

KADG220032102022



IN THE COURT OF THE PRINCIPAL CIVIL JUDGE AND
J.M.F.C., CHANNAGIRI

:: Present ::

Kum.Shama Srivatsa

B.A. LL.B. (Hon's) LL.M

**Prl. Civil Judge and J.M.F.C.,
Chanangiri.**

Dated this the 25th Day of September 2025

O.S.No.410/2022

Plaintiff. : **Thimmappa**
S/o Hanumappa
Aged about 66 years,
Agriculturists,
R/o Jannapura Forest Quarters,
Near Ganapathi Temple,
Bhadravathi Taluk,
Shivamogga District.
(By Shri. K.G.S / C.S.H , Advocate)

V/S

Defendants. 1. Jayamma
W/o Manjappa,
Aged about 68 years,
Agriculturists,
Holalkere Taluk,
Chitradurga District.

2. Rathnamma
S/o Hanumappa,
Aged about 60 years,
Agriculturist,
R/o Ajjihalli Village,
Channagiri Taluk,
Davanagere District.
3. Nagamma
W/o Nagendrappa,
Aged about 75 years,
Agriculturist,
R/o Hireganguru Village,
Channagiri Taluk,
Davanagere District.
4. Yogish
S/o Nagendrappa,
Aged about 43 years,
Agriculturist,
R/o Hireganguru Village,
Channagiri Taluk,
Davanagere District.
5. Lalithamma
W/o Jayappa,
Aged about 47 years,
Agriculturist,
R/o Ajjihalli Village,
Channagiri Taluk,
Davanagere District.
6. Hiriamma
W/o Janappa,
Aged about 45 years,
Agriculturist,
R/o Malladihalli Village,
Holalkere Taluk,
Chitradurga District.

(Def No. 1 and 2 By Sri. G.S.V ., Advocate)

(Defendant No. 3 to 6 By Sri. S.D.K ., Advocate)

1.	Date of Institutions of suit	27.10.2022
2.	Nature of suit	Partition and Separate Possession
3	Date of commencement of recording of the evidence	24.04.2024
4.	Date on which the Judgment is Pronounced	25.09.2025
5.	Total Duration	Years Month Days 02 10 29

Sd/-

(Kum. Shama Srivatsa)

Date: 25.09.2025
Place: Channagiri.

Prl. Civil Judge & J.M.F.C.,
Channagiri.

JUDGMENT

The plaintiff suit is for the relief of partition and separate possession of her asserted 1/4th share in the suit schedule properties.

2. THE ESSENCE OF PLAINT FILED BY THE PLAINTIFF AS UNDER:

Plaintiff asserts that, Late Hanumappa and Thimmamma for 4 children by name Nagendrappa,

Thimmappa, Rathnamma and Jayappa. Late Hanumappa along with his wife Thimmamma all 4 children living with joint family having elder son Nagendrappa who was considered as manage of the joint family. Nagendrappa after the demise of kartha and the pahani of the suit schedule item No. 1 and 2 property got mutated in the name of Nagamma W/o Nagendrappa and 3rd defendant Thimappa S/o Hanumappa. Who are none other than the male child of the joint family constituting late Hanumappa and Thimmamma. Thimmappa who is none other than 3rd defendant vide MR No. H48/2021-22 revenue records were mutated accordingly the RTC stands jointly in the name of Nagamma and Thimmappa . The plaintiff and defendants are members of joint family and enjoyed suit schedule property jointly. Plaintiff has 1/4th share in the suit schedule property as he is one of the sons of late Hanumappa and Thimmamma. Plaintiff and defendant No.1 and 2 in the suit schedule properties trying to mutate katha and pahani in their exclusive name having notice of the same plaintiff filed appeal before Assistant commissioner, Honnali under RACR No. 209/2022. Plaintiff appeared on 18.10.2022 and got the copies of appeal and came to know the illegal acts of the defendant No. 3 to 6. Plaintiff further submits that, he has got 1/4th share in the suit schedule property at power with other defendant No.1 and 2. When plaintiff approached to seek is 1/4th share in the suit schedule property to defendant denied execute register partition deed and the

cause of action accrued on 18.10.2022. Thus, the plaintiff having no alternate filed this seek 1/4th legitimate share by meets and bounds in suit schedule property item No. 1 and 3.

**3. THE ESSENCE OF WRITTEN STATEMENT
FILED BY THE DEFENDANTS AS UNDER:**

On the other hand defendant No. 1 and 2 appeared through their counsel and filed admitted facts of the plaint wherein defendant No. 1 and 2 submits that, the plaint averments stated in para No. 3 is completely admitted and plaintiff is entitled for 1/4th share in suit schedule property as on defendant No. 1 and 2 and they are also have 1/4th share in suit schedule property and prayed to decree the suit. On the other hand, defendant No. 3 to 6 filed their detailed written statement wherein they admitted Hanumappa and Thimmamma had 4 children by name Nagendrappa, Thimmappa, Rathnamma and Jayappa. But defendants denied to admit that, all 4 children along with late Hanumappa and Thimmamma were residing jointly and was enjoying suit schedule property jointly. Defendants contended that, suit schedule properties are not joint family properties of plaintiff and defendants. Plaintiff admitted the fact that, suit schedule properties are standing in the name of 3rd defendant and plaintiff name jointly in item No. 1 and 2. But defendant strongly contended plaintiff has no equal right and title in the suit schedule property as there is appeal pending

before Assistant Commissioner under RACR No. 209/2022-23. Plaintiff never approached the defendant to seek 1/4th share suit schedule property. Plaintiff already departed from the joint family nucleus ever since the all 4 children were not in joint family. Thus, suit schedule properties were also self acquired properties of late Nagendrappa. In spite of having no the cause of action filed this present suit plaintiff is before this court only to grab the property of late Nagendrappa. The suit schedule property market value was not mention properly and accordingly the court fee and valuation Act of Karnataka .Suit schedule property is cost about Rs. 28 to 30 Lakh wherein 1/4th share of the property when amount more than Rs. 5.00 Lakh. Thus, the court has no pecuniary Jurisdiction try this matter.

4. Defendant asserts that, the suit schedule property originally belongs to Nagendrappa S/o Hanumappa. Plaintiff brother of Nagendrappa and defendant No. 1 and 2 are the sisters of late Nagendrappa. 3rd defendant is none other than wife of Nagendrappa, defendant No. 4 to 6 are children of Late Nagendrappa. Nagendrappa died on 04.11.2021. Suit schedule item No. 1 property as Nagendrappa belongs to Schedule Caste, Assistant Commissioner, Shivamogga as granted Saguvali chit vide LNSDR No. 157/1982-83 dated: 15.04.1983. Accordingly on 30.04.1985 Tahasildar issued grant certificate.³ By virtue of grant certificate suit schedule item No.1 property

revenue records mutated in the name of Nagendrappa vide MR No.13/1989-90. Ever since defendant and his family are in possession and enjoyment of the suit schedule item No. 1 property. Thus, it is self acquired property. Plaintiff and defendant No.1 and 2 were never in joint possession of suit schedule property item No. 1 property. After the demise of Nagendrappa suit schedule property was mutated in the name of defendant No. 3 and 4 by virtue of amendment order dated: 2.09.2011 defendants added that, 4th defendant son late Nagendrappa his mother Thimmamma W/o Kengunte Hanumanthappa vide registered sale deed bearing SR No. 43/1958-59 dated: 06.10.1958 purchased suit schedule No. 2 property for valuable consideration amount of Rs. 200/- and ever since late Nagendrappa was in the possession and enjoyment of item No. 2 property. Thus, item No 2 property was also self acquired property of late Nagendrappa. Therefore the plaintiff has no right or share in the suit schedule property item No. 2 property.

5. Defendants further strongly contended that, suit schedule item No. 3 property was granted land by the Government in the name of Nagendrappa. Ever since defendant No. 3's husband by name Nagendrappa and his family residing and enjoying the suit schedule item No. 3 property. In spite of knowing such fact plaintiff No. defendant No. 2 without having right, title or interest the suit schedule item No. 1 to 3 property have filed this false

suit against defendant No. 3 to 4. After the demise of Nagendrappa colluding with others plaintiff got mutated suit schedule item No. 1 and 2 property jointly in his name along with defendant No. 3. When defendant No.3 came to know about such fact as filed an appeal before Assistant Commissioner , Honnali . And the appeal filed before Assistant Commissioner is pending for consideration. Inspite of knowing the appeal is pending before the Assistant Commissioner plaintiff filed this suit. As per document of estoppel suit is not maintainable under law and suit schedule properties are self acquired properties of Late Nagendrappa and during his life time he was an possession and enjoyment of the suit schedule property as absolute owner and after the demise of Nagendrappa the suit schedule properties exclusive rights of the defendant No. 3 and 4. Thus. Defendant prayed to dismiss the suit.

6. Based on the pleadings putforth by the parties, the following issues have been framed by this court for consideration;

ISSUES

1. Whether the plaintiff proves that, himself and the defendants constituted the joint family and the suit schedule properties are the joint family properties ?
2. Whether the defendants No.3 to 6 prove that,

the suit item No. 1 and 3 properties were granted by the government to Late Nagendrappa and the said properties are his self acquired properties?

3. Whether the defendants No. 3 to 6 prove that, the suit item No.2 property is self acquired property of late Nagendrappa, who acquired it through gift deed of the year 1975-76?

4. Whether this court has got pecuniary jurisdiction to try this suit?

5. Whether the plaintiff is entitled for 1/4th share in suit schedule properties?

6. Whether plaintiff is entitled for the reliefs prayed for?

7. What order or decree?

Additional Issue No.3

3. Whether the defendant No.3 to 6 prove that, the suit item No.2 property is self acquired property of late Nagendrappa who acquired it through the registered sale deed dated: 06.10.1958?

7. In order to prove the case, plaintiff himself entered into witness box as PW-1 and has produced as many as 5

documents as per Ex.P-1 to Ex.P-5. On the other hand, the defendant No.1 entered into witness box as DW.1 and has produced as many as 9 documents.

8. Heard the learned counsel for plaintiff and the defendants. Perused the oral as well as documentary evidence and on perusal of the same my findings to the aforesaid issues as under;

ISSUES

- Issue No.1 : In the Affirmative
- Issue No.2 : In the Negative
- Issue No.3 : In the Negative
- Issue No.4 : In the Affirmative
- Additional issue No.3 : In the Affirmative
- Issue No.5 : In the Affirmative
- Issue No. 6 : In the Affirmative
- Issue No.7 : As per the final order
for the following;

REASONS

9. Issue No.4 was treated as preliminary Issue and accordingly this court has got pecuniary jurisdiction to try this matter.

10. Issue No.1 to 3, 5 and 6: These issues are inter-linked with each other and as such they are taken up together for common discussion.

The plaintiff has examined himself as PW-1 and has produced documentary evidence marked as Ex.P1 to Ex.P5. PW-1, being the brother of late Nagendrappa, is a natural and competent witness to speak about the constitution of the family, manner of acquisition of properties, and possession thereof. His evidence is consistent with the pleadings and is supported by contemporaneous revenue records. PW-1 has deposed that, the plaintiff and defendants constitute a joint Hindu family. Late Nagendrappa, being the elder male member, was managing the family affairs as Kartha. The suit schedule properties were acquired during the subsistence of joint family status and were treated as common family properties. After the death of Nagendrappa, the revenue records of Item Nos.1 and 2 were mutated jointly in the names of the plaintiff and 3rd defendant, and joint possession continued. On 18-10-2022, when PW-1 demanded partition, defendants 3 to 6 refused, compelling the filing of the suit. The cross-examination of PW-1 by defendants 3 to 6 does not shake the core of his testimony. On the contrary, several answers elicited from PW-1 strengthen the plaintiff's case: PW-1

has categorically admitted that Item No.1 was granted in the name of Nagendrappa and Item No.2 was purchased in Nagendrappa's name, but has consistently asserted that these acquisitions were made while the family was joint and without any proof of independent income. PW-1 has not been confronted with any document showing exclusive possession or exclusive enjoyment by Nagendrappa to the exclusion of other family members. Suggestions that PW-1 fabricated joint mutation entries or stealthily manipulated revenue records are bare suggestions without proof and are expressly denied. The Court finds that PW-1's evidence is natural, coherent, and inspires confidence. There is no material contradiction, embellishment, or improvement warranting discredit.

11. That apart, PW- 1 placed documentary evidence of the Plaintiff such as, Ex.P1 & Ex.P2 are RTCs / Pahanis show joint entries and continued cultivation. These are public documents carrying a statutory presumption of correctness. Ex.P3 & Ex.P4 are Mutation and revenue records clearly demonstrate that, the names of the plaintiff and 3rd defendant were entered jointly after the death of Na-

gendrappa. Ex.P5 is Genealogy certificate conclusively establishes the relationship between the parties and is not disputed by the defendants. The documentary evidence produced by the plaintiff corroborates the oral testimony of PW-1 in all material particulars.

12. On the other hand, the defendant Nos.3 to 6 have examined DW-1 / Yogesh, son of late Nagendrappa and produced documents marked as Ex.D1 to Ex.D9. DW-1 claims that all suit schedule properties are the self-acquired properties of his father, Nagendrappa. However, a careful scrutiny of his evidence reveals serious admissions, inconsistencies, and fatal weaknesses. In cross-examination, DW-1 has admitted that: Late Nagendrappa had no other agricultural land at the time of grant. Item No.1 was granted because the family was landless and cultivating gomala land. He has not produced any document showing separate income or independent financial capacity of Nagendrappa. After Nagendrappa's death, joint mutation was effected, and an appeal was filed only later when disputes arose. There is no registered partition deed at any point of time. These admissions completely demolish the plea of

self-acquisition. DW-1 further admits ignorance of several facts pleaded in the written statement, including dates, boundaries, and source of funds. His evidence is largely derivative, interested, and self-serving.

13. The Court finds that DW-1 is not a truthful witness. His evidence appears to be an attempt to convert joint family properties into exclusive properties after the death of the Kartha, which the law does not permit, Ex.D1 /Grant Certificate merely shows that, land was granted in the name of Nagendrappa. It does not contain any recital of exclusivity, nor does it state that the grant was personal and not for the benefit of the family. Ex.D2 / Ex.D7 is Mutation extracts only show administrative entries and do not confer title. Ex.D3 to Ex.D5 are Old Pahanis merely reflect cultivation by Nagendrappa and do not disprove joint family character. Ex.D9 / Genealogy actually supports the plaintiff's case regarding family structure.

14. Notably, defendants have not produced any evidence to show Separate residence, Prior partition, Exclu-

sive enjoyment, Independent income of Nagendrappa. Withholding of best evidence attracts an adverse inference under Section 114(g) of the Evidence Act.

15. Per contra, On a holistic appreciation Plaintiff's evidence is affirmative, consistent, and corroborated. Defendants' evidence is negative, defensive, and riddled with admissions. The plea of self-acquisition is unsupported by proof, contrary to revenue records, and raised only after Nagendrappa's death. The Court is constrained to observe that the defence of defendants 3 to 6 is not only legally untenable but also factually dishonest.

16. Hence , this Court holds that, the joint family character of the suit schedule properties is proved. The defendants 3 to 6 have miserably failed to establish self-acquisition. The plaintiff's evidence far outweighs the defence evidence in credibility, consistency, and legal value. Accordingly, the evidence on record decisively tilts in favour of the plaintiff.

17. Further on careful appreciation of documentary evidence more particularly Ex.P1 discloses that the suit

Item No.1 stands recorded jointly in the names of the plaintiff and the 3rd defendant. This entry is subsequent to the death of late Nagendrappa and has continued without being set aside by any competent court. Revenue records, though not documents of title, are strong indicators of possession and enjoyment, particularly in partition suits. The defendants have not produced any order cancelling or modifying this entry. Despite challenging joint possession, defendants 3 to 6 have failed to produce any RTC showing exclusive possession either during the lifetime of Nagendrappa or thereafter. Suppression of such best evidence, if it existed, warrants an adverse inference that no such exclusive possession ever existed.

18. That apart, Ex.P2 similarly reflects joint entries. This directly contradicts the defence plea that Item No.2 is the exclusive self-acquired property of late Nagendrappa. If the property were truly self-acquired and exclusively enjoyed, revenue entries would have reflected the same continuously. The absence of any RTC showing exclusive name or exclusive cultivation of Nagendrappa prior to or after his death leads to an adverse inference that Item No.2

was treated as joint family property in practice, irrespective of the name in the sale deed. This document evidences mutation in the joint names of the plaintiff and the 3rd defendant after Nagendrappa's death. Mutation was effected through official process and not clandestinely. The defendants have admitted filing an appeal against this mutation, which itself establishes that the entry existed and operated. The Defendants have not produced the final order of the appellate authority nullifying the joint mutation. Non-production of the outcome of proceedings initiated by them permits the Court to infer that, the appeal did not succeed or did not support their case.

19. Pw-1 placed Ex.P4 corroborates Ex.P1 and Ex.P2 and demonstrates continuity of joint entries. Defendants have failed to produce any contemporaneous revenue record contradicting Ex.P4. The consistent failure to rebut joint entries over multiple documents strengthens the presumption of joint family possession. Ex.P5 conclusively establishes the relationship between the parties. This document is not disputed by the defendants. Once relationship and lineage are admitted, the burden shifts heavily on the

defendants to prove exclusion of the plaintiff from inheritance or enjoyment, which they have failed to do. DW-1 placed Ex.D1 shows that land was granted in the name of Nagendrappa. However, there is no recital that the grant was exclusive, personal, or to the exclusion of joint family members. The document is conspicuously silent on: Separate residence, Separate income, Exclusive benefit.

20. The Defendants have not produced the grant order proceedings file, eligibility enquiry report, or conditions of grant to show exclusivity. Withholding foundational grant records compels the Court to infer that the grant was made considering the family's landless status, thereby benefiting the joint family. Mutation entries relied upon by defendants merely show administrative changes. Mutation does not confer title. Defendants rely selectively on mutation entries but avoid producing mutation registers for the entire period, especially those showing joint entries. This selective production attracts an adverse inference that complete records would go against the defendants.

21. These documents show cultivation in the name of Nagendrappa during certain years. Mere cultivation by the Kartha does not establish self-acquisition. Defendants have failed to produce income records, crop sale receipts, or evidence of independent earnings to show that cultivation was for personal benefit. The absence of financial proof leads to the inference that cultivation was on behalf of the joint family. This document does not speak about exclusive title. It is an administrative order without any declaration of personal ownership. Reliance on an administrative order without producing the connected enquiry records suggests that the defendants are relying on incomplete documentation, warranting an inference against them. Ex.D8 – Pahanis of Sy.No.47/2: These documents again only reflect cultivation and do not negate joint family status. Failure to show exclusive enjoyment or objection by other family members during the alleged period of exclusivity strengthens the inference that the property was never treated as separate property.

22. Ex.D9 – Genealogy Certificate This document supports the plaintiff's case regarding family composition.

By producing a genealogy consistent with the plaintiff's pleadings, defendants have undermined their own plea of exclusivity, and cannot now resile from the natural legal consequences flowing from such relationship.

23. The defendants 3 to 6 have Pleaded self-acquisition, Failed to produce proof of independent income, Withheld best available evidence, Relied on incomplete and selective documents. Accordingly, under Section 114(g) of the Indian Evidence Act, this Court draws a strong adverse inference that: Had the defendants produced full and complete records, the same would have established the joint family character of the suit schedule properties.

24. The documentary evidence, when read cumulatively with adverse inferences drawn, completely demolishes the defence plea of self-acquisition and affirmatively establishes joint family ownership and joint possession. Accordingly, I answer **Issue Nos.1, 5 and 6 are in the Affirmative** and **Issue Nos.2 and 3** are in the **Negative**.

25. Issue No.4: The plaintiff has valued the suit under section 35(2) of Karnataka Court Fee and suit valua-

tion act, pleading joint possession, mere oral suggestion regarding market value do not oust jurisdiction. Hence, this Court holds that it has got pecuniary jurisdiction. Accordingly, **Issue No.4 is answered in the Affirmative.**

26. **Issue No.7:** The plaintiff has successfully proved the joint family status and joint nature of the properties along with defendant Nos.1 and 2 and as such plaintiff is clearly entitled for $\frac{1}{4}$ th share in the schedule properties. Accordingly, I proceed to pass the following;

ORDER

The suit of the plaintiffs is hereby decreed in the following manner.

It is further ordered and decreed that, the defendant No.1, 2 are entitled $\frac{1}{4}$ th share each in the suit schedule property.

It is further ordered and decreed that, the defendant No.3 to 6 are jointly entitled for $\frac{1}{4}$ th share in the suit schedule property.

In view of the directions issued by Hon'ble Apex Court in the case of Kattukandi Edathil Krishnan and another V. Kattukandi Edathil Valsan and Others, reported in 2022. SCC online

SC 737, parties are at liberty to proceed in this case.

Put up this case after appeal period for drawing up of final decree.

Draw preliminary decree accordingly.

No order as to cost.

(Dictated to the stenographer and corrected and then pronounced by me in the open court on this **25th Day of September, 2025.**)

Sd/-

(Kum. Shama Srivatsa)

Date: 25.09.2025
Place: Channagiri.

Prl. Civil Judge & J.M.F.C.,
Channagiri.

-.ANNEXURE:-

1. List of witnesses examined on behalf of plaintiff/s:-

PW-1 : Thimmappa

2. List of documents marked on behalf of plaintiff/s:-

Ex.P-1 : RTC of Sy.No. 47/2 for the year 2022-23

Ex.P-2 : RTC of Sy.No. 118/* for the year 2022-23

Ex.P-3 : Computerised MR No. H48/21-22 of
Hireganguru Village,

Ex.P-4 : C/c of K.No. 193 Asti No. 15 of Hireganguru
Village for the year 2022-23

Ex.P-5 : Original Genealogy Tree

3. List of witnesses examined on behalf of defendant/s:-

DW-1 : Yogesha

4. List of documents marked on behalf of defendant/s:-

Ex.D1 : Grant Certificate
Ex.D2 : C/c of Sale deed dated: 09.10.1958
Ex.D3 : Hand written RTC of Sy.No. 118
Ex.D4 : Hand written RTC of Sy.No. 118 for the
year 1985-86
Ex.D5 : Hand written RTC of Sy.No. 118/ for the
year 1991-92
Ex.D6 : C/c of Order
Ex.D7 : C/c of Mutation Register
Ex.D8 : Hand written RTC of Sy.No. 47/2
Ex.D9 : Genealogical Tree

Sd/-

(Kum. Shama Srivatsa)

Prl. Civil Judge & J.M.F.C.,

Channagiri.

Date: 25.09.2025

Place: Channagiri.