



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.521/2024

Dated this the 25<sup>th</sup> day of March, 2026

- Plaintiff/s : 1. Smt Preeti W/o Venkatesh Nakod  
Age: 31 years, Occ:Household,  
R/o.Hippargi Building, Torvi  
Hakkal, P.B. Road, Hubballi,  
Tq:Hubballi, Dist:Dharwad.
2. Veer S/o Venkatesh Nakod,  
Age:12 years, Occ:Student.
3. Shlok S/o Venkatesh Nakod,  
Age:09 years, Occ:Student.

Plaintiff No.2 and 3 being minors  
represented by minor guardian  
plaintiff No.1.

(By Sri. S.M. Waddatti, Advocate)

**Vs.**

Defendants : Smt. Shobha W/o Buddivantasa  
Nakod, Age:63 years,  
Occ:Household work,  
R/o.Tumkur Oni, Old Hubballi,  
Hubballi, Tq:Hubballi,  
Dist:Dharwad.

(By Sri. H.C. Hemantkumar, Advocate)



*Date of institution of : 22.11.2024  
the suit.*

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

*Date of : 16.07.2025  
commencement of the  
evidence.*

*Date on which the : 25.03.2026  
judgment was  
pronounced.*

*Duration of the suit. : Year/s Month/s Day/s  
01 04 03*

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### **JUDGMENT**

*This suit is filed by the Plaintiffs for the relief of partition and separate possession in respect of the suit schedule properties.*

**2.** *Brief facts of the case, of filing of this suit, are as under:*

*2.01. The defendant is the mother-in-law of the plaintiff No.1 and grandmother of plaintiff Nos.2 and 3.*

*2.02. The son of defendant Sri.Venkatesh Buddivantasa Nakod and plaintiff No.1 got married on 27.02.2011 at Hubballi*



*with the permission and in presence of elders of the both the family. From their wedlock, plaintiff Nos.2 and 3 were born.*

*2.03. The defendant has purchased the Item No.1 of the suit schedule property out of the joint family nuclues – two shops from its earlier owner Sri.Venkatesh Tippanna Mestri in the year 2013 for valuable consideration. Since then the defendant is in possession and enjoyment of the Item No.1 of the suit schedule property.*

*2.04. The husband of the plaintiff No.1 was an employee in NIDEC Pvt. Ltd., Tarihal, Hubballi and getting gross salary of Rs.16,543/-. He had joined the service on 07.01.2010. Out of the said earnings, the husband of plaintiff No.1 was taking care of plaintiff No.1 and the defendant.*

*2.05. The husband of plaintiff No.1 had also saved amount in F.D. and also made LIC policies during his life time.*

*2.06. The husband of plaintiff No.1 died on 30.12.2020.*

*2.07. After the death of husband of plaintiff No.1, the plaintiff No.1 requested the defendant many times to give her share and the share of her children in the suit schedule*



*properties. But the defendant has not heeded the request of the plaintiff No.1.*

*2.08. Hence, the plaintiff No.1 got issued legal notice to the defendant through her counsel. In spite of that the defendant has refused to give her share in the suit schedule properties.*

*2.09. Hence, the plaintiffs have constrained to file the present suit.*

**3.** *After service of notice, the defendant has appeared through her counsel and filed her written statement.*

*3.01. In her written statement the defendant has denied the entire plaint averments and has admitted that relationship in between the plaintiffs and the defendant as well as the relationship of plaintiff No.1 with her son Venkatesh as wife and husband.*

*3.02. Further contended that the defendant got some properties from her parental family, same was sold in the year 2012 for the family necessities.*



*3.03. The husband of plaintiff No.1 was an employee in NIDEC Pvt. Ltd., and getting salary of Rs.16,543/- and he joined the service on 07.01.2010. He died on 30.12.2020.*

*3.04. During the life time of Venkatesh, he had received service benefits amounts of Rs.17,78,640/- from NIDEC Pvt. Ltd., The said amount was deposited into his saving account. Being aware of the circumstances and having lost faith in plaintiff No.1, he voluntarily transferred a significant portion of the said amount into FD in the names of plaintiff Nos.2 and 3 and made defendant as their guardian.*

*3.05. It is submitted that the plaintiff no.1 used to quarrel with Venkatesh frequently and their relationship became strange. Even the plaintiff no.1 has not taken care of Venkatesh at his last stage.*

*3.06. The plaintiff No.1 is receiving pension from NIDEC Pvt. Ltd., after the death of her husband.*

*3.07. The Item No.1 of the suit schedule property is not belongs to either defendant or her son Venkatesh. The Item No.1/CTS No.677 of suit schedule property has divided into four*



*parts i.e., CTS No.677/1D which is standing in the name of Abndul Rahiman Abdul Karim Madaki, CTS No.677/ 1C which is standing in the name of Abdul Rasul Abdul Gafur Hubblikar, CTS No.677/ 1A and 677/ 1B which are standing in the name of Shanawaj Adidavanwaz Madaki.*

*3.08. Even now the defendant is paying the school fee of plaintiff Nos.2 and 3.*

*Hence, prays to dismiss the suit.*

**4.** *Based on the pleadings of the both the parties, this Court has framed the following issues:*

*1. Whether the plaintiffs prove that they and the defendant are the co-parcner and suit schedule properties are their co-parcener properties ?*

*2. Whether the plaintiffs prove that, they are entitled for 3/4<sup>th</sup> share in all the suit schedule immovable and movable properties ?*

*3. What order or decree ?*



5. The Plaintiffs in order to prove their case, got examined Plaintiff No.1 as PW1; and got marked 9 documents as Ex.P1 to Ex.P9.

5.01. On the other hand, the defendant got herself examined as DW1 and got marked documents at Ex.D1 to Ex.D9.

6. In spite of granting sufficient opportunity, the Learned Counsel for plaintiff has not addressed his arguments. Hence, arguments of Learned Counsel for plaintiff is taken as NIL. Heard the Arguments of the Learned Counsel of the defendant.

7. Answers to the above issues are as under:

Issue No.1: In the Negative;  
Issue No.2: In the Negative;  
Issue No.3: As per final orders,  
for the following:

### **REASONS**

8. **Issues Nos.1 and 2:** Since, both the 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.



*The plaintiffs have contended in their suit that the Item No.1 of the suit schedule property has been purchased by the defendant out of joint family nucleus and remaining properties are the joint family properties. belonging to their family, consisting of themselves and the Defendant.*

**9.** *The Plaintiffs have produced below mentioned documents :*

a) *Heirship certificate at Ex.P1. As per this document it can be seen that the plaintiffs and defendant are residing under one roof.*

b) *Bank pass books at Ex.P2 and Ex.P3. The said banks pass books are standing in the name of Venkatesh.*

c) *Aadhaar Cards at Ex.P4 to Ex.P7.*

d) *Legal notice at Ex.P8*

e) *Reply notice at Ex.P9.*

**10.** *Though the plaintiffs have contended that Item No.1 of the suit schedule properties has been purchased by the defendant out of joint family nucleus, the plaintiffs have not produced any documents before the Court more specifically sale deed in order to show that the Item No.1 of the suit schedule*



*property is the joint family property or it is the property standing in the name of defendant.*

**11.** *Further the plaintiffs have not produced any document before the Court to show that there exist FD in the names of plaintiff Nos.2 and 3. Even the plaintiffs have not produced any document before the Court to show Sri.Venkatesh has got service benefits of Rs.17,78,640/-. Even the plaintiffs have not produced any documents before the Court more specifically LIC Policies and FD receipts which are shown at Item Nos.3 to 7 of the suit schedule properties. Even the plaintiffs have not produced any document before the Court to show that Item No.8 of the suit schedule property i.e., motorcycle bearing Reg. No.KA-25-EA-7494 in whose name the said motorcycle is standing.*

**12.** *In the absence of any document before the Court, this Court cannot presume that the suit schedule properties are the joint family properties.*

**13.** *On the other hand, it is the specific contention of the defendant that the Item No.1 of the suit schedule properties has*



*got divided into 4 parts which belongs to one Abdul Rahiman Abdul Karim Madki, Abdul Rasul Abdul Gafur Hubblikar and Shanawaj Abidvanaz Madaki.*

**14.** *Though the defendant has admitted in his written statement and in her ocular evidence that her son Venkatesh has got service benefits and some of the amount has been kept in FD in the names of plaintiff Nos.2 and 3, but none of the parties to the suit have not produced any LIC Policy or FD receipts.*

**15.** *The defendant has produced below mentioned documents:*

a) *property extract pertaining to CTS No.677/1D, at Ex.D1. The said document is standing in the name of Abdul Rahiman Abdul Karim Madaki.*

b) *property extract pertaining to CTS No.677/1B, at Ex.D2. The said document is standing in the name of Shanawaj Adidavanwaz Madaki.*



c) *property extract pertaining to CTS No.677/1C at Ex.D4. The said document is standing in the name of Rasul Abdul Gafur Hubblikar.*

d) *Mutation register extract at Ex.D3. On perusal of the said document it can be seen that the property bearing CTS No.677/1A is standing in the name of Shanawaj Adidavanwaz Madaki.*

e) *Mutation register extract at Ex.D5. On perusal of the said document it can be seen that the property bearing CTS No.677/1C is standing in the name of Abdul Rasul S/o Abdul Gafur Hubblikar.*

f) *property register extract at Ex.D6. As per this document, it can be seen that the said document is standing in the name of Shanawaj D/o Adidavanwaz Madaki.*

g) *property register extract at Ex.D7. As per this document, it can be seen that the said document is standing in the name of Shanawaj D/o Adidavanwaz Madaki.*



h) *property register extract at Ex.D8. As per this document, it can be seen that the said document is standing in the name of Abdul Rasul S/o Abdul Gafur Hubblikar.*

i) *property register extract at Ex.D9. As per this document, it can be seen that the said document is standing in the name of Abdul Rehamn S/o Abdul Karim Madike.*

**16.** *None of the documents produced either by the plaintiffs or by the defendants shows that either the defendant or her son Venaktesh are the owners of the Item No.1 of the suit schedule property.*

**17.** *Inorder to conclude it can be said that, Plaintiffs have failed to show that :*

a) *Suit Schedule Properties belong to their family; and the said properties are their family properties.*

b) *the husband of plaintiff No.1 got service benefits and during his lifetime he has obtained LIC Policies and kept FD in the names of plaintiff Nos.2 and 3.*

*Hence, I am constrained to answer Issue **No.1 and 2 in the Negative.***



**18. Issue No.3:** *For having answered issue Nos.1 and 2 in the Negative, I proceed to pass the following:*

**ORDER**

*The Suit of the Plaintiffs is hereby  
Dismissed.*

*Draw Decree accordingly.*

*(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **25<sup>th</sup> day of March, 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 : Smt Preeti W/o Venkatesh Nakod.

2.List of documents exhibited on behalf of Plaintiffs:

Ex.P.1 : Surviving Family members Certificate.

Ex.P.2 &  
P.3 : Bank Passbooks.

Ex.P.4 to  
P.7 : Aadhaar Cards.

Ex.P.8 : Notice dated:22.02.2024.

Ex.P.9 : Reply dated:29.02.2024



3. List of witnesses examined on behalf of Defendants:

D.W.1 : Smt. Shobha W/o Buddivantasa Nakod.

4. List of documents exhibited on behalf of Defendants:

Ex.D.1 & : Ruled Card extracts.

D.2

Ex.D.3 : Plain Card extract.

Ex.D.4 : Ruled Card extract.

Ex.D.5 : Plain Card extract.

Ex.D.6 to : Property Register Card extracts.

D.9

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