

KAMD210005842014



Presented on : 29-04-2014
 Registered on : 29-04-2014
 Decided on : 15-04-2026
 Duration : 11 years, 11 months, 16 days

**IN THE COURT OF THE PRL CIVIL JUDGE
 AND JMFC, KRISHNARAJAPETE.**

: Present :

Smt.Parvathi.V, B.A., L.L.B.
 Prl.Civil Judge & JMFC,
 Krishnarajapete.

Dated : This the 15th day of April 2026

OS No.192/2014

PLAINTIFF :		Smt.Puttamma W/o late Thammanna, Aged about 60 years, R/at Kumbara street, Agrahara, K.R.Pet Town, K.R.Pete Taluk, Mandya District.
(By Sri. N.R.R, Advocate)		
-Vs-		
DEFENDANTS:	1.	Sri. K.T.Manjunatha @ Manju S/o late Thammanna, Aged about 38 years, R/at Door no.2030, Agrahara Road,

		K.R.Pet Town & Taluk, Mandya District.
	2.	Smt. Nagamma W/o Late Thammanna Aged about 55 years,
	3.	Smt. Manjula D/o Late Thammanna, Aged about 30 years,
	4.	Sri. Ananda S/o Late Thammanna Aged about 26 years,
	5.	Smt. C.Parvathi W/o Chikkegowda Aged about 45 years, R/at Kalegowda society road, Hemavathi Badavane, K.R.Pet Town, K.R.Pet Taluk, Mandya District.
	6.	Sri. Nanjegowda S/o Karigowda Aged about 65 years,
	7.	Sri. Javaregowda S/o Karigowda, Aged about 75 years, R/at Chikkonahalli Village, Kasaba Hobli, K.R.Pete Taluk, Mandya District.

(By defendant No.1 Sri.T.L., Advocate, Defendant No.2 to 4 Sri.P.K.N, Advocate, Defendant No.5 Sri.C.Y., Advocate, Defendant No.6 & 7 exparte.			
Date of institution	29.04.2014		
Nature of the Suit	Partition & Separate Possession		
Date of commencement of recording evidence	03.11.2022		
Date of close of evidence	12.06.2024		
Judgment pronounced	15.04.2026		
Total duration	Years	Months	Days
	11	11	16

**Prl.Civil Judge & JMFC,
Krishnarajapet**

JUDGMENT

The plaintiff has filed suit against the defendants for the relief of Partition and Separate Possession with respect to the suit schedule properties.

2. The Brief facts of the plaintiff's case are as under:-

It is the case of the plaintiff that, plaintiff is legally wedded wife of one Thimmanna. The suit properties are the ancestral joint family properties of the plaintiff and defendant No. 1 to 4. Thimmanna had three wives namely the plaintiff, late VenkataLakshmama and Nagamma. The 1st defendant is the son of the late Venkata Lakshmama. The defendant No. 2 is the third wife of Thimmanna. And defendant No.3 and 4 are children of Nagamma. All of them constitute members of a joint Hindu and divided family and are in joint possession and enjoyment of the suit properties. After the death of the Tirumanna, defendant No. 1 became the kartha and is managing of the joint family and the suit properties. Further Defendant No. 1 to 4 with an intention to defeat the right of the plaintiff have unlawfully alienated land an extent of 0.10 guntas have been sold in favour of defendant No. 5, Another 0.10 guntas sold in favour of defendant No. 6 and remaining 1.00 acre of land has been sold in favour of defendant No. 7 mentioned in item No.1 of suit property under Registered

sale deeds. The said alienations are illegal, void or not binding on the share of the plaintiff. The plaintiff has repeatedly requested defendant No. 1 to 4 to effect partition and allot her legitimate share in the suit properties. But the defendant No. 1 to 4 have failed to comply with the same. Hence, the plaintiff has filed the present suit.

3. After service of summons, defendant No. 1 to 4 have appeared through their counsel and they have filed their separate written statement. Despite service of summons on defendant No. 5 to 7, they have failed to appear before this court. Hence, they were placed ex parte.

4. The brief facts of the written statement of defendant No. 1 are as under:

Defendant No. 1 has filed his separate written statement wherein he has denied the averments of the plaint as false, frivolous and vexatious one. Defendant No. 1 has contended that, the plaintiff is not the legally wedded wife of Thimmanna. defendant No. 1, 3 and 4 are children of

Thimmanna. Late Venkatalakshamma is mother of the 1st defendant. After death of said Venkatalakshamma, Thimmanna married one Nagamma, out of the said wedlock, defendant No. 2 and defendant No. 3 were born. The plaintiff is not a member of joint Hindu family and has no manner of right, title or interest in the suit properties. During his life time of father of the Thammanna had sold Sy.No.41/1 property in favour of defendant No.6 for his legal necessities in the year 1979. During the life time of Thammanna, had sold land an extent of 0.10 guntas in favour of defendant No.5 mentioned in item No.1 property for his father legal necessities. The plaintiff has created false documents and filed the present suit. Hence defendant No. 1 has prayed to dismissed suit with exemplary costs.

5. The brief facts of the written statement of defendant

No.2 to 4 are as under:

Defendant No.2 to 4 have filed their separate written statement wherein they have denied the averments of the plaint as false, frivolous and vexatious one. They have

contented that The plaintiff is not the legal wedded wife of Thamanna. The plaintiff, namely puttamma, wife of Siddappa, is resident of Sheerale Village, Kerpetta. At the time of the appointment as Anganvadi helper dated 09.04.1995 she represented her name as Puttama wife of Siddhappa and secured the said appointment on that basis. the plaintiff has no right, title, interest either in the family of late Tamanna or in suit properties. During his lifetime of Thamanna, had sold the suit property bearing Survey No. 41. as described Item No. 1 suit property in favour of Defendant No.5 to 7 for his legal necessities. Venkatalakshamma is legal wedded wife Thamanna. Defendant No. 1 is born out of said wedlock. After death of Venkatalakshamma, Thamaanna married Nagamma, out of said wedlock, defendant No. 3 and defendant No.4 were born. Thamanna never married the plaintiff at any point of time. Defendant No. 1 to 4 constitute Member of a joint Hindu family and are in joint possession and enjoyment of the suit properties. Further, Defendant No. 2 to 4 are requested defendant No. 1 to effect partition and separate possession of

their shares in the suit properties. However, defendant No. 1 has refused to effect partition. Hence, Defendant No. 2 to 4 are entitled their respective share in the suit properties.

6. On considering of the pleading of both the parties, this court has framed the following ;

ISSUES

1. Whether the Plaintiff proves that the suit schedule properties are ancestral and joint family properties of herself and Defendants No.1 to 4 ?
2. Whether Plaintiff proves that the alienation made by defendant No.1 to 4 in favour of defendant No.5 to 7 is not binding on her?
3. Whether the Plaintiff is entitled to claim share in the suit schedule properties? If so to what extent?
4. Whether the Plaintiff is entitled to mesne profits?
5. What Order or Decree?

Additional issue

1. Whether the plaintiff proves that the Plaintiff & Defendant No.1 to 4 are joint family members ?

7. In order to prove the plaintiff's case, the GPA owner of the plaintiff examined himself as PW1 and got marked documents as Ex. P1 to Ex. P34. Further, one witness was examined as PW2 and the plaintiff's side evidence was closed.

8. On the contrary, the 1st defendant examined himself as DW.1 and got marked Ex.D1 & 2 and closed their side.

9. Heard the arguments from both side. Perused the material available on record, after going through rival contents of the parties and the documents.

10. The findings of this court at the above issues are as follows:-

Issues No.1 : In the Negative

Issues No.2 : In the Negative

Addl.Issues No.1: In the Negative

Issues No.3 : In the Negative
Issues No.4 : In the Negative
Issues No.5 : As per the final order
for the following ;

REASONS

11. **Issues No.1, 2 and Addl. Issues No.1 :-** Since these issues are inter-connected with each other, they are taken up together for common discussion in order to avoid repetition of facts and evidence.

12. It is a specific case of the plaintiff that, plaintiff is legally wedded wife of one Thimmanna. The suit properties are the ancestral joint family properties of the plaintiff and defendant No. 1 to 4. Thimmanna had three wives namely the plaintiff, late VenkataLakshmama and Nagamma. The defendant is the son of the late VenkataLakshmama. The defendant No. 2 is the third wife of Thimmanna. Defendant No. 3 and 4 are children of Nagamma. All of them constitute to be members of a joint Hindu and divided family and are in joint possession and enjoyment of the suit properties. After

the death of Thamanna, defendant No. 1 became the kartha and managing the joint family and the suit properties. Further Defendant No. 1 to 4, with an intention to defeat the right of the plaintiff, have unlawfully alienated the land an extent of 10 guntas has been sold in favour of defendant No. 5, Another 0.10 guntas sold in favour of defendant No. 6 and remaining 1.00 acre land has been sold in favour of defendant No. 7 as mentioned in item No.1 of under Registered sale deeds. The said alienation are illegal, void or not binding on the share of the plaintiff. The plaintiff has repeatedly requested defendant No. 1 to 4 to effect partition and allot a legitimate share in the suit properties.

13. Defendant No.2 to 4 have filed the written statement by denying relationship between plaintiff and late Thamanna and further submits that they are also entitled for the share in the suit schedule properties. The Defendant No.1 in his written statement has contended that The plaintiff is not the legally wedded wife of Thimmanna. defendant No.1,3 and 4 are children of Thimmanna. Late Venkatalakshamma mother

of the 1st defendant. After death of said Venkatalakshamma, Thimmanna married one Nagamma, and out of the said wedlock, defendant No. 2 and defendant No. 3 were born. The plaintiff is not a member of joint Hindu family and has no manner of right, title or interest in the suit properties. and during his life time of father of Thamanna, had sold property mentioned in item No.1 property favour of defendant No.6 for legal necessities of his family in the year 1979. The plaintiff has created false document and filed this suit .

14. As per Section 101 to 103 of the Indian Evidence Act/ Section 104 to 106 of BNS, the burden of proof lies on the Plaintiffs to establish that the plaintiff is the legally wedded wife of Thamanna and plaintiff and defendant No.1 to 4 are joint family members and are in joint possession of the suit schedule properties, hence she is entitled for partition and separate possession in respect of the suit schedule properties.

15. The general power of attorney older of the plaintiff. Examined himself as PW1 and filed his affidavit evidence in lieu of examination in chief, wherein he deposed in consonance with the averments made in the plaint. In support of his oral evidence PW1 got marked documents as Ex.P1 to Ex.P.34. The plaintiff is the general power of attorney Executed by the puttamma infavour of Mallikarjuna. Ex.P2 is the Genealogical Tree affidavit, Ex.P3 is the index of land of the suit schedule properties is standing in the name of Javara Son of Thimma. Ex.P4 is the records of right pertaining to suit properties. Ex.P5 is the death certificate of Thamanna, Ex.P6 is the mutation registered extract. Ex.P7 and 8 are old RTC Extracts standing name of the Jawara, Ex.P9 is standing name of defendant No.5 to 7 and Thamanna. Ex.P10 is the record of rights of item No.2 of the suit schedule property for the year 2013-2014 standing in the name of Thamanna. Ex.P11 is the record of rights of item No.1 of the suit schedule property for the year 2022-2023 standing in the name of defendant No.1,2 and 4. Ex.P.12 is the record of rights of Sy No.41/4 for the year 2022-2023

standing in the name of defendant No.5. Ex.P.13 is the record of rights of Sy No.41/5 for the year 2022-2023 standing in the name of defendant No.6. Ex.P14 is the record of rights of item No.1 of the suit schedule property for the year 2022-204 measuring to an extent of 1 acre 25 guntas is standing in the name of Defendant No.1,2 and4. Ex..P15 is Mutation Register Extract bearing Survey No.41/1 of the year 2015-16 is standing name of Timmanna. Ex.P16 to Ex.P.18 are postal acknowledgments. Ex.P19 is copy of legal notice issued by the plaintiff's counsel to the defendants. Ex.P20 is the reply notice. Ex.P21 to P23 are the returned postal covers which have not been claimed. Ex.P24 is the tax paid patta and Rasidh book in name of Puttamma wife of Sidhaiah. Ex.P25 to Ex.P28 are tax paid receipts of Puttamma wife of Sidhaiah. Ex.P29 is the oldage pension order of Puttamma wife of late Thamannagowda . Ex.P30 is the identity card issued by the Karnataka Building and Other Constructions Workers' Welfare Board of Puttamma W/o Thamanna. Ex.P31 is the adhar card of the of Puttamma W/o Thamanna. Ex.P32 is the pan card of Puttamma. Ex.P33 is identity card of

Puttamma W/o Thamanna. Ex.P34 is the voter ID card of Puttamma W/o Thamanna.

16. Before appreciating the evidence of PW1, it is relevant to discuss the evidence of the defendants. Defendant No.1 has examined himself before the Court as DW1 filed his affidavit evidence in lieu of his examination in chief, wherein he has deposed in consonance with the written statement averments filed by Defendant No.1. DW1 in support of his oral evidence has got marked Ex.D1 and Ex.D2. Ex.D1 is the certified copy of appointment order of Puttamma W/o Sidappa. Ex.D2 is the certified copy of order passed by the Deputy director of women and child devolpment, mandya. Even though defendant No. 2 to 4 have filed their written statement, but have failed to substantiate their defence, as they have neither stepped into the witness box nor produced any documentary evidence.

17. The Learned Counsel for the Plaintiff vehemently argued before the Court that the plaintiff is the legally

wedded wife of Thimmanna and she had no issues. It is further argued that the plaintiff is the first wife of Thimmanna, Venkatalakshmmamma is the second wife and second defendant is the third wife of Thamanna. The suit properties are the ancestral joint family properties of the plaintiff and defendant No. 1 to 4 and they are in joint possession and enjoyment of the same. Defendant No. 1 is son late Venktalakshmmamma, after death of Venkatalakshmmamma, Thamanna married one Nagamma, out of said wedlock, defendant No. 3 and defendant No. 4 were born. The plaintiff has share in the suit properties. Being an aged lady, she is unable to maintain herself. It is argued that with an intention to defeat and infringe the lawful right of the plaintiff, defendant No. 1 to 4 are attempting to alienate the suit properties without knowledge and consent of the plaintiff. It is further argued that defendant No. 1 to 4 have sold the suit property as mentioned in Item No.1 in favour of defendant No. 5 to 7 through Registered sale deeds, which are not binding on the share of the plaintiff. Despite repeated requests made by the plaintiff as well as panchayath to

defendant No. 1 to 4 to effect partition and allot her legitimate share, but they have failed to effect partition. Hence she is entitled for partition and separate possession.

18. The Learned Counsels for the Defendant No.1 has argued before the Court that the plaintiff is not the legally wedded wife of Thimmanna and has failed to establish any relation with the same. It is further argued that, Thimmanna had two wives, namely Venkatalakshama and Nagamma. Out of his wedlock with Venkatalakshama, Defendant No.1 was born. After death of Venkatalakshamamma, Thamanna married Nagamma, out of said wedlock, defendant No. 3 and 4 were born. It is further argued that, during the lifetime of father of Thamanna had sold a part of Item No. 1 of suit property in favour of defendant No.5 to 7 for legal necessities of his family. further contented that plaintiff has created false documents and filed the present suit, which is not maintainable either in law or on facts and the same deserves to be dismissed with costs.

19. In light of the arguments canvassed by the Learned Counsel for the parties, this Court has carefully perused the materials on record, in order to ascertain whether the said Thamanna is husband of the plaintiff and also the suit schedule properties are ancestral and joint family of the plaintiff. PW1 in order to substantiate that the said Late Thamanna is husband of Puttamma and has got marked Ex.P1. Ex.P1 is the Genealogical Tree affidavit, wherein the name of puttamma is shown as the first wife of Thamanna, late venkatalakshamma and Nagamma are shown as 2nd & 3rd wives of Late Thamanna K.T.Manjunatha is shown as the son of Late Venkatalakshamma, Manjunatha and Anandha are shown as the children of Nagamma.

20. In order to prove the relationship between the plaintiff and Thamanna, the plaintiff has been placed Ex.P24 to 34. On careful perusal of documents, Ex.P24 is patta and Rasid book in the said document it is mentioned as puttama wife of Sidhaiah. Ex.P25 to Ex.P28 are tax paid receipts, in the said documents it is mentioned as puttama wife of Sidhaiah.

Ex.P.29 is an ageold pension Order, it is mentioned as Puttamma wife of Thamanna Gowda. Ex.P30, is the identity card issued by the Karnataka Building and other Constructions Workers' Welfare Board, it is described as puttama wife of Thamanna. It is impotant to note that Ex.P25 to Ex.P29 are in contradiction to Ex.P30. Certain documents describe the plaintiff's husband's name as Thamanna and some other documents describe plaintiff's husband's name as Siddaiah, These documents have arised a serious doubt regarding the identity of her husband name. Such contradictions go to the root of the plaintiff's claim of her material relationship with Thamanna.

21. Further, the defendants also disclose Inconsistency regarding the occupations of the plaintiff. Ex.D1 appointment order and Ex.D2 order issued by the Deputy Director, Women and Child Development Authority, Mandya. On perusal of Ex.D1, it indicates that plaintiff was working as an Angadwadi helper and her husband's nameis mentioned as Seedappa. However, Other records particularly Ex.P.30,

suggest that she is a labourer and her husband's name is mentioned as Thamanna. Such contradictory evidence raises serious doubt on this aspect and also raises doubt regarding, whether she was doing either labour work or anganawadi helper and her husband's name is mentioned differently in the these documents. Further, there are materials described with regard to the address of the plaintiff, in Ex.P.29 to Ex.P34 her village is mentioned as Kubara beedi, Agrahara, KRPete. Whereas in Ex.P24 her is described as Sannathayamma wife of Siddaiah, residing at Shilanere. It is evident that there are materials contradictions and inconsistencies regarding the name of the plaintiff's husband, her occupation and address of the plaintiff. These varying addresses weaken the credibility of the plaintiff's case. In view of these materials' contradictions in the documentary evidence, this Court finds it difficult to place reliance on the plaintiff's version regarding her marital relationship with the late Thamanna.

22. In these circumstances, this Court merely on the basis of above documents cannot come to the conclusion that

the said Thamanna is the husband of the plaintiff. Another important aspect to be noted is that the Plaintiffs have not examined their relatives or the inhabitants of their village to substantiate that the said Late Thamanna is the husband of the plaintiff. In these circumstances this Court is of the opinion that the Plaintiff has not proved the relationship between the plaintiff and Thamanna. **As per Sec.50 of Indian Evidence Act/ Section 44 of BNS, when the court has to form an opinion as to the relationship of one person to another, the opinion expressed by conduct, as to the existence of such relationship, or any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is relevant fact.** In the case on hand, the Plaintiff has not examined their relatives or the inhabitants of their Village to establish the relationship between the plaintiff and Thamanna . Hence applying Sec.50 of the Indian Evidence Act/Section 44 of BNS, this Court is of the opinion that the Plaintiff has failed to prove the relationship between herself and late Thamanna. Hence this court is of the opinion that the Plaintiff has failed to prove her

relationship with Late Thamanna. When the Plaintiff has failed to prove that Thamanna is her husband, the question of the suit schedule properties being ancestral and joint family properties does not arise. With these observations, this Court has answered Issue No.1, Issue No.2 and Addl Issue No.1 in the Negative.

23. **Issue No. 3 and 4:** In view of the findings on issue No.1,2 and addl issue No.1, this court is of opinion that, as the plaintiff has failed to prove the relationship between herself and late Thamanna, she is not entitled relief sought in the plaint, Accordingly this Court has answered Issue No.3 and Issue No. 4 in the Negative.

24. **Issue No.5 :** For the aforesaid discussion on Issue No.1 to 4 and addl Issue No.1, this Court proceeds to pass the following:

ORDER

The suit of the plaintiff for the relief of partition and separate possession is hereby dismissed with costs.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced by me in the open court on this 15th day of April 2026.)

sd/-
(SMT.PARVATHI.V)
Prl.Civil Judge & JMFC,
K.R.Pete.

ANNEXURE

1. List of witnesses examined by the plaintiffs :

PW.1 : Sri. K.N.Mallikavrrjun
PW.2 : Sri. Rangaiah

2. List of documents exhibited by the plaintiffs :

Ex.P1 : General power attorney
Ex.P2 : Genealogical tree
Ex.P3 : Index of land
Ex.P4 : Records of rights
Ex.P5 : Death certificate
Ex.P6 : Mutation register extract
Ex.P7to14 : RTCs
Ex.P15 : Mutation register extract
Ex.P16to18 : Postal acknowledgment
Ex.P19 : Legal notice
Ex.P20 : Replay notice

Ex.P21to 23 : Postal cover
Ex.P24 : Patta book
Ex.P25to28 : Tax paid receipts
Ex.P29 : Old age pension
Ex.P30 : Identity card
Ex.P31 : Adhar card
Ex.P32 : Pan card
Ex.P33 : Identity card
Ex.P34 : Election ID card

3. List of witnesses examined by the Defendants :

DW.1 : Sri. Manjunatha.K.T

4. List of documents exhibited by the Defendants :

Ex.D1 : Appointment order
Ex.D2 : Order issued by the Deputy Director

sd/-

Pr1.Civil Judge & JMFC,
K.R.Pete.