

KAMS300020202017



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE  
AND J.M.F.C AT HUNSUR**

**Present:** Smt.Anitha, B.A. (Law) L.L.B.,  
Prl.Senior Civil Judge & JMFC.,  
Hunsur.

**Dated this the 25<sup>th</sup> day of October, 2025.**

**OS No.146/2017**

Plaintiffs:

1. Smt.Sannamma,W/o Kivudaiah,  
Aged 58 years,
2. Sri.Mahadeva, S/o Kivudaiah,  
Aged 46 years,

Plaintiffs No.1 and 2 R/at Mullur  
Village, Gavadagere Hobli, Hunsur Taluk.

4. Smt.Puttamma, W/o Swamaiah,  
Aged 50 years, R/at Chikkadiganahalli  
Village, Gavadagere Hobli, Hunsur Taluk.
5. Smt.Nagamma, W/o Kumaraiah,  
Aged 48 years, R/at Hebbal Village  
and Hobli, K.R.Nagar Taluk.

-Vs-

Defendants:

1. Smt.Nagarajaiah, S/o Sannathammaiah,  
Aged 50 years,
2. Smt.Kalyanamma, W/o Late Sannathammaiah,  
Aged 68 years,

3. Smt.Sakamma, W/o Kunnaiah, Aged 64 years,
4. Sri.Kariyaiah, Dead by Lrs,
  - (a). Smt.Gowramma, W/o late Kariyaiah, Aged 45 years,
  - (b). Kantharaju, S/o late Kariyaiah, Aged 27 years,
  - (c). Kiran, S/o Late Kariyaiah, Aged 21 years, All are R/at Mullur Village, Gavadagere Hobli, Hunsur Taluk.
5. Sri.Mallikarjuna, S/o Late Kunnaiah, Aged 43 years,
6. Smt.Jayamma, S/o Late Puttarajaiah, Aged 62 years,
7. Sri.Mahesha, S/o Late Puttarajaiah, Aged 40 years,
8. Sri.Siddaiah, S/o Late Puttarajaiah, Aged 38 years,
9. Sri.Chandra, S/o Late Puttarajaiah, Aged 36 years,
10. Sri.Maruthi, S/o Late Puttarajaiah, Aged 34 years,
11. Sri.Swamaiah, S/o Siddaiah, Aged 60 years,

Defendants No.1 to 11 are  
R/at Mullur Village and Post,  
Gavadagere Hobli, Hunsur Taluk.

12. Smt.Sannamanchamma, W/o Malaiah, Aged 70 years, R/at Kattomalalavadi Village, Gavdagere Hobli, Hunsur Taluk.

1. Provision under which the applications are filed	:	Under Order 22 Rule 4 R/w Section 151 of CPC, under Order 22 Rule 9 R/w Section 151 of CPC and Section 5 of Limitation Act
2. Relief sought for	:	To bring the Lr's of 12 <sup>th</sup> defendant on record, to set aside the order of abatement and to condone the delay in filing of LR application
3. The date on which the application is filed	:	03.02.2025 and 03.03.2025
4. Number of the applications	:	IA.No.X to XII
5. The date on which the objections are filed by different opponents	:	--
6. The date on which the orders passed on the said application	:	25.10.2025

**ORDERS PASSED ON IA No.X TO XII**

The learned counsel for the plaintiffs filed IA No.X under Order 22 Rule 4 R/w Section 151 of CPC to bring the legal heirs of deceased 12<sup>th</sup> defendant on record. Further, filed IA No.XI under Order 22 Rule 9 R/w Section 151 of CPC to set aside the order of abatement of the suit and also filed IA No.XII

under Section the 5 of Limitation Act to condone the delay in filing the LR application.

2. All the three applications are supported with the affidavits of 2<sup>nd</sup> plaintiff wherein it is stated that, himself and his mother and sisters have filed the suit for partition and separate possession of their ½ share in respect of the suit schedule properties. The 12<sup>th</sup> defendant in this suit has passed away leaving behind two daughters and one son. Out of that one daughter has passed away and the proposed legal heirs are the only daughter of defendant No.12. It is also stated that, there is delay in filing said application due to lack of knowledge to intimate the same to their counsel. But delay is not intentional but for bonafide reasons. It is also stated that, the proposed defendants are the proper and necessary parties to the suit. Hence, prayed to allow the application.

3. After filing of the applications this court issued notice to proposed LR's of the 12<sup>th</sup> defendant and inspite of service of notice they have not appeared before the court and they remained absent.

4. Thereafter, heard arguments addressed by learned counsel of the plaintiffs and perused the case papers.

5. The plaintiffs have filed the suit against the defendants seeking the relief of partition and separate possession of their ½ share over the suit schedule properties. It is the specific case of the plaintiffs that, the suit schedule

properties are the ancestral and joint family properties of themselves and defendants. After filing of the suit defendant No.4 was reported dead and his legal heirs were already brought on record. Now the 12<sup>th</sup> defendant has been reported dead and proposed defendant No.12(a) and (b) are the only children of deceased defendant No.12. They are proper and necessary parties to the suit. It is very important to note that, the suit is for the relief of partition and separate possession and it is the settled principles of law that, in a suit for partition all the parties interested in the suit schedule properties are required to be made as parties. Therefore, this court comes to conclusion that, the proposed LR's of defendant No.12 are proper and necessary parties to the suit. Accordingly, this court proceeds to pass the following:

**ORDER**

IA.No.X filed under Order 22 Rule 4 R/w Section 151 of CPC, IA.No.XI filed under Order 22 Rule 9 R/w Section 151 of CPC and I.A No.XII filed under Section 5 of Limitation Act by the plaintiffs are hereby allowed.

Accordingly, the plaintiffs are permitted to bring on record the proposed Lr's of the 12<sup>th</sup> defendant in the place of deceased defendant No.12. Further, the delay in

filing the LR application is hereby condoned and the abatement of the suit against the 12<sup>th</sup> defendant is hereby set aside.

No order as to costs.

(Dictated to Stenographer, transcribed by him, the transcript corrected by me and then pronounced in the open Court on this the 25<sup>th</sup> day of October, 2025)

Sd/-

**(Anitha)**

Prl.Senior Civil Judge and JMFC.,  
Hunsur.