

KAMS500006912025



**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 15th day of April 2026

O.S./213/2025

Plaintiff :
Maniamma,
57 years,
W/o D.Madaiah,
No.12, 1st Ward,
HSM Nagar, VTC,
Gundlupet.

(By Sri.B.A.Suresh Kumar, Adv.)

-V/s-

Defendants 1. Chinnathayamma,
50 years,
W/o late K.Mahadevaiah,

2. Sangeetha,
27 years,
D/o late K.Mahadevaiah,

3. Sagar,
25 years,
S/o late K.Mahadevaiah,

4. Sanjana,
23 years,
D/o late K.Mahadevaiah,

All are residing at
Hadinaru Village and Post,
Chikkaiahnachatra Hobli,
Nanjangud Taluk,
Mysuru District.

(exparte)

Date of institution of the suit	22.07.2025		
Nature of suit	Partition and separate possession		
Date of commencement of Trial	02.04.2026		
Date on which the judgment was pronounced	15.04.2026		
Duration of suit	Years 00	Months 08	Days 23

J U D G M E N T

The plaintiff filed the suit for partition and separate possession of her 1/2 share in the suit schedule properties.

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

The suit schedule properties bearing Sy.No.857/1 measures 6 guntas, Sy.No.857/4 measures 5 guntas, Sy.No.858 measures 18 guntas; Garden land bearing Sy.No.860 measures 23 guntas; land bearing Sy.No.547/1 measures 30 guntas and land bearing Sy.No.289/4 measures 35 guntas; vacant site bearing No.19, Janjar No.920 measures 30 x 40 feet and R.C.C. building measures 26x 23 feet are situated at Hadinaru Village of Nanjangud Taluk. One Sri. Ningaiah S/o Kyathaiah was the father of the plaintiff and father-in-law of 1st defendant and grand father of the defendants No.2 to 4 and Puttamadamma was the mother of the plaintiff and mother-in-law of 1st defendant and grand mother of the defendants No. 2 to 4. Ningaiah has two children i.e., K. Mahadevaiah (husband of the 1st defendant and father of the defendants No. 2 to 4) and Maniyamma (plaintiff). Ningaiah was managing the family as a kartha till his death and the khatha of the schedule properties was in the name of Ningaiah. He

performed the marriage of his children during his life time. The schedule properties are ancestral and joint family properties of the plaintiff and defendants. After the demise of Ningaiah, his wife was managing the family as a khartha and the khatha of the schedule properties are transferred to the name of his wife Puttamadamma. Puttamadamma was also dead by leaving behind the plaintiff and defendants as her only legal heirs. At that time K.Mahadevaiah (husband of the 1st defendant and father of the defendants No. 2 to 4) was met with an accident and he also passed away leaving behind his wife and children (defendants) as his only legal heirs. After the death of K.Mahadevaiah. khatha was transferred to the name of the plaintiff and defendants jointly as per MR.No.H33/2022-23, H45/2018-19 and H32/2022-23.

The defendants are wasting the income derived from the suit schedule properties as their whims and fancies. After knowing this the plaintiff questioned the same to the defendants. The defendants gave evasive answer and behaved that they are the only absolute owners of the

schedule properties. After that on last three months back the plaintiff demanded her half share in the suit schedule properties. The defendants have not come forward to effect the partition and to hand over the separate possession of her half share in the suit schedule properties. Then the plaintiff got issued the legal notice to the 1st defendant demanding to effect the partition of the suit schedule properties. The said notice was duly served, but it was not answered. Hence, the plaintiff has filed this suit.

3. Suit summons duly served upon the address of the defendants, but none of the defendants appeared. Hence, they have been placed exparte.

4. In order to get the relief, the plaintiff is examined as P.W.1 and got marked 8 documents as Exs.P.1 to 8.

5. Heard the learned counsel for the plaintiff. Perused the pleading, evidence and materials placed on record. The points that arise for consideration are:

- 1 Whether the plaintiff proves that the suit schedule properties are the ancestral and joint family properties?
- 2 Whether the plaintiff is entitled for mesne profits?
- 3 Whether the plaintiff is entitled to get half share in the suit schedule properties?
- 4 What order or decree?

6. The findings on the above points are as follows:

Points No.1 & 3 : In the affirmative

Point No.2 : In the negative

Point No.4 : As per final order for the following

REASONS

7. **POINT NOS.1 TO 3:** These points are taken up together for discussion to avoid repetition of facts and evidence.

8. P.W.1 in the chief-examination has reproduced the facts of the plaint saying that the suit schedule properties are the joint family properties of herself with defendants, the defendants have not come forward to make

partition of the schedule properties inspite of demand by the plaintiff; after the death of K.Mahadevaiah the husband of the 1st defendant and father of defendants No.2 to 4, the defendants started to waste the income of the suit schedule properties as their whims and fancies, therefore the plaintiff got issued notice to the defendants but the said notice was not answered. It is the burden upon the plaintiff to prove the nature of the schedule properties as ancestral and joint family properties.

9. The plaintiff has produced 8 documents. Ex.P.1 is the R.T.C. of Sy.No. 857/1 measures 6 guntas; Ex.P.2 is the R.T.C. of Sy.No.857/4 measures 5 guntas; Ex.P.3 is the R.T.C. of Sy.No.858 measures 18 guntas; Ex.P.4 is the R.T.C. of Sy.No.860 measures 23 guntas; Ex.P.5 is the R.T.C. extract of Sy.No.547/1 measures 30 guntas; Ex.P.6 is the R.T.C. of Sy.No.289/4 measures 35 guntas. All R.T.Cs. are standing in the name of plaintiff and defendants jointly. Ex.P.7 is the demand register extract of property bearing Janjar No.885; Ex.P.8 is the grant

certificate pertaining to item No.5 property. So, the produced documents clearly go to show that schedule properties are ancestral properties in the hands of the plaintiff and defendants. As mentioned above, the khatha of the schedule properties got changed in the name of plaintiff and defendants jointly after the death of Ningaiah and her wife Puttamadamma. Mahadevaiah was the husband of the 1st defendant and son of Ningaiah. The husband of the 1st defendant Mahadevaiah was also demised in accident. The allegation of the plaintiff that the defendants started to waste the income of the schedule properties after the death of Mahadevaiah, then only the plaintiff demanded for partition. But the defendants totally negated the demand of partition. There is no rebuttal evidence by the attempt of the defendants to nullify the contention especially to disbelieve the nature of the schedule properties as ancestral and joint family properties. The relationship of the plaintiff is also undisputed fact. Ningaiah has two children i.e., K.Mahadevaiah (husband of 1st defendant and father of

defendants No.2 to 4) and Maniyamma. As mentioned above, the relationship of the plaintiff is undisputed fact. Since the plaintiff and husband of the 1st defendant are the only children of Ningaiah, as legal heirs they are entitled for half share in the suit schedule properties. Hence, the plaintiff is entitled to get half share in the schedule properties.

10. The plaintiff also claimed mesne profits. Section 2(12) of C.P.C. which defines the term mesne profits. Mesne profits may be ordered if the possession of disputed property is in the hands of person who not belongs to joint family. But defendants are the family members of the plaintiff, any improvements made by the defendants cannot be termed as illegal possession upon disputed properties. Therefore, claim of the plaintiff for mesne profits is rejected. Hence, **points No.1 and 3** are answered **in the affirmative** and **point No.2 in the negative**.

11. **Point No.4:** In view of findings on above points, this Court proceeds to pass the following:-

ORDER

Suit of the plaintiff is partly decreed.
The plaintiff is entitled to get $\frac{1}{2}$ share in the
suit schedule properties. Suit of the plaintiff
regarding mesne profits is dismissed.

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
12.06.2026.

*(Dictated to the Stenographer, transcribed by her on computer, revised,
corrected and then pronounced by me in open Court on this the 15th day
of April 2026)*

(Kamalaksha D.)

Senior Civil Judge, Nanjangud.

ANNEXURE

List of witnesses examined for the plaintiff :-

P.W.1 - Maniyamma

List of documents marked for the plaintiff :-

Ex.P.1	-	R.T.C. extract of Sy.No.857/1
Ex.P.2	-	R.T.C. extract of Sy.No.857/4
Ex.P.3	-	R.T.C. extract of Sy.No.858
Ex.P.4	-	R.T.C. extract of Sy.No.860
Ex.P.5	-	R.T.C. extract of Sy.No.547/1
Ex.P.6	-	R.T.C. extract of Sy.No.289/4
Ex.P.7	-	Demand register extract
Ex.P.8	-	Grant certificate

List of witnesses examined for the Defendants :-

Nil

List of documents marked for the Defendants:-

Nil

**Senior Civil Judge,
Nanjangud.**