

KAMS510039972025



**IN THE COURT OF THE I ADDL., CIVIL JUDGE &  
J.M.F.C., AT NANJANGUD.**

**: PRESENT :**

**SMT. SARITHA KUMARI A.M.  
B.A., L.L.B.,  
I ADDL., CIVIL JUDGE & JMFC.,  
AT NANJANGUD**

**DATED THIS THE 25<sup>th</sup> DAY OF JUNE, 2026**

**O.S./418/2025**

**Plaintiffs:-**

**1. Rajamma,**  
W/o.Naganayaka,  
Aged about 52 years,

**2. Nagesha.N,**  
S/o.Naganayaka,  
Aged about 32 years,

**3. Kumari.H.N,**  
D/o.Naganayaka,  
W/o.Krishnanayaka,  
Aged about 29 years,

All are R/at.Taraganahalli village,  
Hullahalli hobli,  
Nanjangud Taluk.

**(By Sri. M K B- Adv.,)**

**-V/s-**

- Defendants:-**
- 1. Mani,**  
W/o.Late.Devarajanayaka,  
Aged about 50 years,
  - 2. Mahesha,**  
S/o.Late.Devarajanayaka ,  
Aged about 30 years,
  - 3. Siddaraju,**  
S/o.Late.Devarajanayaka ,  
Aged about 20 years,

All are R/at.Yaalehalli village,  
Hullahalli hobli,  
Nanjangud Taluk.

**( Defendants are placed Exparte)**

|                                                                                                      |                                            |
|------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Date of institution of the suit                                                                      | 12.08.2025                                 |
| Nature of the suit (suit on pronote, suit for declaration and possession suit for injunction, etc.,) | Partition and separate possession          |
| Date of the commencement of recording of the evidence                                                | 04.12.2025                                 |
| Date on which judgment was pronounced                                                                | 25.06.2026                                 |
| Total Duration                                                                                       | <u>Years/Months/Date</u><br>00    10    13 |

**( SARITHA KUMARI A.M)**  
**I ADDL, FIRST CIVIL JUDGE & JMFC.,**  
**Nanjangud**

**-:: J U D G M E N T ::-**

The plaintiffs have filed this suit against the defendants for the relief of partition and separate possession.

**2.The Brief facts of the plaintiff case are as follows;**

The plaintiffs pleaded that, the suit Schedule properties had originally belonged to one late Devanayaka who had two sons namely late Devarajanayaka and Naganayaka. During the lifetime of the said Devanayaka, his sons Naganayka and late Devarajanayaka were jointly cultivating the suit schedule properties. After the death of late Devanayaka, an oral partition took place between his sons Naganayaka and late Devarajanayaka, accordingly, both divided the suit schedule properties into two equal shares. Item No: 1 of the suit schedule property was allotted to late Devarajanayaka and Item No: 2 & 3 of the suit schedule properties were allotted to Naganayaka. The plaintiffs are the legal heirs of Naganayaka and the defendants are the legal heirs of late Devarajanayaka.

3. The plaintiffs further pleaded that, during the year 2005 the husband of the 1<sup>st</sup> plaintiff went to Bangalore along with plaintiffs to eke out his livelihood since their area of cultivation were hit by drought by giving yearly rent to the Item No: 2 and 3 of the suit schedule properties to one Kamanayaka for a sum of Rs. 6000/-. He stayed in Bangalore for several years, but he went missing in Bangalore in the

year 2013. Thereafter, the 1<sup>st</sup> plaintiff being his wife gave missing complaint before the Peenya Police Station, Bengaluru in Crime No: 285/2013. Despite several months, the husband of the 1<sup>st</sup> plaintiff could not be traced out, as such, the 1<sup>st</sup> plaintiff along with her children 2nd and 3rd plaintiff returned to their native place in Nanjangud and started cultivating the Item No: 2 & 3 of the suit schedule properties till date which were allotted to Naganayaka by way of oral partition. The efforts made by the 1<sup>st</sup> plaintiff to find the whereabouts of her husband Naganayaka did not yield any fruit. Finally, the 1<sup>st</sup> plaintiff received information from the Peenya Police, Bengaluru on 30/07/2024 to the effect that her missing complaint in Crime No: 284/2013 got closed as 'non traced cases'.

4. The plaintiffs further pleaded that, since the husband of the 1<sup>st</sup> plaintiff was not traced out by the police even after the lapse of more than 12 years, the plaintiffs, during the month of April 2025, approached the defendants and requested them to make partition deed and register the same among them as per the oral partition made between la Devarajanayaka and Naganayaka. But to the shock and surprise of plaintiffs, the 2nd and 3rd defendants refused to come forward to effect partition deed on the ground that their grandfather late Devanayaka in the year 19 Khathe before the revenue authorities favour of their father late Devarajanayaka and now khatha stood in his name.

Therefore, the defendants refused to give any share in the suit schedule properties to the plaintiffs.

5. The plaintiffs further pleaded that, immediately, approached the office of the Tahasildar, Nanjangud and obtained certified copy of the MR No: 36/90-91 and came to know about the fact that late Devarajanayaka, the father of the 2nd and 3rd defendants in the year 1990, changed the Khatha of the suit schedule properties in his favour which event happened behind the back of the father of the 2nd and 3rd defendant Naganayaka without his knowledge. Further, at that point of time, their grandfather late Devanayaka was suffering from stroke and unable to speak and move anywhere to give his consent to change Khatha in respect of the suit schedule properties excluding his another son Naganayaka. The father of the 2nd and 3rd defendant must have played fraud in taking the signature of late Devanayaka to change the Khatha in respect of the suit schedule properties in his favour which is not binding upon the plaintiffs.

6. The plaintiffs further pleaded that, the plaintiffs being the legal heirs of Naganayaka they are entitled to  $\frac{1}{2}$  share in respect of the suit schedule properties. Moreover, the plaintiffs are presently cultivating Item No: 2 and 3 of the suit schedule properties. But the defendants refused to come forward to execute partition deed as per the oral partition and refused to give any share in respect of the suit schedule

properties stating that their father was the sole owner of the suit schedule properties since his name was found in the RTC, thereby the defendants are trying to defraud the plaintiffs.

7. The plaintiffs further pleaded that, the plaintiffs in order to get the partition of the plaint schedule properties convened a panchayath on 25.06.2025 to partition the suit schedule properties according to their legitimate share. But the defendants did not agree to the words of either the plaintiffs or to the words of panchayath members. Hence, this suit.

8. After the service of suit summons, the defendants were called out absent. Hence, they are placed exparte.

9. Following points arises for consideration;

- 1. Whether the plaintiff proves that the suit properties are originally belongs to Devanayaka who is father in law of 1<sup>st</sup> plaintiff?**
- 2. Whether the plaintiff is entitled for the relief of partition and separate possession of  $\frac{1}{2}$  share in the suit properties?**
- 3. Whether the plaintiff proves that she is entitled for menses profits?**

#### 4. What order or decree?

10. Heard and perused the documents available on record.

11. The answers of the above points are as under ;

|                   |          |                                                              |
|-------------------|----------|--------------------------------------------------------------|
| <b>Point No.1</b> | <b>:</b> | <b><i>In the Negative</i></b>                                |
| <b>Point No.2</b> | <b>:</b> | <b><i>In the Negative</i></b>                                |
| <b>Point No.3</b> | <b>:</b> | <b><i>In the Negative</i></b>                                |
| <b>Point No.4</b> | <b>:</b> | <b><i>As per the final order<br/>for the following:-</i></b> |

#### **:-: R E A S O N S :-:**

12. **Point No.1 to 3:-** These four points are taken together as they are interconnected with each other and to avoid repetition of facts.

13. It is the case of the plaintiff that, the suit Schedule properties had originally belonged to one late Devanayaka who had two sons namely late Devarajanayaka and Naganayaka. During the lifetime of the said Devanayaka, his sons Naganayaka and late Devarajanayaka were jointly cultivating the suit schedule properties. After the death of late Devanayaka, an oral partition took place between his sons Naganayaka and late Devarajanayaka, accordingly, both divided the suit schedule properties into two equal shares. Item No: 1 of the suit schedule property was allotted to late Devarajanayaka and Item No: 2 & 3 of the suit

schedule properties were allotted to Naganayaka. The plaintiffs are the legal heirs of Naganayaka and the defendants are the legal heirs of late Devarajanayaka. During the year 2005 the husband of the 1<sup>st</sup> plaintiff went to Bangalore along with plaintiffs to eke out his livelihood since their area of cultivation were hit by drought by giving yearly rent to the Item No: 2 and 3 of the suit schedule properties to one Kamanayaka for a sum of Rs. 6000/-. He stayed in Bangalore for several years, but he went missing in Bangalore in the year 2013. Thereafter, the 1<sup>st</sup> plaintiff being his wife gave missing complaint before the Peenya Police Station, Bengaluru in Crime No: 285/2013. Despite several months, the husband of the 1<sup>st</sup> plaintiff could not be traced out, as such, the 1<sup>st</sup> plaintiff along with her children 2nd and 3rd plaintiff returned to their native place in Nanjangud and started cultivating the Item No: 2 & 3 of the suit schedule properties till date which were allotted to Naganayaka by way of oral partition. The efforts made by the 1<sup>st</sup> plaintiff to find the whereabouts of her husband Naganayaka did not yield any fruit. Finally, the 1<sup>st</sup> plaintiff received information from the Penya Police, Bengaluru on 30/07/2024 to the effect that her missing complaint in Crime No: 284/2013 got closed as 'non traced cases'. Further, during the month of April 2025, approached the defendants and requested them to make partition deed and register the same among them as per the oral partition made between la Devarajanayaka and Naganayaka. But to the shock and surprise of plaintiffs, the 2nd and 3rd defendants refused to come forward to effect

partition deed on the ground that their grandfather late Devanayaka in the year 19 Khathe before the revenue authorities favour of their father late Devarajanayaka and now khatha stood in his name. Therefore, the defendants refused to give any share in the suit schedule properties to the plaintiffs. To prove the same the plaintiff No.1 herself examined as PW1 and filed evidence affidavit be reiterating the plaint averments. 4 documents were marked at Ex.P1 to Ex. P6. Ex.P-1 is death certificate, Ex.P.2 is the G-tree, Ex.P.3 is the RTC in Sy.No.67/1, Ex.P.4 is the RTC in Sy.No.67/3a, Ex.P.5 is the RTC in Sy.No.67/3b and Ex.P6 is the information given by Peenya Police station.

14. Further, it is the specific case of the plaintiff that, the suit schedule properties originally belongs to one Devanayaka who is the father in law of the 1<sup>st</sup> plaintiff and the 1<sup>st</sup> defendant grandfather of the 2<sup>nd</sup> and 3<sup>rd</sup> plaintiff and 2<sup>nd</sup> and 3<sup>rd</sup> defendant. As per the say of the plaintiff there was a oral partition between the husband of the plaintiff and defendant. It settled position of law that, once the oral partition is admitted the parties cannot file a new suit to divide the same property again.

15. However, for the sake of arguments if the properties are not devided earlier, the plaintiff has to prove that the suit schedule properties belongs to his father in law by name Devanayaka. Ex.P3 to 5 R.T.C produced by the plaintiff is standing the name of husband of 1<sup>st</sup> defendant. There is no

document to show that the originally suit schedule properties belongs to Devanayaka. Further the plaintiff has produced Ex.P2 G-Tree to establish the relationship between the plaintiff and the defendants. Upon perusal of Ex.P2 Notarized G-tree it is a self serving testimony. Since Ex.P3 to Ex.P5 standing in the name of husband of the 1<sup>st</sup> defendant and the plaintiff has not established that, 1<sup>st</sup> plaintiff husband has inherited by his father as such the plaintiffs have inherited the same, this court is of the opinion that, the plaintiff is not entitled for the relief as claimed. Accordingly **Point No. 1 to 3** answered in the '**Negative**'

**16. Point No.4:-** In view of the above findings in point No.1 to 4, this court proceed to pass the following:

**:ORDER:**

***The suit of the plaintiff is  
hereby dismissed with cost.***

***Draw decree accordingly.***

(Dictated to the Steno, transcribed by her, transcript revised, corrected by me and then pronounced in the open court on this **25<sup>th</sup> day of June-2026**)

**(Saritha Kumari A.M.)**  
I Addl., Civil Judge & JMFC.,  
**Nanjangud**

**A N N E X U R E****List of witnesses examined on behalf of Plaintiff :-**

PW-1 : Rajamma

**List of documents marked on behalf of the Plaintiff:**

Ex.P-1 : Ex.P-1 is death certificate  
Ex.P.2 : G-tree  
Ex.P.3 : RTC in Sy.No.67/1  
Ex.P.4 : RTC in Sy.No.67/3a  
Ex.P.5 : RTC in Sy.No.67/3b  
Ex.P.6 : Information given by Peenya Police station.

**List of witnesses examined on behalf of Defendants:**

- Nil -

**List of documents marked on behalf of the Defendants:**

- Nil -

(Saritha Kumari A.M.)  
I Addl., Civil Judge & JMFC.,  
Nanjangud.