



IN THE COURT OF SENIOR CIVIL JUDGE AT AFZALPUR

PRESENT

**Sri. Mahammad Anwar Hussain Mogalani,
B.Sc.LLB (Spl)
SENIOR CIVIL JUDGE, AFZALPUR.**

DATED THIS 2nd DAY OF DECEMBER 2022

O.S. No.17/2012

Plaintiff...

Sharada W/o Marulappa S
D/o Vishwanath Kavalagi,
Age : about 59 Years, Occ : Household,
R/o Flat No.B207, Century Commanders Vista,
Ananthpur Village, Main Road, Yelahanka,
New Town, Bengaluru.

(By Sri.Venkatesh Y Advocate)

V/s

Defendants...

- 1) Shashikanth S/o Vishwanath Kavalagi,
Age : 55 Years, Occ : Agriculture,
R/o H.No.36, Sedam Road, MIG, II PHase,
Adarsh Nagar, Kalaburagi 585104.
- 2) Smt.Girija W/o Late Chandrasheker Kavalagi,
Age : 40 Years, Occ : Agriculture,
R/o H.No.36, Sedam Road, MIG, II Phase,
Adarsh Nagar, Kalaburagi 585104.
- 3) Vishwanath Kavalagi S/o Gurulingappa Kavalagi,
Age : about 75 Years, Occ : Agriculture,
R/o H.No.36, Sedam Road, MIG,
II Phase, Adarsh Nagar,
Kalaburagi - 585104.



3) Chief Administrator,
National Highway Authority of India, (NHAI)
Behind Kothari Bhavan, Mahaveer Nagar,
Kalaburagi.

(D1 by Sri.J.A.J Advocate, D2 by Sri.S.S.P Advocate,
D3 by Sri.G.S.B Advocate, D4 Exparte)

1. Date of institution of suit - 08-04-2022
2. Nature of suit - Suit for partition, separate possession and Injunction.
3. Date of recording evidence - 25-11-2022
4. Date of closure of evidence - 25-11-2022
5. Date of disposal - 02-12-2022
6. Total duration - years / months/days
00 / 07 / 24

J U D G M E N T

Plaintiff has filed this suit against the defendants for partition and separate possession.

2. Suit property are as under;

1) Land bearing Sy.No.137/1 measuring 9 acres situated at village Badadal, Tq.Afzalpur, Dist : Kalaburagi.

2) Land bearing Sy.No.125/ measuring 19 acres 9 guntas situated at village Badadal, Tq.Afzalpur, Dist : Kalaburagi.



3. That the defendant No.1 is the brother of plaintiff, defendant No.3 is the father of plaintiff and defendant No.2 is the sister-in-law ie wife of late Chandrashekhar who was the brother of plaintiff. One Gurulingappa was the grand father of plaintiff and defendant No.1. Said Gurulingappa was the owner in possession of suit schedule property. The plaintiff and defendant No.1 to 3 are the Hindu undivided joint family members. After the death of said Gurulingappa the suit land was nominally mutated in the name of defendant No.3 as he was the Karta of the family.

4. The plaintiff further contended that, the defendant No.3 was giving share to his children namely Chandrashekhar and Shashikanth by metes and bounds without informing the plaintiff. The plaintiff is facing financial hardship, as such she approached the defendants No.1 and 2 on 05-03-2022 requesting them to make partition of land and provide her legitimate



share at that time they stated that the suit land was already acquired by the defendant No.4, and accordingly they have denied the share of plaintiff in the suit schedule properties. Hence, the plaintiff has filed the suit for partition and separate possession.

5. In view of the above pleadings of the plaintiff, the points that arise for my consideration are as under ;

POINTS

1. Whether the plaintiff proves that, the suit schedule properties are the ancestral joint family properties of plaintiff and defendants ?
2. Whether the plaintiff is entitled for the relief as claimed in the plaint ?
3. What order or decree ?

6. Heard arguments on behalf of plaintiff.

Perused the oral and documentary evidence available on record.

7. In order to prove the case, plaintiff is examined herself as PW-1 and got marked in all 4 documents at Ex.P1 to P4 and closed the side. On the other hand, inspite of appearance of defendants No.1 to



3 before the court through and giving sufficient opportunity have not filed any written statement and also not cross examined the Pw.1 and led oral or documentary evidence on their behalf.

8. My answers to the above points are as follows :

Point No.1 : In the affirmative.
Point No.2 : In the affirmative.
Point No.3 : As per final order for the following:

REASONS

9. **POINTS No.1 and 2** :- As these points are inter linked with each other and in order to avoid the repetition of facts, both the points are discussed together in order to avoid the repetition of facts and evidence.

10. It is the case of the plaintiff that, herself and the defendants No.1 to 3 are the members of joint undivided Hindu family and the suit schedule properties are the ancestral property owned by her grand father



and the suit properties are fallen to the name of her father defendant No.3.

11. In support of the case of plaintiff, the plaintiff herself examined as Pw.1 and has reiterated the entire plaint averments and also produced in all 4 documents to establish that the suit schedule properties are the ancestral joint family properties.

12. In spite of giving sufficient opportunity, none of the defendants have cross examined the plaintiff/Pw.1, as such the entire contents of chief examination and documentary evidence remained unchallenged.

13. Ex.P1 to 4 are the record of rights of suit lands, which are standing in the name of brothers of plaintiff ie Shashikanth and Chandrashaker Kavalagi. Ex.P3 is the letter issued to the defendant No.4, Ex.P4 is the Aadhar card of plaintiff which shows the relationship of plaintiff with the defendants.



14. Thus, in view of the uncontested oral and documentary evidence available on record establish that, the father of plaintiff has intending to partition the suit properties by leaving the plaintiff as stated by the plaintiff in her plaint. Thus, the plaintiff has established that the suit schedule properties are the joint family property and she is the coparcener of the family wherein she is equally entitled for the share in the suit properties. Accordingly, I answered point No.1 and 2 in the affirmative.

15. **POINT No.2** :- As per the reasons stated in the point No.1, I proceed to pass the following ;

ORDER

The suit of the plaintiff is hereby decreed.

Award 1/4th share to the plaintiff in the suit schedule properties and put the plaintiff in her 1/4th separate possession in the suit



schedule properties and effect the partition by meets and bounds.

By looking into the facts and circumstances involved in the case no order as to costs.

Draw preliminary decree accordingly.

(Dictated to the stenographer directly on computer, typed by him, corrected by me, and then pronounced in open Court, on this the 2nd day of December 2022)

(Mahammad Anwar Hussain Mogalani)
Senior Civil Judge, Afzalpur.

ANNEXURE

List of witnesses examined on behalf of plaintiff :-

Pw.1 : Sharada W/o Marulappa S.

List of documents marked on behalf of plaintiff :-

Ex.P1 & 2 : RoRs of suit lands.
Ex.P.3 : Letter issued to the defendant No.4.
Ex.P.4 : Aadhar Card of plaintiff.

List of witnesses examined on behalf of defendants :- -Nil-

List of documents marked on behalf of defendants :- -Nil-

**Senior Civil Judge,
Afzalpur.**