



**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 6TH DAY OF JULY, 2026.

O.S.No.160/2020

BETWEEN

PLAINTIFF	Smt.Manasa D/o Thejegowda Aged:21 years R/at:Rampura village, Saligrama Hobli, K.R.Nagar Taluk. (By Shri.K.S.D. Advocate)
DEFENDANTS	1. Smt.Kowshalyamma W/o Late.Yoganna Aged:74 years 2. Smt.Anusuya W/o A.E.Eregowda D/o Late.Yoganna Aged:52 years R/at:Kalimba Road, Near Yoganarasimhaswamy school Holenarasipura Town. 3. Shri.S.D.Thimmappa S/o Late.Yoganna Aged 55 years. 4. Shri.Thejegowda S/o Late.Yoganna Aged 52 years.

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	5. Shri.Prakash S.Y S/o Late.Yoganna Aged 50 years. Defendants No.1, 3, 4 & 5 are R/at: Akkithittu beedi, Saligrama, Saligrama Hobli, K.R.Nagar Taluk. 6. Smt.Vedavathi W/o Puttaraju D/o Late.Yoganna Aged 48 years R/at: Dasarakoppalu village Salagame Road, Hassan Town. 7. Smt.Veena W/o Basavaraju D/o Late.Yoganna R/at: Gopalapura village Beeranahundi, Mysuru Taluk. 8. Shri.Manoj S/o Thejegowda Aged 19 years R/at: Rampura village Saligrama Hobli, K.R.Nagar Taluk. (Defendants No.1, 2, 4, 6, 7 by: Shri.M.C.S. Adv) (Defendants No.3, 5 & 8 are placed Ex-parte)
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Date of Institution of suit	23/07/2020
Nature of suit	Suit for Partition and Separate possession.
Date of recording of evidence	08/07/2024
Date of Judgment	06/07/2026
Total duration	Years/s Month/s Day/s -05- -11- -14-

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

J U D G M E N T

Plaintiff has filed the present suit as against the defendants for the relief of partition and separate possession of her 1/3rd share in 1/7th share of the defendant No.4 in the suit properties, 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 plaintiff that the defendant No.1 is a wife and defendants No.2 to 7 are children of one Mr.Yoganna. It is the case of the plaintiff that herself and the defendant No.8 are children of defendant No.4. It is the case of the plaintiff that the defendant No.1 is her paternal grandmother, defendant No.4 is her father, defendants No.2, 6, 7 are paternal aunts and defendants No.3 and

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4 are the paternal uncles of the plaintiff. It is the case of the plaintiff that the defendant No.8 is her real brother in relation. It is the case of the plaintiff that herself and the defendants are the members of Hindu joint family. It is the case of the plaintiff that the suit properties are the ancestral and joint family properties of herself and the defendants. Therefore the plaintiff has claimed that herself and the defendants are the co-owners in joint possession of the suit properties. It is the case of the plaintiff that herself 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 plaintiff that the defendant No.4 had married mother of the plaintiff namely Smt.Sheela on 15/07/1998. It is the case of the plaintiff that within their wedlock, the plaintiff and defendant No.4 were born to the defendant No.4 as well as to Smt.Sheela. It is the case of the plaintiff that thereafter the defendant No.4 has subjected the mother of the plaintiff to the mental and physical cruelty in connection with dowry demand and thrown her out of the matrimonial house. It is the case of the plaintiff that ever since then the plaintiff, defendant No.8 are staying in the house of the parents of their mother Smt.Sheela situated at Rampura. It is the case of the plaintiff that ever since from then it is the mother of the plaintiff, who has looked after the plaintiff and defendant No.8 and raised them alone. The defendant No.4 did not provide any maintenance either to the plaintiff, defendant No.8 or to their

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mother Smt.Sheela. It is the case of the plaintiff that the suit properties are not yet divided in between herself and the defendants. It is the grievance of the plaintiff that without the knowledge and behind the back of the plaintiff the defendants No.1, 3 to 6 have mutated the suit properties to their name. It is the grievance of the plaintiff that by taking undue advantage of illegal entries of their names in the revenue records of the suit properties, the defendants No.1 to 7 are illegally trying to alienate the suit properties with a *malafide* intention to defeat the legitimate rights of the plaintiff over the suit properties. It is the case of the plaintiff that on 05/01/2020 the plaintiff has approached the defendant No.4 and requested him to partition the suit properties and to give her legitimate share in the suit properties. But the defendants did not agree to partition the suit properties and the defendants have refused to give legitimate share of the plaintiff in the suit properties. It is the case of the plaintiff that with an intention to deprive the legitimate undivided share of the plaintiff in the suit properties, the defendants are denying the share of the plaintiff in the suit properties. The plaintiff has contended that she being the co-owner of the suit properties, she has her undivided 1/3rd share in the 1/7th share of the defendant No.4 in the suit properties. But the defendants are avoiding to give the legitimate share to the plaintiff in the suit properties. Therefore, having no other efficacious remedy, the plaintiff has filed the present suit to partition the suit properties

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and to allot her 1/3rd share in the 1/7th share of the defendant No.4 in the suit properties with metes and bounds. According to the plaintiff the cause of action to file the above suit arose 05/01/2020, the date on when the defendants have refused to partition the suit properties and to give the legitimate undivided share to the plaintiff in the suit properties. Hence with the above plea the plaintiff has prayed to decree the suit.

3. In pursuance to the summons issued by this court, the defendants No.1, 2, 4, 6 and 7 have entered their appearance before this court through their counsel. The defendant No.4 has filed his written statement by denying the claim of the plaintiff and thereby the defendant No.4 has contested the suit. In spite of service of summons on them, the defendants No.3, 5 and 8 did not appear before this court. Hence, the defendants No.3, 5 and 8 were placed ex-parte.

4. The defendant No.4 has filed his written statement wherein he has admitted the relationship between the parties to this suit. The contention of the plaintiff that the suit properties are the ancestral and joint family properties of the plaintiff and the defendants was denied by the defendant No.4. The contention of the plaintiff that the plaintiff and the defendants are the co-owners of the suit properties is also denied by the defendant No.4. The claim of the plaintiff for partition of the suit properties was denied by the

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defendant No.4. By denying rest of the plaint averments the defendant No.4 has categorically contended that the suit properties originally belonged to his father Mr.Yoganna and on 09/11/2016 his wife and his children namely the defendants No.1 to 7 have already partitioned all the suit properties by executing the registered partition deed. It is the contention of the defendant No.4 that ever since from the date of the said partition, the respective sharers are in possession of the properties which are fallen to their respective shares. It is the contention of the defendant No.4 that the plaintiff being his daughter, she can only claim the share in the property which had fallen to his share under the registered partition deed dated 09/11/2016. Therefore, it is the contention of the defendant No.4 that the plaintiff has absolutely no share in all the suit properties. The defendant No.4 has contended that the plaintiff has not properly valued the suit and the court fee paid by her is insufficient. The defendant No.4 has contended that by suppressing all the true and material facts the plaintiff has filed the present false suit. The defendant No.4 has contended that there is no cause of action to file the above suit and the alleged cause of action shown by the plaintiff is false and fictitious. The plaintiff has not approached this court with clean hands. The defendant No.4 has contended that the above suit being the false suit the defendant No.4 has prayed to dismiss the suit by awarding the compensatory costs. Hence, with the above contentions, the defendant No.4 has prayed for dismissal of

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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 the suit schedule properties are the ancestral and joint family properties of the plaintiff and defendants?
2. Whether the plaintiff further proves that, the defendants refused to allot the share of the plaintiff over the suit schedule properties?
3. Whether the plaintiff is entitled for the relief as sought for?
4. What order or decree?

6. In order to establish the case of the plaintiff, the plaintiff has stepped into the witness box and examined herself as Pw.1 and got marked Exhibit P-1 to Ex.P-10 documents. On the other hand in order to nullify the claim of the plaintiff and to prove his defence, the defendant No.4 has entered the witness box and examined himself as Dw.1 and got marked Exhibit D-1 to Ex.D-8 documents. Thereafter, the case was posted for arguments on merits.

7. Heard arguments from counsel for defendant No.4. In spite of

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giving sufficient opportunities no arguments canvassed on behalf of the plaintiff.

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 Negative.

Issue No.3: In the Negative.

Issue No.4: As per the final orders for the following:

REASONS

9. ISSUE NO.1: The Plaintiff has filed the present suit as against the defendants for the relief of partition and separate possession of her undivided 1/3rd share in the 1/7th share of the defendant No.4 in the suit properties by contending that the suit properties are the ancestral and joint family properties of the plaintiff and the defendants and that the plaintiff and the defendants are the co-owners of the suit properties. Since it is the plaintiff who has asserted that the suit properties are the ancestral and joint family properties of parties to this suit, Issue No.1 was framed casting burden on the plaintiff to prove the same.

10. In support of her case, the plaintiff has examined herself as Pw.1 and the plaintiff has relied on the Ex.P-1 to Ex.P-10 documents. On the other hand in order to nullify the claim of the plaintiff and to prove his defence, the defendant No.4 has entered

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the witness box and examined himself as Dw.1 and got marked Exhibit D-1 to Ex.D-8 documents. For better appreciation of evidence, the evidence placed on record by both the parties are taken up together for simultaneous discussion.

11. In this case the relationship between the parties to this suit is not in dispute. Ex.P-1 is a family genealogy of parties to this suit submitted by the plaintiff. Ex.P-1 is a undisputed document and the same proves and establishes the relationship between the parties to this suit. Moreover, though the defendants No.1, 2, 4, 6, 7 have contested the suit, but they have categorically admitted 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 plaintiff in this suit, the defendants No.3, 5 and 8 have not denied or disputed the relationship between the parties to this suit. Hence the relationship between the parties to this suit is established.

12. The fact that one Mr.Kempegowda S/o Marigowda is grandfather of the defendant No.4 and the fact that one Mr.Yoganna S/o Kempegowda is father of the defendant No.4 is a admitted fact. Ex.P-9 is a certified copy of the registered partition deed dated 08/02/1966 registered as a document No.1455/1965-66. Ex.P-9 is a undisputed document. Ex.P-9 document proves and establishes that in an partition that was entered into in between grandfather of the defendant No.4 Mr.Kempegowda and

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his four children namely Mr.Yoganna, Mr.Dyvegowda, Mr.Sathyanarayana and Mr.Shivappa, the properties mentioned in the 'C' schedule of the Ex.P-9 partition deed was absolutely allotted to the share of father of the defendant No.4 and grandfather of the plaintiff namely Mr.Yoganna S/o Kempegowda. The 'C' schedule of the Ex.P-9 partition deed proves and establishes that the item No.1, 2, 4 and 5 of the suit properties were given to the absolute share of Mr.Yoganna S/o Kempegowda. Hence, Ex.P-9 document proves and establishes that the item No.1, 2, 4 and 5 of the suit properties are the absolute and separate properties of father of the defendant No.4 and grandfather of the plaintiff namely Mr.Yoganna S/o Kempegowda and the same was acquired by him under the Ex.P-9 partition deed. Ex.P-7 and Ex.P-8 being a certified copies of demand register extract, the same proves and establishes that pursuant to the Ex.P-9 partition, the item No.4 and 5 of the suit properties were transferred to the name of the grandfather of the plaintiff namely Mr.Yoganna S/o Kempegowda. Accordingly, I hold that the item No.1, 2, 4 and 5 of the suit properties being acquired by Mr.Yoganna under the Ex.P-9 partition deed, the same are the absolute and separate properties of husband of the defendant No.1, father of the defendants No.2 to 7 and grandfather of the plaintiff namely Mr.Yoganna S/o Kempegowda.

13. At para No.2 of her cross-examination, the plaintiff/Pw.1 has categorically admitted that the suit properties are the properties of

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her grandfather namely Mr.Yoganna. The same is extracted below:

2. ದಾವಾ ಆಸ್ತಿಗಳೆಲ್ಲವೂ ಸಹ ನನ್ನ ತಾತನಾದ ಯೋಗಣ್ಣರವರಿಗೆ ಸೇರಿದ
ಆಸ್ತಿಗಳಾಗಿರುತ್ತವೆ.

14. On combined reading of the evidence placed on record coupled with the above referred admission of the plaintiff proves and establishes that the item No.1, 2, 4 and 5 of the suit properties are the absolute and separate properties of the husband of the defendant No.1, father of the defendants No.2 to 7 and grandfather of the plaintiff namely Mr.Yoganna S/o Kempegowda and the same was acquired by him under the Ex.P-9 partition deed.

15. It is a undisputed fact that the defendant No.1 is a wife and defendants No.2 to 7 are children of Mr.Yoganna S/o Kempegowda. So also it is a undisputed fact that Mr.Yoganna S/o Kempegowda has died intestate. Since the item No.1, 2, 4 and 5 of the suit properties are proved to be the absolute and separate properties of Mr.Yoganna S/o Kempegowda, as per Sec.8 to 10 of the Hindu Succession Act, the item No.1, 2, 4 and 5 of the suit properties have jointly devolved upon the class-I legal heirs of Mr.Yoganna S/o Kempegowda namely the defendants No.1 to 7. The defendants No.1 to 7 being the only class-I legal heirs of Mr.Yoganna S/o Kempegowda, upon the intestate death of Mr.Yoganna, the defendants No.1 to 7 have become the co-owners

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of the item No.1, 2, 4 and 5 of the suit properties.

16. Ex.D-1 is a certified copy of the registered partition deed dated 09/11/2016 registered as a document No.MIR-1-02813/2016-17. Ex.D-1 document proves and establishes that the item No.1, 2, 4 and 5 of the suit properties being the absolute and separate properties of Mr.Yoganna S/o Kempegowda, the same are partitioned amongst his class-I legal heirs namely the defendants No.1 to 7 herein.

17. Now the question that arises for consideration is that the item No.1, 2, 4 and 5 of the suit properties being the absolute and separate properties of Mr.Yoganna S/o Kempegowda, whether the same will become ancestral properties in the hands of his grand daughter namely the plaintiff? It is a settled position of law that if a property of a common ancestor un obstructedly reaches to the hands of his lineal 4th degree generation, only then such property partakes the character of ancestral property. Any property to become ancestral property, such property must un obstructedly pass on to the hands of 4th degree generation lineally descending from the common ancestor. Only those property which has un obstructedly passed on from the common male ancestor with his lineal descendants upto 4th degree generation can become the ancestral property. A property to be a ancestral property it must pass on to the hands of three degree descendants from a common ancestor. Then only a property partakes the character of ancestral

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property. In a decision reported in **2018 AIAR (Civil) 706 in the case of Shyam Nayaran Prasad Vs. Krishna Prasad and others.** the Hon'ble Apex Court at para No.12 has defined the ancestral property as under:

"It is settled that the property inherited by a male Hindu from his father, father's father or father's father's father is an ancestral property. The essential feature of ancestral property, according to Mitakshara Law, is that the sons, grand sons, and great grands sons of the persons who inherits it, acquire an interest and the rights attached to such property at the moment of their birth".

18. Therefore, the law is that a property is said to be a ancestral property if the said property has unobstructedly reached to the hands of forth degree generation from the common ancestor and when the ancestral property unobstructedly reaches to the hands of fourth degree generation of a common ancestor then the fourth generation are called as coparceners. When the ancestral property of a common ancestor unobstructedly reaches to the hands of his fourth degree generation then such ancestral property becomes the coparcenery property.

19. Applying the above preposition of law to the case on hand, Ex.P-9 being a partition deed dated 08/02/1966, the same proves and establishes that there was a division amongst the great grandfather of the plaintiff namely Mr.Kempegowda and the grandfather of the plaintiff Mr.Yogannagowda. Hence, there was a

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obstruction in flow of suit properties by way of partition. Therefore, when the suit properties did not reached to the hands of the plaintiff unobstructedly from her great grandfather, the suit properties cannot be termed as ancestral properties of the plaintiff. Only when a person inherits a property from any one of his or her three immediate paternal ancestors, then his sons, grandsons and great grandsons acquire an interest in it by birth or under section 6 of the Hindu Succession Amendment Act-2005. Plaintiff being a grand daughter of Mr.Yoganna, she cannot exercise coparcenery right and seek share in the self-acquired properties of her grandfather. The properties which the grandfather of the plaintiff Mr.Yogannagowda has acquired in an partition, the same becomes his absolute and separate properties. Thereby, the item No.1, 2, 4 and 5 of the suit properties will be governed by Sec.8 to 10 of the Hindu Succession Act. As per Sec.8 to 10 of the Hindu Succession Act, the property of a male Hindu dying instate, the same will devolved upon his class-I legal heirs. The defendants No.1 to 7 being the class-I legal heirs of Mr.Yoganna, upon his intestate death, the item No.1, 2, 4 and 5 of the suit properties have jointly devolved upon his class-I legal heirs. The defendant No.4 being father of the plaintiff, the plaintiff will not become the class-I legal heir of Mr.Yoganna during the lifetime of the defendant No.4. Nor will the plaintiff become the co-owner of the suit properties during the lifetime of her father namely the defendant No.4. As per Sec.9 and 10 of Hindu

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Succession Act, the class-I legal heirs will exclude the class-II legal heirs. The defendants No.1 to 7 being the class-I legal heirs of Mr.Yoganna, all of them have become the co-owners of the item No.1, 2, 4 and 5 of the suit properties. The defendants No.1 to 7 being the co-owners, all of them have partitioned the suit properties by entering into Ex.D-1 partition deed. Therefore, the suit properties cannot be said to be the ancestral properties of the plaintiff. Accordingly, I conclude that the plaintiff has utterly failed to prove that the suit properties are her ancestral properties.

20. After the Ex.D-1 partition, the defendants No.1 to 7 are separated from their joint family status by operation of law. Hence, as on the date of filing of this suit, there was no joint family status in between the plaintiff and the defendants. Ex.P-2 to Ex.P-6 and Ex.D-2 to Ex.D-8 being the RTC's, the same proves and establishes that after the Ex.D-1 partition, the item No.1 to 3 of the suit properties are mutated to the names of respective sharers. Further, at para No.4 of the plaint, the plaintiff has pleaded as under:

4 ನೇ ಪ್ರತಿವಾದಿಯು ವಾದಿ ಹಾಗೂ 8 ನೇ ಪ್ರತಿವಾದಿಯ ತಾಯಿಯಾದಿಗೆ ಸ್ವಲ್ಪ ವರ್ಷಗಳ ಕಾಲ ಅನುಜ್ಞಾವಾಗಿದ್ದು, ತದನಂತರ ವಾದಿ ತಾಯಿಯಾದಿಗೆ ವರದಕ್ಷಿಣೆ ಸಂಬಂಧಿಸಿದಂತೆ ದೈಹಿಕ ಹಾಗೂ ಮಾನಸಿಕ ಹಿಂಸೆ ನೀಡಿ ಮನೆಯಿಂದ ಹೊರ ಹಾಕಿದ್ದು ಈ ಸಂಬಂಧ ವಾದಿಯ ತಾಯಿಯು ಹಿಂದೆಯೇ 4 ನೇ ಪ್ರತಿವಾದಿ ಹಾಗೂ ಇತರ ಪ್ರತಿವಾದಿಗಳ ವಿರುದ್ಧ ದೂರ ನೀಡಿರುತ್ತಾರೆ. ಅಲ್ಲದೇ ವಾದಿಯ

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ತಾಯಿಯು ವಾದಿ ಹಾಗೂ ೮ ನೇ ಪ್ರತಿವಾದಿಯ ಭವಿಷ್ಯದ ದೃಷ್ಟಿಯಿಂದ
ತನ್ನ ತಂದೆ ಮನೆಯಾದ ರಾಂಪುರ ಗ್ರಾಮದಲ್ಲಿ ವಾಸವಾಗಿ ಇಂದಿನವರೆಗೂ
ಕೂಲಿ ಮಾಡಿ ವಾದಿ ಮತ್ತು ೮ ನೇ ಪ್ರತಿವಾದಿಯನ್ನು ಸಾಕಿ ಸಲಹಿರುತ್ತಾರೆ.

21. Further, at last line of para No.7 of the plaint, the plaintiff has pleaded as under:

ವಾದಿ ಮತ್ತು ಪ್ರತಿವಾದಿಗಳು ತಮ್ಮ ಸಂಸಾರದೊಡನೆ ಪ್ರತ್ಯೇಕವಾಗಿ ವಾಸ
ಮಾಡಿಕೊಂಡು ಬರುತ್ತಿರುತ್ತಾರೆ.

22. In this suit the plaintiff has also claimed that the suit properties are also her joint family properties. But, the plaintiff has not specifically pleaded as to which of the suit properties are her joint family properties or which of the suit properties are her ancestral properties. Be that as it may. It is significant to note here that though the plaintiff has claimed that the suit properties are her joint family properties, but in her pleadings referred above, the plaintiff herself has admitted that the plaintiff and the defendants are residing separately. There is no pleadings in the plaint that the plaintiff and the defendants are residing under the same roof and sharing the common mess. So also there is no pleadings in the plaint to the effect that the suit properties were purchased/acquired by the utilizing the joint family fund of the plaintiff and the defendants. So also there is no evidence led by the plaintiff on the above aspects. Hence, in the absence of the any such pleadings and proof about the existence of joint family status in between the plaintiff and the defendants and also in the

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absence of any such pleadings and proof with regard to the purchase of the suit properties by joint family members by utilizing joint family nucleus, absolutely it cannot be held that the suit properties are the joint family properties of the plaintiff and the defendants. Accordingly, I conclude that the plaintiff has also utterly failed to prove that the suit properties are her joint family properties.

23. Ex.P-3 and Ex.D-5 are the RTC's of item No.3 of the suit property. Ex.P-3 and Ex.D-5 documents proves and establishes that the item No.3 of the suit property belongs to the defendant No.6 herein. It is significant to note here that though the plaintiff has claimed that even the item No.3 of the suit property is also her ancestral and joint family property, but the plaintiff has not placed any evidence before this court to prove the same. Rather, the Ex.P-3 and Ex.D-5 documents proves and establishes that the item No.3 of the suit property belongs to the defendant No.6 herein. Accordingly, I conclude that the plaintiff has utterly failed to prove that the item No.3 of the suit property is either her ancestral or joint family property.

24. Ex.P-10 is a registered sale deed in respect of non-suit property in Sy.No.43/3 of Karpooravalli village. The plaintiff has not explained as to what is the relevancy of Ex.P-10 sale deed, which is in respect of non-suit property. Even after giving

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sufficient opportunities, the plaintiff did not tender herself as for cross-examination on Ex.P-10 document in order to speak as to what is the relevancy of Ex.P-10 sale deed. Hence, Ex.P-10 document is of no aid to the plaintiff.

25. It is proved that the defendant No.4 has acquired an extent of 20 guntas of land in item No.1 of the suit property from his father under the Ex.D-1 partition deed and the same is evidenced from Ex.P-9, Ex.P-4, Ex.D-1 and Ex.D-6 to Ex.D-8 documents. It is significant to note here that in this suit the defendant No.4 has contended that the plaintiff being his daughter, the plaintiff has share only in the property which the defendant No.4 has acquired under the Ex.D-1 partition deed. In a decision of the Division Bench of the Hon'ble High Court of Karnataka dated **16/06/2026** **in RFA No.1568/2018(PAR) in the case of Smt.Usha N Swamy Vs. M.Venkataswamy and others** it is held as under:

32. Thus if a property is joint Hindu family property, then only a coparcener shall acquire the right by birth and not otherwise. If the property is self acquired property of a member of the family, it would not be treated as joint hindu family property and the question of interest of a family member in that property as a coparcener does not arise.

34. PW.2 in Paragraph 2 of the Examination-in-Chief states that "Suit 'A' schedule property in a partition came to the share of myself, my father, my brother and my sister.

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The total extent of suit Survey No.16/2 was 107 acres. The said Survey No.16/2 was purchased by my father". PW.2 is none other than the brother of defendant No.1 and uncle of the plaintiff, who was examined by the plaintiff in support of her case. PW.2 further admitted that in the partition suit schedule 'A' property came to the share of defendant No.1. It is true to suggest that suit 'A' property is the absolute property of defendant No.1.

35. Further in Paragraph 4 of the cross-examination, he states that "Suit Schedule 'C' property was also purchased by my father, it is true to suggest that in the partition, the suit schedule 'C' property came to the share of defendant No.1. It is true to suggest that suit Schedule 'C' property is the absolute property of defendant No.1".

36. The suit schedule 'D' Property situated at No.60, Pattabhrama Nagar Jayanagar 4th Block bearing Old Municipal No.205 and New Municipal No.89. These are the self acquired properties of the grandfather of the plaintiff, who is the father of the defendant No.1 and these properties came to the share of the defendant No.1 as a result of a partition effected by the grandfather.

38. There is no dispute that suit schedule 'A', 'C' and 'D' properties were self acquired properties of the grandfather of the plaintiff and father of defendant No.1. As per the case of the plaintiff, defendant No.1 has got schedule 'A' 'C' and 'D' properties under the

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partition from his father which were self acquired properties of the grandfather of the plaintiff and father of the defendant No.1. These properties were not ancestral properties, which devolved on the father of the plaintiff on survivorship. But they were given by 1st defendant's father, who had acquired them in a partition between him, his two sons and daughter. These properties are neither the joint Hindu family properties nor coparcenary properties. These properties became individual/separate properties of the defendant No.1. Therefore, plaintiff would not have any right to claim partition of these properties.

42. If the case of the plaintiff was that the Schedule 'A', 'C' and 'D' properties were self acquired properties of the grandfather, then the grandfather had the absolute right of disposition over these properties. Once he has given these properties, to his two sons and daughter, they became the absolute owner of these properties, which came to their share and they were not the ancestral property to have any coparcenary character.

43. In the case of KALIANJI RANCHHOD VS. BEZONJI HASARWANJI [ILR 32 BOMBAY 512] it was held that where a father divided the family property between him and his sons, the share obtained by him was a self-acquired property, which he could bequeath to his wife. It was also held that the son, who inherited the property on partition by the father, got the property as his separate property and not of the joint family

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consisting of himself, his wife, sons and daughters.

50. The properties acquired by defendant No.1, either under the partition/ family arrangement or by way of succession, become his individual and separate property. The reason being, even in the absence of such partition, defendant No.1, PW.2 and their sister would have inherited the properties as per Section 8 of the Hindu Succession Act, 1956. In these circumstances, whether the self-acquired property of the father has been acquired by his children by way of partition/ family arrangement or succession, are one and the same.

26. In the decision referred above, the Hon'ble High Court has held that a daughter cannot claim a share in the self-acquired properties of her grandfather that came to her father through a family partition. Therefore, though the defendant No.4 has admitted that the plaintiff being his daughter, she has share in the property acquired by him under the Ex.D-1 partition deed, but the said admission made by the defendant No.4 is against the legal position because as held in the decision referred above, a daughter cannot claim a share in the self-acquired properties of her grandfather that came to her father through a family partition. Therefore, the admission made by the defendant No.4 being against the settled legal position will not make the plaintiff as a co-owner even in respect of the property that was acquired by the

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defendant No.4 under the Ex.D-1 partition deed. Accordingly for what has been discussed above, **I answer Issue No.1 in the Negative.**

27. ISSUE NO.2: It is the case of the plaintiff that she being the co-owner of the suit properties, she is entitled for her legitimate undivided $1/3^{\text{rd}}$ share in the $1/7^{\text{th}}$ share of the defendant No.4 in the suit properties. It is the case of the plaintiff that though she had requested the defendant No.4 to partition the suit property and thereby to allot her undivided legitimate share in the suit property, but the defendants have refused to partition the suit property and to give the legitimate share to the plaintiff in the suit property. Hence the plaintiff was constrained to file the present suit. It is significant to note here that though the plaintiff has contended that before filing of this suit she had approached the defendants to partition the suit property and thereby to allot her undivided legitimate share in the suit property, but at para No.2 of her cross-examination, the plaintiff/Pw.1 has categorically deposed that she has never approached the defendant No.4 seeking partition in the suit properties. The relevant portion of cross-examination of Pw.1 at para No.2 is extracted below:

2. ದಾವಾ ಆಸ್ತಿಗಳಲ್ಲಿ ಪಾಲು ಕೊಂಡುವಂತೆ ಕೇಳಲು ನಾನು 4 ನೇ ಪ್ರತಿವಾದಿಯರ ಮನೆಗೆ ಹೋಗಿರಲಿಲ್ಲ.

28. Accordingly, for what has been discussed above, I answer **Issue No.2 in the Negative.**

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29. ISSUE NO.3: The present Issue is framed regarding the entitlement of the plaintiff for the reliefs as sought for in this suit. In this suit the plaintiff has sought for partition and separate possession of her 1/3rd share in the 1/7th share of the defendant No.4 in the suit properties in the capacity of co-owner. As held in Issue No.1, the plaintiff has utterly failed to prove that the suit properties are her ancestral or joint family properties. As held in Issue No.1, the plaintiff has utterly failed to prove her co-ownership over the suit properties. Hence, since the plaintiff is not proved to be the co-owner of the suit properties, I conclude that the plaintiff is not entitled for any share in the suit properties.

30. Further, in her cross-examination at para No.3, the plaintiff/Pw.1 has deposed as under:

3. 4 ನೇ ಪ್ರತಿವಾದಿಯ ಸಹೋದರಿಯಾದ ಜಮುನಾರವರು ಮರಣ ಹೊಂದಿದ್ದು, ಸದರಿ ಜಮುನಾರವರ ಗಂಡ ಮತ್ತು ಮಕ್ಕಳು ಜೀವಂತವಿದ್ದಾರೆ. ಸದರಿ ಜಮುನಾರವರ ವಾರಸುದಾರರನ್ನು ನಾನು ಈ ದಾವೆಯಲ್ಲಿ ಪಕ್ಷಕಾರನ್ನಾಗಿ ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ.

31. The above testimony of the plaintiff/Pw.1 proves and establishes that the one more daughter of Mr.Yoganna namely Smt.Jamuna has died leaving behind her husband and children as her legal heirs and that the plaintiff has not joined them as a parties to this suit. The item No.1, 2, 4, 5 of the suit properties being the properties of Mr.Yoganna, even his daughter namely Smt.Jamuna will also become the co-owner of the above suit

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properties. Though Smt.Jamuna has died, but admittedly her legal heirs are alive. Therefore, the plaintiff ought to have made the legal heirs of Smt.Jamuna as a parties to this suit. But, admittedly, the plaintiff has not made the legal heirs of Smt.Jamuna as a parties to this suit. Thereby, rendering the present suit bad for non-joinder of necessary parties. Accordingly, I conclude that the plaintiff is not at all entitled for any reliefs as sought for in this suit. Accordingly, **I answer Issue No.3 in the Negative.**

32. ISSUE NO.4: In view of my above discussions and findings on Issues No.1 to 3, I proceed to pass the following:

ORDER

The suit of the plaintiff is dismissed.

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 decree accordingly.

(Dictated to the Stenographer directly on computer, typed by her, and the transcript revised and corrected by me and then pronounced in the open court on this **6th day of July 2026**).

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

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

PW-1: Smt.Manasa D/o Thejegowda.

List of Documents marked on behalf of the Plaintiff

Ex.P-1: Family Genealogy.

Ex.P-2 to 6: RTC's.

Ex.P-7 & 8: Certified copies of demand register extract.

Ex.P-9: Certified copy of registered partition deed
dated 08/02/1966.

Ex.P-10: Certified copy of registered sale deed.

List of Witnesses examined on behalf of the Defendants

DW-1: Shri.Thejegowda S/o Late.Yoganna.

List of Documents marked on behalf of the Defendants

Ex.D-1: Certified copy of registered partition deed
dated 09/11/2016.

Ex.D-2 to 8: RTC's.

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