

KAHS300000842013



Presented on : 04-03-2013

Registered on : 04-03-2013

Decided on : 30-06-2026

Duration : 13 year, 03 months, 26 days

IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
ARAKALAGUD

PRESENT

Present: Sri. Lokesha M.G., B.A.L.,LL.B.,
Senior Civil Judge & JMFC,
Arakalagud.

F.D.P.NO.4/2013

DATED THIS THE 30TH DAY OF JUNE - 2026

Petitioner:

Appaiahswamy S/o Late Thimmappaiah,
J.Hosahalli Village, Ramanathapura Hobli,
Arakalagud Taluk,
Hassan District.

(Rep. By Sri. H.P.S., Advocate)

-Vs-

Respondents:

- 1) Krishnamurthy S/o Late Thimmappaiah,
Aged about 48 Years,

- 2) Jayamma W/o Late Thimammappaih,
Aged about 68 years,

Both are R/o: J.Hosahalli Village,
Ramanathapura Hobli,
Arakalagud Taluk,
Hassan District.

- 3) Thimmamma W/o Venkataramaiah,
Aged about 69 years,
Anjaneyahosahalli Village,
Ramanathapura Hobli,
Arakalagud Taluk.

- 4) Kaveramma W/o Rangaswamy,
D/o Venkataramaiah,
Aged about 56 years,
Ichannahalli Village,
Kanagalu Post, Periyapatna Taluk,

- 5) Ravi S/o Late Venkataramaiah,
Aged about 37 years,

- 6) Srinivasa S/o Late Venkataramaiah,
Aged about 34 years,

Petitioner No.5 and 6 are R/o:
Anjaneyahosahalli, Ramanathapura Hobli,
Arakalagud Taluk.

- 7) Rukmini W/o Manjunatha,
D/o Late Venkataramaiah,
Aged about 47 years,
Nettekere Village and Post,
Belur Taluk, Hassan District.

- 8) Padmamma W/o Late Ramachandraiah,
Aged about 50 years,
- 9) Srinivasa S/o Late Ramachandraiah,
Aged about 35 years,
- 10) Narasimha S/o Late Ramachandraiah,
Aged about 33 years,
- 11) Muruli S/o Late Ramachandraiah,
Aged about 32 years,
- 12) Krishnamurthy S/o Late Ramachandraiah,
Aged about 30 years,
Kanagalu Village, Haranahalli Hobli,
Periyapatna Taluk,
Mysore District.
- 13) Ramaswamy S/o Late Krishnappa @
Kasturaiah,

Dead by LRs:

- 13(a) Kamalamma W/o Late Ramaswamy,
Aged about 65 years,
- 13(b) Jayappa S/o Late Ramaswamy,
Aged about 45 years,
- 13(c) Ramesha S/o Late Ramaswamy,
Aged about 43 years,
- 13(d) Murthy S/o Late Ramaswamy,
Aged about 40 years,

- 13(e) Suresha S/o Late Ramaswamy,
Aged about 38 years,

Petitioner No.13(a) to 13(e) are presently
R/a: Anjaneyahosahalli Village,
Ramanathapura Hobli,
Arakalagud Taluk.

- 14) Tulasamma W/o Venkatappa,
D/o Late Krishnappa @ Kasturaiah,
Aged about 75 years,
R/o: Kabburu Village,
Hallimysore Hobli,
Holenarasipura Taluk.
- 15) Sannakkaiah W/o Venkatachalaiah,
D/o Late Krishnappa @ Kasturaiah,
Aged about 65 years,
Kattehosahalli, Hallimysore Hobli,
Holenarasipura Taluk.
- 16) Kamalamma W/o Somanna,
S/o Late Krishnappa @ Kasturaiah,
Aged about 63 years,
Chilakunda Vilalge and Post,
Periyapatna Taluk,
Mysore district.
- 17) Jayamma W/o Gopalaiah,
D/o Late Krishnappa @ Kasturaiah,
Dharmapura Village and Post,
Hunasur Taluk,
Mysore District.

- 18) Puttavenkataiah S/o Late Krishnappa @ Kasturaiah,
Aged about 70 years,
Anjaneyahosahalli, Ramanathapura Hobli,
Arakalagud Taluk.
- 19) Sarojamma W/o Ramaswamy,
D/o Late Krishnappa @ Kasturaiah,
Aged about 52 years,
Nuggehalli and Post,
Periyapatna Taluk,
Mysore District.
- 20) Bhagyamma D/o Ramachandraiah,
W/o Rangaswamy,
Aged about 55 years,
Dharmapura Village,
Bilikere Hobli,
Hunsur Taluk.

R1 and R2 Rep. By Sri. M.Y.P. Advocate,
R3, R5, R6, R14 Rep. By Sri. M.T.S., Adv.,
R8, R9, R10(a) and R11 by Sri. R.K.M., Adv.,
R12 Rep. By Sri. A.M.Y., Adv.,
R18 Rep. By Sri. S.A.A., Adv.,
R4, R7, R15 to R17, R19, R20, R13(a) (b) (d)– Exparte

ORDERS

The petitioner has filed this petition U/Sec. 54 of
CPC praying to pass final decree on the basis of

preliminary decree passed in O.S.15/2004, in which 11/60th share has been allotted to petitioner.

2. It is stated that the petitioner has filed suit for partition and separate possession against the respondents in O.S. No.15/2004 seeking for partition of the suit schedule properties and to allot his share over the same. The suit was decreed on 09.01.2006 by allotting the share to the parties in the suit properties.

3. After service of summons, the respondents No.1, 2, 3, 5, 6, 8, 9, 10(a), 11, 12, 14, 18 have appeared, respondent No.4, 7, 15 to 17, 19, 20, 13(a), 13(b), 13(d) have not appeared and hence they are placed ex-parte and respondent No.10(a) has filed objection stating that, respondent No.10 died. His legal heirs are entitled to share in the suit properties. Defendant No.10 had already filed objections, during his life time and it is to be treated as part and parcel of the objections. Petitioner has filed O.S.15/2004. Ramachandraiah was defendant No.8 in the said suit. He is none other than

father of deceased respondent No.10. Accordingly, the legal heirs of respondent No.10 are entitled to adequate share in the suit schedule properties as per Hindu Law and division of properties. Respondent No.10(a) is the legally wedded wife of said Narasimha. During his life time, he paid requisite court fee.

4. Respondent NO.18 has filed objections stating that, petition is not maintainable. The petition averments are partly true and some facts are far away from truth. It is false to say that, suit schedule properties are ancestral and joint family properties. Petitioner is not joint family member. Item No.1 to 7 of schedule properties and Sy.No.41 measuring 09 acre 32 guntas and houses in Kanagalu Village and one barren house were earlier joint family properties of defendants No.3 to 20. Their original propositus namely Krishnappa was Archaka of Anjaneya Temple in Arakalagud Taluk and he was also Archaka in Kanagalu Village of Periyapatna Taluk and hence Item No.1, 2, 5, 7 and Sy.No.41 are belonging to Anjaneya Swamy Temple. Remaining Item No.3, 4 and

6 are ancestral properties of Krishnappa. Said Krishnappa has 5 female children and 4 male children. The father of petitioner was never son of Krishnappa. Thimmappaiah was the son of Krishnaiah. Accordingly, petitioner has colluded with respondents No.8 to 12 and filed this petition. Said Krishnappa, who was the Archaka of Anjaneya Swamy Temple engaged his second son Ramaswamaiah to his place. Said Ramaswamaiah performed pooja as Archaka of the said Temple and hence Sy.No.41 measuring 11 acres 02 guntas was granted to him on behalf of his father. Said property is joint family property. The respondent No.18 is having right over the said property. 01 acre 10 guntas of said property has been acquired and remaining 09 acres 32 guntas is joint family property of respondents No.3 to 20. They are having share in the said property. In a suit filed by Ramachandraiah in O.S.150/2004 for partition and separate possession, respondent No.18 has filed objections and petitioner and respondents No.1 and 2 are not parties in the said suit. Respondents

No.3 to 20 are only legal heirs of Krishnappa @ Kasturaiah, hence the court has to allot 1/4th share in favour of respondents No.3 to 20 in suit schedule properties and in Sy.No.41 measuring 09 acres 32 guntas and dismiss the petition against petitioner and respondents No.1 and 2.

5. Respondents No.8 to 12 have filed objections stating that, respondents No.9 to 12 and 20 are the legal heirs of Ramachandraiah, who was defendant No.8 in O.S.15/2004. The court has ordered 11/60th share, hence they are also entitled to the share, division of property. Hence, they are ready to pay requisite court fee and share has to be allotted as per law.

6. Memo is also filed reporting death of respondent No.3, 15, 17 and 20. Memo is also filed stating that, respondent No.12 died and respondents No.8 to 11 are his legal heirs and they are on record. Memo is also filed stating that, respondent No.3 died and respondents

No.4 to 7 are his legal heirs and there are no other legal heirs.

7. I.A. No.5 was filed by respondent No.18 under Order 20 Rule 18 of C.P.C. seeking share in Sy.No.41, measuring 09 acres 32 guntas in favour of respondents No.3 to 20 and it is also prayed to dismiss the petition against the petitioner. After thorough enquiry, the said application was dismissed by this court. During evidence, respondent No.18 was examined and documents are marked. Per contra, respondent No.9 was also examined. Documents were marked on his behalf. By considering the evidence of both and documents, I.A.No.5 was dismissed on merits. Hence, it is not necessary to give any findings with respect to Sy.No.41 measuring 09 acres 32 guntas and other prayers sought by respondent No.18 in I.A.No.5. Thereafter, I.A.No.17 and 18 are filed by respondents No.8 to 11 and respondents No.1 and 2 under Order 20 Rule 18 of C.P.C. to allot share as per preliminary decree. The said applications are allowed.

8. Later, Commissioner has been appointed and he has filed report as per the preliminary decree. Memo of instructions have been filed by respondents No.1, 2, 8 to 12 advocates. After issuing notice and spot inspection, the report has been submitted. No one has filed objections to Commissioner's report.

9. After division of suit properties, the commissioner has filed the report as per the order of the court. Both advocates for petitioners and respondents have not filed objections to the commissioner report.

10. In the report, it is mentioned about giving of notice to the parties, preparing of Mahazar and manner of preparing the report.

11. Heard on the petition as well as on the report and perused the materials on the record as well as report of commissioner.

12. In the Commissioner's report, the share has been allotted in the petition schedule properties as per the

preliminary decree in O.S.15/2004 in favour of petitioner, respondents No.1 and 2 and respondents No.8 to 12.

13. On perusal of the report, it appears that the commissioner has divided the suit properties and has prepared plain table sheet in respect of the suit properties by dividing shares of the petitioner as well as the respondents. The report shows that Petitioner is allotted block No.1 in Sy.No.70, 72, 61/11, 30, 73 and 96. Accordingly, block No.2 is allotted to respondents No.8 to 12 in Sy.No.70, 72, 61/11, 30, 73 and 96. Block No.3 is allotted to respondent No.1 in Sy.No.70, 72, 30, 73 and 96. Block No.4 is allotted to respondent No.2 in Sy.No.70, 72, 30, 73 and 96. In Sy.No.61/11, block No.3 is allotted to respondent No.2. In Sy.No.2, block No.1 and 2 are allotted to petitioner, block No.3 and 4 are allotted to respondents No.8 to 12. Block No.5 and 6 are allotted to respondents No.1 and block No.7 and 8 are allotted to respondent No.2. The report is in accordance with preliminary decree in

O.S.No.15/2004. The respondents have filed objections to the petition. But they have not proved the objections averments. Hence, objection is not sustainable. On the other hand, there is no objection to Commissioner's report. Hence, demarcation of share allotted to petitioner, respondents No.1, 2 and 8 to 12 can be accepted. Since respondent No.12 died and respondents No.8 to 11 are his legal heirs and the said share has to go to respondents No.8 to 11. The survey was conducted as per the P.T.Sheet. Hence, there is no hurdle to accept the Commissioner's report as submitted.

14. In the report it is mentioned about allotment of shares with boundaries. Respondents and their advocates have not filed any objection to the commissioner report.

15. In the report, it is stated that suit property is surveyed. It is also stated that Mahazar was drawn after giving notice to the parties.

16. There is no objection to the commissioner report. Hence, I am of the opinion that it is deemed to have been accepted by them and it is considered in this petition. Shares in the commissioner report of the respective parties have been determined in the suit property. As per the judgment and decree passed in O.S.No.15/2004, the suit property is divided as per the report. On perusal of the report, I am of the opinion that shares are determined and allotted equally to which the parties are entitled and it is proper. Therefore, I accept the report submitted by the commissioner determining the shares of the respective parties. Accordingly, the parties are entitled to actual division as suggested by the commissioner. Therefore, I pass the following :

ORDER

The petition filed by the petitioner
U/Sec.54 of CPC is hereby allowed.

The report of the commissioner is accepted. The report of the commissioner is part and parcel of the record along with Sketches.

Draw final decree in terms of report of the commissioner.

*(Dictated to Stenographer Grade - III directly on the computer, typed by her, order corrected & pronounced by me in open court on this the **30th day of June – 2026**).*

**(LOKESHA M.G.)
SENIOR CIVIL JUDGE & JMFC,
ARAKALAGUD.**