

KADG320005612021



Presented on : 03-03-2021
Registered on : 03-03-2021
Decided on : 14-07-2026
Duration : 5 years, 4 months, 11 days

**IN THE COURT OF THE I ADDL. CIVIL JUDGE &
J.M.F.C. HARIHAR**

:PRESENT:

Sri. SHRINIVAS PATIL. B.A. LL.B. LL.M
I Addl. Civil Judge & JMFC, Harihar.

DATED THIS THE 14th DAY OF JULY 2026

O.S. NO.33/2021

PLAINTIFFS: 1) P.H. Kariyappa
@ Dalapati Kariyappa,
S/o Late P.H.Hanumanthappa,
@ Pujar Hanumanthappa

Dead by LR's

1(a) Smt. Guramma
W/o. Late P.H. Kariyappa
@ Dalapati Kariyappa,
Aged about 65 years,

1(b) D.K. Anjinamma
S/o. Late P.H. Kariyappa
@ Dalapati Kariyappa,
W/o. Vijayakumar V.E.
Aged about 28 years,

- 2) P.H.Basavarajappa
S/o. P.H. Hanumanthappa
@ Pujar Hanumanthappa
Dead by LR's
- 2(a) Smt. Shantamma
@ Pujar Shantamma
W/o. Late P.H. Basavarajappa
Aged about 54 years,
- 2(b) Chaudamma
D/o. Late P.H. Basavarajappa
Aged about 26 years,
All are residents of
Adapura Village,
Harihara Taluk, Davanagere District.

(R/by **Sri. K.P.H** – Adv.)

- V/s -

- DEFENDANTS:** 1) P.H. Hanumanthappa
@ Pujar Hanumanthappa,
S/o Late P.H.Hanumanthappa @
Pujar Hanumanthappa.
Dead by LR's
- 1(a) Smt. Hanumakka
@ P.H. Hanumakka,
W/o. Late P.H. Hanumanthappa
@ Pujar Hanumanthappa,
Aged about 68 years,
- 1(b) P.H. Narayanappa,
S/o. Late P.H. Hanumanthappa
@ Pujar Hanumanthappa,
Aged about 46 years,
- 1(C) P.H. Yankappa,
S/o. Late P.H. Hanumanthappa

@ Pujar Hanumanthappa,
Aged about 36 years,

- 1(d) P.H. Rajappa
S/o. Late P.H. Hanumanthappa
@ Pujar Hanumanthappa,
Aged about 34 years,

Defendant No.1(a) to a(d) are
agriculturists and R/o. Adapura
Village, Harihara Taluk, Davanagere
district.

- 2 P.H.Venkappa @ P.H.Yankappa
S/o. Late P.H. Hanumanthappa
@ Pujar Hanumanthappa,
Aged about 72 years,
Occ: Retired Engineer,
R/o. Door No.2035/46, 8th cross,
Anjaneya Badavane, Davanagere.

3. P.H. Govindappa
S/o. Late P.H. Hanumanthappa
@ Pujar Hanumanthappa,
dead by LR's

- 3(a) Smt. Durugamma
W/o. Late P.H. Govindappa
Aged about 52 years,

- 3(b) Veerabhadrappe
S/o. Late P.H. Govindappa
Aged about 24 years,

4. Smt. Ratnamma
S/o. Late P.H. Hanumanthappa
@ Pujar Hanumanthappa,
W/o. Hanumanthappa,
Aged about 58 years,

5. P.H.Narayanappa,
S/o. Late P.H. Hanumanthappa
@ Pujar Hanumanthappa,
Aged about 56 years,
6. P.H.Timmappa
S/o. Late P.H. Hanumanthappa
@ Pujar Hanumanthappa,
Aged about 54 years,

defendant No.3(a) and (b) and 4 to 6
are agriculturists, and R/o. Adapura
Village, Harihar Taluk, Davanagere
district.

(D1(a to d) by **Sri. C.B.G. – Adv.**
D2 by **Sri.K.C.– Adv.**
D3(a and b)- **Exparte.**
D4 by **Sri. M.T.H.- Adv.)**
D5 & 6 by **Sri.H.M.G. - Adv.)**

Date of Institution of suit	03-03-2021		
Nature of the suit	Partition and Separate Possession		
Date of commencement of recording of evidence	17-06-2022		
Date on which Judgment was pronounced	14-07-2026		
Total Duration	Year/s	Month/s	Day/s
	05	04	11

Sd/-
(SHRINIVAS PATIL)
I Addl. Civil Judge & JMFC.,
Harihar.

:: JUDGMENT ::

This is a suit filed by the plaintiff against the defendants seeking the relief of partition and separate possession alleging that the suit schedule properties are the ancestral joint family properties.

2) Outlined below is the encapsulation of the plaintiffs' case. The core essence of it is as follows:-

The case of the plaintiff is that, one Poojar Hanumanthappa alias Giddappa was the propositus of the family. His wife was Gurramma they had 7 sons and one daughter. The sons were Hanumanthappa, Kariyappa, Venkappa, Govindappa, Basavarajappa, Narayanappa and Thimmappa. The daughter is Ratnamma.

3) The propositus Poojar Hanumanthappa died on 12.06.1998 and his wife Gurramma died on 23.03.2010. Among the sons, Hanumanthappa died on 07.06.2016 and his LR's are defendant No.1(a) to (d). Kariyappa died on 17.03.2015 and his LR's are plaintiff No.1(a) and (b). Govindappa died on 06.04.1999 and his LR's are defendant

No.3(a) and (b). Basavarajappa died on 04.02.2000 and his LR's are plaintiff No.2(a) and (b).

4) The suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. All the parties are members of the Hindu undivided joint family and they are in joint possession and enjoyment of the suit schedule properties. The plaintiffs requested the defendants many times to effect the partition and to give their lawful share. But the defendants postponed by giving false promises. Hence the suit.

5) In response to the suit summons issued by this Court, the defendant Nos.1(a to d) and defendant No.2 and defendant No.4 to 6 have appeared through their counsels and defendant Nos.4 to 6 have filed their written statements. The defendant Nos.3(a and b) inspite of service of summons have not chosen to appear and hence they were placed exparte.

6) The salient aspects of the written statement of defendant No.1(a) to (d) is as follows;

The suit schedule item No.2 property bearing Sy.No.49/1 measuring 2 acres 19 guntas was purchased by the father of defendant No.1(a) to (d) by name Hanumanthappa through the registered sale deed dated 03.09.1970. From the date of purchase, Hanumanthappa was in peaceful possession and enjoyment of the suit schedule property. The mutation is also transferred in the name of Hanumanthappa. After his death, the defendant No.1(a) to (d) being the LR's have succeeded to his estate. Hence prayed to dismiss the suit.

7) Defendant No.2 has filed his separate written statement. The defendant No.2 has denied that the suit schedule properties are the ancestral joint family properties. There was already a partition in the family during the year 1996-97 and the same was registered before the Office of Sub-Registrar, Davanagere. In the said partition, 2 acres 8 guntas in Sy.No.50/4 and 22 guntas in

Sy.No.50/1A2 had fallen to his share. Hence prayed to dismiss the suit.

8) Defendant No.4 has filed the written statement before the court. In her written statement she has stated that, she does not want any share in the suit schedule properties. She has further stated that her share may be divided among the plaintiffs and other defendants.

9) The defendant No.5 and 6 have filed the written statement. They have not opposed the relief of partition. On the other hand, they have also prayed for partition and allotment of their lawful share in the suit schedule properties.

10) Based on the above rival pleadings between the parties, the following issues have been framed by this Court:-

ISSUES

- 1.** Whether the plaintiffs prove that they are entitled to 2/7th share in the suit schedule properties ?

2. Whether the plaintiffs prove that they are entitled to manse profits as sought in the plaint ?
3. Whether the suit is bad for non joinder of necessary party ?
4. What order or decree?

ADDITIONAL ISSUES

1. Whether the defendant No.2 proves that, there was partition in the year 1996-97 and 2 Acre 8 Guntas in Sy.No.50/4 and 22 Guntas in Sy.No. 50/1A2 fallen to his share as stated in the written statement ?
2. Whether the defendant No.1(a) to (d) prove that suit schedule item No.2 property is the self acquired property of their father Late P.H.Hanumanthappa ?

11) In order to prove their case, the plaintiff No.1(b) examined herself before the Court as **PW-1** and got marked Exs.P1 to P3. The defendants neither adduced evidence nor produced any documents on their behalf.

12) Heard the counsels for plaintiffs and defendants and perused the materials.

13) By considering the pleadings, evidence and arguments presented by the learned counsels for the

plaintiff and defendants, my answer to the above issues are as under:

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

REASONS

14) ISSUE NO.1 and ADDL. ISSUE NO.1 AND 2: To fortify the plaintiffs' claim, the plaintiff no.1(b) examined before the court as PW-1 and filed affidavit in lieu of her examination-in-chief and got marked Ex.s.P1 to P3. Ex.P1 is the RTC relating to Sy.No.15/1A1, Ex.P2 is the RTC relating to Sy.No.49/1, Ex.P3 is the death certificate of Kariyappa.

15) The plaintiffs have come before the court with the specific case, that the suit schedule properties are the ancestral and joint family properties. PW.1 has stated about the relationship between the parties and the genealogy of the family. She has also stated that plaintiff

and defendants are the members of the same family and the suit schedule properties are liable for partition.

16) The evidence of PW.1 is supported by Ex.P.1 and Ex.P.2. Ex.P.1 and Ex.P.2 are the RTC's pertaining to the suit schedule properties. These documents show the name of several members of the family in respect of the suit properties. These documents are relevant to show possession and enjoyment.

17) The important aspect is that the evidence of PW.1 is not challenged by any of the defendants. The defendants have not cross examined PW.1. Therefore, there is no challenge to the relationship, genealogy and claim of the plaintiffs regarding the joint family nature of the properties.

18) Defendant No.5 and 6 have also filed written statement seeking partition. This aspect also supports the claim that the properties are available for partition.

19) Defendant No.2 has contended that, there was already a partition during the year 1996-97. According to

him 2 acres 8 guntas in Sy No.50/4 and 22 guntas in Sy.No.50/1A2 had fallen to his share. The burden of proving the same is on the defendant No.2. If there was really an oral partition earlier, defendant No.2 ought to have produced reliable materials before the court. But defendant No.2 has not led any evidence. Hence, defendant No.2 has failed to prove the earlier partition.

20) Defendant No.1(a) to (d) have contended that, suit item No.2 property is the self acquired property of their father late Hanumanthappa. The burden to prove the same is on them.

21) In order to prove the self acquisition, defendant No.1(a) to (d) were required to show how their father Hanumanthappa acquired the property. They were required to produce the sale deed or any title documents. However, defendant No.1(a) to (d) have not produced any document. They have not entered the witness box and they have not cross examined PW.1. Therefore, the contention that suit item No.2 is the self acquired property of late Hanumanthappa is not proved.

22) Now, coming to the share of parties, the plaintiffs are claiming 2/7th share. The family consists of 7 branches. Defendant No.4 is the daughter of Poojar Hanumathappa. She has filed the written statement before the court stating that she does not want any share and her share may be divided among plaintiffs and other defendants. Therefore, this court does not allot any share to defendant No.4. Therefore, the properties have to be divided among the remaining 7 branches. The branch of Hanumanthappa is represented by defendant No.1(a) to (d). The branch of Kariyappa is represented by plaintiff No.1(a) and (b). Defendant No.2 is one branch. The branch of Govindappa is represented by defendant No.3 (a) and (b). The branch of Basavarajappa is represented by plaintiff No2(a) and (b). Defendant No.5 and 6 are two other branches. Thus, each branch is entitled to 1/7th share. Accordingly, Issue No.1 is answered **in the Affirmative** and Additional Issue No.1 and 2 are answered in the **Negative**.

23) ISSUE NO.2: The plaintiffs have claimed mesne profits. But this is a suit for partition between the co-

sharers. In a partition suit, the possession of one co-sharer is deemed to be possession on behalf of all co-sharers, unless there is a clear pleading and proof of ouster. In the present case, the plaintiffs have not proved that they were ousted from the suit schedule properties. They have not proved that any defendant was in wrongful possession. Hence issue No.2 is answered **in the Negative**.

24) ISSUE NO.3 : The burden is on the defendants to prove that the suit is bad for non joinder of necessary parties. In the present case, the defendants have not led any evidence. They have not shown who is the necessary party who has been left out. All the branches of the family are represented in the suit. Therefore, in the absence of any evidence, it cannot be held that suit is bad for non joinder of necessary party. Accordingly, issue No.2 is answered **in the Negative**.

25) ISSUE NO.4: For the reasons discussed above, I proceed to pass the following ;

ORDER

The suit of the plaintiffs is hereby partly decreed with costs.

The plaintiffs together are entitled to 2/7th share in the suit schedule properties.

The defendant No.1(a to d), defendant Nos.2, defendant No.3 (a and b), defendant No.5, defendant No.6 are entitled to 1/7th share each in suit schedule properties.

The prayer of the plaintiff for mesne profits is hereby rejected.

Draw preliminary decree accordingly.

Office is directed to register Final Decree Proceedings in view of the Judgment passed by the Hon'ble Supreme Court of India in the case of Kattukandi Edathil Krishnan and Another Vs. Kattukandi Edathil Valsan reported in 2022 SCC Online SC 737.

(Dictated to the Stenographer, transcribed and computerized by him, revised, corrected and then pronounced by me in the open court on this the **14th Day of July 2026**)

Sd/-

(SHRINIVAS PATIL)

I Addl. Civil Judge & JMFC.,
Harihar

ANNEXURE**List of witnesses examined on behalf of the plaintiffs:**

PW.1 : Anjinamma,

List of documents marked on behalf of the plaintiffs:

Ex.P1 & 2 : RTC Extracts,

Ex.P3 : Death Certificate,

List of witnesses examined on behalf of defendants:

N O N E

List of documents marked on behalf of the defendants:

N I L

Sd/-

(SHRINIVAS PATIL)

I Addl. Civil Judge & JMFC
Harihar

