

KAHS500002012019



Presented on : 28-02-2019
Registered on : 28-02-2019
Decided on : 03-07-2026
Duration : 7 years, 4 months, 5 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C.
AT BELUR.**

: PRESENT :
KUM. M.S.SHASHIKALA, B.A.L., LL.B.,
SENIOR CIVIL JUDGE & JMFC,
BELUR.

O.S. NO.10/2019

DATED THIS THE 03RD DAY OF JULY 2026

PLAINTIFFS:

1. Smt. Shanthamma D/o Ningaiah
W/o Chandraiah,
Aged about 54 years,
R/o Ambedkar Circle,
1st Cross, Belur Town & Taluk.
2. Smt. Nethravathi D/o Chandraiah
W/o Vishwanath,
Aged about 32 years,
R/o Ambedkar Circle,
1st Cross, Belur Town & Taluk.
3. Smt. Bhagya D/o Chandraiah
W/o Sridhara,
Aged about 28 years,
R/o Ambedkar Circle,
1st Cross, Belur Town & Taluk.

4. Smt. Kamalamma D/o Ningaiah
W/o Konaraiah,
Aged about 64 years,
R/o Intitholalu Village,
Bikkodu Hobli, Belur Taluk.
5. Sri Chandraiah S/o Konaraiah,
Aged about 43 years,
R/o Intitholalu Village,
Bikkodu Hobli, Belur Taluk.
6. Sri Ramesh S/o Konaraiah,
Aged about 40 years,
R/o Intitholalu Village,
Bikkodu Hobli, Belur Taluk.
7. Smti. Parvathi D/o Konaraiah,
Aged about 38 years,
R/o Intitholalu Village,
Bikkodu Hobli, Belur Taluk.
8. Sri Lokesh S/o Konaraiah,
Aged about 43 years,
R/o Intitholalu Village,
Bikkodu Hobli, Belur Taluk.

[By Sri B.A. Channappa, Adv.]

- V/s -

DEFENDANTS:

1. Smt. Puttamma
W/o Late Rangappa,
Aged about 65 years,
R/o Ambedkar Circle, 1st Cross,
Belur Town & Taluk.
2. Smt. Bhanumathi W/o Harish,
Aged about 38 years,
R/o Ambedkar Circle, 1st Cross,
Belur Town & Taluk.

3. Sri Tejkumar
Dead by LRS.
- 3(a). Smt. Geetha W/o Tejkumar,
Aged about 37 years,
R/o Ward No.17, Ambekar
Nagara, Belur Fort,
Belur – 573 115.
- 3(b). Sri Thanush W/o Tejkumar,
Aged about 4 years,
R/o Ward No.17, Ambekar
Nagara, Belur Fort,
Belur – 573 115.
4. The Chief Officer,
Belur Town Municipality,
Belur City and Taluk.
5. Tahasildar,
Belur Town and Taluk.
6. Assistant Commissioner,
Sakaleshapura Sub-Division,
Sakaleshapura.
7. Deputy Commissioner,
Hassan District, Hassan.
8. Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bengaluru.

[D1, 2, 3(a) & (b) – Ex-parte]
[D4 by Sri S.N. Lingesh, Adv.]
[D5 to 8 – A.G.P.]

1	Date of Institution of the suit	28.02.2019
2	Nature of the Suit	Partition and Separate Possession

4	Date of which judgment pronounced	03.07.2026
5	Total Duration	Year/s Month/s Day/s 07 04 05

J U D G M E N T

Plaintiffs have filed suit for partition and separate possession of the plaintiff's 2/3rd share in the plaint schedule property by meets and bounds against the defendants No.1 to 3. Further to declare alleged sale deed dated 27.01.2007 in respect of plaint schedule property is null and void and not binding upon plaintiffs. Further to grant permanent injunction against the defendants and their agents from interference in the peaceful possession and enjoyment of the plaint schedule property.

2. The brief facts of the plaintiff's case is as follows.

The plaintiff submits that they are the Class-I legal heirs of deceased Ningaiah S/o Eraiah. The suit schedule, Survey No.58, Re-survey No.108 of Bantenanally Village measuring 3 acres 20 guntas including 3 gunta kharab granted to Ningaiah. The grantee Ningaiah died intestate. The plaintiffs inherited the suit schedule property along with defendant No.1,

late husband Rangappa. The plaintiff submits that after the death of grantee they have 2/3rd share in suit schedule property. The plaintiffs never entered into any kind of transaction with defendant No.4. The right of plaintiffs over suit schedule property is intact and they are in possession and enjoyment of the suit schedule property.

3. The plaintiff submits that deceased Ningaiah S/o Eraiah, had two wives, first wife Puttamma and second wife Neelamma. Through Puttamma, Ningaiah had two children i.e. the husband of defendant No.1 Rangappa and plaintiff No.4, Kamalamma. Through second wife Neelamma had a daughter i.e. first plaintiff Shantamma. It is submitted that plaintiffs and defendant No.1 to 3 have undivided interest in the plaint schedule property. The defendant No.1 has no absolute right or title over the plaint schedule property. The defendant No.1 to 3 as a legal heir of Rangappa have got 1/3rd share and not beyond that.

4. It is submitted that plaintiff No.5 approached the defendant No.4 to know the alleged transaction between defendant No.1. The defendant No.4 issued an endorsement dated 25.07.2018 stating that plaint schedule property was purchased through registered sale

deed dated 27.01.2007 from one Neelamma and Puttamma for Rs.4,11,000/- out of it Rs.3,62,000/- paid to the defendant No.1 etc. The defendant No.4 also stated that suit property was purchased to form the layout. It is submitted that defendant No.4 created fake documents to prejudice the right and interest of the plaintiff. It is submitted that defendant No.1 or Neelamma have no absolute right to sell the suit schedule property. It is submitted that plaintiffs have right and 2/3rd share in the suit property as they are the class one legal heirs of Ningaiah. Hence the plaintiff constrained to file the suit for partition, declaration and permanent injunction.

5. Suit summons served to defendants. In spite of service of summons, defendant No.1 to 3 remained absent and they are placed ex-parte. Defendant No.4 appeared through his counsel and filed written statement. Defendant No.5 to 8 appeared through learned Assistant Government Leader but not filed written statement.

6. The brief facts of the defendant No.4 case is as follows;-.

Defendant No.4 submits that the suit of the plaintiff is not maintainable either in law or on facts. The defendants denied entire plaint averments. It is

submitted by the defendant that suit schedule property was granted to Ningaiah S/o Eraiah from government. After the death of said Ningaiah, Katha of suit property jointly mutated in the name of second wife Neelamma and puttamma wife of Rangappa as the first wife puttamma and his son Rangappa were died and they are in joint possession of the suit property.

7. The defendant No.4 submits that under the scheme of Rajiv Gandhi Housing Corporation, Bengaluru. undertaken to distribute plots to the poor people. The Neelamma and Puttamma W/o Rangappa gave an application to this Municipality agreeing to sell the suit property. Accordingly this defendant on the basis of the application, examined the documents and agreed to purchase the property Rs.1,20,000/- per acre and accordingly, obtained permission order from the District Commissioner to purchase the suit property on 11.01.2007 for a sale consideration amount of Rs.3,62,000/- for 3 acres. As per the order No.I/2006-07 dated 23.01.2007 of this defendant No.4, agreed to pay additional amount of Rs.49,000/-. Accordingly, the suit property was purchased from the above persons for a total sum of Rs.4,11,000/-. On 27.01.2007, the said Puttamma W/o late Rangappa and Neelamma executed sale deed. From the date of purchase of suit property

defendant No.4 took possession of the suit property and with the intention of allocating plots to landless people in the said land they made roads, electricity system, drainage system etc. were developed at the defendant's own expense. This defendant also obtained permission to construct and develop a total number of 130 plots in the said suit property and to distribute to the poor and it is in the process of distribution plots to the landless persons.

8. The defendant No.4 further submits that filing of the suit challenging the sale deed dated 27.01.2007 is not valid because as per the law, the question should have been raised within 3 years of the date of purchase of suit property. Now the said matter is time barred. Further, defendant No.4 submits that as per the Hindu Succession Act, 2005 since Ningaiah passed away before 09.09.2005 the plaintiffs have no right to claim a share in the suit property. Hence prays to dismiss the suit.

9. On the basis of pleadings of both parties, my learned predecessor has framed following;

ISSUES

1. Whether the plaintiffs prove that themselves and defendant No.1 to 3 have inherent the suit property from

its grantee by name Ningaiah S/o Eraiah?

2. Whether the plaintiffs prove that the defendant No.1 and Neelamma have illegally alienated the suit property in favour of defendant No.4 through sale deed dated 27.01.2007?
3. Whether the defendant No.4 proves that the suit property has been alienated through sale deed dated 27.01.2007 in favour of government from valuable sale consideration and the said sale transaction taken place for public utility?
4. Whether the suit of the plaintiff is barred by law of limitation?
5. Whether plaintiffs are entitled to relief sought?
6. What order or decree?

10. The plaintiffs to substantiate their case examined plaintiff No.1 and 5, as P.W.1 and P.W.2. The plaintiffs have also examined witnesses by name Siddalingaiah and Chikkaiah as P.W.3 and P.W.4 and got marked Ex.P1 to Ex.P12 documents and closed their side of evidence. On the other hand, the defendant, to substantiate their defence, got examined its Chief Municipality Officer S.M. Sujay Kumar as D.W.1 and got marked Ex.D1 to Ex.D18 and closed its side of evidence.

11. Plaintiff remained absent and their arguments taken as heard Heard arguments by Sri S.N.L. advocate for defendant No.4 and A.G.P. for D5 to D8. Perused the material on records, oral and documentary evidence adduced by both parties.

12. **My answer to the above issues are as follows;**

Issue No.1	:	In the Negative
Issue No.2	:	In the Negative
Issue No.3	:	In the Affirmative
Issue No.4	:	In the Negative
Issue No.5	:	In the Negative
Issue No.6	:	As per my final order as per the following;

REASONS

13. **ISSUE NO.1 to 3:** These issues are interlinked with each other and require common discussion. Hence these issues are taken together for common discussion in order to avoid repetition of the facts.

14. The case of the plaintiffs are that plaintiffs and defendant No.1 to 3 are the heirs of deceased Ningaiah. The suit property was granted to Ningaiah. The plaintiffs never entered into any transaction or settlement with defendant No.4. The plaintiffs, being heirs of deceased Ningaiah, they got right and undivided

share in suit schedule property. When plaintiff No.5 approached defendant No.4 and when endorsement issued by the defendant No.4, the plaintiffs came to know about purchase of suit property by defendant No.4 under Sale deed dated 27.01.2007. The defendant No.1 to 3 have no absolute right to sale the suit property. The plaintiff also inherited right as Class-I legal heir of Ningaiah. Hence the plaintiff constrained to file suit for partition, declaration and permanent injunction.

15. The plaintiffs to substantiate their case, plaintiff No.1 and plaintiff No.5 got examined themselves as P.W.1. The plaintiffs also got marked documents as per Ex.P1 to 12. Ex.P1 is the endorsement issued by defendant No.4 about purchasing of property. Ex.P2 is the MR. Ex.P3 is the letter given by plaintiff No.5 to the defendant No.4 not to allow the plots till disposal of the case which is pending before Assistant Commissioner. Ex.P4 is the requisition given by the plaintiff No.5 to Assistant Commissioner to mutate a khata in their name. Ex.P5 is the sale deed dated 27.01.2007. Ex.P6 to Ex.P10 are the RTC. Ex.P11 is the death certificate of Ningaiah. Ex.P12 is the mutation.

16. The defendant No.4 contested the suit by filing written statement. The defendant No.4 submits suit

property granted to Ningaiah. But defendant No.4 denies plaintiffs have share in the suit property. It is the defence of the defendant No.4 is that under Rajiv Gandhi, Scheme project, they wanted to allot plots to the poor persons. At that time, the defendant No.1 and Neelamma gave applications to sell the suit property. This defendant No.4 by verifying the documents and with the permission of the District Commissioner purchased the property through registered sale deed. From the date of purchase only, took possession of the suit property and formed road and also made electric system and drainage system and thereby developed in order to allot the plot. The plaintiff does not have share as their father Ningaiah died prior to 2005 of the Hindu Succession Act. The suit of the plaintiff is also barred by limitation. Hence the suit of the plaintiffs is liable to be dismissed.

17. The defendant No.4 to substantiate his case got examined Chief Municipality Officer, H.S. Sujaykumar as D.W.1 and he has reiterated the contents of written statement averments in his examination in chief. The defendant No.4 to substantiate its oral evidence also got marked documentary evidence as per Ex.D1 to 18. Ex.D1 is the sale deed dated 27.01.2007. Ex.D2 to 13 are the photos about making the plots, developing the suit property by forming road and

electricity system and drainage. Ex.D14 to 16 are the Municipality resolutions. Ex.D17 is the RTC. Ex.D18 is the proposed layout plan.

18. On perusal of the pleadings of both parties, it is to be noted the plaintiffs have taken contention that they are the heirs of Ningaiah, son of Eraiah. The plaintiff submits that deceased Ningaiah S/o Eraiah, had two wives. first wife Puttamma and second wife Neelamma. Through Puttamma, Ningaiah had two child i.e. the husband of defendant No.1 Rangappa and plaintiff No.4, Kamalamma. Through second wife Neelamma had a daughter i.e. first plaintiff Shantamma.

19. It is to be noted the defendants denied plaintiff are the heirs of Ningaiah. Under such circumstances, it is for the plaintiff to prove that they are the heirs of Ningaiah. It is to be noted that the plaintiffs not produced any document to show that they are the heirs of Ningaiah. It is to be noted in this regard the defendants also specifically questioned the plaintiff during cross, regarding whether they have produced any documents to show they are the heirs of Ningaiah and to the said question the P.W.1 answered not produced any document. It is to be noted when the relationship is disputed the burden is upon the plaintiff to prove that

they are the heirs of Ningaiah. But the plaintiff to prove that they are the heirs of Ningaiah not produced any document. When plaintiff fails to prove the relationship and they are the heirs of Ningaiah, they cannot seek share in the suit's property at all.

20. On perusal of documentary evidence, it is to be noted that the property purchased by defendant No.4 from Neelamma and from defendant No.1 as per Ex.D1 sale deed or Ex.P5 sale deed. But it is the specific contention of the plaintiffs are that they never executed any agreement and the said sale deed is created one.

21. On perusal of the documentary evidence, it is to be noted that defendant No.4 has specifically taken contention that defendant No.1 and Neelamma approached defendant No.4 to sell the property. The defendant after verifying the documents and obtained permission from the DC and purchased the property for sale consideration amount of Rs.4,11,000/- as per Ex.D1. Further the defendant has also got produced Ex.D2 to Ex.D13 photos to show that they have improved the suit schedule property in order to allot plots. The defendant No.4 made road and also electricity connections and drainage in order to allot the plots to the poor persons. After making the plot, the plaintiff with an malafide intention filed this false suit.

22. It is to be noted as per the Ex.D1 sale deed, the khata was also mutated in the name of Government which is evident from Ex.D17 RTC. Further Ex.D18 is the proposed layout plan which reveals that the defendants No.4 has converted the suit property into Plots and Ex.D2 to Ex.D13 photos also reveals that road was made, electricity connection was given to the layout and also drainage is also done. These documentary evidence reveals that defendant No.4 after purchasing the property has improved the property by spending huge amount and also it was ready to allot the plot to the poor persons.

23. The plaintiffs have taken contention that after the death of Ningaiah they inherited the suit property. It is to be noted Ex.P11 Death Certificate of Ningaiah reveals that he died in the year 1998. It is to be noted after the death of Ningaiah in whose name property was transferred in this regard the plaintiffs not at all produced the RTC. The RTC produced by the plaintiff as per Ex.P6 to Ex.P10 reveals that granting of property to the Ningaiah.

24. It has to be noted that the plaintiffs in their plaint pleaded that the plaintiff No.5 approached the

defendant No.4 to know the alleged transaction between defendant No.1. Then defendant No.4 issued endorsement dated 25.07.2018. about purchasing of property. But it is to be noted what made plaintiff No.5 to approach, the defendant No.4 is not pleaded in plaint properly. The plaintiffs never pleaded when they came to know about the sale of property to defendant No.4. It is pleaded simply plaintiff No.5 approached defendant No.4 to know the transaction between defendant No.1. This shows that the plaintiff has knowledge about the purchase of property by defendant No.4 and the defendant No.4 formed layout and also improved the layout by forming road. All these facts were well within the knowledge of the plaintiffs. After Converting the suit property into layout and after informing the plots, the plaintiffs with an malafide intention of approaching the court cannot be ruled out.

25. The plaintiff No.5 examined as P.W.2. He in his chief affidavit stated that sale deed is created. But the plaintiffs to prove that how Ex.D5 or Ex.P1 is created not at all explained by the plaintiff. The contention of the plaintiffs that the defendants got cheated Neelamma and defendant No.1 and obtained sale deed and same is created without any basis and the contention of the plaintiff does not holds any water at all. The plaintiff not

placed any believable evidence to prove that sale deed is created one.

26. Further, the plaintiffs have taken contention that they are in possession of the suit property. To prove the same also the plaintiffs got examined Siddalingaiah and Chikkaiah as P.W.3 and P.W.4. These witnesses deposed that suit property was in the possession of plaintiff No.5 to 8. It has to be noted if as contented by the plaintiff if they are all in possession of the suit property. Obviously it must be an agricultural land and they have cultivated. But the documentary evidence produced by the defendants shows that suit property converted into plots and road is also formed and drainage is also done, which shows that suit property was not in the possession of the plaintiff. The plaintiff falsely claiming that they are in possession of the suit property without any documentary proof.

27. On perusal of the oral and documentary evidence of both plaintiffs and defendant, it is to be noted, first of all, the plaintiff fails to prove that they are the heirs of Ningaiah and as legal heir they are entitled for share in suitl property. The plaintiff also fails to prove that they are in possession of the suit property. On the

other hand defendants by producing the documentary evidence proved that they have purchased the suit property and they have improved by forming layout and also formed road, drainage and electricity connection. Hence, I come to the conclusion that plaintiff fails to prove their case. Hence, I answer issue No.1 and issue No.2 in **Negative** and issue No.3 in **Affirmative**.

28. **ISSUE NO 4;-** The defendant No.4 has taken specific contention that the suit is barred by law of limitation. The sale deed is executed on 27.01.2007 and the plaintiff has to question the said sale deed within 3 years. Hence suit is barred by law of limitation. It is to be noted that on perusal of the cross examination of plaintiff, nowhere it is suggested they have knowledge about the selling of suit property. The plaintiffs in their plaint pleaded that when they approached defendant No.4 and defendant No.4 issued endorsement from the said date, cause of action arose to file suit. Hence, I am of the opinion that suit is not barred by law of limitation. Hence, I answer issue No.4 in **Negative**

29. **ISSUE NO 5;-** The plaintiff fails to prove that they are the heirs of Ningaiah and also fails to prove they are in possession of the suit property and they are entitled for share in suit property. Hence the plaintiff is

not entitled for the relief sought. Hence Issue No.5 answered in **Negative**.

30. ISSUE NO 6: For the above reasons given for the issues, I proceed to pass the following.

ORDER

The suit of the plaintiff for partition, declaration, and permanent injunction is hereby dismissed with costs

Draw decree accordingly.

[Dictated in AI Adalat App, then corrected by me and pronounced in the open court on 03rd July 2026)

(M.S.SHASHIKALA)
SENIOR CIVIL JUDGE & JMFC,
BELUR

:: ANNEXURE ::

1. WITNESSES EXAMINED FOR THE PLAINTIFF:-

PW.1 : Smt. Shanthamma
PW.2 : Sri Chandraiah
P.W.3 : Sri Siddalingaiah
P.W.4 : Sri Chikkaiah

2. DOCUMENTS MARKED FOR THE PLAINTIFF:-

Ex.P1 : Endorsement

Ex.P2 : Index of Land
Ex.P3 : Complaint
Ex.P4 : Requisition
Ex.P5 : Sale deed
Ex.P6 & 10: R.T.Cs.
Ex.P11 : Death Certificate of Ningaiah
Ex.P12 : Mutation

3. WITNESSES EXAMINED FOR THE DEFENDANTS:-

D.W.1 : M.S. Sujaykumar

4. DOCUMENTS MARKED FOR THE DEFENDANTS:-

Ex.D1 : Sale deed
Ex.D2 to 13: Photographs
Ex.D14 to 16: Municipality meeting resolutions
Ex.D17 : R.T.C.
Ex.D18 : Layout plan

(M.S.SHASHIKALA)
SENIOR CIVIL JUDGE & JMFC,
BELUR.