

KAMD210032372021



Presented on : 19-11.2021
 Registered on : 19-11-2021
 Decided on : 02-04-2026
 Duration : 4years, 4 months, 14 days

**IN THE COURT OF THE PRL CIVIL JUDGE AND
 JMFC AT KRISHNARAJAPET**

: Present :

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

Dated : This the 02nd day of April 2026

O.S. No.566/2021

PLAINTIFF	Smt.Savitha D/o Doddaiah @ Annaiah, W/o B.D.Prakash, Aged about 38 years, R/at Beby village, Chinakuruli Hobli, Pandavapura Taluk.
(By Sri. B.S.V., Advocate)	

-Vs-

DEFENDANTS	1	Sri.Doddaiah @ Annaiah, S/o Late Nanjappa, Aged about 65 years,
	2	Sri.Sundresh S/o Doddaiah @ Annaiah Aged about 32 years, Both are R/at Kempikopallu Village, Govindanahalli Dakale, Kikkeri Hobli, Krishnarajapet Taluk.

(D.1 Sri. M.R.L, Advocate)

(D.2 Sri. AMM., Advocate)

Date of institution	19.11.2021		
Nature of the Suit	Partition and Separate Possession		
Date of commencement of recording evidence	15.02.2023		
Date of close of evidence	20.03.2024		
Judgment pronounced	02.04.2026		
Total duration	Years	Months	Days
	04	04	14

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

:: J U D G M E N T ::

The instant suit has been filed by the plaintiff against the defendants for the relief of partition and separate possession, claiming 1/3rd share in the suit schedule properties by metes and bounds.

2. The brief facts of case of the plaintiff are that ;

It is the case of the plaintiff that the Plaintiff and Defendant No.2 are the children of Defendant No.1. The suit schedule properties are their ancestral properties of the Plaintiff and Defendants and are in actual possession and enjoyment over the suit schedule properties. Mother of the plaintiff died on 25-10-2020, after her death, Defendant No.2 is managing the joint family properties and there are about 150 coconut trees in the suit schedule 'A' properties, he is deriving an annual income of approximately 3,00,000/-, but without rendering any accounts to the plaintiff, he has been misappropriating

the said income for his own use and has completely neglected the plaintiff, further she stated that the suit schedule 'B' properties i.e gold ornaments, were kept in custody of defendant No.2, and no partition has been effected among the family members. Though the Plaintiff has conveyed the panchayath in the village, but the Defendants have refused to effect the partition and allot the share of the Plaintiff over the suit properties. hence she has filed the present suit.

3. In response to the suit summons, the defendants have appeared through their counsel, but in spite of sufficient time, they did not choose to file written statement. Hence written statement taken as not filed and the matter was posted for plaintiffs' evidence.

4. In order substantiate of their case, the plaintiff got examined herself as PW1 and got marked documents at Ex.P1 to 12 and close their sides. Since the defendants

have not filed any written statement, hence cross examination of PW1 taken as nil and the matter was posted for arguments.

5. Heard arguments on plaintiffs' counsel and perused the materials on records.

6. On considering the rival pleadings of both parties, this court has framed the following :

:: POINTS ::

1. Whether the plaintiff proves that the suit schedule properties are the joint family properties of herself and defendants?
2. Whether the plaintiff is entitled for the relief sought for?
3. What order or decree?

7. On consideration of the materials placed on record, this court answers the aforesaid points are as under;

Point No. 1 : **In the Affirmative**

Point No. 2 : **Partly in the Affirmative**

Point No. 3 : As per the final order,
for the Following ;-

:: REASONS ::

8. POINT NO.1 AND 2 : Point No.1 and 2 are inter-connected; hence in order to avoid the repetition of facts, the above said points are taken together for common discussion._

9. As per Section 101 to 103 of the Indian Evidence Act, the burden of proof of lies on the Plaintiff to establish her case. The Plaintiff in order to establish her case has examined before the Court as PW.1 and filed affidavit evidence in lieu of her examination in chief, wherein she has deposed inconsonance with the plaint averments. PW1 in support of her oral evidence has got marked Ex.P1 to Ex.P12. Ex.P10 is the Genealogical tree affidavit, Ex.P1 is the record of rights item No.1 of the suit schedule property which is standing in the name of Defendant No.1. Ex.P2 is the record of rights item No.2 of

the suit schedule property which is standing in the name of Defendant No.1. Ex.P3 is the record of rights item No.3 of the suit schedule property which is standing in the name of Defendant No.1. Ex.P4 is the record of rights item No.4 of the suit schedule property which is standing in the name of Defendant No.1. Ex.P5 is the record of rights item No.6 of the suit schedule property which is standing in the name of Defendant No.1. Ex.P6 is the record of rights item No.4 of the suit schedule property which is standing in the name of Defendant No.1. Ex.P12 is the record of rights item No.5 of the suit schedule property which is standing in the name of Defendant No.1. Ex.P11 is the certified copy of demand register extract which is standing in the name of Defendant No.1. Ex.P7 to Ex.P9 are the mutation extract to show that the said revenue entries were changed in the name of Defendant No.1.

10. The important aspect to be noted is that though the Defendant No.1 to 3 have appeared through their Counsel but failed to file the written statement and dispute the contention of the Plaintiff that the suit schedule properties are the joint family properties and the Plaintiff is entitled for share in the suit schedule properties. This Court has carefully considered the oral and documentary evidence adduced by the Plaintiff. After considering Ex.P2 to Ex.P12 it is very clear that the name of the said Defendant No.1 is mentioned at the said revenue entries. The Defendants have not placed materials before the Court to show that the said revenue entries were changed as per the registered partition deed entered into between the said Defendants or due to some other adjustments. Hence by considering the said aspect, this Court is of the opinion that the suit schedule A' properties are the ancestral and joint family properties of the Plaintiff and the Defendants.

11. The Plaintiff has stated in the plaint that she is the daughter of Defendant No1 and Defendant no.2 is son of Defendant No.1 through his wife late Smt.Puttagowramma. Ex.P10 is the Genealogical tree wherein it is shown that the mother of the Plaintiff and Defendant No.2, Hence by considering Ex.P10, this Court is of the opinion that Plaintiff and Defendant No.2 are the children of Defendant No.1.

12. Now the important aspect to be determined is, how much share is entitled by the parties to the suit. The Plaintiff has stated that herself and Defendants are jointly entitled 1/3 share in jointly in the suit schedule properties. As per amended Section 6 of Hindu Succession Amendment Act 2005, the Plaintiff, i.e., daughter of defendant No.1 is considered as co-parencers along with his sons i.e., Defendant No.2, As per the ratio laid down by the **Hon'ble Apex Court of India which is reported in 2015(4) KCCR Page 3265 (SC) in between**

Prakash and others Vs. Phulavathi and others,

wherein the Hon'ble Apex Court has held that the daughter shall be considered as coparceners only if the daughter and her father both are alive as on the date of amendment as per the Amendment Act of 2005.

13. The Defendant No.1 being the father of the Plaintiff is alive as on the date of coming into force of the said Amendment to Section 6 of Hindu Succession Act. By applying the said ratio laid down by the Hon'ble Apex Court of India to the facts on hand, this court is of the opinion that Plaintiff is co-parceners along with Defendant No.2. Hence this Court is of the opinion that the Plaintiff and defendants are entitled for 1/3 share each as observed herein above in suit schedule 'A' properties. In order to prove existence of the suit schedule 'B' properties is concerned the plaintiff has not produced any documents. Hence, the plaintiff is not entitled share in suit schedule 'B' properties. With these

observation this Court has answered Point No.1 in the Affirmative and point No.2 partly in the Affirmative.

14. Point No.3: In view of foregoing discussion on the above points, this court proceeds to pass the following:

:: O R D E R ::

The suit of the plaintiff for the relief of partition and separate possession is hereby party decreed.

The plaintiff and defendants are entitled for 1/3rd share each in respect of item No.1 to 7 of the suit schedule 'A' properties.

The suit of the plaintiff with respect to suit schedule 'B' properties is hereby Dismissed.

In view of the facts and circumstances and relationship between the parties, the parties are bare their own cost.

Draw preliminary decree accordingly.

In view of the directions issued by the Hon'ble Apex Court in a Judgment reported in **2022 SCC On-line SC 737 (Kattukandi Edathil Krishnan and another V/s Kattukandi Edathil Valsan and others)** and Circular No.DJA-1/1105 dated 21.10.2022 issued by Hon'ble High Court of Karnataka, when the preliminary decree is passed in a partition suit, the Court has to initiate final decree proceedings under Order 20 Rule 18 of CPC by sumoto.

Hence, office is directed to register a Final Decree Proceedings under Order 20 Rule 18 of CPC based on preliminary decree after appeal period is over and keep a certified copy of preliminary decree passed in this suit and other records in the FDP proceedings.

(Dictated to the Stenographer, transcribed and typed by her, corrected and then pronounced by me in open court on this 02nd day of April 2026.)

Sd/-
(Smt. Parvathi.V)
Prl. Civil Judge & JMFC
K.R.Pete

ANNEXURE

1. List of witnesses examined on behalf of the plaintiff:

PW-1 : Savitha

2. List of documents relied on behalf of the plaintiff:

Ex.P-1 to 6: RTCs extract
Ex.P-7to9 : Mutation register extracts
Ex.P-10 : Genealogical tree
Ex.P-11 : Demand register extract
Ex.P-12 : RTC extract

3. List of witnesses examined on behalf of the defendants:

-Nil-

4. List of documents relied on behalf of defendant/s :

-Nil-

Sd/-
Prl. Civil Judge & JMFC
K.R.Pete