

KADW200025772024



Govt. of Karnataka **TITLE SHEET FOR JUDGMENT
IN SUITS**

Form No.9 (Civil)
Title Sheet for
Judgment
in Suits
(R.P.91)

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE, HUBBALLI**

Present:

Sri. Yamanappa Karehanumanthappa,
Prl. Senior Civil Judge, Hubballi.

O.S. No.123/2024

Dated this the 17th day of July – 2026

Plaintiff : Smt. Malati W/o. Anand Kuballi,
Age: 44 years, Occ: Household,
R/o. Hottiyavar Oni, Devangpet,
Hubballi, Dist: Dharwad.

[By Sri. N.B. Akki, Advocate]

.Vs.

Defendants 1: Iravva W/o. Gangadhar Gayad,
Age: 64 years, Occ: Household,
R/o. Hottiyavar Oni, Devangpet,
Hubballi, Dist: Dharwad.

- 2: Smt. Jayashri W/o. Keshappa Negalur,
Age: 40 years, Occ: Household,
R/o. House No.74, Hilton Park,
Sulla Road, Gopankoppa, Hubballi,
Dist: Dharwad.
- 3: Smt. Jyoti W/o. Sadanand Gayad,
Age: 31 years, Occ: Household,
R/o. C/o. Ratnamma W/o. Iranna
Kudarimoti, Near Basanashankari Temple,
Kinnal, Tq: Dist: Koppal.
- 4: Sadvik S/o. Sadanand Gayad,
Age: 02 years, Occ: Nil,
R/o. C/o. Ratnamma W/o. Iranna
Kudarimoti, Near Basanashankari Temple,
Kinnal, Tq: Dist: Koppal.
(Since minor represented by his natural
mother defendant No.3).
- 5: Smt. Manjula W/o. Krishnappa Hotti,
Age: 46 years, Occ: Household,
R/o. Sante Shigli, Tq: Shirahatti,
Dist: Gadag.

**[D.1, 2, 5 – By S.M. Puttappannavar,
Advocate,
D.3, 4 – By G.R. Goldannavar, Adv.]**

Date of institution of suit	:	11-03-2024		
Nature of suit	:	Partition and separate possession		
Date of recording of evidence	:	06-03-2025		
Date on which Judgment was pronounced	:	17-07-2026		
Duration of suit	:	Year/s	Month/s	Day/s
		02	04	06

J U D G M E N T

This suit is filed by plaintiff for partition and separate possession with respect to suit properties as against defendants.

2. The case of the plaintiff in brief is as under:

Original propositus of the family was one Gangadhar Shivappa Gayad. He died on 16.05.2017. His first wife by name Saraswati died leaving behind the plaintiff and defendant No.5. He married defendant No.1, out of their wedlock the defendant No.2 and deceased Sadanand were born. The deceased Sadanand died leaving behind the defendants No.3 and 4 as his legal heirs. The suit schedule B property bearing RS No.211/1A+1B-1+1B-2 is measuring 4 acres 23 guntas, out of which 16 guntas 8 annas was acquired by the SLAO and the amount was divided by the plaintiff and defendants equally. After the death of propositus the names of plaintiff and defendants have been mutated jointly. Till today no partition is took place between plaintiff and defendants. The plaintiff is having 1/5th share in the suit properties. When the plaintiff asked the defendants to effect partition, the defendants have denied to partition the suit properties. Hence, the plaintiff has filed this suit for claiming partition of her 1/4th share in the suit properties.

3. On issuance of suit summons, defendants appeared through their Advocates. The defendant No.1 has filed written statement by admitting the relationship as well

as nature of the suit properties. She has admitted all the contents of the plaint as true and correct. Hence, prayed her share in the suit properties.

4. The defendants No.2 and 5 have filed memo for adopting the written statement filed by defendant No.1.

5. The defendants No.3 and 4 have filed written statement by contending that the plaintiff and defendant No.1 are staying together in one house. There is no need to file this suit for division of the properties, as they have every chance to divide the properties between themselves. Only to harass these defendants the plaintiff has filed this suit. The plaintiff and others defendants have not given any amount in the acquired land. Further contended that the defendant No.1 has not given any amount in LIC amount of the husband of defendant No.3. They are ready to take their in the suit properties. Hence, prayed to decree the suit and allot their share in the suit properties.

6. On the basis of the above pleadings, I have framed the following issues:

1. Whether the plaintiff proves that suit properties are joint family properties of plaintiff and defendants and plaintiff is having 1/5th share in the suit properties?
2. Whether the defendant No.1 proves that she is having share in the suit properties?

3. What order or decree?

7. My answers to the above points are as under:

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

REASONS

8. **Issues No.1 and 2:** Genealogy is not in dispute, likewise nature of the suit properties are also not in dispute. Plaintiff has pleaded that the suit properties are the joint family properties of Gangadhar. Still the suit properties are standing in the name of Gangadhar. The defendants have admitted the relationship between them and prayed their share in the suit properties. The plaintiff is examined as PW.1 by reiterating the contents of plaint and got marked Ex.P.1 to 8. Ex.P.1 is the record of right of the suit schedule B property, which discloses that out of 4 acres 23 guntas the Railway authority has acquired 16 guntas 8 annas land, the remaining property is standing in the name of Gangadhar. Ex.P.2 is the property tax assessment of suit schedule C property at serial No.1, which discloses that it is standing in the name of Gangadhar. Ex.P.3 is the tax paid receipt. Ex.P.4 is VPC extract of suit schedule C property at serial No.2 property, which discloses that it is standing in the name of Gangadhar. Ex.P.5 is the death certificate of Gagnadhar. Ex.P.6 is the death certificate of Sadanand. Ex.P.7 is the survival certificate of deceased Gangadhar, which discloses

that the plaintiff, defendants No.1, 2, 5 and deceased Sadanand are the legal heirs of Gangadhar. Ex.P.8 is the survival certificate of deceased Sadanand, which discloses that the defendants No.3 and 4 are the legal heirs of deceased Sadanand.

9. The defendant No.3 in her written statement has contended that the defendant No.1 has not given any amount in acquired land and LIC amount. In order to prove the same she has got examined herself as DW.1. But during her cross-examination she has admitted that she has received compensation amount.

10. Since the plaintiff has stated that the suit properties are joint family properties and plaintiff and defendants are having share in the suit properties, this Court by exercising the power U/o.12 Rule 6 of C.P.C., posted the case for judgment on admission. Order XII Rule 6 reads as under:

“Judgment on admissions – (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment

as it may think fit having regard to such admissions.”

It could be seen from the oral and documentary evidence that the suit properties are co-parcenary properties of plaintiff and defendants and standing in the name of Gangadhar Gayad. Being the wife and children of Gangadhar Gayad as a class-I heirs of Section 8 of Hindu Succession Act all are entitle for equal share in the suit properties. So, considering the documents as well as admissions given by the defendants, I hold that the plaintiff and defendants No.1, 2 and 5 are entitle for 1/5th share each and defendants No.3 and 4 are entitle for 1/5th share together in the suit properties. Accordingly I answer **issues No.1 and 2 in Affirmative.**

11. **Issue No.3:** In view of my answers to issues No.1 and 2, I proceed to pass the following:

ORDER

Suit of the plaintiff is decreed without costs.

It is declared that plaintiff and defendants No.1, 2 and 5 are entitle for 1/5th share each and defendants No.3 and 4 are entitle for 1/5th share together in the suit properties by metes and bounds and entitle for partition and separate possession of the suit property.

Draw a preliminary decree accordingly.

(Dictated to the Stenographer directly on computer, script corrected directly on computer and then pronounced by me in the Open Court on this the 17th day of July - 2026)

(Yamanappa Karehanumanthappa)
Prl. Senior Civil Judge,
Hubballi.

ANNEXURE

1.List of witnesses examined on behalf of Plaintiff:

PW.1 : Malati W/o. Anand Kuballi.

2.List of documents exhibited on behalf of Plaintiff:

Ex.P.1 : R of R extract.
Ex.P.2 : Tax assessmet extract.
Ex.P.3 : Tax paid receipt.
Ex.P.4 : VPC extract.
Ex.P.5 and 6 : Death certificates.
Ex.P.7 and 8 : Survival certificates.

3.List of witnesses examined on behalf of Defendants:

DW.1 : Jyoti Sadanand Gayad.

4.List of documents exhibited on behalf of Defendants:

-NIL-

Prl. Senior Civil Judge,
Hubballi.