

KAMD610006712013



IN THE COURT OF THE PRL CIVIL JUDGE AND JMFC
AT: PANDAVAPURA

Present : **Smt. Poojashri. H.S., LL.M.,**
Prl.Civil Judge & JMFC.
Pandavapura.

Dated : This 21st day of July - 2026

O.S.No.131/2013

Plaintiff : Smt. Nagamma W/o Govindgowda
D/o Karigowda, aged about 53 years,
r/at Harohalli Village, Pandavapura Town.

(Rept., by Sri.B.S., Adv.,)

V/s

Defendants : 1. Sri.Andanigowda S/o Karigowda,
aged about 50 years,
r/at Harohalli Village,
Pandavapura Town.

2. Smt. Eramma W/o late Kempachari,
aged about 45 years,
r/at Madrahalli Village, Melukote
Hobli, Pandavapura Taluk.

3. Sri.P.Krishnegowda S/o Papegowda,
aged about 38 years,

r/at Chikkamaralli Village, Kasaba
Hobli, Pandavapura Taluk.

4. Sri.Ravindrachar S/o C.Ramachari,
aged about 48 years,
r/at Harohalli Village, Pandavapura
Town.
5. S.K.Kalegowda S/o Kalegowda,
aged about 50 years,
r/at Sunkathonnuru Village,
Melukote Hobli, Pandavapura
Taluk.
- 6.Sri.Chikkamalegowda S/o Kullegowda,
aged about 55 years,
r/at Harohalli Village, Pandavapura
Town.
7. A.H.Gopal S/o Halegowda,
aged about 42 years,
r/at Allapattana Village,
Srirangapattana Taluk.
8. Sri.Chikkaiah S/o Chikkapapegowda,
aged about 35 years,
r/at Aralakuppe Village, Chinakurali
Hobli, Pandavapura Taluk.
9. Sri. Ravi S/o Annegowda,
aged about 32 years,
r/at Harohalli Village,
Pandavapura Town.
10. Sri.H.A.Nataraj S/o Andanigowda,
aged about 38 years,
11. Smt.Shobha D/o Andanigowda,
aged about 34 years,

12. Smt.Bhagyamma W/o H.R.Ravindrachar,
aged about 47 years,

13. Sri.Shashikumar S/o H.R.Ravindrachar,
aged about 27 years,

14. Sri.Murthachari S/o H.R.Ravindrachar,
aged about 24 years,

From defendant No.10 to 14 are r/at
Harohalli Village, Kasaba
Hobli, Pandavapura Town.

(Rept., defendant No.1 by Sri.C.M., Adv.,)
(Rept., defendant No.2 to 4, 8 by Sri.H.R., Adv.,)
(Defendant No.5 to 7 are placed exparte)
(Rept., defendant No.9 by Sri.R.S.K., Adv.,)

Date of Institution of Suit	:	17.04.2013
Nature of the suit	:	Partition and Separate possession
Date of the commencement of recording of the evidence	:	02.02.2024
Date on which the Judgment was pronounced	:	21.07.2026
Total Duration	:	Years Month Days 13 03 04

(POOJASHRI.H.S.)
Prl.Civil Judge and JMFC.,
Pandavapura.

:-JUDGMENT:-

This suit filed by the plaintiff against the defendants for the relief of partition and separate possession and for such other relief.

2. THE BRIEF FACTS OF THE PLAINTIFFS CASE ARE AS FOLLOWS:

It is case of the plaintiff that, one Karigowda and Lakshmmamma are husband and wife and during their life time they had begot two children, they were plaintiff and defendant No.1 in the present case. It is further contended that, Karigowda died leaving behind Lakshmmamma and defendant No.1 as his legal heirs and after his demise the suit properties which are land bearing Sy.No.35/7 to an extent of 25 guntas situated at Harohalli Village, Pandavapura Taluk bounded on east by land of Makamma W/o Shettahalli, West by KRS road, North by land of Gowramma W/o late Narayanagowda and Marigowda S/o late Ramegowda, South by land of Thayamma W/o late A.Annaiyah and land bearing Sy.No.30/5 to an extent of 1 acre 8½ guntas situated at Harohalli Village, Pandavapura Taluk bounded on east by land of Narayanagowda S/o Bachegowda, Ramegowda S/o Bachegowda, West by land of Marigowda S/o late Ramegowda, North by sites of housing board, South by V.C nala and land bearing assessment No.4314 of the vacant site totally measuring

66-17-62-75 of Mangalore tiled house measuring 35-33 bounded on east by vacant site of Ravi S/o Annegowda, West by vacant site of Ravi S/o Annegowda and KRS road, North by land of Gowramma S/o late Narayanagowda and South by land of Thayamma W/o late Annaiah which are suit item No.1 to 3 which she properties got transferred into her name I.e., in the name of Lakshamma as the elder in the family and all the joint family members held the property in joint possession.

It is further contended that, thus suit properties are joint family properties of plaintiff and defendant No.1 and their mother Lakshamma. It is further contended that, they even have enough proceeds from the suit properties. It is further contended that, plaintiff was married to one Govindgowda, 35 years prior to the date of filing of the suit and that, Lakshamma died one and half year prior to the date of filing of suit leaving behind plaintiff and defendant No.1 as their legal heirs. It is alleged that, defendant No.1 and their mother Lakshamma in order to defeat the plaintiff's interest and right over the suit property in Sy.No.35/7 to an extent of 1½ guntas out of 25 guntas sold it in favour of defendant No.2, the 2 guntas in favour of defendant No.3's wife by name Sowmya and one and half guntas to defendant No.4 and 2 guntas in favour of defendant No.6, 2 guntas in favour of defendant No.7, 3

guntas in favour of defendant No.8, 3 guntas in favour of defendant No.9 by executing various sale deeds.

It is further contended that, defendant No.3's wife Sowmya after purchasing the land from plaintiff's mother and defendant No.1 died leaving defendant No.3 has her legal heir and he got changed the katha in to his name. Further that, defendant No.4 after purchasing the suit property from defendant No.1 and plaintiff's mother sold the same in favour of defendant No.5.

It is further contended that, defendant No.1 and their mother Lakshmmamma have sold the properties in favour of other defendants only with an intention to defeat the plaintiffs right and interest over the suit properties and those sale deeds are not binding on the share of the plaintiff in the suit properties. Further that, all the documents which are created by plaintiff's mother and defendant No.1 are not binding on her and she is entitled for half share in the suit properties. It is further contended that, since defendant No.1 and her mother have sold the suit properties in favour of other defendants, plaintiff had to file the present case seeking half share in the suit properties.

3. On other hand defendant No.9 has appeared through his counsel and filed his Written Statement in the present case.

The brief facts of the case as contended by Defendant No.9 in his Written Statement are as follows:

It is denied by defendant No.9 that, plaintiff has filed the present suit by colluding with defendant No.1 to claim the property which is sold in favour of other defendants which is not maintainable under law. It is further contended that, defendant No.9 is specifically denying the fact that, the plaintiff, defendant No.1 and their mother were joint family members and the suit properties are held jointly by them as date of filing of the suit. It is contended that, 0.5 guntas of land in suit item No.1 is held by defendant No.9 in the present case and he is also paying taxes with respect to the same. It is further denied by defendant No.9 that, the suit properties are the ancestral properties of the plaintiff. It is further contended that, though the joint family status of the plaintiff, defendant No.1 and their mother had severed long ago, plaintiff by colluding with defendant No.1 has filed the present suit to defeat the present defendant's interest over the property purchased by him from defendant No.1 and his mother. It is further denied by defendant No.9 that, the plaintiff has asked for share in the suit properties and it was denied by him which made her to file the present suit. It is further contended that, defendant No.1, his mother and his minor children along with his wife have executed a sale deed in favour of defendant No.9 selling 5 guntas of land in plaint

schedule item No.1 by executing a registered sale deed on 22.12.2005. Further that, the fact of executing sale deed in his favour is well within the knowledge of plaintiff inspite of which she has filed the present suit only to defeat the defendant No.9's interest over the same. Hence, prayed court to dismiss the suit.

4. Heard the arguments of both sides.

5. On the basis of above pleadings of the parties, my predecessor has framed the following issues:-

ISSUES

1. Whether the plaintiff proves that, the suit schedule properties are the ancestral and joint family properties of plaintiff and defendant No.1 to 8 and they are in joint possession and enjoyment over the same ?
2. Whether the defendant No.9 proves that, 1st defendant and his mother, wife and children have executed a registered sale deed dated: 22.12.2005 with respect to suit item No.1 only to an extent of 5 guntas ?
3. Whether the defendant No.9 proves that, suit is barred by law of limitation ?

4. Whether the plaintiff is entitled for 1/2nd share over the suit schedule properties as sought for ?

5. What order or decree ?

6. In order to prove the case of the plaintiff, the GPA holder by name H.G.Lokesh himself examined as PW.1 and got marked Ex.P.1 to 27 documents in his favour. On the other hand defendant No.9 appeared before the court and had filed Written Statement, but failed to led evidence.

7. After carefully going through the material evidence available on record and taking into consideration of the facts and circumstances of the case, this court answered to the above issues as follows:

Issue No.1 : In the Affirmative
Issue No.2 and 3: In the Negative
Issue No.4 : In the Affirmative
Issue No.5 : As per final order for the following:

REASONS

8. ISSUE No.1:- It is the case of the plaintiff that, the suit properties were the properties belonging to her father and earlier the kathas were standing in his name and after his demise the kathas were changed into the name of their mother Lakshamma and plaintiff was married to her husband, 35 years prior to the date of filing of the suit and one and half year prior to the filing of the suit plaintiff's

mother and defendant No.1 in order to defeat plaintiffs interest over the suit properties sold the same in favour of other defendants by executing sale deed, hence the present suit.

9. Plaintiff in order to prove her case has examined her GPA holder, GPA holder has filed his affidavit-in-lieu of his examination-in-chief wherein he has reiterated the averments of the plaint. Further PW.1 has produced GPA which is marked as Ex.P.1, wherein plaintiff has appointed PW.1 as her agent to represent her before the court and also to depose on her behalf in the present case.

10. Further, on perusal of GPA it is mentioned that, PW.1 is authorized to depose and give evidence on her behalf in the present suit. PW.1 has produced Ex.P.2, 3 are the RTCs in Sy.No.35/7 for the year-2001 to 2012-13. Ex.P.4 is RTC in Sy.No.35/14 for the period 2012-13. Ex.P.5 is RTC in Sy.No.35/11. Ex.P.6 is again RTC in Sy.No.35/11. Ex.P.7 is RTC in Sy.No.35/15. Ex.P.8 is also with respect to Sy.No.35/15. Ex.P.9 is with respect to Sy.No.35/13. Ex.P.10 is with respect to Sy.No.35/10. Ex.P.11 is with respect to Sy.No.35/21. Ex.P.12 is with respect to Sy.No.30/5. On perusal of RTCs with respect to Sy.No.35 it has been changed to various other's names. On perusal of Ex.P.2 it is standing in the name of plaintiff's mother Lakshamma as per Ex.P.3 it is standing in the

name of Lakshamma and defendant No.1. However Ex.P.4 shows that, Sy.No.35/14 is changed in the name of Eramma to an extent of 1 acre 8 guntas vide MR.No.3/2006-07 by executing sale deed dated: 14.08.2006. On perusal of Ex.P.5 it is standing in the name of defendant No.3 Sowmya measuring 2 acres which is again changed into her name vide sale deed dated: 19.08.2006. Ex.P.6 is RTC in Sy.No.35/11 which is standing in the name of defendant No.3 which is changed on demise of defendant No.3's wife.

11. On perusal of Ex.P.7 it is RTC in Sy.No.35/15 which is standing in the name of defendant No.5 measuring 1 acre 8 guntas and it is changed into his name vide MR.No.6/2006-07 based on sale deed dated: 19.08.2006. Further, PW.1 has produced Ex.P.8 which is RTC in Sy.No.35/15 which is again measuring 1 acre 8 guntas standing in the name of defendant No.5 which is changed vide MR.No.56/10-11 as per sale deed dated: 18.03.2011.

12. Further, PW.1 has produced Ex.P.9 RTC in Sy.No.35/13 which is standing in the name of defendant No.6 measuring 2 acres which is changed vide MR.No.5/2006-07 vide sale deed dated: 19.08.2006. PW.1 has produced Ex.P.10 i.e., RTC in Sy.No.35/12 standing in the name of defendant No.7 measuring 2 acres which is

changed in to his name vide MR.No.14/2006-07 dated: 25.08.2006. Further PW.1 has produced Ex.P.11 RTC in Sy.No.35/21 which is standing in the name of defendant No.8 measuring 3 acres which is changed in to his name vide MR.No.27/2011-12 vide sale deed dated: 23.01.2012. Further PW.1 has produced Ex.P.12 RTC in Sy.No.30/5 which standing in the name of Lakshmamma measuring 1 acre 8 guntas which is transferred to her name vide MR.No.13/89-90 and said Lakshmamma is none other than plaintiff's mother.

13. PW.1 has produced Ex.P.13 i.e., MR.No.52/2005-2006 wherein it is mentioned that, Sy.No.35/7, 8 is standing in the name of Lakshmamma measuring to an extent of 18 guntas and 5 guntas respectively and Sy.No.35/7 is standing in the name of Andanigowda measuring 2 guntas. It is the case of the plaintiff that, Ex.P.14 is again an MR bearing No.48/2003-04 wherein 2 acres of land in Sy.No.35/7 is changed to the name of Andanigowda from the name of Lakshmamma and Ex.P.15 is RTC in Sy.No.35/7 which is standing in the name of Eramma which is transferred from the name of Lakshmamma to an extent of 1 acre 8 guntas. Ex.P.16 is MR.No.26/2007-08 with respect to Sy.No.35/11 which is sold in favour of defendant No.3's wife and presently katha is standing in his name. Ex.P.17 is MR.No.56/2010-11 with respect to Sy.No.35/15 which is standing in the name

of defendant No.5. Ex.P.18 is with respect to Sy.No.35/7 measuring 2 guntas standing in the name of defendant No.6. Ex.P.19 is with respect to again Sy.No.35/7 which is standing in the name of defendant No.7. Ex.P.20 is with respect to Sy.No.35/21 which is standing in the name of defendant No.8.

14. On perusal of the documents with respect to suit item No.1 which are marked Ex.P.2 to Ex.P.20 shows that, with respect to item No.1 various sale deeds are executed in favour of defendants as mentioned in the RTCs. With respect to this PW.1 has also produced Ex.P.22 the sale deed dated: 07.06.2006 executed by defendant No.1 and Lakshamma with respect to land measuring 18 guntas in Sy.No.35/7. PW.1 has produced Ex.P.23 wherein again defendant No.1 and his mother have sold property in favour of Gopala i.e., defendant No.7 which is sale deed dated: 04.08.2006 with respect to land in Sy.No.35/7 measuring 18 guntas. Ex.P.24 is sale deed executed by Lakshamma and Andanigowda in favour of the defendant No.6 dated: 12.06.2006 with respect to land in Sy.No.35/7 measuring 18 guntas. Ex.P.25 is sale deed dated: 09.12.2010 in favour of defendant No.5 with respect to land in Sy.No.35/15 measuring 1½ guntas. Ex.P.26 is sale deed dated: 28.09.2011 executed in favour to defendant No.8 with respect to land in Sy.No.35/7 measuring 9 guntas. These sale deeds which are marked as Ex.P.22 to

26 are with respect to selling the portions in suit item No.1 in favour of defendant No.2, 5 to 8.

15. PW.1 has also produced Ex.P.27 which is G-tree which shows that, Nagamma and Andanigowda are children of Karigowda and Lakshmamma.

16. In the case on hand only defendant No.9 has filed the Written Statement and other defendants No.1, 2 to 4 and 8 though have appeared before the court have not filed Written Statement and defendant No.5 to 7 are placed exparte. The oral and documentary evidence which are placed by plaintiff in the present case are not challenged by any of the defendants. It is well established principle of law that, pleadings without proof has no value in the eye of law. Though defendant No.9 has filed Written Statement contending that, present suit is a collusive suit, wherein it is alleged that plaintiff has colluded with defendant No.1 and has filed the present suit only to grab the property which is sold in his favour. But inspite of filing the Written Statement he has not chosen to contest the case by giving proper evidence. The fact that, the Lakshmamma and Andanigowda have sold the properties in favour of defendant No.2 to 8 is not disputed by any parties and the documents produced before the court shows that, there are various sale deeds executed in their favour. Further, on perusal of the sale deeds and the RTCs which have taken

effect based on the sale deeds all the sale deeds are executed after 2006. The present suit is filed by the plaintiff seeking for the relief of partition and separate possession and it is well established by the principle of law that, the sale deeds or alienation of any property or testamentary dispossession of the property which have taken place earlier on 20.12.2004 is protected under the amendment. The fact being all the sale deeds which are said to be executed by defendant No.1 and his mother Lakshmmamma is after the said cut-off date. PW.1 has also produced the sale deeds which are marked at Ex.P.22 to Ex.P.26 in the present case. On perusal of the sale deeds plaintiff is not shown as party to the sale deeds neither she has signed to any of the sale deeds. Hence, the sale deeds which are produced before the court are of the period later than the cut-off date.

17. It is specifically contended by the plaintiff that, defendant No.1 and their mother have sold the properties in favour of other defendants i.e., suit item No.1 only to defeat the plaintiff's right and interest over the suit item No.1. Further that, as already noted above none of the defendants have disputed by appearing before the court and by contesting the case.

18. Further PW.1 has produced Ex.P.12 which is the RTC with respect to Sy.No.30/5 which is standing in the

name of Lakshamma and it is suit item No.2. It is also mentioned in Ex.P.12 that, katha is changed vide MR.No.13/89-90. It is specifically contended that, earlier the suit item No.2 was standing in the name of Andanigowda i.e., Propositus and thereafter it has changed to her name. Even defendant No.2 has not filed his Written Statement to dispute said fact. Thus the case of the plaintiff with respect to suit item No.2 is left unchallenged.

19. Further PW.1 has produced Ex.P.21 i.e., tax assessment register extract with respect to suit item No.3 property which is again standing in the name of Lakshamma. On perusal of Ex.P.27 Lakshamma is also shown as dead. It is case of the plaintiff that, plaintiff and defendant No.1 being the children of Lakshamma and Karigowda they are entitled for $\frac{1}{2}$ share in the suit items. The documents produced before the court show that, suit item No.2 and 3 are standing in the name of Lakshamma and with respect to suit item No.1 a small extent is standing in the name of Lakshamma and remaining extent are standing in the name of defendants who are the purchasers and who have purchased the property after the cut of date. Such being the case, court finds that, when the defendants have not come up before the court to establish their case to lead evidence, they have left case of the plaintiffs unchallenged. Hence, court is of the opinion that, plaintiff is successful in proving the fact that, the suit

properties are only properties of plaintiff and defendant No.1. **Hence, Issue No.1 is answered in the Affirmative.**

20. ISSUE No.2 and 3:- Both issue No.2 and 3 are taken up together for consideration. In order to avoid repetition of facts.

As already noted above though defendant No.9 has filed Written Statement he has not chosen to either cross examine PW.1 and or to lead evidence on his behalf. Such being the case, court is of the opinion that, pleadings without proof has no value in law and defendant No.9 has failed to discharge his burden in proving his case. **Hence, Issue No.2 and 3 are answered in the Negative.**

21. ISSUE No.4:- It is specific case of the plaintiff that, plaintiff and defendant No.1 are the children of propositior Karigowda and his wife Lakshamma apart from plaintiff and defendant No.1 there is no other person who are children of said propositus. Plaintiff and defendant No.1 are still alive. Plaintiff and defendant No.1 being the hindus, court finds that, they are entitled for $\frac{1}{2}$ share each in the suit property, since defendant No.1 along with his mother has sold the portion of suit item No.1 in favour of defendant No.2 to 9, he has no right over the same and since the plaintiff is not party to the said sale deeds, court finds that, defendant No.1 has no share in suit item No.1 to the extent he has sold in favour of other defendants.

Since plaintiff is not party to the said sale deed, the sale made in favour of other defendants is not binding on her and thus plaintiff is entitled for $\frac{1}{2}$ share in the suit item No.1. Further, since there is no dispute with regard of suit item No.2 and 3 and both suit item No.2 and 3 are standing in the name of Lakshamma both plaintiff and defendant No.1 are entitled for $\frac{1}{2}$ share each in the suit item No.2 and 3 properties. Hence, court finds that, plaintiff has established that, she has her $\frac{1}{2}$ share in the suit property. **Hence, Issue No.4 is answered in the Affirmative.**

22. ISSUE No.5:- In view of the findings on the above issues, this court proceeds to pass the following:-

ORDER

The suit filed by the plaintiff is hereby decreed with cost.

Plaintiff is entitled for $\frac{1}{2}$ share in the suit item No.1 to 3.

Draw preliminary decree accordingly.

(Dictated to the Stenographer and transcribed by her, revised, corrected and then pronounced by me in the open Court on this the 21st day of July - 2026)

**(POOJASHRI.H.S.)
Prl.Civil Judge and JMFC.,
Pandavapura.**

ANNEXURE**1. Witness examined for the plaintiffs:-**

PW-1 : H.G.Lokesh

2. Documents marked for the plaintiffs:-

Ex.P-1 : GPA

Ex.P.2 to 12: RTC extracts

Ex.P.13 to 20 : Mutation register extracts

Ex.P.21 : Tax assessment register extract

Ex.P.22 : Sale deed dated: 07.06.2006

Ex.P.23 : Sale deed dated: 04.08.2006

Ex.P.24 : Sale deed dated: 12.06.2006

Ex.P.25 : Sale deed dated: 09.12.2010

Ex.P.26 : Sale deed dated: 29.08.2011

Ex.P.27 : G-tree

3. Witnesses examined for defendants: - Nil**4. Documents marked for the defendants: -Nil**

(POOJASHRI.H.S.)
Prl.Civil Judge and JMFC.,
Pandavapura.