

KADG320069602024



Presented on : 25-09-2024
Registered on : 25-09-2024
Decided on : 16-04-2026
Duration : 1 years, 6 months, 21 days

**IN THE COURT OF
II ADDL. CIVIL JUDGE AND JMFC HARIHAR,
AT HARIHAR**

Presided Over by SMT. JYOTI ASHOK PATTAR
(B.E., LL.B.)

Pri. Civil Judge & JMFC, Harihar.

(C/c of II Addl. Civil Judge & JMFC, Harihar)

O.S. No.194/2024

Dated this 16th day of April, 2026

Plaintiffs:

1. Smt. K. Premakka D/o Mahadevappa,
W/o Hanumanthappa,
Aged about 65 years, Household,
R/o: Halebathi village,
Davanagere Taluk & District.
2. Smt. Lalithamma D/o Late. Mahadevappa,
W/o Jayappa,
Aged about 52 years, Household,
R/o: Shyamanuru village,
Davanagere Taluk & District.
3. Smt. Sowbhagya @ Lalithamma
D/o Late. Mahadevappa,
W/o Chandrappa Hosagowdra Mane,
Aged about 50 years, Household,

R/o: Agsanakatte village,
Davanagere Taluk & District.

4. Smt. K. Nagamma S/o Late. Mahadevappa,
W/o Gowdru Devendrappa,
Aged about 55 years, Household,
R/o: Kenchanahalli village,
Harihar Taluk, Davanagere District.

Vs.

Defendants:

1. Smt. Sarojamma W/o Late Mahadevappa,
Aged about 80 years, Household,
R/o: #06, near Milk Dairy, Belludi village,
Harihar Taluk, Davanagere District.
2. Sri. K.M. Veerupakshappa
S/o Late. Mahadevappa,
Aged about 54 years, Agriculturist,
R/o: # H. Shivappa Extension, Belludi village,
Harihar Taluk, Davanagere District.
3. Smt. Rekha W/o Late. K.M. Jagadisha,
Aged about 40 years,
R/o: Near Anjaneya Temple,
Beside Milk Dairy, Belludi village,
Harihar Taluk, Davanagere District.
4. Kumari Varsha D/o Late. K.M. Jagadisha,
Aged about 17 years,
R/o: Near Aanjaneya Temple,
Beside Milk Dairy, Belludi village,
Harihar Taluk, Davanagere District.
5. Master Abhishek S/o Late. K.M. Jagadisha,
Aged about 15 years,
R/o: Near Aanjaneya Temple,

Beside Milk Dairy, Belludi village,
Harihar Taluk, Davanagere District.

(Defendant No.4 and 5 are represented by their
natural guardian mother Defendant No.3)

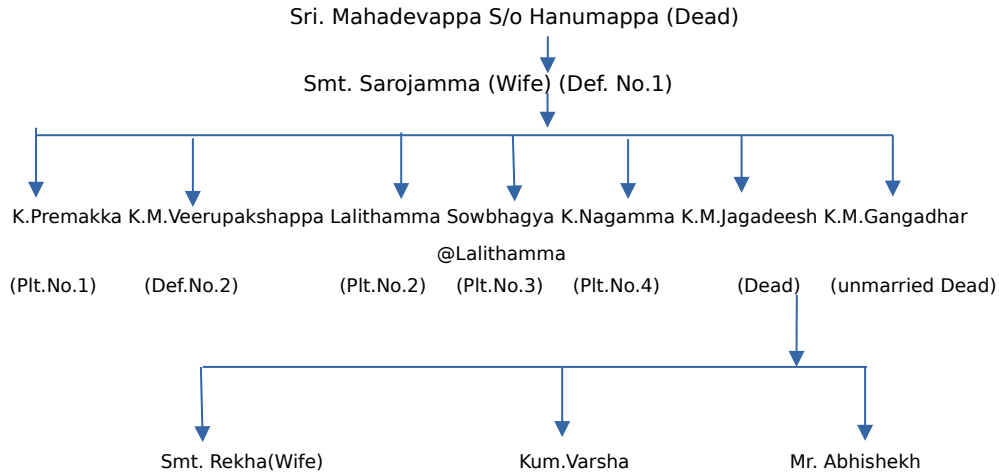
For Plaintiff: Sri. M.C.N., Advocate
For Defendant No.1 and 3: Exparte
For Defendant No.2: Sri. N.B.G., Advocate
For Defendant No.4 and 5: (Minors R/by Defendant No.3)

JUDGMENT

The plaintiffs have filed this suit against the defendants by seeking relief of partition and separate possession of their 1/7th share in the suit schedule property by metes and bounds.

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

The case of the plaintiffs is that, one Mahadevappa S/o Hanumanthappa was the propositus of the family of the plaintiffs and defendants. The said Hanumanthappa died leaving behind the plaintiffs and suit schedule properties. The defendant No.1 is the wife of Late. Mahadevappa and the plaintiffs, defendant No.2, one Jagadeesh and one Gangadhar are their children. The Jagadeesh is died leaving behind the defendant No.3 to 5 as his legal heirs and the Gangadhar died unmarried. The genealogical tree is as follows:



It is further stated that, the suit schedule properties are ancestral joint family of plaintiffs and defendants and after the death of propositus by name Mahadevappa the plaintiffs having share in the suit schedule properties but when the plaintiffs asked for the their shares, the defendants denied their legitimate right. Hence the plaintiffs constrained to file the suit.

3. After service of summons, the defendant No.2 appeared through his counsel and others have not appeared before the Court. Hence, placed exparte. The defendant No.2 has not chosen to file written statement even after sufficient opportunities, hence written statement of defendant No.2 is taken as not filed. Then case is posted for recording of plaintiffs evidence.

4. In order to prove the case of the plaintiff, the plaintiff herself is examined as PW.1 by filing affidavit in lieu of her examination-in-chief and got marked 13 documents as

Ex.P.1 to Ex.P.13. Ex.P.1 and Ex.P.2 are the Digital copies of Death certificates, Ex.P.3 is the copy of RTC extract of Sy.No.39/4, Ex.P.4 is the copy of RTC extract of Sy.No.39/1, Ex.P.5 is the copy of RTC extract of Sy.No.37/1, Ex.P.6 to Ex.P.8 are the copies of M.R. No.H51, Ex.P.9 to Ex.P.12 are the Encumbrance certificates and Ex.P.13 is the certified copy of Sale deed dated: 25.04.2001.

5. Perused the plaint, evidence of PW.1 and documents produced by the plaintiff. The following points arise for this Court determination.

1. Whether the plaintiffs prove that, the suit schedule properties are the joint family property of plaintiffs and defendants?
2. Whether the plaintiffs prove that, they are entitled to 1/7th share each in the suit schedule properties as sought for?
3. What order or decree?

6. This Court findings to the above points are as under:

Point No.1 : In the Partly Affirmative

Point No.2 : In the Partly Affirmative

Point No.3 : As per the final order,
for the following;

REASONS

7. Point No.1 and 2 : Since these points are interlinked with each other, hence in order to avoid the repetition of

facts, these points are taken together for discussion. The plaintiffs have filed the present suit for partition and separate possession in respect of suit schedule properties. In the case of partition, one who approached the Court has to firstly prove the nature of the property and secondly the coparcenary rights in the suit schedule property. In order to prove their case the plaintiff No.1 is examined as PW.1 by filing affidavit in lieu of her examination-in-chief, wherein she reiterated the contents of plaint averments and got marked Ex.P.1 to Ex.P.13.

8. On the other hand the defendant No.2 has not chosen to file written statement and other defendants placed exparte, therefore the evidence lead by the PW.1 oral and documentary is uncontested. The PW.1 entered into witness box and deposed on oath. Thus, there is no doubt to disbelieve the version of PW.1 in respect of the relationship of plaintiffs and defendants. The PW.1 specifically relied on Ex.P.3 to Ex.P.13. Wherein the Ex.P.3 to Ex.P.5 are the RTC extracts of the suit schedule item No.1 to 3 respectively which stands in the name of plaintiffs, defendant No.1, defendant No.2 and Late. Jagadeesh jointly. The Ex.P.6 to Ex.P.8 are the Mutation registers of suit schedule item No.1 to 3 which substantiate the Ex.P.3 to Ex.P.5. Thus the plaintiffs established that the suit schedule item No.1 to 3 are ancestral joint family properties of plaintiffs and defendants. Accordingly the plaintiffs, defendant No.1 and

defendant No.2 entitled to 1/7th shares each in the suit schedule item No.1 to 3 properties. And the defendant No.3 to 5 being the legal heirs of Jagadeesh are together entitled to 1/7th share in the suit schedule item No.1 to 3 properties.

9. It is pertinent to note that the Ex.P.13 is the certified copy of sale deed dated: 25.04.2001, wherein it reveals that the suit schedule item No.4 property is purchased by K.M. Jagadeesh and Gangadhar from M. Gouse Ahamed, Nisak Ahamed and Ameer Ahamed. But there is no material on record to show that the suit schedule property of item No.4 is ancestral joint family of plaintiffs and defendants. However the Gangadhar died unmarried and his 1/2 share devolve on the his class-I legal heirs. Therefore the plaintiffs and defendant No.1 and 2 being the class-I heir of Late. Gangadhar are entitled to 1/14th share in the suit schedule item No.4 property and the defendant No.3 to 5 being the legal heirs of Late. Jagadeesh are entitled to 4/7th share together in the suit schedule item No.4 property. Accordingly point No.1 and 2 are answered in Partly Affirmative.

10. Point No.3: In view of the above discussions on Point No.1 and 2, this Court proceed to pass the following:

ORDER

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

It is declared that, the plaintiffs, defendant No.1 and defendant No.2 are entitled to 1/7th share each in the suit schedule item No.1 to 3 properties. And the defendant No.3 to 5 are together entitled to 1/7th share in the suit schedule item No.1 to 3 properties.

It is also declared that, the plaintiffs, defendant No.1 and defendant No.2 are entitled to 1/14th share each in the suit schedule item No.4 property and the defendant No.3 to 5 are together entitled to 4/7th share in the suit schedule item No.4 property.

Draw preliminary decree accordingly.

(Dictated to the stenographer, script translated by her on the computer, corrected and signed by me and then order is pronounced in the open Court on the 16th day of April, 2026)

(Jyoti Ashok Pattar)
C/c II Addl. Civil Judge & JMFC.,
Harihar.

ANNEXURE

A) Witness examined for the Plaintiffs:

PW.1 : Premakka

B) Documents marked for the Plaintiffs:

- Ex.P.1&P.2 : Digital copies of Death certificates
Ex.P.3 : Copy of RTC extract of Sy.No.39/4
Ex.P.4 : Copy of RTC extract of Sy.No.39/1
Ex.P.5 : Copy of RTC extract of Sy.No.37/1
Ex.P.6-8 : Copies of M.R. No.H51
Ex.P.9-12 : Encumbrance certificates
Ex.P.13 : Certified copy of Sale deed
dated: 25.04.2001.

C) Witness examined for the Defendants:

- NIL -

D) Documents marked on behalf of Defendants:

- NIL -

(Jyoti Ashok Pattar)
C/c II Addl. Civil Judge & JMFC.,
Harihar.