

KACN320021312011



IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC,
AT KOLLEGALA

PRESENT : SRI. M. RANJITH KUMAR B.A,L' L.L.B.
I Addl. Civil Judge & JMFC., Kollegala.

Dated on this the 12th day of June 2026

OS. NO.325/2011

Plaintiff : **Smt. Shashikala @Kalavathi**
W/o late Doreswamy Naidu,
Aged about 36 years,
R/at: Naidu Street, Hanur Town,
Hanur, Kollegal,
Chamarajanagara District.

Versus

Defendants : 1. **Smt. Pushpa**
W/o Late Govindaraju,
Aged about years,
2. **Kumari. Pooja,**
D/o Late Govindaraju,
Aged about 14 years,
3. **Kumari Roja,**
D/o late Govindaraju,
Aged about 08 years,

Defendant No.2 & 3 are minors,
Rep.by their natural guardian,
Smt. Pushpa.

All are R/at: Santhe Pete,
Kurubara Street, Hanur Town,
Hanur, Kollegala,
Chamarajanagara District.

4. **Smt. Mangamma,**

W/o Late Ramangaswamy Naidu,
Aged about 70 years,

R/at: Naidu Street, Hanur Town,
Hanur, Kollegal,
Chamarajanagara District.

5. **Sri. R. Krishna Naidu (Dead by Lrs),**

5(a). **Smt. Baby,**

W/o Late Krishna Naidu,
Aged about 55 years,

5(b). **Smt. Vanitha,**

D/o Late Krishna Naidu,
Aged about 33 years,

5(c). **Sri. Varuna,**

S/o Late Krishna Naidu,
Aged about 31 years,

All are R/at: Ramamandir Road,
Hanur Town, Hanur Taluk,
Chamarajanagara District.

6. **Sri. Veluswamy,**

S/o Late Kariyappa Shettiyar,
Aged about 42 years,

R/at: Garden House,
Uddanuru Village, Hanur Hobli,
Kollegal Taluk,
Chamarajanagara District.

7. **Sri. Manjunath. M.R.,**
S/o Late R. Rangaiah,
Aged about 65 years,
R/at: #1277, 2nd Main,
1st Cross, 2nd Stage,
Srirampura, Mysuru City,
Mysuru.

ORDER ON PRELIMINARY ISSUE

1) This Court, considering the rival contentions of the parties, had framed following preliminary issue and directed parties to address their arguments on preliminary issue.

1. Whether defendants prove that, the plaintiffs suit is hit under Section 10 of CPC?

2) The plaintiffs and defendant No.7. The defendant No.4 inspite of grant of sufficient opportunities, failed to address arguments on preliminary issue. Perused, materials on the record.

3) On perusal of the pleadings of the parties, it could be observed that, neither of the defendants have pleaded

anything regarding pendency of any former suit between the same parties with respect to same subject matter. However the plaintiffs in their plaint paragraph number 5 have pleaded about filing of suit by defendant No.1 to 3 in O.S No.235/2010. The relevant paragraph is culled hereunder for ready reference:

“5. The plaintiff further submits that, 4th defendant sold herself acquired property to this plaintiff on 08.02.2005 for a valuable consideration. The said transaction was known to the 1st defendant and her husband. The 1st defendant not question the said sale transaction dated 08.02.2005 till sold the schedule land. The defendant No. 1 to 3 sold the schedule land on 13.04.2011 and filed the partition suit against the plaintiff and 4th defendant in O.S. No. 232/2010 on 16.08.2010 to suppress the true facts. The sale deed dated 13.04.2011 is came to the plaintiff knowledge only after receiving the court summons in O.S. No. 232/2011 and the obtained certified copy of 20.09.2011.”

4) From the above cited pleadings one can understand that, the defendants after selling schedule property on 13.04.2011 had filed suit in O.S No.235/2010 for partition against the plaintiff, but it does not specify on which property the defendant No.1 to 3 had filed the suit and moreover, entire materials does not contain single document pertaining to above cited suit. Thus under such circumstances, this court cannot find any reasons to hold suit to be barred under Section 10 of the CPC. Accordingly this court answers **Preliminary Issue in the Negative** and proceeds to pass the following.

:- Order :-

The Suit of the plaintiffs is not barred under
Section 10 of CPC.

(Dictated to the stenographer, transcribed and typed by him, the same is corrected, signed and then pronounced by me in the open court on this the 11th day of June 2026).

(M.RANJITH KUMAR)
I Addl.Civil Judge & JMFC.,
Kollegala.