

**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE,
GADAG**

Present: Sri. Hosamani Pundalik,
C/c. Addl.Senior Civil Judge, Gadag.

Dated this 10th day of November 2014

O.S. No. 82/2013

Plaintiff:

Smt. Kasturevva W/o Hanamaraddi
Sataraddi, Age: 55 years, Occ: Agriculture,
R/o Shalavadi, Tq: Navalagund,
Dist: Dharwad.

(By Sri. SKN Adv.,)

-Vs-

Defendants:

1. Sri. Ningappa S/o Govindappa Doni,
Age: 68 years, Occ : Agriculture,
R/o Sambhapur Post: Hatalageri,
Tq:Dist: Gadag.
2. Sri. Ramappa S/o Govindappa Doni,
Age: 60 years, Occ : Agriculture,
R/o C/o Near the house
of N.S.Huded, Masari, backside of Vatsalya
Hospital, Tq:Dist: Gadag.
3. Smt. Susheelavva W/o Hanamaraddi
Kariradder, Age: 57 years,
Occ : Household work,
R/o Kurudagi Tq: Ron, Dist: Gadag.
4. Sri. Gurappa S/o Govindappa Doni,
Age: 54 years, Occ : Agriculture,
R/o Sambhapur Post: Hatalageri,
Tq:Dist: Gadag.

5. Smt. Sumitradevi W/o Somaraddi
Venkaraddi, Age: 52 years,
Occ : Household work, R/o Magadi,
Tq: Shirahatti, Dist: Gadag.

**(D1 by Sri. SFD Adv.,
D2 & 4 by Sri. SMM Adv.,
D3, 5 by Sri. RDY Adv.,)**

Date of institution of suit.	:	25.06.2013
Nature of the suit (Suit on promote, Suit for declaration and possession Suit for injunction etc.)	:	Suit for partition and separate possession.
Date of commencement of recording of Evidence.	:	16.07.2014
Date on which the judgment was pronounced	:	10.11.2014
Total duration	:	Year/s Month/s Day/s 01 04 15

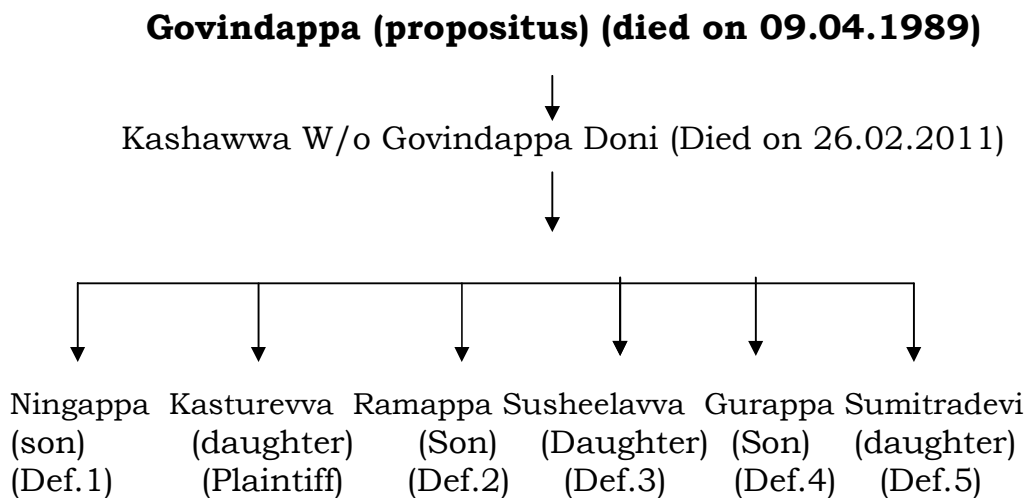
(HOSAMANI PUNDALIK)
C/c. Addl. Senior Civil Judge
Gadag

J U D G M E N T

This is a suit filed by the plaintiff against the
defendants for partition and separate possession by
metes and bounds in respect of suit schedule
properties.

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

That, the propositus of the family one Govindappa was died on 09.04.1989 and one Kashavva who is the wife of propositus was also died on 26.02.2011. The plaintiff and defendants are the children of Govindappa and Kashavva. The suit schedule properties are the joint family properties of plaintiff and defendants are inherited by them from their ancestors and are available for partition as there was no partition in the joint family properties. The genealogy of the family of plaintiff and defendants furnished in the plaint and same is reproduced as under;



Further it is case of the plaintiff is that, the land Sy.No.25/1+2/D measuring 04 acres 27 guntas and land Sy.No.25/1+2/E measuring 04 acres 27 guntas were purchased in the name of defendant No.4 and land Sy.No.38/2A measuring 3 acre 36 guntas was purchased in the name of defendant No.2 and land Sy.No.8/2B measuring 3 acres 07 guntas was purchased in the names of defendant No.1, 2 and 4 out of the joint family nucleus. Similarly, the property shown in suit B schedule was purchased by the propositus Govindappa in the year 1972 from one Hanamaraddi out of the joint family fund. All the suit schedule properties are joint family properties of plaintiff and defendants. Further it is case of the plaintiff is that, the defendants No.1, 2 and 4 without informing the plaintiff and defendant No.3 and 5 have got mutated their names in the suit schedule properties and there was no partition in the joint family properties. The defendants have not effected the partition in spite of repeated request by the plaintiff, the defendant No.1, 2 and 4 have effected

partition. The defendants No.1, 2 and 4 colluding with each have created apsatwatni deed between themselves. The said apsatwatni deed is not binding on the plaintiff and defendants No.3 and 5. Hence, the plaintiff has constrained to file the present suit for partition and separate possession in respect of suit schedule properties.

3. After institution of the suit, suit summonses were issued to the defendants. The defendants No.1 to 5 were appeared before the Court through their counsels. The defendant No.5 has filed her written statement. The defendant No.3 has adopted the written statement filed by the defendant No.5. In spite of providing sufficient opportunities, the defendant No.1, 2 and 4 have not filed their written statement. The written statement of defendant No.1, 2 and 4 taken has not filed.

4. The written statement filed by the defendants No.3 and 5 is to the following effect:

The defendants No.3 and 5 have admitted the plaintiff allegation. It is admitted by the defendants No.3 and 5 is that, the suit schedule properties are the joint family properties of plaintiff and defendants and they are in joint possession and there was no partition in the suit schedule properties. The defendant No.3 and 5 prayed for allotting their $1/6^{\text{th}}$ share each in the suit schedule properties by decreeing the suit of the plaintiff as prayed for.

5. On the basis of the above pleadings, the Court has framed as many as 4 issues same are reproduced as under:

ISSUES

1. Whether the plaintiff proves that, the suit schedule properties are family properties of herself and defendants and are available for partition?
2. Whether the plaintiff proves that she is entitled to get $1/6^{\text{th}}$ share in the suit schedule properties?
3. To what reliefs parties are entitled to?
4. What order or decree?

6. In order to prove its case the plaintiff herself gave evidence as P.W.1 and produced as many as 14 documents as Ex.P1 to 14 and closed the side. The defendants have not chosen to adduced any evidence in their defence and closed the side.
7. Thereafter, I have heard the arguments advanced by the learned counsel for the plaintiff and that of the learned counsel for the defendants.
8. My findings to the above issues are as under:
 - Issue No.1:** In the affirmative
 - Issue No.2:** Partly in the affirmative
 - Issue No.3:** In the affirmative
 - Issue No.4:** As per final order for the following:

R E A S O N S

9. Issue No.1 to 3 :-These three issues are inter mixed with each other and as such they are taken up for discussion together. I have already set out in brief as to what the case of the plaintiff is and as to what the case of the defendants is. In a nutshell, the

propositus of the family one Govindappa was died on 09.04.1989 and one Kashavva who is the wife of propositus was also died on 26.02.2011. The plaintiff and defendants are the children of Govindappa and Kashavva. The suit schedule properties are the joint family properties of plaintiff and defendants are inherited by them from their ancestors and are available for partition as there was no partition in the joint family properties. Further it is case of the plaintiff is that, the land Sy.No.25/1+2/D measuring 04 acres 27 guntas and land Sy.No.25/1+2/E measuring 04 acres 27 guntas were purchased in the name of defendant No.4 and land Sy.No.38/2A measuring 3 acre 36 guntas was purchased in the name of defendant No.2 and land Sy.No.8/2B measuring 3 acres 07 guntas was purchased in the names of defendant No.1, 2 and 4 out of the joint family nucleus. Similarly, the property shown in suit B schedule was purchased by the propositus Govindappa in the year 1972 from one Hanamaraddi out of the joint family fund. All the

suit schedule properties are joint family properties of plaintiff and defendants. Further it is case of the plaintiff is that, the defendants No.1, 2 and 4 without informing the plaintiff and defendant No.3 and 5 have got mutated their names in the suit schedule properties and there was no partition in the joint family properties. The defendants have not effected the partition in spite of repeated request by the plaintiff, the defendant No.1, 2 and 4 have effected partition. The defendants No.1, 2 and 4 colluding with each have created apsatwatni deed between themselves. The said apsatwatni deed is not binding on the plaintiff and defendants No.3 and 5 Hence, the plaintiff has constrained to file the present suit for partition and separate possession in respect of suit schedule properties.

- 10.** Per contra, the defendants No.3 and 5 have admitted the plaint allegation. It is admitted by the defendants No.3 and 5 is that, the suit schedule properties are the joint family properties of plaintiff and defendants

and they are in joint possession and there was no partition in the suit schedule properties. The defendant No.3 and 5 prayed for allotting their 1/6th share each in the suit schedule properties by decreeing the suit of the plaintiff as prayed for..

11. It is pertinent to note that, Hindu Joint Family system with restrictive joint ownership is one of the great contributions of India Civilization to the humankind. A family of a group of natural or adoptive descendants held together by subjection to eldest living ascendant. A Hindu Joint family consists of male members descended lineally from common ancestor, together with their mothers, wives or widows and the unmarried daughters. The members of the family bounded by sapinda relationship. The undivided status is the normal condition of the Hindu family, and is the result of birth. The joint property is only an incident of the family and the property is not needed to constitute a family. A daughter did not remain a member of the

joint family after she got married. A joint family does not cease to exist even when the last male member dies leaving widows, as it is open to any of the widows to take adoption. Co-parcenary is a narrower body than the joint family. The co-parcenary consists of those who have a interest in the property by birth and who can enforce a partition. It begins with a common ancestor and only those males in his male line who are not removed from him by more than three degrees. Thus only a grand father and grand son is a coparcener with holder of the property. Only males could be coparceners (The female has now been declared to entitled to rights on part with the male member by amendment to Sec.6 of the Hindu Succession Act, 1956.). A common ancestor is necessary for origination of a co-parcenary but it can continue without him, consisting of collaterals. A joint Hindu family or coparcnery is not a juristic personality capable of holding property, separate from members of the family. It cannot sue or be sued in the name

of the joint family. But for assessment of Income Tax the Hindu undivided family has a distinctive status. Property under the Hindu law held by a member of a Hindu joint family are classified under three heads I) Joint property ii) Joint family property iii) Ancestral joint family property; Joint property is a property that may be held by two or more coparceners but this will not constitute a joint family property. The joint family property presupposes the existence of a Hindu undivided family with a nucleus with whose help property is acquired by the coparceners. Property acquired by the joint earnings of the members of a coparcnery also fall in this category. Where a property is proved to be a joint family property. Ancestral joint family property: Property inherited from ancestors and a coparceners will get a right in the property by birth which cannot be defeated by either individual alienation or disposition except under certain circumstances. Coparcnery property means and includes I) Ancestral property, ii) acquisition made by

coparceners with the help of ancestral property, iii)
Joint acquisition without help of family property and
without intention to be treated as separate property
iv) Separate property of co-parcener thrown into
common stock. Ancestral property is property in
which a person gets a right by birth from father,
grand father and great grand father. It would
immaterial whether the son was born before or after
the property was inherited. The character of
ancestral property remains despite partition and the
share given to a coparcenar will be his separate
property for others but as regards sons born either
before or after partition it will be ancestral property.
Property inherited from material ancestors has been
held to be separate property of the inheritor without
accrual of any interest to son by birth. Like wise the
property inherited from the relations would also be
separate property of the inheritor. Acquisition with
aid of Ancestral property would be regarded as
ancestral Asset. A son gets a right by birth. This
includes property purchased by sale of ancestral

property by a sole coparcenar before the birth of a son. Where prima-facie evidence shows that members of the family carried business in various firms with joint family funds, the onus will be on such a member who claims the business to be separate. It is largely a question of fact and the person who alleges is required to prove the nucleus for acquisition. Joint acquisition without help of ancestral property, but with joint exertions should be presumed to be joint family property. A coparcenary cannot be created by act of parties. If some collaterals in a coparcenary, acquire property without aid of ancestral property, they cannot set up a sub-coparcenary. Separate property thrown into common stock (Blending): A coparcenar may acquire separate property and impress with the joint family property. This action presupposes a clear intention throw the property in common stock, on the part of the coparcenar. Blending is not inferred by mixing of properties with joint family property or permitting other members to use the property but a clear

intention should be established. A Hindu family is presumed to be joint, until partition is proved. Hence, the burden of proving separation is on the person alleging that family is separated. But the presumption does not extend to joint family property. A person asserting a property to be joint family property should prove either it was inherited or that it was acquired with joint family funds. To show that a property was acquired with joint family funds, the person claiming must show nucleus and also that it was sufficient for acquisition of the property. By keeping in mind, the above referred position of law, now we shall turn our attention to scan of the evidence adduced by the parties in view of the provisions of Evidence Act.

12. Now we shall turn our attention to the evidence of plaintiff. The plaintiff herself gave evidence as P.W.1. P.W.1 in her chief examination reiterated the contents of the plaint. P.W.1 in her evidence has stated that, the suit schedule properties are the joint family properties of plaintiff and defendants and are

available for partition. The evidence of P.W.1 has gone unchallenged. The plaintiff has produced as many as 14 documents, which are at Ex.P1 to 14. Ex.P1 is the RoR in respect of suit land Sy.No.8/2B measuring 03 acres 07 guntas standing in the name of Ningappa. Ex.P2 is the RoR in respect of suit land Sy.No.8/2C measuring 03 acres 06 guntas standing in the name of Gurappa, Ex.P3 is the RoR in respect of suit land Sy.No.25/1+2/D measuring 04 acres 27 guntas standing in the name of Ramappa, Ex.P4 is the RoR in respect of suit land Sy.No.25/1+2/E measuring 04 acres 27 guntas standing in the name of Gurappa, Ex.P5 is the RoR in respect of suit land Sy.No.38/2A measuring 03 acres 36 guntas standing in the name of Ramappa, Ex.P6 is the RoR in respect of suit land Sy.No.166/2B measuring 04 acres 12 guntas standing in the name of Ningappa, Ex.P7 is the RoR in respect of suit land Sy.No.175/1A measuring 07 acres 06 guntas standing in the name of Gurappa, Ex.P8 is the RoR in respect of suit land Sy.No.18/1+2 measuring 06 acres 31 guntas

standing in the name of Ramappa, Ex.P9 is the RoR in respect of suit land Sy.No.192/7 measuring 04 acres standing in the name of Ramappa, Ex.P10 is the RoR in respect of suit land Sy.No.499/1A measuring 08 acres 01 gunta standing in the name of Ramappa, Ex.P11 is the VPC No.34/A standing in the name of Ningappa, Ramappa and Gurappa, Ex.P12 is the VPC No.256/A standing in the name of Ningappa, Ramappa and Gurappa, Ex.P13 is the VPC No.1062 standing in the name of Hanamappa Krishnappa Sataraddi and Ex.P14 is the VPC No.1068 standing in the name of Govindappa Mallappa Doni.

12. It is pertinent to note that, as per pleadings of the plaintiff, the father of the plaintiff was died on 09.04.1989. Now question arises when succession will open. In this regard the judgment of the Hon'ble Supreme Court and High Courts assumes significant. It is pertinent to note that in case of **Sheela Devi and others Vs. Lal Chand and another** reported in **2006 (8) SCC 581** wherein it was held that - The Act would prevail over the old Hindu Law but the Parliament with a view to confer right upon the female heirs, even in relation to the joint family property, enacted

the Hindu Succession Act, 2005. It is in the words of the Supreme Court- "The succession having opened in 1989..."evidently the provision of the Amendment Act, 2005 would have no application..." In that case, facts show that the owner of property Baburam died in the year 1989 and so it was contended that the question of applying the law as was obtaining prior to coming into force of the Act did not arise. It was urged that the provisions contained in Section 8 of the Act are clear and explicit and in that view of the matter the succession of the parties would be governed in terms of the schedule appended thereto. In the light of this opinion, the law in force at the time succession opened would alone govern to determine shares of the parties and any law subsequently came into force though the suit was pending, would not go to the benefit of the parties.

The analysis made above in the light of the judgment, it can be said that the Act, has no retrospective operation, except when the partition was not effected and a suit for that purpose is pending at any stage without attaining finality. Suppose, on the death of the father in 1975, the property and already vested with Class-I heirs including the daughters as contemplated in the un amended Sec.6 of the Act . Even though the intention of the amended provision is to confer better rights on the daughters, it cannot be stressed to the extent of holding that the

succession which had opened prior to coming into force of the amended Act are also required to be re-opened in case of S.Seshachalam –Vs- Deemadayalan 2009 (7) MLJ 397 (Mad).

It is pertinent to note that the daughter would get benefit of the amendment act only if her father is alive at the time of coming into force of the amendment act- an interpretation given by Hon'ble madras high court.

The Hon'ble Madras High Court in case Smt.Bhagirathi and other –Vs- Manivannan and another AIR 2008 Madras 250- has held that a careful reading of Sec.6(1) read with 6(3) of the Hindu Succession (Amendment) Act clearly indicates that a daughter can be considered as a coparcener only if her father was a coparcener at the time of coming into force of the amended provision. It is of course true that for the purpose of considering whether the father is a coparcener or not, the restricted meaning of the expression 'partition' as given in the explanation is to be attributed. The facts show that the father of the petitioners had expired in 1975. Sec.6(1) of the Act is prospective in the sense that a daughter is being treated a coparcener on and from the commencement of the Hindu Succession (Amendment) Act, 2005. If such provision is read along with Sec.6(3), it becomes clear that if a Hindu dies after commencement of the Hindu Succession (Amendment) Act, 2005, his

interest in the property shall devolve not by survivorship but by intestate succession as contemplated in the Act. Relevant observations of the court are given below for ready reference.

“The death the father having taken place in 1975, succession itself opened in the year 1975 in accordance with the existing provisions contained in Sec.6. If the contention of the petitioners is accepted, it would amount to giving retrospective effect to the provisions of Sec.6 as amended in 2005. On the death of the father in 1975, the property had already vested with Class-I heirs including the daughters as contemplated in the un amended Sec.6 of the Act. Even though the intention of the amended provision is to confer better rights on the daughter, it cannot be stressed to the extent of holding that the succession which had opened prior to coming into force of the amended Act are also required to be re-opened.”

While interpreting almost a similar provision, as contained in Sec.29-A of the Hindu Succession Act, as introduced by the Tamil Nadu Amendment Act 1 of 199, the Hon’ble Madras High Court had made the following observations. In case Sundarambal and Others –Vs- Deivanayagam and Others 1991 (2) MLJ 1999

“Under Sub –clause (1), the daughter of a coparcener shall become a coparcener in her own right by birth, thus enabling all daughters of the

coparcener who were born even prior to 25th March, 1989 to become coparceners. In other words, if a male Hindu has a daughter born on any date prior to 25th March, 1989, she would also be a coparcener with him in the joint family when the amendment came into force. But the necessary requisite is, the male Hindu should have been alive on the date of the coming into force of the Amended Act. The Section only makes A DAUGHTER A COPARCENER AND NOT A SISTER. If a male Hindu had died before 25th March, 1989 leaving coparcenary property, then his daughter cannot claim to be a coparcener in the same manner as a son, as, on the date on which the Act came into force, her father was not alive. She had the status only as a sister-a-vis her brother and not a daughter on the date of the coming into force of the Amendment Act....”

It is to be noted that the sentence “But the necessary requisite is, the male Hindu should have been alive on the date of the coming into force of the Amendment Act” quoted by the Hon’ble Madras High Court in the said judgment is from the same Court’s earlier judgment in Sundarambal’s case, is quite significant and throws light on the hypothetical question raised in this part of the discussion.

There is one more decision relating to the effect of the Amendment Act, again from the Hon’ble Madras High Court. In the case of Valliammal –Vs–

Muniyappan 2008(4) CTC 773- Wherein the Hon'ble Madras High Court has observed that there is admission in the plaint that the father of the plaintiffs died about thirty years prior to the filing of the suit and there is evidence that it was in the year 1968. The Amendment Act 39 of 2005 amending Sec.6 of the Hindu Succession Act, 1956 came into force on 09.09.2005 and it conferred right upon female heirs in relation to the joint family property. The Amending Act declared that the daughter of the coparcener shall have the same rights in the Coparcenary property as she would have had if she had been a son. In other words, the daughter of coparcener in her own right has become a coparcener in the same manner as the son insofar as the rights in the Coparcenary property are concerned. The question is as to when the succession opened insofar as the present suit properties are concerned. This question was answered that because the father of the plaintiffs died in the year 1968 and on the date of his death, the succession had opened to the properties in question and in view of the observations made by the Supreme Court in Sheela Devi case –Sheela Devi and others – Vs- Lal Chand and another 2006(8) SCC 581- the succession having opened in the year 1968, the Amendment Act 39 of 2005 would have no application to the facts of the present case.

Therefore, the Hon'ble Madras High Court observed that a daughter would get benefit of the Amendment Act only if her father is alive at the time of coming into force of the Amendment Act."

It is pertinent to note that, the decision reported in **ILR 2009 KAR 3612** in case of **M.Prithviraj and Others Vs. Smt. Leelamma N. and Others** wherein it was held that – Hindu Succession Act, 1956 (As amended by Act 39/2005) – Succession, opened earlier to the amended Act 39/2005 – Applicability of amended provisions to such cases – HELD, The provisions of the amended Act 39/2005 is not applicable to cases where succession had opened earlier to amended Act 39/2005 coming into force – ON FACTS, HELD, The succession having opened in the year 1969, evidently, the provisions of amendment Act, 2005 would have no application to the facts of the case – FURTHER HELD, It is not in dispute that K.Doddananjundaiah died in the year 1969. On the demise of K.Doddananjundaiah in 1969, the succession is opened. As per the Hindu Succession Act in force in 1969 as co-parcenor is entitled for co-parcenory property. In the year 1969 K.Doddananjundaiah and his son deceased defendant No.4 - Dinesh are the two persons who are the Co-parcenors of the joint family. It is not in dispute that the schedule properties are the ancestral properties of K.Doddananjundaiah. On a notional partition

K.Doddananjundaiah is entitled for half share and his son deceased – Dinesh is entitled for half share in the schedule properties. After the demise of K.Doddananjundaiah in the year 1969 his half share devolve upon class-I heirs. Class-I heirs in the instant case are deceased wife Yashodamma, three daughters by name Parvathamma, Neelamma and Kamalamma and the only son Dinesh and each one of them are entitled to equal share in the half share of late K.Doddananjundaiah. Therefore, the amended provisions of Hindu Succession Act, 2005 are not applicable to the facts of this case since the succession had already opened in the year 1969 on the demise of K.Doddananjundaiah. Another decision reported in **AIR 1979 Bom 176** in case of **Daddo Atmaram Patil Vs. Raghunath Atmaram Patil (Savant)** wherein it was held that - Section 6 – Succession – Opens at the time of death of the person whose estate is in question and it is governed by the law in force at that time.

13. It is pertinent to note that, the father of the plaintiff and defendants was died in the year 1989 and the law prevailing at that time, as per Hindu Succession Act 1956 the daughters are entitled to get share in the property allotted to their father. If the partition

took place between father of the plaintiff and his sons, one prior to death of Govindappa. The defendant No.1 Ningappa, defendant No.2 Ramappa, defendant No.4 Gurappa, and deceased Govindappa are entitled to get $1/4^{\text{th}}$ share each in the suit schedule properties. Out of $1/4^{\text{th}}$ share of deceased Govindappa the plaintiff and defendants are entitled to get each share i.e., $1/24^{\text{th}}$ share each in the suit schedule properties. The plaintiff is entitled to get $1/24^{\text{th}}$ share in the suit schedule properties and defendant No.3 and 5 are entitled to get $1/24^{\text{th}}$ share each in the suit schedule properties. The defendant No.1 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties, defendant No.2 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties and defendant No.4 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties. In view of facts and circumstances of the case and material available on record, I hold that, the suit schedule properties are the joint family properties of herself and defendants and are available for partition. **Hence, I**

answered issue No.1 in the affirmative. Further I hold that, plaintiff has proved that, she is entitled to get $1/24^{\text{th}}$ share in the suit schedule properties.

Hence, I answered issue No.2 partly in the affirmative. Further I hold that, defendant No.1 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties, defendant No.2 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties and defendant No.3 is entitled to get $1/24^{\text{th}}$ share in the suit schedule properties and defendant No.4 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties, and defendant No.5 is entitled to get $1/24^{\text{th}}$ share in the suit schedule properties.

Hence, I answered issue No.3 in the affirmative.

16. **Issue No.4:-** In view of my findings on the Issue No.1 to 3, I proceed to pass the following:-

ORDER

1. The suit of the plaintiff is partly decreed as under.

2. It is declared that the plaintiff is entitled to get $1/24^{\text{th}}$ share in the suit schedule properties.
3. Further it is declared that the defendants No.3 and 5 are entitled to get $1/24^{\text{th}}$ share each in the suit schedule properties.
4. Further it is declared that the defendant No.1 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties, the defendant No.2 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties. The defendant No.4 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties.
5. The plaintiff is entitled to get $1/24^{\text{th}}$ share in the suit schedule properties for partition and separate possession by metes and bounds for appointing court commissioner as provided under law.
5. The defendant No.1 to 5 are entitled to get their respective shares as declared above in the suit schedule properties for partition and separate possession by metes and bounds by appointing court

commissioner as provided under law
after payment of necessary Court fee.

6. In view of the facts and circumstances
of the case, parties are directed to bear
their own costs.

Draw preliminary decree accordingly.

File be consigned to the record room.

(Dictated to the stenographer, transcribed and typed
by her, corrected and then pronounced by me in
open court on this 10th day of November 2014)

(HOSAMANI PUNDALIK)
C/c Addl. Senior Civil Judge
Gadag.

APPENDIX

List of witnesses examined for the plaintiff/s.

P.W.1 – Kasturevva Hanamareddi Sathareddy

List of documents marked for the Plaintiff/s:

Ex.P1 to 10 - RoRs

Ex.P11 to 14 – Property extracts

List of witnesses marked for Defendant/s :

NIL

List of documents marked for Defendant/s.:

NIL

(HOSAMANI PUNDALIK)
C/c Addl. Senior Civil Judge.,
Gadag.

(Judgment typed separately and
order pronounced in the open court.)

ORDER

1. The suit of the plaintiff is partly decreed as under.
2. It is declared that the plaintiff is entitled to get $1/24^{\text{th}}$ share in the suit schedule properties.
3. Further it is declared that the defendants No.3 and 5 are entitled to get $1/24^{\text{th}}$ share each in the suit schedule properties.
4. Further it is declared that the defendant No.1 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties, the defendant No.2 is entitled to get $1/4^{\text{th}} + 1/24^{\text{th}}$ share in the suit schedule properties.

The defendant No.4 is entitled to get $1/4^{\text{th}}$ + $1/24^{\text{th}}$ share in the suit schedule properties.

5. The plaintiff is entitled to get $1/24^{\text{th}}$ share in the suit schedule properties for partition and separate possession by metes and bounds for appointing court commissioner as provided under law.
5. The defendant No.1 to 5 are entitled to get their respective shares as declared above in the suit schedule properties for partition and separate possession by metes and bounds by appointing court commissioner as provided under law after payment of necessary Court fee.
6. In view of the facts and circumstances of the case, parties are directed to bear their own costs.

Draw preliminary decree
accordingly.

File be consigned to the
record room.

(HOSAMANI PUNDALIK)
C/c Addl. Senior Civil Judge.,
Gadag.