



**IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC,  
HUNSUR**

**-:PRESENT:-**

**SMT. NAMRATA S HOSMATH, B.A., LL.B.,  
I ADDL. CIVIL JUDGE & JMFC,  
HUNSUR.**

**DATED THIS THE 02<sup>nd</sup> DAY OF APRIL, 2026**

**O.S.No.141/2021**

**PLAINTIFFS:**

1. Smt. Neela  
W/o Jagadeesha,  
D/o Late. K. Channappa,  
Aged about 46 years,  
R/at Hosahalli Village,  
Mandya City,  
Mandya Taluk and District.
2. Smt. Shankaramma  
W/o Suresha  
D/o Late. K. Channappa,  
Aged about 43 years,  
R/at Manjanahalli Village,  
Berya Hobli,  
K.R. Nagara Taluk.

**(By Sri. C.S., Advocate)**

**// Versus //**

**DEFENDANT/S :**

1. Smt. Venkatalakhmamma  
W/o Late. K. Chennappa,  
Aged about 68 years.

2. Sri. Mahadeva C  
S/o Late. K. Chennappa,  
Aged about 50 years.
3. Sri. Nagaraju C **(DEAD)**
- 3(a). Smt. Geetha  
W/o Late. Nagarajau,  
Aged about 42 years.
- 3(b). Sri. Kiran  
S/o Late. Nagaraju,  
Aged about 25 years.
- 3(c). Poornima  
D/o Late. Nagaraju,  
Aged about 22 years.  
Defendant No.3(a) to 3(c) are  
R/at Ranganatha Badavane,  
Kalkunike,  
Hunsur Nagara.
4. Sri. K.C. Manju  
S/o Late. K. Channappa,  
Aged about 41 years.
5. Smt. Suma  
W/o Late. Raju,  
Aged about 35 years.
6. Sri. Yuvaraja  
S/o Late. Raju,  
Aged about 16 years.
7. Bindu  
D/o Late. Raju,  
Aged about 14 years.  
Petitioner No.6 and 7 are minors  
their natural guardian defendant  
No.5 is represented on behalf of  
defendant No.6 and 7.

Defendant No.2 and 4 are R/at  
Mururamma Colony,  
Ward No.6, Kalkunike,  
Hunsur Nagara.

Defendant No.1, 3, 5 to 7 are R/at  
Ranganatha Badavane,  
Infront of School,  
Ward No.2, Kalkunike,  
Hunsur Nagara.

**(Def. No.1, 2, 4 to 7 by Sri. C.R.M., Advocate)**  
**(Def. No.3(a to c) by Sri. E.B.R., Advocate)**

|                                 |                                     |
|---------------------------------|-------------------------------------|
| Date of institution of the suit | : 24.05.2021                        |
| Nature of the suit              | : Partition and Separate Possession |
| Date of recording evidence      | : 16.01.2024                        |
| Date of closing evidence        | : 15.03.2025                        |
| Date of Judgment pronounced     | : 02.04.2026                        |
| Total Duration                  | : 4 years 10 months 9 days          |

**(Namrata S Hosmath)**  
**I Addl.Civil Judge & JMFC.,**  
**Hunsur.**

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

The plaintiffs have instituted the present suit against the defendants seeking partition and separate possession of their alleged 2/7<sup>th</sup> share in the suit schedule property, along with such other reliefs as this Court deems fit.

**2. Description of the suit property as shown in the plaint is as follows:**

The site measuring East-West 70 feet, North-South 20 feet consisting a Mangalore tiled house measuring 765 square feet bearing Khata No.594/2763 situated at Ward No.2, Ranganatha Badavane, Kalkunike Village, Hunsur Taluk bounded on;

East by : Road

West by : Road

North by: House of Somashekhara

South by: House of Chikkaputtamma

**3. The factual matrix of the case is as follows:**

It is the case of the plaintiffs that the plaintiffs, defendants No.2 to 4, and the husband and father of defendants No.5 to 7 are the children of Late K. Chennappa and Venkatalakshamma (defendant

No.1). It is averred that, the plaintiffs and the defendants constitute a Hindu joint family, and that the suit schedule property is ancestral and joint family property. The plaintiffs assert that, Late K. Chennappa was managing the suit schedule property as the Kartha, and after his death, defendant No.3 has been managing the same as Kartha. It is further asserted that, during the lifetime of Late. K. Chennappa, the suit schedule property stood in his name, and after his demise, the same stands jointly in the names of the plaintiffs, defendants No.2 to 4, and the husband of defendant No.5.

4. It is further contended that, with an intention to defeat the lawful rights of the plaintiffs, the defendants have colluded among themselves and are attempting to create fictitious documents. The plaintiffs contend that, they demanded the defendants to effect partition, however, the defendants did not heed their request. It is further stated that, panchayats were convened in this regard, but the defendants failed to accede to the request. Having no other efficacious remedy, the plaintiffs were constrained to institute the present suit.

5. Upon service of summons, defendant No.3 appeared through counsel and filed a written

statement denying the plaint averments in toto. It is the specific contention of defendant No.3 that, the plaintiffs have not included Sy.No. 4/42/2 measuring 2 acres and Sy.No.174 measuring 1 acre 18 guntas in the present suit. Hence, it is contended that the suit of the plaintiffs is not maintainable as it is bad for non-joinder of necessary properties. It is further contended that, the omission to include the said properties renders the suit is bad for non-joinder and is also hit by the principle of partial partition. On these grounds, defendant No.3 has prayed for dismissal of the suit.

6. Despite due service of summons, defendants No.1, 2 and 4 to 7 have appeared through counsel, however, they have failed to file their written statements within the statutory period.

7. During the pendency of the suit, defendant No.3 passed away. Accordingly, his legal representatives were brought on record in accordance with law.

8. On the basis of the pleadings in the plaint and the rival contentions, this court framed the following:

**ISSUES**

**1. Whether the plaintiffs prove that themselves and the defendants are members of Hindu joint family and suit schedule property is their joint family property?**

**2. Whether the suit is bad for non-joinder of necessary properties?**

**3. Whether the plaintiffs are for relief as sought for?**

**4. What order or decree?**

9. In order to substantiate their case, plaintiff No.1 examined herself as PW.1 and got a document marked as Ex.P1. Thereafter, the plaintiffs closed their side of evidence. On the other hand, defendant No.3(b), in support of his defence, examined himself as DW.1 and got documents marked as Exs.D1 to D7. Thereafter, defendant No.3(b) closed his side of evidence.

10. Heard the arguments of the learned counsel for the plaintiffs and the learned counsel for the defendants.

11. Upon perusal of the entire records and upon consideration of the oral and documentary evidence placed before this Court, my findings on the above issues are as follows:

|                   |          |                                                  |
|-------------------|----------|--------------------------------------------------|
| <b>Issue No.1</b> | <b>:</b> | <b>In the Affirmative</b>                        |
| <b>Issue No.2</b> | <b>:</b> | <b>In the Negative</b>                           |
| <b>Issue No.3</b> | <b>:</b> | <b>In the Affirmative</b>                        |
| <b>Issue No.4</b> | <b>:</b> | <b>As per final order<br/>for the following;</b> |

### **:: R E A S O N S ::**

12. **ISSUE NO.1 AND 2:-** These issues are taken up together for common consideration in order to avoid repetition, as they involve common questions of fact and law and are inter-connected with each other.

13. The plaintiffs have approached this Court seeking partition and separate possession of their alleged 2/7<sup>th</sup> share in the suit schedule property, along with such other reliefs as this Court deems fit.

14. It is the case of the plaintiffs that, the suit schedule property is ancestral and joint family property. It is averred that, the plaintiffs and the defendants constitute a Hindu Undivided Family, and that no partition has taken place among the family members till date. The plaintiffs contend that, they

approached the defendants seeking partition of the suit schedule property, however, the defendants did not heed their request. Hence, having no other efficacious remedy, the plaintiffs have instituted the present suit.

15. It is pertinent to note that, as per **Section 231 of Mulla's Hindu Law**, there is a presumption that, until the contrary is proved, a Hindu family is presumed to be joint in food, worship, and estate. Therefore, it can be presumed that the parties constitute members of a Hindu joint family.

16. In order to substantiate their claim, plaintiff No.1 entered the witness box as PW.1 and filed her affidavit in lieu of chief-examination, reiterating the averments made in the plaint. The following document was produced and marked on behalf of the plaintiffs: Ex.P1, which is the demand register extract pertaining to the suit schedule property. In the said document, the name of K. Chennappa is reflected, and subsequently, the property stands in the joint names of the plaintiffs, defendant No.1 to 4, and the husband of defendant No.5. This document would show that originally the property belonged to the propositus of the family and later it is standing in the joint names of some of the family members of the plaintiffs and

defendants. Thus, the document discloses that the property is standing in the joint names of the plaintiffs and defendants.

17. It is significant to note that, the defendants have not taken any specific contention that, the suit schedule property is self-acquired property or raised any alternative plea regarding its nature. Therefore, the evidence placed on record by the plaintiffs establishes that, the suit schedule property is joint family property of the plaintiffs and defendants.

18. The counsel for defendant No.3 has cross-examined PW.1 at length. Except for minor discrepancies, nothing material has been elicited to discredit her testimony. On the contrary, certain suggestions made during cross-examination have, in fact, strengthened the case of the plaintiffs.

19. Defendant No.3 has categorically denied the plaint averments, and his principal contention is that, the suit is bad for non-joinder of necessary properties. According to him, the suit is hit by the doctrine of partial partition and is therefore liable to be dismissed.

20. In support of his defence, defendant No.3(b) examined himself as DW.1 and produced the following documents: Ex.D1 is the RTC of Sy.No.174 for the year 2004-05, measuring 6 acres 21 guntas, out of which 4 acres 14 guntas stands jointly in the name of K. Chennappa and Lakkappa, and 2 acres 7 guntas stands in the name of Lakkappa.

21. Ex.D2 is the RTC of Sy.No.174/2 for the year 2018-19, measuring 4 acres 21 guntas, out of which 2 acres 36 guntas stands in the name of Lakkappa, and 1 acre 18 guntas stands in the name of K.M. Mahadeva. It is to be noted that, defendant No.3, in his written statement, has contended that Sy.No.174 measuring 1 acre 18 guntas has not been included in the present suit. However, Ex.D2 clearly shows that the said extent stands in the name of K.M. Mahadeva S/o Late Motappa vide MR No.14/2006-07.

22. Ex.D3 is the RTC of Sy.No.4/42/2 for the year 2001-02, measuring 2 acres, standing in the name of K. Chennappa. Ex.D4 is the RTC of the same survey number for the year 2012-13, standing in the name of defendant No.1. Ex.D5 is the RTC of Sy.No.4/\* for the year 2024-25, showing that the said property stands in the name of Girish K S/o Late Krishna K. It is to be noted that defendant No.3 has

contended that Sy.No.4/42/2 measuring 2 acres has not been included in the present suit, however, Ex.D3 and Ex.D4 indicate earlier ownership, and Ex.D5 discloses that the property has subsequently been transferred to Girish K. vide MR No.H3/2015-16.

23. Ex.D6 is the digital copy of the release deed executed by K. Chennappa, the plaintiffs, defendant No.1 to 4, and the husband of defendant No.5 in favour of Girish K, in respect of Sy.No.4/42/2 measuring 2 acres. Ex.D7 is the digital copy of the consent letter executed by the joint family members in favour of K.M. Mahadeva S/o Late. Motaiah in respect of Sy.No.174 measuring 1 acre 18 guntas. A perusal of Ex.D7 indicates that a sale deed had already been executed by K. Chennappa in favour of K.M. Mahadeva, however, since the present executants had not signed the said sale deed, the consent letter came to be executed subsequently.

24. Upon careful perusal of Ex.D2 and Ex.D5 to Ex.D7, it is evident that the properties alleged to have been omitted by the plaintiffs have already been alienated. Therefore, the plea of partial partition and non-joinder of necessary properties, as raised by defendant No.3, cannot be sustained.

25. The counsel for the plaintiffs has cross-examined DW.1 at length and has successfully elicited certain material admissions.

26. With this documentary lacuna, let me now deal with the oral evidence adduced by both parties. PW.1 has reiterated the averments made in her plaint. In her cross-examination she has stated that, the suit schedule property was acquired by her father. PW.1 has also admitted that defendant No.1, 3, and 5 to 7 are in joint possession of the suit schedule property. She has further stated, that Sy.No.4/42/2 and Sy.No.174 have not been included in the present suit as they are no longer standing in the names of the parties. PW.1 has also deposed that Sy.No.174 was sold at the time of her sister's marriage.

27. Though certain suggestions were made regarding the existence of house property in the name of the grandfather, PW.1 has clarified that the present suit pertains to land and not house property. She has admitted that, such property is not included in the present suit. However, it is well settled that a stray admission does not, by itself, dislodge the otherwise consistent case of the plaintiffs. Further, defendant No.3 has neither produced any documentary evidence

in support of the said suggestion nor has he taken any specific plea in the written statement in this regard.

28. Defendant No.3 counsel has suggested that house property is in name of grandfather, the PW.1 has stated that, land situated as not house property. She has also admitted that, the said property is not included in the present suit. However, it is to be noted that, a single stray admission does not take away the case of the plaintiffs.

29. DW.1 has reiterated the averments made in his written statement. In his cross-examination, DW.1 has clearly admitted the relationship between the parties and has stated that there are no other legal heirs. He has expressed ignorance regarding several aspects relating to the nature of the property. DW.1 has admitted that Sy.No.174 presently stands in the name of K.M. Mahadeva and that he is in possession of the same. He has further admitted that, Girish has absolute right and possession over Sy.No.4/42/2, and also admitted the execution of the release deed. Importantly, DW.1 has admitted that, the plaintiffs and defendants do not have any right over the properties referred to in Ex.D1 to Ex.D7.

30. These admissions are material, as it directly contradicts his plea regarding non-inclusion of those properties. DW.1 has also admitted that, the plaintiffs had demanded their share in the suit schedule property. Significantly, DW.1 has further stated that, he has no objection to granting a share to the plaintiffs in the suit schedule property. In view of these admissions, it is clear that the plaintiffs have established their entitlement to a share in the suit schedule property, and even defendant No.3 has not seriously disputed the same.

31. Though the plaintiffs have failed to establish that the suit schedule property is ancestral property, in the strict sense of having descended through four generations, they have, however, successfully proved that the suit schedule property is joint family property. In view of the foregoing discussion, this Court is of the considered opinion that the plaintiffs have established that they and the defendants constitute members of a Hindu joint family and that the suit schedule property is joint family property. The plea of defendant No.3 that the suit is bad for non-joinder of necessary properties and is hit by partial partition is not sustainable, in view of the clear evidence on record demonstrating that the alleged omitted properties have already been alienated

and are no longer available for partition. Accordingly, this court answers **Issue No.1** in the ***Affirmative*** and **Issue No.2** in the ***Negative***.

32. **ISSUE NO.3:-** The plaintiffs have instituted the present suit seeking the relief of partition and separate possession. From the reasons discussed under Issue No.1, it is clearly established that the plaintiffs have proved that the suit schedule properties are joint family properties and that the plaintiffs and the defendants constituted a Hindu undivided joint family.

33. Before allotting shares to the parties, it is necessary to note that, during the pendency of the suit, the defendant No.3 have died and their respective legal representatives have been brought on record as defendant No.3(a) to (c).

34. The plaintiff No.1, plaintiff No.2, defendant No.1, defendant No.2 and defendant No.4 are entitled for  $1/7^{\text{th}}$  share each, defendant No.5 to 7 and defendant No.3(a to c) are entitled for  $1/21^{\text{th}}$  share each. Considering the familial relationship between the parties and the fact that the plaintiffs have approached this Court seeking enforcement of his legitimate rights in the joint family property, this

Court deems it just and proper to decree the suit without awarding costs. Accordingly, this court answers **Issue No.3** in the **Affirmative**.

35. **ISSUE No.4:-** In the light of fore going discussions and reasons narrated under Issue No.1 to 3, this court proceed to pass the following:-

**ORDER**

The suit of the plaintiffs is hereby decreed.

The plaintiff No.1, plaintiff No.2, defendant No.1, defendant No.2 and defendant No.4 are entitled for 1/7<sup>th</sup> share each, defendant No.5 to 7 and defendant No.3(a to c) are entitled for 1/21<sup>th</sup> share each in the suit schedule property.

Draw preliminary decree accordingly.

*(Dictated to the Stenographer Grade-III, transcribed & computerized by her, transcript revised, corrected, signed and then pronounced by me in the open Court on this the **2<sup>nd</sup> day of April, 2026**)*

**(NAMRATA S HOSMATH)**  
**I Addl. Civil Judge & JMFC.,**  
**Hunsur.**

**ANNEXURE****LIST OF WITNESSES EXAMINED FOR PLAINTIFF:**

PW-1 : Neelavathi  
W/o Jagadeesha  
D/o Late. K. Channappa

**LIST OF DOCUMENTS MARKED FOR PLAINTIFF:**

Ex.P-1 : Demand Register Extract

**LIST OF WITNESS EXAMINED FOR DEFENDANTS:**

DW.1 : Kiran @ Mahadeva N  
S/o Late. Nagaraju

**LIST OF DOCUMENTS MARKED FOR DEFENDANTS:**

Ex.D.1 : RTC of Sy.No.174 for the year  
2004-05

Ex.D.2 : RTC of Sy.No.174/2 for the year  
2018-19

Ex.D.3 : RTC of Sy.No.4/42/2 for the year  
2001-02

Ex.D.4 : RTC of Sy.No.4/42/2 for the year  
2012-13

Ex.D.5 : RTC of Sy.No.4/\* for the year  
2024-25

Ex.D.6 : Digital copy of the release deed

Ex.D.7 : Digital copy of the consent letter

**(NAMRATA S HOSMATH)**

I Addl. Civil Judge & JMFC.,  
Hunsur.

