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**IN THE COURT OF THE HONOURABLE I ADDITIONAL CIVIL
JUDGE & JMFC, AT KRISHNARAJANAGAR.**

PRESENT: SMT.ASRINA.,B.A, LLB.
I ADDL. CIVIL JUDGE AND JMFC, KRISHNARAJANAGAR.

DATED THIS 2ND DAY OF MAY, 2026.

O.S.No.184/2018

BETWEEN

PLAINTIFFS	<p>1. Kum.Apeksha D/o Prakasha Aged:13 years Plaintiff No.1 being minor R/by her mother namely the plaintiff No.2.</p> <p>2. Smt.Savitha W/o Praksha Aged: 35 years</p> <p>Both are R/at: Benaganahalli Village Chunchanakatte Hobli K.R.Nagara Taluk, Mysuru District.</p> <p>(By Shri.T.G. Advocate)</p>
DEFENDANTS	<p>1. Shri.Chikkegowda S/o Puttegowda Aged:65 years</p> <p>2. Smt.Gayathramma W/o Chikkegowda Aged:60 years</p>

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	<p>3. Shri.Prakash S/o Chikkegowda Aged:40 years</p> <p>4. Shri.Shivanna S/o Chikkegowda Aged:38 years</p> <p>5. Smt.Lakshmi W/o Manjunath Aged 36 years</p> <p>6. Sri.Manjunatha S/o Chikkegowda, Aged: 34 years</p> <p>All are R/at: Benaganahalli village Chunchanakatte Hobli, K.R.Nagar Taluk, Mysuru District.</p> <p>(Defendants are placed Exparte)</p>
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Date of Institution of suit	02/06/2018
Nature of suit	Suit for Partition and Separate possession.
Date of recording of evidence	25/11/2019
Date of Judgment	02/05/2026.
Total duration	Years/s Month/s Day/s -07- -11- -00-

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR.

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J U D G M E N T

Plaintiffs have filed the present suit as against the defendants for the relief of partition and separate possession of their 1/2 share in the 1/5th share of the defendant No.3 in the suit properties, for costs of the suit and for such other reliefs.

2. The brief facts of plaintiffs's case is as under:

It is the case of the plaintiffs that the defendants No.1 and 2 are the paternal grand parents of the plaintiff No.1 and parents in laws of the plaintiff No.2. It is the case of the plaintiffs that the defendant No.3 is a father of the plaintiff No.1 and husband of the plaintiff No.2. It is the case of the plaintiffs that the defendants No.4 and 5 are the siblings of the defendant No.3 and children of defendants No.1 and 2. It is the case of the plaintiffs that the suit properties are the joint family and ancestral properties of themselves and the defendants and same was inherited by the defendant No.1 from his father Mr.Puttegowda. Therefore the plaintiffs have claimed that themselves and the defendants are the co-owners in joint possession of the suit properties. It is the case of the plaintiffs that themselves and the defendants being the co-owners of the suit properties, they are in joint possession and enjoyment of the suit properties. It is the case of the plaintiffs that the revenue records of the suit properties stands in the name of the defendant No.1 herein. It is the case of the plaintiffs that the

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suit properties are not yet divided in between themselves and the defendants. It is the case of the plaintiffs that the defendants are making hectic attempts to alienate the suit properties with an intention to defeat the legitimate rights of the plaintiffs over the suit properties. It is the case of the plaintiffs that on 05/05/2017 when they approached the defendants and requested them to partition the suit properties and to give their legitimate 1/2 share in the 1/5th share of the defendant No.3 in the suit properties, the defendants did not agree to partition the suit properties and the defendants have refused to give legitimate share of the plaintiffs in the suit properties. It is the case of the plaintiffs that with an intention to deprive the legitimate undivided share of the plaintiffs in the suit properties, the defendants are denying the share of the plaintiffs in the suit properties. The plaintiffs have contended that they being the co-owner of the suit properties, they have their undivided 1/2 share in the 1/5th share of the defendant No.3 in the suit properties. But the defendants are avoiding to give the legitimate share to the plaintiffs in the suit properties. Therefore, having no other efficacious remedy, the plaintiffs have filed the present suit to partition the suit properties and to allot their 1/2 share in the 1/5th share of the defendant No.3 in the suit properties with metes and bounds. According to the plaintiffs the cause of action to file the above suit arose on 05/05/2017, the date on when the defendants have refused to partition the suit properties and to give the legitimate undivided share to the

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plaintiffs in the suit properties. Hence with the above plea the plaintiffs have prayed to decree the suit.

3. In spite of service of summons on them, the defendants did not appear before this court. Hence the defendants were placed ex-parte. In spite of having received the summons, the defendants have not appeared before this court and the defendants have not denied the case and claim of the plaintiffs.

4. On the basis above pleadings and evidence placed on record, following points arise for my consideration:

1. Whether the plaintiffs prove that they are the co-owners of the suit properties along with the defendants?
2. Whether the plaintiffs are entitled to the reliefs as sought for?
3. What order or decree?

5. In order to establish the case of the plaintiffs, the plaintiff No.2 has stepped into the witness box and examined herself as Pw.1 and got marked Exhibit P-1 to Ex.P-8 documents. Though the summons of this case was duly served on the defendants, none of them have appeared before this court and none of the defendants have cross examined the Pw.1 so as to test the veracity of the evidence adduced by the plaintiffs or to discredit the testimony of

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Pw.1. Hence the case was posted for arguments on merits.

6. In spite of giving sufficient opportunities, no arguments canvassed on behalf of the plaintiffs.

7. On perusal of the pleadings, oral and documentary evidence placed before the court, my findings to the above points are as hereunder:

Point No.1: In the Negative.

Point No.2: In the Negative.

Point No.3: As per the final orders for the following:

REASONS

8. POINT NO.1: The plaintiffs have filed the present suit as against the defendants for the relief of partition and separate possession of their undivided 1/2 share in the 1/5th share of the defendant No.3 in the suit properties by contending that the suit properties are the ancestral and joint family properties of the plaintiffs and the defendants and that the plaintiffs and the defendants are the co-owners of the suit properties. Since it is the plaintiffs who have asserted that they are the co-owners of the suit properties along with the defendants, Point No.1 was raised for consideration casting burden on the plaintiffs to prove the same.

9. In support of the case of the plaintiffs, plaintiff No.2 has

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examined herself as Pw.1 and the plaintiffs have relied on the Ex.P-1 to Ex.P-8 documents.

10. Ex.P-1 is a family genealogy of parties to this suit submitted by the plaintiffs. Ex.P-1 is a undisputed document and the same proves and establishes the relationship between the parties to this suit. Moreover, in spite of service of summons on them and in spite of having knowledge regarding the claim made by the plaintiffs in this suit, the defendants have not denied or disputed their relationship with the plaintiffs. Hence the relationship between the parties to this is established.

11. Ex.P-5 is a certified copy of the mutation order No.109/1984-85 in respect of item No.1 of the suit property. Ex.P-5 is a undisputed document which is relied on by the plaintiffs themselves. Ex.P-5 being a un-disputed as well as public document, the same proves and establishes that it is on the basis of purchase(ಕ್ರಯ) the mutation of the item No.1 of the suit property was sanctioned to the name of the defendant No.1 herein. Ex.P-5 document reads as under:

- (1) ಹೆಚ್.ಕೆ. ರಾಮೇಗೌಡ ಬಿನ್ ಲೇಟ್ ಹಲಗೇಗೌಡ ಹೊಸೂರು
- (2) ಹೆಚ್.ಆರ್. ರವೀಂದ್ರ
- (3) ಹೆಚ್.ಆರ್. ಮಹೇಂದ್ರ ಬಿನ್ ಹೆಚ್.ಕೆ ರಾಮೇಗೌಡ ಹೊಸೂರು ರವರಿಂದ
ಬಿ.ಪಿ.ಚಿಕ್ಕೇಗೌಡ ಬಿನ್ ಪುಟ್ಟೇಗೌಡ ಬೋಗನಹಳ್ಳಿ ಇವರಿಗೆ ಕ್ರಯ **20,000/-**.

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12. Hence, Ex.P-5 document proves and establishes that the item No.1 of the suit property is a property, that was purchased by the defendant No.1. Hence, the item No.1 of the suit property becomes the absolute and self acquired property of the defendant No.1 herein.

13. Ex.P-2 is a RTC of the item No.1 of the suit property. Ex.P-2 is a document which is relied on by the plaintiffs themselves. Ex.P-2 being a RTC of the item No.1 of the suit property, the same projects the name of the defendant No.1 herein as a absolute owner and possessor of the item No.1 of the suit property. Except the Ex.P-2 and Ex.P-5 documents, the plaintiffs have not produced any other evidence before this court to prove that the item No.1 of the suit property is either their ancestral property or to prove that the item No.1 of the suit property is their joint family property. Rather, the Ex.P-2 and Ex.P-5 documents being relied on by the plaintiffs proves and establishes that the item No.1 of the suit property is a absolute and self acquired property of the defendant No.1 herein. Hence, the item No.1 of the suit property being the absolute and self acquired property of the defendant No.1, the same cannot be said to be the joint family or ancestral property of the plaintiffs. Accordingly, I conclude that the plaintiffs have utterly failed to prove that the item No.1 of the suit property is their joint family and ancestral property.

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14. Ex.P-4 is a certified copy of the mutation order No.7/1997-98 in respect of item No.2 of the suit properties. Ex.P-4 is a un-disputed document which is relied on by the plaintiffs themselves. Ex.P-4 being a un-disputed as well as public document, the same proves and establishes that it is on the basis of the registered WILL executed by the grand mother of the defendant No.2 namely Smt.Javaramma W/o Puttegowda, the mutation of the item No.2 of the suit properties was sanctioned to the name of the defendant No.2 herein. Ex.P-4 document reads as under:

RTC ಪ್ರಕಾರ ತಾಳೆ ಇದೆ. ಗ್ರಾಮದಲ್ಲಿನ ನಮೂನೆ-21 ರ 30 ದಿನಗಳು ಪ್ರಚಾರ ಪಡಿಸಲಾಗಿ ಗ್ರಾಮಸ್ಥರಿಂದ ತಂಟೆ ತಕರಾರು ಬಂದಿರುವುದಿಲ್ಲ. ಈ ಮೇಲ್ಕಂಡ ಅರ್ಜಿದಾರರಾದ ಗಾಯತ್ರಿ W/o ಚಿಕ್ಕೇಗೌಡ ರವರಿಗೆ ಇವರ ಅಜ್ಜಿಯರಾದ ಜವರಮ್ಮ W/o ಪುಟ್ಟೇಗೌಡ ರವರ ನೊಂದಾಯಿತ ಮರಣ ಶಾಸನ ಪ್ರಕಾರ ಅಂದರೆ ರಿ.ನಂ.20-16/07/1984 ರಂತೆ ಇವರ ಅಜ್ಜಿಯವರಾದ ಜವರಮ್ಮ ಕೋಂ.ಪುಟ್ಟೇಗೌಡರವರು ದಿನಾಂಕ 10-1-1998 ರಂದು ಮರಣ ಹೊಂದಿದ್ದರಿಂದ ಈ ಮೇಲ್ಕಂಡ ನೊಂದಾಯಿತ ಮರಣ ಶಾಸನದ ಪ್ರಕಾರ ಈ ಮೇಲ್ಕಂಡ ಅರ್ಜಿದಾರರಾದ ಗಾಯತ್ರಿ W/o ಚಿಕ್ಕೇಗೌಡ ರವರಿಗೆ ಮರಣ ಶಾಸನದಂತೆ ಖಾತೆ ಮತ್ತು ಪಹಣಿಯನ್ನು ಅಂಗೀಕರಿಸಲು ತಮ್ಮ ಮುಂದಿನ ಸೂಕ್ತ ಆದೇಶಕ್ಕಾಗಿ ಸಲ್ಲಿಸಲಾಗಿದೆ.

ಗ್ರಾ.ಲೆ.ಯವರ ಷರಾ ಮೇರೆಗೆ ನಮೂನೆ-21 ರ ಮತ್ತು ನೊಂದಾಯಿತ ಮರಣ ಶಾಸನ ಪತ್ರದಂತೆ ಬೆಣಗನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ.82 1-23 1/2, 83 1-18 ಗುಂಟೆ ಜಮೀನು ಗಾಯತ್ರಿ W/o ಚಿಕ್ಕೇಗೌಡರವರ ಹೆಸರಿಗೆ ಖಾತೆಯನ್ನು ಅಂಗೀಕರಿಸಿದೆ.

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15. Hence, Ex.P-4 document proves and establishes that the item No.2 of the suit properties are the properties, that was acquired by the defendant No.2 from her grand mother under the registered WILL. Hence, the item No.2 of the suit properties becomes the Stridhana (ಸ್ತ್ರೀಧನ) properties of the defendant No.2 herein. Thereby, the item No.2 of the suit properties becomes the absolute and self acquired property of the defendant No.2 herein. Hence, the item No.2 of the suit properties being the absolute and self acquired property of the defendant No.2, the same cannot be said to be the joint family or ancestral property of the plaintiffs. Accordingly, I conclude that the plaintiffs have utterly failed to prove that the item No.2 of the suit properties are their joint family and ancestral property.

16. Ex.P-3 is a RTC of the item No.3 of the suit property. Ex.P-3 being a RTC of the item No.3 of the suit property, the same projects the name of one Smt.Puttamma W/o Late Basavegowda as a owner and possessor of the item No.3 of the suit property. Said Smt.Puttamma W/o Late Basavegowda, whose name is appearing in the Ex.P-3 RTC, she is not a party to this suit. Even the name of said Smt.Puttamma W/o Late Basavegowda does not appear either in the Ex.P-1 family genealogy or in the family genealogy mentioned at para No.2 of the plaint. Even the plaintiffs have also not whispered anything as to what is their relationship with said Smt.Puttamma W/o Late Basavegowda. Hence, such

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being the case, the item No.3 of the suit property, which is standing in the name of some other third party cannot be said to be the joint family or ancestral property of the plaintiffs. Accordingly, I conclude that the plaintiffs have utterly failed to prove that item No.3 of the suit property is their joint family and ancestral property.

17. Ex.P-6 and Ex.P-7 are the sale notice issued by the Tobacco Board in respect of the item No.4 of the suit properties and the same proves and establishes that the item No.4 of the suit properties namely the Tobacco Licence bearing TBGR No.62156110 and 62156072 belongs to and stands in the name of the defendants No.1 and 2 herein. Therefore, even the item No.4 of the suit properties namely the Tobacco Licence cannot be said to be the joint family or ancestral property of the plaintiffs. Accordingly, I conclude that the plaintiffs have utterly failed to prove that item No.4 of the suit properties are their joint family and ancestral property.

18. No doubt the defendants have remained exparte, but that itself cannot be a ground to decree the suit of the plaintiffs. As per Sec.101 of Indian Evidence Act, the initial burden always lies on the plaintiffs to prove their case independently by adducing cogent evidence. Since, it is the plaintiffs who have come before the court by asserting that the suit properties is their ancestral and joint

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family properties and that they are the co-owners of the suit properties, the burden was heavily on the shoulders of the plaintiffs to prove the same. It is a settled law that one who asserts, must prove the same. Since, it is the plaintiffs who have asserted that the suit properties are their ancestral and joint family properties and that they are the co-owners of the suit properties, the initial burden of proving the same was on the plaintiffs. But, except the Ex.P-2 to Ex.P-8 documents, the plaintiffs have not produced any other evidence before this court to prove that the suit properties are either their ancestral properties or to prove that the suit properties are their joint family properties. Rather, the Ex.P-2 to Ex.P-8 documents being relied on by the plaintiffs proves and establishes that the suit properties are the properties of the defendants No.1 and 2 herein. No doubt, the defendants No.1 and 2 are the paternal grand-parents of the plaintiff No.1 and in-laws of the plaintiff No.2, the suit properties, which appears to have belongs to the defendants No.1 and 2, the same cannot be partitioned during the life time of the defendants No.1 and 2. Moreover, during the life time of father of the plaintiff No.1 and husband of plaintiff No.2 namely the defendant No.3, the plaintiffs will not get any right over the properties of the defendants No.1 and 2. Therefore, the suit properties being the properties of the defendants No.1 and 2, the same will neither become the ancestral properties or joint family properties of the plaintiffs and the plaintiffs will not become the co-owners of the

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suit properties. Accordingly, I conclude that the plaintiffs have utterly failed to prove their co-ownership over the suit properties. Accordingly, **Point No.1 is answered in the Negative.**

19. POINT NO.2: The present point was raised for consideration regarding entitlement of the plaintiffs to get the reliefs as sought for in this suit. In this suit the plaintiffs have sought for the relief of partition and separate possession of their undivided 1/2 share in the 1/5th share of the defendant No.3 in the suit properties.

20. As held in Point No.1, the plaintiffs have utterly failed to prove that the suit properties are their ancestral or joint family properties. So also the plaintiffs have utterly failed to prove that they are the co-owners of the suit properties. When the plaintiffs have failed to prove that they are the co-owners of the suit properties, the plaintiffs have no right to seek the partition of the suit properties. Therefore, I conclude that the plaintiffs are not at all entitled for any reliefs more or less the relief of partition of the suit properties. Accordingly for what has been discussed above, **I answer Point No.2 in the Negative.**

21. POINT NO.3: In view of my above discussions and findings on Points No.1 and 2, I proceed to pass the following:

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**ORDER**

The suit of the plaintiffs is hereby dismissed.

Considering the relationship between the parties, there is no order as to costs.

Pending interim application if any, the same stands disposed off accordingly.

Draw decree accordingly.

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

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR.

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**A N N E X T U R E****List of Witnesses examined on behalf of the plaintiffs**

PW-1: Smt.Savitha W/o Prakasha

List of Documents marked on behalf of the plaintiffs

Ex.P-1: Family Genealogy.

Ex.P-2 & 3: RTC's.

Ex.P-4 & 5: Certified copies of mutation orders.

Ex.P-6 & 7: Sale notice issued by the Tobacco Board.

Ex.P-8: Authorization Letter – Cum- Acknowledgment.

List of Witnesses examined on behalf of the Defendants

-NIL-

List of Documents marked on behalf of the Defendants

-NIL-

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR.