among her and children vide M.R.No.13/2000-01 dated 03.02.2002 and out of the 5 acres land, 1 acre land has fallen to the share of the defendant No.2 and accordingly, katha is entered in his name vide M.R.No.13/2001-02. She has further testified that the said land was subsequently phoded and new Sy.No.7/10 was allotted to the said land of 1 acre which is suit item No.2 property. She has also testified that suit item No.3 property was granted in

favour of the defendant No.2 and accordingly, katha is mutated in his name vide M.R.No.H-10/2018-19 so also, suit item No.4 property is standing in the name of the defendant No.2 and as such, all these suit properties are also ancestral and joint family properties of the family of plaintiff and defendants and the father of the plaintiff i.e. defendant No.5 has legitimate share in the said properties and out of the said share, the plaintiff is also entitled to his legitimate share.

20. However, the above testimony of P.W.1 and claim of the plaintiff is not acceptable because as claimed by the plaintiff himself, suit item No.2 property belongs to the defendant No.1 and since, the defendant No.1 is alive, the plaintiff cannot claim share therein. Similarly, as claimed by the plaintiff himself, suit item No.3 property is granted in favour of the defendant No.2 and since the defendant No.2 is also alive, the plaintiff cannot claim share therein. Further, though the plaintiff has produced katha extract in respect of suit item No.4 property as per Ex.P25 which reveals that the same is standing in the name of the defendant No.2, no documents are produced to show that the same is inherited by the defendant No.2 from the original propositus Krishnappa and therefore, it can be said that

the said property is absolute property of the defendant No.2 and since the defendant No.2 is alive, the plaintiff cannot claim share in the said property also. Thus, the plaintiff has not placed sufficient material on record to show that suit item No.2 to 4 properties are also ancestral and joint family properties of his family.

21. Thus, from the above entered discussion, it is very much clear that the plaintiff has proved that he and defendants are members of a joint Hindu family and suit item No.1 property is ancestral and joint family property of his family. These aspects are not denied by the defendants by contesting the suit and as such, there is nothing on record not to believe the claim of the plaintiff regarding suit item No.1 property. Hence, in view of this, the plaintiff is entitled to his legitimate share out of the share of his father i.e. defendant No.5. However, the plaintiff has failed to prove that suit item No.2 to 4 properties are also joint family properties of his family and therefore, he is not entitled to any share in the said properties.

22. With regard to the quantum of share, suit item No.1 property has to be divided between the propositus Krishnappa and defendant No.1 since the propositus has died leaving behind her wife i.e. female

member who is defendant No.1. Out of the said two shares, one share of the propositus would devolve upon his class-I heirs and the other on the defendant No.2. The share of the defendant No.2 has to be divided again among him and defendants No.4 and 5 equally. Thereafter, the share of the defendant No.5 has to be divided between him and plaintiff equally. If the same is calculated, the share of the propositus and defendant No.2 would come to $6/12^{\text{th}}$ each. If the share of the defendant No.2 is divided among him and defendants No.4 and 5, it would come to $2/12^{\text{th}}$ each and if the share of the defendant No.5 is divided between him and plaintiff, it would come to $1/12^{\text{th}}$ each. Thus, the plaintiff entitled to $1/12^{\text{th}}$ share in suit item No.1 property.

23. Further, it is true that the plaintiff is a minor and as such, this court cannot order for partition in the family properties if the same is not beneficial for the minor. However, in this case, the plaintiff has alleged that the defendant No.5 is not taking care of him and his mother and as such, under circumstances, there is possibility that the defendant No.5 may alienate the said property and hence, in order to protect the interest of the minor, it is necessary to order for partition in the suit. Hence, I hold that the plaintiff is entitled to share in suit

item No.1 property to the above said extent and accordingly, for all these reasons, I answer point No.1 in the **AFFIRMATIVE** and points No.2 and 3 **PARTLY** in the **AFFIRMATIVE**.

24. POINT NO.4: For foregoing reasons, I proceed to pass the following :

ORDER

Suit filed by plaintiff for partition is hereby **DECREED IN PART**.

It is hereby declared that plaintiff is entitled to 1/12th share in suit item No.1 property.

Suit of plaintiff in respect of suit item No.2 to 4 properties is hereby dismissed.

The defendants are hereby directed to divide suit item No.1 property by metes and bounds and put the plaintiff into possession of his legitimate share to the extent stated above.

Looking to relationship of the parties, there is no order as to costs.

Draw preliminary decree
accordingly.

(Dictated to the Stenographer directly on the computer, typed by her,
revised by me and after corrections, pronounced by me in the open Court on
this the 19th day of June – 2026)

Sd/-
(MUZAFFAR A. MANJARI)
SENIOR CIVIL JUDGE & JMFC,
TARIKERE

ANNEXURE

**LIST OF WITNESSES EXAMINED ON BEHALF OF
PLAINTIFF:**

P.W.1 : Smt. Nethravathi

**LIST OF DOCUMENTS MARKED ON BEHALF OF
PLAINTIFF:**

Ex.P1 to 21: RTC extracts
Ex.P22 : MR extract
Ex.P23 : MR extract
Ex.P24 : MR extract
Ex.P25 : Copy of Katha Register

**LIST OF WITNESSES EXAMINED ON BEHALF OF
DEFENDANTS:**

Nil

**LIST OF DOCUMENTS MARKED ON BEHALF OF
DEFENDANTS:**

Nil

Sd/-
SENIOR CIVIL JUDGE & JMFC,
TARIKERE