

KABC010141242013



**IN THE COURT OF I ADDL. CITY CIVIL & SESSIONS JUDGE
AT BENGALURU (CCH.No.2)**

Present: - **Sri. B.P.Devamane, LL.M.**
I Addl. City Civil & Session Judge,
Bengaluru.

Dated this the 21st day of March 2025.

O.S.No.4320 / 2013

Plaintiff:

1. Smt.Munirathnamma,
Since dead by her LR's
2. Sri.N.Manju,
S/o. Late Narayanappa,
Aged about 35 years.

Both are r/at 54/2, 8th Cross, 1st Main,
Malleshana Palya, New Thippasandra
Post, Bengaluru-560 075.

(By Sri.C.M.Chinnappa, Adv.)

- VS -

Defendants:

1. Sri.N.Ramachandra,
Since dead by his LR's.
- 1a) Smt.Venkatalakshmi,
Aged about 49 years,
W/o. Late Ramachandra N.

1b) Smt.Ramya R.L.,
Aged about 29 years,
D/o. Late Ramachandra N.

1c) Smt.Bhavya R.L,
Aged about 27 years,
D/o. Late Ramachandra N.

1d) Smt.Shilpa R.L.,
Aged about 25 years,
D/o. Late Ramachandra N.

All are r/at No.54/2, 1st Main, 8th Cross,
Near Government School, Malleshpalya,
New Thippasandra, Bengaluru-560 075.

2. Smt.Rajamma,
Aged about 49 years,
D/o. Late Narayanappa,
W/o. Munishamappa,
R/at Pillagumpe Village,
Chinthamani Road, Hoskote Taluk,
Bengaluru Rural District.

3. Smt.Papamma,
Aged about 47 years,
D/o. Late Narayanappa,
W/o. Narayana Swamy,
R/at Peramachanahalli Village and Post,
Chinthamani Taluk, Chikkaballapura Dist.

4. Sri.Seenappa,
Aged about 47 years,
H/o. Of Late Smt.Nagamma.

5. Master Ranjith,
Aged about 19 years,
S/o. Late Smt.Nagamma.

Defendant Nos.4 and 5 are r/at
Kannapalli Village, Kavudagenahalli

Post, Chinthamani Taluk,
Chikkaballapura District.

6. Sri.Mohan K.Reddy,
Aged about 50 years,
S/o. B.N.K.Reddy,
R/at No.176, Kammenahalli, St. Thomas
Town Post, Bengaluru.
7. Smt.A.S.Prabhavathi,
Aged about 55 years,
W/o. A.L.Muni Reddy,
R/at No.195, Agaram Village,
Bengaluru Hobli, Bengaluru South Taluk,
Bengaluru-560 034.
8. Smt.A.N.Hafara,
Aged about 50 years,
W/o. A.M.Abdul Rashman,
R/at No.79/1, Magadi Main Road, 8th
Cross, C.S.Street, Bengaluru-560 023.
9. Smt.Sadashivamma,
Aged about 52 years,
W/o. S.Revanna Siddaiah,
Plot G.No.391, HAL Colony,
Old Township, Bengaluru-560 017.
10. Sri.Koya,
Aged about 60 years,
S/o. Sri.K.Mohammed.
11. Sri.K.Abdul Kareem,
Aged about 38 years,
S/o. K.Koya.

Defendant Nos.10 and 11 are
r/at No.8, Somanna Reddy Building,
Rajanna Colony, Basava Nagar,
Bengaluru-560 037.

12. Smt.A.S.Nalini Kumari,
Aged about 61 years,
W/o. Keshwa Reddy,
R/at No.370, Outer Ring Road, White
Field, Bengaluru-560 066.
13. Sri.Devendra Madhavan,
Aged about 73 years,
S/o. Late K.K.Madhavan.
14. Smt.Indira Muraleedharan,
Aged about 72 years,
W/o. Late A.S.Muruleedharan.
15. Smt.Chandrika Dharmapalan,
Aged about 71 years,
W/o. V.R.Dharmapalan.
16. Smt.Ramani Das,
Aged about 70 years,
W/o. Late Yatheendra Das.
17. Smt.Shobana R Kozothumakattil,
Aged about 64 years,
W/o. Raghu Kozothum Kattil.
18. Smt.Shailaja Ranjith,
Aged about 62 years,
W/o. Ranjith.
19. Sri.Surendra Madhavan,
Aged about 56 years,
S/o. K.K.Madhavan.

Defendant Nos.13 to 19 are r/at 6/1,
Primrose Road, Bengaluru-560 025.

20. Smt.Armaity Khushroo Kothwal,
Aged about 54 years,
W/o. Khusroo Homikothwal.

R/at No.3A, Flat No.111, Kalpataru Estate, Jogeshwarivkroli Link Road, Andheri (East), Mumbai-400 093.

21. Smt.Varsha Shekar,
Aged about 32 years,
W/o. Sachindra Shekar.

22. Sri.Sachindra Shekar,
Aged about 36 years,
S/o. Birendra Kumar Prasad.

Defendant Nos.21 & 22 are r/at Flat No.302, Ashraya Mansion, Ramaih Reddy Layout, Basavanapura Main Road, Bengaluru-560 037.

23. Sri.P.Narahari,
Major,
S/o. B.C.Puttaswamy,
R/at No.12/2, 4th Main, 9th B.Cross,
Magadi Road, Bengaluru560 079.

24. Sri.Muralidharan,
Major,
S/o. Late M.Govinda Kaimal,
R/at No.1A2, Malnad Regency Apartment, Maruthinagar, Malleshapalya, New Thippasandra Post, Bengaluru-560 075.

25. Smt.Sharadamma,
Major,
W/o. Late B.N.K.Reddy.

26. Smt.Sheela Ayyappa Reddy,
Major,
D/o. Late B.N.K.Reddy.

27. Smt.Meena Raj,
Major,
D/o. Late B.N.K.Reddy.

28. Smt.Kavitha,
Major,
D/o. Late B.N.K.Reddy.

Defendant Nos.25 to 28 are r/at No.176,
Reddy Building, Kammanahalli, Thomas
Town Post, Bengaluru-560 081.

29. Sri.John Edwin,
Major,
S/o. Chandrashekar,
R/at MP/G 1424, New Township, HAL,
Bengaluru-560 037.

30. Sri.L.Peter,
Major,
S/o. Louis.

31. Sri.George L.P.,
Major,
S/o. Late L.Peter.

32. Sri.Albert L.P.,
Major,
S/o. Late L.Peter.

Defendant Nos.30 to 32 are r/at No.557,
Central Township, Marathahalli, HAL
Colony, Bengaluru.

33. Smt.Prabha lars Chand,
Aged about 66 years,
D/o. K. lars Chand,
R/at No.1/3, Velloor Modaliar Road,
Cavalery Road, Bengaluru.

34. Smt.D.Prabhavathi,
Major,
W/o. A.K.Sugunana,
R/at No.1816, 3rd stage, Prakash Nagar,
Bengaluru-560 021.
35. Sri.Sai Gunaranjan Jain,
Aged about 36 years,
S/o. Prof. Suresh Chand Jain,
R/at No.487, 8th Cross, 10th Main,
HAL III Stage, Jeevan Bhima Nagar,
Bengaluru-560 075.
36. Sri.M.M.Pavithran,
Aged about 56 years,
S/o. M.A.Mahadevan,
R/at No.595, Rajeev Nivas, Ramaiah
Colony, Basavanagar, Veebhuthipura,
Bengaluru-560 037.
37. Sri.Ahmed Shaik Abbas,
Aged about 41 years,
S/o. Shaik Abbas Shaik Amin,
R/at A-13, 304, A1-Muzalijah Millat
Nagar, Oshiwara, Andheri,
Mumbai-400 053.
38. Sri.K.P.Gopala Krishna,
Major,
S/o. M.Ananda,
R/at Brindavana,
No.129A, 1st Stage, Indira Nagar,
Bengaluru-560 038.
39. Smt.Mahaboob Jan,
Aged about 65 years,
W/o. Munishamappa @ Fasluddin,
R/at No.147, 6th Cross, Latheef Building,

Islampur Annasandra Palya, HAL Post,
Bengaluru-560 017.

(By Sri.Subbi Reddy, Adv. for D2 to D5

Sri.B.R.Viswanath, Adv. for D21 & D22

Sri.V.Rajashekar Reddy, Adv. for D35, 36

D7 to 12, 13 to 20, 23 to 34, 37, 38 & 39
- Exparte

Date of Institution of the suit	17.06.2013.		
Nature of the Suit (suit for pronote, Suit for declaration & possession, Suit for injunction, etc.):	Partition Suit.		
Date of the commencement of recording of the Evidence:	13.12.2024.		
Date on which the Judgment was pronounced:	21.03.2025.		
Total duration:	<u>Year/s</u>	<u>Month/s</u>	<u>Day/s</u>
	11	09	04

(B.P.Devamane)

I Addl. City Civil & Sessions Judge,
Bengaluru.

JUDGMENT

The plaintiffs have filed this suit for partition.

2. Case of the plaintiffs in brief are that, plaintiff No.2, defendant Nos.1 to 3 and one Smt.Nagamma are the children of deceased Sri.Narayanappa and plaintiff No.1 Smt. Munirathnamma. Defendant No.4 is the husband and defendant No.5 is the son of Smt.Nagamma. Propositus Sri.Naraynappa and his younger brother Sri.Muniyappa had inherited house property bearing Khata No.6/6, situated at Malleshana Palya, New Thippasandra Post, Bengaluru and two landed properties comprised in Sy.Nos.147/1 and 162/3 of Vibhuthipura Village, Varthur Hobli, Bengaluru East Taluk, from their father Sri.Muniyappa. Out of the said two landed properties, Sy.no.147/1 of Vibhuthipura Village, Varthur Hobli, measuring 02 acres 30 guntas was acquired by the Government for establishment of BEML Ltd. Compensation amount was received by Narayanappa and his brother Muniyappa. Narayanappa purchased residential site bearing No.5 & 6, Khata No.53/3, measuring East to West: 60 feet, North to South 40 feet at Malleshana Palya, Bengaluru in the name of his brother Muniyappa and constructed two houses on the said sites out of the compensation amount received by them. Subsequently, Narayanappa and his brother partitioned their joint family properties under Panchayath Palupatti dated 16.05.1994. Two portions of house properties and landed property are fallen to the share of Narayanappa. Though partition took place in the year 1994, Khata in respect of the landed property is standing in the joint names of Plaintiff No.1 and Muniyappa. Muniyappa had executed a General Power of Attorney dated 16.05.1994 in

favour of Narayanappa in respect of the Item No.3 of the schedule property.

2a) After filing of this suit, defendant Nos.7 to 11, who are strangers to the joint family and suit properties tried to invade over the suit Item No.4 and to put up illegal construction on 05.10.2013. On enquiry, defendant Nos.7 to 11 told that, defendant Nos.10 and 11 have executed a registered sale deed dated 28.06.2001 in respect of portion of suit Item No.4 property in favour of defendant Nos.13 to 19. The defendant Nos.10 and 11 had no legal right or possession over the suit Item No.4 property, hence, the alleged sale deed dated 28.06.2001 does not create any right, title and interest in favour of defendant Nos.13 to 19 and not binding on plaintiffs.

2b) The defendant Nos.21 and 22 had created a document styled as sale deed dated 05.10.2012 stated to have been executed by the defendant No.20 in favour of defendant Nos.21 and 22 in respect of portion of the suit Item No.4 property. The defendant No.20 had no legal right, title or interest over the suit Item No.4 property, hence, the alleged sale deed executed by the defendant No.20 in favour of defendant Nos.21 & 22 in respect of portion of the suit Item No.4 is not binding on the plaintiffs.

2c) The defendant Nos.20, 23 and 24 by colluding with each other had created a document styled as sale deed dated 09/02/2004 executed by defendant No.23 in favour of defendant No.24 in respect of portion of the suit Item No.4 property. The

defendant No.23 had no legal right, title or interest over the suit Item No.4 property, hence, the alleged sale deed executed by the defendant No.23 in favour of defendant No.24 in respect of portion of the suit Item No.4 property is not binding on the plaintiffs.

2d) The defendant Nos.24 and 29 by colluding with each other had created a document styled as sale deed dated 18.03.1982 stated to have been executed by the defendant No.24 in favour of defendant No.29 in respect of portion of the suit Item No.4 property. The defendant No.24 has no legal right, title or interest over the suit Item No.4 property, hence, the alleged sale deed executed by the defendant No.24 in favour of defendant No.29 in respect of portion of the suit schedule item No.4 property, is not binding on the plaintiffs.

2e) Father of the defendant No.6, defendant Nos.25 to 28, 30, 31 and 35 by colluding among themselves had created the sale deed dated 06.03.2015 stated to have been executed by the defendant Nos.30 to 32 in favour of defendant No.35 in respect of portion of the suit Item No.4 property. The defendant Nos.30 to 32 have no legal right, title or interest over the suit Item No.4 property, hence, the alleged sale deed executed by the defendant Nos.30 to 32 in favour of defendant No.35 in respect of the joint family property of plaintiffs is not binding on them.

2f) The defendant Nos.30 to 33 by colluding with each other had created sale deed dated 15.10.1998 stated to have been executed by the defendant Nos.30 to 32 in favour of defendant No.33 in respect of portion of the suit Item No.4 property. The defendant Nos.30 to 32 has no legal right, title or interest over the suit Item No.4 or any portion thereof. Hence the alleged sale deed dated 15.10.1998 executed by the defendant Nos.30 to 32 in favour of defendant No.33 in respect of the joint family property is not binding on the plaintiffs. The alleged sale deed do not create any right or title in favour of defendant No.33.

2g) Deceased defendant No.1 and defendant No.6 by colluding with the defendant Nos.36 and 37 had created the sale deeds dated 25.03.2013 and 03.12.2014 in respect of the portion of suit Item No.4 property without having any right, title or interest over the same. The alleged sale deeds created in respect of the portions of the suit Item No.4 property are invalid. Deceased defendant No.1 and defendant Nos.6 and defendant No.36 had no right, title or interest over the suit Item No.4 property. Hence, the alleged sale deed executed by the defendant No.1 & 6 in favour of defendant No.36 and sale deed executed by defendant No.36 in favour of defendant No.37 in respect of portion of suit schedule item No.4 property are not binding on the plaintiffs. The alleged sale deed does not create any right, title or interest in favour of defendant No.37. The alleged sale deeds stated above have been created without the knowledge and consent of the plaintiffs and their family members, hence, the same are not binding on the plaintiffs.

2h) Narayanappa died intestate on 11.01.1998 living behind plaintiffs, defendant Nos.1 to 5 as his legal heirs. Plaintiffs and defendant Nos.1 to 5 are in joint possession and enjoyment of the suit schedule properties. The defendant No.1 was acting detrimental to the interest of the plaintiffs and other shares in respect of the suit schedule properties. The defendant No.1 bent upon to alienate portion of suit Item No.4 property in favour of third parties without the consent of the plaintiffs and other defendants. Hence, the plaintiffs demanded the defendant No.1 for their share during 1st week of May, 2013, for which, the defendant No.1 was unwilling to effect partition of the suit properties. Hence, this suit for partition and for declaration that, the alleged sale deeds dated 06.03.2015, 25.03.2013, 03.12.2014, 05.10.2012, 09.02.2004 and 15.10.1998, in respect of the portion of the suit Item No.4 property, are not binding on the share of the plaintiffs.

3. DESCRIPTION OF THE SUIT SCHEDULE PROPERTIES:

1. All the piece and parcel of house property bearing Khata No.6/6, Situated at 8th Cross, 1st Main, Malleshana Palya, K.R. Puram Hobli, Bengaluru East Taluk, presently coming under Bruhath Bengaluru Mahanagara Palike, Ward No.57, measuring East to West: 36 feet, North to South: 21 feet, and bounded on:

East by: 12 feet Road,
West by: Property belonging to Subbannappa,
North by: Property belonging to Muniyappa and
South by: Property belonging to Kempaiah

2. All the piece and parcel of house property bearing Khata No.6/6, Situated at 8th Cross, 1st Main, Malleshana Palya, K.R. Puram Hobli, Bengaluru East Taluk, presently coming under Bruhath Bengaluru Mahanagara Palike, Ward No.57, measuring East to West: 23 feet, North to South: 19 ½ feet, and bounded on:

East by: property belonging to Munithimmaiah
West by: 12 feet Road,
North by: Property belonging to Ramaiah and
South by: Property belonging to Muniyappa

3. All the piece and parcel of Site bearing Khata No.5 & 6 Khata 53/3 Situated at 8th Cross, 1st Main, Malleshana Palya, K.R. Puram Hobli, Bengaluru East Taluk, presently coming under Bruhath Bengaluru Mahanagara Palike, Ward No.57, measuring East to West: 55 feet, North to South: 20 feet, and bounded on:

East by: Passage
West by: Site No.4
North by: Property belonging to Muniyappa,
South by: Road

4. All the piece and parcel of agricultural land bearing. No * 0.162/3 Situated at Vibuthipura Village, K.R. Puram Hobli, Bengaluru East Taluk, measuring 01 Acre 05 guntas and bounded on:

East by: Land belonging to Thoti Kenchappa
West by: Land belonging to Muniyappa
North by: Land belonging to Venkatappa and
South by: Land belonging to Chikka Marappa

4. Defendant Nos.2 to 5 filed written statement admitting relationship among the parties. Defendant Nos.2 to 5 admitted that, suit schedule properties are the joint family properties. It is contended that, defendant No.1 was acting detrimental to the interest of the plaintiffs and other sharers in respect of the suit schedule properties and bent upon to alienate the suit schedule item No.3 property in favour of third parties without consent of the plaintiffs and other defendants. Defendant Nos.2 to 5 pray to decree the suit allotting $1/6^{\text{th}}$ share each to the plaintiffs and defendant Nos.1 to 3 and $1/6^{\text{th}}$ share jointly to defendant Nos.4 and 5.

5. Defendant Nos.21 and 22 filed their written statement contending that, the relationship among the plaintiffs and defendant Nos.1 to 5 is not within the knowledge of these defendants. Further it is contended that, propositus, Naryanappa and his younger brother Muniyappa had inherited the properties as stated in the plaint, is not within their knowledge. It is also contended that, propositus Narayanappa died intestate on 11.01.1998 and there was partition dated 16.05.1994 is not within the knowledge of these defendants.

5a) It is contended that, propositus Narayanappa S/o. Muniyappa being the absolute owner of Property bearing Site No.37 and 38, now bearing HASB Katha No.595, measuring East to West: $90+80/2$ or 25.90 metres and North to south: 116 feet or 35.36 metres in all measuring approximately 986 square metres, bounded on the East by: Site Nos.29, 33 and 36, West

by: Road and Private Property, North by: L.G. Muniswami Reddy's Property and on the South by: Road in Vibhuthipura Village, HASB Area, K.R.Pura Hobli, which was gifted in favour of B.N.K.Reddy under the registered gift deed dated 18.03.1982.

5b) Said B.N.K. Reddy i.e., father of defendant No.6, had entered into agreement of sale dated 10.08.1996 in respect of 1355 sq. ft. of the land in Site H.A.S.B. Katha No.595/C, situated at Vibhuthipura Village, K.R.Pura Hobli, Bengaluru South Taluk, in favour of defendant No.20 Armaity Khushroo Kotwal. Subsequently, said defendant No.20 filed suit for specific performance in O.S.No.8404/2001 based on the agreement of sale executed by BNK Reddy in favour of defendant No.20. Said suit came to be decreed and in E.P.No.1985/2003, the Court has executed the sale deed in favour of defendant No.20. Thereafter, defendant No.20 has executed the registered sale deed dated 05.10.2022 in favour of defendant Nos.21 and 22 in respect of the said property. The said property is mutated in favour of defendant Nos.21 and 22 and they are paying tax to the BBMP and they are in possession and enjoyment of the said property. Defendant Nos.21 and 22 have invested their hard earned money for purchasing the said property. The plaintiffs have no right, title or interest over the suit schedule property and filed this false suit. On these grounds, defendant Nos.21 and 22 prayed to dismiss the suit.

6. Based on the pleadings, Court has framed the following issues :-

ISSUES

1. Whether plaintiff proves that suit schedule properties are the ancestral and joint family property of plaintiff and defendants ?
2. Whether the plaintiff proves that, partition was affected between Narayanappa and his brother, the 2nd portion of the house properties and landed property in the suit schedule properties are fallen to the share of Narayanappa ?
3. Whether the plaintiff proves that the BEML acquired the 2 acre 30 guntas of land in Sy.No.147 out of the compensation amount, Narayanappa purchased site No.5 and 6 in the name of his brother Muniyappa and constructed 2 houses ?
4. Whether the plaintiff proves that, Muniyappa had executed GPA on 16.05.1994 in favour of Narayanappa in respect of the item No.3 of the suit schedule property ?
5. Whether the Defendant No.21 and 22 prove that, Narayanappa executed the gift deed in respect of Khatha No.595 to the extent of East to West 25.90 Mtrs, North to South 30.36 Mtrs in favour of B.N.K.Reddy ?
6. Whether the Defendant No.21 and 22 prove that B.N.K.Reddy executed the sale agreement on 10.08.1996 agreeing to execute the sale deed in respect of portion of Khatha No.595/C in favour of Armaity Kushroo Kotwal ?
7. Whether the defendant No.21 and 22 prove that in pursuance of judgment and decree passed in O.S.No.8404/2001 and Ex.No.1985/2003, property was conveyed in favour of Armaity Khushroo Kotwal, thereafter, she sold the said land in favour of defendant Nos.21 and 22 ?

8. Whether the defendant Nos.21 and 22 prove that, the Court fee paid by the plaintiff is not proper ?
9. Whether the plaintiff is entitled for relief as claimed in the suit ?
10. What Order or Decree ?

7. To prove the case, the plaintiff No.2 examined as PW.1 and got marked the documents at Ex.P.1 to Ex.P.17. In spite of opportunities, the defendants have not adduced any oral and documentary evidence.

8. Heard arguments on behalf of the plaintiffs. In spite of granting sufficient time, the defendants have not addressed arguments, hence, matter is posted for judgment.

9. My findings on the above issues are as under :-

Issue Nos.1 & 9	: Partly in the Affirmative,
Issue Nos.2 & 3	: In the Affirmative,
Issue Nos.4 to 8	: In the Negative,
Issue No.10	: As per final order, for the following:

REASONS

10. **Issue Nos.1 & 9:** In this case, on perusal of pleadings of plaintiffs and defendant Nos.2 to 5, there is no dispute regarding relationship among the plaintiffs and defendant Nos.1 to 5. Plaintiff No.2 and defendant Nos.1 to 3 are the children of plaintiff No.1 Smt.Munirathnamma and Late

Sri.Narayanappa. Defendant No.4 is the husband and defendant No.5 is the son of Smt.Nagamma i.e., daughter of plaintiff No.1. Ex.P.1 is the genealogy. Ex.P.2 is the certified copy of the sale deed 04.05.1942 regarding purchase of 2 acres 30 guntas of land in Sy.No.143/1 of Vibhuthipura Village. Ex.P.3 is the Panchayath Palupatti i.e., unregistered partition deed dated 16.05.1994, wherein, it is mentioned that, southern portion in HASB Katha No.6/6 of Malleshapalya, Kaggadasapura Dhakale, K.R.Puram Hobli, measuring east to west 36 feet and north to south 21 feet and northern portion of property bearing Kata No.5/5 measuring east to west 23 feet and north to south 19 ½ feet and Sy.No.162/3 measuring 1 acre 5 guntas out of 2 acres 11 guntas situated at Vibhuthipura, Varthur Hobli, Bengaluru South i.e., suit schedule item Nos.1, 2 & 4 properties were fallen to the share of Narayanappa. Ex.P.5 is the RTC in respect of Sy.No.162/3 measuring 2 acres 11 guntas of Vibhuthipura Village, standing in the name of plaintiff No.1 and Muniyappa.

11. Ex.P.7 is the khatha extract in respect of Old No.53/3, New No.6/6 of Malleshapalya. Ex.P.9 is the Uttara Pathra in respect of suit schedule item No.3 property. Ex.P.12 is the certified copy of the sale deed dated 05.10.2012 executed by defendant No.20 in favour of defendant Nos.21 and 22 in respect of property bearing Vacant Site No.BBMP Katha No.266/1230/595/1/C (Old HASB Khatha No.595/C) Situated at Vibhuthipura Village, K.R.Puram Hobli, Bengaluru South Taluk, measuring 1355 sq. ft.

12. Ex.P.13 is the certified copy of the sale deed dated 09.02.2004 executed by defendant No.23 in favour of defendant No.24 in respect of the property bearing Site No.15, Old property No.162/3, K.R.Pura CMC Katha No.1039, situated at Vibhuthipura Village, K.R.Pura Hobli, Within K.R.Pura CMC Area, Bengaluru East Taluk, earlier Bengaluru South Taluk, measuring east to west 41 feet or 12.49 mtrs, north to south 30 feet or 9.14 mtrs.

13. Ex.P.14 is the certified copy of the sale deed dated 06.03.2015 executed defendant No.31 and 32 in favour of 35 in respect of property bearing Site No.42, Old HASB Katha No.595/C, BBMP Katha No.266/1/1230/595/C/A, in residentially converted Sy.No.162/3 (vide conversion Order No.ALM 12/67-68 dated 12.05.1967), situated at Vibhuthipura Village, Krishnarajapuram Hobli, Bengaluru East Taluk, Bengaluru, earlier Bengaluru South Taluk, now coming under BBMP measuring east to west 60 feet and north to south 40 feet in all measuring 2400 sq. ft.

14. Ex.P.15 is the certified copy of sale deed executed by defendant No.1 in favour of Mohan K.Reddy / defendant No.6 on 25.03.2013 in respect of site bearing No.23, Carved out of Old Property No.162/3, bearing Katha No.23/162/3, Vibhuthipura Village, K.R.Puram Hobli, Bengaluru East Talu, measuring east to west 38 feet and north to south 36 feet in all measuring 1368 sq. ft.

15. Ex.P.16 is certified copy of absolute sale deed dated 03.12.2014 executed by defendant No.36 in favour of defendant No.37 in respect of Site bearing No.23, carved out of Sy.No.162/3 bearing Katha No.23/162/3, Veebhuthipura Village, K.R.Puram Hobli, measuring east to west 38 feet and north to south 36 feet in all measuring 1368 sq. ft.

16. On perusal of written statement filed by defendant Nos.2 to 5, they have supported the case of the plaintiffs. In Para 2(a) of the plaint, the plaintiffs have stated that, defendant Nos.10 & 11 had executed registered sale deed dated 28.06.2001 in respect of portion of the suit schedule item No.4 property in favour of defendant No.13 to 19 is not binding on them. The plaintiffs have not produced the copy of sale deed dated 28.06.2001. Hence, the plaintiffs have failed to produce the sale deed, which is allegedly claimed to be void and not binding on the plaintiff. Further, the plaintiffs in their plaint have not narrated regarding the specific boundaries of the property, regarding which, the sale deed dated 28.06.2001 came to be executed. It is simply stated that, said sale deed is regarding portion of suit schedule item No.4 property.

17. It is the case of the defendant Nos.21 and 22 that, propositus Narayanappa i.e., husband of plaintiff No.1 and father of plaintiff No.2 and defendant No.1 to 3 and Smt.Nagamma, executed registered gift deed dated 18.03.1982 in favour of B.N.K.Reddy in respect of property bearing Site Nos.37 and 38, now bearing HASB Katha No.595, measuring east to west

90+80/2 or 25.90 meters and north to south 116 feet or 35.36 meters in all measuring approximately 986 sq. meters bounded on east – site Nos.29, 33 and 36, west – road, and private property, north – L.G.Muniswami Reddy's property and south-Road in Vibhuthipura Village, HASB Area, K.R.Pura Hobli. Based on the said gift deed, BNK Reddy become the owner of the suit schedule property. Thereafter, said BNK Reddy executed agreement of sale in favour of defendant No.20. But when the defendant No.6 did not execute the sale deed as agreed, defendant No.20 filed suit in O.S.No.8404/2001 for specific performance and as per the decree of specific performance in E.P.No.1985/2003, sale deed came to be executed in favour of defendant No.20. Said sale deed executed by the Court, is challenged by the plaintiffs. Defendant Nos.21 and 22 have filed written statement, but they have not led any evidence. The plaintiffs have not challenged the alienation made by Propositus Narayanappa under the registered gift deed dated 18.03.1982 in favour of BNK Reddy, hence, subsequent alienations cannot be challenged. Merely because, defendants have not led any evidence, suit of the plaintiffs cannot be decreed straight away as the plaintiffs have not made out any case to hold that, the said sale deed is not binding on the share of the plaintiffs.

18. Plaintiffs in para-2(b) of the plaint has simply stated that, the sale deed dated 09.02.2004 executed by defendant No.23 in favour of defendant No.24 in respect of portion of suit schedule No.4 property, is not binding on the share of the

plaintiffs. Ex.P.5 is the RTC in respect of Sy.No.162/3 total measuring 2 acres 11 guntas standing in the name of plaintiff No.1 and one Muniyappa. Plaintiffs have not made specific pleadings in respect of which property, this sale deed came to be executed or what is the portion / extent / site or boundaries of the property under Ex.P.13 is conveyed are not pleaded. The plaintiffs have contended that, defendant No.23 and 24 colluding with each other have created the sale deed 09.02.2004. Plaintiffs have not produced the khatha / RTC of the site sold under the said sale deed. Plaintiffs have not stated measurement, extent and boundaries of the property. Copy of the sale deed dated 18.03.1982 stated in Para-2(b) of the amended plaint is not produced before the Court. Hence, in the absence of document, Court cannot pass any judgment regarding the same.

19. Plaintiffs in Para-2(c) of the plaint have contended that, father of defendant No.6, defendant Nos.25 to 28, 31 and 35 by colluding with each other have created sale deed dated 06.03.2015. As per the written statement of defendant Nos.21 and 22, defendant No.6 is the son of BKN Reddy, in whose favour Propositus Narayanappa executed gift deed dated 18.03.1982. In respect of this gift deed, plaintiffs have not pleaded regarding extent, measurement and boundary of the property conveyed. Said gift deed is not challenged nor copy of the same is produced.

20. Likewise, the plaintiffs have not pleaded specifically regarding the extent, measurement and boundaries of properties under the sale deeds Ex.P.14 to Ex.P.16. In the prayer column, the plaintiffs have prayed to declare that the sale deeds dated 06.03.2015, 25.03.2013, 03.12.2014, 05.10.2012, 09.02.2004 and 15.10.1998 in respect of portion of suit item No.4 of schedule property are not binding on the plaintiffs' share. Copies of the sale deed dated 15.10.1998 and 03.12.2014 are not produced before the Court.

21. It is basic principle that, plead and prove. The party who approaches the Court has to plead his case and prove the same by adducing relevant oral or documentary evidence.

22. Ex.P.15 is the certified copy of the sale deed dated 25.03.2013 executed by defendant No.1 in favour of defendant No.6. This defendant No.1 is none other than the son of plaintiff No.1 and brother of plaintiff No.2 and defendant Nos.2 & 3 and Nagamma. As per the age of the parties mentioned in the cause title of the plaint, this defendant No.1 is elder member of the family after the death of his father Narayanappa. Narayanappa had executed the gift deed in the year 1982 in favour of BKN Reddy i.e., father of defendant No.6. This defendant No.1 has executed the sale deed as per Ex.P.15 sale deed in favour of defendant No.6. In the plaint, there are no allegations against Narayanappa and his son defendant No.1 Ramachandra that, they were addicted to bad habits and they utilised the funds against the interest of the joint family etc. Narayanappa was the

head of the family. Thereafter, defendant No.1 Ramachandra was the elder son and they have executed the gift deed and sale deed .

23. As discussed above, the plaintiff has not pleaded specific pleadings to prove that, the sale deeds are null and void and not binding on the share of the plaintiffs. Ex.P.5 is the RTC for the year 2012-13 in respect of Sy.No.162/3 of Vibuthipura Village. Ex.P.12 is the certified copy of the sale deed dated 05.10.2012 executed by defendant No.20 in favour of defendant Nos.21 and 22 in respect of Khatha No.266/1230/595/1/C (Old HASB Khatha No.595/C) situated at Vibhuthipura village. Ex.P.13 is the certified copy of the sale deed dated 09.02.2004 executed by defendant No.23 in favour of defendant No.24 in respect of Site No.15, Old property No.162/3, now bearing K.R.Pura CMC Katha No.1039 situated at Vibhuthipura Village. Ex.P.14 is the certified copy of the sale deed dated 06.03.2015 executed by defendant No.31 in favour of defendant No.35 in respect of site No.42, Old HASB Katha No.595/C, BBMP Katha No.266/1/1230/595/C/A in residentially converted Sy.No.162/3 of Vibhuthipura Village. Ex.P.15 is the certified copy of the sale deed dated 25.03.2013 executed by defendant No. 1 in favour of defendant No.6 in respect of Site No.23 Card out of Old property No.162/3, bearing Khatha NO.23/162/3 of Vibhuthipura Village. Ex.P.16 is the Certified copy of the sale deed dated 03.12.2014 executed by defendant No.36 in favour of defendant No.37 in respect of Site bearing No.23, Carved out of Sy.No.162/3 bearing Khatha No.23/162/3 of Vibhuthipura Village. The

plaintiffs have not produced khatha certificates / khatha extracts to show that, as on the date of suit in whose name the said properties were standing. Merely because the defendants failed to contest the case, it is not a ground to decree the suit. Plaintiffs have to prove their case independently. Under these circumstances, the plaintiffs have not made out any good grounds to declare that, the said sale deeds in question as null and void and not binding on them.

24. Admittedly, the plaintiffs and defendant Nos.1 to 5 are the joint family members and they are entitled for share in the joint family properties available for partition as on the date of suit excluding the properties alienated by Propositus Narayanappa and defendant No.1 Ramachandra, which are subject matter of said sale deeds. Accordingly, I answer **issue Nos.1 and 9 are partly in the affirmative.**

25. ISSUE Nos.2 to 4: In this case, there is no dispute regarding partition between Propositus Narayanappa and his brother Muniyappa and allotment of properties to the share of Narayanappa. Ex.P.3 is the partition deed, on perusal of which, it shows that, 1 acre 5 guntas of land in Sy.No.162/3 was allotted to the share of Narayanappa with other two properties i.e., suit item Nos.1 and 2 to the share of Narayanappa. There is no dispute regarding acquisition of 2 acres 32 guntas in Sy.No.147/1 by the Government for establishment of BEML. It is the case of the plaintiffs that, out of the compensation amount, site Nos.5 and 6 i.e., suit schedule item No.3 property was

purchased by Narayanappa and Muniyappa in the name of Muniyappa and he constructed house. There is no dispute regarding purchase of sites and construction of house. It is the case of the plaintiffs that, Muniyappa i.e., brother of Narayanappa had executed GPA in favour of Narayanappa in respect of item No.3 property. Said GPA is not got marked before the Court. Muniyappa or his legal heirs are not made as parties to this suit. Accordingly, I answer **issue Nos.2 and 3 are in the Affirmative and issue No.4 is in the Negative.**

26. ISSUE Nos.5 to 8: Defendant Nos.21 and 22 have filed written statement stating that, Narayanappa executed gift deed in favour of BNK Reddy regarding Site Nos.37 & 38, Khatha No.595 measuring east to west 25.90 meters and north to south 35.36 meters., in the year 1982. It is further case of the defendant Nos.21 and 22 that, said BNK Reddy executed agreement of sale dated 10.08.1996 in favour of defendant No.22 Armaity Khushroo Kotwal. It is further case of defendant Nos.21 and 22 that, in pursuance of judgment and decree in O.S.No.8404/2001 regarding specific performance and as per the orders in E.P.No.1985/2003, sale deed came to executed in favour of defendant Nos.21 and 22. It is further case of the defendant Nos.21 and 22 that, the suit is not properly valued. The defendant Nos.21 and 22 have filed their written statement, but they have not cross-examined PW.1 nor led their oral and documentary evidence to prove their pleadings. Pleadings of defendant Nos.21 and 22 are not proved before the Court. Hence, I answer **issue Nos.5 to 8 are in the Negative.**

27. ISSUE NO.10: In view of my aforementioned discussions, I proceed to pass the following: -

ORDER

The suit of the plaintiffs is partly decreed.

It is decreed that, plaintiff No.2 is entitled for 1/5th share in respect of the suit schedule properties excluding the properties alienated by Propositus Narayanappa and defendant No.1.

LRs of defendant No.1, defendant Nos.2, 3 and LR of Smt.Nagamma i.e., defendant No.5, are entitled for 1/5th share each in the suit schedule properties excluding the properties alienated by Propositus Narayanappa and defendant No.1.

Parties to bear their own cost.

Draw preliminary decree accordingly.

(Dictated to the Stenographer-III, transcription computerised by her, corrected and then pronounced by me in the open court on this the 21st day of March 2025).

(B.P.Devamane)
I Addl. City Civil & Sessions Judge,
Bengaluru.

ANNEXURE**WITNESSES EXAMINED ON BEHALF OF PLAINTIFFS:**

PW.1 : Sri.N.Manju.

DOCUMENTS MARKED ON BEHALF OF PLAINTIFFS:

Ex.P.1 : G-tree.
Ex.P.2 : Certified copy of sale deed dated 04.05.1942.
Ex.P.2(a) : Typed copy of Ex.P.2.
Ex.P.3 : Panchayath partition deed dated 16.05.1994.
Ex.P.4 : Death certificate of Narayanappa.
Ex.P.5 : RTC in respect of Sy.No.162/3.
Ex.P.6 : ECs.
Ex.P.7 : Katha extract.
Ex.P.8 : Katha extract.
Ex.P.9 : Uttara Patra.
Ex.P.10 : Katha registration.
Ex.P.11 : Tax paid receipts.
Ex.P.12 : Certified copy of the sale deed dated 05.10.2012.
Ex.P.13 : Certified copy of the sale deed dated 09.02.2004.
Ex.P.14 : Certified copy of the sale deed dated 06.03.2015.
Ex.P.15 : Certified copy of the sale deed dated 25.03.2013.
Ex.P.16 : Certified copy of the sale deed dated 03.02.2014.
Ex.P.17 : RCT of Sy.No.143/1 of Vibhuthipura Village.

WITNESSES EXAMINED ON BEHALF OF DEFENDANTS: NIL

DOCUMENTS MARKED ON BEHALF OF DEFENDANTS: NIL

(B.P.Devamane)

I Addl. City Civil & Sessions Judge,
Bengaluru.