

KACN210003972025



IN THE COURT OF SENIOR CIVIL JUDGE AND J.M.F.C
GUNDLUPET

10th August 2026

Present

Smt.NOORUNNISA B.A., L.L.B.,
Senior Civil Judge and J.M.F.C.
OS 50/2025

Plaintiff		Rathnamma W/o late Mallikarjuna Aged about 61 years residing at Gundurao Badavani Extention, Shanivarasanthe, Somuvarapet Taluk, Kodagu District (Sri.K.R., Advocate)
Versus		
Defendants	1	Channaveeramma W/o late Mahadevappa, Aged about 75 years
	2	Shekhara M S/o late Mahadevappa, Aged about 59 years
	3	Bellamma W/o Nagappa, Aged about 51 years residing at Huthuru villag, Therakanambi Hobli, Gundlupet taluk, Chamarajanagara District. (Sri.G.G., Advocate for D1 and D2, D3 placed exparte)

Date of institution	17.04.2025
Nature of suit	Partition
Date of evidence	28.07.2026

Date of judgment	10.08.2026
Total duration	1 year, 3 months, 24 days

(Noorunnisa)
Senior Civil Judge & JMFC.,
Gundlupet

JUDGMENT

The plaintiff has filed suit for partition and separate possession in the suit schedule properties.

2.The suit schedule properties are as under:

1. Agricultural land bearing Sy. No.84, measuring 3 Acres 20 Guntas, situated at Huthuru Village, Terakanambi Hobli, Gundlupet Taluk.
2. Agricultural land bearing Sy. No.6/3, measuring 2 Acres 34 Guntas, situated at Huthuru Village, Terakanambi Hobli, Gundlupet Taluk.
3. Agricultural land bearing Sy. No.79, measuring 1 Acre 39 Guntas, situated at Huthuru Village, Terakanambi Hobli, Gundlupet Taluk.
4. Property bearing Sy. No.32/1G, measuring 2 Guntas, situated at Huthuru Village, Terakanambi Hobli, Gundlupet Taluk.
5. House property bearing Assessment Khatha No.11, measuring East to West: 37 feet and North to South: 55 feet, situated at Huthuru Village, Terakanambi Hobli, Gundlupet Taluk.

3.The brief facts of the plaintiff's case are as under:

It is submitted that the suit schedule properties are the ancestral and joint family properties of the plaintiff and the defendants. It is further submitted that the plaintiff is the daughter of Late Mahadevappa and Defendant No.1, Smt. Channaveeramma. Defendants No.2 and 3 are the younger brother and sister of the plaintiff respectively. The plaintiff and the defendants constitute a Hindu joint family, and the suit schedule properties are the ancestral and joint family properties in which all the parties have equal rights and interests. It is further submitted that the plaintiff's father, Late Mahadevappa, died intestate on 03.12.2003, leaving behind the plaintiff and the defendants as his only legal heirs and successors to his estate. It is submitted that no partition has taken place among the plaintiff and the defendants by metes and bounds in respect of the suit schedule properties. Accordingly, the plaintiff and the

defendants continue to be co-parceners/co-owners having equal rights over the suit schedule properties. It is further submitted that the plaintiff is married to Sri Mallikarjuna S.R. They were blessed with three daughters, namely, (1) Nandini S.M., (2) Rohini S.M., and (3) Ashwini S.M. The husband of the plaintiff has since passed away, and the plaintiff is presently residing with her daughters at the address shown in the cause title. It is submitted that although the plaintiff and the defendants are residing separately for their convenience, there has been no partition of the suit schedule properties. Defendant No.3 has been exclusively cultivating the agricultural lands and raising commercial crops such as banana, turmeric, ginger and other crops, and is deriving an annual income of more than Rs.8,00,000/- from the suit schedule properties without accounting for or sharing the income with the plaintiff. It is further submitted

that on 15.03.2025, the plaintiff demanded the defendants to effect partition of the suit schedule properties and allot her legitimate share. However, the defendants avoided the request on one pretext or another. Thereafter, upon verification of the revenue records, the plaintiff came to know that Defendants No.2 and 3 had manipulated the revenue records and changed the khatha in respect of Item Nos.2 and 3 of the suit schedule properties. When questioned, the defendants failed to furnish any satisfactory explanation. The defendants, in collusion with each other, have created documents with an intention to deprive the plaintiff of her lawful share in the suit schedule properties.

4.It is submitted that Defendant No.1 had earlier filed O.S. No.104/2010 before the Court of the Principal Civil Judge and JMFC, Gundlupet, seeking partition against Rathnamma, Mahadevamma and Neelamma.

The said suit was disposed of on the basis of a compromise dated 27.07.2010, whereby Defendant No.1 was allotted her share, including Item No.2 of the suit schedule property. However, Item No.2 continued to retain its ancestral character insofar as the plaintiff and the defendants are concerned. Subsequently, Defendant No.1, in collusion with Defendant No.3, executed a registered Gift Deed dated 19.08.2020 in favour of Defendant No.3 with an intention to defeat the lawful rights of the plaintiff. The said Gift Deed is illegal, contrary to law, not binding on the plaintiff's share, and liable to be declared null and void. It is further submitted that Item No.3 of the suit schedule property originally belonged to the plaintiff's father, Late Mahadevappa, who was in exclusive possession and enjoyment of the same during his lifetime. After his demise, the property was mutated in the name of Defendant No.1 by way of Pouthi Khatha. Thereafter,

Defendant No.1 executed a Gift Deed in favour of Defendant No.3 on 27.04.2010. Subsequently, the said Gift Deed was cancelled on 18.04.2013, and on the very same day Defendant No.1 executed another Gift Deed in favour of Defendant No.2 without the knowledge or consent of the plaintiff and without effecting partition. On the strength of the said Gift Deed, Defendant No.2 got the khatha transferred to his name. The said Gift Deed dated 18.04.2013 has been created only to defeat the lawful share of the plaintiff. The said document is illegal, void, and not binding on the plaintiff's share in the suit schedule property.

5.It is submitted that the defendants have no exclusive right, title or interest over the suit schedule properties. In collusion with each other and with the revenue authorities, they have created false and fabricated documents to unlawfully appropriate the ancestral properties. Despite repeated demands made

by the plaintiff during March 2025 for partition and separate possession, the defendants have deliberately postponed the matter. The elders of the village and Panchayatdars also advised the defendants to amicably allot the plaintiff's lawful share, but the defendants paid no heed to such advice. The plaintiff has now come to know that the defendants are making attempts to alienate the suit schedule properties in favour of third parties with an intention to cause wrongful loss to the plaintiff and wrongful gain to themselves. If such alienations are permitted, the plaintiff will suffer irreparable injury and hardship, resulting in multiplicity of litigation. Hence, the plaintiff has filed an application seeking temporary injunction restraining the defendants from alienating or encumbering the suit schedule properties pending disposal of the suit. The cause of action for the suit first arose in March 2025, when the plaintiff demanded

partition and separate possession of her lawful share and the defendants refused to accede to the request. The cause of action continues from day to day as the defendants are denying the plaintiff's legitimate rights and are attempting to alienate the suit schedule properties. Accordingly, the plaintiff has filed the present suit seeking partition and separate possession in the suit schedule properties by metes and bounds, along with other consequential reliefs.

6.After issuance of the suit summons, the suit summons duly served to the defendants, the defendant No.1 and 2 appeared before the court through their counsel, and filed written statement. The defendant No.3 remained exparte, hence placed exparte.

7.The Defendant Nos.1 and 2 respectfully submit as follows: The defendants admit the relationship between the parties and the nature of the suit schedule properties. The suit schedule properties are the

ancestral and joint family properties of the plaintiff and Defendant Nos.1 to 3. No partition has taken place between them by metes and bounds till today. Defendant No.2 is the only son of Defendant No.1 and Late Mahadevappa. The plaintiff is the elder sister of Defendant No.2 and Defendant No.3 is his younger sister. Defendant No.2 joined the CRPF in the year 1988 and retired in the year 2014. After the death of Late Mahadevappa, Defendant No.2 has been looking after the family affairs along with Defendant No.1. Item Nos.1, 3 and 4 of the suit schedule properties originally stood in the name of Late Mahadevappa, who was the husband of Defendant No.1 and father of the plaintiff and Defendant Nos.2 and 3. During his lifetime, he was in possession and enjoyment of the said properties. After his death, the khatha and revenue records were changed in the name of Defendant No.1 through Pouthi Khatha. However, the change of khatha did not give

Defendant No.1 exclusive ownership over the properties. The properties continued to remain joint family properties of the plaintiff and the defendants.

8. Defendant No.1 had earlier filed O.S. No.104/2010 before the Principal Civil Judge and JMFC, Gundlupet, against Rathnamma and others seeking partition. The said suit was disposed of by compromise dated 27.07.2011, under which Defendant No.1 was allotted a share, including Item No.2 of the present suit schedule property. Thereafter, the khatha and other revenue records were changed in the name of Defendant No.1. However, Item No.2 has continued to remain an undivided joint family property. The plaintiff and Defendant Nos.1 to 3 have rights and interests in the said property, and no partition has taken place between them. The marriage of Defendant No.3 was performed during the lifetime of Late Mahadevappa with one Nagappa of Byarambadi Village. Subsequently,

Defendant No.3 and her family shifted from the said village and requested permission to reside in the parental house and cultivate the family properties. On humanitarian grounds, Defendant Nos.1 and 2 permitted her to stay with them. Thereafter, Defendant No.3, along with Defendant Nos.1 and 2, cultivated the suit schedule properties and raised crops as members of the joint family.

9. After his retirement from the CRPF, Defendant No.2 intended to purchase agricultural land. For the purpose of fulfilling the requirements relating to purchase of agricultural land, Defendant No.1 executed a Gift Deed dated 18.04.2013 in favour of Defendant No.2 in respect of Item No.3. The said Gift Deed was not intended to create an exclusive right in favour of Defendant No.2 or to effect partition of the property. It was executed only for the purpose of facilitating the revenue/RTC entries. Item No.3 continues to be an

undivided joint family property. Defendant No.2 has no objection to the said property being divided among the persons entitled to it. At the request of Defendant No.3, Defendant No.1 executed a Gift Deed dated 24.09.2020 in favour of Defendant No.3 in respect of Item No.2. The said Gift Deed was executed for the purpose of enabling Defendant No.3 to cultivate and develop the agricultural property.

10.On the basis of the said Gift Deed, Defendant No.3 got the khatha and revenue records changed into her name and obtained a loan from Karnataka Grameena Bank, Terakanambi Branch. She has been cultivating crops such as maize, turmeric and banana in the said property. However, Item No.2 continues to be an ancestral and undivided joint family property. The khatha entry and the Gift Deed do not give Defendant No.3 exclusive ownership over the property or affect the lawful share of the plaintiff and the other co-

sharers. Defendant No.3 is now claiming exclusive rights over Item No.2 and is refusing to agree for partition. In March 2025, a panchayath was held before the elders and villagers. The elders advised Defendant No.3 to agree for partition and to give the lawful shares to all the family members. Defendant Nos.1 and 2 also requested her to agree for an amicable partition. However, Defendant No.3 refused to do so. Defendant No.3 has no exclusive right, title or interest over Item No.2. The said property is an ancestral and undivided joint family property, and the plaintiff and Defendant Nos.1 to 3 are entitled to their respective lawful shares. Defendant Nos.1 and 2 have no objection to the plaintiff being allotted her lawful share in all the suit schedule properties. They are ready and willing to have the properties partitioned by metes and bounds according to the lawful shares of all the parties. Therefore, the main dispute is only with regard to the claim of

Defendant No.3 that she has exclusive rights over Item No.2. Such claim is not sustainable, as Item No.2 continues to be an undivided joint family property. Except to the extent specifically admitted above, the other allegations made in the plaint which are contrary to this written statement are denied. The plaintiff is entitled to seek partition and separate possession of her lawful share. Defendant Nos.1 and 2 respectfully pray that this Hon'ble Court may be pleased to decree the suit for partition and separate possession by declaring the lawful share of the plaintiff in the suit schedule properties and allotting the same to her by metes and bounds.

11.On the basis of the pleadings of the both the parties, the following issues were framed:

1. Whether the plaintiff proves that, the suit schedule properties are ancestral and joint family properties of the plaintiff and defendants?
2. Whether the plaintiff further proves that, the gift deed dated 18.04.2013 executed by

the 1st defendant in favour of 2nd defendant and gift deed dated 18.02.2020 executed by 1st defendant in favour of 3rd defendant are null and void and not binding on the share of the plaintiff?

3. Whether the plaintiff is entitle for the relief of partition, declaration and separate possession as sought for?
4. What order or decree?

12.In order to prove the case, the plaintiff examined as PW1, 14 documents marked as Ex.P1 to Ex.P14. In order to rebut plaintiff's evidence. The defendants neither cross-examined nor lead any evidence to prove their case.

13.Heard the argument of the plaintiff's counsel and defendants' counsel. Perused the entire material on record. My answers to the above issues are as under:

Issue No.1	In the Affirmative
Issue No.2	In the Affirmative
Issue No.3	In the Affirmative
Issue No.4	As per the final order for the following:

REASONS

14.Issue No.1 to 3 : Since all these issues are interconnected, they are taken up together for common discussion in order to avoid repetition. The case of the plaintiff is that the suit schedule properties are the ancestral and joint family properties of the plaintiff and Defendant Nos.1 to 3 and that no partition has taken place between them by metes and bounds. The plaintiff has further contended that Defendant No.1, without there being any partition and without considering the lawful share of the plaintiff, executed the Gift Deeds dated 18.04.2013 and 18.02.2020 in favour of Defendant Nos.2 and 3 respectively. According to the plaintiff, the said documents cannot affect her lawful share in the suit schedule properties.

15.In support of her case, the plaintiff has produced the 14 pages of RTC extracts, genealogical tree, electricity bill, certified copies of the Gift Deeds,

Gift Deed cancellation document, demand registers, tax paid receipts and the certified copies of the pleadings, compromise petition, order and decree in O.S. No.104/2010. The said documents have been marked as Ex.P1 to Ex.P14. The genealogical tree at Ex.P2 establishes the relationship between the parties, and the revenue records and other documents support the plaintiff's case regarding the suit schedule properties.

16.The important aspect of the case is that Defendant Nos.1 and 2 have substantially admitted the case of the plaintiff in their written statement. They have specifically admitted that the suit schedule properties are ancestral and joint family properties and that no partition has taken place between the parties. They have also admitted that the plaintiff and the defendants have rights in the suit schedule properties.

17.Further, Defendant Nos.1 and 2 have explained in their written statement that the Gift Deed dated

18.04.2013 in favour of Defendant No.2 was not intended to effect a partition or create exclusive ownership in his favour and that the concerned property continues to be an undivided joint family property. Similarly, they have admitted that the property covered by the Gift Deed executed in favour of Defendant No.3 also continues to be an ancestral and undivided joint family property and that Defendant No.3 has no exclusive right over the same.

18.The plaintiff's evidence has not been challenged in cross-examination. The defendants have not elicited anything in cross-examination to disprove the plaintiff's case. They have also not led any independent oral or documentary evidence to rebut the evidence produced by the plaintiff. Thus, the evidence of the plaintiff remains unchallenged and unrebutted.

19.It is also significant that Defendant Nos.1 and 2 have, in their written statement, expressly consented to

the decree of the suit. They have stated that they have no objection to the plaintiff being allotted her lawful share in the suit schedule properties and that they are ready and willing to have the properties partitioned by metes and bounds. Therefore, the defence of Defendant Nos.1 and 2, in substance, supports the claim of the plaintiff rather than opposing it.

20.From the pleadings, evidence and documents on record, it is clear that the suit schedule properties continue to be joint and undivided properties of the parties. The plaintiff has established her relationship with the defendants and her right in the joint family properties. There is also no material on record to show that the plaintiff has relinquished or otherwise lost her lawful share.

21.As regards the Gift Deeds, when Defendant No.1 had no exclusive right over the entire joint family properties and the properties continued to remain

undivided, the said Gift Deeds cannot be permitted to defeat or take away the lawful share of the plaintiff. Therefore, the Gift Deeds dated 18.04.2013 and 18.02.2020 are held to be not binding upon the plaintiff's lawful share in the suit schedule properties. In view of the above discussion, the plaintiff has proved that the suit schedule properties are ancestral and joint family properties, that the Gift Deeds relied upon by the defendants are not binding upon her lawful share, and that she is entitled to partition and separate possession of her share.

22. On the basis of the pleadings and evidence on record, the plaintiff and Defendant Nos. 2 and 3 are each entitled to 5/16 share, while Defendant No. 1 is entitled to 1/16 share in the suit schedule properties. This is because Late Mahadevappa left behind Defendant No. 1, the plaintiff, Defendant No. 2 and Defendant No. 3 as his Class-I legal heirs, and the plaintiff and Defendant Nos. 2

and 3, being one son and two daughters, are entitled to equal coparcenary shares under the Hindu Succession Act. Accordingly, the plaintiff is entitled to 5/16 share, Defendant No.1 is entitled to 1/16 share, Defendant No.2 is entitled to 5/16 share, and Defendant No.3 is entitled to 5/16 share in the suit schedule properties. Thus, the plaintiff is entitled to have her 5/16 share separated by metes and bounds and put in separate possession thereof. **Accordingly, Issue Nos.1 to 3 are answered in the Affirmative.**

23.Issue No.4: As per the above discussion, I proceed to pass the following:

ORDER

The suit of the plaintiff is hereby decreed.

Plaintiff is entitled to 5/16 share, defendant No.1 is entitled to 1/16 share, defendant No.2 is entitled to 5/16 share, defendant No.3 is entitled to 5/16 share in the suit schedule properties.

The Gift Deeds dated 18.04.2013 and 18.02.2020 are held to be not binding upon the plaintiff's lawful share in the suit schedule properties.

Office is hereby directed to take necessary steps for final decree proceedings after appeal period as per decision of Hon'ble Supreme court of India in Shub Karan Bubna Alias Shub Karan Prasad Bubna V/s Sita Saran Bubna and others.

Having regard to the facts and circumstances of the case no order as to cost.

Draw a preliminary decree accordingly.

(Directly dictated to Stenographer on computer, and typed by him and corrected by me and then pronounced in the open Court on this 10th August 2026)

(Noorunnisa)
Senior Civil Judge & JMFC.,
Gundlupet

ANNEXURE

Witnesses examined for the Plaintiffs:

PW1: Rathnamma

Documents marked for the Plaintiffs:

Ex.P1 : RTCs

- Ex.P2 : Genealogical Tree
Ex.P3 : Electricity Bill
Ex.P4 : Copy of the Gift Deed dated 18.08.2020
Ex.P5 : Copy of Gift Deed dated 09.06.2010
Ex.P6 : Copy of cancellation Deed dtd 18.04.2013
Ex.P7 : Copy of Gift Deed dated 18.04.2013
Ex.P8 : Demand Register Extract
Ex.P9 : Tax Paid Receipt
Ex.P10 : Demand Register Extract
Ex.P11 : Copy of the order in O.S. No.104/2010
Ex.P12 : Copy of the plaint in O.S. No.104/2010
Ex.P13 : Copy of the Compromise Petition
filed in O.S. No.104/2010
Ex.P14 : Copy of the Decree in O.S. No.104/2010

Witnesses examined for Defendants: Nil

Documents marked for the Defendants: Nil

(Noorunnisa)
Senior Civil Judge & JMFC.,
Gundlupet