



**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 4TH DAY OF APRIL, 2026.

O.S.No.146/2021

BETWEEN

PLAINTIFFS	1. Shri.Sannegowda, S/o Late.Hulukeygowda, (Since dead R/by his LR's) 1(a) Smt.Padmamma W/o Sannegowda Aged: 61 years R/at Ankanahalli Village, Saligrama Hobli, K.R.Nagara Taluk, Mysuru District. 1(b) Smt.Asha A.S W/o Shankaregowda R Aged: 37 years R/at Ankanahalli Village, Saligrama Hobli, K.R.Nagara Taluk, Mysuru District. 1(c) Smt.Usharani S W/o Niranjana A.C Aged: 36 years,
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	R/at: Akki Hebbalu Village and Hobli, K.R.Pete Taluk, Mandya District. 2. Shri.Srinivasa, S/o Late.Hulukegowda, Aged: 53 years, R/at: Ankanahalli Village, Saligrama Hobli, K.R.Nagara Taluk, Mysuru District. (By Shri.T.G. Advocate)
DEFENDANTS	1. Shri.Kalegowda, S/o Late.Hulukegowda, Aged: 62 years, 2. Shri.Raju H, S/o Late.Hulukegowda, Aged: 56 years, 3. Shri.Harish A.R S/o Raju H Aged: 29 years 4. Smt.Sharadamma, D/o Late Hulukegowda Aged: 58 years 5. Shri.Javaregowda S/o Late.Hulukegowda Aged: 70 years 6. Smt.Jayamma, D/o Late Hulukegowda

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	Aged: 68 years. All are R/at: Ankanahalli Village, Saligrama Hobli, K.R.Nagara Taluk, Mysuru District. (Defendants No.1 to 3 by: Shri.B.N.B Adv) (Defendants No.4 to 6 are placed Ex-parte)
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Date of Institution of suit	29/03/2021.		
Nature of suit	Suit for Partition and for a declaration that the registered sale deed dated 13/11/2020 executed by the defendant No.1 in favour of the defendant No.3 is a null and void document.		
Date of recording of evidence	19/09/2023.		
Date of Judgment	04/04/2026.		
Total duration	Years/s -05-	Month/s -00-	Day/s -05-

(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 2/7th share in the suit properties, for a declaration that the registered sale deed dated 13/11/2020 executed by the defendant No.1 in favour of the defendant No.3 is a null and void document, for costs of the suit and for such other reliefs.

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

It is the case of the plaintiffs that one Mr.Hulukegowda S/o Kalegowda had two wives. It is the case of the plaintiffs that within his first marriage with Smt.Honnamma, aforesaid Mr.Hulukegowda had two children namely the defendants No.5 and 6 herein. It is the case of the plaintiffs that within his second marriage with Smt.Ningamma, aforesaid Mr.Hulukegowda had five children namely the plaintiffs, defendants No.1, 2 and 4. It is the case of the plaintiffs that the defendant No.3 is a son of the defendant No.2 herein. Therefore, It is the case of the plaintiffs that themselves and defendants No.1, 2, 4 to 6 are real brothers and sisters in relation and they are the children of Mr.Hulukegowda S/o Kalegowda. According to the plaintiffs, their family genealogy is as shown by them at para No.2 of the plaint. It is the case of the plaintiffs that the suit properties are the joint family properties of themselves and the defendants. Therefore the

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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 suit properties are not yet divided in between themselves and the defendants. It is the grievance of the plaintiff that after the death of their father, the defendant No.1 has illegally mutated the item No.1 of the suit property to his sole name and there after without the knowledge and behind the back of the plaintiffs the defendant No.1 has illegally sold the item No.1 of the suit property in favour of the defendant No.3 herein under the registered sale deed dated:13/11/2020 registered as document No.MIR-1-03877/2020-21. Therefore the plaintiffs have contended that the aforesaid sale deed executed by the defendant No.1 in favour of the defendant No.3 in respect of the item No.1 of the suit property is a null and void document and the same is not binding on them. It is the grievance of the plaintiffs that even the defendant No.1 is also illegally trying to alienate the other suit properties with a *malafide* intention to defeat the legitimate rights of the plaintiffs over the suit properties. It is the case of the plaintiffs that on 07/03/2021 the plaintiffs have approached the defendants and requested them to partition the suit properties and to give their legitimate 2/7th share in the suit properties. But the defendants did not agree to partition the suit properties and the defendants

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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-owners of the suit properties, they have their undivided 2/7th share in the suit properties. But the defendants are avoiding to give the legitimate 2/7th share to the plaintiff 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 2/7th share in the suit properties with metes and bounds. According to the plaintiffs the cause of action to file the above suit arose 07/03/2021, the date on when the defendants have refused to partition the suit properties and to give the legitimate undivided share to the plaintiffs in the suit properties. Hence with the above plea the plaintiffs have prayed to decree the suit.

3. In pursuance to the summons issued by this court, the defendants No.1 to 3 have entered their appearance before this court through their counsel. The defendants No.1 to 3 have filed their written statement by denying the claim of the plaintiffs and thereby the defendants No.1 to 3 have contested the suit. The proceedings of the order sheet reveals that on 02/11/2021 the summons of this case was duly served on the defendants No.4 and

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5 and on 15/02/2023 the summons of this case was duly served on the defendant No.6. Inspite of service of summons on them, the defendants No.4 to 6 have not appeared before this court. Hence, the defendants No.4 to 6 are placed ex-parte.

4. The defendants No.1 to 3 have filed their written statement wherein they have admitted the relationship between the parties to this suit. The defendants No.1 to 3 have admitted that the suit properties are the properties of father of the plaintiffs namely Mr.Hulukegowda and that the plaintiffs and the defendants are the legal heirs of Mr.Hulukegowda. The contention of the plaintiffs that the suit properties are the joint family properties of the plaintiffs and the defendants was denied by the defendants No.1 to 3. The contention of the plaintiffs that the plaintiffs and the defendants are the Co-owners of the suit properties is also denied by the defendants No.1 to 3. The claim of the plaintiffs for partition of the suit properties was denied by the defendants No.1 to 3. By denying rest of the plaint averments the defendants No.1 to 3 have categorically contended that the suit properties are already partitioned in between the plaintiffs and defendants No.1, 2 and 5 by entering in to a partition deed dated 21/02/2005. It is the contention of the above defendants that in the said partition, the item No.1 of the suit property was fallen to the share of the defendant No.1 herein. It is the contention of the above defendants that after acquiring the item No.1 of the suit property under the

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aforesaid partition deed dated 21/02/2005, the defendant No.1 has sold the item No.1 of the suit property in favour of the defendant No.3 herein for his legal necessity. Therefore, it is the contention of the above defendants that since the suit properties are already partitioned way back on 21/02/2005, the present suit for partition is not maintainable. Since the plaintiffs had not added the item No.7 to 21 of the suit properties in this suit, the above defendants have contended that the present suit is bad for partial partition. The above defendants have contended that the plaintiffs have not properly valued the suit and the court fee paid by them is insufficient. The above defendants have contended that by suppressing all the true and material facts the plaintiffs have filed the present false suit. The above defendants have contended that there is no cause of action to file the above suit and the alleged cause of action shown by the plaintiffs is false and fictitious. The plaintiffs have not approached this court with clean hands. The above defendants have contended that the above suit being the false suit the above defendants have prayed to dismiss the suit by awarding the compensatory costs. Hence, with the above contentions, the defendants No.1 to 3 have prayed for dismissal of the suit with costs.

5. On the basis above pleadings and rival contentions learned predecessor in office has framed the following issues:

1. Whether the plaintiff proves that suit

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schedule properties are the ancestral and Joint family properties of himself and defendant No.1 to 6 as alleged by him in his plaint?

ISSUE NO.1 IS RECASTED AS UNDER:

Whether the plaintiffs prove that suit properties are the joint family properties of themselves and the defendants No.1, 2, 4 to 6 ?

2. Whether the plaintiff further proves that the registered sale deed executed by 1st defendant in favour of 3rd defendant in respect of item No.1 suit schedule property on dated 13.11.2020 is not binding on him?
3. Whether the defendants proves that there was a prior partition in their family by virtue of Panchayath Palupatti on dated 21.02.2005 as alleged by them in their written statement?
4. Whether plaintiff is entitle for partition and separate possession? If so, to what share?
5. What order or decree?

6. In order to establish the case of the plaintiffs, plaintiff No.1(b) has stepped into the witness box and examined herself as Pw.1 and got marked Exhibit P-1 to Ex.P-15 documents. Ex.P-15

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document was marked through Dw.1 by way of confrontation. On the other hand, in order to nullify the claim of the plaintiff and to prove the defence of the defendants No.1 to 3, the defendant No.2 has entered the witness box and examined himself as Dw.1 and got marked Exhibit D-1 document. Thereafter, the case was posted for arguments on merits.

7. Heard arguments from both side.

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

Issue No.1: In the Negative.

Issue No.2: In the Affirmative.

Issue No.3: In the Negative.

Issue No.4: In the Partly Affirmative.

Issue No.5: As per the final orders for the following:

REASONS

9. ISSUE NO.1: The plaintiffs have filed the present suit as against the defendants for the relief of partition and separate possession of their undivided 2/7th share in the suit properties by contending that the suit properties are the joint family properties of the plaintiffs and the defendants and that the plaintiffs and the defendants are the co-owners of the suit properties. Earlier the Issue No.1 was framed by casting burden on the plaintiffs even to

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prove that the suit properties are their ancestral properties. But, there is no pleadings either in the plaint or in the written statement that the suit properties are the ancestral properties of the parties to this suit. Rather, in this suit the plaintiffs have only claimed that the suit properties are the joint family properties of the parties to this suit. Therefore, the Issue No.1 is recasted, casting burden on the plaintiffs only to prove that the suit properties are the joint family properties of parties to this suit. Since both the parties have already led their evidence in respect of the matters covered under the recasted Issue No.1, fresh evidence on the recasted Issue No.1 is not needed.

10. In support of the case of the plaintiffs, the plaintiff No.1(b) has examined herself as Pw.1 and the plaintiffs have relied on the Ex.P-1 to Ex.P-15 documents.

11. In this case the relationship between the parties to this suit is not in dispute. Ex.P-14 is a family genealogy of parties to this suit submitted by the plaintiffs. Ex.P-14 is a undisputed document and the same proves and establishes the relationship between the parties to this suit. So also the Ex.P-14 document proves and establishes the relationship of the parties to this suit with Mr.Hulukegowda, Mr.Kalegowda and Mr.Bandisiddegowda.

12. Further, though the defendants No.1 to 3 have contested the

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suit, but they have categorically admitted the relationship between the parties to this suit at para No.2 and 3 of their written statement. The same is extracted below:

2. ವಾದಿಗಳು ದಾವಾ ಪತ್ರದ ಖಂಡಿಕೆ 2ರಲ್ಲಿ ಆಪಾದಿಸಿ ನಮೂದಿಸಿರುವಂತೆ ವಂಶವೃಕ್ಷವನ್ನು ಈ ಪ್ರತಿವಾದಿಗಳು ಒಪ್ಪಿರುತ್ತಾರೆ.

3. ವಾದಿಗಳು ದಾವಾ ಪತ್ರದ ಖಂಡಿಕೆ 3ರಲ್ಲಿ ಆಪಾದಿಸಿ ನಮೂದಿಸಿರುವಂತೆ ವಾದಿಗಳು ಹಾಗೂ 1, 2 ಮತ್ತು 4 ರಿಂದ 6 ನೇ ಪ್ರತಿವಾದಿಗಳು ಹುಳಿಕೆಗೌಡರ ಮಕ್ಕಳಾಗಿದ್ದು, 3 ನೇ ಪ್ರತಿವಾದಿಯು 2 ನೇ ಪ್ರತಿವಾದಿಯ ಮಗನಾಗಿರುತ್ತಾರೆ. ಮತ್ತು ವಾದಿಗಳ ತಂದೆ ಹುಳಿಕೆಗೌಡರವರಿಗೆ ಹೊನ್ನವು ಮತ್ತು ನಿಂಗವು ಎಂಬ ಪತ್ನಿಯಿದ್ದು ಸದರಿಯವರು ಈಗಾಗಲೇ ಕಾಲವಾಗಿರುತ್ತಾರೆ ಎಂಬ ಸಂಗತಿಗಳು ನಿಜವಾಗಿರುತ್ತದೆ.

13. Further, the defendant No.2 was examined as Dw.1. At para No.1 and 6 of his cross-examination the defendant No.2/Dw.1 has categorically admitted the relationship between the parties to this suit. So also the defendant No.2/Dw.1 has admitted the relationship between the parties to this suit with Mr.Hulukegowda, Mr.Kalegowda and Mr.Bandisiddegowda. The relevant portion of cross-examination of defendant No.2/Dw.1 at para No.1 and 6 is extracted below:

1. ವಾದಿಯ ತಂದೆಯಾದ ಹುಳಿಕೆಗೌಡರ ತಂದೆಯ ಹೆಸರು ಕಾಳೇಗೌಡ ಅಂತ ಇರುತ್ತದೆ. ಕಾಳೇಗೌಡ ಬಿನ್ ಬಂಡಿಸಿದ್ದೇಗೌಡ ಎಂದರೆ ವಾದಿಯ ತಾತ ಎಂದರೆ ಸರಿ.

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6. ನನ್ನ ತಂದೆಯಾದ ಹುಳಕೇಗೌಡರಿಗೆ 2 ಜನ ಹೆಂಡತಿಯಂದಿರು ಇದ್ದರು ಎಂದರೆ ಸರಿ. ವಾದಿಯರು, ನಾನು, ಪ್ರತಿವಾದಿ ಸಂಖ್ಯೆ 1 ಮತ್ತು 4 ರವರು ಹುಳಕೇಗೌಡ ಬಿನ್ ಕಾಳೇಗೌಡರ 2 ನೇ ಹೆಂಡತಿಯಾದ ನಿಂಗಮ್ಮರವರಿಂದ ಜನಿಸಿದ ಮಕ್ಕಳು ಎಂದರೆ ಸರಿ. ನಾವೆಲ್ಲರೂ ಅಂಕನಹಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ ವಾಸವಿದ್ದೇವೆ ಎಂದರೆ ಸರಿ. ಪ್ರತಿವಾದಿ ಸಂಖ್ಯೆ 5 ಮತ್ತು 6 ರವರು ಹುಳಕೇಗೌಡ ಬಿನ್ ಕಾಳೇಗೌಡರ ಮೊದಲನೆಯ ಹೆಂಡತಿಯಾದ ಹೊನ್ನಮ್ಮರವರಿಂದ ಜನಿಸಿದ ಮಕ್ಕಳು ಎಂದರೆ ಸರಿ. ತಮ್ಮ ಮೊದಲನೆಯ ಹೆಂಡತಿಯಾದ ಹೊನ್ನಮ್ಮರವರು ಮರಣ ಹೊಂದಿದ ನಂತರದಲ್ಲಿ ಹುಳಕೇಗೌಡರು ನಮ್ಮ ತಾಯಿಯಾದ ನಿಂಗಮ್ಮರವರನ್ನು ವಿವಾಹವಾಗಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.

14. Hence the relationship between the parties to this suit is established.

15. Ex.P-12 is a death certificate of father of the plaintiffs namely Mr.Hulukegowda S/o Kalegowda and Ex.P-13 is a death certificate of the mother of the plaintiffs namely Smt.Ningamma W/o Hulukegowda. Ex.P-12 and Ex.P-13 are the undisputed documents and the same proves and establishes the factum of death of Mr.Hulukegowda and his 2nd wife Smt.Ningamma. The factum of death of first wife of Mr.Hulukegowda namely Smt.Honnamma is a undisputed fact. Moreover, at last line of para No.6 of his cross-examination, the defendant No.2/Dw.1 has categorically admitted that after the death of first wife of Mr.Hulukegowda namely Smt.Honnamma, Mr.Hulukegowda had contracted the second marriage with Smt.Ningamma. Hence, the factum of death of Mr.Hulukegowda and his wives namely

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Smt.Honnamma and Smt.Ningamma is established.

16. The fact that Mr.Kalegowda S/o Bandisiddegowda is a grand father of plaintiffs and defendants No.1, 2, 4 to 6 is a admitted fact. Ex.P-4 is a certified copy of phasalu phahani in respect of the item No.1 of the suit property. Similarly, Ex.P-1 and Ex.P-2 are the RTC's of the item No.1 of the suit property from the year 1971-72 to upto the year 1980-81. Ex.P-1, Ex.P-2 and Ex.P-4 are the undisputed documents and the same discloses the name of grand-father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda S/o Bandisiddegowda as a owner and possessor of the item No.1 of the suit property.

17. There are two properties in item No.2 of the plaint schedule. Ex.P-7 is a RTC of 3 guntas of land in Sy.No.52/5A and Ex.P-8 is a RTC of 1.08.00 guntas of land in Sy.No.52/5C. Ex.P-7 and Ex.P-8 are the undisputed documents and the same discloses the name of grand-father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda S/o Bandisiddegowda as a owner and possessor of the item No.2 of the suit property.

18. Ex.P-9 is a RTC of the item No.3 of the suit property and Ex.P-10 is a RTC of the item No.4 of the suit property. Even the Ex.P-9 and Ex.P-10 are also the undisputed documents and the same also discloses the name of grand-father of the plaintiffs and

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the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda S/o Bandisiddegowda as a owner and possessor of the item No.3 and item No.4 of the suit properties.

19. Ex.P-15 is a RTC of the item No.5 of the suit property. Even the Ex.P-15 is also a undisputed document. Ex.P-15 being a undisputed document, the same discloses the name of father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Hulukegowda S/o Kalegowda as a owner and possessor of the item No.5 of the suit property.

20. Ex.P-11 is a RTC of the item No.6 of the suit property. Even the Ex.P-11 is also a undisputed document. Ex.P-11 being a undisputed document, the same discloses the name of grandfather of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda S/o Bandisiddegowda as a owner and possessor of the item No.6 of the suit property.

21. Hence, on combined reading the evidence placed on the record by the plaintiffs, the same proves and establishes that the item No.1 to 4 and the item No.6 of the suit properties are the absolute and separate properties of grand-father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda S/o Bandisiddegowda and the item No.5 of the suit property is a absolute and separate property of father of the plaintiffs and the

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defendants No.1, 2, 4 to 6 namely Mr.Hulukegowda S/o Kalegowda.

22. Further, at para No.6 of their written statement, the contesting defendants namely the defendants No.1 to 3 have stated as under:

6. ದಾವಾ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತುಗಳು ಮೂಲವಾಗಿ ಹುಳುಕೆಗೌಡರಿಗೆ ಸೇರಿದ ಸ್ವತ್ತುಗಳಾಗಿರುತ್ತವೆ. ವಾದಿಗಳು ಮತ್ತು ಪ್ರತಿವಾದಿಗಳು ಹುಳುಕೆಗೌಡರ ವಾರಸುದಾರರಾಗಿರುತ್ತಾರೆ.

23. Initially the plaintiffs had sought for partition only in respect of item No.1 to 6 of the suit properties. But, in view of the contention taken up by the defendants No.1 to 3 in their written statement, subsequently the plaintiffs have added the item No.7 to 21 of the suit properties in the plaint. But, the cross-examination of the defendant No.2/Dw.1 was recorded even before adding of the item No.7 to 21 of the suit properties in the plaint. Hence, the term suit properties (ದಾವಾ ಆಸ್ತಿಗಳು) referred in the cross-examination of the defendant No.2/Dw.1 is only restricted to the item No.1 to 6 of the suit properties. In his cross examination at para No.1 to 3 and 6 the defendant No.2/Dw.1 has categorically admitted that item No.1 to 4 and 6 of the suit properties belongs to his grandfather namely Mr.Kalegowda S/o Bandisiddegowda and the item No.5 of the suit property belongs to his father namely Mr.Hulukegowda S/o Kalegowda. The same are extracted below:

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1. ದಾವಾ ಆಸ್ತಿಗಳೆಲ್ಲವು ಸಹ ವಾದಿಯ ತಂದೆಯಾದ ಹುಳಕೇಗೌಡರ ಪಿತ್ತಾರ್ಜಿತ ಆಸ್ತಿಗಳು ಎಂದು ಸೂಚಿಸಿದ ಪ್ರಶ್ನೆಗೆ ಸಾಕ್ಷಿಯು ಕೇವಲ ಕೆಲವು ದಾವಾ ಆಸ್ತಿಗಳು ಮಾತ್ರ ಹುಳಕೇಗೌಡರ ಪಿತ್ತಾರ್ಜಿತ ಆಸ್ತಿಗಳು ಎಂದು ಸಾಕ್ಷಿಯು ನುಡಿದಿರುತ್ತಾರೆ.
2. ನಿಪಿ.10 ರ ಪ್ರಕಾರ ದಾವಾ ಐಟಂ ನಂ.4 ರ ಆಸ್ತಿಯು ಕಾಳೇಗೌಡ ಬಿನ್ ಬಂಡಿಸಿದ್ದೇಗೌಡರ ಹೆಸರಿನಲ್ಲಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ದಾವಾ ಆಸ್ತಿಗಳೆಲ್ಲವು ಸಹ ಕಾಳೇಗೌಡ ಬಿನ್ ಬಂಡಿಸಿದ್ದೇಗೌಡರಿಂದ ಹುಳಕೇಗೌಡರಿಗೆ ಬಂದಿದ್ದು, ಹುಳಕೇಗೌಡರಿಂದ ದಾವಾ ಆಸ್ತಿಗಳು ನಮಗೆ ಪಿತ್ತಾರ್ಜಿತವಾಗಿ ಬಂದಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ.
3. ನಿಪಿ.11 ರ ಪ್ರಕಾರ ದಾವಾ ಐಟಂ ನಂ.6 ರ ಆಸ್ತಿಯು ಕಾಳೇಗೌಡ ಬಿನ್ ಬಂಡಿಸಿದ್ದೇಗೌಡರ ಹೆಸರಿನಲ್ಲಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ.
6. ಸಾಕ್ಷಿಗೆ ಈಗ ಒಂದು ಪಹಣಿಯನ್ನು ತೋರಿಸಿ ಅದರ ಪ್ರಕಾರ ದಾವಾ ಐಟಂ ನಂ.5 ರ ಆಸ್ತಿಯು ನನ್ನ ಮತ್ತು ವಾದಿಯ ತಂದೆಯಾದ ಹುಳಕೇಗೌಡ ಬಿನ್ ಕಾಳೇಗೌಡರ ಹೆಸರಿನಲ್ಲಿರುತ್ತದೆ ಎಂದು ಸೂಚಿಸಿದ ಪ್ರಶ್ನೆಗೆ ಸಾಕ್ಷಿಯು ನೋಡಿ ಹೌದು ಎಂದು ಉತ್ತರಿಸಿದ್ದು, ಸದರಿ ದಾಖಲೆಯನ್ನು ನಿಪಿ.15 ಎಂದು ಗುರುತಿಸಲಾಯಿತು.

24. Further, at para No.8 of his cross-examination, the defendant No.2/Dw.1 has categorically admitted that the suit properties being inherited by them from Mr.Kalegowda and Mr.Hulukegowda, the plaintiffs and defendants No.1, 2, 4 to 6 are the co-owners of the suit properties having equal share in the suit properties. The same is extracted below:

8. ದಾವಾ ಆಸ್ತಿಗಳೆಲ್ಲವು ಸಹ ನಮ್ಮ ತಂದೆಯಾದ ಹುಳಕೇಗೌಡ ಬಿನ್ ಕಾಳೇಗೌಡರಿಗೆ ಸೇರಿದ ಆಸ್ತಿಗಳಾಗಿದ್ದು, ಅವುಗಳನ್ನು ಹುಳಕೇಗೌಡರ 2 ನೇ

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ಹೆಂಡತಿಯಾದ ನಿಂಗಮ್ಮನ ಮಕ್ಕಳೆಲ್ಲರು ಸಹ ಜಂಟಿಯಾಗಿ ಅನುಭವಿಸುತ್ತಾ ಬಂದಿರುತ್ತೇವೆ ಎಂದರೆ ಸರಿ. ದಾವಾ ಆಸ್ತಿಗಳಲ್ಲಿ ನನ್ನ ಎಲ್ಲಾ ಸಹೋದರರ-ಸಹೋದರಿಯರಿಗೂ ಸಮಾನ ಪಾಲು ಇದೆ ಎಂದರೆ ಸರಿ.

25. Hence, on combined reading of the evidence placed on record coupled with the admissions made by the contesting defendants namely the defendants No.1 to 3, it is proved that the item No.1 to 4 and the item No.6 of the suit properties are the absolute and separate properties of grand-father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda S/o Bandisiddegowda and the item No.5 of the suit property is a absolute and separate property of father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Hulukegowda S/o Kalegowda.

26. Further, though initially the plaintiffs have not sought partition in the item No.7 to 21 of the suit properties, but in view of the contention taken up by the defendants No.1 to 3 in their written statement, the plaintiffs have subsequently added the item No.7 to 21 of the suit properties in the plaint. It is significant to note here that though in the plaint the plaintiffs have subsequently added the item No.7 to 21 of the suit properties, but, the plaintiff No.1(b)/P.W-1 in her cross examination she has categorically deposed that the item No.7 to 21 of the suit properties are the properties of the defendant No.5 and that they have no share or claim over the item No.7 to 21 of the suit

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properties. During the course of arguments on merits, even learned counsel for the plaintiffs has submitted that the plaintiffs have no claim over the item No.7 to 21 of the suit properties and that the item No.7 to 21 of the suit properties are added only to overcome the defense of partial partition set up by the defendants No.1 to 3 in their written statement. Adding further, even both the parties have also not produced any documents pertaining to the item No.7 to 21 of the suit properties. Absolutely no evidence is placed before this court by both the parties to prove that the item No.7 to 21 of the suit properties are either their joint family properties or to prove that the item No.7 to 21 of the suit properties are their inherited properties which they have inherited either from their father Mr.Hulakegowda or from their grandfather Mr.Kalegowda. Hence, such being the case, it cannot be held that the item No.7 to 21 of the suit properties are the joint family properties of the parties to this suit.

27. As held above, it proved that the item No.1 to 4 and the item No.6 of the suit properties are the absolute and separate properties of grand-father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda S/o Bandisiddegowda and the item No.5 of the suit property is a absolute and separate property of father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Hulukegowda S/o Kalegowda.

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28. Admittedly the plaintiffs and the defendants No.1, 2, 4 to 6 are the children of Mr.Hulukegowda S/o Kalegowda and they are the grand-children of Mr.Kalegowda S/o Bandi Siddegowda. Admittedly aforesaid Mr.Kalegowda and Mr.Hulakegowda have died intestate leaving behind the plaintiffs and the defendants No.1, 2, 4 to 6 herein as their only legal heirs and successors to succeed their estate. Upon intestate death of Mr.Kalegowda and Mr.Hulakegowda, the item No.1 to 6 of the suit properties will jointly devolve upon their only surviving class-I legal heirs namely the plaintiffs and the defendants No.1, 2, 4 to 6. The item No.1 to 6 of the suit properties being the separate and absolute properties of Mr.Kalegowda and Mr.Hulakegowda, the same will not become the joint family properties in the hands of their children and grand-children namely the the plaintiffs and the defendants No.1, 2, 4 to 6 herein. The item No.1 to 6 of the suit properties being the separate and absolute properties of father and grand father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda and Mr.Hulakegowda, the same cannot be termed as a joint family property of the plaintiffs and the defendants No.1, 2, 4 to 6. Rather it can be said that the item No.1 to 6 of the suit properties are the inherited properties of the plaintiffs and the defendants No.1, 2, 4 to 6. Accordingly I conclude that the item No.1 to 6 of the suit properties are not the joint family properties of the plaintiffs and the defendants No.1, 2, 4 to 6. Rather the item No.1 to 6 of the suit properties are their inherited properties which the

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plaintiffs and the defendants No.1, 2, 4 to 6 have inherited from their grand father namely Mr.Kalegowda and their father Mr.Hulakegowda as their class-I legal heirs as per Sec.8 to 10 of Hindu Succession Act. Further, the defendant No.3 being the son of the defendant No.2, during the life time of defendant No.2, the defendant No.3 will neither become the co-owner of the item No.1 to 6 of the suit properties nor will he get any share in the item No.1 to 6 of the suit properties.

29. Accordingly by holding that the item No.1 to 6 of the suit properties being the inherited properties of the plaintiffs and the defendants No.1, 2, 4 to 6 from their grand father namely Mr.Kalegowda and their father Mr.Hulakegowda as their class-I legal heirs as per Sec.8 to 10 of Hindu Succession Act, the item No.1 to 6 of the suit properties will not become the joint family properties of the plaintiffs and the defendants. Further, since the plaintiffs have failed to prove that the item No.7 to 21 of the suit properties are their joint family properties, it cannot be said that the item No.7 to 21 of the suit properties are the joint family properties of the plaintiffs. Accordingly for what has been discussed above, **I answer Issue No.1 in the Negative.**

30.ISSUE NO.3: Before discussing the Issue No.2, I feel it apposite to decide the present issue first. Accordingly the Issue No.3 is taken up for prior discussion.

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31. In their written statement the defendants No.1 to 3 had taken up the contention that the suit properties are already partitioned in between the plaintiffs and defendants No.1, 2 and 5 by entering in to a partition deed dated 21/02/2005, in which the item No.1 of the suit property was fallen to the share of the defendant No.1 herein. Therefore, it is the contention of the defendants No.1 to 3 that since the suit properties are already partitioned way back on 21/02/2005, the present suit for partition is not maintainable. In view of the said contention taken up by the defendants No.1 to 3, the present issue was framed casting burden on the defendants No.1 to 3 to prove the same.

32. In order to discharge their burden, the defendants No.1 to 3 have relied on Ex.D-1 document. Ex.D-1 is a un-registered partition deed dated 21/02/2005. I have carefully gone through the Ex.D-1 partition deed. The contents and the recitals of Ex.D-1 document discloses that under the Ex.D-1 document the plaintiffs, the defendants No.1, 2 and 5 have allegedly divided the properties covered under it with metes and bounds. Hence, there is a division of the subject matter properties under the Ex.D-1 partition deed with metes and bounds, thereby conveying the right, title and interest over the subject matter properties to the parties to this suit. Since there is a actual division of immovable properties with metes and bounds having value of more than 100

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Rupees, the Ex.D-1 partition deed requires compulsory registration as per Sec.17(1)(b) of the Registration Act. In view of the recitals found in Ex.D-1 partition deed, it is manifest that there is a allotment of specific properties to the co-sharers with metes and bounds and therefore, the Ex.D-1 document falls within the mischief of Sec.17(1)(b) of the Registration Act and thereby, the Ex.D-1 document needs compulsory registration. But Ex.D-1 is a unregistered document and it follows that the Ex.D-1 document can not be relied on to prove the earlier partition. No doubt the defendants No.1 to 3 have paid the deficit stamp duty and penalty on Ex.D-1 document, but that will not cure the defect of non-registration. Hence, Ex.D-1 document can not be relied on to prove the earlier partition.

33. Further, at para No.9 of his cross examination, the defendant No.2/Dw.1 has deposed as under:

9. ನಿಡಿ.1 ರ ದಾಖಲೆಯನ್ನು ನಾನೇ ತಂದಿರುತ್ತೇನೆ. ನಿಡಿ.1 ರ ದಾಖಲೆ ಆಗುವ ಕಾಲಕ್ಕೆ ನನ್ನ ತಾಯಿಯಾದ ನಿಂಗಮ್ಮರವರು ಬದುಕಿದ್ದರು. ನನ್ನ ತಾಯಿಯಾದ ನಿಂಗಮ್ಮರವರು ನಿಡಿ.1 ರ ದಾಖಲೆಗೆ ಪಕ್ಷಗಾರರಲ್ಲ ಎಂದರೆ ಸರಿ. ಅದೇ ರೀತಿ ಪ್ರತಿವಾದಿ ಸಂಖ್ಯೆ 4 ಮತ್ತು 6 ರವರು ಸಹ ನಿಡಿ.1 ರ ದಾಖಲೆಗೆ ಪಕ್ಷಗಾರರಲ್ಲ ಎಂದರೆ ಸರಿ.

34. In his cross examination referred above, the defendant No.2/Dw.1 has categorically admitted that though as on the date of alleged Ex.D-1 partition deed his mother Smt.Ningamma was

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alive, neither his mother Smt.Ningamma nor his sisters namely the defendants No.4 and 6 are not the parties to the Ex.D-1 partition deed. Admittedly the Ex.D-1 partition deed was allegedly entered into after the death of father of the plaintiffs namely Mr.Hulukegowda and his father Mr.Kalegowda. Therefore, even Smt.Ningamma as well as the defendants No.4 and 6 were also the co-owners of the suit properties as on the date of the Ex.D-1 partition deed. But the Ex.D-1 partition deed is silent regarding allotment of shares to the female heirs of Mr.Hulukegowda in the alleged earlier partition. The Ex.D-1 partition deed speaks about the allotment of shares in the suit properties only to the male heirs of Mr.Hulukegowda namely the plaintiffs and the defendants No.1, 2 and 5. Hence, for a movement even if it is assumed that there was a earlier partition as per Ex.D-1 partition deed, but in the alleged Ex.D-1 partition deed the shares were not given to the female heirs of Mr.Hulukegowda. Hence even if it is assumed that Ex.D-1 partition deed was taken place, the said partition will be unequitable, unfair and unjust partition for the reasons that the same was entered into in exclusion of the female heirs of Mr.Hulukegowda. Therefore, even on this account also the Ex.D-1 partition deed is liable to be ignored.

35. Further, in his cross examination at para No.9, the defendant No.2/Dw.1 has deposed as under:

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9. ನಿಡಿ.1 ರ ದಾಖಲೆಗೆ ವಾದಿಯರು ತಮ್ಮ ಸಹಿ ಆಗಲೇ ಅಥವಾ ಹೆಬ್ಬಟ್ಟಿನ ಗುರುತು ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ.

36. The above admission made by the defendant No.2/Dw.1 goes to the root of the case. Though the defendants No.1 to 3 had taken up the contention that even the plaintiffs are also the parties and signatories to the Ex.D-1 partition deed, but in his cross referred above, the defendant No.2/Dw.1 has categorically admitted that the plaintiffs are not the signatories to the Ex.D-1 partition deed. Hence, when the plaintiffs are not the signatories to the Ex.D-1 partition deed, it cannot be held that there was a earlier partition in between the plaintiffs and the defendants No.1, 2 and 5 in respect of the suit properties. Hence, even on this count also the plea of prior partition setup by the defendants No.1 to 3 is liable to be ignored.

37. Further, at para No.10 of his cross-examination, the defendant No.2/Dw.1 has deposed as under:

10. ನಿಡಿ.1 ರ ದಾಖಲೆಯ ಆಧಾರದ ಮೇಲೆ ನಿಡಿ.1 ರ ಪಕ್ಷಗಾರರ ಹೆಸರಿಗೆ ಆಯಾ ಆಸ್ತಿಗಳು ಖಾತೆ ವರ್ಗಾವಣೆ ಆಗಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ನಿಡಿ.1 ರ ಪ್ರಕಾರ ಆಯಾ ಪಕ್ಷಗಾರರಿಗೆ ಆಸ್ತಿಗಳ ಖಾತೆ ವರ್ಗಾವಣೆ ಆಗದಿರುವ ಕಾರಣ ದಾವಾ ಆಸ್ತಿಗಳೆಲ್ಲವೂ ಸಹ ಇಂದಿಗೂ ಜಂಟಿ ಕುಟುಂಬದ ಆಸ್ತಿಗಳಾಗಿ ಮುಂದುವರೆಯುತ್ತಿದೆ ಎಂದರೆ ಸರಿ.

38. In his cross-examination referred above, the defendant No.2/

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Dw.1 has admitted that on the basis of Ex.D-1 partition deed, the mutation was not effected to the names of the parties to the Ex.D-1 partition deed. So also the defendant No.2/Dw.1 has admitted that inspite of the alleged Ex.D-1 partition deed, the item No.1 to 6 of the suit properties still continued to be in joint possession of the parties to this suit. The above admission made by the defendant No.2/Dw.1 proves and establishes that the Ex.D-1 partition deed is not acted upon till date and that the item No.1 to 6 of the suit properties still continued to be in joint possession of the plaintiffs and the defendants No.1, 2, 4 to 6. As contended by the defendants No.1 to 3, if at all really there was a earlier partition in the year 2005 as per the Ex.D-1 partition deed, then, certainly the same would have been acted upon by the parties to the said document. But, admittedly the Ex.D-1 partition deed is not acted upon till date. Hence, even on this ground also the Ex.D-1 partition deed is liable to be ignored. Viewing from any angle, the defendants No.1 to 3 could not prove the alleged earlier partition of the year 2005 as per the Ex.D-1 partition deed. Accordingly, I conclude that the defendants No.1 to 3 have utterly failed to prove the Issue No.3. Hence, **Issue No.3 answered as against the defendants in the negative.**

39. ISSUE NO.2: It is the case of the plaintiff that they are the co-owners of the suit properties. It is grievance of the plaintiffs that without having any absolute rights over the suit properties, the

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defendant No.1 has illegally sold the item No.1 of the suit property in favour of the defendant No.3 herein without the knowledge and behind the back of the plaintiffs. Therefore, the plaintiffs have contended that the registered sale deed dated 13/11/2020 executed by the defendant No.1 in favour of the defendant No.3 in respect of the item No.1 of the suit property is a null and void document and the same is not binding on them. In view of the same the present Issue was framed casting burden on the plaintiffs to prove the same.

40. Ex.P-6 is a certified copy of the registered sale deed dated 13/11/2020 registered as a document No.MIR-1-03877/2020-21. Ex.P-6 sale deed is under challenge in this suit. The Ex.P-6 sale deed discloses that the defendant No.1 has sold the item No.1 of the suit property in favour of the defendant No.3. As held in Issue No.1, it is proved that the item No.1 of the suit property being a property of the grand-father of the plaintiffs namely Mr.Kalegowda S/o Bandi Siddegowda, the item No.1 of the suit property is a inherited property of the plaintiffs as a class-I legal heirs of Mr.Kalegowda. Ex.P-3 being a RTC of the item No.1 of the suit property, the same discloses that without any basis, the defendant No.1 had obtained the mutation of the item No.1 of the suit property to his sole name from Mr.Kalegowda. Further, though the defendants No.1 to 3 have contended that it is under the Ex.D-1 partition deed the item No.1 of the suit property was acquired by

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the defendant No.1, but as held in Issue No.3, the defendants No.1 to 3 have utterly failed to prove the alleged earlier partition of the year 2005 as per the Ex.D-1 partition deed. Hence, it is proved that without any basis the defendant No.1 had obtained the mutation of the item No.1 of the suit property to his sole name from Mr.Kalegowda and on the basis of said illegal mutation, the defendant No.1 has illegally sold the item No.1 of the suit property in favour of the defendant No.3 herein by executing the Ex.P-6 sale deed.

41. The defendant No.2 is none other than the brother of the defendant No.1 and father of the defendant No.3, who are the parties to the Ex.P-6 sale deed. In his cross-examination at para No.5, the defendant No.2/Dw.1 has deposed as under:

5. 1 ಮತ್ತು 3 ನೇ ಪ್ರತಿವಾದಿಯರು ಮೋಸದಿಂದ ದಾವಾ ಐಟಂ ನಂ.1 ರ ಆಸ್ತಿಯ ಸಂಬಂಧ ನಿಪಿ.6 ರ ಕ್ರಯ ಪತ್ರವನ್ನು ಮಾಡಿಸಿಕೊಂಡಿರುತ್ತಾರೆ ಎನ್ನುವ ಕಾರಣದಿಂದ ದಾವಾ ಐಟಂ ನಂ.1 ರ ಆಸ್ತಿಯ ಖಾತೆಯನ್ನು 3 ನೇ ಪ್ರತಿವಾದಿಯ ಹೆಸರಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ.

42. In his cross-examination referred above, the defendant No.2/Dw.1 has categorically admitted that the Ex.P-6 sale deed being a fraudulent document, on the basis of Ex.P-6 sale deed the item No.1 of the suit property was not mutated to the name of the defendant No.3 herein. The said admission made by the defendant

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No.2/Dw.1 itself is sufficient to hold that the Ex.P-6 is a void document.

43. Further, I have carefully gone through the contents of the Ex.P-6 sale deed. The Ex.P-6 sale deed proves and establishes that the plaintiffs are neither the parties to the Ex.P-6 sale deed nor the plaintiffs are the signatories to the Ex.P-6 sale deed. Though the defendants No.1 to 3 have contested the suit, but they have admitted that the plaintiffs are neither the parties nor the signatories to the Ex.P-6 sale deed.

44. As held in Issue No.1, it is proved that the item No.1 of the suit property is a property of grand father of the plaintiffs and defendants No.1, 2 and 4 to 6 namely Mr.Kalegowda. The item No.1 of the suit property being the property of Mr.Kalegowda, all his legal heirs including the plaintiffs, all of them have equal share in the item No.1 of the suit property. Hence, the defendant No.1 did not had any absolute rights over the item No.1 of the suit property to alienate the same to the defendant No.3 herein. Ex.P-6 sale deed being executed by the defendant No.1 without having absolute right and title over the item No.1 of the suit property, the same will not bind the plaintiffs to the extent of their undivided share in the item No.1 of the suit property. Therefore, the undivided share of the plaintiffs in the item No.1 of the suit property is not conveyed to the defendant No.3 under the Ex.P-6

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sale deed nor the Ex.P-6 sale deed will negate the undivided share of the plaintiffs in the item No.1 of the suit property. Moreover, the plaintiffs not being the parties and signatories to the Ex.P-6 sale deed, the same will not bind the plaintiffs and that the Ex.P-6 sale deed will be void to the extent of the undivided share of the plaintiffs in the item No.1 of the suit property.

45. Further, since under the Ex.P-6 sale deed the defendant No.1 herein has sold his undivided share in the item No.1 of the suit property in favour of defendant No.3, the Ex.P-6 sale deed cannot be declared as null and void in its entirety and rather, the Ex.P-6 sale deed will be null and void only to the extent of undivided share of the plaintiffs, defendants No.2 and 4 to 6 in the item No.1 of the suit property. Accordingly, I conclude that the plaintiffs have successfully proved that the Ex.P-6 sale deed executed by the defendant No.1 in favour of defendant No.3 in respect of the item No.1 of the suit property is not binding on them only to the extent of their undivided share in the item No.1 of the suit property. Accordingly, for what has been discussed above, **I answer Issue No.2 in the Partly Affirmative.**

46. ISSUE NO.4: The present issue was framed regarding the entitlement of the plaintiff to get the reliefs as sought for in this suit.

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47. In this suit the plaintiffs have sought for a declaration that the Ex.P-6 sale deed executed by the defendant No.1 in favour of the defendant No.3 in respect of the item No.1 of the suit property is a null and void document and the same is not binding on them. As held in Issue No.1, it is proved that the item No.1 of the suit property is a property of grand father of the plaintiffs and defendants No.1, 2 and 4 to 6 namely Mr.Kalegowda. The item No.1 of the suit property being the property of Mr.Kalegowda, all his legal heirs including the plaintiffs, all of them have equal share in the item No.1 of the suit property. Hence, the defendant No.1 did not had any absolute rights over the item No.1 of the suit property to alienate the same to the defendant No.3 herein. Ex.P-6 sale deed being executed by the defendant No.1 without having absolute right and title over the item No.1 of the suit property, the same will not bind the plaintiffs to the extent of their undivided share in the item No.1 of the suit property. Therefore, the undivided share of the plaintiffs in the item No.1 of the suit property is not conveyed to the defendant No.3 under the Ex.P-6 sale deed nor the Ex.P-6 sale deed will negate the undivided share of the plaintiffs in the item No.1 of the suit property. Moreover, the plaintiffs not being the parties and signatories to the Ex.P-6 sale deed, the same will not bind the plaintiffs and that the Ex.P-6 sale deed will be void only to the extent of the undivided share of the plaintiffs in the item No.1 of the suit property. Accordingly I hold that the plaintiffs are entitled for the relief of declaration in

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respect of the Ex.P-6 sale deed.

48. Further, in this suit the plaintiffs have also sought for the relief of partition and separate possession of their undivided 2/7th share in the suit properties. As held in Issue No.1, the plaintiffs have successfully proved that the item No.1 to 4 and the item No.6 of the suit properties are the absolute and separate properties of grand-father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Kalegowda S/o Bandisiddegowda and the item No.5 of the suit property is a absolute and separate property of father of the plaintiffs and the defendants No.1, 2, 4 to 6 namely Mr.Hulukegowda S/o Kalegowda.

49. Admittedly grand father of the plaintiffs namely Mr.Kalegowda S/o Bandisiddegowda and father of the plaintiffs namely Mr.Hulukegowda S/o Kalegowda have died intestate. Admittedly the plaintiffs and the defendants No.1, 2, 4 to 6 herein are the grand children of Mr.Kalegowda and they are the children of Mr.Hulukegowda. Admittedly the plaintiff and the defendants No.1, 2, 4 to 6 are the only surviving class-I legal heirs and successors of Mr.Kalegowda and Mr.Hulukegowda. Admittedly the plaintiffs and the defendants No.1, 2, 4 to 6 are Hindus by religion. Hence for the purpose of inheritance and succession they are governed by Hindu Succession Act-1956. The item No.1 to 6 of the suit properties being the absolute properties of father as well

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as grand-father of the plaintiffs and the defendants No.1, 2, 4 to 6, the same has to be divided amongst the plaintiffs and the defendants No.1, 2, 4 to 6 as per Section 8 to 10 of the Hindu succession Act.

50. The item No.1 to 6 of the suit properties being the properties of Mr.Kalegowda and Mr.Hulukegowda and the plaintiffs and the defendants No.1, 2, 4 to 6 being their children and grand-children as well as their only surviving class-I legal heirs, the item No.1 to 6 of the suit properties has to be divided into 7 equal shares. The plaintiffs and the defendants No.1, 2, 4 to 6 being the children and grand-children of of Mr.Kalegowda and Mr.Hulukegowda, all of them are entitled for equal $1/7^{\text{th}}$ share each in the item No.1 to 6 of the suit properties. Accordingly I conclude that the plaintiff and the defendants No.1, 2, 4 to 6 are entitled for $1/7^{\text{th}}$ share each in the item No.1 to 6 of the suit properties with metes and bounds. The defendant No.3 being the son of the defendant No.2, the defendant No.3 will not become the co-owner of the item No.1 to 6 of the suit properties and nor will he get any share in the item No.1 to 6 of the suit properties during the life time of defendant No.2 herein.

51. Further, since the defendant No.1 has already sold his undivided share in the item No.1 of the suit property to the defendant No.3 herein under the Ex.P-6 sale deed, the undivided share of the defendant No.1 in the item No.1 of the suit property

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will have to be given to the subsequent purchaser of the item No.1 of the suit property namely the defendant No.3 herein. Since the defendant No.1 has already sold his undivided share in the item No.1 of the suit property to the defendant No.3 herein, the defendant No.3 will step into the shoes of defendant No.1. Thereby, the defendant No.3 becomes entitled for 1/7th share in the item No.1 of the suit property in the capacity of the purchaser. Hence the undivided 1/7th share of the defendant No.1 in the item No.1 of the suit property will go to the subsequent purchaser under the Ex.P-6 sale deed namely the defendant No.3 herein.

52. Further, in this suit the plaintiffs have also sought for partition and separation of their undivided 2/7th share even in the item No.7 to 21 of the suit properties. As held in Issue No.1, the plaintiffs have failed to prove that the item No.7 to 21 of the suit properties are either their joint family properties or the same are their inherited properties. Since the plaintiffs have failed to prove that they are the co-owners of the item No.7 to 21 of the suit properties, I hold that the plaintiffs are not entitled for the relief of partition in respect of the item No.7 to 21 of the suit properties. Accordingly, for what has been discussed above, **I answer Issue No.4 in the Partly Affirmative.**

53. ISSUE NO.5: In view of my above discussions and findings on Issues No.1 to 4, I proceed to pass the following:



ORDER

The suit of the plaintiff is partly decreed.

It is declared that the plaintiff and the defendants No.1, 2, 4 to 6 are entitled for 1/7th share each in the item No.1 to 6 of the suit properties with metes and bounds.

It is declared that the undivided 1/7th share of the defendant No.1 in the item No.1 of the suit property will go to the defendant No.3.

It is declared that the Ex.P-6 registered sale deed dated 13/11/2020 registered as a document No.MIR-1-03877/2020-21 is not binding on the plaintiffs to the extent of their share in the item No.1 of the suit property.

The suit in respect of the item No.7 to 21 of the suit properties is hereby dismissed.

The defendants shall pay court fee on their respective shares.

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

Pending interim applications if any, the same are disposed off accordingly.

Draw preliminary decree accordingly.

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After the lapse of appeal period, the office is hereby directed to register the Final Decree Proceedings only in respect of item No.1 to 6 of the suit properties by arraying the plaintiffs as petitioners and the defendants as respondents and put up the file before this court.

(Dictated to the Stenographer directly on computer, typed by him, and the transcript revised and corrected by me and then pronounced in the open court on this **04th day of April 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 plaintiff**

PW-1: Smt.Asha A.S. W/o Shankaregowda

List of Documents marked on behalf of the Plaintiff

Ex.P-1 to 3: RTC's.

Ex.P-4: Certified copy of the Phasalu Pahani.

Ex.P-5: RTC.

Ex.P-6: Certified copy of the registered sale deed
dated 13/11/2020.

Ex.P-7 to 11: RTC's.

Ex.P-12 & 13: Death Certificates.

Ex.P-14: Family Genealogy.

Ex.P-15: RTC.

List of Witnesses examined on behalf of the Defendants

DW-1: Shri.Raju S/o Late.Hulukegowda.

List of Documents marked on behalf of the Defendants

Ex.D-1: Un-registered partition deed dated 21/02/2005.

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