

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC,
AT : NAVALGUND**

Present:

**Sri. MANJUNATH. D. R
B.Sc, LL.B.**

**Senior Civil Judge and JMFC
Navalgund.**

Dated this 01st day of FEBRUARY, 2024

O.S. No.216/2023

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Plaintiffs	1.	Smt. Kashavva W/o Basappa Hanamaratti, Age: 52 years, Occ: Agriculture & Household work, R/o: Savadatti, Tq: Savadatti, Dist: Belgavi.
	2.	Smt. Drakshayani W/o Irappa Itagi, Age: 50 years, Occ: Agriculture & Household work, R/o: Tirlapur, Tq: Navalgund, Dist: Dharwad.

(Sri. R. B.C, advocate for plaintiffs)

V/s

Defendants	1.	Veerappa S/o Chandrashekharappa Kulkarni, Age: 58 years, Occ: Agriculture, R/o: Tirlapur, Tq: Navalgund, Dist: Dharwad.
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	2.	Basavaraj S/o Chandrashekharappa Kulkarni, Age: 48 years, Occ: Agriculture, R/o: Tirlapur, Tq: Navalgund, Dist: Dharwad.
	3.	Saroja W/o Veerappa Kulkarni, Age: 53 years, Occ: Agri & Household work, R/o: Tirlapur, Tq: Navalgund, Dist: Dharwad.

(Sri. N. B. S, advocate for D1 to D3)

Date of filing suit : 19.06.2023.

Nature of suit : Partition suit.

Date of commencement of recording evidence : 12.12.2023.

Date on which the judgment was pronounced : 01.02.2024.

Total direction : **Year/s** **Month/s** **Day/s**
-00- **-07-** **-13-**

(Manjunath. D. R)
Senior Civil Judge and JMFC
Navalgund.

J U D G M E N T

1. The plaintiffs have filed suit for partition claiming 1/4th share in the suit properties by metes and bounds against the defendants.

2. The brief case of plaintiffs is as follows;

One Chandrashekharappa Kulkarni was the propositus of the plaintiffs and defendants family and he had a wife namely Neelavva and both Chandrashekharappa and Neelavva died leaving behind their children ie., plaintiffs and defendant No.1 and 2 and defendant No.3 is the wife of defendant No.1. It is further contended that, suit properties item No.1 to 4 properties bearing Sy. No.180/4 measuring 5 Acres 10 Guntas, Sy. No.193/1B measuring 5 Acres situated at Tirlapur village of Navalgund, Sy. No.317/3 measuring 2 Acres 34 Guntas and Sy. No.317/2 measuring 2 Acres 34 Guntas situated at Padesur village of Navalgund taluk and the suit properties are the ancestral and joint family properties of plaintiffs and defendants. Further it is contended that, defendant No.1 and 2 have created the illegal revenue records in their name with respect to the

suit properties and defendant No.1 got created the illegal revenue entires in favour of his wife defendant No.3 with respect to the item No.4 of suit property behing the back of plaintiffs. It is also contended that, plaintiffs being the children of deceased propositus Chandrashekharappa are having 1/4th share each in the suit properties and also contended that, there is no partition among plaintiffs and defendant No.1 and 2 and suit properties are in joint possession and enjoyment of plaintiffs and defendant No.1 and 2. The cause of action to file the suit arose in the month of March 2023, when the defendants have postponed the allotment of shares to plaintiffs on one or the other pretext. Hence, this suit for partition.

3. The defendant No.1 to 3 are appeared through their learned counsel, but not filed any written statement.
4. The plaintiffs in order to prove the case examined the plaintiff No.1 as pw.1 and got marked Ex.P1 to Ex.P8 documents. On the other hand, defendants have not lead any defence evidence.

6. After going through the entire pleadings and after perusing the written arguments filed by plaintiffs, the following points arise for consideration;

P O I N T S

1)Whether the plaintiffs prove that, suit properties are the ancestral and joint family properties of plaintiffs and defendant No.1 and 2 ?

2) Whether the plaintiffs prove that, they are entitled for 1/4th share each in the suit properties by metes and bounds ?

3)What order or decree ?

7. After hearing and after perusal of entire records, I answer the above points as under;

Point No.1 & 2	:	<i>In the AFFIRMATIVE.</i>
Point No.3	:	<i>As per final order for the following;</i>

:: R E A S O N S ::

- 8. Point No.1 & 2:** As the facts involved in these points are common, they are taken together for consideration.
- 9.** The plaintiffs in order to prove the case examined plaintiff No.1 as pw.1 and got marked certified copies of RTC extracts at Ex.P1 to Ex.P4, certified copies of mutation extracts at Ex.P5 to Ex.P7 and certified copy of death certificate at Ex.P8.
- 10.** On the other hand, defendants have not led any defence evidence.
- 11.** The pw.1 in her evidence specifically deposed that, one Chandrashekharappa Kulkarni was the propositus of the plaintiffs and defendants family and he had a wife namely Neelavva and both Chandrashekharappa and Neelavva died leaving behind their children ie., plaintiffs and defendant No.1 and 2 and defendant No.3 is the wife of defendant No.1.
- 12.** The defendants have not at all filed any written statement in spite of appearing before this Court, therefore the learned counsel and defendants have not at all disputed the relationship of plaintiffs and defendants with the

deceased Chandrashekharappa and deceased Neelavva and the materials produced on record clearly disclose that, plaintiffs and defendant No.1 and 2 are the children of late Chandrashekharappa and Neelavva, hence the plaintiffs have proved the relationship between the plaintiffs and defendants.

- 13.** The pw.1 in the evidence further deposed that, suit properties item No.1 to 4 properties bearing Sy. No.180/4 measuring 5 Acres 10 Guntas, Sy. No.193/1B measuring 5 Acres situated at Tirilapur village of Navalgund, Sy. No.317/3 measuring 2 Acres 34 Guntas and Sy. No.317/2 measuring 2 Acres 34 Guntas situated at Padesur village of Navalgund taluk and the suit properties are the ancestral and joint family properties of plaintiffs and defendants. Further it is contended that, defendant No.1 and 2 have created the illegal revenue records in their name with respect to the suit properties and defendant No.1 got created the illegal revenue entires in favour of his wife defendant No.3 with respect to the item No.4 of suit property behing the back of plaintiffs. It is also contended

that, plaintiffs being the children of deceased propositus Chandrashekharappa are having 1/4th share each in the suit properties and also contended that, there is no partition among plaintiffs and defendant No.1 and 2 and suit properties are in joint possession and enjoyment of plaintiffs and defendant No.1 and 2. The cause of action to file the suit arose in the month of March 2023, when the defendants have postponed the allotment of shares to plaintiffs on one or the other pretext.

- 14.** The pw.1 has produced the certified copies of RTC extracts pertaining to suit properties at Ex.P1 to Ex.P4 and certified copies of mutation extracts at Ex.P5 to Ex.P7. The Ex.P5 certified copy of mutation extract disclose that, the name of defendant No.1 was entered with respect to the item No.3 and 4 of suit properties by virtue of alleged Waradi by the father of plaintiffs and further certified copy of mutation extract Ex.P6 disclose that, the name of deceased Neelavva , plaintiffs and defendant No.1 and 2 entered with respect to the item No.1 of suit property after the death of propositus Chandrashekharappa and Ex.P6

further disclose that, the name of deceased Neelavva, plaintiffs and defendant No.1 and 2 names are entered with respect to the item No.2 of suit properties, after the death of propositus Chandrashekharappa and Ex.P7 mutation extract clearly disclose that, name of defendant No.3 wife of defendant No.1 was entered with respect to item No.4 of suit properties and RTC extracts pertaining to the same produced at Ex.P1 to Ex.P4 establish the same and materials available on record clearly establish that, suit properties are ancestral and joint family properties of deceased propositus Chandrashekharappa and plaintiffs and defendant No.1 and 2 being the children of deceased propositus Chandrashekharappa are entitled for equal share in the suit properties by metes and bounds. The records clearly establish that, defendant No.1, 2 and 3 have not at all derived any exclusive right over the suit properties by virtue of the alleged revenue entries.

15. It is relevant to mention that, the Hon'ble Supreme Court of India passed in **VINEETA SHARMA & RAKESH SHARMA & OTHERS** passed in **Civil Appeal**

No.32601/2018, *“the daughters are also entitled for the equal share in the ancestral properties on par with the sons.”* In this case, the plaintiffs and defendant No.1 and 2 are the children of deceased propositus Chandrashekharappa and daughters are also entitled for equal share on par with the sons in the ancestral and joint family properties. Though the defendants have appeared through their learned counsel, not filed any written statement for the reasons best known to them and there are no materials on record to discredit the evidence of pw.1 and the documents produced by her. Therefore, the plaintiffs are entitled for 1/4th share each in the suit properties by metes and bounds. Hence, with the above observation, I hold point No.1 and 2 in the **AFFIRMATIVE**.

16.Point No.3: For the reasons stated and discussion made above, I proceed to pass the following;

O R D E R

The suit of plaintiffs for Partition is hereby DECREED WITH COSTS.

It is declared that, plaintiff No.1 and 2 are entitled for 1/4th share each

in the suit properties by metes and bounds.

Draw preliminary decree accordingly.

(Dictated to the Stenographer, transcribed and computerized by him, corrected and pronounced by me in the open Court on this day of **01st day of FEBRUARY, 2024**)

**(Manjunath. D. R)
Senior Civil Judge and JMFC.
Navalgund.**

A N N E X U R E

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PLAINTIFFS:

P.W.1 : Smt. Kashavva W/o Basappa Hamaratti.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE PLAINTIFFS:

Ex.P.1 to Ex.P4 : Certified copies of RTC extracts.
Ex.P5 to Ex.P7 : Certified copies of mutation extracts.
Ex.P8 : Death certificate.

LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANTS:

-NIL-

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF DEFENDANTS:

-NIL-

**(Manjunath. D. R)
Senior Civil Judge and JMFC,
Navalgund.**

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