

KAKP020003112018



**IN THE COURT OF SENIOR CIVIL JUDGE AND CJM.,  
KOPPAL**

**Dated: This the 17<sup>th</sup> Day of June 2026**

**Present: Sri. Malakari .R. Wadeyar**  
**B.A., L.L.B. (Spl).**  
Senior Civil Judge & CJM.,  
Koppal.

**O.S. No.15/2018**

**Plaintiff:**

- 1) Yamanavva W/o Beerappa Gollar,  
Age: 30 years, Occ: Agril.,  
R/o Kerehalli, Tq. & Dist: Koppal.

**(Rep. By Sri. B.C.G., Adv.,)**

**-V/s-**

**Defendants:**

- 1) Kariyappa S/o Dyamappa Myadaneri,  
Age: 60 years, Occ: Agril.,  
R/o Kariyamma Temple Street,  
Bhudagumpa, Tq. & Dist: Koppal.  
Now R/o Near Adavi Amareshwara  
Temple, Kukanapalli, Tq. & Dist: Koppal.
- 2) Shivanagavva W/o Kariyappa Myadaneri,  
Age: 53 years, Occ: Agril.,  
R/o Kerehalli, Tq. & Dist: Koppal.  
Tq. & Dist: Koppal.



- 3) Basavva W/o Kariyappa Myadaneri,  
Age: 45 years, Occ: Agril.,  
R/o Kariyamma Temple Street,  
Bhudagumpa, Tq. & Dist: Koppal.  
Now R/o Near Adavi Amareshwara  
Temple, Kukanapalli, Tq. & Dist: Koppal.
- 4) Mariyappa S/o Dyamappa Myadaneri,  
Age: 43 years, Occ: Agril.,  
R/o Kariyamma Temple Street,  
Bhudagumpa, Tq. & Dist: Koppal.
- 5) Anitha W/o Basavaraj Dollin,  
Age: 32 years, Occ: Agril.,  
R/o Near Cinema Talkies,  
Ginigeru, Tq. & Dist: Koppal.  
**(D-1 & 3 By Sri. S.M.S., Adv.,)**  
**(D-2 & 4 are placed ex-parte)**  
**(D-5 By Sri. D.M.P. Adv.,)**

Date of institution of the suit : 11-04-2018  
Nature of the suit : Suit for Declaration,  
Partition and Separate  
Possession.  
Date of commencement of  
recording of the evidence. : 03-02-2021  
Date on which the judgment  
was pronounced. : 17-06-2026  
Total duration. : Years Months Days  
08 02 06

**(Malakari. R. Wadeyar)**  
**Sr. Civil Judge and CJM.,**  
**Koppal.**



## **JUDGMENT**

The plaintiff has filed this suit against defendants for the relief of declaration, partition and separate possession.

**2.** As per case of the plaintiff, defendant No.1 and 2 are her father and mother, defendant No.3 is 2<sup>nd</sup> wife of her father. Suit lands 1) Sy No.30/A/1 measuring 1 acre 31 guntas of Amarapur Village in Koppal Taluka, 2) Sy No.21/E1 measuring 3 acres 6 guntas of Amarapur Village in Koppal Taluka and 3) Sy No.16/B1 measuring 2 acres 20 guntas of Budagumpa Village in Koppal Taluka are their ancestral properties.

**3.** Her father has thrown out the plaintiff and her mother/defendant No.2 about 30 years back without providing any basic necessities, however annually they are receiving some share in crops and food grains from her father, she is in joint use and enjoyment of the suit properties along with defendant No.1, till today there is no



partition and separate possession in between them in the suit schedule properties.

**4.** However, without their knowledge and consent, her father has sold out land Sy No.16/B1 measuring 2 acres 20 guntas of Budagumpa Village in Koppal Taluka in favour of defendant No.4 through registered sale deed without having any legal necessity.

**5.** Further her father has sold out 2 acres 2 guntas of land out of Sy No.21/E1 measuring 3 acres 6 guntas of Amarapur Village in favour of defendant No.5 through registered sale deed bearing No.KOL-1-08822/2023-24 on 02-11-2023 without having any legal necessity. Such sale deeds are not binding on their share.

**6.** Defendant No.1 denied to allot her legitimate share in the suit schedule properties in the 1<sup>st</sup> week of March 2018, Hence cause of action arose to file this suit on 09-03-2018, this court has jurisdiction to try this suit. Necessary court



fee is paid acting U/Sec. 35(2) R/w 24(a) of KCF and SV Act, hence prays to declare that, sale deed bearing No.KOL-1-08822/2023-24 executed by her father in favour of defendant No.5 and also sale deed executed by in favour of defendant No.4 are not binding on her. Further prays to declare that, she is entitled for  $\frac{1}{2}$  share in all the suit schedule properties. Further prays to allot her separate possession.

**7.** On service of summons, defendant No.2 and 4 have not appeared hence placed ex-parte, defendant No.1 and 3 have appeared through Sri SMS Advocate, wherein defendant No.1 has filed his written statement admitting the relationship in between plaintiff and defendant No.1 to 3, further admitted the nature and existence of the properties. However taken contention that, since 30 years defendant No.2 has left their house along with plaintiff, he do not know where about the plaintiff and defendant No.2, further he has married with defendant No.3 and taken a



boy by name Hanumesh in adoption and leading life with them. For treatment of his father he was in dire need of money, hence he has sold out suit land Sy No.16/B1 measuring 2 acres 20 guntas of Budagumpa Village in Koppal Taluka about 20 years back in favour of defendant No.4, accordingly defendant No.4 has become absolute owner and possessor of the said property.

**8.** Further he has sold out suit land Sy No.21/E1 measuring 3 acres 6 guntas out of which 2 acres 2 guntas of Amrapur Village in Koppal Taluka in favour of defendant No.5 to meet out his family necessities, accordingly defendant No.5 has become absolute owner and possessor of the said suit property. Now without having any cause of action with cock and bull story plaintiff has filed this false suit, very suit of the plaintiff is not maintainable, accordingly prays to dismiss the suit.

**9.** Further defendant No.5 has filed his separate written statement contending that, he is bona-fide purchaser of



the suit land Sy No.21/E1 measuring 3 acres 6 guntas out of which 2 acres 2 guntas of Amarapur Village in Koppal Taluka from the defendant No.1 through registered sale deed bearing No.KOL-1-08822/2023-24 on 02-11-2023, then MR No.H2/2023-24 is passed in his favour, accordingly he has become absolute owner and possessor of the said property, in spite of knowing all these facts, plaintiff has filed this false suit, her suit is not maintainable, accordingly prays to dismiss the suit.

**10.** In order to prove her case, plaintiff has deposed her evidence as per PW-1 and got marked 50 documents, defendants have not deposed their evidence, after hearing the arguments suit of the plaintiff is decreed byway of allotting  $\frac{1}{2}$  share in the suit schedule properties.

**11.** Aggrieved by the said judgment and decree in RA No.22/2023 is filed, after hearing the arguments appellate court allowed the appeal, set aside the judgment and decree passed this court and issue direction to give



opportunity to file the written statement deposed their evidence, then pass the judgment. Considering the same once again this case is reopened on 09-06-2025.

**12.** On service of summons defendant No.1 and 4 have not appeared hence placed ex-parte, defendant No.1 and 3 have appeared but defendant No.1 has filed written statement, and defendant No.3 has not filed written statement, so that, written statement is taken as nil, defendant No.1 has filed written statement on going through the material available on record, the rival pleadings of the parties, the following issues have been framed.

### **ISSUES**

1. Whether the plaintiff proves that, defendants are her joint family members?
2. Whether the plaintiff proves that, suit properties are the ancestral properties of plaintiff and defendants?
3. Whether the plaintiff proves that, she is entitled for the relief of partition and separate possession as prays for?
4. What order or decree?



**13.** In order to prove her case, plaintiff has deposed her further evidence as per PW-1 and got marked 6 documents as per Ex.P-51 to 56 and also examined a witness by name Gururaj as per PW-2 and closed her evidence. On the other hand, defendant No.1 and 5 have deposed their evidence as per DW-1 and 2 and got marked 9 documents as per Ex.D-1 to 9 and also examined a witness by name Basavaraj as per DW-3 and closed their evidence.

**14.** Heard the arguments, perused the evidence available on record, then my findings to the above issues are follows;

**Issue No.1 : In the Affirmative,**  
**Issue No.2 : In the Affirmative,**  
**Issue No.3 : In the Affirmative,**  
**Issue No.4 : As per the final order**  
**for the following;**

**:REASONS:**

**15. Issue No.1 and 2:** The facts and evidence of the above issue No.1 and 2 are connected to each other, hence, in order to avoid the repetition of facts and evidence, I am



taking the above issue No.1 and 2 for my common discussion.

**16.** On perusal of the oral and documentary evidence available on record, it is noticed that, as per the Kasara Pahani since 1954-55 to 1962-63, Sy No.27 of Amarapur Village was standing in the name of Ningappa S/o Mariyappa Budagumpi, then in the year 1963-64 very survey number is renumbered as Sy No.30, which is continued upto 1969-70, then very land is divided and mutated in the names of legal heirs of Ningappa by name 1) Hanumavva, 2) Mariyappa, 3) Kariyappa, accordingly said land is divided, wherein Sy No.30/A/1 measuring 1 acres 31 guntas is fallen to share of defendant No.1 Kariyappa under MN No.6 dated 29-06-1988 said fact is clear from Ex.P-1 to 9.

**17.** Said land is continued in his name upto 2000-01 as per Ex.P-10, Ex.P-11 to 16 are ROR's pertains to Sy No.16/B/1 measuring 2 acres 20 guntas of Budagumpa Village



speaks that, said land was standing in the name of Dyamappa S/o Mariyappa Myadaneri and which is mutated in the name of defendant No.1 under MN No.6 on 29-06-1988, said fact is continued upto 2016-17, further in the year 2016-17 very land is mutated in the name of defendant No.4 under MR No.31/2005-06 through registered sale deed dated 12-06-2006 and which is continued till filing of this suit, which is clear from the record of rights marked at Ex.P-17 to 32.

**18.** Further Ex.P-33 to 46 record of rights speaks that, Sy No.21/E1 measuring 3 acres 6 guntas was originally standing in the name of Ningappa S/o Mariyappa Budagumpi since 1954-55, then it is mutated in the name of Dyamappa Myadaneri in the year 1968-69, thereafter very land is mutated in the name of Kariyappa Myadaneri under MN No.6 dated 29-06-1988, said fact is clear from the record of rights marked at Ex.P-32 to 46.



**19.** Ex.P-47 and 48 are MR No.31/2005-06 which speaks about transfer of Sy No.16/B1 in the name of defendant No.4 from defendant No.1 on the basis of registered sale deed bearing No.23/2005-06 dated 04-04-2006, accordingly defendant No.4 has become owner and possessor of the said land Sy No.16/B1 measuring 2 acres 20 guntas of Budagumpa Village.

**20.** Ex.P-49 is the school certificate issued by the Head Master, Higher Primary School Kerehalli of Taluk Koppal pertains to the plaintiff, it goes to show that, plaintiff is borned on 12-06-1988 and admitted in their school for 1<sup>st</sup> standard, as per this document her name is Yamanavva D/o Kariyappa Budagumpi. Ex.P-50 is the copy of registered sale deed bearing No.23/2006-07 which speaks about sale of the Sy No.16/B1 measuring 2 acres 20 guntas by the defendant No.1 in favour of defendant No.4 on 04-04-2006 for an amount of Rs.90,000/-.



**21.** Ex.P-51 is the copy of sale deed bearing No.KOL-108822/2023-24 dated 19-10-2023 executed by defendant No.1 in favour of defendant No.5 pertains to land Sy No.21/2 measuring 2 acres of Amarapur Village in Koppal for an amount of Rs.3,00,000/-, accordingly defendant No.5 is owner and possessor of the said property. Ex.P-52 to 56 are the record of rights and mutation entries, which speaks about the present status of the suit lands, said documents speaks that, Sy No.16/B1 measuring 2 acres 20 guntas is standing in the name of defendant No.4 and Sy No.21/2 measuring 3 acres 6 guntas out of which 2 acres is standing in the name of defendant No.5.

**22.** On the other hand, Ex.D-1 is a alleged adoption deed executed by Gangamma and Ningappa in favour of defendant No.3 Basavva and defendant No.1 Kariyappa with regard to their son Hanumesh on 28-12-2013. Ex.D-2 is the MR No.H2/2023-24 speaks about transfer of land Sy No.21/2 measuring 2 acres in the name of defendant No.5



on the basis of sale deed bearing No.KOL-1-08822/2023-24. Ex.D-3 is the ROR of the said land Sy No.21/2, which is standing in the name of defendant No.5. Ex.D-4 is the MR No.31/2005-06 which speaks about transfer of Sy No.16/B1 measuring 2 acres 20 guntas of Budagumpa Village in the name of defendant No.4 on the basis of sale deed bearing No.23/2006-07 dated 04-04-2006. Ex.D-5 is the ROR of the said land Sy No.16/3 measuring 2 acres 20 guntas which is standing in the name of defendant No.4.

**23.** Ex.D-6 is the original sale deed bearing No.KOL-1-08822/2023-24 dated 19-10-2023 in the name defendant No.5 executed by defendant No.1. Ex.D-7 is the ROR of the land Sy No.21, which speaks about the clubbing of all the pieces of land under MR No.H2/2018-19 on 23-01-2019. Ex.D-8 is ROR of land Sy No.21/2 measuring 2 acres of Amarapur Village in Koppal Taluka, which is standing in the name of defendant No.1. Ex.D-9 is MR No.H2/2023-24 along with record of rights pertains to land Sy No.21/2 measuring 2 acres.



**24.** In the oral evidence, plaintiff has supported her case and admitted about the sale of land Sy No.16/B1 measuring 2 acres 20 guntas in the name of defendant No.4 in the year 2005-06, further admitted about sale of land Sy No.21/E1 measuring 3 acres 6 guntas out of which 2 acres in the name of defendant No.5 in the year 2023-24. PW-2 has supported version of the plaintiff.

**25.** Defendant No.1 has deposed his evidence supporting his case as per DW-1, wherein much deposed about taking of the adoption of the one Hanumesh and leading life with him, further admitted that, there is no divorce in between the defendant No.1 and 2, further admitted that, plaintiff is his daughter, further admitted that, he is ready to give share in favour of his daughter, but there shall be 3 shares in the suit properties, among 3 shares 1 share shall go to adoptive son by name Hanumesh.

**26.** DW-2 is the defendant No.5 in this case, she has deposed about purchase of suit land Sy No.21/E1



measuring 3 acres 6 guntas out of which 2 acres of land of Amarapur Village in Koppal Taluka, further deposed that, her purchased 2 acres of land is numbered as Sy No.21/2. So that, on the basis of Sale deed bearing No.KOL-1-08822/2023-24 dated 19-10-2023 she has become absolute owner and possessor of the said property. Further deposed that, she is bona-fide purchaser in this case. Defendant No.1 has sold out the said property for his family necessities as kartha of his family. In cross examination admitted that, during pendency of the RA No.22/2023 she has purchased this land on 02-11-2023 without verifying the documents.

**27.** A witness by name Basavaraj S/o Basappa Jabbalagudda has deposed his evidence as per DW-3 stating that, defendant No.1 has married with defendant No.3 and leading life with her, further deposed that on 28-02-2013 they have taken the Hanumesh in adoption everything is within his knowledge. In cross examination



deposed that, he do not know the contents of the adoption deed marked at Ex.D-1, his evidence affidavit is prepared by his advocate and he do not know the recitals of his chief examination.

**28.** On going through the evidence available on record, it is noticed that, taking of adoption of the Hanumesh on 23-12-2013 is not in issue, neither the genetic parents nor the adoptive parents have disputed the taking of the Hanumesh in adoption. Under such circumstances, this court is of the opinion that, Hanumesh is the adoptive son of the defendant No.1 and 3 and there is no issue with regard to the said fact, hence this court comes to the conclusion that, it is not much relevant for discuss about the same.

**29.** After going through the oral and documentary evidence available on record, it is noticed that, all the suit properties land Sy No.30/A1 measuring 1 acres 31 guntas, Sy No.21/E1 measuring 3 acres 6 guntas of Amarapur



Village in Koppal Taluka, further land Sy No.16/B1 measuring 2 acres 20 guntas of Budagumpa Village in Koppal Taluka are the ancestral properties of the defendant No.1.

**30.** Further on going through the oral and documentary evidence available on record, it is clear that, defendant No.2 is legally wedded wife of defendant No.1, out of their wedlock plaintiff is borned, further it is noticed that, since more than 30 years plaintiff and defendant No.2 are residing in Kerehalli Village and there is no nexus in between the defendant No.1 and 2. Further it is noticed that, subsequently defendant No.1 has married with defendant No.3, but not having any issues, as per case of the defendant No.1 and 3, one Hanumesh is their adoptive son, but except the bond paper marked at Ex.D-1, there is no other documents on record to show that, since 28-12-2013 Hanumesh is adoptive son of the defendant No.1 and 3. If he is adoptive son they would have furnished their



ration card with the Hanumesh but in the case on hand they have not furnished the ration card.

**31.** Further they have not furnished voter card and aadhar card of the Hanumesh, further they have not furnished school record of the Hanumesh, further they have not furnished any documents to show that, any of the movable or immovable properties are standing the name of Hanumesh showing the father name of Hanumesh, under such circumstances, this court is of the opinion that, there is no sufficient evidence about clear proof of adoption, hence, it is not possible to say that, Hanumesh is the adoptive son of the defendant No.1 and 3.

**32.** Defendant No.2 is legally wedded wife of the defendant No.1, under such circumstances, without consent of the defendant No.2, defendant No.1 cannot take the Hanumesh as adoptive son. Further on careful perusal of the Ex.D-1 it is noticed that, Hanumesh is literate but his school certificate is not furnished, further it is noticed



that, said Hanumesh is relative of the defendant No.3, when defendant No.3 is not a legally wedded wife of defendant No.1, under such circumstances, said adoption is not valid.

**33.** Plaintiff and defendant No.2 may be residing separately since many years from the company of the defendant No.1, but they are in constructive possession of the suit properties along with the defendant No.1.

**34 .** On careful perusal of the Ex.P-50 sale deed bearing No.23/2006-07 executed by defendant No.1 in favour of defendant No.4 with regard to land Sy No.16/B1 measuring 2 acres 20 guntas, it is noticed that, there is no proof of payment of the consideration amount of Rs.90,000/-, there is only a recital that, already said amount is received. It goes to show that, further there is no recitals either in the pleadings or in the sale deed to show that, what was the family necessities to sell the said property.



**35.** Further it is noticed that, very suit is filed on 09-04-2018, land Sy No.21/E1 measuring 3 acres 6 guntas out of which 2 acres is sold out in favour of defendant No.5 on 02-11-2023 through registered sale deed, it goes to show that, after filing of this suit said property is sold out, under such circumstances, this court is of the opinion that, very property has sold out without any legal necessities in order to deprive the rights of the plaintiff, further very sale is hit by Section 52 of the Transfer of Property Act, it is defense of the defendant No.1 that, he has spent much money for treatment of his father, so that, in order to meet out such family necessities he has sold out the Sy No.16/B1 2 acres 20 guntas in favour of defendant No.4, but to prove the said fact he has not furnished any medical records,

**36.** Further there absolutely there is no reason to sell the Sy No.21/E1 measuring 3 acres 6 guntas out of which 2 acres of land in favour of defendant No.5, under all these circumstances, this court is of the opinion that, both the



sale deeds dated 03-04-2006 and 19-10-2023 are not binding on the  $\frac{1}{2}$  share of the plaintiff.

**37.** Defendant No.2 and 3 are not entitled for any share during lifetime of the defendant No.1, furthermore so-called adoptive son of the defendant No.1 and 3 is not entitled for any share in the suit schedule properties, mere separate residence of the plaintiff due to negligence of the defendant No.1 is not amounts to ouster from the family, on the other hand, this court comes to the conclusion that, plaintiff is in constructive possession of the suit property along with defendant No.1, further this court comes tot he conclusion that, sale deed dated 03-04-2006 and 19-10-2023 in favour of defendant No.4 and 5 executed by defendant No.1 are holds good only to the extent of  $\frac{1}{2}$  share of the defendant, i.e., share of the defendant No.1 with these views, this court comes to the conclusion that, plaintiff has proved that, suit properties are ancestral properties of plaintiff and defendant No.1, further this court comes to



the conclusion that, she is member of the Hindu undivided joint family along with defendant No.1, with these views, I have answered the above **issue No.1 and 2 in the Affirmative.**

**38. Issue No.3:** In the above issue No.1 and 2 already this court comes to the conclusion that, plaintiff is joint owner and possessor of the all 3 properties along with defendant No.1, further this court comes to the conclusion that, sale deeds dated 03-04-2006 and 19-10-2023 executed by the defendant No.1 in favour of defendant No.4 and 5 with regard to the property No.2 and 3 are not binding on the  $\frac{1}{2}$  share of the plaintiff. Under such circumstances, this court comes to the conclusion that, plaintiff is entitled for the relief of partition and separate possession to the extent of  $\frac{1}{2}$  share in all the suit properties, accordingly I have answered the above **issue No.3 in the Affirmative.**

**39. Issue No.4:-** For the reasons assigned and findings given on the above issue No.1 to 3, this court proceed to pass the following;



## **ORDER**

The suit of the plaintiff is hereby decreed.

It is declared that, sale deeds dated 03-04-2006 and 19-10-2023 executed by the defendant No.1 in favour of defendant No.4 and 5 with regard to suit property No.2 and 3 are not binding on the plaintiff to the extent of her  $\frac{1}{2}$  share.

Plaintiff is entitled for the relief of partition and separate possession to the extent of  $\frac{1}{2}$  share in all the suit schedule properties.

Parties have to bear their own cost.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer, typed by him, corrected, signed & then pronounced by me in the Open Court on this **17<sup>th</sup> Day of June 2026**).

**( Malakari .R. Wadeyar )**  
**Sr. Civil Judge and CJM.,**  
**Koppal.**

## **ANNEXURE**

### **1. List of witnesses examined for the Plaintiffs:**

PW-1 : Smt. Yamanavva,  
PW-2 : Sri. Gururaj.



**2. List of witnesses examined for the Defendant:**

DW-1 : Sri. Kariyappa,  
DW-2 : Smt. Anitha,  
DW-3 : Sri. Basavaraj.

**3. List of documents marked for the Plaintiffs:**

Ex.P-1 to 46 : Record of rights pertains to  
suit lands,  
Ex.P-47 & 48 : Mutation entries,  
Ex.P-49 : School Certificate,  
Ex.P-50 : Copy of registered sale deed bearing  
No.23/2006-07 dated 04-04-2006,  
Ex.P-51 : Copy of sale deed bearing No.KOL-1-  
08822/2023-24 dated 19-10-2023  
Ex.P-52 to 56 : Record of rights and mutation  
entries.

**4. List of documents marked for the defendant:**

Ex.D-1 : Adoption deed,  
Ex.D-2 : MR No.H2/2023-24,  
Ex.D-3 : ROR of land Sy No.21/2,  
Ex.D-4 : MR No.31/2005-06,  
Ex.D-5 : ROR of the land Sy No.16/3,  
Ex.D-6 : Original sale deed bearing No.KOL-1-  
08822/2023-24 dated 19-10-2023,  
Ex.D-7 : ROR of the land Sy No.21,  
Ex.D-8 : ROR of land Sy No.21/2,  
Ex.D-9 : MR No.H2/2023-24.

**( Malakari .R. Wadeyar )  
Sr. Civil Judge and CJM.,  
Koppal.**