

**IN THE COURT OF SENIOR CIVIL JUDGE AND CJM.,**  
**CHAMARAJANAGAR**

Dated On This 17<sup>th</sup> Day Of March 2022

**PRESENT**  
**SRI GANAPATI GURUSIDDA BADAMI**  
**B.A.L.L.B.(SPL)**  
**SENIOR CIVIL JUDGE & CJM,**  
**CHAMARAJANAGAR**  
**O.S No.51/2021**

- Plaintiffs:
1. **Sarojamma**  
D/o Late. Narasimhamurthy  
W/o Sampathshetty  
Aged about 59 years  
R/o Bendaravadi Village,  
Kasaba Hobli, Kavalande- 571312  
Chamarajanagar Taluk.
  2. **Shanthamma**  
D/o Late. Narasimhamurthy  
W/o Late. Nagaraju  
Aged about 55 years  
R/o Tagaduru Village,  
Biligere Hobli,  
Nanjanagud Taluk, Mysore District.
  3. **Nirmala**  
D/o Late. Narasimhamurthy  
W/o Dinesh  
Aged about 43 years  
R/o Near Ramamandira,  
Gundlupet Town.
  4. **Sudha**  
D/o Late. Narasimhamurthy  
W/o Ragavendra  
Aged about 35 years  
R/o Kugalur Village,  
Nanjanagud Taluk,  
Mysore District-57118.  
(By Sri. D.M.S. Adv.,)

-V/s -

Defendants: 1. Narasimha Murthy  
S/o Late. Venkataramashetty  
Aged about 96 years,  
2. Ramesha  
S/o Narasimha Murthy  
Aged about 41 years,  
Both are R/o Rohan Enterprises  
R/o Bendaravadi Village,  
Kasaba Hobli, Kavalande- 571312  
Chamarajanagar Taluk.  
(By Sri. MSM Advocate)

### **JUDGMENT**

Plaintiffs have filed this suit against the defendants seeking the relief of partition and separate possession of share in the suit schedule properties

2. It is averred that, the defendant No. 1 is the father of the plaintiff No.1 to 4 and defendant No. 2. and he has a wife by name Savithramma. The suit properties are originally belonged to Venkataramashetty and after his death, the plaintiffs and defendants have succeeded to the suit properties which are joint family properties. The plaintiffs and defendants are in joint possession and enjoyment of suit properties and till today, partition has not been taken place in between the them in respect of suit properties. After the marriage of plaintiffs, they are residing in the houses of their husbands. The khata of the suit properties standing in the name of defendant No. 1, but he has not absolute right over the said properties. Plaintiffs and defendants are entitled for 1/6th share in the suit properties. The defendants are trying to alienate the suit properties for which plaintiffs asked their share in the suit properties on 10.03.2021 and subsequent days which was denied by defendants for which the plaintiffs are constrained to file the suit.

3. Though defendant No. 1 and 2 have appeared through their counsel, they have not filed their written statement. Hence written statement of defendant No. 1 and 2 taken as not filed.

4. Plaintiff No.2 herself examined as PW- 1 and got marked Ex.P- 1 to 8 and closed her evidence. Though sufficient time has been granted to the defendants, they have not led their evidence. Hence defendants side evidence is taken as nil.

5. Heard the arguments of learned counsel for plaintiffs. Though sufficient time has been granted to the defendants to file their written statement and to lead their evidence and submit their arguments, they have not addressed their arguments. Hence defendants side arguments are taken as not addressed and suit is taken for disposal on merits.

6. Points arise for my consideration is:

1. Whether plaintiffs prove that, they and defendants are joint family members and suit properties are joint family properties and they are in joint possession and enjoyment of suit properties ?

2. Whether plaintiffs are entitled for the relief as prayed in the plaint?

3. What order or decree ?

7. My findings on the above points are as under:

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:** As per the evidence of plaintiff No. 2, the plaintiffs and defendant No.2 are children of defendant No. 1 and Savithamma and suit properties are belonged to her grand father by

name Venkataramashetty and after his death, they and defendants are in joint possession and enjoyment of suit properties and suit properties are ancestral joint family properties and till today partition has not been taken place in respect of the said properties. She has also stated that, the suit properties are standing in the name of defendant No. 1 and he is trying to alienate suit properties and when they asked their share in the suit properties, the defendants have denied their share.

9. Plaintiffs have produced genealogical tree as per Ex.P- 1 and as per the said document, defendant No. 1 is the father of plaintiffs and defendant No.2 and Savithamma is mother of plaintiffs and defendant No. 2. Plaintiffs have produced record of rights of land bearing R.S.No. 89/3 measuring 31.08 gunta of Heggavadi village and the name of defendant No. 1 is entered as per M.R.No. 6/2004-05. They have also produced record of rights of land bearing R.S.No. 89/5 measuring 31.08 gunta of Heggavadi village and the name of defendant No. 1 is entered as per M.R.No. 6/2004-05. They have also produced record of rights of land bearing R.S.No. 6/2 measuring 19.08 gunta of Bendravadi village which is in the joint names of defendant No. 1 and his father Venkatarmashetty as as per M.R.No. 74/1991-92. They have produced record of rights of land bearing R.S.No. 113/2 measuring 03 acre 13 gunta of Bendravadi village and the name of defendant No. 1 is entered as per M.R.No. 74/1991-92. They have produced record of rights of land bearing R.S.No. 1/5 measuring 11 gunta of Bendravadi village and the name of defendant No. 1 is entered as per M.R.No. 74/1991-92. They have produced record of rights of land bearing R.S.No. 1/6 measuring 10 gunta of Bendravadi village and the name of defendant No. 1 is entered as per M.R.No. 74/1991-92. They produced certified copy of M.R.No. 74/1991-92 and

as per the said document after the death of Venkataramashetty, the defendant No. 1 submitted an application to enter his name in the revenue records of R.S.No. 108, 113, 6/2P and his name is entered in the revenue records after the death of his father as his legal heir and accordingly the name of defendant No. 1 are entered in the revenue records of R.S.No. 6/2 , 113/2, 1/5 and 1/6 which goes to show that, the suit properties are belonged to the grand father of plaintiffs and after his death, the name of defendant No. 1 entered in the revenue records and the said properties are joint family properties of plaintiffs and defendants. Since plaintiffs are the daughters of the defendant No. 1 and no share has been given to them in the said properties and even though the name of defendant No. 1 is appearing in the revenue records, he is not absolute owner and the plaintiffs and defendants are joint family members and they are in joint possession and enjoyment of suit properties and there are no documents to show that, partition has been effected and shares have been given to the plaintiffs. Even though plaintiffs are married and residing in the houses of their husbands, they are the joint family members having equal right in the said properties as per Section 6(A) of Amended Hindu Succession Act. So I hold that, plaintiffs have proved that, they are joint family members and they are in joint possession and enjoyment of suit properties and they are entitled for share in the suit properties. So I answer Point No. 1 in the Affirmative.

10. **Point No. 2:** In view of my discussion above, I hold that, plaintiffs being coparceners are entitled for equal 1/6th share each in the suit properties by metes and bounds. The defendant No.1 and 2 are entitled for 1/6th share each in the suit properties by metes and bounds. So, I answer Point No. 2 in the affirmative.

11. Issue No.3: For the reasons discussed above, I proceed to pass the following :

**ORDER**

Suit of the plaintiffs is hereby decreed with cost.

Plaintiffs are entitled for 1/6th share each in the suit properties by metes and bounds.

The defendant No.1 and 2 are entitled for 1/6th share each in the suit properties by metes and bounds.

Draw preliminary decree accordingly.

(Dictated to the Stenographer and transcribed by him, revised, corrected and then pronounced by me in the Open Court on this the 17<sup>th</sup> day of March 2022)

**(Ganapati. Gurusidda Badami)**  
Senior Civil Judge & CJM  
Chamarajanagara.

**ANNEXURE**

**WITNESS EXAMINED ON BEHALF OF THE PLAINTIFF :**

PW-1 : Shanthamma

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

Ex.P-1 : Genealogical tree

Ex.P-2to 7 : RTC extracts

Ex.P-8 : Certified copy of Mutation register extract

**WITNESS EXAMINED ON BEHALF OF THE DEFENDANTS :**

**-Nil-**

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

**-Nil-**

Senior Civil Judge and C.J.M.,  
Chamarajanagar.