

**TITLE SHEET**

**IN THE COURT OF SENIOR CIVIL JUDGE & JUDICIAL MAGISTRATE OF  
THE FIRST CLASS AT JEWARGI**

**PRESENT : SRI KUMARA G. B.COM. LL.B.  
SENIOR CIVIL JUDGE AND JMFC**

**ORIGINAL SUIT NO.46 OF 2017  
DATED ON THIS DAY 25<sup>TH</sup> OF APRIL, 2019**

**PLAINTIFF : - SMT DUNDAMMA,  
W/O RAVI TELI,  
AGED ABOUT 30 YEARS,  
OCCUPATION: PRIVATE WORK,  
R/O AHERI VILLAGE,  
TALUKA: SINDAGI, DIST: VIJAYAPURA.  
  
(REPRESENTED BY SRI RGS, ADVOCATE)**

**VERSUS**

**DEFENDANTS : - 1) SRI APPASAHEB @ APPASAHEBGOUDA,  
S/O RUDRAGOUDA BIRADAR,  
AGED ABOUT 55 YEARS,  
OCCUPATION: BUSINESS,  
R/O MAGANGERI VILLAGE,  
TALUKA: JEWARGI,  
DIST: KALBURGI.  
  
2) SMT LAXMIBAI,  
W/O APPASAHEB @ APPASAHEBGOUDA  
BIRADAR,  
AGED ABOUT 50 YEARS,  
OCCUPATION: HOUSEHOLD.  
R/O BAGALUR VILLAGE,  
TALUKA: SINDAGI, DIST: VIJAYAPURA.  
  
3) SRI GOLLALAPPAGOUDA,  
S/O RUDRAGOUDA BIRADAR,  
AGED ABOUT 58 YEARS,  
OCCUPATION: BUSINESS.  
R/O MAGANGERI VILLAGE,  
TALUKA: JEWARGI,  
DIST: KALBURGI.**

**4) SMT SIDDAMMA,  
D/O GOLLALAPPAGOUDA BIRADAR,  
AGED ABOUT 32 YEARS,  
OCC: HOUSEHOLD WORK,  
R/O, C/O DHARMARAJ, PWD, QUARTERS,  
SHAHAPUR, DIST: YADGIRI.**

**(D-1 & D-2 ARE REPRESENTED BY SRI SP,  
ADVOCATE, D-3 & 4 ARE REPRESENTED BY  
SRI JVH, ADVOCATE)**

**DATE OF INSTITUTION OF THE SUIT: 22-06-2017**

**NATURE OF SUIT : PARTITION AND SEPARATE  
POSSESSION**

**DATE OF COMMENCEMENT  
OF RECORDING OF EVIDENCE : 01-02-2018**

**DATE OF PRONOUNCEMENT  
OF JUDGEMENT : 25-04-2019**

**TOTAL DURATION : YEARS MONTHS DAYS  
01 09 03  
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**JUDGEMENT IN OS NO.46 OF 2017**

This judgment arises out of the suit filed by the plaintiff against defendants seeking for the relief of partition in the suit lands and allotment of her legitimate share by metes and bounds.

**02. DESCRIPTION OF THE SUIT SCHEDULE PROPERTIES:**

- 1. The land bearing survey No.293 measuring 10-16 acres.**
- 2. The land bearing survey No.293/\*/1 measuring 06-33 acres.**
- 3. The land bearing survey No.293/\*/3 measuring 01-27 acres.**

**All are situated at Maganagera village, Jewargi taluka, and Kalaburagi district.**

**(Hereinafter the description of the suit lands will be referred as "suit Item No.1 to 3 for the sake of convenience and brevity)**

03. The case of the plaintiff in nutshell is that defendant No.1 is her natural father and defendant No.2 is her natural mother. Defendant Nod.4 is the daughter of defendant No.3. Defendant No.3 is the purchaser of suit Item No.1.

04. The land bearing survey No.393 was totally measuring 17-36 acres of Maganagera village, Jewargi taluka and now it is standing in three strips as suit Item No.1 to 3. The plaintiff and defendant No.1 and 2 are the members of Hindu undivided joint family. The suit lands are the ancestral and joint family properties of plaintiff and defendant No.1 and 2 and all are in joint possession and enjoyment of the same. The plaintiff and defendant No.1 and 2 are having undivided interest in the suit lands and partition not taken place among them so far relating to the suit lands. The defendant No.1 had addicted to bad habits like drinking alcohol, playing cards etc and started to waste the joint family income and also started to mis-manage the suit properties. The defendant No.1 is not having absolute right or title or interest over the suit lands. But also defendant No.1 sold suit Item No.1 in favour of defendant No.3 through Registered Sale Deed without the consent or knowledge of the plaintiff and defendant No.2 without their being any legal necessity of the family. Suit Item No.1 is standing in the name of defendant No.3 and suit Item No.2 and 3 are standing in the name of defendant No.1. Hence plaintiff has demanded the defendant No.1 to make the partition and allot her share in the suit lands by metes and bounds. For which defendant No.1 refused to make partition and hence she has instituted the suit for partition and separate possession in the suit lands.

05. In pursuance of service of suit summons defendant No.1 and 2 appeared through advocate. But inspite availing time available under Code of Civil Procedure 1908, defendant No.1 and 2 not filed written statement. Hence written statement of the defendant No.1 and 2 taken as not filed. Through out the trial defendant No.1 and 2 not filed written statement and not participated in the trial.

06. In pursuance of service of suit summons, defendant No.3 appeared through advocate and filed written statement inter-alia contending that suit of the plaintiff is not maintainable. However defendant No.3 has admitted that plaintiff is the daughter of defendant No.1 and 2 and he is the purchaser of suit Item No.1. Except admitting these facts defendant No.3 denied rest of the plaintiff averments.

07. It is specifically contended by the defendant No.3 that Smt Gangadevi the mother of defendant No.1; Smt Kalavati and Smt Sridevi other wives of defendant No.1; two children of Smt Sridevi born through defendant No.1 have not made as parties in this suit and hence suit of the plaintiff is not maintainable for non-joinder of necessary parties.

08. It is further contended that defendant No.1 and 2 and other family members have sold suit Item No.1 the land bearing survey No.293/1 measuring 10-18 acres of Maganagera village of Jewargi taluka in favour of defendant No.3 through Registered Sale Deed bearing document No.3626/2015-16 on 28-08-

2015 for valuable consideration in order to meet their family and legal necessity. It is further contended that plaintiff; defendant No.1 and 2 have purchased the land bearing survey No.129/5 measuring 03-31 acres of Malli village, Jewargi taluka through Registered Sale Deed bearing document No.4868/2015-16 on 20-10-2015 in the name of Smt Sridevi w/o Appasaheb @ Appasahebagouda out of sale proceeds derived by selling suit Item No.1. It is further contended that though the plaintiff having knowledge about sale of suit Item No.1 and purchase of land in survey No.129/5 in the name of Smt Sridevi she chosen to file the present suit in order to have wrongful gain.

09. It is further contended that defendant No.3 is none other than the step brother of defendant No.1. Sri Rudragouda Biradar the father of defendant No.1 and 3 is having two wives namely Smt Shivalingamma and Smt Gangadevi. Smt Shivalingamma gave birth to six children namely 1) Sri Siddanagouda, 2) Sri Gollalappagouda (defendant No.3), 3) Sri Awwanagouda, 4) Smt Gundamma, 5) Smt Kasturibai and 6) Smt Gurubai. Smt Gangadevi gave birth to Sri Appasaheb @ Appasahebagouda (defendant No.1) and Sri Nadagouda. The plaintiff was not born on the date of death of Sri Rudragouda and hence she cannot claim partition in the suit lands during the lifetime of her father defendant No.1. It is further contended that the plaintiff and defendant No.1 and 2 are not the members of Hindu undivided joint family; suit lands are not the joint family properties; all are not in joint possession and enjoyment of the suit lands and all are not having undivided interest therein and hence plaintiff is not entitle for any

of the reliefs sought for. For the aforesaid reasons defendant No.3 has prayed to dismiss the suit with exemplary costs.

10. During pendency of the suit defendant No.4 has been impleaded stating that during pendency of the suit defendant No.3 executed Registered Gift Deed in her favour relating to suit Item No.1. In spite of service of suit summons and appearance through advocate defendant No.4 not filed written statement and hence written statement of defendant No.4 taken as not filed.

11. Basing on the pleadings of the parties, this court has framed the following issues for determination:

**ISSUES**

***01. Whether the plaintiff proves that herself and defendant No.1 and 2 are the members of Hindu undivided joint family?***

***02. Whether the plaintiff further proves that suit lands are the ancestral and joint family properties of herself and defendant No.1 and 2 and all are in joint possession?***

***03. Whether the defendant No.3 proves that defendant No.1 and 2 and other family members have sold the suit land bearing survey No.293/1 measuring 10-18 acres of Maganagera village through Registered Sale Deed dated 28-08-2015 for their family and legal necessity and also acquired the land in survey No.129/5 measuring 03-13 acres of Malli village out of sale consideration?***

***04. Whether the defendant No.3 proves that he is the bonafide purchaser for consideration of suit Item No.1 the land bearing survey No.293/1 measuring 10-18 acres of Maganagera village?***

***05. Whether the suit is bad for non-joinder of necessary parties?***

***06. Whether the plaintiff is entitled for the reliefs as sought for?***

***07. What order or decree?***

12. In order to prove her case, plaintiff examined as PW-1 and tendered 10 documents and they have been admitted as per Exhibit P-1 to P-10. In order to disprove the case of the plaintiff and to substantiate the contentions took-up on the written statement, defendant No.3 examined as DW-1 and tendered 6 documents and they have been admitted as per Exhibit D-1 to D-6. Witnesses not examined from both sides.

13. After closure of evidence from both sides heard the arguments advanced by Sri RGS, learned advocate appearing for plaintiff and Sri JVH, learned advocate appearing for defendant No.3 and 4.

14. Perused the oral and documentary evidence placed on records.

15. At the time of preparation of judgment it appears that plaintiff not impleaded all the proper and necessary parties and also not included all the family properties. Hence direction has been issued to plaintiff to implead all the proper and necessary parties and also to include all the family properties.

16. At that time plaintiff filed IA No.XII under Order XXIII, Rule 1 of Code of Civil Procedure 1908 stating that she has wrongly pleaded in the plaint that Suit Item No.1 was not alienated for the legal necessity of the joint family

though it is alienated through Registered Sale Deed bearing document No.3620/2015-16 dated 28-08-2015 in favour of defendant No.3 and hence she is ratifying the said alienation and she is abandoning her right over Suit Item No.1. Subsequently IA No.XXII allowed and suit of the plaintiff has been dismissed relating to Suit Item No.1 the land bearing survey No.293/1 measuring 10-18 acres of Maganagera village of Jewargi taluka and against defendant No.3 and 4. In spite of direction by the court plaintiff not included other family properties and also not impleaded other family members.

17. Upon hearing arguments and on perusal of the materials available on records, my findings to the above issues are as follows;

<b><i>Issue No.1</i></b>	<b><i>:-</i></b>	<b><i>In the affirmative,</i></b>
<b><i>Issue No.2</i></b>	<b><i>:-</i></b>	<b><i>Partly in the affirmative,</i></b>
<b><i>Issue No.3</i></b>	<b><i>:-</i></b>	<b><i>Did not survive for consideration,</i></b>
<b><i>Issue No.4</i></b>	<b><i>:-</i></b>	<b><i>In the affirmative,</i></b>
<b><i>Issue No.5</i></b>	<b><i>:-</i></b>	<b><i>In the affirmative,</i></b>
<b><i>Issue No.6</i></b>	<b><i>:-</i></b>	<b><i>In the negative and</i></b>
<b><i>Issue No.7</i></b>	<b><i>:-</i></b>	<b><i>As per the final order for the following;</i></b>

**REASONS**

**18. ISSUE NO.1, 2, 4 & 5:-** These issues are interlinked with each other. Finding on one issue is having great bearing on other issue. Hence, all are taken together for joint discussion in order to avoid the repetition of discussion and reasoning.

19. It is not in dispute that Sri Rudragouda is the common propositor of plaintiff and defendant No.1 to 4. It is also not in dispute that Sri Rudragouda is having two wives namely Smt Shivalingamma and Smt Gangadevi. It is also not in

dispute that defendant No.3 and five others are the children of Sri Rudragouda born through his first wife Smt Shivalingamma. It is also not in dispute that defendant No.4 is the daughter of defendant No.3. It is also not in dispute that defendant No.1 and Sri Nadagouda are the sons of Sri Rudragouda born through his second wife Smt Gangadevi. It is also not in dispute that defendant No.2 namely Smt Laxmibai is the first wife and Smt Sridevi is the second wife of defendant No.1. It is also not in dispute that Sri Channappagouda and Sri Devu are born to Smt Sridevi through defendant No.1. It is also not in dispute that Smt Gangadevi (mother of defendant No.1); Sri Nadagouda (brother of defendant No.1); Smt Sridevi (second wife of defendant No.1) and two children namely Sri Channappagouda and Sri Devu the sons of defendant No.1 born through his second wife Smt Sridevi are alive.

20. It is also not in dispute that the land in survey No.293 was totally measuring 19-21 acres including phoot kharab of 00-39 acres of Maganagara village is the ancestral property of plaintiff and defendants No.1 and 2. It is also not in dispute that defendant No.1 sold 10-18 acres in survey No.293 (subsequently numbered as survey No.293/1) in favour of defendant No.3 through Registered Sale Deed bearing document No.3620/2015-16 dated 28-08-2015 and accordingly katha has been mutated in his name. It is also not in dispute that during pendency of the suit defendant No.3 has executed Registered Gift Deed in favour of his daughter defendant No.4 vide document No.4365/2017-18 on 24-08-2017. It is also not in dispute that remaining extent of 01-27 acres and 06-33

acres re-numbered as survey No.293/3 and 293/4 and they are standing in the name of defendant No.1 and his name is appearing in the revenue records as possessor and cultivator even on the date of filing of the suit.

21. According to the plaintiff, she and defendant No.1 and 2 are the members of Hindu undivided joint family; suit lands are the ancestral and joint family properties; she and defendant No.1 and 2 are in joint possession and enjoyment of the suit lands; all are having undivided interest therein and partition is not taken place so far among them relating to the suit lands so far. It is further case of the plaintiff is that she is having 1/3<sup>rd</sup> share in the suit lands but also defendant No.1 alienated Suit Item No.1 in favour of defendant No.3 without her consent and without her knowledge without there being any legal necessity and hence she has demanded for partition for which defendant No.1 and 2 refused to effect the partition and hence she has instituted the present suit. On the other hand, inspite of service of suit summons defendant No.1 and 2 remained absent and not participated in the trial. But defendant No.3 has specifically contended that the defendant No.1 and 2 along with plaintiff and other family members have jointly sold Suit Item No.1 in his favour through Registered Sale Deed bearing document No.3620/2015-16 dated 28-08-2015 for valuable consideration and delivered the possession and hence alienation is binding on the share of plaintiff. It is further contended that defendant No.1 and 2 and plaintiff have purchased 03-31 acres in survey No.129/5 of Malli village in the name of Smt Sridevi who is the second wife of defendant No.1 out of income derived from alienation of Suit Item

No.1. It is further contended that suit of the plaintiff is bad for non-joinder of all other family members and non-inclusion all other family properties.

22. By looking to the pleadings of the parties Issue No.1 and 2 have been framed by casting the burden of proof on the plaintiff as to existence of joint family; nature of suit lands; joint possession and enjoyment and also undivided share by the plaintiff. Similarly Issue No.3 and 4 have been framed by casting the burden of proof on the defendant No.3 relating to nature of alienation of Suit Item No.1 and also purchase of other lands out of its sale proceeds. If at all the plaintiff is able to prove the issues framed by casting the burden of proof on her naturally she is entitle for partition. If at all defendant No.3 is able to prove Issue No.3 and 4 naturally plaintiff is not entitle for any relief relating to Suit Item No.1. Hence in order to give finding on these material aspects of the matter, let me appreciate the oral and documentary evidence placed on record.

23. As I already stated in order to substantiate the plaint averments plaintiff herself examined as PW-1 in the form of affidavit and virtually re-iterated all the plaint averments once again in the affidavit filed in lieu of chief-examination. During the course of chief-examination plaintiff/PW-1 tendered 10 documents and they have been admitted as per Exhibit P-1 to P-10. Similarly in order to prove the burden casted on the defendants, defendant No.3 himself examined as DW-1 and virtually re-iterated all the contents of written statement. During the course of chief-examination defendant No.3/DW-1 has tendered 6 documents and they have been admitted as per Exhibit D-1 to D-6. There is no

dispute among the parties as to revenue entries placed on record as per Exhibit P-1 to P-5, P-9 and P-10 and D-2 to D-05 and also registered documents placed on record as per Exhibit D-1 and D-6 and also relating to Election Identity Card and Adhar Card of plaintiff placed on record as per D-6 to D-8. Hence I am going to discuss all the documents placed on record from both sides simultaneously in order to avoid repetition of discussion and reasoning.

24. Exhibit P-2 to P-6, D-3 and D-5 are the computerized Record of Rights for the years 2015-16 and 2016-17; Exhibit P-10 is the computerized MR No.19/2015-16 dated 11-08-2015; Exhibit P-1, P-9 and D-2 are one and same and they are the computerized MR No.54/2015-16 dated 06-11-2015; Exhibit D-1 is the original Registered Sale Deed bearing document No.3620/2015-16 dated 28-08-2015 and Exhibit D-6 is the certified copy of Registered Gift Deed bearing document No.4826/2015-16 dated 20-10-2015 relating to land in survey No.293 of Maganagera village. It could be seen from these documents that land in survey No.293 was totally measuring 19-31 acres including phoot kharab 00-39 guntas. It could be further seen that an extent of 00-23 guntas was acquired by KBJNL and remaining extent of 19-08 acres was standing in the name of defendant No.1 in the year 2015-16 and his name was appearing in the revenue records as possessor and cultivator. It could be further seen that defendant No.1 sold 10-18 acres including phoot kharab of 00-24 guntas of in favour of defendant No.3 through Registered Sale Deed bearing document No.3620/2015-16 dated 28-08-2015 for valuable consideration of Rs.6,48,000/- and delivered the possession and

accordingly katha has been mutated in his name as per MR No.H-27/2015-16 dated 06-11-2015 and his name is appearing in the revenue records as possessor and cultivator. It could be further seen that extent purchased by defendant No.3 is standing in the name of defendant No.1 with new survey No.293/1 measuring 10-18 acres (described as Suit Item No.1) and remaining extent of 01-27 acres and 06-33 acres renumbered as survey No.293/3 and 293/4 (described as Suit Item No.2 and 3) is standing in the name of defendant No.1.

25. As I already stated there is no dispute among the parties as to relationship of the parties; nature of the suit lands and revenue entries. As I further stated after conclusion of trial and before passing judgment, plaintiff has filed IA No.XII under Order XXIII, Rule 1 of Code of Civil Procedure 1908 stating that she has wrongly pleaded in the plaint that Suit Item No.1 was not alienated for the legal necessity of the joint family though it is alienated for the legal necessity of the joint family through Registered Sale Deed bearing document No.3620/2015-16 dated 28-08-2015 and hence she is ratifying the said alienation and abandoning her right over Suit Item No.1. As I already observed IA No.XXII has been allowed and suit of the plaintiff has been dismissed relating to Suit Item No.1 the land bearing survey No.293/1 measuring 10-18 acres of Maganagera village of Jewargi taluka and against defendant No.3 and 4. That apart though suit summons has been duly served defendant No.1 and 2 remained absent and not participated in the trial and not challenged oral and documentary evidence placed on record from both sides. The affidavit evidence of PW-1 and contents of

documentary evidence placed on record have gone un-challenged and un-impeached from the plaintiff side. Therefore in the light of undisputed and admitted facts and in the light of revenue entries and also in view of ratification by the plaintiff relating to alienation of Suit Item No.1 and also contents of IA No.XXII and order there upon, it can be easily inferred that the suit Item No.1 to 3 are the ancestral and joint family properties of plaintiff and defendant No.1 and 2; all are the members of Hindu undivided joint family; all were in joint possession and enjoyment of the suit Item No.1 to 3 and all were having undivided interest therein. But in view of ratification of alienation and abandonment of her right in Suit Item No.1, it can be concluded that it has been alienated by defendant No.1 in favour of defendant No.3 through Registered Sale Deed for valuable consideration for the legal necessity of the joint family and hence the same is binding on the share of plaintiff and hence plaintiff is not in joint possession and enjoyment of suit Item No.1 along with defendant No.1 and 2 as it has been already alienated by defendant No.1 in favour of defendant No.3.

26. As I already stated suit lands are the ancestral properties of plaintiff and defendant No.1 and 2; all have constituted Hindu undivided joint family; they were in joint possession and enjoyment of the suit lands and they were having undivided interest in all the suit lands and defendant No.1 has sold Suit Item No.1 in favour of defendant No.3 for legal necessity of the joint family. But during the course of cross-examination, PW-1 has specifically admitted that the mother, the brother and other wife and two children born to defendant No.1

through other wife are alive and they are not made as parties in the suit. PW-1 also admitted during her cross-examination that properties have not allotted to the daughters of Sri Rudragouda and also his mother Smt Gangadevi. Though PW-1 stated that partition is taken place among his father and her uncle, she has not stated the details of properties fell to the share of his father and uncle. Similarly though PW-1 stated that the brother of his father has relinquished his share in the family properties in favour of his father she has not produced any legally acceptable documents in that regard. Therefore by looking to the non-inclusion of other family properties and also non-impleadment of other family members, it is crystal clear that it is a case of non-joinder of proper and necessary parties and non-inclusion of all other family properties.

27. It is well settled that in a suit for partition among Hindus all the family members must be made as parties and all the family properties shall be included. It is also well settled that suit for partial partition is not maintainable. In the present case hand though the plaintiffs is directed to include all the family properties and implead all the members she has not included the other family properties and impleaded other surviving family members. Under these facts and circumstances of the case I am of the clear opinion that though the plaintiff is able prove that suit properties are the ancestral and joint family properties; herself an defendant No.1 and 2 are the members of joint family and all are having undivided interest in suit Item NO.2 and 3, suit is bad for non-joinder of

proper and necessary parties and also bad for non-inclusion of all the family properties.

28. On overall appreciation of oral and documentary evidence placed on record, I am of the clear opinion that plaintiff is able to prove that she and defendant No.1 and 2 are the members of Hindu undivided joint family and all the suit properties are joint family properties. I am of the further opinion in view of admission and ratification by the plaintiff by filing IA No.XII that Suit Item No.1 has been alienated by defendant No.1 in favour of defendant No.3 through Registered Sale Deed bearing document No.3620/2015-16 dated 28-08-2015 for the legal necessity of joint family and hence the same is binding on the share of plaintiff. I am also of the further opinion that plaintiff and defendant No.1 and 2 are in joint possession and enjoyment of suit Item No.2 and 3 and not suit Item No.1 as it is already alienated for the legal necessity of the joint family. But plaintiff has filed the present suit without including all the family properties and also without impleading all the surviving members of the family. In such situation suit is bad for non-joinder of proper and necessary parties and also for non-inclusion of all the family properties. Hence I am answering to ***Issue No.1 in the affirmative; Issue No.2 partly in the affirmative; Issue No.4 and 5 in the affirmative.***

**29. ISSUE NO.3:-** Defendant No.3 has specifically contended in the written statement that plaintiff and defendant No.1 and 2 have sold Suit Item No.1 in his favour through Registered Sale Deed for valuable consideration and

out of sale proceeds land in survey No.129/5 measuring 03-13 acres of Malli village was purchased in the name of Smt Sridevi who is the second wife of defendant No.1. But the plaintiff has admitted the alienation of Suit Item No.1 in favour of defendant No.3 for the legal necessity of the joint family and hence suit of the plaintiff was dismissed against defendant No.3 and 4 and also Suit Item No.1. When such being the case naturally, ***Issue No.3 did not survive for consideration.***

**30. ISSUE NO.6:-** I am already given finding to Issue No.1 in the affirmative and Issue No.2 partly in the affirmative holding that plaintiff is able to prove that herself and defendant No.1 and 2 are the members of Hindu undivided joint family property; suit Item No.1 to 3 are the joint family properties and they are in joint possession and enjoyment of Suit Item No.2 and 3 and they are having undivided interest therein only. Similarly I am already given finding to Issue No.4 in the affirmative holding that defendant No.3 is the bonafide purchase of the Suit Item No.1 and the same has been alienated by defendant No.1 in favour of defendant No.3 for valuable consideration in order to meet his family legal necessity. Similarly I am already given finding to Issue No.5 in the affirmative holding that suit is bad for non-joinder of proper and necessary parties such as mother, brother, wife and children of defendant No.1 and also bad for non-inclusion of all other family members. In spite of direction by the court plaintiff not included the other family properties and not impleaded other proper and necessary parties. It is well settled suit for partial partition and suit without the presence of

all the proper and necessary parties is not maintainable. Hence though plaintiff is able to prove the nature of Suit Item No.2 and 3 she is not entitle for the relief of partition as sought for as it amounts to partial partition. Hence I am answering to ***Issue No.6 in the negative.***

**31. ISSUE NO.7:** - In view of my findings to Issue No.1 to 6 and for the discussion made above and reasons assigned, I proceed to pass the following:

**ORDER**

***The suit of the plaintiff is hereby dismissed.***

***No order as to costs as the parties are related.***

***Draw the decree accordingly.***

***(Dictated to the stenographer, transcribed by her, corrected, then signed by me and pronounced in the open court on this 25<sup>th</sup> day of April, 2019)***

***(KUMARA G.)  
SENIOR CIVIL JUDGE AND JMFC  
JEWARGI***

**ANNEXURE**

**I. LIST OF WITNESSES EXAMINED FROM PLAINTIFF SIDE:**

PW-1 : Smt Dundamma w/o Ravi Teli

**II. LIST OF DOCUMENTS EXHIBITED FROM THE PLAINTIFF SIDE:**

Exhibit P-1 : Computerized MR No.H27/2015-16  
Exhibit P-2 to 5 : Computerized Record of Rights  
Exhibit P-6 to 8 : Identity cards and Adhar card of plaintiff  
Exhibit P-9 : Computerized MR No.H27/2015-16  
Exhibit P-10 : Computerized MR No.T9/2015-16

**III. LIST OF WITNESSES EXAMINED FROM DEFENDANTS SIDE:**

DW-1 : Sri Gollalappagouda s/o Rudragouda Biradar

**IV. LIST OF DOCUMENTS EXHIBITED FROM THE DEFENDANTS SIDE:**

- Exhibit D-1 : Original Registered Sale Deed dated 28-08-2015
- Exhibit D-2 : Computerized MR No.H27/2015-16
- Exhibit D-3 & 4 : Computerized Record of Rights
- Exhibit D-5 : Property Extract
- Exhibit D-6 : Certified copy of Registered Sale Deed dt: 20-10-2015

**(KUMARA G.)  
SENIOR CIVIL JUDGE AND JMFC  
JEWARGI**

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