



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
AT: LAXMESHWAR**

DATED THIS 16TH DAY OF JUNE 2026

-:Present:-

SRI. BHARATH YOGESH KARAGUDARI,

B.A.L, LL.M.,

Senior Civil Judge And JMFC, Laxmeshwar,

ORIGINAL SUIT No.12/2019

PLAINTIFFS:

1. Smt. Shantawwa W/o Dyavanagouda
Gudageri,
(Since she is deceased her LRs)
- 1a. Shankrappa S/o Dyavangouda Rayar,
Age: 56 years, Occ: Business,
R/at H.No.MIG 109, Navanagar, Hubballi.
- 1b. Shivaraj S/o Basappa Rayar,
Age: 29 years, Occ: Business,
R/at H.No.MIG 109, Navanagar, Hubballi.
2. Smt. Kamalawwa W/o Irappa Nagaralli,
Age: 66 years, Occ: Agricultural,
R/o. Gudagri, Tq: Gudagri,
Dist: Kundagol.
- 2a. Shivaleela W/o Kallappa Yarikoppa,
Age: 52 years, Occ: House wife,
R/o. Gudagri, Tq: Kundagol.
- 2b. Prema W/o Ishwarappa Girimalla,
Age: 49 years, Occ: House wife,
R/o. Gudageri, Tq: Kundagol,
- 2c. Girija W/o Channbasangouda Patil,
Age: 46 years, Occ: House wife,
R/o. Bommanhalli, Tq: Hanagal,
Dist: Haveri.
- 2d. Shivanand S/o Irappa Nagarhalli,
Age: 43 years, Occ: Agricultural,
R/o. Gudagri, Tq: Kundagol



- 2e. Suma W/o Basanagouda Nagangoudar,
Age: 40 years, Occ: House wife,
R/o. Shisuvinahal, Tq: Shiggov,
Dist: Haveri.
- 2f. Ravi S/o Irappa Nagarahalli,
Age: 37 years, Occ: Agriculture,
R/o. Gudagri, Tq: Kundagol.
- 2g. Chandru S/o Irappa Nagarahalli,
Age: 35 years, Occ: House wife,
R/o. Gudagri, Tq:Kundagol.
(By R.G.K. / A.T.K. Advocate)

// V E R S U S //

DEFENDANTS:

1. Sri. Dyamappa @ Dyavappa S/o
Takappa Panigatti,
Age: 60 years, Occ: Agricultural,
R/o. Halladakeri, Tq: Laxmeshwar,
Dist: Gadag.
2. Sri. Manjunthgouda S/o Dyamappa
@ Dyavappa Panigatti,
Age: 32 years, Occ: Agricultural,
R/o. Halladakeri, Tq: Laxmeshwar,
Dist: Gadag.
3. Sri. Hanumanthgouda S/o Dyamappa
@ Dyavappa Panigatti,
Age: 29 years, Occ: Agricultural,
R/o. Halladakeri, Tq: Laxmeshwar,
Dist: Gadag.
4. Sri. Basappa S/o Bhimappa Hugar,
Age: 60 years, Occ: Agricultural,
R/o. Pete Bana, Tq: Laxmeshwar,
Dist: Gadag.
5. Sri. Basavaraj S/o Veerappa Jagali,
Age: 60 years, Occ: Agricultural,
R/o. Pete Bana, Tq: Laxmeshwar,
Dist: Gadag.



6. Sri. Dyamanna S/o Gurupadappa Chotagal,
(Since deceased his L.Rs)
- 6a. Taramati W/o Dyamappa Chotagal,
Age: 56 years, Occ: House wife,
R/o. House No.25, Ward No.20,
Hulageri Bana, Tq: Laxmeshwar,
Dist: Gadag.
- 6b. Praveen Kumar S/o Dyamappa Chotagal,
Age: 33 years, Occ: Doctor,
R/o. House No.25, Ward No.20,
Hulageri Bana, Tq: Laxmeshwar,
Dist: Gadag.
- 6c. Roopa D/o Dyamappa Chotagal,
Age: 25 years, Occ: House wife,
R/o. House No.25, Ward No.20,
Hulageri Bana, Tq: Laxmeshwar,
Dist: Gadag.
7. Sri.Mohammadsharif S/o Hasansab
Babakkanavar @ Babannavar,
Age: 37 years, Occ: Business,
R/o. Hulageri Bana, Tq: Laxmeshwar,
Dist: Gadag.
8. Sri. Daramappa S/o Yallappa Magadi,
Age: 51 years, Occ: Agriculture,
R/o. Shettikeri, Tq: Shirahatti,
Dist: Gadag.
9. Sri.Mabusab S/o Rajesab Nadaf (Davangeri),
Age: 69 years, Occ: Coolie,
R/o. Hulageri Bana, Tq: Laxmeshwar,
Dist: Gadag.
10. Sri. Ganapatisa S/o Govindsa Bhaddi,
(Since deceased his LR's)
- 10a Akkamma W/o Ganapatisa Bhaddi,
Age: 50 years, Occ: House wife,
R/o. Near Itagi Gyarez, Basti Bana,
Tq: Laxmeshwar, Dist: Gadag.



- 10b. Laxmi W/o Narayan Choudari,
Age: 29 years, Occ: House wife,
R/o. Holalu, Tq: Hoovinahadagali,
Dist: Ballari.
- 10c. Deepa W/o Sagar Miskin,
Age: 24 years, Occ: House wife,
R/o. Harihar, Tq: Harihar,
- 10d. Arjun S/o Ganapatisa Bhaddi,
Age: 24 years, Occ: Private Service,
R/o. Near Itagi Gyarez,
Basti Bana, Tq: Laxmeshwar,
Dist: Gadag.
11. Sri. Jogayya S/o Shadaksharayya
Balihollimath,
Age: 63 years, Occ: Business,
R/o. Laxmeshwar, Tq: Laxmeshwar,
Dist: Gadag.
12. Sri. Channappa S/o Veerabhadrapa Kolkar,
Age: 81 years, Occ: Agriculture,
R/o. Desai Ban, Tq: Laxmeshwar,
Dist: Gadag.
13. Sri. Basavaraj S/o Yallappa Budappanavar,
Age: 59 years, Occ: Agriculture,
R/o. Kalas, Tq: Kundagol,
Dist: Dharwad.
14. Sri. Mohammad Iqbal Naregal,
Age: 54 years, Occ: Agriculture,
R/o. Hattimattur, Tq: Savanur,
Dist: Haveri.
15. Bapuji S/o Shankrappa Yaragatti,
Age: 54 years, Occ: Agriculture,
R/o. Hulageri Bana, Tq: Laxmeshwar,
16. Sri. Abdul Rehaman Husainsab Neeralgi,
Age: 48 years, Occ: Business,
R/o. Hulageri Bana, Tq: Laxmeshwar,
Dist: Gadag.



17. Sri. Ramesh S/o Ratnappa Lamani,
Age: 36 years, Occ: Agriculture,
R/o. Gudageri, Tq: Kundgol,
Dist: Dharwad.
18. Sri. Narayansa S/o Govindsa Bhaddi,
Age: Major, Occ: Business,
R/o. Basti Bana, Tq: Laxmeshwar,
Dist: Gadag.
19. Pandurangsa S/o Govindsa Bhaddi,
Age: Major, Occ: Business,
R/o. Basti Bana, Tq: Laxmeshwar,
Dist: Gadag.
20. Ekanathsa S/o Govindsa Bhaddi,
Age: Major, Occ: Business,
R/o. Basti Bana, Tq: Laxmeshwar,
Dist: Gadag.
21. Fakkirayya S/o Shadaksharayya
Balehallimath,
Age: Major, Occ: Business,
R/o. Near Tattimaniyavar
Line (Mailarlingeshwar Temple),
Tq: Laxmeshwar, Dist: Gadag.
22. Dadima W/o Babusab Hanagi @ Nadaf,
Age: Major, Occ: Agriculture,
R/o. Manjapur, Tq: Laxmeshwar,
Dist: Gadag.
23. Khansab S/o Babusab Hanagi @ Nadaf,
Age: Major, Occ: Agriculture,
R/o. Manjapur, Tq:Laxmeshwar, Dist: Gadag.
24. Rajesab S/o Babusab Hanagi @ Nadaf,
Age: Major, Occ: Agriculture,
R/o. Manjapur, Tq:Laxmeshwar, Dist: Gadag.

(D1 to 3 by B.S.P. Adv, D5, 7, 9, 10, 11, 13, 14, 16 to
24 U.V.B. Adv, D12 A.B.P. Advocate, D4, 6, 8, 15
exparte)



Date of institution of the suit : 27-05-2019
Nature of the Suit : **Partition and Separate Possession**
Date of the commencement of recording of the evidence : 07-09-2022
Date on which the Judgment was Pronounced : 16-06-2026
Total duration. Year/s Month/s Day/s
07 00 20

(**BHARATH YOGEEESH KARAGUDARI**)

Senior Civil Judge & JMFC, Laxmehswar.

J U D G M E N T

The Plaintiffs have filed this suit for Partition and Separate Possession against the Defendants with respect to the suit schedule properties.

1. The Plaintiffs have brought this suit in respect of the following:

SCHEDULE “A”

I) The Agriculture Land bearing RS.No.60/1 measuring 3 acres 27 guntas situated at Ramagiri village of Laxmehswara Taluka and bounded as under:

To the East : Property of Neelavva Kumbar,
To the West : Property of Shanmbanna Badiger
To the North: Property of Somanath Angadi
To the South : Property of Mallavva Betageri

SCHEDULE “B”

I) The property extract bearing C.T.S.No.605/B measuring 218.6/9 situated at Desaiban (Halladkeri) of Laxmehswara Taluka and bounded as under:

To the East : Road
To the West : Property of Pakkirappa Omkari
To the North: Property of Shivanagouda Panigatti
To the South : Property of Pakkirappa Panigatti



2) The Agriculture Land bearing RS.No.2 measuring 3 acres 31 guntas situated at Hulageri Bana Now Laxmeshwara Taluka and bounded as under:

To the East : Gadag Road
To the West : Mahalaxmi Saw mill
To the North: Property of Dingaleswar Swamiji
To the South : Doddamani Complex

SCHEDULE “C”

1) The Agriculture Land bearing RS.No.355/2/B3 measuring 5 acres situated at Desaibana of Laxmeshwar Taluk standing in the name of Manjunathgouda and bounded as under:

To the East : Property of Lalita Budihal
To the West : Property of Madavva Nucchumbli
To the North: Property of Hanamantappa
To the South : Property of Yashoda Omkari

2) The Agriculture Land bearing RS.No.355/2/4 measuring 5 acres 12 guntas situated at Desaibana of Laxmeshwara Taluka standing in the name of Hanamanthgouda and bounded as under:

To the East : Property of Ashok Goddemmi
To the West : Property of Ansuya Kuduvakkaligar
To the North: Property of Manjunath Panigatti
To the South : Property of Maltesh Shigli

And herein after referred as suit property for the purpose of brevity and convenience.

2. Brief case of the Plaintiffs are as under:-

The plaintiffs professes that the one Takappa was the propositus of a Hindu Undivided Family. He died in 1977 and his wife Ningawwa died in 1996, he had three children by name 1) Shantawwa (plaintiff No.1), 2) Kamalavva (plaintiff No.2) 3) Dyavappa @ Dyamappa (defendant No.1) leaving behind them as



their legal heirs. Defendant No.1, being the eldest male member, acted as the manager (karta) of the joint family and he had two sons by name Manjunathgouda (defendant No.2) and Hanumanthgouda (defendant No.3). The Schedule 'A' property originally belonged to one Maribasawwa the mother of the Ningavva. Upon the death of her adopted son and subsequently Maribasawwa, her daughter Ningawwa became the absolute owner. After Ningawwa's death, the plaintiffs and Defendant No.1 succeeded as joint owners to the suit schedule A properties. The Schedule 'B' property is ancestral property. After the death of Takappa and thereafter Ningawwa, the plaintiffs and Defendant No.1 became joint owners in joint possession of the same. It is contended that Defendant No.1 fraudulently entered his name in the revenue records relating to Schedule 'B' property without the consent or knowledge of the plaintiffs, allegedly by forging their signatures. Such mutation is illegal and not binding on the plaintiffs' share. Further, Defendant No.1 purchased Schedule 'C' properties in the names of Defendants No.2 and 3 using income derived from joint family properties, and hence the same are alleged to be joint family properties. It is also alleged that Defendant No.1 executed several sale deeds in favour of Defendants No.4 to 11 without legal necessity and without consideration, with an intention to defeat the plaintiffs' rights. Subsequent alienations by later purchasers (Defendants No.6 to 11 and others) are also claimed to be void and not binding on the plaintiffs, as the plaintiffs were not parties to such transactions. Additionally, various revenue entries made in favour of other defendants are alleged to be illegal and without the knowledge or



consent of the plaintiffs. No partition has taken place among the parties. The plaintiffs claim that they are each entitled to a 1/3rd share in all the suit properties. Despite demands, Defendants No.1 to 3 have refused partition. The plaintiffs state that they became aware of the impugned transactions only on 26-03-2019. Hence, the plaintiffs are constrained to institute the present suit seeking partition and separate possession of their lawful share in the suit schedule properties.

3. Pursuant to the service of summons, the Defendant No.1 to 3, 5, 7, 9, 10, 11, 12, 13, 14, 16 to 24 appeared through their learned counsels. The defendant No.1 filed written statement which was adopted by the defendant No.2 & 3 and defendant No. 5, 7, 9, 14, 16, 17 & 23 filed their written statement, wherein they denied the plaint averments in toto. Further, the defendant No.4, 6, 8, 15 failed to appear before the court. Hence, they were placed *exparte*.

- ***The Nutshell of the written statement of the Defendant No.1***

4. The written statement filed by Defendant No.1 has been duly adopted by Defendant Nos.2 and 3, who have categorically and emphatically denied each and every allegation, averment, and contention set forth in the plaint. Defendant No. 1 admits that Suit Schedule Item Nos. A and B1 constitute ancestral properties and, to that extent, seeks partition and separate possession of his legitimate share therein. However, it is specifically contended that Suit Schedule Item No. B2 is a tenanted land which was granted in favour of the father of Defendant No.1 pursuant to Order No.



T.M.C.S.R./219+1448 dated 30.07.1976. It is further submitted that the said property was subsequently partitioned between Defendant No.1 and his paternal uncle, Sri Siddappa, under a family arrangement, whereby an extent of 3 acres 36 guntas situated on the southern side thereof fell to the share of Defendant No.1, while an extent of 3 acres 4 guntas situated on the northern side fell to the share of the said Siddappa. Ever since the said partition, Defendant No.1 has been in peaceful, continuous, exclusive, and uninterrupted possession and enjoyment of the portion allotted to his share, exercising all rights of ownership thereon to the exclusion of all others. Defendant No.1 further submits that the marriages of the plaintiffs were solemnized prior to the year 1970 and that, consequently, they ceased to be members of the joint family for all practical purposes. In the circumstances, the plaintiffs neither possess nor can legitimately assert any right, title, share, or interest in Suit Schedule Item No. B2. It is further contended that Suit Schedule Item C properties were acquired by Defendant No. 1 from and out of the sale consideration received upon the lawful alienation of Suit Schedule Item No. B2 in favour of Defendant Nos. 4 to 24. As such, the said properties constitute the exclusive and self-acquired properties of Defendant No.1, over which the plaintiffs cannot claim any manner of right, title, interest, or share. In the aforesaid facts and circumstances, it is respectfully submitted that the plaintiffs have failed to establish any semblance of right, title, interest, or entitlement in respect of Suit Schedule Item Nos. B2 and C. The claims advanced by the plaintiffs in relation thereto are wholly



untenable, misconceived, and devoid of any legal or factual foundation. Accordingly, the suit, insofar as it pertains to the said properties, is liable to be dismissed in limine with exemplary costs, in the interest of justice and equity.

• ***The Nutshell of the written statement of the Defendant No. 5, 7, 9, 14, 16, 17, 23 & 10(a) to (d) 18 to 21:-***

5. The defendant No. 5, 7, 9, 14, 16, 17, 23 & 10(a) to (d) 18 to 21 filed separate written statement denying the averments contained in the plaint. The defendants contended that the suit is not tenable in the eye of law as the plaintiffs have furnished incorrect description and boundaries of the suit schedule properties. The specific contention of these defendants is that the defendant No.1 has sold the land allotted to the Takappa the under tenancy Law. Therefore, the plaintiffs have no share and right over the same as it is not the joint family property. Further, it is contended that the sale transaction made by the defendant No.1 is prior to the Hindu Succession Amendment of 2005. Thus, the same cannot be challenged now. Further it is contended that suit of the plaintiff is barred by law of limitation. In light of the foregoing, it is submitted that the plaintiff, possesses no right, title, or interest whatsoever in the suit schedule properties, and the suit is therefore wholly devoid of merit and liable to be dismissed with exemplary costs.

6. On the basis of above said rival pleadings and the documents placed on record, the following issues have been framed.



ISSUES

1. Whether the Plaintiffs proves that they themselves and the defendants are the members of Hindu un-divided joint family?

2. Whether the Plaintiffs proves that the suit schedule properties are the ancestral and joint family properties of the parties to the suit?

3. Whether the plaintiffs proves that, the sale deed executed by the defendant No.1 in different dates in favor of defendant No.4 to 11 are created and not binding on the plaintiffs as stated para No.9 of the plaint?

4. Whether the suit is barred by law of limitation?

5. Whether the defendant No.1 proves that, already memorandum of partition taken place in respect of suit schedule properties and it is acted upon?

6. Whether the defendant No.1 proves that, suit schedule-C property is the self acquired property of defendant No.2 and 3?

7. Whether the plaintiffs are entitle for the partition and separate possession of their 1/3rd share each in the suit schedule properties?

8. What Decree or Order?

ADDITIONAL ISSUE DATED 07-03-2023

1. Whether the defendant No.10(a) to (d), 11, 18 to 21 proves that, the deceased defendant No.10 Ganapata Badi has purchased suit land bearing RS No.2/2 to an extent of 25 guntas



from defendant No.1 through registered sale deed on 18-01-2010 for sale consideration amount of Rs.50,000/-?

2. Whether the defendant No.10(a) to (d), 11, 18, to 21 proves that, the defendant No.1 has sold to an extent of 22 guntas in R.S.No.2/2 in favor of defendant No.11 through registered sale deed on 18-08-2012 for sale consideration amount of Rs.1,60,000/-?

3. Whether the defendant No.10(a) to (d), 11, 18, to 21 proves that, the suit of the plaintiffs is barred by law of limitation?

7. In order to prove their respective cases, the plaintiff No.1(a) himself examined as PW1 and produced 59 documents which are marked as Ex.P1 to 59. On the other hand, the defendant No.1 got examined as DW1 and got marked Ex.D1 to 18, defendant No.5 got examined as DW2 and got marked Ex.D19 to 29, defendant No.9 got examined as DW3 and got marked Ex.D30 to 41 defendant No.21 got examined as DW4 and got marked Ex.42 to 50, defendant No.19 got examined as DW5 and got marked Ex.D51 to 54, defendant No.14 got examined as DW6 and got marked Ex.D55 to 71 defendant No.16 got examined as DW7 and got marked Ex.D72 to 81.

8. I have heard the arguments of both the counsels. Perused, the materials on record.

9. My answers to the above Points are as under: -

Issues No.1 : In the affirmative

Issues No.2 : In the affirmative

Issues No.3 : In the affirmative



Issues No.4 : In the negative

Issues No.5 : In the negative

Issues No.6 : In the negative

Issues No.7 : In the affirmative

Addl. Issue No.1 : In the negative

Addl. Issue No.2 : In the negative

Addl. Issue No.3 : In the negative

Issues No.8 : As per the final Order

for the following.

REASONS

10. **ISSUES No.1:** The kernel and germane of the case is that, the plaintiffs have instituted the present suit seeking partition and separate possession of their alleged one-third share in the suit schedule properties, contending that one Takappa was the propositus of the Hindu Joint Family and that, upon his death in 1977 and the subsequent demise of his wife Ningawwa in 1996, the plaintiffs and Defendant No.1, being their children, succeeded to the suit properties as co-sharers. According to the plaintiffs, Schedule 'A' properties devolved upon Ningawwa from her mother Maribasawwa and thereafter upon the plaintiffs and Defendant No.1, while Schedule 'B' properties are ancestral joint family properties. They further allege that Defendant No.1, acting as the karta of the family, fraudulently secured mutation entries in his favour without their knowledge or consent, acquired Schedule 'C' properties in the names of Defendant Nos.2 and 3 from the income of joint family properties, and unlawfully alienated portions of the suit properties in favour of various defendants without legal necessity and with an intention to defeat their lawful rights. The plaintiffs assert that no partition has taken place and that they became aware of the impugned transactions



only on 26.03.2019, whereupon, having been denied partition, they were constrained to institute the present suit. Defendant No.1, whose written statement was adopted by Defendant Nos.2 and 3, while admitting that certain properties are ancestral in nature, contends that Schedule 'B2' is a tenanted land granted in favour of his father under the tenancy laws and that the same had been partitioned between himself and his paternal uncle Siddappa, pursuant to which he has been in exclusive possession of his allotted share. He further contends that the plaintiffs, having been married prior to 1970, are not entitled to claim any right in certain suit properties and that Schedule 'C' properties were acquired from the proceeds of valid alienations and therefore constitute his self-acquired properties. The contesting purchaser-defendants have also denied the plaint averments and contend that the suit properties were not joint family properties available for partition, that the impugned sale transactions were effected long prior to the Hindu Succession (Amendment) Act, 2005, that the suit schedule properties have been incorrectly described, and that the suit is barred by limitation. On these grounds, the defendants seek dismissal of the suit with costs.

11. On a careful consideration of the pleadings and contentions advanced by both parties, it emerges that the plaintiff asserts that he and Defendant No.1 are the children of late Takappa and that the suit schedule properties originally belonged to the said propositus. It is further contended that Defendant No.1, utilizing the income and nucleus of the joint family properties, subsequently acquired additional properties, which also partake the character of



joint family properties. On the other hand, Defendant No.1, while admitting the relationship between the parties and the joint family status, has specifically admitted that Suit Item Nos. A and B1 are ancestral/joint family properties in which the plaintiffs are entitled to a share. However, Defendant No.1 disputes the inclusion of Suit Item No. B2 in the joint family estate and contends that the properties described in Suit Item C were acquired exclusively from the sale proceeds derived from the alienation of Suit Item No. B2. According to him, since Suit Item No. B2 was his self-acquired property, the properties purchased therefrom also retain the character of self-acquired properties, thereby excluding any claim of the plaintiffs therein. At the outset, it is pertinent to note that the relationship between the parties as members of the same family is not in dispute. Equally undisputed is the fact that there has been no partition or severance of status among the coparceners in respect of Suit Item Nos. A and B1. The specific admission made by Defendant No.1 regarding the joint family nature of the said properties constitutes substantive evidence against him and dispenses with the necessity of further proof on that aspect. In view of the unequivocal admissions found in the written statement, coupled with the absence of any plea or material suggesting an earlier partition or disruption of the joint family status concerning Suit Item Nos. A and B1, the existence of a joint family and the joint family character of the said properties stand established. Accordingly, the Court is satisfied that the plaintiffs have successfully proved that Suit Item Nos. A and B1 are joint family properties and that the parties continue to hold the same as members



of an undivided Hindu joint family. Consequently, **Issue No.1 is answered in the Affirmative.**

12. ISSUES NO.2, 3, 5 & 6, ADDITIONAL ISSUE NO.1 & 2: Since these issues are inter-linked with each other and required similar type of appreciation of evidence, i proceed to discuss these issues together to avoid repetition.

The plaintiffs contend that the suit schedule properties are ancestral and joint family properties which have remained unpartitioned even after the death of their father, late Takappa. It is their specific case that they continue to be coparceners in the joint family and are consequently entitled to their respective shares in all the suit schedule properties. Per contra, Defendant No.1 contends that Suit Item Nos. B2 and C do not form part of the joint family estate. According to him, Suit Item No. B2 is a tenancy land which was granted in the name of his father under the relevant land reforms legislation. It is further contended that the plaintiffs had already been married prior to the grant of occupancy rights and, therefore, they are not entitled to claim any share therein. Defendant No.1 further asserts that Suit Item No. C was subsequently purchased from and out of the income and sale proceeds derived from Suit Item No. B2 and, therefore, it also partakes the character of a separate property over which the plaintiffs can claim no right. A careful scrutiny of the pleadings, however, reveals that Defendant No.1 has not disputed the ancestral and joint family character of Suit Item Nos. A and B1, which admittedly belonged to late Takappa. The principal dispute,



therefore, is confined to the nature and character of Suit Item Nos. B2 and C and the question as to whether the same are available for partition. The plaintiffs have specifically pleaded that no valid partition has ever been effected amongst the members of the family and that the joint family status continues to subsist. Once the relationship of the parties, their descent from the common ancestor, and the existence of ancestral properties are admitted, a presumption under Hindu law arises that the family continues to remain joint unless the contrary is established by cogent evidence. It is a settled principle that the burden of proving a prior partition or severance in status lies heavily upon the party asserting such partition.

13. In the present case, the plea that certain properties are excluded from partition on the ground that they are separate properties or that a prior partition has already taken place is specifically set up by Defendant No.1. Consequently, the initial burden rests upon Defendant No.1 to establish, by satisfactory and convincing evidence, that Suit Item No. B2 is not a joint family property and that Suit Item No. C was acquired exclusively from the independent income or sale proceeds of a property over which the plaintiffs had no legal claim. Equally, if the defence is that the parties have already divided the family estate and are in separate enjoyment of their respective shares, the burden squarely lies on the defendants to prove such partition by producing reliable documentary or oral evidence. If Defendant No.1 succeeds in discharging the said burden, the plaintiffs would not be entitled to claim any share in the properties proved to be separate or already partitioned. Conversely, if



the defendants fail to establish the alleged exclusion of Suit Item Nos. B2 and C from the joint family estate or fail to prove a valid and binding partition, the plaintiffs would be entitled to seek partition and separate possession of their lawful shares in all the joint family properties. Therefore, the real controversy requiring adjudication is whether Defendant No.1 has succeeded in proving that Suit Item Nos. B2 and C are his exclusive properties and whether there has been any prior partition or severance of the joint family status. The entitlement of the plaintiffs to claim a share in the suit schedule properties necessarily depends upon the determination of these questions.

14. In order to prove the plaint averments, the Plaintiff No.1(a) has examined himself as PW1 and produced 59 documents which are marked as Ex.P1 is the certified copy of map, Ex.P2 is the certified copy of extract from the property register card, Ex.P3 is the certified copies of records of rights bearing Sy.No.60/1 situated at Ramageri village, Laxmeshwar Taluk, Ex.P4 & 5 are the certified copies of records of rights bearing Sy.No.355/2/4, 355/2/3 respectively all situated at Desaibana village, Laxmeshwar Taluk, Ex.P6 to 21 are the certified copy of records of rights bearing Sy.No.2, 2/8, 2/7, 2/6, 2/2, 2/9, 2/8, 2/6, 2/11, 2/14, 2/8, 2/8, 2/7, 2/9, 2/2, 2/5 respectively situated at Hulageribana village, Laxmeshwar Taluk, Ex.P22 to 30 are the certified copies of sale deeds and sketch along with RTC Extract, Ex.P31 is the certified copy of Land acquisition application, Ex.P32 is the certified copy of Mutation entry bearing No.2/5 situated at Hulageribana village, Laxmeshwar



Taluk, Ex.P33 is the certified copy of application to Tahashildar, Laxmeshwar, Ex.P34 is the certified copy of partition deed dated 09-09-2010, Ex.P35 is the certified copy of genealogy tree issued by Tahashildar, Ex.P36 is the copy of tax paid receipt, Ex.P37 is the certified copy 11-E sketch issued by Tahashildar, Laxmeshwar, Ex.P38 is the copy of Form-21 Rule 65 Notice, Ex.P39 is the copy of direction letter by Tahashildar, Ex.P40 is the certified copy of hissa Form No.12 situated at Hulageribana village, Laxmeshwar Taluk, Ex.P41 is the certified copy of podi map, Ex.P42 & 43 are the certified copy of records of rights bearing Sy.No.2/5 & 2/10 all situated at Hulageribana village, Laxmeshwar Taluk, Ex.P44 is the certified copy of registered sale deed and map along with RTC Extract, Ex.P45 is the certified copy of Land acquisition application, Ex.P46 is the certified copy of mutation entry bearing ME No.2/9 situated at Hulageribana village, Laxmeshwar Taluk, Ex.P47 is the copy of application to Tahashildar, Ex.P48 is the certified copy of consent deed dated 15-08-2010, Ex.P49 is the certified copy of panchanama, Ex.P50 is the certified copy of P.T. Sheet, Ex.P51 is the certified copy of Form-21 Rule-65 notice issued by Tahashildar, Ex.P52 to 59 are the certified copies of sale deeds. On the other hand, the defendants got examined themselves as DW1 to 7 and produced 81 documents which are marked as Ex.D1 is the certified copy of order passed by Tahashildar, Ex.D2 & 3 are the certified copies of mutation registration extract bearing No.1915, 1935 situated at Hulageribana village, Laxmeshwar Taluk, Ex.D4 to 18 are the certified copies of records of rights bearing Sy.No.2, 1, 2/2, 2/3,



2/4, 2/5, 2/6, 2/7, 2/8, 2/9, 2/11, 2/12, 2/13, 2/a, 2/b all situated at Hulageribana village, Laxmeshwar Taluk, Ex.D19 is the certified copy of registered sale deed dated 25-08-2004, Ex.D20 is the certified copy of records of rights bearing Sy.No.2 situated at Hulageribana village, Laxmeshwar Taluk, Ex.D21 is the certified copy of mutation register extract bearing M.R.No.40 situated at Hulageribana village, Laxmeshwar Taluk, Ex.D22 & 23 are the copies of official memorandum, Ex.D24 is the Letter from TMC to D.C. Gadag & copy of map, Ex.D25 is the certified copy of sale deed dated 03-12-2014, Ex.D26 & 27 is the certified copies of property cards, Ex.D28 & 29 are the certified copies of property extract & map, Ex.D30 is the original copy of sale deed dated 30-06-2008, Ex.D31 is the certified copy of mutation registration extract bearing M.R.No.7 situated at Hulageribana village, Laxmeshwar Taluk, Ex.D32 & 33 are the certified copies of records of rights bearing Sy.No.2/5 & 2/5 situated at Hulageribana village, Laxmeshwar Taluk, Ex.D34 & 35 are the certified copies of mutation register extracts bearing M.R.No.42/2010-11, T40 situated at Hulageribana village, Laxmeshwar Taluk, Ex.D36 to 38 are the certified copies of extract from the property register cards bearing Sy.No.5341/B/1, 5341/B/2, 5341/B/3 all situated at Laxmeshwar taluk, Ex.D39 is the certified copy of map of property, Ex.D40 is the certified copy of order passed the Municipal Council in Laxmeshwar Taluk, Ex.D41 is the certified copy of Land conversion application, Ex.D42 is the original copy of sale deed dated 18-08-2012, Ex.D43 is the certified copy of map, Ex.D44 to 46 are the certified copies of mutation registration extracts



bearing M.R.No.H6, H26, T45 respectively all situated at Hulageribana village, Laxmeshwara Taluk, Ex.D47 to 49 are the certified copies of records of rights bearing Sy.No.2/2, 2/2, 2/2 all situated at Hulageribana village, Laxmeshwara Taluk, Ex.D50 is the certified copy of official memorandum, Ex.D51 is the original copy of registered sale deed dated 18-01-2010, Ex.D52 & 53 are the certified copies of records of rights bearing Sy.No.2/9 & 2/9 all situated at Hulageribana village, Laxmeshwara Taluk, Ex.D54 is the certified copy of mutation registration extract bearing M.R.No.36 situated at Hulageribana village, Laxmeshwara Taluk, Ex.D55 is the certified copy of CTS Extract bearing CTS No.5341/G situated at Laxmeshwara Taluk, Ex.D56 is the certified copy of map, Ex.D57 is the certified copy of CTS Extract bearing CTS No.5341/H situated at Laxmeshwara Taluk, Ex.D58 is the certified copy of map, Ex.D59 & 60 are the certified copies of property extracts bearing No.8-9-15 & 8-9-13 all situated at Laxmeshwara Taluk, Ex.D61 is the copy of official memorandum, Ex.D62 & 63 are the certified copies of registered sale deeds dated 10-03-2011, 15-05-2012, Ex.D64 & 65 are the certified copies of records of rights bearing Sy.No.2/11 & 2/14 all situated at Hulageribana village, Laxmeshwara Taluk, Ex.D66 to 69 are the certified copies of mutation registration extracts bearing M.R.No.T33, T34, H97, H103 all situated at Hulageribana village, Laxmeshwara Taluk, Ex.D70 & 71 are the certified copies of records of rights bearing Sy.No.2/2 & 2/6 all situated at Hulageribana village, Laxmeshwara Taluk, Ex.D72 is the certified copy of CTS Extract bearing CTS No.8-9-89/3 situated at Hulageribana village,



Laxmeshwara Taluk, Ex.D73 & 74 are the copy of Resolutions of the Municipal Council Office, Laxmeshwar, Ex.D75 is the original copy of sale deed dated 24-02-2014, Ex.D76 & 77 are the certified copies of records of rights bearing Sy.No.2/8 & 2/8 all situated at Hulageribana village, Laxmeshwara Taluk, Ex.D78 to 81 are the certified copies of mutation register extracts bearing M.R.No.T35, 45, H81, H19 all situated at Hulageribana village, Laxmeshwara Taluk.

15. In a suit for partition, the initial burden lies upon the plaintiff to establish the existence of a joint Hindu family, the relationship of the parties to the common ancestor, and the joint family character of the properties sought to be partitioned. Once such foundational facts are established, the burden shifts to the party asserting exclusion, self-acquisition, or prior partition to substantiate the same by cogent and convincing evidence. In the present case, PW.1, in his examination-in-chief, has reiterated the averments made in the plaint and deposed that the suit schedule properties are joint family properties which continue to remain undivided and are jointly possessed and enjoyed by the plaintiffs and defendants. Significantly, Defendant No.1 has not disputed the relationship between the parties. It is also not his case that Suit Item Nos. A and B1 are his exclusive properties.

16. The controversy is confined only to Suit Item Nos. B2 and C. Admittedly, Suit Item No. B2 was originally a tenanted land. The material available on record clearly discloses that occupancy



rights in respect of the said land were granted in favour of Takappa and his brother Siddappa. It is further evident that, subsequent to the grant, the property came to be partitioned between them. This circumstance assumes considerable significance. Had the grant been made exclusively in favour of Takappa in his individual capacity, there would have been no occasion for partitioning the property between Takappa and Siddappa. The very fact that the property was jointly granted and subsequently divided between them unmistakably indicates that the grant enured to the benefit of the family represented by them and not to Takappa in his individual capacity. Thus, the tenancy rights and the occupancy rights flowing therefrom must be construed as having accrued for the benefit of the joint family. The principal contention of Defendant No.1 is that the plaintiffs, being married daughters, are not entitled to any share in Suit Item No. B2 since the occupancy rights were granted after their marriage. This contention cannot be accepted. The entitlement of a daughter to claim a share in joint family property does not depend upon her marital status but upon the nature and character of the property and her status as a coparcener. Marriage does not operate as a disqualification either under the Hindu Succession Act or under any law governing tenancy grants. Once a property is held to be joint family property, every coparcener acquires an interest therein in accordance with law. It is a settled principle that where tenancy rights are held and enjoyed by a Hindu joint family and occupancy rights are subsequently granted in favour of the family manager or a member representing the family, such grant ordinarily enures to the benefit of the entire joint family



unless a contrary intention is clearly established. The mere fact that the grant certificate stands in the name of a particular individual does not, by itself, render the property his exclusive property. The Court is required to examine the source of the tenancy, the nature of possession, and the surrounding circumstances to ascertain whether the grant was intended for the benefit of the family or the individual. In the case on hand, Defendant No.1 has not produced any material to establish that the tenancy was exclusively personal to Takappa or that the occupancy rights were conferred solely for his individual benefit. On the contrary, the evidence on record indicates that the tenancy rights formed part of the family estate and that the property was treated as a joint family asset. Therefore, the occupancy rights granted in respect of Suit Item No. B2 must necessarily be held to have enured to the benefit of all members of the joint family. Further, after the amendment to Section 6 of the Hindu Succession Act, daughters are coparceners by birth and enjoy the same rights and liabilities as sons in coparcenary property. Their entitlement is neither dependent upon their marital status nor extinguished by marriage. Therefore, the plea that the plaintiffs were married prior to the grant of occupancy rights and consequently lost their entitlement is devoid of legal basis and cannot be accepted. Mere denial of the plaintiffs' rights by Defendant No.1, unsupported by any acceptable evidence, is wholly insufficient to defeat their lawful claim. Accordingly, this Court is of the considered opinion that Suit Item No. B2 constitutes joint family property and that the plaintiffs are entitled to claim their lawful share therein.



17. The position regarding Suit Item No. C is even clearer. Defendant No.1 has categorically pleaded that the said properties were purchased from the sale consideration received upon alienation of Suit Item No. B2. Having held that Suit Item No. B2 is a joint family property, it necessarily follows that the sale proceeds derived therefrom also retained the character of joint family funds. Any property acquired from such joint family funds ordinarily assumes the character of joint family property unless the person asserting exclusive ownership establishes an independent source of income or other circumstances sufficient to impress the property with the character of self-acquired property. In the present case, Defendant No.1 has failed to produce any evidence whatsoever to establish that Suit Item No. C was purchased from his independent earnings or separate funds. On the contrary, his own pleadings disclose that the source of acquisition was the sale proceeds of Suit Item No. B2. Therefore, Suit Item No. C must also be treated as joint family property available for partition. Defendant No.1 has further contended that there had been a partition amongst the family members and that the suit properties are no longer joint. However, except for a bare assertion in the written statement, no documentary evidence such as a partition deed, memorandum of partition, mutation entries reflecting partition, revenue records, or any other convincing material has been produced. There is likewise no reliable oral evidence demonstrating severance of status or division by metes and bounds. It is trite law that a party pleading prior partition bears the burden of proving the same through cogent, satisfactory, and



convincing evidence. Mere self-serving statements are insufficient to establish disruption of a Hindu joint family. In the absence of any acceptable evidence regarding partition, the presumption of jointness continues to operate. Therefore, this Court is satisfied that the plaintiffs have successfully discharged the burden cast upon them and have established that the suit schedule properties are joint family properties. Conversely, Defendant No.1 has failed to prove that Suit Item No. B2 is excluded from the joint family estate, failed to establish that Suit Item No. C is his self-acquired property, and failed to substantiate the plea of prior partition. Consequently, there exists no legal impediment to granting the plaintiffs their lawful share in the suit schedule properties. The plaintiffs' claim thus stands proved both on facts and in law.

18. Another relief sought by the plaintiffs is a declaration that the sale deed executed by defendant No.1 in favour of defendants Nos.6 to 11 with respect to suit item No.B2 are null and void and not binding upon them. As discussed supra, it stands established that suit item Nos. B-2 form part of the undivided joint family properties and that the plaintiffs, being coparceners, have a legitimate share therein. The question that therefore arises for consideration is whether the impugned alienation infringes upon the plaintiffs' rights so as to warrant interference by this Court. The defendant No.1 contends that he has sold the property as he was the absolute owner of the same. In view of aforementioned disucssesion it is forthcoming that the defendant No.1 was not the owner and the plaintiffs have a legal right over the same and without their consent properties cannot be sold.



That said, the Court cannot lose sight of the statutory mandate contained in Section 6(1) of the Hindu Succession Act, 1956, as amended by Act 39 of 2005, and more particularly the proviso appended thereto.

6. Devolution of interest in coparcenary property.—

(1) On and from the commencement of the Hindu Succession (Amendment) Act, 2005 (39 of 2005), in a Joint Hindu family governed by the Mitakshara law, the daughter of a coparcener shall,—

(a) by birth become a coparcener in her own right the same manner as the son;

(b) have the same rights in the coparcenary property as she would have had if she had been a son;

(c) be subject to the same liabilities in respect of the said coparcenary property as that of a son, and any reference to a Hindu Mitakshara coparcener shall be deemed to include a reference to a daughter of a coparcener:

Provided that nothing contained in this sub-section shall affect or invalidate any disposition or alienation including any partition or testamentary disposition of property which had taken place before the 20th day of December, 2004.

19. The proviso expressly declares that nothing contained in the sub-section shall affect or invalidate any disposition or alienation, including a partition or testamentary disposition, which had taken place prior to 20th December, 2004. The object of the proviso is to give the amendment only prospective operation and to preserve the sanctity and finality of transactions lawfully concluded under the pre-



amended legal regime, thereby protecting vested rights and avoiding retrospective unsettlement of completed transactions. In the present case, the sale deed in question was executed 2 sale deed on 25-08-2004, 3 sale deed on 30-06-2008, 18-01-2010 & 18-02-2012. Out of these only two sale deed of 25-08-2004 much prior to the cut-off date of 20.12.2004. Once it is shown that the alienation had taken place before the said date, the proviso operates as a statutory bar against reopening or invalidating such transaction on the basis of rights conferred under the amended provision. Even if the plaintiffs' status as coparceners and their entitlement to a share in the joint family properties is accepted, the law expressly prohibits disturbing a concluded alienation effected prior to the cut-off date. Accordingly, in view of the clear bar contained in the proviso to Section 6(1) of the Hindu Succession Act, the 2 sale deed on 25-08-2004 executed by defendant No.1 in favour of defendants Nos.5 cannot now be questioned or declared as null and void. The plaintiffs are, therefore, not entitled to the relief of declaration sought in respect of sale deed on 25-08-2004 executed by defendant No.1 in favour of defendants Nos.5, and the said relief is liable to be rejected. However, the other sale deed in favour of the defendant No.4, 6 to 11 are subsequent to the amendment and since the plaintiffs had right over the sold properties the same are null and void and not binding upon them.

20. Upon a careful perusal of the written statements filed by Defendant Nos.4 to 11 and other contesting defendants, it is significant to note that there is no specific plea that they are bona fide purchasers for value without notice of the rights of the plaintiffs. The



pleadings are conspicuously silent regarding the due diligence allegedly undertaken by them before purchasing the suit properties or the circumstances under which they acquired title. In the absence of such a specific plea and proof, the defendants cannot seek the equitable protection ordinarily available to bona fide purchasers. It is not in dispute that Defendant No.1 has executed various registered sale deeds in favour of Defendant Nos.4 to 11 in respect of portions of the suit properties. The crucial question, however, is not the execution of the sale deeds but whether Defendant No.1 possessed the legal authority to convey absolute title in respect of the properties alienated under those instruments. As already discussed while dealing with the earlier issues, this Court has held that Suit Item No. B2 forms part of the joint family estate and that the plaintiffs, being coparceners and co-sharers, have a lawful and subsisting interest therein. Consequently, Defendant No.1 could not have claimed exclusive ownership over the said property. The interest of the plaintiffs in the joint family property existed independently and was not dependent upon any formal partition. Therefore, Defendant No.1 was not competent to convey a better title than what he himself possessed. It is a settled principle of law that a co-sharer or coparcener cannot, by a unilateral act, extinguish or defeat the proprietary rights of the other co-sharers. Any alienation made by one coparcener without the consent of the other coparceners, and without establishing legal necessity, benefit of the estate, or other legally recognized grounds, is not binding upon the non-consenting coparceners to the extent of their share. Such an alienation does not



confer absolute and indefeasible title upon the purchaser but remains subject to the rights of the other coparceners who are entitled to challenge the same in appropriate proceedings. In the present case, there is neither a plea nor evidence that the plaintiffs consented to the alienation effected by Defendant No.1. Equally, there is no material to demonstrate that the sales were effected for legal necessity, family benefit, or discharge of antecedent debts binding upon the joint family. In the absence of such proof, the alienation cannot be held to be binding on the plaintiffs' undivided share in the suit properties. The purchasers under the impugned sale deeds merely step into the shoes of Defendant No.1 and can claim no higher right than that possessed by their vendor. Since Defendant No.1 himself had only an undivided interest in the joint family property, the purchasers cannot claim absolute ownership over any specific portion of the property to the exclusion of the plaintiffs. Their rights, if any, remain subject to the final determination of shares in the partition proceedings. Therefore, though the execution of the sale deeds by Defendant No.1 is not disputed, the said transactions cannot defeat or extinguish the lawful rights of the plaintiffs in the joint family properties. The alienation are not binding upon the plaintiffs' share and shall remain subject to the result of the partition. Consequently, the purchasers cannot claim absolute title over the portions purchased by them, and their rights are restricted only to such interest as may ultimately fall to the share of Defendant No.1 upon partition.

21. On an overall appreciation of the pleadings, oral and documentary evidence, and the circumstances of the case, this Court



is satisfied that the plaintiffs have successfully established that the suit schedule properties, including Suit Item Nos. B2 and C, are joint family properties in which they possess a lawful and subsisting share. The defendants have failed to prove that Suit Item No. B2 was the exclusive property of Takappa or Defendant No.1, or that the plaintiffs were excluded from succession merely on account of their marriage. The evidence on record clearly indicates that the tenancy rights and the occupancy rights granted in respect of Suit Item No. B2 ensured to the benefit of the joint family and, consequently, the plaintiffs are entitled to claim a share therein. Equally, Suit Item No. C, having been acquired from the sale proceeds of Suit Item No. B2, necessarily partakes the same character as the source from which it was acquired and therefore constitutes joint family property. Further, the defendants have failed to establish any prior partition, severance of status, legal necessity, family benefit, or any other circumstance that would justify the exclusion of the plaintiffs from the suit properties. Likewise, the purchasers claiming under Defendant No.1 have failed to establish any independent or superior title and cannot claim rights beyond those possessed by their vendor. The alienation made by Defendant No.1 are, therefore, not binding on the plaintiffs' undivided share and remain subject to the result of partition. Consequently, the plaintiffs are entitled to partition and separate possession of their respective lawful shares in the suit schedule properties, and the contrary contentions raised by the defendants deserve to be rejected. Accordingly **Issue No.2 & 3 in affirmative, Issue No.5 & 6, additional issue No.1 & 2 in negative.**



22. ISSUE NO. 4 & ADDITIONAL ISSUE NO.3: Both the issue are one and same. Hence, they are taken together for discussion. The burden of proving this issue squarely rests upon the defendants, as it is they who have specifically pleaded that the suit is barred by limitation. It is a settled principle of law that a plea of limitation is a mixed question of law and fact, and the party raising such a plea must establish the factual foundation necessary to attract the bar of limitation. In the present case, the defendants have contended that the plaintiffs have approached the Court after an inordinate delay and, therefore, are disentitled to seek partition and separate possession. However, except for making a bald assertion in the written statement, the defendants have not produced any convincing evidence to establish the commencement of the limitation period or any specific event from which limitation is alleged to have begun to run against the plaintiffs. It is pertinent to note that the present suit is one for partition and separate possession based on the plaintiffs' status as co-sharers/coparceners in the joint family properties. It is a well-recognized principle of Hindu law that possession of one co-sharer is ordinarily deemed to be possession on behalf of all co-sharers. As long as the joint family status continues and there is no established partition or unequivocal ouster, every coparcener retains a subsisting right to seek partition. The cause of action for seeking partition is, therefore, treated as a recurring and continuing one. In the case on hand, this Court has already held that the defendants have failed to establish any prior partition or severance of status amongst the members of the family. Likewise, there is no material on record to



demonstrate that the plaintiffs were ever excluded from the joint family properties by a clear and hostile assertion of title brought to their knowledge. Mere separate possession or enjoyment by one member of the family does not amount to ouster unless accompanied by unequivocal acts denying the rights of the other co-sharers. The defendants have neither pleaded nor proved the exact date on which the plaintiffs' rights were allegedly denied, nor have they established any overt act of ouster sufficient to start the running of limitation against the plaintiffs. In the absence of proof of partition, exclusion, or hostile possession to the knowledge of the plaintiffs, the plea of limitation cannot be sustained. Moreover, the alienation relied upon by the defendants do not, by themselves, extinguish the plaintiffs' rights in the joint family properties. Until a lawful partition takes place, the plaintiffs continue to possess a subsisting right to claim their share, and such right cannot be defeated merely on the ground of delay. Therefore, this Court is of the considered opinion that the defendants have failed to discharge the burden cast upon them to establish that the suit is barred by limitation. On the contrary, the evidence on record demonstrates the continued existence of the joint family and the absence of any partition or ouster. Consequently, the suit is well within time and maintainable in law. Accordingly, these issue is **answered in the Negative.**

23. ISSUE No.7: The plaintiffs claim 1/3rd share in the suit schedule properties. In the lights of the discussion made above suit schedule properties are the held as the joint family properties wherein severance is not effected. Therefore, the plaintiff No.1 & 2 are



entitled for 1/3rd share each and the defendants No.1 is entitled for the 1/3rd share in suit schedule properties. Hence, I proceed to answer **issue No.7 in affirmative.**

24. **ISSUE No.8:** For the foregoing discussions and reasons stated therein suit of the Plaintiffs does succeed in part and deserves to be decreed. In the result I proceed to pass the following:

O R D E R

The suit of the Plaintiffs is hereby decreed in part with costs.

The plaintiff No.1 & 2 are entitled for 1/3rd share each in suit schedule properties.

The sale deeds executed by the defendant No.1 in favour of the defendant No.4 to 11 are not binding upon the share of the plaintiffs.

Draw preliminary decree accordingly.

(Dictated to the Stenographer, direct on computer and typed by her and print out taken by her, and after corrections pronounced by me in the open Court on this the 16th day of June 2026).

(BHARATH YOGESH KARAGUDARI)
Senior Civil Judge & JMFC, Laxmehswar.



ANNEXURE

1. List of witnesses examined for the Plaintiffs:

PW 1 - Shankrappa S/o Dyavangouda Rayar

2. List of witnesses examined for the Defendants:

DW 1 - Sri. Dyamappa @ Dyavappa S/o
Takappa Panigatti,
DW 2 - Sri. Basavaraj S/o Veerappa Jagali,
DW 3 - Sri.Mabusab S/o Rajesab Nadaf (Davangeri)
DW 4 - Fakkirayya S/o Shadaksharayya
Balehallimath,
DW 5 - Pandurangsa S/o Govindsa Bhaddi,
DW 6 - Sri. Mohammad Iqbal Naregal,
DW 7 - Sri. Abdul Rehaman Husainsab Neeralgi,

3. List of documents exhibited for the Plaintiffs:

Ex.P1 - C/c of map
Ex.P2 - C/c of Property register card
Ex.P3 to 21 - C/copies of Records of rights
Ex.P22 to 30 - C/copies of sale deeds and sketch
along with RTC Extract,
Ex.P31 - C/c of Land acquisition application,
Ex.P32 - C/c of Mutation entry
Ex.P33 - C/c of application to
Tahashildar, Laxmeshwar,
Ex.P34 - C/c of partition deed dated 09-09-10
Ex.P35 - C/c of G-tree issued by Tahashildar,
Ex.P36 - Copy of Tax paid receipt
Ex.P37 - C/c of 11-E sketch issued by
Tahashildar, Laxmeshwar,
Ex.P38 - Copy of Form-21 Rule 65 Notice
Ex.P39 - Copy of Direction letter
by Tahashildar
Ex.P40 - C/c of hissa Form No.12
Ex.P41 - C/c of podi map
Ex.P42 & 43 - C/copies of Records of rights
Ex.P44 - C/c of registered sale deed & map



- Ex.P45 - along with RTC Extract,
- Ex.P46 - C/c of Land acquisition application
- Ex.P47 - C/c of mutation entry
- Ex.P48 - Copy of application to Tahashildar
- Ex.P49 - C/c of consent deed dated 05-08-10
- Ex.P50 - C/c of panchanama
- Ex.P51 - C/c of P.T. Sheet
- Ex.P51 - C/c of Form-21 Rule-65 notice issued by Tahashildar,
- Ex.P52 to 59 - C/copies of sale deeds

4. List of documents exhibited for the Defendants:

- Ex.D1 - C/c of order passed by Tahashildar
- Ex.D2 & 3 - C/copies of mutation registration extract
- Ex.D4 to 18 - C/copies of Records of rights
- Ex.D19 - C/c of registered sale deed dated 25-08-2004
- Ex.D20 - C/c of Records of rights
- Ex.D21 - C/c Mutation register extract
- Ex.D22 & 23 - Copies of official memorandum,
- Ex.D24 - Letter from TMC to D.C. Gadag & copy of map
- Ex.D25 - C/c of sale deed dated 03-12-2014
- Ex.D26 & 27 - C/copies of property cards
- Ex.D28 & 29 - C/copies of property extract & map
- Ex.D30 - Original copy of sale deed dated 30-06-2008
- Ex.D31 - Mutation registration extract
- Ex.D32 & 33 - C/copies of Records of rights
- Ex.D34 & 35 - C/copies of Mutation register extracts
- Ex.D36 to 38 - C/copies of Property register cards
- Ex.D39 - C/c of map of property
- Ex.D40 - C/c of Order passed the Municipal Council in Laxmeshwar Taluk
- Ex.D41 - C/c of Land conversion application
- Ex.D42 - Original copy of sale deed dated 18-08-2012
- Ex.D43 - Copy of map



- | | | |
|--------------|---|--|
| Ex.D44 to 46 | - | C/copies of Mutation registration extracts |
| Ex.D47 to 49 | - | C/copies of Records of rights |
| Ex.D50 | - | C/c of official memorandum |
| Ex.D51 | - | Original copy of registered sale deed dated 18-01-2010 |
| Ex.D52 & 53 | - | C/copies of Records of rights |
| Ex.D54 | - | C/c of Mutation registration extract |
| Ex.D55 | - | C/c of CTS Extract |
| Ex.D56 | - | C/c of property sketch |
| Ex.D57 | - | C/c of CTS Extract |
| Ex.D58 | - | C/c of map |
| Ex.D59 & 60 | - | C/copies of Property extracts |
| Ex.D61 | - | Copy of official memorandum |
| Ex.D62 & 63 | - | C/copies of Registered sale deeds |
| Ex.D64 & 65 | - | C/ copies of Records of rights |
| Ex.D66 to 69 | - | C/copies of Mutation registration extracts |
| Ex.D70 & 71 | - | C/copies of Records of rights |
| Ex.D72 | - | C/c of CTS Extract |
| Ex.D73 & 74 | - | Copy of resolutions of the Municipal Council Office, Laxmeshwar, |
| Ex.D75 | - | Original copy of sale deed |
| Ex.D76 & 77 | - | C/copies of Records of rights |
| Ex.D78 to 81 | - | C/copies of Mutation register extracts |

(BHARATH YOGESH KARAGUDARI)
Senior Civil Judge & JMFC, Laxmehswar.