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IN THE COURT OF THE SENIOR CIVIL JUDGE AT
PERIYAPATNA

Present: Sri RAJU M., M.A., LL.B.,
Senior Civil Judge & JMFC,
Periyapatna.

Dated this, the 4th Day of June 2026

OS/69/2025

Plaintiff/s : Mamatha J. W/o Umesha H.B.,
D/o Late D.Jayarama, aged
about 40 years, R/o Krishnapura
Village, Periyapatna Town/Taluk,
Mysuru District.

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

V/s.

Defendant/s : 1. Thayamma W/o Late
D.Jayarama, aged about 60
years.

2. Prakasha J. S/o Late
D.Jayarama, aged about 42
years.

Both defendant No.1 and 2 are
R/o Echuru Village, Bettadapura
Hobli, Periyapatna Taluk, Mysuru
District.

3. Veena J. W/o Ramesh D. and D/o

Late D.Jayarama, aged about 38 years. R/o Ulugali Village, Suntikoppa Hobli, Somavarpete Taluk, Kodagu District.

4. Savitha W/o R.Srinivasa, aged about 45 years. R/o Channenahallikoppalu Village, Kasaba Hobli, Periyapatna Taluk, Mysuru District.

(D1 In person)

(D2 By Sri K.B.Sudeesha, Adv.)

(D3 By Sri P.M.Ramesh Kumar, Adv.)

(D4 By Sri K.R.Vijay, Adv.)

Date of Institution	:	04.04.2025.		
Nature of the Suit		For partition and separate possession.		
Date of judgment	:	04.06.2026		
Duration of the appeal	:	Years	Months	Days
		01	02	00

**Senior Civil Judge & JMFC
Periyapatna**

J U D G M E N T

The plaintiff has filed this suit for the relief of partition and separate possession of her $\frac{1}{4}$ th share in the suit

schedule properties by metes and bounds and to declare that the Sale Deed dt:31.02.2011 executed in favour of defendant No.4 by defendant No.1 and 3 in respect of suit schedule item No.3 and 4 are not binding her and for mesne profits and such other reliefs as the Court deems fit.

2. The case of the plaintiff is that:

The plaintiff and defendant No.2 and 3 are the children of defendant No.1 and Late Jayarama, they are the members of Hindu Joint Family . The suit schedule properties are the ancestral properties of plaintiff and defendant No.1 to 3 and they are in joint possession of the same. The father of plaintiff being Kartha of the family, looking after entire affairs of the family and he died on 05.08.2015. After the death of father of plaintiff, defendant No.1 and 2 are being Kartha of the joint family, looking after the affairs of the joint family. But, later defendants become spendthrifts, without giving any income of the joint family properties to the plaintiff, hence, the plaintiff demanded for partition and separate possession of the suit schedule properties from defendant No.1 to 3. The defendant No.1 to 3 without effected partition, postponing the same on one or the other pretext. When the plaintiff demanded defendant to effect

partition, they denied to effect partition. When the plaintiff obtained the documents from the concerned revenue office, she came to know about the alienation of item No.3 and 4 of the suit schedule properties in favour of defendant No.4 by the defendant No.1 and 3 along with her father, without the knowledge of the plaintiff, which is not binding on her as she is not the party to the alleged alienation, with an intention to deprive her right over the suit schedule properties. Hence, she constrained to file the suit.

3. After service of summons, defendant No.1 appeared in person and other defendants No.2 to 4 have appeared through their respective counsels, but not filed any written statements.

4. In view of above pleadings, the points that arise for my consideration are as under;

1. Whether the plaintiff proves that, the suit schedule properties are ancestral / joint family properties of herself and defendant No.1 to 3?
2. Whether the plaintiff proves that, registered sale deed dt;31.3.2011 executed by defendants No.1 to 3, in favour of defendant No.4 is not binding her?
3. Whether the plaintiff is entitled for partition and separate possession of $\frac{1}{4}$ th share in the suit schedule properties by metes and bounds as prayed?

4. What order or Decree?

5. To prove the case of the plaintiff, plaintiff got examined herself as PW1 and got marked the documents at Ex.P1 to 5 and closed her side. The defendants failed to cross-examine PW1.

6. Heard arguments.

7. Answer to the above points is as follows;

Point No.1 to 3: **In the Negative.**

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

REASONS

8. **Point No.1 to 3:** As these three points are interconnected they are taken up for common discussion to avoid repetition of the facts. As pleaded in the plaint, the plaintiff, defendant No.2 and 3 are the children of defendant No.1 and Late Jayarama D. The plaintiff to prove her relationship with the defendants, has produced notarised copy of genealogical tree, which is marked at Ex.P1. As per this document, plaintiff and defendant No.2 and 3 are the children of Late Jayarama D. and defendant No.1 Thayamma. The

relationship pleaded in the plaint is not disputed by the defendants. So there is no hurdle to accept the same as pleaded by the plaintiff in the plaint.

9. According to the plaintiff, the plaint schedule properties are joint family properties of herself and defendant No.1 to 3. In this regard, the plaintiff has produced 4 RTCs marked at Ex.P1 to 4. As per these documents, the property in item No.1 and 2 is entered in the name of defendant No.1, who got changed the khata by way of inheritance. The property in item No.3 &4 of the plaint schedule is entered in the name of defendant No.4, as mentioned in col.No.10 of the RTC, defendant No.4 got mutated the khata by virtue of Sale Deed . Ex.P5 is the Digitalized copy of Registered Sale Deed dt:31.03.2011, through which the defendant No.1 and 2 have sold the property in item No.3 &4 of the plaint schedule in favour of the defendant No.4. Thereafter, the defendant No.4 has also got changed the khata in her name, which is reflected in the RTCs.

10. The plaintiff did not plead who has acquired the suit schedule properties in her joint family. As mentioned in col.No.10 of the RTCs, the defendant No.1 got changed the

khata of suit item No.1 & 2 properties by way of inheritance. The defendant No.4 got changed the khata by way of registered Sale Deed. The plaintiff has not produced mutation extract to prove that defendant No.1 got changed the khata of the property in item No.1 and 2 after the death of her husband. In the absence of mutation or any other documents, it is not possible to believe that the defendant No.1 got changed the khata of the properties in item No.1 and 2, which belonged to the joint family of plaintiff. Section 14 of Hindu succession Act says as follows;

" 14. Property of a female Hindu to be her absolute property.—

[\(1\)](#)Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. Explanation.—In this sub-section, "property" includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.[\(2\)](#)Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under

a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property"

11. In view of the above provision of law it has to be considered that properties which standing in the name of defendant No.1 is her absolute properties. The plaintiff has no right to claim partition during life time of defendant No.1.

12. The plaintiff, in the plaint has pleaded that after the death of her father, the defendant No.1 and 2 were looking after the affairs of the joint family. As per the recitals of Ex.P5 Sale Deed defendant No.1 and 2 have sold the property in Item No.3 &4 to meet the marriage expenses of Veena-defendant No.3. As per Hindu customs, it is the duty of kartha of the family to perform the marriage of female members of the family. That means, the property in item No.3 & 4 plaint schedule has been sold by the Kartha of the family for legal necessity. It is well settled principle of law that, Kartha of the joint family has got every right to alienate the joint family property for the legal necessity of the family, that even otherwise, there is no document to prove that property in item No.3 & 4, purchased by the defendant No.4 originally belonged to joint family of plaintiff.

Of course, the defendants have not contested that suit, but the plaintiff has to discharge initial burden of proof that the suit schedule properties belonging to their joint family. There is no evidence to prove that the suit schedule properties belonging to the joint family of plaintiff and defendant No.1 to 3. For that reason the plaintiff can't question the registered sale deed dt:31.03.2011 executed by the defendants No1 & 2 in favour of defendant No.4. Therefore, I answer **point No.1 to 3 in the Negative.**

13. **Point No.4:** By virtue of above findings, this Court proceeds to pass the following:

ORDER

Suit of the plaintiff is dismissed.

Draw decree accordingly.

(Dictated to the Stenographer on computer, typed by her, corrected and initialed by me & then pronounced in open Court on 4th day of June 2026).

(Raju M.)
Senior Civil Judge
Periyapatna.

ANNEXURES

List of witnesses examined on behalf of plaintiff:-

PW1 : Mamatha J.

List of documents marked on behalf of Plaintiff:-

- Ex.P1 : Notarised copy of genealogical tree
Ex.P2 : 6 RTCs - Sy.No.11
Ex.P3 : 7 RTCs - Sy.No.13
Ex.P4 : RTCs - Sy.No.37/2 & 37/3
Ex.P5 : Digitalized copy of Registered Sale Deed
dt:31.03.2011

List of witnesses examined on behalf of defendants:-

NIL

List of documents marked on behalf of defendants:-

NIL

Senior Civil Judge
Periyapatna.