



Presented on : 21-10-2021
Registered on : 21-10-2021
Decided on : 16-06-2026
Duration : 04 years, 07 months, 25 days.

**IN THE COURT OF ADDITIONAL SENIOR CIVIL
JUDGE AND JMFC., RANEBENNUR**

PRESENT:

**PRESENT: Sri. Balmukund R Mutalikdesai,
B.A., LL.B (Spl.)
1st Addl. Senior Civil Judge
& JMFC., Ranebennur.**

ORIGINAL SUIT No.132 OF 2021

DATED THIS 16th DAY OF JUNE 2026

BETWEEN:

1. Annappa S/o Basavaraj Huggi,
Age: 40 years, Occ: Agriculture,
R/o: Ranebennur, Tq: Ranebennur,
Dist: Haveri.
2. Manjunath S/o Basavaraj Huggi,
Age: 36 years, Occ: Employee,
R/o: Ranebennur.
Now at: Mastikatte, Tq: Hosanagara,
Dist: Shivamogga.
3. Karabasamma W/o Basavaraja Huggi,
Age: 54 years, Occ: Agriculture,
R/o: Ranebennur, Tq: Ranebennur,
Dist: Haveri.

.... Plaintiffs

(By Sri. C.R. Patil, Adv.)

**AND:**

1. Gouramma W/o Shivappa Huggi,
Age: 80 years, Occ: Household work,
R/o: Halageri road, Tq: Ranebennur,
Dist: Haveri.
(Dead by his LRs. Already involved in suit)
2. Basavaraj S/o Shivappa Huggi,
Age: 66 years, Occ: Agriculture,
R/o: Ishwar Nagar, Tq: Ranebennur,
Dist: Haveri.
3. Jayappa S/o Shivappa Huggi,
Age: 56 years, Occ: Agriculture,
R/o: Huggiyavar Oni, Kurabageri,
Tq: Ranebennur.
4. Shankrappa S/o Shivappa Huggi,
Age: 54 years, Occ: Agriculture,
R/o: Halageri road, Tq: Ranebennur,
Dist: Haveri.
5. Shankramma @ Shambavi W/o
Shankrappagouda, Age: 28 years,
Occ: House hold work, R/o: Holeanwery,
Tq: Ranebennur, Dist: Haveri.
6. Maheshappa S/o Shivappa Huggi,
Age: 53 years, Occ: Agriculture,
R/o: Halageri road, Shiddeshwar Nagar,
Tq: Ranebennur, Dist: Haveri.
7. Mahadevakka W/o Basavaraj Huggi,
Age: 54 years, Occ: Agriculture,
R/o: Ishwar Nagar, Tq: Ranebennur,
Dist: Haveri.



8. Mallikarjuna S/o Basavaraj Huggi,
Age: 32 years, Occ: Agriculture,
R/o: Ishwar Nagar, Tq: Ranebennur,
Dist: Haveri.
9. Veena W/o Shivaprakash G,
Age: 30 years, Occ: Agriculture,
R/o: Ishawar Nagar, Tq: Ranebennur,
Dist: Haveri.
10. Kavita W/o Veeresh Balihallimath,
Age: 40 years, Occ: Household work,
R/o: Vidya Nagar, 10th cross,
Tq: Ranebennur, Dist: Haveri.
11. Akshaya S/o Veeresh Balehallimath,
Age: 20 years, Occ: Household work,
R/o: Vidya Nagar, 10th cross,
Tq: Ranebennur, Dist: Haveri.
12. Laleeta W/o Basavaraj Bangari,
Age: 57 years, Occ: House hold work &
Agriculture, R/o: Halemugalageri,
Tq: Shikaripura, Dist: Shivamogga.
13. Sharada W/o Gangadhar Katenahalli,
Age: 52 years, Occ: House hold work &
Agriculture, R/o: Haranageri,
Tq: Ranebennur, Dist: Haveri.

.... Defendant

(D., No.1,3,4 & 6 exparte)
(D., No.2,7,8 & 9 by Sri. P.R. Kuppeluru., Adv)
(D., No.5 by Sri. M.K. Ingalagondi., Adv)
(D., No.10 & 11 by Sri. M.P. Kuppelur., Adv)
(D., No.12 & 13 by Sri. C.N. Shivapuji., Adv)



Date of Institution of the suit	21-10-2021		
Nature of the suit	Partition & Separate Possession.		
Date of commencement of recording of evidence	08-01-2025		
Date of closing of evidence	08-01-2025		
Date on which the judgment is pronounced	16-06-2026		
Total duration	Year/s	Month/s	Day/s
	04	07	25

(Sri Balmukund R Mutalikdesai)
1st Addl. Senior Civil Judge & JMFC.,
Ranebennur.

: J U D G M E N T :

This is a suit filed by the plaintiff against the defendants for the relief of partition and separation.

2. The case of the plaintiff in nutshell is as under;

The original propositus by name Shivappa Huggi, died on 24-11-2000 leaving behind his wife Smt. Gouramma. Five sons by name 1. Basavaraj, 2. Channabasappa, 3. Jayappa, 4. Shankrappa and 5. Mahesh and he also got three daughters by name 1. Ratnavva, 2. Lalitavva and 3.



Sharavva. Out of these children, Ratnavva and Channabasappa died.

3. The plaintiffs No.1 and 2 are the sons and plaintiff No.3 is the wife of Basavarajappa, defendant No.7 is the second wife of Basavarajappa and defendants No.8 and 9 are the issues born out of wedlock of defendants No.2 and 7.

4. The defendants No.10 and 11 without knowledge of plaintiffs purchased suit property bearing R.S. No.76/A2+1B1/2 on 17-08-2021. The said sale deed is not binding on them.

5. The suit schedule properties are joint family properties of Shivappa. After the demise of Shivappa, the suit properties were inherited by defendants No.2 to 4 and 6 and father of defendant No.5 as per M.E. No.6080 and 12580 A.

6. After the death of Shivappa his daughters i.e., Ratanavva, Lalittavva and Sharavva filed suit for partition in O.S. No.2 of 2015 before the learned Prl., Civil Judge and JMFC., Ranebennur. But, the said suit was dismissed. Aggrieved by this, they preferred RA No.55 of 2018 before



the learned Prl., Senior Civil Judge and JMFC, Ranebennur and same was also dismissed and now they are not having share in the suit properties. Hence, they have not been made as parties in the suit. So as per this judgment only the sons of Shivappa are having share in the suit properties. So the sons of Shivappa are having each 1/5th share in the suit properties.

7. When the plaintiffs requested to defendant No.2 for their share in suit properties, he denied the same on 15-09-2021. Hence, present suit claiming plaintiffs 3/30th share jointly in the suit properties.

8. Even though, summons served to defendants No.1, 3, 4 and 6 they have not appeared. Hence, they have been placed exparte.

9. The defendants No.2, 7 to 11 appeared through their counsel. But, they did not choose to file the written statement.

10. The defendant No.5 filed her written statement along with counter claim, stating that, she is entitled for 1/6th share in suit schedule properties as legal heir of deceased Channabasappa.



11. The defendants No.12 and 13 were subsequently impleaded in the suit and they filed their written statement claiming their 1/8th share. Further they contended that, suit filed by the daughters of Shivappa was dismissed on technical grounds. Hence, they are not precluded from claiming the share in the suit properties.

12. Based on the above pleadings, this court framed the following;

ISSUES

1. Whether plaintiffs proves that, they and defendants No.1 to 9 have constituted the joint family and suit and suit properties are joint family properties of them?
2. Whether the plaintiffs further prove that the defendant No.10 and 11 without their consent and behind their back purchased the CTS 76 of Ranebennur city and the sale deeds are not binding on them?
3. Whether the counter claim of defendant No.5 is deserves to be decreed?
4. Whether the plaintiff is entitled for the reliefs sought for?
5. What order or decree?



ADDITIONAL ISSUE DATED:21.08.2024

1. Whether defendants No.12 and 13 are also entitled for share in the suit schedule properties?

13. The plaintiffs to prove their case examined plaintiff No.1 as PW-1 and got marked documents at Ex.P1 to Ex.P22. Even though the opportunity was granted the defendants have not led any evidence.

14. Heard arguments of both the sides.

15. On perusal of materials placed on record and in the light on arguments advanced my answers to the above issues are as follows:-

Issue No.1: **In the affirmative.**

Issue No.2: **In the affirmative**

Addl Issue No.1: **In the Negative**

Issue No.3: **In the Negative**

Issue No.4: **In the affirmative**

Issue No.5: As per final order,
For the following;

REASONS

16. **Issue No.1:-** The plaintiffs in their plaint averred that, the suit properties are joint family properties and to substantiate the same, they produced mutation extracts which have been marked at Ex.P9 to 12.



17. The plaintiffs to prove that the suit properties are joint family properties relied on revenue entries. But, the revenue documents cannot be considered as title documents.

18. In this case, the defendant No.5 and defendants No.12 and 13 filed their written statement. But, they have not denied the nature of property. Hence, I am of the view that, plaintiffs were successful to prove that, the suit properties are the joint family properties.

19. Further there is presumption under Hindu Law about existence of joint Hindu family and burden is on other side who denies it. In this case, even though the defendant No.5, 12 and 13 filed their written statement. But, they have not denied the existence of joint family. Hence, I am of the view that, plaintiffs were successful to prove the issue No.1. Hence, **I answer Issue No.1 in the affirmative.**

20. **Issue No.2:-** The plaintiffs in their plaint averred that, the sale deed made in favour of defendants No.10 and 11 by defendants No.2 to 5 is not binding on them.

21. As plaintiffs were successful to prove that, the suit schedule properties are joint family properties. Hence, I am of the view that, the sale deed executed by defendants No.2



to 5 without the consent of plaintiffs is not binding on them. Hence, **I am answer issue No.2 in the affirmative.**

22. **Addl. Issue No.1:-** The defendants No.12 and 13 in their written statement contended that, they are also entitled for share in the suit properties. But, the plaintiffs in their plaint averred that, as per judgment and decree passed in O.S. No.2 of 2015 the daughters of Shivappa are not entitled for share in the properties of Shivappa.

23. The plaintiffs to prove this fact, produced certified copy of judgment and decree passed in O.S. No.2 of 2015 and confirmed in appeal in R.A. No.55 of 2018 which are marked at Ex.P13 and 14. But, the defendants No.12 and 13 contended that, suit is dismissed on technical grounds. Hence, they are entitled for share in the suit schedule properties.

24. On perusal of Ex.P13, the judgment passed in O.S. No.2 of 2015, it is clear that, the learned Prl., Civil Judge and JMFC., Ranebennur has framed the issues in respect of nature of property, the existence of joint family and about prior partition. The learned court also answered these issues in the negative after full pledged trial.

25. Further the judgment and decree passed in O.S. No.2 of 2015 was also confirmed by learned Appellate court in RA No.55 of 2018. Hence, I am of the view that, the



question in respect of share of daughters of Shivappa has been answered in negative, holding that, they are not entitled for share. The decree passed in O.S. No.2 of 2015 has attained finality in RA No.55 of 2018. As no appeal or stay is pending on this judgment and decree.

26. Hence, judgment in O.S. No.2 of 2015 and R.A No.55 of 2018 will operate as Res-judicata on the share of defendants No.12 and 13. Hence, I am of the view that, the defendants No.12 and 13 are not entitled for share in suit schedule properties and hence, the **Addl., Issue No.1 is answered in the Negative.**

27. **Issue No.3:-** The defendant No.5 filed her written statement along with counter claim and stated that, she being the legal representative of Channabasappa is entitled for 1/6th share in suit properties.

28. The defendant No.5 filed counter claim in this suit. So as per order VIII Rule6-A(4) of CPC the counter claim shall be treated as plaint. Hence, in respect of counter claim, the burden is on defendant No.5 to prove her case as per counter claim. Hence, In this case, burden is on defendant No.5 to prove her case as per counter claim. Hence, In this case burden is on the defendant No.5 to prove that, she is having 1/6th share in the suit properties.



But, in this case, the defendant No.5 to prove her counter claim not led any evidence. Hence, In the absence of evidence only on the basis of pleadings court cannot come to the conclusion that, the defendant No.5 is entitled for share as prayed in the counter claim. Hence, I answer

Issue No.3 in the negative.

29. **Issue No.4**:- As plaintiffs were successful to prove issue No.1 and 2 and defendants failed to prove issue No.3 and Addl., Issue No.1. I am of the view that, plaintiffs are entitled for relief as claimed for. Hence, I answer **Issue No.4 in the affirmative.**

30. **Issue No.5**:- For the discussions made in above issues I proceed to pass the following:

ORDER

The suit of the plaintiffs filed for the relief of partition and separate possession is **hereby decreed.**

The plaintiffs are entitled for 3/30th share jointly in suit schedule properties.

Considering the relationship of the parties. No order as to costs.

Draw decree accordingly.



Office is directed to putup the case for steps U/o XX Rule 18 of CPC after appeal period is over.

[Dictated to the Stenographer, transcribed and typed by him on computer, and then corrected and pronounced by me in the open court on this 16th day of June 2026].

**(Sri. Balmukund R Mutalikdesai,
Addl. Senior Civil Judge
& JMFC.,Ranebennur.**

-: ANNEXURES :-

List of witnesses examined on behalf of the plaintiffs :

PW1 : Annappa S/o Basavaraj Huggi.

List of documents exhibited on behalf of the plaintiffs :

Ex.P1 to 4	: Copies of record of rights.
Ex.P5	: Copy of Ruled card.
Ex.P6 to 8	: Copies of mutation extracts.
Ex.P9 to 12	: Copies of mutation register.
Ex.P13	: Judgment in O.S. No.02 of 2015.
Ex.P14	: Judgment in R.A. No.55 of 2018.
Ex.P15 to 17	: Copies of Death certificates.
Ex.P18	: Copy of letter to Tahasildar.
Ex.P19	: Copy of consent letter.
Ex.P20 & 21	: Copies of record of rights.
Ex.P22	: Copy of registered sale deed.



List of witnesses examined on behalf of the defendants:

----- Nil -----

List of documents exhibited on behalf of the defendants:

----- Nil -----

**(Sri. Balmukund R Mutalikdesai)
I Addl. Senior Civil Judge
& JMFC.,Ranebennur.**