

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

Present:

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

**FDP No.45/2025**

**Dated this the 27<sup>th</sup> day of March – 2026**

**Petitioners  
(Original  
plaintiffs No.1  
to 4)**

- 1: Sangappa S/o. Basavanneppa Burudi  
@ Hulamani, Age: 43 years,  
Occ: Agriculture, R/o. Bogenagarkoppa,  
Tq: Kalghatagi, Dist: Dharwad.
- 2: Manjunath S/o. Basavanneppa Burudi  
@ Hulamani, Age: 40 years,  
Occ: Agriculture, R/o. Bogenagarkoppa,  
Tq: Kalghatagi, Dist: Dharwad.
- 3: Fakkirappa S/o. Basavanneppa Burudi  
@ Hulamani, Age: 37 years,  
Occ: Agriculture, R/o. Bogenagarkoppa,  
Tq: Kalghatagi, Dist: Dharwad.
- 4: Virupakshappa S/o. Basavanneppa  
Burudi @ Hulamani, Age: 34 years,  
Occ: Agriculture, R/o. Bogenagarkoppa,  
Tq: Kalghatagi, Dist: Dharwad.

**[By Sri. M.B. Nadaf, Adv.]**

**.Vs.**

**Respondents  
(Original  
defendants  
No.1 and 3)**

- 1: Basavanneppa S/o. Sangappa Buradi  
(since deceased by his L.Rs. plaintiffs  
No.1 to 4 and plaintiff No.5 in original  
suit)

- 1a: Smt. Neelavva W/o. Basavanneppa  
Burudi @ Hulamani, Age: 67 years,  
Occ: Agriculture, R/o. Bogenagarkoppa,  
Tq: Kalghatagi, Dist: Dharwad.
- 2: Smt. Shobha W/o. Ashok Belamkar,  
Age: 67 years, Occ: Nil,  
R/o. No.38, Banker's Colony,  
Laxmipur, Siddharood Math,  
Old-Hubballi, Hubballi, Dist: Dharwad.

Date of institution of petition : 23-09-2025

Nature of suit : Final decree proceedings

Date of recording of  
evidence : --

Date on which Judgment was : 27-03-2026  
pronounced

Duration of suit : Year/s Month/s Day/s  
00 06 04

### **J U D G M E N T**

This petition is filed by the original plaintiffs U/o.XX Rule 12, 18 and Section 54 of C.P.C. seeking final decree of their 1/5th share each in all the suit properties by metes and bounds.

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

Plaintiffs had filed OS No.60/2010 seeking partition and separate possession of their legitimate share in the suit

schedule properties against defendants, the same was decreed on 08.09.2016 by granting 1/5th share each in favour of plaintiffs No.1 to 4 only. In spite of the preliminary decree, the defendants have not divided the properties by metes and bounds. Hence, this final decree petition.

3. On issuance of suit summons, the defendants have not appeared before the court.

4. In order to demarcate the properties, the ADLR, Hubballi, was appointed as Court commissioner with respect to item No.1 and 2 properties. The PDO, Gram Panchayat, Bhogenagarkoppa, Tq: Kalghatagi, is appointed as court commissioner with respect to serial No.3 house property as per preliminary decree. Both court commissioners have filed reports by demarcating the suit schedule properties. The plaintiffs have submitted no objection to commissioner report.

5. I have heard both side and perused the memo and perused the materials on record. The following points arise for my consideration:

1. Whether the plaintiffs are entitle for final decree as prayed for?
2. What order?

6. My answers to the above points are as under.

**Point No.1: PartlyAffirmative.**  
**Point No.2: As per final order,**  
**for the following:**

## **REASONS**

7. **Point No.1:** It is not in dispute that as per decree in OS No.60/2010, the plaintiffs No.1 to 4 have been granted 1/5th share each in the suit schedule properties. This court has appointed ADLR, Hubballi to demarcate the suit schedule properties at item No.1 and 2 and PDO, Gram Panchayat, Bhogenagarkoppa, Tq: Kalghatagi, to demarcate the suit schedule possession at item No.3. Both have filed their reports demarcating the suit schedule properties. I have perused the commissioner reports. The ADLR, Hubballi has demarcated 1/5th share each to plaintiffs No.1 to 4 as per Hissa-I to IV in suit schedule properties at item No.1 and 2 as shown in the court commissioner report. The petitioners have submitted no objection to the said court commissioner reports. The court commissioner has demarcated 5 hissass in the suit schedule property item No.1 and 2. On perusal of commissioner report as per preliminary decree the commissioner shown the portion share of the parties in the report. The same is allotted to the respective parties as per preliminary decree. In survey No.246/1 and 249 Hissa-I to IV are allotted to plaintiffs No.1 to 4. As per preliminary decree Hissa-V is allotted to defendant No.1, now the defendant No.1 is dead, his wife defendant No.1(a) is entitle for the share of defendant No.1. Hence, Hissa-V is allotted to defendant No.1(a). The plaintiffs have submitted no objection to the court commissioner report. So, considering the submission made by the plaintiffs and considering the

evidence on record, I hold that the report of the Court commissioner can be accepted.

8. I have perused the another court commissioner report submitted by the PDO, Gram Panchayat, Bhogenagarkoppa in respect of suit schedule property at item No.3- house property. In the said report the commissioner has stated that in the house property it is possible to make only two divisions and only two parties can divide the house property, the other parties can take the market value of the house property. Hence, I hold that the plaintiffs can file fresh petition in respect of suit schedule property at item No.3. Hence, I answer point No.1 in the **partly Affirmative**.

9. **Point No.2:** In view of my answer to the point No.1 in partly Affirmative, I proceed to pass the following;

### **ORDER**

The petition filed by the plaintiffs U/o.XX rule 12, 18 and 54 of CPC is partly allowed.

The final decree shall be drawn by allotting Hissa-I to IV in favour of plaintiffs No.1 to 4 and Hissa-V in favour of defendant No.1(a) as shown in the commissioner report.

The report submitted by the court commissioner shall be part and parcel of final decree.

The petition in respect of suit schedule property at item No.3 is dismissed.

The plaintiffs are at liberty to file fresh petition in respect of suit schedule property at item No.3.

Draw a final decree after furnishing necessary stamp duty.

(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the 27<sup>th</sup> day of March - 2026)

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

**ANNEXURE**

**1.List of witnesses examined on behalf of plaintiffs:**

-NIL-

**2.List of documents exhibited on behalf of plaintiffs:**

-NIL-

**3.List of witnesses examined on behalf of defendants:**

-NIL-

**4.List of documents exhibited on behalf of defendants:**

-NIL-

**Prl. Senior Civil Judge,**  
**Hubballi.**