



**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR**

PRESENT

Sri. Chandan S, B.Com., LL.B
Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 01ST DAY OF JULY 2026

O.S. No.239/2019

Plaintiff :

1. Smt. Parvathamma,
W/o Maregowda,
Aged about 55 years,
R/at Kallikoppalu Village,
Gavadagere Hobli, Hunsur Taluk,
2. Smt.Manjula W/o Rangaswamy,
Aged about 50 years,
R/at Cheernahalli Village,
Hebbal Hobli, K.R.Nagar Taluk,
3. Smt.Rathnamma
W/o Kalappa,
Aged about 48 years,
R/at Thonachikoppalu, Mysuru.

(Rep. By Sri. C.C.N., Advocate)

V/s

Defendants:

1. Sri.Kanthegowda S/o Late.Gendegowda,
Aged about 65 years,
2. Smt.Thayamma,
W/o Late.Boregowda,
Aged about 65 years,

3. Sri.Muddukumar,
S/o Late.Boregowda,
Aged about 48 years,
4. Sri.G.Swamy S/o Late.Gendegowda,
Aged about 62 years,
- 4a. Bharathi W/o G.Swamy,
Aged about 57 years,
- 4b. Shwetha W/o Kumara,
Aged about 37 years,
- 4c. Pallavi W/o Jagadeesh,
Aged about 35 years,
R/at Cheernahalli Village,
Hebbal Hobli, K.R.Nagar Taluk,
5. Smt.Gowramma,
W/o Late.Ramesha,
Aged about 50 years,
6. Sri.Dhanaraju,
S/o Late.Ramesha,
Aged about 35 years,
D1 to D6 are R/at
Cheernahalli Village, Hebbal Hobli,
K.R.Nagar Taluk.
7. Sri.K.B.Vijay Kumar,
S/o Late.A.V.Basappa,
Aged about 55 years,
R/at 'B' Block, Ward No.15,
K.R.Nagar Town.
8. Sri.K.N.Basanth,
S/o Late.S.Nanjappa,
Aged about 52 years,
Srirama Block, K.R.Nagar Town,
9. Sri.K.P.Prabhushankara,

S/o B.Y.Paramashivaiah,
Aged about 54 years,
R/at 7th Main Road, K.R.Nagar Town.

(D1 to D6 Rep. By Sri. S.K.B., Advocate)
(D7 & 8 Ex-parte)
(D9 Rep. By Sri. K.C.S., Advocate)

ORDERS ON PRELIMINARY ISSUE NO.4

This Court has framed issue No.4 on 25.03.2026 and treated the Issue No.4 as Preliminary Issue. Issue No.4 is as under:

1. Whether the suit is not maintainable for want of proper cause of action as contended and submitted in the para No.6 of the written statement?

2. The instant issue has been reserved for deciding, adjudicating, determining and answering the same even prior and much before dealing and adjudicating the other issues which are crafted, prepared, drew and recorded on 25.03.2026. Further the issues which have been arisen emerged and also it were resulted out of the material dissents, differences, conflicts and discrepancies over the pleadings which were stated, asserted, described, denoted and simpered over the plaint and the written statement leading to the issues which came to be framed, recorded and drawn on 25.03.2026. Out of the 6 number of issues which were recorded, the issue No.4 being one which leads and directly effect the very root, sustenance and the installation

of the suit, the same has been picked and taken up for deciding the same primarily.

3. The facts leading to the installation, presentation and submission of the suit before this court is, the suit schedule property are all ancestral, undivided joint and composite properties of the plaintiffs well as the defendants herein. Further it is also been submitted, contended and mentioned over the said pleadings of the plaint that, the plaintiffs herein being the sharers and the co-parceners in respect of the properties furnished, they are legally and lawfully entitled to get acquire and derive their lawful respectable share recognized under settled principle and Governed by the laws prevailing in the state.

4. Wherein when the plaintiffs met, contacted and approached the defendants with their respectable plea, request and appeal to bifurcate, divide, classify and sector in respect of the schedule properties. Thereby to allot, concede and designate the share in favour of the plaintiffs over the suit schedule properties, the defendants outright, hermetically, relentlessly and tautly they dissented, negated, discrete and they evade to allot the share of the plaintiffs which they are legally and legibly authorized to acquire.

5. Further it is also nurtured, denoted and described over the said plaint that, the sale deed dated 09.04.2007 which is

executed in favour of the defendant No.7 and the sale deed dated 25.02.2008 and 08.11.2010 which were executed towards the defendant No.8 and 9 are null and void and they are created, fabricated and concocted documents, these documents and instruments do not have any direct effect and it will not bind reflects on the lawful licit and legitimate right of the plaintiffs over the suit item No.1.

6. Although the plaintiffs herein made sincere, honest and legitimate attempt approaching and contacting the defendants to divide and bifurcate the properties so as to extend and furnish the lawful share of the plaintiffs, the defendants did not heed, oblige and they assented in respect of the lawful plea of the plaintiffs. Thereby they did not accede and agreed upon to curve, segment and bifurcate the properties.

7. Therefore as per the nuncupate statement, growl and specific entries that were penned and written over the said plaint that, the cause reasons grounds, substance and the very stature behind the installation of the suit, which really arose, taken place came into force and it is specifically solemnized on 11.06.2017 the day on which, the plaintiff has eventually demanded, appealed and craved for the partition. Therefore, they are before this court for the final resort and without there being any other efficacious and suitable remedy before this court.

8. Wherein while causing their appearance before this court, the defendants in response and answer to the said pleadings they filed their statements in detail, wherein the relationships among the parties, the lineage the family nexus and liaison being noted as correct. However, the other portion and remaining averments and the prescription which were specifically contradicted, denied and differentiated.

9. Further the defendants at paragraph No.6 of the statement, they have specifically, significantly, purportedly and diligently they have taken a view and expressed that, the suit is not maintainable for want of proper cause of action, thereby it fails, lacks and sans merit, thereby they craves, hearken and solicit to dismiss the suit on this facet and ground alone. Therefore because of this contradictions, conflict and divide of opinion and final dusk and dubitation in respect of the pleadings which are asserted in the plaint being dissented and refused in the statements, this court eventually it has drawn and noted in all 6 issues as mentioned supra and issue No.4 has been taken up initially for deciding the same.

10. The present suit is one instituted by the plaintiff seeking the relief of partition and separate possession. At this stage, this Court has taken up the preliminary issue regarding whether the suit is bad and not maintainable for

want of proper cause of action. It is trite that, while considering the question relating to maintainability of the suit on the ground of absence of cause of action, the Court is not expected to conduct a detailed roving enquiry or a probing trial into the merits of the matter. The Court is not required to meticulously examine the correctness, validity, or bona-fides of the pleadings at this preliminary stage. Equally, the defence set up in the written statement cannot ordinarily be looked into while adjudicating such an issue.

11. What is required to be seen is only whether the plaint, on a meaningful and holistic reading, discloses a triable cause of action and whether the plaintiff has pleaded a bundle of essential facts which, if ultimately proved, would entitle her to the relief sought.

12. In the present case, the plaintiffs have specifically pleaded that the suit schedule properties constitute joint family properties and that they are entitled to a lawful share therein. It is further pleaded that despite repeated demands for partition and separate possession, the defendants have refused to effect partition, thereby compelling the plaintiffs to institute the present suit.

13. Though the defendants have contended that, the plaint lacks cause of action and that the averments made therein are false, frivolous, and untenable, such disputed questions

cannot be adjudicated conclusively at this stage. Cause of action is essentially a bundle of material facts which give rise to the right to sue, and the sufficiency or truthfulness of such facts is a matter to be established during the course of trial by leading cogent evidence.

14. At this juncture, this Court is only concerned with the existence of a prima-facie triable case as disclosed in the plaint. The burden always rests upon the plaintiff to establish and substantiate the averments made in the plaint by adducing acceptable evidence during trial. Merely because the defendants dispute the plaintiff's claim, the suit itself cannot be rejected as not maintainable.

15. Further, no prejudice would be caused to the defendants if an opportunity is granted to both parties to lead evidence and contest the matter on merits. The rival claims of the parties can be effectively adjudicated only after a full-fledged trial. Therefore, having regard to the pleadings available on record, this Court is of the considered opinion that the plaint discloses a clear and triable cause of action against the defendants. Consequently, the contention regarding non-maintainability of the suit for want of cause of action cannot be accepted at this stage and juncture. Therefore with all these altercation, discussion, observation and reasons notified and discussed supra, the preliminary

issue framed by this court is required to be answered in the **Negative** and court proceeds to pass the following:

ORDER

Issue No.4 is answered in the Negative.

Accordingly, the suit is maintainable.

The plaintiff is permitted to lead evidence in respect of the remaining issues.

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced by me in the open Court on this the 01st day of July 2026)

(Chandan.S)
Prl. Civil Judge and JMFC,
K.R.Nagara.