



IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE & J.M.F.C., HUBBALLI

Present:

SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Addl. Senior Civil Judge & J.M.F.C., Hubballi.

O.S. No.393/2022

Dated this the 19th day of June, 2026

Plaintiff/s : Sri. Praveenkumar S/o
Maheshwar Haralahalli, Age:37
years, Occ:Agriculture and
Engineering, R/o.Shakti
Ganapati Nagar, Bengaluru,
Tq:Bengaluru, Dist:Bengaluru.

(By Sri. A.M. Malipatail, Advocate)

Vs.

Defendants : 1. Smt. Suvarna @ Pakkiravva
W/o Maheshwar Haralahalli,
Age:68 years, Occ:Retd.
R/o.Channabasava Nilaya,
Goudar Oni, Gulaganji Koppa,
Dharwad, Tq:Dharwad,
Dist:Dharwad.

2. Smt. Prathibha D/o Maheshwar
Haralahalli, Age:38 years,
Occ:Household work,
R/o.Channabasava Nilaya,
Goudar Oni, Gulaganji Koppa,
Dharwad, Tq:Dharwad,
Dist:Dharwad.

(By Sri. A.V. Enagi, Advocate)



*Date of institution of : 08.12.2021
the suit.*

*Nature of the suit : Suit for partition and
separate possession.*

*Date of : 09.02.2022
commencement of the
evidence.*

*Date on which the : 19.06.2026
judgment was
pronounced.*

*Duration of the suit. : Year/s Month/s Day/s
04 06 11*

JUDGMENT

*This suit is filed by the Plaintiff for the relief of
Partition and separate possession in respect of suit
schedule 'B' and 'C' properties.*

2. Brief facts of the case are as under:

*2.01. One Maheshwara S/o Pakkirappa
Haradahalli is the prepositious of the family of plaintiff
and defendants.*

*2.02. Maheshwara died on 24.01.1998 leaving
behind him, his wife Suvarna/defendant No.1, his
daughter viz., Prathiba/defendant No.2; and his son
viz., Praveenkumar/ plaintiff.*



2.03. Plaintiff and defendants constitute members of Hindu undivided joint family.

2.04. During the lifetime of Maheshwara, he was working in Revenue Department, Government of Karnataka. He worked in various places like Hukkeri, Savadatthi, Bylahongala, Belavgavi, Dharwad, Kalagatagi etc.,

2.05. When he was working as Deputy Tahsildar at Kalagatagi, he died due to heart attack.

2.06. After the death of Maheshwara, the plaintiff and defendants were leading the life from the pension amount of Maheshwara.

2.07. The death benefits of Maheshwara were given to defendant No.1. During the lifetime of Maheshwara, the defendant No.1 has no any income.

2.08. The amount obtained from the death benefits of Maheshwara, the defendant No.1 has purchased 'B' schedule property under the registered sale deed dated 31.12.1998. As the said property was purchased from the death benefits of Maheshwara, hence the said property is the joint family property of plaintiff and



defendants and they are in peaceful possession and enjoyment of the said property. Hence, plaintiff is having his legitimate share in the said property.

2.09. Likewise, during the lifetime of Maheshwara, he has purchased the suit schedule 'C' property. After his death, the names of plaintiff and defendants came to be mutated in the said property as per succession. Hence, the plaintiff and defendants are having equal rights over the said property.

2.10. The plaintiff and defendants are entitle to get the death benefits of Maheshwara equally.

2.11. After the death of Maheshwara, the defendant No.1 has got job on compensatory ground and the defendant No.1 is working as FDA in Revenue Department.

2.12. The defendant No.1 in order to defeat the right of plaintiff over the suit schedule 'B' property, has gifted the suit schedule 'B' property in favour of defendant No.2 on 24.09.2021 without the knowledge of plaintiff. Hence, the same is not valid and not binding on the plaintiff. The defendant No.1 alone has no right to



execute the gift deed in favour of defendant No.2. Based on the said illegal gift deed, the defendant No.2 by colluding with revenue authorities has mutated her name in respect of suit schedule 'B' property. Hence, the same is illegal.

2.13. The suit schedule 'B' and 'C' properties are joint family properties of plaintiff and defendants and they are in joint and constructive possession over the said properties.

2.14. No any partition has taken place in between the plaintiff and defendants.

2.15. When the plaintiff approached the defendants to effect partition in respect of the suit schedule 'B' and 'C' properties, the defendants were not heeded the words of plaintiff. Hence, prays to allot his 1/3rd share in the suit schedule 'B' and 'C' properties.

2.16. Hence plaintiff has constrained to file the present suit for the relief of partition and separate possession.

3. *Upon filing the Suit, this Court has issued Summons to the Defendants. Defendants have appeared*



before the Court through their counsel and filed their written statement.

3.01. The Defendants in their written statement have admitted the relationship of the Plaintiff with defendants.

3.02. The plaintiffs have no locus standi to file the present suit as there is no cause of action arose to the plaintiff to file the present suit.

3.03. After the death of the husband of defendant No.1, the defendant No.1 has joined the services as FDA on compensatory grounds. Thereafter out of her earnings, she has purchased the suit schedule 'B' property. Hence, the suit schedule 'B' property is the self acquired property of defendant No.1. The plaintiff has no right to ask any share in the said property.

3.04. As the plaintiff has not looked after the defendant Nos.1 and 2. As the defendant No.2 is unmarried and she is taking care of defendant No.1, hence out of love and affection, she has executed registered gift deed in favour of defendant No.2 in



respect of suit schedule 'B' property. As it is the self acquired property of defendant No.1.

3.05. The Genealogical Tree furnished by the plaintiff is not correct.

3.06. Further contended that the defendant No.1 has purchased the plot bearing Plot No.59, in Sy.No.26D, measuring 3 guntas 12 anna situated at Lakamapura Village, Haveri Tq., and Dist.; in the name of plaintiff. At the time of purchase, the plaintiff was minor aged about 14 years 10 months. Hence, the defendant No.1 became the guardian of plaintiff. But, without the knowledge of defendant No.1, the plaintiff alone has mutated his name in respect of the said property. The plaintiff has not included the said property in the suit plaint. As the said property was purchased by the defendant No.1 in the name of plaintiff, the defendant Nos.1 and 2 are entitle to have equal share in the said property.

3.07. Further the plaintiff has not included the property bearing Sy.No.115, measuring 2 acres 2 guntas situated at Boolaguru village, Ksaba Hobli, Shidlaghatta Tq., Chikkabalalpur District. The defendant No.1 has



given the amount of Rs.9,87,000/- to the plaintiff to purchase the said property in the name of plaintiff. The said property is also the joint family property. The plaintiff has not included the said property in the suit plaint. Hence, the defendants are also entitle to have 1/3rd share in the said property.

3.08. The defendants have amended their written statement and impleaded the said properties in their written statement.

3.09. Hence, prays to dismiss the suit.

4. *On the basis of the pleadings of both the parties, this Court has framed 5 issues, which reads as under :*

1. Whether the plaintiff proves that the suit properties are joint family properties of plaintiff and defendants and also they are in joint and constructive possession over the suit properties ?

2. Whether plaintiff further proves that the defendant No.1 has executed the Gift Deed in favour of defendant No.2 to defeat the legitimate share of him in the schedule 'B' property ?

3. Whether plaintiff proves the cause of action to file this suit ?

4. Whether the plaintiff is entitled for the relief as sought for ?



5. What order or decree ?

5. The Plaintiff in order to prove his case, got examined himself as PW1 and got marked 8 documents as Ex.P1 to Ex.P8. Before transfer the above said case P.W.2 has been examined, thereafter he was recalled for the purpose of cross examination, but he never turned up for tender himself to cross examination.

Per contra, the Defendant No.1 got examined herself as DW1 and got marked 2 documents as Ex.D1 and Ex.D2.

Heard the Arguments of the Learned Counsel for the Plaintiff.

The Learned Counsel for defendant has filed his written arguments, wherein he has contended as follows:

a) The plaintiff is the son and defendant No.2 is the daughter and defendant No.1 is the wife of Maheshwara.

b) Initially the plaintiff has filed this suit at OS No.99/2021 before Civil Judge Court at Byadagi in the year 2021. Thereafter the defendant No.1 has filed petition before the Hon'ble High Court of Karnataka and transferred the case to this Court and same came to by numbered as OS No.393/2022.



c) *the plaintiff has not included all the joint family properties as suit properties in the suit plaint. Hence, the suit of the plaintiff is bad for non joinder of all the properties.*

d) *The defendant No.1 has purchased the suit schedule 'B' property under the registered sale deed dated 04.09.1999. Hence, the said property is her self acquired property;*

e) *As the plaintiff has not included all the joint family properties to the suit plaint, the defendant No.1 has filed application for impleadment of Plot No.59 in Sy. No.26D, measuring 3 guntas 12 annas situated at Lakamapura village, Haveri Tq., and Dist., and also another plot measuring 50 X 40 in RS No.115 out of total measuring 2 acres 2 guntas.*

f) *The said plot N.59 in Sy.No.26D has been purchased by the defendant No.1 in the name of plaintiff. At the time of said purchase, the plaintiff was minor aged about 14 years 10 months. Hence, the defendant No.1 has acted as guardian of plaintiff. The plaintiff has no any independent income to purchase the*



said property. Hence, the said property is the joint family property. The defendants are having equal share in the said property.

g) As the plaintiff has settled in Bengaluru, he has neglected to take care of defendant No.1, the defendant No.2 alone is looking after the defendant No.1. Hence, out of love and affection, the defendant No.1 has gifted the suit schedule 'B' property in favour of defendant No.2, as it is the self acquired property of defendant No.1. The plaintiff has no right to seek share in the said property.

h) the suit schedule 'C' property is the absolute property of the husband of defendant No.1 Maheshwara. After the death of Maheshwara, the said property came to be mutated in the names of defendant No.1, defendant No.2 and plaintiff jointly. The defendants have no any objection to allot the share of $1/3^{\text{rd}}$ to the plaintiff in the suit schedule 'C' property.

i) The property bearing plot No.59, measuring 3 guntas 12 annas in Sy.No. 26D situate at Lakmapura village, Haveri Tq., and Dist., has been purchased by the



defendant No.1 in the name of plaintiff. The date of birth of the plaintiff is 31.07.1984. As on the date of purchase of the said property, the age of the plaintiff is 14 years 10 months. He has no any independent income to purchase the said property. Hence, the said property is the joint family property of plaintiff and defendants. Hence, prays to allot 1/3rd share each in the said property.

k) the defendant No.1 has given Rs.9,87,000/- to the plaintiff to purchase the property bearing RS No.115 measuring 50 X 40 feet out of 2 acres 02 guntas situate at Bodaguru village, Shidlagatta Tq., Chikkaballapura Dist., out of love and affection. Hence, the said property is also the joint family property. Hence, prays to allot 1/3rd share in the said property.

l) The plaintiff has filed this suit only with an intention to harass the defendants.

6. Answers to the above Issues are as under:

<i>Issue No.1</i>	<i>: Partly in the Affirmative;</i>
<i>Issue No.2</i>	<i>: In the Negative;</i>
<i>Issue No.3</i>	<i>: In the Affirmative;</i>



Issue No.4 : Partly in the Affirmative;

*Issue No.5 : As per final orders,
for the following:*

REASONS

7. *On the basis of contentions of the parties, the undisputed facts are :*

a) Maheshwara S/o Pakkirappa Hardahalli is the Prepositious of the family of plaintiff and defendants.

b) Maheshwara died on 24.01.1998 due to heart attack.

c) the defendant No.1 is the wife and defendant No.2 is the daughter and plaintiff is the son of Maheswhwara.

d) During the lifetime of Maheshwara, he was working in Revenue Department as Deputy Tahsildar;

e) After the death of Maheshwara, the defendant No.1 joint to the service as FDA in Revenue Department as compensatory grounds.

8. Issue Nos.1 to 4: *Since, all these Issues are inter-connected with each other so they are taken for*



joint discussion; to avoid repetition and confusion; and to have brevity, in the discussion.

8.01. The Plaintiff in the Suit Plaintiff has contended that Suit Schedule 'B' Property was purchased by the defendant No.1 under the registered sale deed dated 31.12.1998 out of the funds generated from the death benefits of Maheshwara i.e., husband of defendant No.1. Hence, the said property is the joint family property. The plaintiff and defendants are having 1/3rd share each in the said property. But, the defendant No.1 in order to defeat the right of plaintiff, has got executed the registered gift deed dated 24.09.2021 illegally in respect of said property. Hence, the said gift deed is not binding on the plaintiff.

8.02. Likewise, the suit schedule 'C' property is the absolute property of Maheshwara. After the death of Maheshwara, the plaintiff and defendant Nos.1 and 2 being the class-1 legal heirs have mutated their names in respect of said property. Hence, the said property is the joint family property. The plaintiff and defendants are having 1/3rd share each in the said property.



Hence, prays to allow the suit and allot his 1/3rd share in the suit schedule 'B' and 'C' properties.

On the other hand, the defendant No.1 has contended that the suit schedule 'B' property is the self acquired property of defendant No.1. The plaintiff has no right to seek partition in the said property. As far as the suit schedule 'C' property is concerned, the defendant No.1 has contended that the said property is the absolute property of Maheshwara. After his death, the said property came to be mutated in the joint names of plaintiff and defendants as they are the class-1 legal heirs. The defendants have no objection to allot 1/3rd share in the suit schedule 'C' property. Further contended that the other properties i.e., plot No.59 in Sy.No.26D and a plot measuring 50 X 40 feet in Sy.No.115 are also the joint family properties. Hence, prays to allot 1/3rd share each to the defendants in the said properties.

9. *In order to prove the case of plaintiff, the plaintiff has examined himself as PW1 and got marked*



documents at Ex.P1 to Ex.P8. The Plaintiff has produced below mentioned documents :

a) RTC extract for the year 2021-22 pertaining to Sy.No.384/1B, measuring 11 acres 03 guntas situated at Shidenuru Village, Byadigi Tq., Haveri Dist., i.e., suit schedule 'B' property at Ex.P1. As per this document, it can be seen that the name of defendant No.1 is appearing as Kabzedar as well as in the Cultivation column.

b) RTC extract for the year 2021-22 pertaining to Plot N.63 in Sy.No.622, measuring 1 gunta 7.75 annas situated at Unakel village, Hubballi, i.e., suit schedule 'C' property at Ex.P2. As per this document, it can be seen that the names of plaintiff and defendant nos.1 and 2 are appearing as Kabzedar as well as in the Cultivation column. At column No.10, it is mentioned as varasa.

c) RTC extract for the year 1997-98 to 1999-2000 pertaining to Sy.No.384/1B, measuring 11 acres 03 guntas situated at Shidenuru Village, Byadigi Tq., Haveri Dist., i.e., suit schedule 'B' property at Ex.P2. As



per this document, it can be seen that initially the name of Mallanagouda is appearing. Thereafter the said name has been rounded off and entered the name of Parameshwara Gouda and thereafter the said name has been rounded off and entered the name of defendant No.1 as Kabzedar as well as in the Cultivation column.

d) Mutation register extracts at Ex.P4 to Ex.P6.

As per these documents it can be seen that the name of defendant No.1 came to be mutated in respect of suit schedule 'B' property and thereafter the name of defendant No.2 came to be mutated in place of name of defendant No.1 by deleting the name of defendant No.1 based on gift deed.

e) Mutation register extracts at Ex.P7 and Ex.P8.

As per these documents it can be seen that the names of plaintiff and defendants came to be mutated in respect of suit schedule 'C' property after the death of Maheshwara.

On the other hand, in order to prove the defence of the defendants, the defendant No.1 got examined herself



as DW1 and got marked two documents at Ex.D1 and Ex.D2.

a) RTC extract for the year 2024-25 pertaining to Plot No.59 in Sy.No.26D, measuring 3 guntas 12 annas situated at Lakamapura Village, Haveri Tq., and Dsit. at Ex.D1. As per this document, it can be seen that the name of plaintiff is appearing as Kabzedar as well as in the Cultivation column. At column No.10, it is mentioned as per sale deed.

b) Transfer certificate of plaintiff at Ex.D2. As per this document, it can be seen that the date of birth of the plaintiff is mentioned in the said document as 31.07.1984.

On careful perusal of the documents available on record, it is very important to note here that it is the specific contention of the plaintiff that out of the death benefits of Maheshwara, the defendant No.1 has purchased the suit schedule 'B' property under the registered sale deed dated 31.12.1998. The defendant No.1 has no any income at the time of purchase of the



said property. Hence, the said property is the joint family property. The plaintiff and defendants are having 1/3rd share each in the suit schedule 'B' property.

On the other hand, it is the specific contention of the defendants that after the death of Maheshwara, the defendant No.1 being the wife of Maheshwara, as she has completed MA graduation, she has got FDA job in Revenue Department on compensatory ground. Out of the said income, she has purchase the suit schedule 'B' property under the registered sale deed dated 04.09.1999. Hence, the said property is the self acquired property of defendant No.1. As the plaintiff has neglected to look after the defendant No.1, as the defendant No.2 being unmarried daughter is looked after the defendant No.1, out of love and affection, she has executed gift deed in favour of defendant No.2 in respect of suit schedule 'B' property. Based on the said gift deed, the name of defendant No.2 came to be mutated in respect of suit schedule 'B' property. The plaintiff has no right to seek partition in the said property.



Though the plaintiff has contended that the defendant No.1 has purchased the suit schedule 'B' property under the registered sale deed dated 31.12.1998, but the plaintiff has not produced the said document before the Court. Even the defendant No.1 has contended that she has purchased the suit schedule 'B' property under the registered sale deed dated 04.09.1999, she has also failed to produce the said document before the Court.

Even the plaintiff and defendant No.1 has contended that the defendant No.1 has executed the gift deed in favour of the defendant No.2, but none of the parties to the suit have failed to produce the said document before the Court.

Only based on RTC extracts and mutation register extracts, the Court cannot come to the conclusion that the defendant No.1 is the title holder of suit schedule 'B' property. In the absence of title document, this Court is of the view that the plaintiff is not entitle for any share in the suit schedule 'B' property.



Further it is also important to note here that though the defendant No.1 has specifically contended that she has purchased the plot No.59 measuring 3 guntas 12 annas in Sy.No.26D in the name of plaintiff when he was minor; and contributed an amount of Rs.9,87,000/- to the plaintiff for purchase of plot measuring 50 X 40 in land bearing Sy.No.115. Hence, the said properties are joint family properties. The defendants have share in the said properties. Though the defendants have contended so, no any documents are produced before the Court to substantiate their contention. In the absence of any documents, the contention taken by the defendants holds no any water and they are not entitle for any share in the said properties.

Coming to the discussion with regard to the suit schedule 'C' property. It is the contention of both the plaintiff and defendants that the suit schedule 'C' property is the absolute property of Maheshwara. After the death of Maheshwara, the names of plaintiff and defendants came to be mutated in respect of the said



property. In support of the said contention, the plaintiff has produced the document at Ex.P2.

Even the defendants in their written arguments also has clearly contended that they have no objection to allot $1/3^{\text{rd}}$ share to the plaintiff in the suit schedule 'C' property. Hence, the plaintiff and defendants are entitle to have $1/3^{\text{rd}}$ share each in the suit schedule 'C' property.

In the suit plaint, the plaintiff has contended that the cause of action arose to the plaintiff to file the suit against the defendants seeking relief of partition and separate possession of his $1/3^{\text{th}}$ share in respect of suit schedule 'B' and 'C' properties on 27.11.2021 when the defendants have refused to allot his share in the said properties. Hence, the plaintiff has shown the cause of action to file the suit.

Hence, I answer **Issue Nos.1 and 4 partly in the Affirmative; issue No.2 in the negative; and issue issue No.3 in the affirmative.**

10. Issue No.5: For having answered Issue Nos.1 and 4 partly in the Affirmative, issue No.2 in the



negative and issue No.3 in the affirmative, I proceed to pass the following:

ORDER

The Suit of the Plaintiff is decreed in part.

The Plaintiff and defendants being the legal heirs of Maheshwara is entitled to have 1/3rd share each in Suit Schedule 'C' Property.

The relief sought by the plaintiff in respect of suit schedule 'B' property is hereby rejected.

The relief sought by the defendants in respect of plot No.59 in Sy.No.26D; and a plot measuring 50 X 40 in Sy.No.115 is hereby rejected.

Partition be effected inbetween the parties in respect of Suit Schedule 'C' Properties, as per partition act.

Draw Preliminary Decree accordingly.

*(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **19th day of June, 2026**)*

*(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.*

**ANNEXURE**1. List of witnesses examined on behalf of Plaintiff:

P.W.1 : Sri. Praveenkumar S/o Maheshwar Haralalli.

P.W.2 : Sri. Rudragouda S/o Shiddanagouda Patil.

2. List of documents exhibited on behalf of Plaintiffs:

Ex.P.1 to : Record of Rights.

P.3

Ex.P.4 & : 'D' Utar.

P.5

Ex.P.6 to : Mutation Register Extract.

P.8

3. List of witnesses examined on behalf of Defendants:

D.W.1 : Smt. Suvarna @ Fakkiravva W/o Maheshwar Haralalli.

4. List of documents exhibited on behalf of Defendants:

Ex.D.1 : Record of Rights.

Ex.D.2 : Leaving Certificate.

(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.