

Form No.9  
(Civil Title sheet  
for judgment in  
Suits K.P.91)

**IN THE COURT OF THE PRL.CIVIL JUDGE 1<sup>ST</sup>**  
**ADDL. JMFC., RANEBENNUR.**

Present : **Sri. P. Shivaraj,**  
B.Com.LL.B.  
Prl. Civil Judge & 1<sup>st</sup> Addl. JMFC.,  
Ranebennur.

**Dated this the 3<sup>rd</sup> day of July - 2018**

**O S No.32/2016**

**Plaintiff :** 1. Smt. Shobha W/o: Guddappa Kali,  
Age: 35 yrs, Occ: Household  
work/Agri, R/o: Belur, Tq:  
Ranebennur.

**(Pleader by Sri.N.V.Chapparad)**

// Vs //

**Defendants:** 1. Smt. Gouramma W/o: Halappa Kali,  
Age: 90 yrs, Occ: Household work,  
R/o: Belur, Tq: Ranebennur.  
2. Karabasappa S/o: Halappa Kali, Age:  
35 yrs, Occ: Agri, R/o: Belur, Tq:  
Ranebennur.  
3. Neelappa S/o Halappa Kali, Age: 55  
yrs, Occ: Agri, R/o: Belur, Tq:  
Ranebennur.  
4. Shivappa S/o: Sudahanumappa  
Poojar, Age: 48 yrs, Occ: Agri, R/o:  
Belur, Tq: Ranebennur.  
5. Smt. Manjula ಸುಳು ಆಧರಿಸುವ ಗಂಡ ಗುಡ್ಡಪ್ಪ ಕಾಳಿ,  
ಆದರೆ ನಿಜವಾದ ಹೆಸರು ಮಂಜುಳಾ ಕೋಂ ಕಂಠಿ. Age:  
45 yrs, Occ: Household work, R/o:  
Belur, Tq: Ranebennur.

6. Kumari Priyanka. ಸುಳು ಆಧರಿಸುವ ತಂದೆ ಗುಡ್ಡಪ್ಪ ಕಾಳಿ. ಆದರೆ ನಿಜವಾದ ಹೆಸರು ಪ್ರಿಯಾಂಕಾ ಕಂಠಿ. Age: 25 yrs, Occ: Household work, R/o: Belur, Tq: Ranebennur.
7. Sachin, ಸುಳು ಆಧರಿಸುವ ತಂದೆ ಗುಡ್ಡಪ್ಪ ಕಾಳಿ. ಆದರೆ ನಿಜವಾದ ಹೆಸರು ಸಚಿನ್ ತಂದೆ ಕಂಠಿ. Age: 19 yrs, Occ: Nil, R/o: Belur, Tq: Ranebennur.

**(Sri. M.Channabasappa, Advo for D4.  
D1 to 3, 5 to 7 placed exparte)**

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Date of institution of suit	: 14-01-2016
Nature of suit	: Partition and separate possession
Date of commencement of recording of evidence	: 02-08-2017
Date on which the Judgment was pronounced	: <b>03-07-2018</b>
Total Duration	: Year/s Month/s Day/s -02- -05- -19-

**(P. Shivaraj)**  
Prl. C.J. & 1<sup>st</sup> Addl.JMFC.,  
Ranebennur.

### **J U D G M E N T**

Plaintiff has filed this suit for partition and separate possession of her legitimate share in the suit schedule property.

**2. Plaintiff case is as follows:-**

One late Halappa Kali who was the husband of 1<sup>st</sup> defendant was their family propositor. He is having three male childrens i.e., defendant Nos. 2 and 3 and late Guddappa. Plaintiff is the wife of late Guddappa. Defendant Nos.5 to 7 are the stranger to the family of plaintiff and defendant nos. 1 to 3.

4<sup>th</sup> defendant purchased 2 acres 25 guntas from defendant nos. 2 and 3, without the knowledge and consent of the plaintiff, with an intention to deceive the share of the plaintiff. Inasmuch, plaintiff requested the defenadant Nos. 1 to 3 to effect the partition, but they have refused the same. Hence, he has come up with this suit.

**3.** After the institution of the suit, summons was served to the defendants, 4<sup>th</sup> defendant appeared through his counsel, filed vakalath and statement of defence, by denying the entire case of the plaintiff in toto.

Defendant nos.1 to 3, 5 to 7 doesn't choose to defend this case and they placed exparte.

**4.** On the basis of the above pleadings, I have framed the following:

**ISSUES**

- 1. Whether the plaintiff proves that, plaintiff and defendant Nos. 1 to 3 constituted the joint Hindu Family,**

**the suit schedule property is their joint family property and they are in joint possession and enjoyment of the same as alleged in the plaint?**

2. **Whether the plaintiff proves that, she is the legally wedded wife of deceased Guddappa Kali and further proves that, she is the member of the family and belongs to defendant nos. 1 to 3 ?**
3. **Whether the 4<sup>th</sup> defendant proves that, plaintiff has not at all included all the properties that belongs to their family?**
4. **Whether 4<sup>th</sup> defendant proves that, partition is effected in their family on 22-10-1997 as contended at para No.9 of his written statement?**
5. **Whether plaintiff is entitled for relief sought for?**
6. **What order or decree?**

5. In order to prove the case, plaintiff examined herself as PW.1, examined another witness as PW2, produced and marked 15 documents which are at Ex.P.1 to 15.

Counsel for the 4<sup>th</sup> defendant filed memo along with certified copy of the sale deed dt: 13-08-1998, under which he purchased 2 acres 25 guntas of land in the suit schedule property from defendant Nos. 2 and 3. Plaintiff has not disputed the said fact and she has consented the same. Hence, cross of PW1 and 2 is dispensed with, at

the oral submission of both the sides and defendant evidence is also taken as nil.

**6.** I have heard the arguments and perused the materials available on record.

**7.** On the basis of the oral and documentary evidence and arguments, my answer to the aforesaid issues are as follows:

**Issue No.1 : In partly affirmative**  
**Issue No.2 : In the affirmative**  
**Issue No.3 & 4 : Doesn't survive for my consideration**  
**Issue No.5 : Answered accordingly**  
**Issue No.6 : As per final order, for the following:**

### **REASONS**

**8. Issue No.1:-** PW.1 being the plaintiff, she reiterated the plaint averments, in her examination-in-chief. Defendant Nos. 1 to 4 have not disputed the relationship as pleaded by the plaintiff. Further, they have not disputed the fact that, the suit schedule property belongs to late Halappa Kali. Ex.P2 is the memorandum of marriage, which shows that, plaintiff is the wife of late Guddappa S/o Halappa Kali.

Ex.P3 is the death certificate of Guddappa. Plaintiff has not disputed the fact that, 4<sup>th</sup> defendant has

purchased 2 acres 25 guntas of land in the suit schedule property from defendant Nos. 2 and 3 on 13-08-1998, as contended by the 4<sup>th</sup> defendant. Further, plaintiff has filed memo to that effect. Evidently, plaintiff and 1<sup>st</sup> defendant have not challenged the aforesaid sale deed, till this date. Hence, with the aforesaid discussion, based on the materials available on record and by considering the memo filed by the plaintiff and by considering the certified copy of the sale deed filed by the 4<sup>th</sup> defendant, I am of the opinion that, 6 acres 6 guntas of land in the suit schedule property is available for partition and it is the joint family property of plaintiff and defendant Nos. 1 to 3 and they are in joint possession and enjoyment of the same, as on the date of the suit. Accordingly, I am answering this issue **in partly affirmative.**

**9. Issue No.2:-** Plaintiff specifically pleaded and deposed that, she is the wife of late Guddappa and she is the member of the joint family, constituting plaintiff herself and defendant Nos. 1 to 3. Ex.P2 is the memorandum of marriage, Ex.P3 is the death certificate of late Guddappa. The aforesaid exhibits reveals that, plaintiff is the wife of late Guddappa S/o Halappa Kali and Guddappa is already dead. Accordingly, I am answering this issue **in the affirmative.**

**10. Issue No.3 & 4**:- In view of the memo filed by the plaintiff on 13-08-1998, these issues **doesn't survive for my consideration.**

**11. Issue No.5**:- While answering issue No.1, it is discussed in detail and I have come to the conclusion that, 6 acres 6 guntas of land in the suit schedule property is available for partition.

Defendant No.1 is the wife of late Halappa Kali, defendant Nos. 2 and 3 and late Guddappa are their childrens.

Suit schedule property shall devolve equally among them. Accordingly, plaintiff being the wife of late Guddappa S/o: late Halappa Kali and defendant Nos.1 to 3 are entitle for 1/4th share each in 6 acres 6 guntas of land in the suit schedule property. Hence, with the aforesaid discussion, I am **answering this issue accordingly.**

**13. Issue No.6**:- In view of the reasons and discussion made above, I proceed to pass the following;

**ORDER**

**Suit of the plaintiff is partly decreed, with cost.**

**Plaintiff is entitled for 1/4th share in 6 acres 6 guntas of land in the suit schedule property.**

**Defendant Nos.1 to 3 are entitled for 1/4th share each in 6 acres 6 guntas of land in the suit schedule property.**

**Draw decree accordingly.**

(Dictated to the stenographer, transcribed and computerized by her, and then corrected, signed and pronounced by me in the open court, on this 3<sup>rd</sup> day of July-2018).

**(P. Shivaraj)  
PrI.C.J. & Ist Addl.JMFC.,  
Ranebennur.**

**A N N E X U R E**

**Witnesses examined on behalf of the plaintiffs :**

PW.1 : Shobha Kali  
PW.2 : Hemappa Gollar

**Documents exhibited on behalf of the plaintiffs :**

Ex.P.1 : RTC extract  
Ex.P.2 : Marriage invitation card  
Ex.P.3 : Death certificate  
Ex.P.4 to 15 : M R extracts

**Witnesses examined & documents exhibited on behalf of the defendants:**

.....NIL.....

**PrI.C.J. & 1<sup>st</sup> Addl.JMFC.,  
Ranebennur.**

**(Judgment pronounced in the open court vide separate)  
ORDER**

**Suit of the plaintiff is partly decreed, with cost.**

**Plaintiff is entitled for 1/4th share in 6 acres 6 guntas of land in the suit schedule property.**

**Defendant Nos.1 to 3 are entitled for 1/4th share each in 6 acres 6 guntas of land in the suit schedule property.**

**Draw decree accordingly.**

Prl. C. J. & 1 Addl. JMFC.,  
Ranebennur.