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Decided on : 10-04-2026
Duration : Years Months Days
08 03 29

**IN THE COURT OF THE SENOR CIVIL JUDGE AND JMFC
AT KOLLEGALA.**

Dated this the 10th day of April, 2026

PRESENT:

Smt. Sunitha, B.Com., L.L.M., PGDFcs
Senior Civil Judge and JMFC., Kollegal.

O.S. No. 48/2017

Plaintiff : Jayaraju
S/o Late Chamaiah,
[Since dead by LR's]

- 1a. Smt. Reeta Sarvamanagala
W/o Late Jayaraju. C,
Aged about 64 years,
- 1b. Mariya Sushmitha
D/o Late Jayaraju. C,
Aged about 26 years,

Both are residing at
Hunasemarada Beedhi,
Kamagere village, Kollegala Taluk,
Chamarajanagar District.

- 1c. Smt. Mariya Supritha
D/o Late Jayaraju. C,
W/o V. Anthony,
Aged about 29 years,
R/o Thomiyar Palys village,
Hanur Taluk,
Chamarajanagar District.
2. Sundara Raju
S/o Late Chamaiah,
Aged about 42 years,
R/o Kamagere village,
Kollegal Taluk,
Chamarajanagar District.

(By Sri D.S. Basavaraju, Advocate)

V/s.

- Defendants** :
1. Rajanna
S/o Late Chamaiah,
Aged about 50 years,
 2. Savin
S/o Rajashekar,
Aged about 25 years,
 3. Kiran
S/o Rajashekar,
Aged about 22 years,
 4. Adharsh
S/o Rajashekar,
Aged about 19 years,

All are residing at
Kamagere village, Kollegal Taluk,
Chamarajanagar District.

5. Raju
S/o Late Chamaiah,
Aged about 30 years,
6. Smt. Vijayakumari
D/o Late Chamaiah,
W/o Sundara Raju,
Aged about 46 years,
7. Smt. Mery
D/o Late Chamaiah,
W/o Udayakumar,
Aged about 43 years,
8. Smt. Meena
D/o Late Chamaiah,
W/o Suresh,
Aged about 35 years,

All are residing at
Siddaihnapura village,
Kollegal Taluk,
Chamarajanagar District.

9. Smt. Jayamma
D/o Late Chamaiah,
W/o R. Sundara Raju,
Aged about 56 years,
R/at # 25/26, 2nd Main,
HPO & RMS Layout,
Shakthinagar, Mysuru.
10. The Special Land Acquisition Officer
KIDB, Mysuru.

(D1 to 4 & 6 By Sri. Madappa, Advocate)

(D5 & 9 By S. Shashibimba, Advocate)

(D7 & 8 - Exparte)

(D10 By Sri. S. Swamy, Advocate)

Date of Institution : 12.12.2017
Nature of the suit : Partition & separate possession
Date of Commencement of recording of evidence : 02.03.2020
Date of Pronouncement of judgment : 10.04.2026
Total Duration : Year/s Month/s Day/s
08 03 29

(SUNITHA)
Senior Civil Judge & JMFC.,
Kollegala.

JUDGMENT:

This suit is filed by plaintiff No. 1, Late Jayaraju (since deceased), represented by his legal representatives: plaintiff No. 1(a) Smt. Reeta, (b) Mariya Sushmitha, and (c) Mariya Supritha, along with plaintiff No. 2 Sundara Raju, against defendant No. 1 Rajanna S/o Chamaiah, defendant No. 2 Savin, defendant No. 3 Kiran, defendant No. 4 Adarsh, defendant No. 5 Raju, defendant No. 6 Vijayakumari, defendant No. 7 Meri, defendant No.8 Meena, defendant No. 9 Jayamma, and defendant No. 10 Land Acquisition Officer, Mysore.

The suit is filed for partition and separate possession of 2/9th share in the suit schedule properties, for mesne profits, for declaration that the alleged Will and Gift

Deeds are not binding on the plaintiffs, and for permanent injunction.

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

It is stated that the plaintiffs and defendant Nos. 1, 5 to 9 are the children of Late Chamaiah. Defendant Nos. 2 to 4 are the grandchildren, being the children of Late Sowbhagya. The said Chamaiah died on 09-03-2016.

3. It is submitted that the suit schedule properties were purchased out of the income generated from a silk spinning unit, though they were purchased in the name of their father, Chamaiah. Hence, the properties constitute joint family properties.

4. It is further stated that during his lifetime, Chamaiah did not acquire any ancestral or self-acquired properties independently. Due to his ill health, the entire affairs of the family and the silk spinning unit were managed by the plaintiffs. The licence for running the silk spinning unit stood in the name of the plaintiffs; therefore, the properties are their self-acquired properties. Chamaiah was made the owner only nominally and had no absolute right to alienate the properties. It is also stated that the plaintiffs performed the marriages of the female members of the family.

5. The plaintiffs state that they acquired the following properties:

- Sy. No. 180/B – 1 acre 50 cents
 - Sy. No. 140 – 2 acres 32 cents
 - Sy. No. 187/2 – 0 acres 57 cents
 - Sy. No. 188/4 – 0 acres 70 cents
 - Sy. No. 141 – 2 acres
 - Sy. No. 179/A2 – 2 acres 11 cents
 - Sy. No. 146 (out of 2.77 acres) – 0 acres 97 cents
 - Sy. No. 179/B2 – 1 acre 12 cents
- Total extent: 14 acres 06 cents of Modahalli village, Hanur Sub Division, Chamarajanagar District.

6. These lands were acquired by Defendant No.10 under Notification No. PI 187 SPQ 2010 dated: 24-01-2010 for the purpose of establishing a sugar factory. The plaintiffs filed a writ petition in the name of their father (W.P. No. 3928/2014), which was disposed of on 05-08-2015, enhancing the compensation.

7. After the death of Chamaiah on 09-03-2016, all his children became entitled to a share in the compensation amount. It is further stated that on 10-11-2016, the plaintiffs sought further enhancement of compensation on the ground of borewell and trees in the land. At that time, they came to know that defendant No.9, under the pretext of taking Chamaiah to the hospital, kept him in her custody for several months and got a Will created and registered on 18-06-2014, by which she is claiming the entire compensation amount.

8. On the same date, lands bearing Sy. No. 151/A3 (0.71 cents) and Sy. No. 152/2 (0.81 cents) were allegedly gifted. Based on these fabricated documents, defendant Nos. 9 and 10 have received the compensation amount.

9. It is also stated that defendant No.5, under the pretext of taking Chamaiah to Mysore hospital, kept him under his control and got a Gift Deed executed on 21-01-2016 in respect of:

Sy. No. 147/B1 – 1 acre 23 cents

Sy. No. 151/A1 – 0 acres 07 cents

Sy. No. 152/1 – 0 acres 04 cents

Total extent: 1 acre 34 cents of Modalli village, Hanur Sub Division, Chamarajanagar District. Defendant No.5, claiming ownership, has cut 20–30 trees and made profits.

10. It is contended that the plaintiffs and defendants can inherit the properties only after the death of Chamaiah. Therefore, Chamaiah had no right to execute the Will or Gift Deeds, and the same are not binding on the plaintiffs. The cause of action arose on 10-11-2016 when the plaintiffs applied for enhancement and discovered the alleged Will and Gift Deeds, and continues thereafter. Hence, the plaintiffs pray for decreeing the suit.

11. Defendant No. 5 has filed his written statement denying the entire case of the plaintiffs. It is contended that

Chamaiah was a Christian, and therefore the concept of joint family inheritance does not apply. Hence, the suit is not maintainable. It is further contended that there is no cause of action for filing the suit.

12. It is stated that the suit schedule properties are the self-acquired properties of Chamaiah, and he validly disposed of them through a Will and Gift Deeds in favour of defendant Nos. 5 and 9. It is also contended that certain properties belonging to Chamaiah have been deliberately omitted from the suit. While admitting that Chamaiah was running a silk spinning unit, it is denied that the plaintiffs managed the same due to his ill health or that the properties were purchased in his name nominally. It is also denied that the plaintiffs performed the marriages of the daughters.

13. It is stated that during his lifetime, Chamaiah executed a Will in favour of defendant No. 9, which was within the knowledge of the plaintiffs.

It is further stated that, Sy. No. 151/A3 (0.71 cents) and Sy. No. 152/A2 (0.81 cents), totaling 1.52 cents, were gifted to defendant No. 9 on 18-06-2014.

Item No. 3 was gifted to defendant No. 5 on 21-01-2016, as he was taking care of Chamaiah.

14. These transactions were within the knowledge of the plaintiffs and were never challenged during Chamaiah's lifetime. It is denied that any trees existed in Item No.3 hence, the allegation of cutting trees is false. It is further contended that the plaintiffs and defendants have been residing separately, and no joint family exists. It is reiterated that there is no cause of action, and the plaintiffs are not entitled to partition.

It is stated that, Item No. 1 devolved upon defendant No. 9 under the Will dated: 18-06-2014.

Item No.2 devolved upon defendant No. 9 under the Gift Deed dated: 18-06-2014.

Item No.3 devolved upon defendant No. 5 under the Gift Deed dated: 21-01-2016. Thus, defendant No. 5 claims absolute ownership over the said properties.

15. Defendant No.5 further contends that the plaintiffs have not included certain properties situated at Kamagere Village and the silk unit, described as follows:

- a. Modalli Village – Sy. No. 144 – 0.26 cents
- b. Modalli Village – Sy. No. 145/1 – 0.75 cents
- c. Modalli Village – Sy. No. 147/A1 – 0.88 cents
- d. Modally Village – Sy. No. 153/1 – 1.77 cents
- e. Modalli Village – Sy. No. 153/2 – 0.09 cents
- f. Boodubalu Village – Sy. No. 315/A – 2.02 cents

Total: 6 acres 57 cents. Since these properties are not included, the suit is bad for partial partition. As Chamaiah has not disposed of these properties, all parties are entitled to equal shares therein.

16. Defendant No. 9 has adopted the written statement filed by defendant No. 5. Though the defendant No. 1 to 4, 6 & 10 have appeared through their respective counsel, they have not filed written statement. Though the notice was served on defendant No. 7 & 8, they have not appeared before this Court, hence they have been placed *exparte*.

17. Based on the above pleadings, this Court has framed the following:

ISSUES:

1. *Whether the plaintiffs prove that the plaintiffs and defendant No. 1 to 9 are members of the Hindu joint family?*
2. *Whether the plaintiff prove that the suit schedule properties were the joint family properties of plaintiffs and defendant No. 1 to 9?*
3. *Whether the plaintiffs prove that the suit for partition and separate possession of their share in the suit schedule properties is maintainable in view of acquisition of the same by defendant No. 10?*
4. *Whether the defendant No. 5 and 9 prove that the plaintiffs and defendant No. 1 to 9 are not governed by provisions of Hindu Law?*

5. *Whether the defendant No. 5 and 9 prove that the deceased Chamaiah was a follower of Christianity and governed by Indian Succession Act, 1925?*
6. *Whether the defendant No. 5 and 9 prove that the suit schedule properties were the self acquired properties of deceased Chamaiah?*
7. *Whether the defendant No. 5 and 9 prove that the deceased Chamaiah had validly bequeathed suit schedule item No. 1 property in favour of defendant No. 9 under a reg will dated: 18-6-2014, and validly gifted suit schedule No. 2 property in favour of defendant No. 9 under a reg Gift deed dated: 18-06-2014?*
8. *Whether the defendant No. 5 and 9 prove that the deceased Chamaiah had validly gifted suit schedule no;3 property in favour of defendant No. 5 under reg gift deed dated: 21-1-2016?*
9. *Whether the defendant No. 5 and 9 prove that the suit is bad for non-joinder of properties described in paragraph No. 9 of written statement?*
10. *Whether the plaintiffs are entitled for the relief of partition and separate possession of their share in the suit schedule properties? If so what is the extent of their share?*
11. *Whether the plaintiffs are entitled for mesne profits as claimed in the plaint?*
12. *What order or decree?*

18. Heard learned counsel for both parties and perused the material available on record.

19. The 2nd plaintiff examined himself as PW2. The plaintiffs also examined 2 witnesses as PW3 & 4 and got marked 30 documents as per Ex.P1 to 30. The defendant No. 5 examined as DW1 and got marked 45 documents as per Ex.D1 to 45. The defendatns also examined 2 witnesses as DW2 & 3 to support their contention.

20. My findings to the above issues are as under:

Issue No. 1 to 3: In the negative
Issue No. 4 to 6: In the affirmative
Issue No. 7, 8: In the negative
Issue No. 9: In the affirmative
Issue No.10, 11: In the negative
Issue No. 12: As per final order for the following:

REASONS:

21. Issue No. 1: This suit is filed seeking partition and separate possession of a 2/9th share in the suit schedule properties, for mesne profits, for declaration that the Will and gift deeds are not binding, and for permanent injunction. In order to establish their case, Plaintiff No. 1 was examined as PW1 and relied upon as many as 21 documents. Among them Ex.P1 is the certified copy of the sale deed executed by Puttalingegowda in favour of Chamaiah dated: 02-07-1990. Ex.P2 is the certified copy of the sale deed executed by Sundaramma and her children D. Srinivasa and D. Keshava in favour of Chamaiah dated: 27-07-1997. Ex.P3 is the certified copy of the gift deed

dated: 18-06-2014 executed by Chamaiah in favour of his daughter Jayamma. Ex.P4 is the certified copy of the gift deed dated: 21-01-2016 executed by Chamaiah in favour of his son C. Raju. Ex.P5 to Ex.P10 are RTC extracts pertaining to various survey numbers standing in the names of Jayamma and C. Raju. Ex.P11 to Ex.P17 are RTC extracts pertaining to different survey numbers standing in the name of Chamaiah. Ex.P12 stands in the name of Nanjundegowda. Ex.P18 and Ex.P19 are RTC extracts standing in the name of Devamma. Ex.P20 is the death certificate of Chamaiah, who died on 09-03-2016. Ex.P21 is the legal heir certificate of Sundararaju. Since PW1 died during the pendency of the suit, Plaintiff No. 2 was examined as PW2 and got marked Ex.P22 to Ex.P30: Ex.P22 is the licence of silk business standing in the name of Jayaraju. Ex.P23 to Ex.P30 are RTC extracts pertaining to various survey numbers standing in the names of Chamaiah and C. Raju.

22. The plaintiffs also examined two witnesses, namely PW3 Nagaraju and PW4 Nagendra.

23. In order to substantiate the contentions taken in the written statement of defendant Nos. 5 and 9, the 5th defendant was examined as DW1 and relied upon 45 documents i.e., Ex.D1 is the legal heir certificate of

Rajamma, showing her husband as M. Chamaiah and children as Jayaraj, Sowbhagya, Jayamma, C. Jayakumari, C. Mary, C. Sundararaju, C. Meena, and C. Raju. Ex.D2 is the marriage certificate of Rajamma, wherein her husband's name is shown as Joseph, dated: 20-05-1954. Ex.D3 is the death certificate of Chamaiah. Ex.D4 to Ex.D9 are original sale deeds executed in favour of Chamaiah (also described as Chamaiah S/o Mallaiah @ Edward) for various survey numbers on different dates. Ex.D10 and Ex.D11 are MR extracts dated: 21-01-2016 showing transfer from Chamaiah to C. Raju. Ex.D12 to Ex.D14, Ex.D16, and Ex.D17 are MR extracts dated: 19-06-2014 showing transfer from Chamaiah to Jayamma. Ex.D15 and Ex.D18 to Ex.D20 are MR extracts relating to acquisition by Bannari Amman Sugar Company and transfers involving Jayamma. Ex.D21 to Ex.D39 are RTC extracts pertaining to various survey numbers standing in the names of C. Raju, Chamaiah, Jayamma, Nanjundegowda, and Devamma. Ex.D40 is the original Will dated: 18-06-2014 executed by Chamaiah. Ex.D41 is the original gift deed dated: 18-06-2014 executed by Chamaiah. Ex.D42 is the endorsement issued by the Sub-Registrar, Hanur, stating that the document dated: 21-09-1993 was seized by Hanur Police in Crime No. 95/2009 registered under Section 420 of IPC. Ex.D43 to Ex.D45 are certified copies of sale deeds

executed in favour of Chamaiah. The defendants also examined Udaykumar as DW2 and Jadeswamy as DW3.

24. In the light of rival contentions urged by the counsel for the parties I have gone through the records. The burden lies on the plaintiffs to establish that they and defendant No. 1 to 9 constitute members of a Hindu joint family. The entire foundation of the suit for partition is based on the assertion that the suit schedule properties are joint family properties governed by Hindu law. Therefore, proving the existence of a Hindu joint family is a sine qua non for the relief sought.

25. In the present case, the plaintiffs have pleaded that Late Chamaiah and his children constituted a Hindu joint family. However, except for such bald assertions, no cogent and satisfactory evidence is produced to substantiate the same.

26. On the contrary, the evidence on record clearly discloses otherwise. During the cross-examination, PW2 (Sundararaju) has categorically admitted that his father Chamaiah was also known by the name "Joseph" and that he had converted from Hindu religion to Christianity. He has further admitted that the marriage of Chamaiah with Rajamma was solemnized in a Church on 20-05-1954 and that relevant entries are found in the Church records. These

admissions go to the root of the matter and substantially weaken the case of the plaintiffs.

27. Further, Ex.D2 (Marriage Certificate) clearly reflects that the name of the husband is shown as “Joseph,” thereby corroborating the contention of the defendants that Chamaiah had embraced Christianity. The documentary evidence also indicates Christian names in the family lineage. Additionally, DW1 has deposed that Chamaiah had undergone baptism, which fact has not been effectively rebutted by the plaintiffs.

28. Though PW2 has made a vague statement that he possesses documents to show reconversion to Hinduism, no such document has been produced before the Court. In the absence of any proof of reconversion, the presumption that Chamaiah continued to follow Christianity remains unrebutted.

29. It is well settled that once a person converts to Christianity, the Hindu law relating to joint family and coparcenary ceases to apply, and succession is governed by the provisions of the Indian Succession Act, 1925. In such circumstances, the very concept of a Hindu joint family does not survive.

30. Moreover, the evidence of PW3 and PW4 does not inspire confidence. Their testimonies are vague,

inconsistent, and reveal lack of knowledge about material facts such as the nature of the properties, family structure, and even the relief sought in the suit. Hence, their evidence does not support the case of the plaintiffs.

31. On appreciation of the entire material on record, this Court finds that the plaintiffs have failed to establish that they and defendant No.1 to 9 are members of a Hindu joint family. On the contrary, the evidence probabalizes the case of the defendants that Chamaiah was a Christian and the parties are governed by Christian law. Accordingly, **Issue No.1 is answered in the Negative.**

32. Issue No. 2: The burden of proving that the suit schedule properties are joint family properties lies on the plaintiffs. It is the specific case of the plaintiffs that the suit schedule properties were acquired out of the income derived from the silk spinning unit run by them and that though the properties were purchased in the name of Late Chamaiah, he was only a nominal owner without any independent source of income.

33. In order to substantiate this contention, the plaintiffs have relied upon oral evidence of PW2 to PW4 and documentary evidence at Ex.P1 to Ex.P30. However, on careful appreciation of the evidence, it is evident that the plaintiffs have failed to establish the existence of any joint

family nucleus or sufficient income from the alleged silk spinning business to acquire the suit schedule properties. Though Ex.P22 discloses that a licence for silk business stood in the name of plaintiff No. 1, the said document does not disclose any particulars regarding income, investment, or linkage with acquisition of the suit properties. No accounts, financial records, or independent material is produced to show that the income from the said business was sufficient to purchase the lands.

34. On the contrary, the documentary evidence produced by the defendants, particularly Ex.D4 to Ex.D9 and Ex.D43 to Ex.D45, clearly establish that the suit schedule properties were purchased in the name of Chamaiah under registered sale deeds between the years 1988 to 1999. The said documents describe Chamaiah (also referred to as Joseph/Edward) as the purchaser, and there is no recital indicating that the properties were acquired on behalf of the joint family or out of joint family funds.

35. Further, the evidence of PW2 in cross-examination seriously weakens the plaintiffs' case. PW2 has admitted that his father had converted to Christianity and that his marriage was performed in a church. He has also admitted that in his own affidavit it is stated that during the lifetime of his father, Chamaiah had no ancestral or self-acquired

property, which creates a clear inconsistency in the plaintiffs' pleadings. Though he attempted to explain the same as a mistake, no satisfactory clarification is offered.

36. The oral evidence of PW3 and PW4 is also of no assistance to the plaintiffs, as both witnesses have deposed without knowledge of material facts, and their testimony does not establish the existence of joint family or joint family nucleus. PW3 has even admitted ignorance of the contents of his affidavit and the nature of relief sought in the suit, thereby affecting his credibility.

37. On the other hand, the evidence of DW1 indicates that Chamaiah was independently carrying on silk business and had acquired properties over a period of time. Though there are certain inconsistencies in his testimony regarding extent and partition, the core fact that properties stood in the name of Chamaiah and were acquired under registered sale deeds remains unshaken.

38. It is a settled principle of law that merely because properties stand in the name of a family member, it cannot be presumed to be joint family property unless it is shown that there existed a joint family nucleus with sufficient income to acquire the same. In the present case, the plaintiffs have utterly failed to prove such nucleus or contribution.

39. Further, the plaintiffs have themselves admitted existence of several other properties standing in the name of Chamaiah which are not included in the suit schedule. This omission also casts doubt on the plea that all properties were joint family properties and supports the contention of the defendants that the suit properties are self-acquired properties of Chamaiah.

40. Therefore, in the absence of cogent and convincing evidence, this Court holds that the plaintiffs have failed to prove that the suit schedule properties are joint family properties. Accordingly, **Issue No. 2 is answered in the Negative.**

41. Issue No. 3: It is the specific case of the plaintiffs that the suit schedule Item No.1 properties, totally measuring 14.06 acres in various survey numbers, were acquired by defendant No. 10/Land Acquisition Officer under notification dated: 24.01.2010 for establishment of a sugar factory. It is further contended that compensation was awarded and subsequently enhanced in writ proceedings filed in the name of deceased Chamaiah, which came to be disposed of on 05.08.2015.

42. On careful perusal of the pleadings and evidence, it is not in dispute that the acquisition proceedings were

completed much prior to the institution of the present suit. The documents produced, particularly the mutation extracts (Ex.D15, Ex.D18 to Ex.D20), clearly establish that the lands in question were acquired and entries were made in favour of the acquiring authority/company. Therefore, as on the date of filing of the suit, the acquired lands were no longer available for physical partition.

43. The law is well settled that once the land is acquired under valid acquisition proceedings, the title of the original owner stands divested and vests with the State or acquiring body. What remains is only the right to receive compensation. Therefore, strictly speaking, a suit for partition in respect of the acquired land itself is not maintainable, since the property has ceased to exist in the hands of the parties.

44. However, the plaintiffs have attempted to contend that they are entitled to a share in the compensation amount. Though such a claim may be legally sustainable in appropriate proceedings, the present suit is framed as one for partition and separate possession of immovable properties, and not specifically for apportionment of compensation.

45. Further, the evidence on record shows inconsistencies. PW2 has admitted in cross-examination

that he does not have knowledge about the writ proceedings and enhancement of compensation. No documentary evidence is produced to establish that the plaintiffs have pursued any proceedings for apportionment of compensation after the death of Chamaiah. On the contrary, the materials on record, including the Will (Ex.D40), indicate that the deceased had expressed intention regarding entitlement to compensation.

46. In addition, it is elicited in the cross-examination of DW1 that the acquisition proceedings were already completed in 2010, and compensation proceedings were concluded prior to the death of Chamaiah. Therefore, as on the date of alleged execution of Will and gift deeds in 2014 and 2016, what existed was only the right to compensation and not the land itself.

47. In such circumstances, the relief of partition and separate possession of the acquired lands is legally untenable. At best, the plaintiffs could have sought relief for division or apportionment of compensation, subject to establishing their entitlement. But the present suit, as framed, seeking partition of lands which have already been acquired, is not maintainable. Accordingly, this Court holds that the plaintiffs have failed to prove that the suit for partition and separate possession is maintainable in respect

of the acquired properties. Hence, **Issue No. 3 is answered in the Negative.**

48. Issue No. 4: The burden to prove this issue lies on defendant No. 5 and 9. Their specific contention is that the family of Late Chamaiah was professing Christianity and therefore the parties are governed by the provisions of the Indian Succession Act, 1925 and not by Hindu Law. On careful appreciation of both oral and documentary evidence, this Court finds considerable force in the said contention. The plaintiff No. 2, who was examined as PW2, has made clear and categorical admissions during cross-examination. He has admitted that his father was also called by the name “Joseph” and further admitted that his father had converted from Hindu religion to Christianity. He has also admitted that the marriage of his father with Rajamma was performed in a Church, namely Saint Francis Church at Kamagere on 20-05-1954, and that the death was also recorded in the Church register. These admissions go to the root of the matter and clearly indicate that Late Chamaiah was a Christian by faith.

49. Further, Ex.D2/the marriage certificate, clearly discloses that the name of the husband is mentioned as “Joseph”, which probabilizes the case of defendants that Chamaiah had embraced Christianity. The documentary

evidence produced by defendants also reflects Christian nomenclature in the family lineage. The Court also notes that no convincing documentary evidence is placed by the plaintiffs to establish that Chamaiah had reconverted to Hinduism at any point of time. Though PW2 made a vague assertion that he possesses a document regarding reconversion, the same has not been produced before the Court. Mere assertion without proof cannot be accepted. Additionally, the overall conduct and surrounding circumstances, including the mode of marriage, maintenance of Church records, and admissions of PW2, strongly support the inference that the family was following Christianity. In the absence of cogent proof of reconversion, the presumption cannot be drawn that the parties continued to be governed by Hindu Law. Therefore, this Court is of the considered opinion that defendant No.5 and 9 have successfully established that Late Chamaiah and his family were Christians and consequently the plaintiffs and defendants are not governed by Hindu Law. Accordingly, **Issue No. 4 is answered in the Affirmative.**

50. Issue No. 5: On careful consideration of the pleadings, oral evidence and documentary evidence placed on record, this Court finds that the burden of proving this issue lies upon defendant No. 5 and 9. In order to substantiate their contention, the defendants have relied

upon both oral and documentary evidence. The documentary evidence assumes significant importance. Ex.D2, the marriage certificate, clearly discloses that the marriage of Chamaiah with Rajamma was solemnized in a Church on 20-05-1954 and the name of the husband is mentioned as "Joseph". This document strongly indicates that Chamaiah had embraced Christianity at least by the time of his marriage.

51. Further, Ex.D4 to Ex.D9, which are original sale deeds, consistently describe Chamaiah as "Chamaiah S/o Mallayya @ Edward". The use of the alias "Edward" is a clear indication of a Christian name adopted by him. These documents are contemporaneous and carry greater evidentiary value, as they were executed long prior to the dispute.

52. Ex.D1, the legal heir certificate, also reflects the family structure consistent with the defendants' case. Additionally, the documentary evidence placed on record demonstrates that the parents of Chamaiah had Christian names, which probalizes the case that the family had converted to Christianity.

53. The oral evidence also supports the defendants' case. PW2/plaintiff No.2, in his cross-examination, has

categorically admitted that his father was called “Joseph” and that his father had converted from Hindu religion to Christianity. He has further admitted that the marriage of his parents was performed in a Church and that the death was recorded in Church records. These admissions are material and go to the root of the matter. Though PW2 made a vague assertion that he has documents to show reconversion from Christianity to Hinduism, no such document has been produced before the Court. Mere oral assertion without documentary proof cannot be accepted, especially when earlier admissions and documentary evidence indicate otherwise.

54. The evidence of PW4, who denied that Chamaiah was a Christian, is not reliable, as he has admitted lack of knowledge about essential facts such as family details and properties. His testimony appears to be hearsay and does not inspire confidence. On the contrary, the consistent documentary evidence coupled with the clear admissions of PW2 establishes that Chamaiah had embraced Christianity and was practicing the same. There is no acceptable evidence on record to show that he had reconverted to Hinduism. Therefore, this Court is of the considered opinion that defendant No. 5 and 9 have successfully proved that deceased Chamaiah was a follower of Christianity. Consequently, it follows that the succession to his estate

would be governed by the provisions of the Indian Succession Act, 1925 and not by Hindu Law. Accordingly, **Issue No. 5 is answered in the Affirmative.**

55. Issue No. 6: On careful consideration of the pleadings, oral evidence, and documentary evidence on record, this Court finds that the burden lies on defendant Nos. 5 and 9 to establish that the suit schedule properties were the self-acquired properties of Late Chamaiah. The defendants have produced several original sale deeds marked as Ex.D4 to Ex.D9, Ex.D43 to Ex.D45, which clearly disclose that the properties were purchased in the name of Chamaiah at different points of time. These documents consistently describe Chamaiah as the purchaser, and there is no indication in any of these documents that the properties were acquired out of joint family funds or in a representative capacity on behalf of the plaintiffs or other family members.

56. On the contrary, the plaintiffs have taken a specific contention that the properties were purchased out of the income derived from the silk spinning unit allegedly run by them, though in the name of their father. However, except producing Ex.P22 (licence standing in the name of plaintiff No. 1), no cogent documentary evidence has been placed before the Court to establish that the income of the

said business was the source for acquisition of the suit properties. Notably, Ex.P22 does not disclose any nexus between the business income and the acquisition of the suit schedule properties.

57. Further, the evidence of PW2 (plaintiff No.2) is inconsistent and unreliable. In his cross-examination, he has admitted that in the plaint affidavit it is stated that during the lifetime of Chamaiah he had no self-acquired property, and later he volunteered that the same was wrongly mentioned. Such contradictory statements go to the root of the plaintiffs' case and weaken their contention regarding the nature of the properties.

58. Moreover, the documentary evidence produced by the defendants, particularly the registered sale deeds, carry a presumption of correctness regarding title. In the absence of convincing rebuttal evidence from the plaintiffs, the Court has no reason to disbelieve these documents.

59. It is also pertinent to note that DW1 has consistently deposed that his father Chamaiah was independently carrying on silk spinning work since long prior to the birth of some of his children and had purchased properties over a period of time. Though there are certain inconsistencies in his testimony, the core assertion that Chamaiah acquired properties in his own name remains

unshaken and is supported by documentary evidence. Therefore, in the absence of proof of existence of a joint family nucleus and in the absence of evidence showing that the properties were acquired from joint family funds, the presumption that the properties standing in the name of Chamaiah are his self-acquired properties remains un rebutted. Accordingly, this Court holds that defendant Nos. 5 and 9 have successfully proved that the suit schedule properties were the self-acquired properties of deceased Chamaiah. Therefore, **Issue No. 6 is answered in the Affirmative.**

60. Issu No. 7: The burden of proving this issue squarely lies on defendant No.5 and 9, who rely upon Ex.D40/the alleged registered Will dated: 18-06-2014 and Ex.D41/the registered Gift Deed of even date said to have been executed by deceased Chamaiah in favour of defendant No.9. At the outset, it is an admitted fact borne out from the evidence of DW1 and documentary records that the properties described in Item No.1 of the suit schedule had already been acquired by defendant No. 10 under notification dated: 24-01-2010. DW1 has clearly admitted that acquisition proceedings were completed and even a writ petition was filed by Chamaiah seeking enhancement of compensation, which came to be disposed of on 05-08-2015. Thus, as on the date of alleged execution

of the Will on 18-06-2014, the land had already vested with the acquiring authority and Chamaiah had no subsisting title over the land itself, except a right, if any, to receive compensation. Therefore, the very bequeath of Item No.1 property under the Will becomes doubtful and legally unsustainable insofar as it relates to immovable property already acquired.

61. Even otherwise, the defendants have failed to prove due execution and attestation of the Will as required under law. Though DW2 is examined as an attesting witness, his evidence does not satisfy the mandatory requirements. He has categorically deposed that he does not know the contents of the document, does not know to whom the property was bequeathed, does not remember the date of execution, and is unaware of the transaction itself. He further admits that defendant No.5 is his friend. Such evidence does not inspire confidence and fails to establish proper attestation as required. The testimony of DW3, the document writer, only speaks about drafting and registration and cannot substitute the legal proof required through attesting witnesses. Further, several suspicious circumstances surround the alleged Will, namely: the testator was aged about 75 years and admittedly under continuous medical treatment for serious ailments for about three years prior to his death, the Will confers entire benefit

on one daughter excluding other natural heirs; there are inconsistencies regarding the date of execution as spoken by DW1, and there is no satisfactory evidence to show that the testator was in a sound and disposing state of mind at the time of execution. These suspicious circumstances have not been properly explained by the defendants. Hence, this Court is of the opinion that Ex.D40 is not proved in accordance with law.

62. Coming to the Gift Deed (Ex.D41) dated: 18-06-2014 relating to Item No. 2 properties, though it is a registered document and mutation entries stand in the name of defendant No.9, mere registration does not dispense with proof of valid execution when the same is specifically disputed. The evidence on record shows that Chamaiah was aged and suffering from illness at the relevant time. The attesting witness (DW2) has not supported the execution in clear terms and has expressed ignorance about the transaction. The document writer (DW3) has admitted that he did not verify complete title documents nor obtained consent of other legal heirs. The plaintiffs have specifically alleged that taking advantage of the ill-health and old age of Chamaiah, the document was created. In the absence of clear, cogent and convincing evidence to establish that the Gift Deed was executed voluntarily, with full understanding and free consent, this

Court is not inclined to accept the validity of Ex.D41. Accordingly, this Court holds that defendant No. 5 and 9 have failed to prove that the deceased Chamaiah had validly executed the Will dated: 18-06-2014 in respect of Item No.1 property or the Gift Deed dated: 18-06-2014 in respect of Item No.2 property in favour of defendant No.9. Hence, **Issue No. 7 is answered in the Negative.**

63. Issue No. 8: At the outset, the burden lies upon defendant No. 5 to establish that the alleged gift deed dated: 21-01-2016 executed by deceased Chamaiah in respect of suit schedule item No. 3 properties is valid, lawful and binding on the plaintiffs. In order to discharge this burden, defendant No. 5 has relied upon the registered gift deed marked as Ex.P4/Ex.D records and supporting revenue entries. It is not in dispute that the properties described under item No. 3 stand in the name of defendant No. 5 as per RTC extracts (Ex.P8 to Ex.P10 and Ex.D21 to Ex.D23). However, mere mutation entries or revenue records do not by themselves confer title unless the underlying transaction is proved to be valid.

64. The plaintiffs have specifically contended that during the relevant period, deceased Chamaiah was aged, seriously ill and not in a sound physical and mental condition to execute any document. In this regard, it is

elicited in the cross-examination of DW1 that Chamaiah was suffering from illness for about three years prior to his death and was continuously under treatment. Though DW1 denies that Chamaiah was bedridden, he admits that his father was aged about 75 years and was under treatment during the relevant period.

65. Further, DW1 has taken inconsistent stands. On one hand, he admits that during the said period his father was unwell and under treatment, and on the other hand, he asserts that the gift deed was executed voluntarily. No independent medical evidence is placed to establish that Chamaiah was in a sound disposing state of mind at the time of execution of the gift deed. More importantly, no attesting witness to the gift deed dated: 21-01-2016 has been examined to prove its due execution as required under law. Though DW2 and DW3 have been examined, their evidence primarily relates to documents dated: 18-06-2014 (will and earlier gift deed) and not specifically to the gift deed dated: 21-01-2016 in favour of defendant No. 5. Thus, the mandatory requirement of proving execution and attestation of the gift deed remains unfulfilled.

66. It is also significant to note that part of the suit schedule properties, including those covered under various survey numbers, had already been acquired by the Land

Acquisition Officer as per notification dated: 24-01-2010. DW1 himself admits that acquisition proceedings had taken place and compensation was awarded. When the land stood acquired, the right of the original owner was substantially altered, and what remained was only the right to receive compensation. Under such circumstances, execution of a gift deed in respect of acquired property creates serious doubt regarding its validity. Further, the surrounding circumstances create suspicion. The plaintiffs have alleged that defendant No. 5 had taken advantage of the old age and illness of Chamaiah and got the document executed. The evidence on record shows that Chamaiah was dependent on his children during his last years, and DW1 himself admits that different children were looking after him at different points of time. This lends some probability to the plaintiffs' allegation of undue influence. Additionally, DW1 admits that no registered partition had taken place during the lifetime of Chamaiah and that properties were only being cultivated separately. This admission weakens the defence theory that defendant No. 5 had become absolute owner pursuant to a valid and undisputed transfer. In the absence of clear, cogent and convincing evidence regarding (i) due execution, (ii) attestation, and (iii) voluntary nature of the gift deed, coupled with suspicious circumstances surrounding the transaction and the

admitted ill health of the executant, this Court is of the opinion that defendant No. 5 has failed to discharge the burden cast upon him. Hence, this Court holds that the defendant No. 5 has failed to prove that the deceased Chamaiah had validly executed the registered gift deed dated: 21-01-2016 in his favour in respect of suit schedule item No. 3 properties. Accordingly, **Issue No. 8 is answered in the Negative.**

67. Issue No. 9: The Defendant No.5 has specifically contended in the written statement that several properties belonging to Late Chamaiah, situated in Modally village and Budubalu village, have not been included in the suit schedule, and therefore the suit is bad for partial partition. The said properties are described as Sy. Nos. 144, 145/1, 147/A1, 153/1, 153/2 and 315/A, in all measuring 6 acres 57 cents.

68. In order to substantiate this contention, the defendants have relied upon revenue records produced as Ex.D34 to Ex.D36, Ex.D27, Ex.D28 and other connected documents. On the other hand, the plaintiffs themselves have produced documents at Ex.P23 to Ex.P25, Ex.P29 and Ex.P30, Ex.P1, Ex.P7 and Ex.P16 which clearly disclose the existence of properties bearing Sy. Nos. 144, 145/1, 147/A1, 153/1 and 153/2, 154/1, 105/1, 179/B3

standing in the name of Chamaiah. Thus, the existence of these properties is not in dispute.

69. However, despite having knowledge of these properties, the plaintiffs have not included the same in the suit schedule. No satisfactory explanation is forthcoming from the plaintiffs for such omission. During cross-examination, PW2 has denied inclusion of these properties and has also shown ignorance regarding several material aspects, which creates doubt about the completeness of the suit claim.

70. It is a well-settled principle of law that in a suit for partition, the plaintiffs must include all joint family properties available for partition. A suit for partial partition, without including all the joint family properties, is not maintainable unless there is a valid justification for exclusion. In the present case, no such justification is pleaded or proved.

71. Further, DW1 in his evidence has stated that Chamaiah owned several other properties apart from the suit schedule properties, and though his testimony contains certain inconsistencies, the documentary evidence on record clearly establishes that additional properties existed in the name of Chamaiah which are not included in the present suit.

72. Though the defendants have also pleaded inclusion of property bearing Sy. No. 315/A, no documentary evidence is produced to substantiate the same. However, even excluding that property from consideration, the documentary evidence produced by both parties clearly establishes that several other properties standing in the name of Chamaiah are omitted from the suit schedule. Therefore, it is evident that the plaintiffs have not brought all the properties of Late Chamaiah into the hotchpot for partition. As such, the present suit suffers from the defect of partial partition. Accordingly, this Court holds that the defendant No. 5 and 9 have successfully proved that the suit is bad for non-joinder of necessary properties and is liable to be treated as a suit for partial partition. Hence, **Issue No. 9 is answered in the Affirmative.**

73. Issue No. 10: On careful consideration of the pleadings, oral and documentary evidence placed on record, this Court finds that the plaintiffs have failed to establish their entitlement for partition and separate possession of a share in the suit schedule properties.

74. At the outset, the specific case of the plaintiffs is that the suit schedule properties are joint family properties, allegedly acquired out of income derived from the silk

spinning business carried on by the plaintiffs, though standing in the name of deceased Chamaiah. However, except the production of a licence from the year 1993 (Ex.P22) standing in the name of deceased plaintiff No.1, no cogent evidence is placed to demonstrate that the income from such business was the source for acquisition of the suit properties. On the contrary, the sale deeds marked as Ex.D4 to Ex.D9 clearly disclose that the properties were purchased in the name of Chamaiah over a period of time, and there is no material to show that the consideration proceeded from any joint family nucleus.

75. Further, PW2 in his cross-examination has made material admissions which go to the root of the plaintiffs' case. He has admitted that his father was also known as Joseph and that he had converted to Christianity, and that the marriage of his parents was performed in a church. These admissions, coupled with documentary evidence such as Ex.D2 (marriage certificate) and other records, probabilize the case of defendant Nos. 5 and 9 that Chamaiah was governed by Christian law. The plaintiffs have not produced any acceptable evidence to prove reconversion to Hinduism. In such circumstances, the plea of existence of a Hindu joint family and coparcenary property cannot be accepted.

76. Even otherwise, the evidence on record does not establish the existence of any joint family nucleus or that the properties were treated as joint family properties. On the contrary, the documents and revenue records consistently stand in the name of Chamaiah, thereby indicating his independent ownership.

77. With regard to Item Nos. 2 and 3 of the suit schedule properties, the defendants have relied upon registered gift deeds dated: 18-06-2014 (Ex.P3/Ex.D41) and 21-01-2016 (Ex.P4), and a registered Will dated: 18-06-2014 (Ex.D40). The attesting witness (DW2) and scribe (DW3) have been examined. Though certain inconsistencies are elicited in their cross-examination, the plaintiffs have not been able to conclusively establish that the said documents were the result of fraud, coercion, or undue influence. Mere allegation that Chamaiah was not in a sound state of mind is not substantiated by any medical or independent evidence.

78. Moreover, a significant aspect which disentitles the plaintiffs from seeking partition is that several properties admittedly standing in the name of Chamaiah, as reflected in Ex.P23 to 26, Ex.P29, Ex.P30, Ex.P1, Ex.P7, Ex.P16 and Ex.D34 to Ex.D36, Ex.D6, Ex.D45, Ex.D37, Ex.D27, Ex.D28, have not been included in the suit schedule. The

plaintiffs have not offered any satisfactory explanation for excluding these properties. The law is well settled that a suit for partition must include all joint family properties, and omission of material properties renders the suit bad for partial partition. In the present case, the evidence clearly discloses existence of additional properties such as Sy. Nos. 144, 145/1, 147/A1, 153/1, 153/2 and others, which are not included in the plaint schedule. Therefore, the suit is hit by the principle of partial partition and is not maintainable. In view of the above findings, this Court holds that the plaintiffs have failed to prove that the suit schedule properties are joint family properties or that they are entitled to any share therein. Consequently, the question of determining the extent of their share does not arise. Accordingly, **Issue No. 10 is answered in the Negative.**

79. Issue No. 11: The plaintiffs have sought mesne profits on the premise that they are entitled to a share in the suit schedule properties and that the defendants are in wrongful possession and enjoyment of the same. However, the grant of mesne profits is consequential in nature and arises only when the plaintiffs establish their lawful entitlement to possession of a definite share in the suit properties.

80. In the present case, this Court has already observed that the suit suffers from serious defects. Firstly,

the plaintiffs have failed to establish that the suit schedule properties are joint family properties. On the contrary, the documentary evidence placed on record, particularly the sale deeds (Ex.D4 to Ex.D9), clearly indicate that the properties were purchased in the name of deceased Chamaiah. The plaintiffs have not produced cogent evidence to prove that the properties were acquired out of joint family nucleus or from the income of the plaintiffs. Secondly, the evidence on record discloses that the plaintiffs have not included all the properties allegedly belonging to Chamaiah in the suit schedule. Both oral and documentary evidence, including admissions of PW2 and the RTC extracts (Ex.P23 to Ex.P30 and Ex.D34 to Ex.D36), reveal existence of several other properties which are not made part of the suit. Hence, the suit is bad for partial partition. When the suit itself is not maintainable for partition, the question of awarding mesne profits does not arise.

81. Thirdly, the defendants have specifically contended that the properties are self-acquired properties of Chamaiah and that he has disposed of the same under registered Will and gift deeds in favour of defendant Nos. 5 and 9. Though the validity of those documents is disputed, the plaintiffs have not satisfactorily proved that they are entitled to joint possession so as to claim mesne profits. Further, the plaintiffs have not placed any material before the Court to

show actual income derived from the suit properties, nor have they furnished any basis for computation of mesne profits. There is absolutely no evidence regarding the nature of income, yield, or profits allegedly received by the defendants. In the absence of proof of title, proof of entitlement to possession, and in the absence of necessary evidence to quantify the alleged profits, the plaintiffs are not entitled to mesne profits and hence the claim for mesne profits cannot be granted. Accordingly, this Court answers **Issue No.11 in the Negative.**

82. Issue No. 12: In view of answering issue No.1 to 11, I proceed to pass the following:

ORDER:

The suit of the plaintiffs is hereby dismissed.

In the circumstances of the case, no order as to costs.

Draw decree accordingly.

(Dictated to the Stenographer directly on the Computer, typed by her, corrected and then pronounced by me in the Open Court on this the 10th day of April, 2026).

(SUNITHA)

Senior Civil Judge & JMFC.,
Kollegala.

ANNEXURE**List of witnesses examined for the plaintiff:**

PW1 : Jayaraju – Discard
PW2 : Sundara Raju
PW3 : Nagaraju
PW4 : Nagendra

List of documents marked on behalf of the plaintiff:

Ex.P1, 2 : Certified copy of sale deeds
Ex.P3, 4 : Certified copy of gift deeds
Ex.P5 to 19 : RTC's
Ex.P20 : Death certificate
Ex.P21 : Genealogy tree
Ex.P22 : Tippani book
Ex.P23 to 30 : RTC's

List of witnesses examined for the defendants:

DW1 : Raju
DW2 : Udayakumar
DW3 : Jadeswamy

List of documents marked on behalf of the defendants:

Ex.D1 : Certified copy of genealogy tree
Ex.D2 : Register of marriages
Ex.D3 : Death certificate
Ex.D4 : Sale deeds
Ex.D5 : Certified copy of sale deed
Ex.D6 to 9 : Sale deeds
Ex.D11 to 20 : MR
Ex.D21 to 39 : RTC's
Ex.D40 : Registered Will
Ex.D41 : Registered Gift Deed

Ex.D42 : Endorsement
Ex.D43 : Certified copy of sale deed
Ex.D44, 45 : Certified copies of sale deeds

(SUNITHA)
Senior Civil Judge & J.M.F.C.,
Kollegala.