

KAMS510132192022



**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 07th DAY OF March, 2026

O.S./552/2022

Plaintiffs:- Mahadevamma,
W/o.Kalaiah, D/o.Theerthegowda,
Aged about 55 years,
R/at.Immavu village,
Chikkaianachatra hobli,
Nanjangud Talu.

(By Sri. M S R - Adv.,)

-V/s-

Defendants:- Thimmashetty,
S/o.Late.Thimmashetty,
Aged about 50 years,
R/at.Kempisiddanahundi village,
Chikkaianachatra hobli,
Nanjangud Taluk.

(Placed Ex-parte)

Date of institution of the suit	26.11.2022
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	18.12.2025
Date on which judgment was pronounced	07.03.2026
Total Duration	<u>Years/Months/Date</u> 03 03 11

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

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

The plaintiff has filed this suit against the defendant for the relief of partition and separate possession.

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

The plaintiff submits that, the plaintiff and the defendants are well known and both of them jointly purchased suit schedule property on 26/05/2014 for absolute Registered purchase deed and transferred the Khatha in their names and have joint possession of the suit

schedule property. The plaintiff and the defendants have been enjoying it jointly without any hindrance till now. Since the property in the suit is a joint purchase of the plaintiff and the defendants, the plaintiff and the defendants are the owners of this property.

3. She further contends that, the plaintiff with a view to living separately and with the intention of building a house in the suit property, had approached the defendant to have the suit schedule property divided into 1/2 shares in their respective names and the defendant had agreed to do so and later gave a negative reply. However, when the defendant approached the plaintiff again on 20/08/2022 and asked the plaintiff, the defendant had rejected the plaintiff's request.

4. She further contends that, the defendant had not given the plaintiff the Khatha of suit schedule property and consent. The plaintiff had informed that if the 1/2 share of the suit schedule property was transferred to his name, the government would grant the house in the plaintiff's name. For this reason, the plaintiff has filed this suit against the defendant seeking the relief of partition and separate possession that should belong to her. Hence, this suit.

5. After the service of suit summons, the defendant called out absent. Hence, she is placed Exparte.

6. Following points arises for consideration;

1. **Whether the plaintiff proves that the suit property was jointly purchased by plaintiff and defendant and they are in joint possession of the suit schedule property as on the date of filing of the suit ?**
2. **Whether the plaintiff is entitled for the relief of partition and separate possession of $\frac{1}{2}$ share in the suit property?**
3. **Whether the plaintiff is entitled for the relief as sought for ?**
4. **What order or decree?**

7. Heard and perused the documents available on record.

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

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

∴ REASONS ∴

9. **Point No.1 to 3**:- These 3 points are taken together as they are interconnected with each other and to avoid

repetition of facts.

10. It is the case of the plaintiff that, the plaintiff and the defendant are well known to each other. In view of this, the suit schedule property was purchased jointly as per the Registered Sale Deed dated 26.05.2014. From the date of purchase, the Plaintiff and the Defendant are in joint possession of the suit schedule property. In spite of the repeated demands and requests made by the Plaintiff for separate possession of the share of the Plaintiff, to the Defendant, but the said demands and requests went in vain. Hence this suit. To prove the same the plaintiff himself examined as PW1. 2 documents were marked at Ex.P1 & Ex. P2. Ex.P1 is the Original Sale deed dated:26.05.2014 and Ex.P-2 is RTC extract of Sy.No.215/5.

11. Further there are no evidence to show that the plaintiff is not having right over the suit schedule property. The materials placed on record shows that the plaintiff has filed the suit for exhausting of the remedies. Ex.P-1 is a registered sale deed not disputed by the defendants. It shows that the plaintiff and the defendants have jointly purchased the suit schedule property. Ex.P2 is the R.T.C stands in the name of the plaintiff and the defendant jointly. Further though the plaintiff issued legal notice to the defendants they have not replied for the same. Further, though suit summons was served to the defendant she has not appeared before this court and contested the case. Hence this court

inclined to draw adverse inference against the defendants.

12. At this juncture, it relevant to note the decision reported in **ILR 1998 KAR 2655 Shirajasab Husensab Exambi Vs. Ashok Panditappa Kaddimani**, it is held that,

“ Civil Procedure Act-1908 Under Order 9, Rule 6(1)(a), Order 7, Rule 11, Order 8, Rule 10, Order 17, Rule 3, it is permissible to the court to go into the merits and other factual allegation, when the defendant does not appear, in spite of service of suit summons? Held, court shall pass a decree as prayed for unless the relief itself is prima facie barred by limitation.”

13. The above decision aptly applicable to the case on hand. In the present case, the defendant did not appeared before this court, in spite of service of suit summons and the suit is not barred by limitation on prima-facie. Hence the plaintiff is entitle for the relief as sought for. Accordingly **Point No. 1 to 3** answered in the **Affirmative**.

14. Point No.4:- In view of the above findings in point No.1 to 3, this court proceed to pass the following:

:ORDER:

The suit of the plaintiff is decreed with costs.

It is declared that the plaintiff in entitled for partition and separate possession to the

extent of 1/2 share in the suit schedule property.

Office is directed to register a final decree proceedings under order 20 rule 18 of CPC based on preliminary decree after appeal period is over and keep the original file along with FDP proceedings

(Dictated to the Steno, transcribed by her, transcript revised, corrected by me and then pronounced in the open court on this **07th day of March-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 : Mahadevamma

List of documents marked on behalf of the Plaintiff:

Ex.P-1 : Original Sale deed dated:26.05.2014

Ex.P-2 : RTC extract of Sy.No.215/5

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.**