

KAKL300005222023



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC, AT: MALUR

Dated this the 30th day of June 2026

Present:

Sri. Dayanand.M.Belure

B.A., L.L.B.

(Spl)

Senior Civil Judge & JMFC Malur.

O.S.No. 342/2023

PLAINTIFF/S : 1. Sri. Mulabagilappa,
S/o. late Pillappa,
Aged about 60 years,
R/at. Sunnakallu bari village
Kasaba Hobli, Malur Taluk,
Kolar District.

V/S

DEFENDANTS: 1. Sri. Mariyappa
S/o. late Mulabagilappa,
Aged about 65 years
2. Smt. Munivenkatamma,
W/o. late Kurigala Muniyappa,
Aged about 65 years,
3. Smt. Nagarathnamma
W/o. late Venkataramanappa,
Aged about 40 years

R/o. D.M.Colony, Sulibele road
Devanahalli town.

4. Smt. Manjamma,
W/o. Srinivas,
Aged about 38 years,
R/at. Ambedkar colony,
Nadupalli village, Kasaba hobli,
Kolar taluk and dist.
5. Smt. Munirathna,
W/o. Ramesh,
Aged about 35 years,
R/at Anjaneyaswamy temple road,
Malur town.
6. Smt. Rajeshwari,
W/o. Nagaraj,
Aged about 33 years,
R/o. Pooja Prithi Nilaya,
2nd floor, 2nd house
Bramhakumari road,
Araleri main road, Malur town.
7. Smt. Kanthamma,
W/o. Prakash,
Aged about 31 years,

R/at. NO.31, Shivaramakarantha
nagar, Thanisandra main road,
Bangalore.

8. Smt. Kavitha,
W/o. late Suresh,
Aged about 29 years,
R/at No. 1117, Junior college road,
Belathuru colony, Kadugudi,
Bangalore.
9. Smt. Laghumamma,
W/o. late Chowdappa,
Aged about 68 years
10. Smt. Narayanamma,
W/o. late Chowdappa,
Aged about 68 years
11. Sri. Jayaram,
S/o. late Chowdappa,
Aged about 30 years
12. Smt. Lakshmi,
W/o. late Shankarappa,
Aged about 34 years
13. Smt. Nagaveni,
W/o. Vijay kumar,
Aged about 32 years

14. Smt. Gowri,
W/o. Suresh,
Aged about 30 years
15. Sri. Muniraju,
S/o. late Chowdappa,
Aged about 28 years
16. Kumari. Jyothi,
D/o. late Chowdappa,
Aged about 26 years
17. Sri. Darshan,
S/o. late Chowdappa,
Aged about 24 years,
Defendant no.1,2, 9 to 17 are
R/ at Sunnakallu Barli village,
Kasaba hobli, Malur Taluk,
Kolar District.
18. Sri. Munishami bovi,
S/o. late Chinnana bovi
Aged about 65 years
19. Sri. Narayana Bovi
S/o. late Chinnana bovi
Aged about 62 years

Def. No.18 and 19 are R/at.

Korachanur village, Kasaba hobli,

Malur Taluk, Kolar District.

20. The special land acquisition,
No.39, KIADB, Bharath Scouts and
Guides building 'Shanti Gruha'
4th floor, Palace road, Bangalore

ORDERS ON IA NO.VII

The counsel for defendant No.18 and 19 has filed IA No.VII Under Order 7 Rule 11 (a), and (d) R/W Sec.151 of CPC., to reject the plaint as the same is barred by limitation and devoid of cause of action by allowing the application.

2. It is submitted in the annexed affidavit that, the land bearing Sy.No. 119 totally measuring 17 acres 35 guntas was originally jodi inam land vested in the hand of Bhavanahalli village, jodidhar by name Sri.Narayan Singh. B, under him one Danadappa was a tenant cultivating the said land on Varaha basis since 1957 and when the Karnataka Inam Abolition Act came in to force in the year 1961 he made an application before the Special Thasildhar for Inam Abolition Act. Accordingly, the

Special Thasildhar Malur was registered him tenant as an occupant U/s 55(1) of the Karnataka Land Reforms Act.1961 and issued form No.10 in favor of Danadappa and later on case was registered before the Land Tribunal Malur Taluk. After enquiry the Special Thasildhar Malur was passed on order by register as occupant's U/s 45 of KLR Act 1961. Accordingly, the Danadappa became the absolute owner and he was in possession and enjoyment of the same as absolute owner and the documents was appeared in his name. After his death leaving behind his only son Chowdapa and Chowdappa being the class one legal heir he succeeded to the estate of his father, the katha and RTC was also changed in his name.

3. Further, it is submitted that the Chowdappa had executed registered sale deed dated 13.8.2003 to an extent of 6 acre out of 17 acres in favor of Chinamma @Chinnana bhovi (she is none other than mother of defendant No.18 and 19) and same was registered in the office of sub registrar Malur accordingly she is the absolute owner till her death, after demise of Chinamma @Chinnana Bhovi the defendants No.18 & 19 succeeded to her estate and they are in possession and enjoyment of the same as

absolute owner there afterwards the survey number has been renumbered as Sy No. 257/1 and later on the said land was acquired by the KIADB the defendant No.20 and the defendant No.20 was already issued compensation to defendant No.18 and 19 in respect of the above said land.

4. Further, it is submitted that on 16.02.2005 said Chowdappa for his family and legal necessities he was executed registered sale deed to an extent of 6 acres and on 16.05.2006 property bearing old Sy.No. 119/ P1 New Sy No.257/3 totally measuring 5 acres 35 guntas registered in the office of sub registrar Malur in favor of defendant No.18 and 19 in respect of same were registered in the office of sub registrar Malur and on the same day possession was delivered to defendant No.18 and 19 and all the documents transferred in their names. Later on the said land was acquired by the KIADB the defendant No.20 and defendant no.20 was already issued compensation amount to defendant No.18 and 19 in respect of the above said lands. On compensation with regarding to the standing trees are still pending now the plaintiffs have filed this false a frivolous suit in order to harass these purchasers and to extract money from

them. After the death of Chowdappa his family members and his children are filed one or other suits against the defendant No.18 and 19 in order to harass these defendants to extract money. The plaintiffs son admitted that partition was took place between the Mulabagilappa and his brother Dandappa long back ago, later on Mulagailappa and his sons are also partitioned . The plaintiffs and defendant No.1 to 17 have colluded with each other and filed this false and frivolous suit against defendant No.18 and 19. On these ground prays to allow the application.

5. On the other hand the plaintiffs have filed objections to the above application and contended that the Burimuniyappa and Muniyamma had four children namely 1. Pillappa, 2. Mulabagilappa, 3. Munivenkatappa and Dungalappa. The Pillapa and Papamma had only one son Mulabagilappa(plaintiff). The plaintiff and Byramma had two sons namely 1. Mariyappa 2. Kurigala Muniyappa, the Kurigala Muniyappa and Munivenkatamma had six children and the Kurigala Muniyappa died. Burimuniyappa third son Munivenkatappa and his wife Ragumuniyamma died without issues. Burimuniyappa fourth son Dungalappa Dandappa and Chikkamuniyamma died, they had

only son Chowdappa, he had two wives Lagumamma and Narayanamma and 1st wife had no issues. The 2nd wife has seven children. The Burimuniyappa and his sons Pillappa, Mulabagilappa, Danagalappa @ Danadappa had constituted Hindu undivided joint family and they were residing in the joint family and in joint possession and enjoyment of the suit schedule properties.

6. Further, it is contended that on behalf of joint family, Danagalappa @ Danadappa son of Burimuniyappa has been registered as an occupant under Land Reforms Act in case No.1140/74-75 and 1072/84-85. After the death of Burimuniyappa the plaintiffs and defendant No.1 to 17 are in joint possession and enjoyment of the same. There is no partition among the plaintiffs and defendant No.1 to 17. On the basis of the katha standing in the name of Danagalappa @ Danadappa, his son Chowdappa without knowledge and consent of plaintiffs and defendant No.1 to 17, created the revenue document sale deed in respect of the property bearing Sy.No.119/P1, totally measuring 17 acres 35 gunas out of which measuring 6 acres in the name of Chinnamma and Narayanappa on 13.08.2003. The

defendant No.18 and 19 have illegally changed the katha in respect of remaining extent in same survey number as per survey settlement and land records, the resurvey number 119 has been changed as 257 measuring 13 acres 2 guntas in the name of Danadappa @ Danagalappa. On these grounds prays to reject the application.

7. On the basis of rival contentions following points arise for my consideration;

POINTS

1. Whether the defendant No.18 and 19 have made out grounds to reject the plaint as prayed for?

2. What order?

8. On going through the pleadings and documents on record. Having heard the arguments on both side, my answer to the above points are as follows:

Point No.1 : In the Negative

Point No.2 : As per final order

for the following;

REASONS

Point No.1 :-

9. The plaintiff has filed this suit for the relief of partition and separate possession on the ground that suit schedule properties are their joint family ancestral properties till today there was no partition took place. Therefore, he has filed the present suit. In the mean time after appearance of defendant NO.18 and 19 they have filed above application for rejection of plaint as barred by law of limitation and devoid of cause of action. On the ground that they have purchased the suit schedule property in the year 2003, 2005 and 2006 itself and the same has been acquired by the KAIDB and they have received the compensation amount only compensation with regard to standing trees are still pending. Now the plaintiff is filed this false suit to extract money from them.

10. On the above said background I have perused the para No.8 of the plaint wherein plaintiff has contended that one Burimuniyappa and his son Mulabagilappa, Munivenkatappa and Danadappa had constituted Hindu Undivided joint family and they were residing in the joint family. Dungalappa @

Danadappa was managing the joint family. Burimuniyappa children were in joint possession and enjoyment of the suit schedule properties. On behalf of joint family, Danagalappa @ Danadappa has been registered as a occupant in Land Reforms Act, the suit schedule properties are joint family properties of Burimuniyappa sons. After the death of Burimuniyappa sons the plaintiff and defendant No.1 to 17 are in joint possession and enjoyment of the suit schedule properties. Among the children of Burimuniyappa no partition taken place by meets and bounds. So also there is no partition among the plaintiffs, defendant No.1 to 17. Recently, some misunderstanding are arisen on 20.03.2023.

11. The plaintiff approached the defendant No.1 to 17 and demanded to effect partition in the suit schedule properties. At that time, the plaintiff came to know that on the basis of katha standing in the name of Danagalappa @ Danadappa his son Chowdappa without knowledge and consent of the plaintiff and defendant No.1 to 17, created the revenue records and executed sale deed in respect of Sy.No.119/P measuring 17 acre 35 guntas out of which measuring 6 acres in the name of

Chinnamma and Narayanappa on 13.08.2003. The defendant No.18 and 19 have also illegally changed the katha in respect of remaining extent in the same survey number and subsequently the defendant No.20 acquired the suit schedule properties in which plaintiff has got his legitimate share in the suit schedule properties.

12. On these background I have verified the documents produced by the plaintiff wherein suit schedule properties some extent was standing in the name of defendant No.18 and 19 and some extent properties are standing in the name of father of defendant No.10 and 11 by name Chowdappa. Therefore, the defendant No.18 and 19 are not the owners of entire suit schedule property in which plaintiff has got his legitimate share. Therefore, at this stage based on the averments of IA No.VII entire plaint cannot be rejected. The point of limitation is concerned it is mixed question of law that is to be decided after leading of evidence by both parties and moreover it is settled principal of law that partial plaint cannot be rejected. At this stage the defendant No.18 and 19 have not made out any

grounds to reject the plaint. Therefore, I answer **Point No.1 in the Negative.**

Point No.2:

11. For the foregoing reasons I proceed to pass the following;

ORDER

IA No.VII filed by the defendant
No. 18 and 19 Under Order 7 Rule
11(a) and (d) R/W Sec. 151 of
CPC., is hereby rejected.

No order as to cost.

(Dictated to stenographer, transcribed and computerized by her, revised, corrected and then pronounced by me in the open court, on this the 30.06.2026)

Sd/-
(DAYANAND.M.BELURE)
Senior Civil Judge Malur.