

KAHS700013642021



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,
AT HOLENARASIPURA**

PRESENT:

**Sri.Amar.V.L, B.Com.LLB.,
Senior Civil Judge & JMFC.,
Holenarasipura.**

Dated this the 07th day of January 2022

O.S./46/2021

Plaintiff:-

Avvayamma
D/o. Thimmegowda,
Aged about 70 years,
R/at Kallikoppalu village,
Kasaba hobli,
Holenarasipura taluk.

(Rep. by Sri.M.K.D., advocate)

-V/s-

Defendant:-

Puttegowda,
S/o. Late Thimmegowda,
Aged about 74 years,
R/at Sankanahalli village,
Kasaba hobli,
Holenarasipura taluk.
Hassan district.

(Ex-parte)

Nature of suit : Partition and separate possession
Date of Institution : 21.09.2021
Date of Judgment : 07.01.2022
Total Duration : Years Months Days
00 03 16

(Amar.V.L)
Senior Civil Judge & JMFC,
Holenarasipura.

J U D G M E N T

This suit is for the relief of partition and separate possession.

2. The brief facts of the plaintiffs' case are as under:

The defendant No.1 is the brother of the plaintiff. The suit schedule properties are ancestral and joint Hindu family of plaintiff and defendant. The plaintiff has demanded her legitimate share in the suit schedule properties, but the defendant has failed to allot the legitimate share of the plaintiff. The katha of the properties are standing in the name of defendant. Hence, she constrained to file the present suit claiming her ½ share in all the suit schedule properties by metes and bounds.

3. After service of summons the defendant remind absent and not contested the claim of the plaintiff.

4. Heard arguments and perused the materials available on record. The following points arise for my consideration:-

P O I N T S

1. Whether the plaintiff proves that the suit schedule properties are all ancestral and joint Hindu family of plaintiff and defendant?

2

2. Whether the plaintiff is entitled for $\frac{1}{2}$ share in all the suit schedule properties?

3. What order or decree?

5. In order to prove the case the plaintiff examined as P.W.1 and got marked 8 documents as Ex.P1 to 8. On the other hand, the defendant remind absent.

6. Upon hearing the arguments and perusal of oral and documentary evidence available before the court my findings on the above points as under:-

Point No.1 : In the **Affirmative**

Point No.2 : In the **Affirmative**

Point No.3 : As per final order
for the following:-

REASONS

7. **POINT No.1:-** It is the case of the plaintiff that, she is daughter of Late Thimmegowda. The defendant No.1 is her brother and the suit schedule properties are all ancestral and joint Hindu family properties. The plaintiff has demanded her legitimate share in the suit schedule properties but the defendant has failed to allot the legitimate share of the plaintiff. The katha of the suit schedule properties are standing in the name of the defendant. On these grounds the plaintiff prays to decree the suit.

8. In order to prove the case of the plaintiff examined as PW.1 and got marked 8 documents as Ex.P1 to 8. In order to prove the relationship between the parties the plaintiff has produced G.tree sworn by the plaintiff by way of affidavit. On perusal of the said document it is very clear that the defendant is the brother of the plaintiff. Ex.P2 to 8 i.e., RTC extracts pertaining to suit schedule properties. On perusal of the said documents it clearly discloses that the suit schedule properties are standing in the name of the defendant. The evidence adduced by the plaintiff remind unchallenged and uncontraverted. Hence, there is no grounds to disbelieve the case of the plaintiff. The oral and documentary evidence adduced by the plaintiff corroborates

with each other. Hence, point No.1 is answered in the Affirmative.

9. **Point No.2:** The plaintiff has claimed of her $\frac{1}{2}$ share in all the suit properties by metes and bounds. As per Ex.P1 the plaintiff and the defendant are only the son and daughter of Late Thimmegowda as such the plaintiff is entitled for $\frac{1}{2}$ share in all the suit schedule properties by metes and bounds. Hence, point No.2 answered in the Affirmative.

10. **POINT No.3:-** In view of the above discussion, I proceed to pass the following;

ORDER

The suit is decreed.

The plaintiff is entitled for $\frac{1}{2}$ share in all the suit schedule properties by metes and bounds.

By considering the facts and circumstances of the case no order as to cost.

Draw preliminary decree accordingly.

(Dictated to Stenographer, transcribed and typed by his, corrected and pronounced by me in open Court on the 7th day of January 2022)

(Amar.V.L)
Senior Civil Judge & JMFC.,
Holenarasipura.

ANNEXURE

1.Witnesses Examined on behalf of Plaintiff:

P.W.1 : Avvayamma

2.Documents marked on behalf of Plaintiff:

Ex.P.1 : G.tree

Ex.P.2 to 8 : RTC extracts

3.Witnesses Examined on behalf of defendant:

NIL

4.Documents marked on behalf of defendant:

NIL

**Senior Civil Judge & JMFC.,
Holenarasipura.**