

KADW050024132025



Presented on : 29-07-2025
Registered on : 29-07-2025
Decided on : 22-07-2026
Duration: 0 years, 11 months, 24 days

**IN THE COURT OF III ADDL SENIOR CIVIL JUDGE &
CJM AT DHARWAD**

PRESENT: Smt.Hemashree D.

B.A.(LAW) LL.B.

**III Addl. Senior Civil Judge & CJM
Dharwad.**

Dated: This 22nd day of July - 2026

O.S No.306/2025

PLAINTIFF/S : Smt.Akshata W/o Sumeet
Khasnis, Age: 45 years,
Occ: Household work,
R/o: Hosur road, Behind Apolo
Clinic, Konappana Agrahar,
Bengaluru South, Bengaluru
560 110.

(By M.B.Phatak., Adv.)

V/s

DEFENDANT/S : 1. Ramanth S/o Laxminarayan
Bhatt, Age: 75 years, Occ: Retd.
R/O: R.L.Bhatt Compound, Old
DSP Circle, Dharwad.

2. Amruth S/o Ramanath Bhatt,
Age: 42 years, Occ: Business,
R/O: R.L.Bhatt Compound, Old
DSP Circle, Dharwad.

(By Sri.M.P.Eeragond. Adv.)

1. Date of Institution of suit : 29.07.2025
2. Nature of suit : Partition &
Declaration
3. Date of recording of evidence : 17.06.2026
4. Date of pronouncement
of Judgment : 22-07-2026
5. Total duration : Year/s Month/s Day/s
00 11 03

(SMT.HEMASHREE. D)
III Addl. Sr.Civil Judge & CJM
Dharwad.

J U D G M E N T

The plaintiff has filed this suit for partition and declaration.

2. The case of the plaintiff is as follows;

The plaintiff and defendant No.2 are the children of defendant No.1. The plaintiff and defendants are members of

Hindu undivided joint family. The suit property is their ancestral property. The plaintiff and defendants have got equal right and share in the suit property. There is no any partition among them. Now the defendants are trying to alienate the suit property for the purpose of security of hand loan. Due to difference of opinion in respect of share in the suit property the plaintiff demanded her share in the suit property which was refused by the defendants. Hence the plaintiff is constrained to file the suit for partition and separate possession of her legitimate share in the suit property and for declaration that in the event if the defendants execute any sale agreement in respect of suit property to any person then such sale agreement is not binding on her share.

3. The defendants have filed written statement disputing the genealogy shown in the plaint. It is denied that suit property is the ancestral property. It is contended by the defendants that suit property is ancestral property which is acquired by defendant No.1 through partition between himself and his brother in the year 1974. Thus the defendant No.1 is the absolute owner of his share. It is further contended that

the plaintiff has received her share in the suit property at the time of her marriage by way of gold and cash. The plaintiff is residing separately after her marriage and she has not contributed anything towards the suit property. Hence the plaintiff is not having any share in the suit property. It is also contended that the suit is barred by limitation. Accordingly, it is prayed to dismiss the suit.

4. Based on the above pleadings, the following issues are framed-

1. Whether the plaintiff proves that the suit schedule properties are ancestral and joint family property of plaintiff and defendants?
2. Whether the plaintiff proves that she is entitled 1/3rd share in the suit schedule property?
3. What order or decree?

5. To substantiate her case, the plaintiff examined herself as P.W-1 and Ex.P-1 and 2 are marked. On the other hand, the defendant No.2 examined himself as DW.1 and no documents are marked on behalf of defendants.

6. Heard the arguments addressed by the learned counsels for plaintiff and defendants.

7. Having regard to the materials placed on record, my findings on the above issues are as hereunder:

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

REASONS

8.Issue No.1: It is the specific case of the plaintiff that she is the daughter and defendant No.2 is the son of defendant No.1. The defendants have disputed the genealogy as stated by the plaintiff. But during the course of cross-examination of PW.1, no suggestion is put to PW.1 disputing the relationship as stated in the plaint. In fact the defendant No.2 examined as DW.1 categorically admitted that plaintiff is his sister and defendant No.1 is his father. Thus even though in the written statement the defendants have formally denied the relationship, in fact they have admitted that the plaintiff is the daughter of defendant No.1 and sister of defendant No.2.

9. It is the case of the plaintiff that suit property is their ancestral property and she has got right and share therein. The plaintiff as PW.1 has produced Ex.P.1 and 2. Ex.P.1 is the sketch pertaining to the suit property and Ex.P.2 is the property register card extract pertaining to the suit property. As per Ex.P.2 the suit property is entered in the name of defendant No.1 by virtue of family partition.

10. The defendant No.2 as DW.1 during the course of cross-examination admitted that plaintiff is his sister. It is elicited from DW.1 that suit property is inherited by his father i.e., defendant No.1 from his grandfather. DW.1 categorically admitted that the plaintiff and defendants are having right and share in the suit property. He further admitted that request of plaintiff to give her share in the suit property was refused by them. Further DW.1 has admitted that there is no partition among them in respect of suit property.

11. Thus DW.1 has categorically admitted that DW.1 has got right and share in the suit property which is their ancestral property. The only defence of the defendants is that the plaintiff is already given gold and cash at the time of her

marriage in lieu of her share in the suit property. It is pertinent to note that giving of gold and cash at the time of marriage of daughter would not amount to partition of the properties. But it is only a custom/tradition followed among Hindus to give gold or cash during the time of marriage of daughters. In fact DW.1 has categorically admitted that there is no partition among the plaintiff and defendants with regard to the suit property.

12. Further the defendants have stated that suit property was acquired by defendant No.1 in the family partition between him and his brother which is depicted in Ex.P.2. PW.1 has clearly stated that suit property is inherited from his grandfather. By stating that the plaintiff is already given share in the suit property the defendants have admitted that plaintiff has got right and share in the suit property. Thus from the ocular and documentary evidence it is clear that suit property is the ancestral property of plaintiff and defendants and they have got equal right and share therein. **Accordingly issue No.1 is answered in the affirmative.**

13.**Issue No.2:** As per finding on issue No.1, the plaintiff and defendants are entitled to equal share i.e., 1/3rd share

each in the suit property. **Accordingly issue No.2 is answered in the affirmative.**

14.**Issue No.3**: The plaintiff is able to prove that she is entitled to 1/3rd share in the suit property. The plaintiff has also sought for relief of declaration that the agreement of sale if any executed by the defendants in favour of any person in respect of suit property is not binding on her share. In this regard the plaintiff has not established that any agreement of sale is executed by the defendants in favour of third persons pertaining to the suit property. Therefore, the plaintiff is not entitled to the relief of declaration as prayed. In the light of above discussion, I pass the following:

ORDER

The suit of the plaintiff is partly decreed.

The plaintiff is entitled to 1/3rd share in the suit property.

The defendants are also entitled to 1/3rd share each in the suit property on payment of court fee.

The prayer of plaintiff for declaration is dismissed.

In view of the relationship of the parties there shall be no order as to costs.

Draw preliminary decree accordingly.

Office to register final decree petition on the basis of the preliminary decree and put up FDP on board on 22.09.2026. The parties shall appear before this court on 22.09.2026 for further proceedings in FDP.

(Dictation given to the Stenographer, transcribed and computerized by him and then corrected by me and pronounced in the open court on this 22nd day of July-2026).

(SMT.HEMASHREE .D)
III Addl. Sr.Civil Judge & C.J.M.,
Dharwad.

ANNEXURE

LIST OF WITNESS/S EXAMINED FOR PLAINTIFF/S:

PW.1 : Smt.Akshata Khasnis

LIST OF WITNESS/S EXAMINED FOR DEFENDANT/S :

DW.1 : Amruth S/o Ramanath Bhatt

LIST OF DOCUMENTS EXHIBITED FOR PLAINTIFF/S:

Ex.P.1 : City survey sketch
Ex.P.2 : Property register card extract

LIST OF DOCUMENTS EXHIBITED FOR DEFENDANT/S:

NIL

**III Addl. Sr.Civil Judge & C.J.M.,
Dharwad.**