

KAMS500000452022



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,
NANJANGUD**

Present : **Sri. Kamalaksha D., B.A., LL.B.,**
Senior Civil Judge & J.M.F.C.,
Nanjangud.

Dated this the 1st day of April 2026

O.S./20/2022

Plaintiffs

1. Shivaraju S/o late Siddaiah @
Siddegowda,
aged about 35 years,
2. Sannamma W/o late Siddaiah @
Siddegowda,
aged about 75 years,

Both are residing at
Kempisiddanahundi Village,
Chikkaihna Chatra Hobli,
Nanjangud Taluk,
Mysuru District.

3. Maramma W/o Maranna,
D/o late Siddaiah @ Siddegowda,
aged about 47 years,
residing at Kochanahalli Village,
Chikkaihna Chatra Hobli,
Nanjangud Taluk,
Mysuru District.

4. Bhagyamma W/o Rangaswamy,
D/o late Siddaiah @ Siddegowda,
aged about 45 years,
residing at Hirikati Village,
Beguru Hobli,
Gundalpet Taluk,
Chamarajanagara District.
5. Magamma W/o Bannaiah,
D/o late Siddaiah @ Siddegowda,
aged about 42 years,
residing at Thandavapura Village,
Chikkaihna Chatra Hobli,
Nanjangud Taluk,
Mysuru District.
6. Sakamma W/o Suresha,
D/o late Siddaiah @ Siddegowda,
aged about 40 years,
residing at Kotehundi Village,
Kasaba Hobli,
Mysuru Taluk and District.
7. Rathnamma W/o Chandu,
D/o late Siddaiah @ Siddegowda,
aged about 34 years,
residing at K.M.Hundi Village,
Chikkaihna Chatra Hobli,
Nanjangud Taluk,
Mysuru District.

(By Sri. Jagadeesh, Adv.)

-V/s-

Defendants

1. Shivalingu S/o late Siddaiah @
Siddegowda,
aged about 49 years,

residing at Kempisiddanahundi
Village,
Chikkaihna Chatra Hobli,
Nanjangud Taluk,
Mysuru District.

2. Tahasildhar,
Nanjangud Taluk Office,
Nanjangud.
3. Special Land Acquisition Officer,
K.I.A.D.B., Mysuru Division,
K.R.S.Road,
Mysuru.

(By Sri. S.B.Jagadhish Prasad – Adv. for D.1
A.G.P for D.2
Sri. S.Swamy – Adv. for D.3)

Date of institution of the suit	13.01.2022		
Nature of suit	Partition and separate possession		
Date of commencement of Trial	14.03.2023		
Date on which the judgment was pronounced	01.04.2026		
Duration of suit	Years	Months	Days
	04	02	18

J U D G M E N T

The plaintiffs filed the suit for partition and separate possession of their equal share in the suit schedule property bearing Sy.No.81 measures 1 acre 20 guntas situated at Adakanahalli Village of Nanjangud Taluk.

2. Brief facts of the case of the plaintiffs are as follows:-

The plaintiffs No.1, 3 to 7 and defendant No.1 are the children of Siddaiah, who is no more. The suit schedule property is the ancestral property of the plaintiffs and defendant No.1. The schedule property was cultivated by Siddaiah S/o late Manti Siddegowda. Siddegowda was cultivating the suit schedule property for more than 4 decades and he had applied to the 2nd defendant for its grant regularization of occupancy rights which was registered in No.LNDCR 592/1998-99. In between the above said proceedings, Siddaiah was died on 11.08.2009. In the year 2016 the 1st plaintiff was met with road traffic accident and he was seriously injured, admitted in the hospital and he got

treatment for more than 4 years. It is further submitted that, the 1st defendant is the elder son of late Siddappa. After the death of late Siddappa, defendant No.1 was managing the suit schedule property and he got allotted the schedule property to his name without intimation to the plaintiffs. Very recently when the plaintiffs got the copy of the revenue documents, then only the effect of illegal mutation of the schedule property in the name of the defendant No.1 came to the knowledge of the plaintiffs that as per the order passed by the defendant No.2 through order No. L.N.D.(A) 74/98-99 dated 18.11.2017 the suit schedule property was regularized in the name of the 1st defendant.

After the death of their father, plaintiffs No.1, 3 to 7 and 1st defendant jointly cultivating and enjoying the suit schedule property as of now. Hence, the said order of L.N.D. (A) 74/98-99 dated 18.11.2017 in respect of Sy.No.81 measures 1 acre 20 guntas, is not binding on the plaintiffs in any manner. The mutation entry done by the 1st defendant is illegal and against the interest of the plaintiffs.

Recently the plaintiffs have approached the 1st defendant by making demand for partition of the schedule property, but the defendant No.1 has not honoured the demand of partition. However, the 1st defendant arranged panchayath in the presence of elders as well as well-wishers in Kempisiddanahundi Village. In the said panchayath also the 1st defendant also agreed to partition the schedule property and also agreed to give equal share in the property to the plaintiffs. But the 1st defendant has not kept his promise for partition of the schedule property and dragging the process of partition with one or other pretext. Finally the plaintiffs got issued notice to the defendant No.1 on 10.12.2021 by making demand of partition. The 1st defendant has sent untenable reply to the said notice.

It is further submitted that, the 3rd defendant is initiating the proceedings of acquisition of the land and 1st defendant has making efforts to get all the award amount to his name by suppressing the details of other legal heirs of late Siddaiah, if the payment of acquisition amount made to the name of the 1st defendant, it would lead to cause

injustice to the plaintiffs, but their right to get equal share in the compensation will be snatched away. Therefore, the plaintiffs have filed the suit for partition of the schedule property and also claimed equal share if any award amount passed by the 3rd defendant.

3. In pursuance of service of summons defendants No.1 and 3 appeared before the court through their respective counsel and A.G.P. appeared on behalf of the defendant No.2. The 1st defendant has filed written statement, rest of the defendants have not filed written statement.

4. The 1st defendant in the written statement denied the entire facts except the relationship. He further explained that, there is no cause of action to file the suit and documents produced with the suit are concocted and created at the interest of the plaintiffs only and those documents are not binding to the 1st defendant. It is also taken objections that, the suit is not properly valued. The plaintiffs and defendant No.1 were already got partitioned

through registered partition deed dated 03.11.2006 which was registered before the Sub-Registrar, Nanjangud, vide Book No.1, Document No.NJG-1-04284-2006-07 and C.D.No.NJGD26 dated 04.11.2006, as per the partition deed the plaintiffs and defendant No.1 were all already got the share and separate possession over their shares. Hence, the suit of the plaintiffs is not maintainable on this ground. It is further submitted that, the 1st defendant has been cultivating the land bearing Sy.No.81 situated at Adakanahalli Village of Nanjangud Taluk, meanwhile he has filed requisition before the Darakhastu Committee on 04.01.2017 to regularize the occupancy of the said land, by considering the same the 2nd defendant was granted the suit schedule property in favour of the defendant No.1 through order No.L.N.D.(A) 74/98-99 dated 18.11.2017. The 1st defendant got the suit schedule property through Akrama Sakrama Saguvali. Hence, the plaintiffs are not entitled to the share over the schedule property. Hence, the 1st defendant prays to dismiss the suit.

5. Based on the above pleadings the following issues have been framed:

- 1 Whether the plaintiffs prove that the suit schedule property is the ancestral property of the plaintiffs and the defendant No.1?
- 2 Whether the plaintiffs prove that the plaintiffs and the defendant No.1 are in joint cultivation and enjoyment of the suit schedule property?
- 3 Whether the suit is properly valued?
- 4 Whether the court fee paid is sufficient?
- 5 Whether the defendant No.1 proves the due execution of alleged partition deed dated 03.11.2006?
- 6 Whether the plaintiffs are entitled for partition and separate possession of the suit schedule property?
- 7 Whether the plaintiffs are entitled for the relief as sought for?
- 8 What order or decree?

6. In order to get the relief, the 1st plaintiff is examined as P.W.1 and got marked 22 documents as Exs.P.1 to P.22. On the other hand, the defendant No.1 is examined as D.W.1 and got marked 5 documents as Exs.D.1 to 5.

7. Heard and perused the pleadings, evidence and materials placed on record. The learned counsel for the 1st defendant submitted his written arguments.

8. The answer to the above issues is as follows:

Issues No.1 & 2 : In the affirmative

Issues No.3 & 4 : In the affirmative

Issue No.5 : Does not arise for consideration to decide the dispute between parties, because subject matter of the registered partition deed and the subject matter of the present suit are not one and the same.

Issues No.6 & 7 : In the affirmative

Issue No.8 : As per final order for the following

REASONS

9. **Issues No.1 & 2** : These issues are taken together for discussion to avoid repetition. The 1st plaintiff is examined as P.W.1, in the chief-examination he has reproduced and re-asserted the facts of the plaint. According to P.W.1 one Siddaiah is the head of the family.

Plaintiffs No.1, 3 to 7 and 1st defendant are his children. After the death of Siddaiah the 1st defendant became the kartha or yajamana of the joint family and started to manage the property. The trustworthiness of P.W.1 is questioned in the cross-examination. Prior to that, I would like to say that the 1st defendant has taken a definite contention that the suit of the plaintiffs is not maintainable because of registration of the partition deed dated 03.11.2006. The trustworthiness of P.W.1 is questioned in the cross-examination. P.W.1 in the cross-examination has deposed as below:

ವಾದಿಗಳಿಗೆ ಮತ್ತು 1 ನೇ ಪ್ರತಿವಾದಿಗೆ ದಾವಾ ಆಸ್ತಿ ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿ ಎಂದು ತೋರಿಸುವ ದಾಖಲೆಗಳನ್ನು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಹಾಜರು ಮಾಡಿದ್ದೇನೆ. ನಾನು ಹಾಜರು ಮಾಡಿದ ದಾಖಲೆಗಳು 1 ನೇ ಪ್ರತಿವಾದಿ ಹೆಸರಿನಲ್ಲಿರುವ ದಾಖಲೆ ಕೊಟ್ಟಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನನ್ನ ತಂದೆ ಹೆಸರಿನಲ್ಲಿ ಸರ್ವೆ ನಂಬರ್ 95/1 ಇದ್ದು ಅದು 3 ಎಕರೆ ಜಮೀನು ಇತ್ತು. ಸದರಿ ಆಸ್ತಿ ನನ್ನ ತಂದೆಗೆ ಪಿತ್ರಾರ್ಜಿತವಾಗಿ ಬಂದ ಆಸ್ತಿ ಎಂದರೆ ಸರಿ. ನನ್ನ ತಂದೆ ಬದುಕಿರುವಾಗಲೇ 04.11.2006 ರಲ್ಲಿ ನಮಗೆಲ್ಲಾ ವಿಭಾಗ ಮಾಡಿಕೊಟ್ಟಿದ್ದರು ಎಂದರೆ ಸರಿ. 3 ಎಕರೆ ಆಸ್ತಿಯನ್ನು ಎ ಮತ್ತು ಬಿ ಎಂದು ವಿಭಾಗ ಮಾಡಿ ವಾದಿಗೆ ಎ ಭಾಗ ಮತ್ತು 1 ನೇ ಪ್ರತಿವಾದಿಗೆ ಬಿ ಭಾಗವನ್ನು ಕೊಟ್ಟಿದ್ದರು ಎಂದರೆ ಸರಿ. ನನ್ನ ತಂದೆ ವಿಭಾಗ ಪತ್ರ ಮಾಡಿದಾಗ ನನಗೆ ಭಾಗ ಬಂದಿತ್ತು ಆ ವಿಭಾಗದ ಬಗ್ಗೆ ನಮ್ಮ ತಂದೆ ಇರಲಿಲ್ಲ. ವಿಭಾಗವಾಗಿ ಬಂದ ಆಸ್ತಿಗಳು ಮಾರಾಟವಾದ ಕಾರಣ ಈ ದಾವೆಯಲ್ಲಿ ತೋರಿಸಿಲ್ಲ. ವಿಭಾಗವಾಗದ ಆಸ್ತಿಗಳನ್ನು ನಮ್ಮ ನಮ್ಮ ಸ್ವಾಧೀನಕ್ಕೆ ಕೊಟ್ಟಿದ್ದರು ಎಂದರೆ ಸರಿ.

So, the above referred portion of cross-examination of P.W.1 much enough to prove the earlier partition of the schedule property through registered partition deed dated 04.11.2006.

10. Adding to his cross-examination P.W.1 further deposed that, his father during his lifetime partitioned the schedule property through registered partition deed and separate portion of the property given to the plaintiffs and defendant No.1. P.W.1 further says that, he has not produced any piece of document as to show that his father had been cultivating the schedule property for more than 40 years. Though P.W.1 has undertaken to produce some document, but on subsequent dates P.W.1 has not produced such document. P.W.1 in the cross-examination further deposed as below:

ನಿ ಪಿ 13 ರ ದಾಖಲೆ 1 ನೇ ಪ್ರತಿವಾದಿಗೆ ಆದೇಶವಾದ ದಾಖಲೆ ಎಂದರೆ ಸರಿ. ನಿ ಪಿ 14 ರ ಸಾಗುವಳಿ ಚೀಟಿ ನನ್ನ ಅಣ್ಣನ ಹೆಸರಿನಲ್ಲಿ ಇದೆ ಎಂದರೆ ಸರಿ. ಆಸ್ತಿ ಮಂಜೂರಾದ ನಂತರ ಕಂದಾಯ ಪಾವತಿಯನ್ನು ನನ್ನ ಅಣ್ಣನೇ ಮಾಡಿದ್ದರು ಎಂದರೆ ಸರಿ. ನಿ ಪಿ 16 ನನ್ನ ತಂದೆಯ ಹೆಸರಿಗೆ ಆಸ್ತಿ ಮಂಜೂರಾಗುವಾಗ ಕೊಟ್ಟ ದಾಖಲೆ

ಎಂದರೆ ಸರಿ. ನಿ ಪಿ 18-21 ರ ದಾಖಲೆಗಳು ತಹಶೀಲ್ದಾರರ
ನಡಾವಳಿಗಳು ಎಂದರೆ ಸರಿ.

So, the said portion of the cross-examination of P.W.1 further shows that Ex.P.13 document dated 18.11.2017 standing in the name of his brother and his brother continuously paying the tax of the property of Sy.No.81 to an extension of 1 acre 20 guntas.

11. P.W.1 has produced 22 documents. Ex.P.1 is the certified copy of challan, Ex.P.2 is the death certificate of father of the plaintiffs, the death of the father of the plaintiffs is undisputed fact. Ex.P.3 is the demand notice issued by the plaintiffs demanding to make partition of the schedule property. Ex.P.4 is the reply notice. In the said reply notice especially 3rd defendant has taken contention that the schedule property is not the joint family property as on the date of filing of suit. Ex.P.5 is the postal receipts; Exs.P.6 to 8 are the postal acknowledgments; Ex.P.9 is the notice; Ex.P.10 is the postal receipt; Ex.P.11 is the certified copy of reminder letter dated 04.05.2017; Ex.P.12 is the

certified copy of form No.53; Ex.P.13 is the certified copy of official memorandum dated 18.11.2017; Ex.P.14 is the certified copy of form No.7, the said document is the important document. Initially the father of the plaintiffs No.1, 3 to 7 and defendant No.1 had given application for grant of land by the Land Tribunal, after his death the 1st defendant continued the said proceedings and the property was granted in the name of the 1st defendant. So, the grant certificate means Saguvali Chit was issued in the name of the 1st defendant pertaining to the schedule property bearing Sy.No.81 measures 1 acre 20 guntas.

12. The learned counsel for the plaintiffs argued that, the father of the plaintiffs No.1, 3 to 7 and defendant No.1 had gave application for grant of land of suit schedule property. The plaintiffs have not furnished copy of the application said to have been given by Siddaiah. However, Ex.P.18 document indicates that the father of P.W.1 gave application for grant of suit schedule property on 10.08.1991. Therefore, Ex.P.18 document proves the

submission of application by Siddaiah within 10.08.1991, that date was the fixed date for submission of the grant of land as fixed by the Government. Suppose any unauthorized cultivator submits application within regulation time i.e., on or before 10.08.1991, such application was to be considered. Ex.P.13 is the endorsement given by Tahasildar, Nanjangud, mentioning that Siddaiah gave application for grant of land and Siddaiah had been in possession from last 30 years prior to submission of application. However, Siddaiah demised on 11.08.2009. Subsequently 1st defendant persisted and continued the application given by his father. After consideration of the submission, the schedule property was granted in the name of 1st defendant, he is the elder son of Siddaiah. The grant certificate Ex.P.14 was issued in the name of Shivalingu, but Shivalingu was not original grantee because the grant application was given by his father in the year 1991.

13. The learned counsel for the plaintiffs also argued that, the suit schedule property has to be considered as joint family property because though it is granted in the name of 1st defendant, but it is not for his benefit. The grant of schedule property is for the benefit of entire family. A grant of property for the benefit of the family often involves the ancestral property or Government granted lands intended for joint family use. Key principles include equal rights for all legal heirs and that grants made to one member typically benefit the entire joint family making them subject to partition. Under Hindu Law, ancestral property is inherited through generation, with rights acquired by birth, since the 2005 Amendment, daughters have equal occupancy right to sons. When Government land is granted, it is often interpreted as being for the benefit of entire family rather than an individual, even if the grant document or certificate is in one person's name. If one member of joint family obtains occupancy right, the Karnataka Land Reforms Act interprets that the grant of land is not for individual benefit, but benefits of entire

family members and the said property becomes ancestral property, but not self-acquired property of grantee. In the present matter, though the grant was made in the name of 1st defendant, but it may not for his benefit, but benefit of entire family. D.W.1 in the cross-examination has categorically admits that, his father gave application for grant of land as per form No.53. Thereafter D.W.1 continued it because of death of his father. D.W.1 in the cross-examination very categorically asserts as below:

ತಹಸಿಲ್ದಾರರು ನನ್ನ ತಂದೆ ಕೊಟ್ಟ ಅರ್ಜಿಯನ್ನು ಅಧರಿಸಿ ಎಲ್ ಎನ್ ಡಿ
74/98-99 ಎಂದು ಪ್ರಕ್ರಿಯೆಯನ್ನು ಪ್ರಾರಂಭಿಸಿದ್ದಾರೆ ಎಂದರೆ ಸುಳ್ಳು

However, the said evidence of D.W.1 is unbelievable because the Revenue Department mentioned that father of the 1st defendant gave application in the year 1991, that year was the regulation time to file grant application. Therefore, whatever may be evidence of D.W.1 but his oral evidence cannot fade the claim.

14. P.W.1 categorically admits the partition of family properties in the year of 2006. His evidence further

indicates that the properties fallen to the share of plaintiffs in Sy.No.95 of Adakanahalli Village was sold out. The present suit schedule property was not subject matter of the registered partition deed. The defendant No.1 has produced the document of partition deed only to misconceive the real truth, because Ex.D.5 partition deed was not pertaining to present suit schedule property. The grant proceedings were undergoing at the time of Ex.D.5 partition deed. At the cost of repetition, I would like to say that the father of P.W.1 presented application in the year 1991 and the process of grant was continued, unfortunately applicant was died. Subsequently 1st defendant being the head of the family continued the said application. The suit schedule property was granted in the name of 1st defendant on 15.03.2018 as per Ex.P.14. As mentioned above, the said grant is for the benefit of entire family members and the possession of the parties has to be presumed as joint possession until its division.

15. At this juncture, I would like to take shelter of the judgment of the Hon'ble Supreme Court of India reported

in **AIR 1987 SC 558**, in the case of **Yudhishter Vs. Ashok Kumar**, in that matter the Hon'ble Apex Court held that, *"Succession, death of male Hindu owning immovable properties dies, wife and children would be class-I heirs to inherit his property which cannot be described as ancestral property. They would inherit property as their absolute property."* Therefore, though the property was granted in the name of the 1st defendant, but the said property was granted in his favour as per the application was given by his father, it should be treated as absolute property of the father of 1st defendant, but not absolute property of 1st defendant. The father of the 1st defendant died intestate i.e., without making any testamentary document. Hence, the legal heirs of father of the 1st defendant are entitled to get share in the granted property as they are the class-I heirs of father of the 1st defendant.

16. In another unreported judgment of the Hon'ble High Court of Karnataka delivered in **R.F.A.No.100037/2018** on 14.10.2024, in para Nos.10

to 12 of the judgment the Hon'ble High Court has discussed as follows:

“10. Learned counsel for the respondents cited judgment of the Division Bench of this Court in RFA No.100274/2017 to contend that the contention raised by the appellants with reference to the definition of “family” and “joint family” under the Land Reforms Act, 1961 has no application to the present case.

11. Said judgment squarely applies to the case on hand. The definition of “family” and “joint family” in the Karnataka Land Reforms Act, 1961 is provided to determine the ‘ceiling limit’ imposed under the Karnataka Land Reforms Act, 1961 to hold the agricultural lands and also to consider the income ceiling. It has no application to determine the heir ship of a grantee.

12. Admittedly, the property is granted to Ramappa Yamanappa Godikar by the Land Tribunal. Once the property is granted, it becomes his self-acquired property unless shown it to be otherwise. He continued to hold the property till his death, in the year 2012. On his death, the plaintiffs who are the Class-I heirs succeed to the properties along with the defendants who are also the Class-I

heirs. The provisions of the Karnataka Land Reforms Act, 1961 do not override the provisions of the Hindu Succession Act, 1956.”

So, the Hon'ble High Court of Karnataka held that, granted property in favour of the particular person is his self-acquired property till his death. Thereafter his legal heirs are entitled to get share in the granted property as legal heirs. The grant is not for individual benefit and grantee during his lifetime may deal with granted property as per his will and wish. He dies intestate, his legal heirs can claim share as per Section 8 of Hindu Succession Act. In the present matter, Siddaiah gave application for grant of the suit schedule property and he died in the year of 2009. The 1st defendant being his elder son continued the said application and Land Tribunal granted the property in the year of 2018. The said land was not granted in favour of the 1st defendant as per his application, but the grant was finalized as per the application given by his father. Hence, it is to be understood that the grant of suit schedule property has not been granted in favour of the 1st

defendant, but granted in favour of his father by name Siddaiah, because he had given application of form No.53 for grant of suit schedule property. The plaintiffs No.1 to 7 and defendant No.1 being the legal heirs are entitled to get share and it is to be presumed that the plaintiffs No.1 to 7 and 8 are in joint and common possession upon the schedule property. Therefore, **issues No.1 and 2** are answered **in the affirmative**.

17. **Issues No.3 and 4:** Issue No.3 is framed discussing that the suit is properly valued and issue No.4 is framed for payment of sufficient court fee. I have gone through the valuation slip. The plaintiffs paid the amount of Rs.200/-. It is sufficient as per Section 35 of Karnataka Court Fees and Suit Valuation Act, because in partition suit payment of Rs.200/- is required. Therefore, it shows that the suit is properly valued and court fee paid is sufficient. Hence, **issues No.3 and 4** are answered **in the affirmative**.

18. **Issue No.5:** The 1st defendant has taken contention that the suit schedule property is already partitioned through registered partition deed dated 03.11.2006. D.W.1 has reproduced the contents of written statement stating that the plaintiffs' suit has to be dismissed, because the family property was partitioned through registered partition deed.

19. Family partition may be effected by way of decree of court, registration of partition deed and oral partition. In the present case, the 1st defendant has taken contention that the family property was divided through registered partition deed. Ex.D.5 is the digital copy of registered partition deed dated 03.11.2006. The said document came to be marked as per application of I.A.VI by producing under Section 65-B of Evidence Act. The recitals and contents of Ex.D.5 clearly show that the family properties of the plaintiffs No.1 to 7 and defendant No.1 were already partitioned through registered partition deed. 'A' schedule property shown to the account of Siddaiah, Sakamma,

Shivaraju, Rathnamma Therefore, the property to an extension of 2 acres 4 guntas including 2 guntas kharab land totally 2 acres 2 gunta property allotted to the share of plaintiff No.1, husband of the 2nd plaintiff, 6th plaintiff and 7th plaintiff. 'B' schedule property was allotted to Shivalingu who is the 1st defendant herein. The names of plaintiffs 3 to 5 are not shown in Ex.D.5 registered partition deed. However, Ex.D.5 partition deed dated 03.11.2006 was for division of family property bearing Sy.No.95 of Adakanahalli Village. P.W.1 has also not denied the division of the family properties. The plaintiffs have brought suit for partition of Sy.No.81 measures 1 acre 20 guntas. The said survey number was not the subject matter of the partition deed. The 1st defendant made attempt to divert the real fact, otherwise he could not have furnished the document because the plaintiffs seek partition on granted property. Therefore, Ex.D.5 partition deed is unconcerned document. Hence, this issue is answered **as does not arise for consideration** to decide the dispute between parties, because subject matter of the

registered partition deed and the subject matter of the present suit are not one and the same.

20. **Issues No.6 and 7:** These issues are taken together for common discussion. The defendant No.1 has not denied the relationship. The defendant No.1 has not furnished the document to prove that the schedule property is not the ancestral property. The suit schedule property though granted in the name of 1st defendant, but it is not for his benefit only, but for the benefit of entire family members. The 2nd plaintiff is the widow wife of original applicant by name Siddaiah @ Siddegowda. She has definite portion of the property right. The suit schedule property is divided into 8 parts in between plaintiffs No. 1 to 7 and defendant No.1. Similarly the plaintiffs and 1st defendant are also entitled to get equal share in compensation if schedule property has been acquired. Hence, **issues No.6 and 7** are answered **in the affirmative**.

21. **Issue No.8:** In view of findings on above issues, this Court proceeds to pass the following:-

ORDER

Suit of the plaintiffs is decreed. The plaintiffs are entitled to get 1/8th share each in the suit schedule property and in compensation if the schedule property is acquired by the 3rd defendant.

No order as to costs.

Draw preliminary decree accordingly.

In view of the judgment of the Hon'ble Supreme Court reported in 2022 SCC Online SC 737 office to list the matter for taking steps under Order XX Rule 18 of C.P.C. on 03.06.2026.

(Dictated to the Stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 1st day of April 2026)

(Kamalaksha D.)
Senior Civil Judge, Nanjangud.

ANNEXURE**List of witnesses examined for the plaintiff :-**

P.W.1 - Shivaraju

List of documents marked for the plaintiff :-

Ex.P.1 - Certified copy of Challan
Ex.P.2 - Death certificate
Ex.P.3 - Copy of legal notice
Ex.P.4 - Reply notice
Ex.P.5 - Postal receipts
Exs.P.6 to 8- Postal acknowledgments
Ex.P.9 - Copy of reply notice
Ex.P.10 - Postal receipt
Ex.P.11 - Certified copy of reminder dated
04.05.2017
Ex.P.12 - Certified copy of Form No.53 in respect
of Sy.No.81
Ex.P.13 - Certified copy of Official Memorandum
dated 18.11.2017
Ex.P.14 - Certified copy of Form No.7
Ex.P.15 - Certified copy of challan
Exs.P.16 & 17- Certified copy of sketch
Ex.P.18 - Certified copy of reference letter dated
07.08.2017
Ex.P.19 - Certified copy of report submitted by
Revenue Inspector dated 07.08.2017
Exs.P.20 & 21- Certified copies of mahazars
Ex.P.22 - Endorsement dated 11.10.2023

List of witnesses examined for the Defendants :-

D.W.1 - Shivalingu

List of documents marked for the Defendants:-

Ex.D.1 - R.T.C. extract of Sy.No.95/1A

- Ex.D.2 - R.T.C. extract of Sy.No.95/1A
- Ex.D.3 - Mutation Extract No.RH18/2022-23
- Ex.D.4 - Certified copy of the order passed by Assistant Commissioner, Mysuru Sub-Division in R.A.34/2024
- Ex.D.5 - Digital copy of partition deed dated 03.11.2006

**Senior Civil Judge,
Nanjangud.**