

KADW310001072024



**IN THE COURT OF SENIOR CIVIL
JUDGE AND JMFC KALAGHATAGI**
PRESENT

SHRI. RAVINDRA L. HONOLE, B.A., LL.B (Spl)
SENIOR CIVIL JUDGE & JMFC, KALAGHATAGI

DATED THIS 7TH DAY OF APRIL 2026

O.S.No.46/2024

PLAINTIFF:

1. Gireesh s/o Basavanneppa Angadi,
Age: 33 years, Occ: Agriculture,
R/o Devikoppa, Tq: Kalaghatagi,
Dist: Dharwad.
2. Smt.Shankrevva w/o Somappa
Gundlagi, Age: 60 years,
Occ: Household work,
R/o Marewad, Tq & Dist: Dharwad.
3. Smt. Neelavva w/o BasappaBammigatti,
Age: 58 years, Occ: Household work,
R/o Dulikoppa, Tq: Kalaghatagi,
Dist: Dharwad
4. Smt. Bandavva w/o Vittal Mugali,
Age: 55 years, Occ: Household work,
R/o Karadigudda, Tq & Dist: Dharwad.

(Sri. S.R.Hegde, Adv)

Vs

DEFENDANTS:

1. Sankappa s/o Basavanneppa Angadi,
Age: 30 years, Occ: Military service,
R/o Devikoppa, Tq: Kalaghatagi,
Dist: Dharwad.
2. Basappa s/o Sankappa Chalamatti,
Age: 66 years, Occ: Agriculture,
R/o Begur, Tq: Kalaghatagi,
Dist: Dharwad
3. Kenchappa s/o Channabasappa Katagi,
Age: 45 years, Occ: Agriculture,
R/o Begur, Tq: Kalaghatagi,
Dist: Dharwad
4. Sangappa s/o Channabasappa Katagi,
Age: 43 years, Occ: Agriculture,
R/o Begur, Tq: Kalaghatagi,
Dist: Dharwad
5. Kavita w/o Manjunath Vasanad,
Age: 40 years, Occ: Household,
R/o Tadihal, Tq: Navalgund,
Dist: Dharwad.
6. Smt. Neelavva w/o Sangayya Pujar,
Age: 65 years, Occ: Housewife,
R/o Begur, Tq: Kalaghatagi,
Dist: Dharwad.

(D-1 Sri. M.G.Sangalli, Adv)
(D-2,4,5, 6 Exparte)
(D-3-M.S.Dhanigond, Adv)

- | | |
|-------------------------------|--------------------------------------|
| 1. Date of suit | - 16-03-2024 |
| 2. Nature of suit | - Partition & Separate
possession |
| 3. Date of recording evidence | - 07-03-2025 |
| 4. Date of disposal | - 07-04-2026 |
| 5. Total duration | - years / months/ days |

02 / 00 / 21

(R.L.HONOLE)
SR.CIVIL JUDGE & JMFC,
KALAGHATAGI

J U D G M E N T

The plaintiffs have filed the suit for partition and separate possession of $\frac{1}{2}$ share of plaintiffs and defendant No.1 and 2 in the suit schedule properties by metes and bounds.

2. The facts of the case of the plaintiffs' is as under:

The suit schedule properties described in schedule 'A' item No.1 land bearing R.S.No.113/1 measuring 1 acre 29 guntas situated at Bisaralli village and item No.2 R.S.No.221/1 measuring 2 acre 13 guntas situated at Hullambi village and item No.3 house property VPC No.97/A, item No.4 VPC No. 97/A1, item No.5 open space VPC No.97/B and VPC No.97/B1 all situated at Begur village, taluka Kalaghatagi which are described in plaint schedule 'A' are the suit properties.

3. One Sangappa was the propositus had two wives, plaintiffs and defendant No.1 and 2 are the heirs of

Parvatevva the daughter of first wife. Defendant No.3 to 5 are the heirs of Chennappa the son of second wife of propositus.

4. It is submitted that the plaintiffs are the heirs of Parvatevva the daughter of first wife of propositus and defendant No.3 to 5 are the heirs of second wife of propositus. The name of plaintiffs and defendants appearing in the records but there is no partition in the suit properties. In the month of December-2023 plaintiffs have asked defendant No.3 to 5 to effect partition and same was denied therefore, they have filed the suit allotting $\frac{1}{2}$ share of plaintiffs and defendant No.1 and 2 in the suit properties by metes and bounds. Hence, prays for decree of suit.

5. In pursuance of suit summons, the defendant No.1 and 3 appeared through their respective counsels and filed separate written statements. Defendant No.2,4 and 5 are placed exparte. During pendency of case

defendant No.6 was got impleaded but she remained absent and placed exparte.

6. Defendant No.1 filed written statement admitting the contents of plaint and genealogy and his relationship plaintiffs. He prays for allotting his share in the suit properties and he was ready to pay the court fee.

7. Defendant No.3 filed written statement denying the contents of plaint as false and liable to be dismissed. It is submitted that the defendant No.3 has paid sufficient money and gold to the mother of deceased plaintiff No.1 and plaintiff No.2 to 4 wherein they have relinquished their right in his favour. The plaintiffs have no right, title or interest in the suit properties. The plaintiffs having knowledge of all the facts have filed this untenable suit to harass the defendants. Therefore, prays for dismissal of suit with cost.

8. On the basis of above pleadings of parties, following issues have been framed:

I S S U E S

1. Whether the plaintiffs prove that the suit schedule 'A' properties are the ancestral joint family properties of plaintiffs and defendants?
2. Whether the defendant No.3 proves that the mother of plaintiff No.1 and plaintiff No.2 to 4 were received money and gold as of their share and they have given up their share in the suit properties in his favour?
3. Whether the plaintiffs are entitled for the relief as sought for?
4. What order or decree?

9. In order to prove the case of the plaintiffs, plaintiff No.1 stepped into witness box and got examined as PW.1 and got marked documents at Ex.P.1 to Ex.P.6 and closed their side.

10. The defendant No.3 stepped into witness box and got examined as DW.1 and got marked documents at Ex.D.1 to Ex.D.18. In support of their case two witnesses were got examined as DW.2 and 3 and closed their side.

11. Heard the arguments of both counsels.

12. My findings on the above issues are as under:

- ISSUE No.1 : In the negative
- ISSUE No.2 : In the negative
- ISSUE No.3 : In the negative
- ISSUE No.4 : As per the final order,
for the following:

REASONS

13. **ISSUE No.1:** It is case of the plaintiffs that plaintiffs and defendant No.1 and 2 are the heirs of first wife of propositus by name Parvatevva and defendant No.3 to 5 are the heirs of second wife of propositus. It is further case of the plaintiffs suit schedule properties are the ancestral joint family properties and there is no partition by metes and bounds.

14. In order to prove their case, plaintiff No.1 stepped into witness box and got examined as PW.1. In support of their case got marked Ex.P.1 to 6. Ex.P.1 and 2 are the RTCs of Sy.No.113*/1 measuring 1 acre 29 guntas of Bisaralli village and Sy.No.221*/1 measuring 2 acre 13 guntas of Hullambi village are jointly standing in the name of Basappa s/o Sankappa Chalamatti (defendant No.1), Ningavva w/o Basavanneppa Yelival, Shankravva w/o Somappa Gundalagi (plaintiff No.2), Neelavva w/o Basappa Bammigatti (plaintiff No.3),

Bandavva w/o vittal Mugali (plaintiff No.4), Sangappa s/o Channabasappa Katagi (defendant No.4). In column No.10 of Ex.P.2 it is mentioned as ancestral property. Ex.P.3 to 6 are the certificate issued by PDO, Begur in respect of item No.3 to 6 properties standing in the name of Channabasappa Sangappa Katagi, Sangappa Channabasappa Katagi and Kenchappa Channabasappa Katagi.

15. I have gone through the evidence of PW.1. In his cross examination deposed that he do not know when Parvatevva died. He stated that he had no knowledge of mother name of Parvatevva. He stated that Parvati is the daughter of first wife of propositus and Channabasappa was the son of second wife of propositus, but no documents are produced. It is denied that he had to knowledge about childrens of propositus. In the RTCs name of Ningavva w/o Basavanneppa Yalival was appearing and said Ningavva is not party to suit. No explanation how she is related to propositus

and suit property. In the genealogy the plaintiffs have not stated name of the mother of Parvatevva who is alleged to be first wife of propositus and name of second wife of propositus. It is suggested to PW.1 that the daughter of propositus by name Neelavva w/o Sangayya Pujar was not included in the suit and he stated that he had no knowledge. It is denied that Parvatevva, Channabasappa and Neelavva are the childrens of same mother and they have given false information. It is true that during pendency of suit defendant No.6 Neelavva is got impleaded as party to the suit but it will no cure the defect. It is not explained who is defendant No.6 and how he is related to the propositus. The plaintiffs have no knowledge about the all the heirs of propositus Sangappa. Even they do not know whether Parvatevva, Channabasappa and Neelavva are born to same mother. The evidence of PW.1 is not convincing and it is not supported with documentary evidence. The date of death of propositus Sangappa has not been made clear. The

heirs of propositus Sangappa is also not clear. Mere admission of facts by defendant No.1 who is also sailing with plaintiffs is not a ground to believe the contents of plaint as true and correct.

16. The genealogy shown by the plaintiffs is not clear and it is not supported with either oral or documentary evidence. Plaintiffs could have produced heirship certificate from the revenue authority. The plaintiffs may contended that there is no pleadings about non-joinder of necessary party. The plaintiffs have approached the court and it is burden on them to prove their case. The best persons who are acquainted with their family have not been examined by the plaintiffs. PW.1 had no knowledge about the heirs of propositus Sangappa. The evidence of PW.1 is not clear and his evidence is not believable and acceptable. Even in the pleadings there is no averments that suit schedule properties are belongs to propositus and after his death the plaintiffs and defendants have inherited the suit

properties. No formal pleadings to the effect that plaintiffs and defendants are in joint possession and enjoyment of suit properties. The contention taken by the plaintiffs is not supported with documentary evidence.

17. I have also gone through the oral evidence of DW.1. Defendant No.3 stepped into witness box and got examined as DW.1. In support of their case got marked documents. Ex.D.1 and 2 are the RTCs of item No.1 and 2 properties. Ex.D.3 is the death certificate of Basavva. Ex.D.4 to 7 are the RTCs of landed properties item No.1 and 2 in the name of Channabasappa Sangappa Katagi and Parvatevva w/o Sangappa Chalamatti. Ex.D.8 to 11 are the RTCs standing in the name Sangappa Budappa Katagi as occupant/kabjedar. Ex.D.12 to 14 are the mutation registers. The revenue entries standing in the name of propositus Sangappa is not in dispute. The said properties are belongs to propositus Sangappa is also not in dispute.

18. The documents got marked by defendant No.3 marked at Ex.D.17 mutation registration No.800 dated 16.08.1971 discloses that one Sangappa Budappa Katagi died on 09.05.1968 leaving behind his legal heirs 1. Channabasappa, 2. Parvatevva w/o Sankappa Chalamatti, 3. Neelavva w/o Sangayya Pujar in respect of Sy.No.221/1 has been mutated in the name of son Channabasappa s/o Sangappa Katagi, as per varadi.

19. Ex.D.15 MR No.152 dated 12.02.1925 discloses that Budappa Sangappa Katagi the father of propositus died on 26.11.1924, by varasa name of his son Sangappa has been mutated in respect of Sy.No.113/1. The documents got marked by defendants speaks different story. The pleadings and documents are not convincing and corroborates. Case put forth by plaintiffs is not supported by either oral or documentary evidence. The best of piece of evidence have not been placed before court. Suit cannot be decreed on assumption and presumption.

20. In the cross examination DW.1 admits that suit properties are the ancestral properties. He admits that no share was given to the Parvatevva and there are no documents to prove partition. It is also admitted that except suit properties the family had no other properties. The admission of DW.1 is crystal clear that suit schedule properties are ancestral joint family properties belongs to propositus Sangappa. In the cross examination nothing has been elucidated from the mouth of DW.1 about heirs of propositus Sangappa. No suggestion was made that plaintiffs are the heirs of daughter born to Sangappa through first wife, Paravatevva. In the absence of proof about the heirs of propositus, it is not proper to allot share of parties in the suit properties. The plaintiffs have failed to prove the genealogy shown in the plaint. The plaintiff No.1 examined on behalf of plaintiffs had no knowledge about the family of propositus and his evidence is not

convincing. Accordingly, I have answered issue No.1 negative.

21. **ISSUE NO.2** : The defendant No.3 contended that mother of plaintiff No.1 and plaintiff No.2 to 4 have received money and gold as of their share and they have given up their share in the suit properties in his favour. In order to prove his contention defendant No.3 himself stepped into witness box and got examined as DW.1. In the cross examination it is admitted that he has not paid money and gold to the mother of plaintiff No.1 and plaintiff No.2 to 4 and he stated that their ancestors have paid the same. It is deposed that nothing has been stated in the written statement about money and gold. It is stated that he has not asked this fact from his father since he was child. It is admitted that there is no documents to show that the mother of plaintiff No.1 and plaintiff No.2 to 4 have executed relinquishment deed. The oral evidence of DW.1 is clear that there was no evidence to prove that mother of plaintiff No.1 and

plaintiff No.2 to 4 have relinquished their right in the suit property by receiving money and gold. The oral evidence of DW.1 is contrary to his own pleadings. In the written statement contended that he paid money and gold to mother of plaintiff No.1 and plaintiff No.2 to 4.

22. I have also gone through the oral evidence of DW.2 Basappa Mensinkai and DW.3 Ningappa Nandigatti. In their examination-in-chief DW.2 and 3 have deposed that the defendant No.3 has paid sufficient money and gold to the mother of plaintiff No.1 and defendant No.2 to 4 and they have relinquished their right over the suit properties. It is deposed that the plaintiffs having knowledge of this fact have filed the suit. In the cross examination DW.2 to deposed that in the presence of elders money and gold was paid to Parvatevva but there is no record. It is stated that he could not remember the money and gold paid. DW.3 deposed that talks were taken place in the presence elders and he was also present but there is no document

was reduced into writing. He stated that at the time of talks 4 tolas of gold and money was paid but it was not stated in his examination-in-chief.

23. The oral evidence of DW.2 and 3 is contrary to the evidence of DW.1. Defendant No.3 who is examined as DW.1 himself admits that money and gold was not paid by him but to the contrary DW.2 and 3 stated that defendant No.3 has paid the money and gold to the mother of plaintiff No.1 and plaintiff No.2 to 4. DW.3 gone one step ahead and deposed that 4 tolas of gold and money was paid to the mother of plaintiff No.1 and plaintiff No.2 to 4. The oral evidence of DW.2 and 3 is not supported with documentary evidence and their evidence is not believable and acceptable.

24. Defendant No.3 has failed to prove that he has paid money and gold to the mother of plaintiff No.1 and plaintiff No.2 to 4 as of their share and they have relinquished their right over the suit properties in his

favour. Accordingly, I have answered issue No.2 in the negative.

25. **ISSUE NO.3:** The plaintiffs have failed to prove the genealogy as shown in the plaint. Non dispute of relationship, nature of properties by defendants and specific denials in written statement are not a ground to decree the suit. Plaintiffs have approached the court and it is burden on them to prove their case. The case made out by plaintiffs is not clear and convincing. All the sharers who are related to propositus Sangappa are not made clear. The material pleading and evidence on record is not sufficient to prove that the suit schedule properties are the ancestral joint family properties and plaintiffs and defendants are in joint possession and enjoyment of suit properties. The plaintiffs have failed to prove the legal heirs of propositus Sangappa. In absence of correct genealogy it is not possible to hold who are sharers having share in the suit schedule property. Therefore, the plaintiffs are not entitled for share in the

suit schedule properties. Suit of the plaintiffs is liable to be dismissed. Considering the relationship between parties, no order as to cost. Accordingly, I have answered issue No.3 in the negative.

26. **ISSUE No.4:** In view of above discussion, court proceed to pass the following:

ORDER

The suit of the plaintiffs is hereby dismissed.

No order as to cost.

Office to draw decree accordingly.

(Dictated to the Stenographer, transcribed and computerized by him, corrected and then pronounced by me in the Open Court on this the **7th day of April, 2026**)

(R.L.HONOLE)
SENIOR CIVIL JUDGE & JMFC,
KALAGHATAGI

ANNEXURES

WITNESSES EXAMINED FOR PLAINTIFF:

PW-1 : Gireesh s/o Basavanneppa Angadi

DOCUMENTS EXHIBITTED FOR PLAINTIFF:

Ex.P-1 & 2 : RTCs

Ex.P-3 to 6 : Letter issued by Gram Panchayat

WITNESSES EXAMINED FOR DEFENDANTS:

DW-1 : Kenchappa s/o Channabasappa Katagi

DW-2 : Basappa s/o Budappa Menasinakai
DW-3 : Ningappa s/o Kallappa Nandigatti

DOCUMENTS EXHIBITTED FOR DEFENDANTS:

Ex.D-1 & 2 : RTCs
Ex.D.3 : Death certificate
Ex.D.4 to 7 : RTCs
Ex.D.8 to 11 : Form No.7 Utars
Ex.D.12 to 18 : Mutation registers

(R.L.HONOLE)
SENIOR CIVIL JUDGE & JMFC,
KALAGHATAGI