

KAMS500003802014



**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 August 2026

O.S./48/2014

Plaintiffs

1. Jayalakshmi
 D/o late Chikkarangaiah,
 aged about 39 years,
2. Krishna S/o late Chikkarangaiah,
 aged about 36 years,
3. Narayana S/o late Chikkarangaiah,
 aged about 34 years,
4. Rangaswamy
 S/o late Chikkarangaiah,
 aged about 32 years,
5. Rangaraju
 S/o late Chikkarangaiah,
 aged about 24 years,

All are residing at
Mandakalli Village,
Kasaba Hobli, Mysuru.

(By Sri. M.C.Ramesh, Adv.)

-V/s-

Defendants

1. Belagamma (dead)
W/o late Marisiddaiah,
aged about 76 years,
(leaving behind her surviving
legal heirs defendant Nos.8 to 10)

2. Lakshamma
W/o late Chikkarangaiah,
aged about 56 years,

3. Chikkadasaiah S/o late Molaiah,
aged about 35 years,

All are residing at
Mandakalli Village,
Kasaba Hobli, Mysuru.

4. Puttaswamappa
S/o late Puttabasappa,
Major,
residing at Hebya Village,
Chikkaiahnachatra Hobli,
Nanjangud Taluk.

5. Hucchegowda,
S/o Giddana Kenchegowda,
Major,
Kochanahalli Village,
Varuna Hobli, Mysuru Taluk.

6. Malathi W/o M.B.Sathyanarayana,
Major,
residing at D.No.2006,
Subbaiah Road,
Devaraja Mohalla, Mysuru.

7. Rangaiah,
aged about 70 years,
residing at Hebya Village,
Chikkaiahnachatra Hobli,
Nanjangud Taluk.
8. Rangaraju S/o late Maridasaiah,
aged about 46 years,
dead by L.Rs.
- 8(a) Revamma W/o late Rangaraju,
aged about 40 years,
- 8(b) Anil Raj S/o late Rangaraju,
aged about 23 years,
- 8(c) Sunil Raj S/o late Rangaraju,
aged about 20 years,
- 8(d) Vinootha D/o late Rangaraju,
aged about 18 years,
- 8(e) Nikil Raj S/o late Rangaraju,
aged about 15 years,

(since minor represented by
her mother Revamma)
9. Belagamma D/o late Maridasaiah,
aged about 41 years,
10. Narayana S/o late Maridasaiah,
aged about 36 years,
11. Narayanaswamy S/o Chikkadasaiah,
aged about 41 years,

12. Shanthamma D/o Chikkadasaiah,
aged about 38 years,
Dead by L.Rs.
- 12(a) Naveen Kumar S/o Kemparaju,
aged 17 years,
(since minor represented by
his grandfather Chikkadasaiah)
13. Geetha D/o Chikkadasaiah,
aged about 34 years,
14. Ravi S/o Chikkadasaiah,
aged about 30 years,
15. Rangaraju S/o Chikkadasaiah,
aged about 26 years,

defendants No.8 to 15 are
residing at Mandakalli Village,
Kasaba Hobli, Mysuru.
16. Ramasetty S/o late Ramasetty,
dead by L.Rs.
- 16(a) Puttamma W/o late Ramasetty,
aged about 55 years,
- 16(b) Naga D/o late Ramasetty,
aged about 33 years,
- 16(c) Ayyappa D/o late Ramasetty,
aged about 30 years,
17. Chikkaramasetty S/o late Ramasetty
– dead by L.Rs.

- 17(a) Kempanna
S/o late Chikkaramasetty,
aged about 33 years,
- 17(b) Ramesh S/o late Chikkaramasetty,
aged about 30 years,
- 17(c) Kumar S/o late Chikkaramasetty,
aged about 28 years,
- 17(d) Nagaraju S/o late Chikkaramasetty,
aged about 25 years,
- 17(e) Suresh @ Krishna
S/o late Chikkaramasetty,
aged about 23 years,
- 18. Doddamadaiah S/o late Manchaiah –
dead by L.Rs.
- 18(a) Halli Kunchamma
W/o late Doddamadaiah,
aged about 70 years,
- 18(b) Swamy S/o late Doddamadaiah,
aged about 40 years,
- 18(c) Chikkanna S/o late Doddamadaiah,
aged about 36 years,
- 18(d) Rajashekar S/o late Doddamadaiah,
aged about 34 years,
- 18(e) Ravi S/o late Doddamadaiah,
aged about 31 years,

All legal heirs of the defendants
No.16 to 18 are residing at Hebya
Vaillage, Chikkaiahnachatra Hobli,
Nanjangud Taluk.

19. Rangaswamy S/o Rangaiah,
aged about 53 years,
20. Mahalinga S/o Rangaiah,
aged about 51 years,
21. R.Ganesha S/o Rangaiah,
aged about 49 years,
22. R.Manju S/o Rangaiah,
aged about 49 years,

All are residents of Hebya Village,
Chikkaiahnachatra Hobli,
Nanjangud Taluk,
Mysuru District.

(By Sri. Ramesh B. - Adv. for D.1 to 3
Sri. M.C.Dileep Kumar – Adv. for D.5 to 7 & 11, 20, 21, 22
Sri. Parashivamurthy M. - Adv. for D.8(a to e) & D.12(a)
D.4, 9, 10, 13, 14, 15, 18(a to e), 19 - exparte
Sri. M.Mahesh – Adv. for D.16(a to c) & D.17 (a to e)

Date of institution of the suit	04.07.2014
Nature of suit	Partition and separate possession
Date of commencement of Trial	30.08.2019

Date on which the judgment was pronounced 01.08.2026

Duration of suit	Years	Months	Days
	12	00	28

J U D G M E N T

The plaintiffs filed the suit for partition and separate possession of their 1/16th share in the suit schedule properties.

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

The plaintiffs submit that schedule properties shown in the plaint are the ancestral and joint family properties. One Madamma is the grandmother of the plaintiffs, she was the only legal heir of her father i.e., Bunda S/o Mada. The said Madamma married to one Molaiah, out of their marital relationship they got six children namely Maridasaiah, Chikkarangamma, Doddathayamma, Kamma, Chikkarangaiah and Chikkadasaiah. Maridasaiah, Chikkarangamma, Doddathayamma, Kamma and Chikkarangaiah were died. The plaintiffs are the children of

the late Chikkarangaiah and the defendants No.2, 8 to 10 are the children of the late Maridasaiah and defendant No.1, defendants No.11 to 15 are the children of late Chikkadasaiah i.e., and defendant No.3. Said Bunda the father of the Madamma (the grandmother of the plaintiffs) was the absolute owner of the properties bearing Survey Nos. 72/4, 72/5, 73/2A, 73/2, 73/2P, 72/1P situated at Hebya Village of Nanjangud Taluk. After the death of Bunda, Madamma being the only legal heir inherited the said property and she was in possession and enjoyment of the schedule properties as an absolute owner thereof and the khatha in respect of the schedule properties were got changed in her name. After the death of Madamma, the defendants No. 1 to 3 and the plaintiffs are in joint possession and enjoyment of the schedule properties as they inherited the said properties as surviving legal heirs of Madamma. Even today the schedule properties are continued as joint family properties. The schedule properties are not divided among the members of the joint family till today. The plaintiffs have demanded the defendant No.1 to

3 to divide the suit schedule properties and allot their legitimate share in the month of May 2014, but the defendants No.1 to 3 colluding with defendant No.7 declined to effect the same. In the meanwhile, it came to the knowledge of the plaintiffs that without any authority the defendants No.1 to 3 colluding with defendant No.7 sold the schedule properties bearing Survey No.72/4, 73/2P, 73/1P and out of the said properties bearing Survey No.72/4 was sold to the defendant No.4, thereafter to the defendant No.5 and now the defendant No.6 is the illegal owner of the schedule properties. The said sale deeds are not binding to the right of the plaintiffs to get their share in the schedule properties. Hence, they filed the suit for partition.

3. Summons were duly served. Defendants No.1 to 3, 5 to 7, 8(a to e), 11, 12(a), 16(a to c), 17(a to e), 20 to 22 have appeared before the court through their respective counsels. Defendants No.4, 9, 10, 13, 14, 15, 18(a to e), 19 remained absent and they have been placed *exparte*. Only defendants No. 7, 16 and 17 have filed separate written statements.

4. Defendant No.7 in the written statement has denied the entire facts of the plaint and he further taken defence that one Bundaiah @ Bunda S/o late Madaiah @ Maada and his wife Siddamma of Hebya Village of Nanjangud Taluk had 3 issues i.e., Puttamadaiah @ Bundaiahna Puttamadaiah, Ramaiah and Madamma. Ramaiah died as bachelor. Siddamma who is the wife of said Bundaiah @ Bunda is paternal aunt of 7th defendant. The 7th defendant's grandfather i.e., Manchaiah had 3 issues i.e., Duggadaiah, Chikkagandaiah and Siddamma. Bundaiah @ Bunda and his wife Siddamma had solemnized marriage of their daughter Madamma with one Mollaiah of Mandakalli Village of Mysuru Taluk prior to 1940. As per the knowledge of the 7th defendant Madamma and her husband Mollaiah were died issueless. Plaint items No.1 to 7 schedule properties belonged to Bundaiah @ Bunda S/o Madaiah @ Maada. After demise of Bundaiah @ Bunda and his wife Siddamma, their sole surviving son Puttamadaiah @ Bundaiahna Puttamadaiah was succeeded and inherited the plaint items No.1 to 7

schedule properties along with other properties. After demise Puttamadaiah @ Bundaiahna Puttamadaiah, his wife Smt. Madamma and son Mahadeva, who died as bachelor, did succeed and inherit the plaint items No.1 to 7 schedule properties and they were in possession during their lifetime. Items No.1 to 7 are the absolute properties of Bundaiah. Madamma W/o late Puttamadaiah @ Bundaiahna Puttamadaiah and her son Mahadeva, during their lifetime for their family's legal necessities sold out item No.3 schedule property in favour of the 7th defendant through unregistered sale deed dated 15.02.1982 for valuable consideration and further on the very day of execution of said sale deed itself, the 7th defendant was put in possession of the written statement schedule property. Since the date of purchase the 7th defendant is in lawful and peaceful possession and enjoyment of the schedule property as its absolute owner. The 7th defendant has been enjoying the suit schedule property without the interruption of anybody by paying tax to the concerned department. Except this defendant neither the plaintiffs

nor defendants No.1 to 3 nor any other persons are having any manner of right, title, interest or possession over the plaint Item No.2 and Item No.3 schedule property / written statement schedule property. Madamma W/o late Puttamadaiah @ Bundaiahna Puttamadaiah and her son Mahadeva unable to execute a registered sale deed in favour of 7th defendant in relation to the plaint item No.3 schedule property / written statement schedule property, at the time of alienation of plaint Item No 3 property, Fragmentation Act was in force. On the other hand, said Madamma and her son Mahadeva assured the 7th defendant that they will sell item No.3 property immediately whenever law permits. The 7th defendant being an illiterate and also lack of worldly language and also considering aforesaid relationship between him and the family of said Bundaiah @ Bunda, got the said unregistered Sale Deed in relation to the written statement schedule property. It is pertinent to note that, said unregistered sale deed is acted upon as contemplated under law, as the very name of this defendant is reflected in

column No. 12 of RTC. It reveals that 7th defendant is the bonafide purchaser of item No.3 schedule property.

It is further submitted that, Madamma W/o late Mollaiah, though know about the said alienation, in the year 1994, without any basis interfered into this defendant's peaceful possession and enjoyment of the item No.3 schedule property. In this connection, the 7th defendant got issued a legal notice to said Madamma, subsequently Madamma found that, she has no right over the properties belongs to her father Bundaiah @ Bunda. Based on that she left her dream to get a right over the properties which includes plaint items No.1 to 7 schedule properties. Madamma W/o late Puttamadaiah @ Bundaiahna Puttamadaiah and her son initially for their family's legal necessities, were mortgaged the plaint item No.3 schedule property in favour of one Basavanna S/o Puttabasappa of Hebya Grama, through registered mortgage deed dated 28.03.1970 for a period of 5 years for a sum of Rs.500/- and the same was redeemed as

contemplated under law. Madamma W/o late Puttamadaiah @ Bundaiahna Puttamadaiah and her son Mahadeva, after redemption of mortgage deed, once again mortgaged the same property in favour of one A.P. Devarajappa S/o Puttabasappa of Adakanahalli Chikkaiahna Chatra Hobli, Nanjangud Taluk, through registered mortgage deed dated 08.10.1975 for a sum of Rs.1,000/- for a period of 5 years. The same was redeemed on 22.03.1982 by this defendant based on the said sale deed dated 15.02.1982. Sy.No.73/2A i.e., item No.3 of plaint schedule property mistakenly mentioned as 73/2B, but the boundaries mentioned in the aforesaid registered mortgage deeds pertaining to the land bearing Sy.No.73/2B measuring 1 acre 05 guntas. It is pertinent to note that, the land bearing Sy.No.73/2A measures 0.19 guntas only. As per oral arrangement between Madamma W/o late Puttamadaiah @ Bundaiahna Puttamadaiah and her son Mahadeva and also said A.P. Devarajappa, they were put this defendant in possession of the plaint item No. 3 schedule property / written statement schedule

property on the very day of execution of said sale deed dated 15.02.1982, though it was named as agreement of sale, as per law it is sale deed and binds said Madamma W/o late Puttamadaiah @ Bundaiahna Puttamadaiah. It is further contended that, Madamma W/o late Puttamadaiah @ Bundaiahna Puttamadaiah and her son Mahadeva were sold the plaint items No.1 and 4 to 7 schedule properties in favour of different persons for valuable consideration, through unregistered sale deeds in view of subsistence of Fragmentation Act. The plaintiffs and defendants No.1 to 3 with a sole intention to grab the plaint schedule properties belonged to said Bundaiah @ Bunda were alienated and come up with the above matter. The 7th defendant has been in possession of item No.2 property since from 1970 as tenant, because his name is reflecting in column No.12 of R.T.C. Therefore, the 7th defendant herein prays to dismiss the suit.

5. The legal heirs of defendants No.16 and 17 filed written statement by denying the entire facts. Their

defence that the suit of the plaintiffs is dismissed in limine on the question of limitation. They further taken defence that, 16th defendant by name Ramashetty and 17th defendant Chikkaramashetty died long back. They had purchased Sy.No.72/1 measures 15 guntas and Sy.No.73/2 measures 25 guntas through registered sale deed dated 15.05.1974. Therefore, these defendants being the legal heirs of defendants No.16 and 17 are the owners of the schedule items No.5 and 6 properties, because these properties are purchased properties by their father. In these properties neither the plaintiffs nor other defendants have right to claim any share. Hence, they prayed to dismiss the suit.

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

- 1 Whether the plaintiffs prove that the suit schedule properties are joint family properties of plaintiffs and defendants ?
- 2 Whether the plaintiffs prove that they are entitle for 1/16th share each in the suit schedule properties?

- 3 Whether the legal heirs of defendants No.16 and 17 prove that on 15.05.1974 defendants No.16 and 17 purchased Sy.No.72/1 measuring 15 guntas and Sy.No.73/2 measuring 25 guntas and they are in possession and enjoyment of the same and they are bonafide purchasers of the said properties?
- 4 Whether the plaintiffs are entitled for the relief claimed?
- 5 What order or decree?

Addl Issue:

- 1 Whether defendant No.7 proves that he is owner in possession of suit item No.3 property as alleged?

7. In order to get the relief, the plaintiff No.2 is examined as P.W.1 and got marked 33 documents as Exs.P.1 to P.33. On the other hand, the defendant No.17(d) and defendant No.21 are examined as D.Ws.1 and 2 and got marked 13 documents as Exs.D.1 to 13.

8. Heard and perused the pleadings, evidence and materials placed on record. The learned counsel for the plaintiffs, defendants No.16, 17 and 21 have filed notes of arguments.

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

Issues No.1 and 2	:	In the negative
Issue No.3	:	In the negative
Issue No.4	:	In the negative
Addl. Issue No.1	:	In the negative
Issue No.5	:	As per final order for the following

REASONS

10. **Issues No.1, 2 & 4**: These issues are interlinked with each other, hence they are taken together for discussion to avoid repetition. The plea of the plaintiffs that they are the grand children of one Madamma, she was the only legal heir of her father by name Bunda S/o Mada. The marriage of said Madamma was performed with one Molaiah. Out of their wedlock they got six children i.e., Maridasaiah, Chikkarangamma, Doddathayamma, Kamma, Chikkarangaiah and Chikkadasaiah. In the cross-examination P.W.1 says as below:

ನನ್ನ ಅಜ್ಜಿಯ ಮರಣ ಪ್ರಮಾಣಪತ್ರ ನನ್ನ ಬಳಿ ಇದೆ. ಅದನ್ನು ನ್ಯಾಯಾಲಯಕ್ಕೆ

ಹಾಜರುಪಡಿಸಲು ತೊಂದರೆ ಇಲ್ಲ.

So, P.W.1 says that he has got death certificate of his grandmother, but he has not produced the very vital document of death certificate of Madamma. The relationship of parties in partition suit must be proved, otherwise the plaintiffs in any partition suit cannot get share.

11. P.W.1 in the cross-examination has further deposed that, Ex.P.1 family sketch or genealogical sketch was prepared as per the say of the plaintiffs, but not on the basis of any public document. It is pertinent to note that the plaintiffs have not mentioned the family pedigree in the plaint, whereas they have furnished Ex.P.1 family sketch. Admittedly Ex.P.1 was prepared as per the intimation and information of the plaintiffs only. The said document cannot be considered as sole evidence to prove the relationship. Proving a relationship in a partition suit requires a strong combination of documentary evidence and witness testimonies. Since the burden of proof lies on the person claiming the shares, the most effective approach

is to anchor plaintiffs' claim using official record and establish legal frame work. Commonly genealogy (family tree) is the foundation document in any partition suit and such document must be produced by the plaintiffs by taking authenticated information about the family history. Mere explanation of some sentence in self attached genealogical information shall not be treated as proof of relationship. The certified copy of birth certificates, death certificates, marriage certificates are direct evidence of relationship in partition suit. The revenue and property records, school records supported with oral evidence like family elders and relatives may be considered as vital evidence, because Section 50 of Evidence Act opines that knowledge of elder individual having knowledge of family background regarding family relationship of partition suit may be considered as vital evidence. But in the present matter, P.W.1 admittedly has not produced any other document except Ex.P.1 family pedigree document, however Ex.P.1 is not authenticated document to prove the relationship.

12. The 7th defendant has taken long defence by denying the relationship of the plaintiffs and Madamma. According to the 7th defendant Madamma and her husband Mollaiah died issueless. P.W.1 in the cross-examination further deposed that, khatha of the schedule properties were got changed in the name of one Maridasaiah, but again the plaintiffs have withheld the very vital document. The suggestion of the 7th defendant to P.W.1 that Madamma and her husband Mollaiah died issueless, but the said suggestion is denied. P.W.1 in the cross-examination further deposed as below:

ಮಂಡಕಳ್ಳಿ ಮನೆಯ ಖಾತೆ ಬದಲಾವಣೆಯಾಗುವ ಸಮಯ ಮಾದಮ್ಮ ರವರ ಕುಟುಂಬದ ಜೀವಂತ ಸದಸ್ಯರ ಪಟ್ಟಿ ಪಡೆದುಕೊಳ್ಳಲಾಗಿದೆಯೇ ಎಂದು ಕೇಳಿದರೆ ಹೇಳಲು ಗೊತ್ತಿಲ್ಲ. ಲಗ್ನಪತ್ರಿಕೆಯಲ್ಲಿ ತಂದೆತಾಯಿಯ ಹೆಸರಿನ ಜೊತೆ ಅಜ್ಜ ಅಜ್ಜಿಯ ಹೆಸರನ್ನು ಕೂಡ ನಮೂದು ಮಾಡುವುದು ಸಂಪ್ರದಾಯ ಎಂದರೆ ನಿಜ. ನನ್ನ ಮದುವೆ 2004 ನೇ ಸಾಲಿನಲ್ಲಿ ಆಗಿದೆ. 1 ನೇ ವಾದಿ ಜಯಲಕ್ಷ್ಮಿ ರವರು ಮದುವೆ 1998-99 ರಲ್ಲಿ ಆಗಿದೆ. ನಾರಾಯಣರವರ ಮದುವೆ ಅಂದಾಜು 2006 ರಲ್ಲಿ ಆಗಿರುತ್ತೆ. ರಂಗಸ್ವಾಮಿಗೆ ಮದುವೆಯಾಗಿಲ್ಲ. ರಂಗರಾಜುವಿನ ಮದುವೆಯಾಗಿ 8 ವರ್ಷವಾಗಿದೆ. ನಮ್ಮ 4 ಮಂದಿ ವಾದಿಯರ ಮದುವೆಯ ಆಮಂತ್ರಣ ಪತ್ರಿಕೆ ನಮ್ಮ ಬಳಿ ಇದೆ. ಅದನ್ನು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಹಾಜರುಪಡಿಸಲು ತೊಂದರೆ ಇಲ್ಲ.

So, the reference of the above said portion of cross-examination further dilutes the claim of the plaintiffs, because they have not produced any vital document to prove the relationship through P.W.1. P.W.1 admits that, normally preferring of marriage invitation card is the common practice among Hindu, but P.W.1 has not produced such document to prove the relationship. P.W.1 further admitted that he would furnish the family ration card, election identity card of his father, but again the said documents were withheld by the plaintiffs through P.W.1. P.W.1 does not know the name of mother of Madamma. So, it is suggested to P.W.1 that he does not know the name of mother of Madamma and they are not the descendants of Madamma, but P.W.1 denies it.

13. P.W.1 in the cross-examination further deposed as below:

ಹೆಬ್ಬಾ ಗ್ರಾಮದಲ್ಲಿ ವಾಸವಿರುವ ವ್ಯಕ್ತಿಗಳ ಪೈಕಿ ನಾನು ಹೇಳುತ್ತಿರುವ ಮಾದಮ್ಮ ಆಕೆಯ ತಂದೆ ತಾಯಿಗೆ ಒಬ್ಬಳೇ ಮಗಳು ಎಂದು ತಿಳಿದಿರುವವರು ಇದ್ದಾರೆ ಅವರನ್ನು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಕರೆತಂದು ಸಾಕ್ಷಿ ನುಡಿಸಬಲ್ಲೆ. ಬುಂಡಯ್ಯ ಉ: ಬುಂಡ ರವರ ಮಗಳು ಮಾದಮ್ಮನ ಮದುವೆ 1940 ಕ್ಕೂ ಮೊದಲು ಆಗಿತ್ತು ಎಂದರೆ ಇರಬಹುದು.

ಬುಂಡಯ್ಯ ಉಃ ಬುಂಡ ನ 2 ನೇ ಮಗ ರಾಮಯ್ಯ ಮದುವೆಯಾಗದೆ ತೀರಿಕೊಂಡರು ಎಂದರೆ ನಿಜ. ಬುಂಡಯ್ಯ ಉಃ ಬುಂಡ ತೀರಿಕೊಂಡ ನಂತರ ಸ್ವತ್ತುಗಳ ಖಾತೆ ಯಾರ ಹೆಸರಿಗೆ ಆಗಿದ್ದವು ಎಂದು ತೋರಿಸುವ ದಾಖ್ಲೆಗಳನ್ನು ಹಾಜರುಪಡಿಸಬಹುದೇ ಎಂದು ಕೇಳಿದರೆ ಈಗಾಗಲೇ ಹಾಜರುಪಡಿಸಿದ್ದೇನೆ ಎಂದು ನುಡಿಯುತ್ತಾನೆ.

So, in the above referred cross-examination of P.W.1 further proves that, he does not know the family history and relationship of Madamma, because he admitted that there are many documents to prove the standing of khatha of the schedule properties in the name of Bundaiah only. But again P.W.1 has not produced the said vital document. The passing of property by three generations is cardinal point to prove the nature of the family properties in partition suit among Hindu, but P.W.1 has not produced document to prove that the suit schedule properties are joint family properties and his evidence is not at all acceptable, because except Ex.P.1 no other documents produced by the plaintiffs through P.W.1 to prove the nature of schedule properties as ancestral and joint family properties.

14. The plaintiff has produced 33 documents. Ex.P.1 is the family sketch. Ex.P.2 is the R.T.C. of Sy.No.72/5 standing in the name of Madamma W/o late Madaiah; Ex.P.3 is the R.T.C. of Sy.No.73/2B standing in the name of Madamma W/o Bundaiah; Ex.P.4 is the R.T.C. of Sy.No.73/2A again standing in the name of Madamma, Ramashetty and Chikkaramashetty; Ex.P.5 is the R.T.C. of Sy.No.72/4 standing in the name of M.Malathi; Ex.P.6 is the R.T.C. of Sy.No.72/2 standing in the name of Kariya @ Manchaiah and Venkataramu; Ex.P.7 is the R.T.C. of Sy.No.72 standing in the name of Doddamadaiah, Ramashetty and Chikkaramashetty; Ex.P.8 is the R.T.C. of Sy.No.72/2 standing in the name of Kariya and Venkataramu; Ex.P.9 is the R.T.C. of Sy.No.72/5 standing in the name of Madamma W/o late Madaiah; Ex.P.10 is the R.T.C. of Sy.No.73/2B standing in the name of Madamma W/o Bundaiah; Ex.P.11 is the R.T.C. of Sy.No.73/2A standing in the name of Madamma W/o Bundaiah, Ramashetty and Chikkaramashetty; Ex.P.12 is the R.T.C. of Sy.No.72/4 standing in the name of M.Malathi; Ex.P.13

is the R.T.C. of Sy.No.73/2A standing in the name of Madamma W/o Bundaiah, Ramashetty and Chikkaramashetty; Ex.P.14 is the R.T.C. of Sy.No.73/2A standing in the name of Madamma W/o Bundaiah, Ramashetty and Chikkaramashetty; Ex.P.15 is the R.T.C. of Sy.No.73/2B standing in the name of Madamma W/o Bundaiah. Exs.P.16 to 20 are the certified copies of handwritten R.T.C.s of Sy.No.72/4 which are standing in the name of Bunda S/o Mada. Ex.P.21 is the computerized R.T.C. of Sy.No.72/4 standing in the name of M.Malathi. Ex.P.22 is the certified copy of mutation extract in MR 12/1998-99 changed in the name of Puttaswamappa S/o late Puttabasappa pertaining to Sy.No.72/4 measures 28 guntas. Ex.P.23 is the M.R. extract bearing No.MR 44/2006-2007 mutated in the name of Huchegowda S/o Giddana Kenchegowda. Ex.P.24 is the certified copy of sale deed dated 14.05.1974. P.W.1 has not produced original copy and not explained the reason for non-production of its original sale deed. Ex.P.25 is the certified copy of sale deed dated 15.05.1974. Ex.P.26 is

the death certificate of Chikkadasaiah. P.W.1 in the cross-examination has deposed that khatha of the schedule properties is changed in the name of Chikkadasaiah after the death of his grandmother Madamma. However, the plaintiffs have not produced the death certificate of Madamma through P.W.1 to prove that they are grand children of deceased Madamma. Hence, Ex.P.26 document cannot be used as authenticated document to prove the relationship, because the plaintiffs have directly produced the death certificate of Chikkadasaiah without producing the death certificate of Madamma. Exs.P.27 to 29 are the handwritten R.T.C. of Sy.No.73/2A standing in the name of Madamma. Ex.P.30 is the patta book issued in the name of Madamma. Ex.P.31 is the building licence, Ex.P.32 is the original Adhaar Card of Ravi C. and Ex.P.33 is the voter identity card of Chikkadasaiah. These are all the documents produced by the plaintiffs.

15. However, at the cost of repetition, I would like to say that the plaintiffs have not produced the death

certificate of Madamma and also not produced further documents to prove that the schedule properties were inherited by three generations through their grandmother Madamma, their children and presently in the hands of the plaintiffs. Therefore, when the relationship itself is not proved, the plaintiffs cannot claim the properties as their ancestral properties. Absolutely they are not entitled to get share in it. Hence, **issues No.1, 2 and 4** are answered **in the negative**.

16. **Issue No.3 & Addl. Issue No.1:** The contention of the legal heirs of the defendants No.16 and 17 that, defendants No.16 and 17 had purchased the properties bearing Sy.No.72/1 measures 15 guntas and Sy.No.73/2 measures 25 guntas on 15.05.1974 through registered sale deed. D.W.1 in the chief-examination has deposed that, their father purchased items No.5 and 6 properties. In that connection D.W.1 has produced certified copy of sale deed dated 15.05.1974, it is marked as Ex.D.1. However, D.W.1 has not explained the reason for non-production of

original of Ex.D.1 document. Section 62 of Indian Evidence Act provides to produce original documents before the court of law, that process is called as production of original documents for inspection of the court. Secondary evidence of the contents of private documents is admissible only if the original document is not in existence or not available. Therefore, it is usually necessary to account for the absence of the original and for this purpose, proof of primary evidence is not available may be required. The Hon'ble Supreme Court in the case of **M.Chandra Vs. M.Thangamuthu** reported in **2010 AIR SCW 6362** has held that,

“It is true that a party who wishes to rely upon the contents of a document must adduce primary evidence of the contents, and only in the exceptional cases will secondary evidence be admissible. However, if secondary evidence is admissible, it may be adduced in any form in which it may be available, whether by production of a copy, duplicate copy of a copy, by oral evidence of the contents or in another form. The secondary evidence must be authenticated by foundational evidence that the alleged copy is in

fact a true copy of the original. It should be emphasized that the exceptions to the rule requiring primary evidence are designed to provide relief in a case where a party is genuinely unable to produce the original through no fault of that party.”

17. Therefore, person who produced secondary evidence before the court of law must explain the reason for non-production of its original. Mere production of certified copy of a document more than 30 years old, is not sufficient to raise a presumption under Section 90 of Evidence Act, regarding the genuineness or execution, although, the certified copy may be used to prove the contents of the document. Therefore, mere production of a certified copy of the registered document would not amount to prove the original deed by way of secondary evidence. The said principle of law has been discussed in the case of **Ramchandra Sakharam Mahajan Vs. Damodar Trimbak Tanksale** reported in **AIR 2007 SC 2577**. Secondary evidence can be accepted by the Court for the existence, condition or contents of a document if

the original has been lost or destroyed. In this regard the decision reported in **AIR 1979 SC 1567** in the case of **Aher Rama Gova Vs. State of Gujarat** may be relied upon. Therefore, though D.W.1 has produced the certified copy of sale deed, the contents of this document is not properly visible and read as well as D.W.1 has not completed the exercise of Sections 62 and 63 of Evidence Act before getting admission of Ex.D.1 sale deed.

18. An additional issue framed and asked with 7th defendant to prove that he is the owner in possession of item No.3 property. A short answer definitely required to this issue, because D.W.1 in the chief-examination has deposed that plaint item No.3 schedule property / written statement schedule property was sold by Madamma and her son Mahadeva under unregistered sale deed. However, the ownership of the person on unregistered sale deed shall not be treated as valid ownership, because as per Section 17 of Registration Act, if any property worth more than Rs.100/- is sold out, such sale deed must be

registered one, otherwise such document shall not be treated as valid document and there will be no sanctity of law on unregistered sale deed. It is further argued by the learned counsel for the defendant No.7 that, though the sale deed is registered one, the said sale deed can be treated as valid one, because the name of 7th defendant entered in the record of R.T.C. especially in column No.12. However, mere entry of name of person in R.T.C. is not a document of title and the entry made by revenue department is not binding to the Civil court, because duty of the Civil Court is to verify the documentary evidence as per the provision of Evidence Act only not as per the revenue process. Therefore, 7th defendant cannot be treated as owner of item No.3 property purchased through unregistered sale deed. Hence, **issue No.3** and **additional issue No.1** are answered **in the negative**.

19. **Issue No.4:** The plaintiff claims 1/16th share in the schedule properties. Firstly the relationship is not proved, secondly the plaintiffs have not produced

authenticated documents to prove that the schedule properties transferred by three generations. Therefore, the plaintiffs are not entitled to get share in the schedule properties. Hence, **issue No.4** is answered **in the negative**.

20. **Issue No.5:** In view of findings on above issues, this Court proceeds to pass the following:-

ORDER

Suit of the plaintiffs is dismissed with costs.

Draw decree accordingly.

(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 August 2026)

(Kamalaksha D.)

Senior Civil Judge, Nanjangud.

ANNEXURE

List of witnesses examined for the plaintiff :-

P.W.1 - Krishna

List of documents marked for the plaintiff :-

Ex.P.1 - Genealogy tree

Exs.P.2 to 12-	R.T.C. extracts
Exs.P.13 to 21-	R.T.C. extracts
Exs.P.22 & 23-	Mutation extracts
Ex.P.24 -	Certified copy of sale deed dated 14.05.1974
Ex.P.25 -	Certified copy of sale deed dated 15.05.1974
Ex.P.26 -	Death certificate of Chikkadasaiah
Exs.P.27 & 28-	Certified copies of handwritten R.T.Cs. of Sy.No.73/2A
Ex.P.29 -	Handwritten R.T.C. of Sy.No.73/2A
Ex.P.30 -	Patta Book
Ex.P.31 -	Building licence
Ex.P.32 -	Original Adhaar Card of Ravi C.
Ex.P.33 -	Original voter identity card of Chikkadasaiah

List of witnesses examined for the Defendants :-

D.W.1 -	Nagaraju
D.W.2 -	R.Ganesha

List of documents marked for the Defendants:-

Ex.D.1 -	Certified copy of sale deed dated 15.05.1974
Exs.D.2 & 3-	R.T.C. extracts
Exs.D.4 & 5-	Mutation extracts
Ex.D.6 -	Encumbrance certificate
Ex.D.7 -	Encumbrance certificate
Ex.D.8 -	Mortgage deed dated 08.10.1975
Ex.D.9 -	Endorsement dated 27.12.2008
Ex.D.10 -	R.T.C. extracts of Sy.No.73/2B
Ex.D.11 -	Copy of tax paid receipt
Ex.D.12 -	R.T.C. extract of Sy.No.73/2B
Ex.D.13 -	3 tax paid receipts

**Senior Civil Judge,
Nanjangud.**