



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC
AT K.R.NAGARA**

**PRESENT: Sri. Aravindra B.C., B.A., L.L.B.,
Senior Civil Judge & JMFC,
K.R.Nagara.**

Dated this the 27th day of April, 2026

O.S. No.72/2020

1. Smt. Jayanthi,
D/o Late Kullaboregowda,
W/o Narasimhegowda,
Aged about 46 years.

2. Smt. Meenamma,
D/o Late Kullaboregowda,
W/o Shivannegowda,
Aged about 50 years.

Plaintiff No.1 and 2 are
R/at: Kallenahalli village,
Kasaba Hobli,
K.R.Nagar Taluk,
Mysuru District.

3. Sri. Siddegowda,
S/o Late Kullaboregowda,
Aged about 57 years,
R/at: Hellebeedu,
Bilikere Hobli,
Hunsur Taluk,
Mysuru District.

..... Plaintiffs

(By Sri. T.G., Advocate)

-Versus-

1. Sri. Chikkegowda,
S/o Late Kullaboregowda,
Aged about 40 years,



2. Smt. Sakamma,
W/o Late Kullaboregowda,
Aged about 75 years.

Defendant No.1 and 2 are
R/at: Kallenahalli village,
Kasaba Hobli, K.R.Nagar Taluk,
Mysuru District.

3. Sri. Shivakumara,
S/o Rangappa,
Aged about 60 years.
R/at: Janatha Colony,
Behind H.M.S. College,
Tumkur District.

(Exparte)

Date of Institution of the suit	01.12.2020
Nature of the suit (Suit on pronote, suit for declaration and possession, suit for injunction, etc.,)	Partition and Separate and Possession
Date of commencement of recording of evidence	06.01.2023
Date on which judgment is pronounced	27.04.2026
Total Duration	Years Months Days 05 04 26

(ARAVINDRA B.C.)
SENIOR CIVIL JUDGE & JMFC.,
K.R.NAGAR.

J U D G M E N T

The plaintiffs have filed the suit for the relief of partition and separate possession of their 18/25th share



over the suit schedule property by metes and bounds against the defendants and also declare that th gift deed dated 08.03.2007 is not binding on the share of plaintiff's and also prayed to grant such other reliefs for which the plaintiffs is found entitle to.

2. The brief case of the plaintiffs as follow;

According to the plaintiffs, the plaintiffs and defendant No.1 and wife of defendant No.3 are the children of Kullaboregowda and the 2nd defendant. The said Kullaboregowda died in the year 1990. The plaint schedule property is the ancestral property of the plaintiffs and defendants. The plaintiffs had one brother by name, Boregowda who died unmarried and issueless. The sister of the plaintiffs by name, Pavithra was married to the 3rd defendant/Shivakumar and she died on 16.09.2016.

3. Further, the plaintiffs and defendant No.1 and 2 are in joint possession and enjoyment of the plaint schedule property. Hence, the plaintiffs and defendant



No.1 are entitled 6/25th share in the suit schedule property. The defendant No.3 is impleaded in this suit with abundant caution even, the defendant No.3 has no share or interest in the suit schedule property.

4. Further, the 2nd defendant in collusion with the defendant No.1 conveyed her right over the schedule property by way of gift deed dated 08.03.2007. The 2nd defendant had no absolute title or interest over the plaint schedule propriety or to execute any deed in respect of plaint schedule property. Hence, the said gift deed is not binding upon the plaintiffs. The plaintiffs have sought their share in the plaint schedule property on 25.10.2020 for which the defendant No.1 and 2 have given an evasive reply. Hence, there is no alternative remedy, the plaintiffs have filed this suit for the aforesaid reliefs.

5. After institution of the suit as contemplated under law, the suit summons issued to the defendants. In response to the suit summons, the defendants have not



appeared before this court. Hence, they have been placed *exparte*.

6. In order to substantiate the case of plaintiffs, the plaintiff No.1 herself has entered into the witness box and examined as PW-1 and filed his affidavit under order 18 Rule 4 of Code of Civil Procedure and got marked as many as 11 documents as per Ex.P-1 to P11. None have been cross-examined PW-1. Hence, the cross of PW-1 taken as nil. Hence, the case is posted for arguments.

7. Heard the arguments on the side of the plaintiffs and perused the materials placed on record.

8. On the basis of the pleadings, the following points arisen for consideration of this court;

1. Whether the plaintiffs prove that the suit schedule property is the joint family property of themselves and defendants ?

2. Whether the plaintiffs are entitled share along with the defendants over the suit schedule property ?

3. What order or decree ?



9. On perusal of oral and documentary evidence adduced by the plaintiffs and materials placed on record, findings on the above points are as under;

Point No.1 :: In the Affirmative

Point No.2 :: Partly in the Affirmative

Point No.3 :: As per final order

For the following:

REASONS

10. **Point No.1 and 2:-** It is say of the plaintiffs is that the suit schedule property is the joint family property of plaintiffs and defendants. The defendant No.2 without having right, she executed gift deed in favour of wife of defendant No.3. The said gift deed is not binding on the share of the plaintiffs. The plaintiffs and defendants are in joint possession over the suit schedule property.

11. In order to prove the relationship with the defendants, the plaintiff No.1 has examined herself as PW-1. The PW-1 has filed her affidavit under order 18 Rule 4 of the code of Civil Procedure containing her examination-



in-chief. Wherein, she has reiterated the entire plaint averments. In support of her oral evidence, she has produced the Genealogical Tree at Ex.P7. It reveals that Kullaboregowda and Sakamma(defendant No.2) had six children. The plaintiffs and defendant No.1 are the children of Kullaboregowda and Sakamma(defendant No.2). The defendant No.3 is the husband of Late Pavithra who is the daughter of said Kullaboregowda and Sakamma(defendant No.2). The oral evidence of PW-1 in respect to relationship is not challenged. Therefore, these fact makes it clear that the defendants have not at all disputed this say of the plaintiffs. Hence, there is nothing on record to disbelieve the sworn testimony of the PW-1 with reference to the relationship of the plaintiffs with the defendants. Hence, this court conclude that the plaintiffs are the joint family members with the defendants.

12. Further, it is the specific say of the plaintiffs is that, the suit schedule property is the joint family property. To substantiate their contention in this regard,



the plaintiff No.1 has produced the documents. Now this court proceed to discuss the documents produced by the plaintiffs.

13. The plaintiffs have produced the revenue documents pertaining to the suit schedule property. On perusal of the said documents, the katha of the property stood in the name of Kullaboregowda, his name was found in the column No.9 and 12 of the RTC extracts for the year 1987-88 to 1997-98. Further, the plaintiffs have produced by the order passed by the learned Deputy Commissioner, on 26.05.2014 wherein it is stated that the land bearing Sy.No.1/2 measuring 20 guntas has been converted into non-agricultural purpose. The plaintiffs says that the suit schedule property is the joint family property. However, the defendant No.2 who is mother of plaintiffs and defendant No.1 and Late Pavithra has executed gift deed in favour of said Pavithra without having right over the schedule property.



14. Further, the plaintiffs have produced the original gift deed which is marked at Ex.P2. The recitals of Ex.P2 clearly established that the suit schedule property has acquired by the defendant No.2 under Pavathi Varasu. The Ex.P11 mutation extract clearly indicates that after the death of Kullaboregowda, the katha of the land bearing Sy.No.1/2 transferred into the name of defendant No.2/Smt.Sakamma. Therefore, the Ex.P11 clearly established that she acquired the property by way of succession after the death of her husband. Therefore, the suit schedule property is the joint family property. Admittedly, the defendant No.2 had executed gift deed in favour of her daughter Smt.Pavithra. Now the said Pavithra is no more. Admittedly, the suit schedule property is the joint family property. Hence, the defendant No.2 has no right to execute the entire property to her daughter Smt.Pavithra. However, she got only 1/6th share over the suit schedule property.



15. Admittedly during the lifetime of Kullaboregowda, he has not disposed the suit schedule property to anybody through testamentary document or registered document. Hence, the class-I heirs of deceased Kullaboregowda having equal right over the schedule property as per Section 8 of Hindu Succession Act. Admittedly, the plaintiff No.1 to 3, defendant No.1 and wife of defendant No.3 are the children of deceased Kullaboregowda. The defendant No.2 is the wife of deceased Kullaboregowda. As discussed above, the Kullaboregowda had not disposed the property during his lifetime. Hence, as per Section 8 of the Hindu Succession Act, the plaintiffs and defendant No.1 and 2 and wife of defendant No.3 are entitled equal share over the suit schedule property. The defendant No.2 who is the wife of deceased Kullaboregowda having $1/6^{\text{th}}$ share over the suit schedule property. Admittedly, the defendant No.1 had executed gift deed in favour of wife of defendant No.3/Late Pavithra. But, she has no right to execute the gift deed with respect to the entire



property. She has got only right to execute the gift with respect to her 1/6th share over the suit schedule property. The said gift deed is not binding of 1/6th share of the plaintiffs.

16. Further, there is no materials available on record to show that after the death of parents of parties of the suit, the plaintiffs and defendants have not divided the schedule property by metes and bounds. Admittedly, the defendants have not appeared before this court to challenge the oral evidence of the plaintiffs. There is no reason to disbelieve the oral testimony of the plaintiffs. Hence, this court came to conclusion that the plaintiffs and defendants are the joint family members and the suit schedule property is the joint family property of the plaintiffs and defendants. The defendant No.3 is the husband of deceased Pavithra. During the lifetime of Pavithra, she has got 1/6th share over the suit schedule property. As per Section 15 of the Hindu Succession Act, if the female has died without intestate, the legal heirs of



said female having right over the said property. Hence, the defendant No.3 has entitled $2/6^{\text{th}}$ share over the suit schedule property. Further, the plaintiff No.1 to 3 are entitled $1/6^{\text{th}}$ share each over the suit schedule property. Further, the defendant No.1 is entitled $1/6^{\text{th}}$ share over the suit schedule property. The defendant No.2 is found entitled $1/6^{\text{th}}$ share of the suit schedule property. The defendant No.2 had already executed the gift deed in favour of deceased Pavithra. The said $1/6^{\text{th}}$ share has to be allotted to the husband of deceased Pavithra over the suit schedule property in the final decree proceedings.

Hence, this Court answered to Point No.1 is in the Affirmative and point No.2 is partly in the Affirmative.

17. **Point No.3:-** In view of the discussion and reasons as stated above and this court answered to the above points, proceed to pass the following:

**ORDER**

The suit of the plaintiffs is hereby partly decreed.

The plaintiff No.1 to 3 are found entitled 1/6th share each over the suit schedule property.

The defendant No.1 and 2 are also found entitled 1/6th share each over the suit schedule property.

The defendant No.3 is found entitled 1/6th share of the deceased Pavithra over the suit schedule property.

Further, the defendant No.3 is also found entitled 1/6th share of the defendant No.2 over the suit schedule property in the final decree proceedings.

Further, it is declared that the gift deed dated 08.03.2007 executed by the defendant No.1 in favour of wife of defendant No.3 is not binding on share of the plaintiffs and defendant No.1. However, the said



gift deed is binding on the share of defendant No.2.

Having regard to the close relationship of the parties, this court direct the parties to bear their own costs.

Office to draw preliminary decree.

[Dictated to the stenographer on computer, corrected and then pronounced by me in the Open Court on this the 27th day of April, 2026]

**(ARAVINDRA B.C.)
SENIOR CIVIL JUDGE & JMFC,
K.R.NAGARA.**

APPENDIX

List of witnesses examined on behalf of the plaintiffs:-

PW.1 : Smt. Jayanthi

List of documents exhibited on behalf of the plaintiffs:-

Ex.P1 : Death certificate of Pavithra
Ex.P2 : Registered gift deed dated 08.03.2007
Ex.P3 & P4 : Handwritten RTC extracts in Sy.No.1/2
Ex.P5 : Computerized RTC extract in Sy.No.1/2
Ex.P6 : Certified copy of order issued by Deputy Commissioner, Myusur District.
Ex.P7 : Genealogical tree



Ex.P8 & P9 : Index of Lands
Ex.P10 & P11 : Mutation register copies

List of witnesses examined on behalf of defendants:-

-NIL-

List of documents exhibited on behalf of the defendants:-

-NIL-

**SENIOR CIVIL JUDGE & JMFC,
K.R.NAGARA.**