

KAMS600004292024



**IN THE COURT OF THE SENIOR CIVIL JUDGE AT
PERIYAPATNA**

**Present : Sri.Raju M.,
M.A., LL.B.,
Senior Civil Judge,
Periyapatna**

Dated: 2nd Day of June 2026

OS.No.96 of 2024

* * *

Plaintiffs;

- 1.** Smt.Roopa D/o Late Javaregowda,
W/o Harish, Age: 40 Years,
Both are R/at Boodanuru Village,
Ramanathapura Hobli,
Hassan District.
- 2.** Smt. Rekha D/o Late Javaregowda,
W/o Vasantha, Age: 38 years,
R/at Kiranguru Village, Kasaba Hobli,
Periyapatna Taluk, Mysore District,
- 3.** Smt. Ramya D/o Late Javaregowda
W/o Ajithkumar, Age: 36 years,
R/at Kothuru village, Srimangala Hobli,
Ponnampete Taluk, Kodagu District.
- 4.** Smt. Rashmi D/o Late Javaregowda.
W/o Mahadeva K.L., Age: 34 years
R/at Vinayaka Badavane, K.R.Nagar Town,
Mysore District.

(By Sri MCH, Adv.)

Versus

Defendants;

1. Kalamma W/o Late Thimmegowda,
Age: 90 years.
2. Varadegowda S/o Late Thimmegowda,
Age: 68 years.
3. Vinodha W/o Late Javaregowda,
Age: 51 years.
4. Gowramma D/o Late Thimmegowda,
W/o Late Chandregowda, Age: 64 years.
5. Govindegowda S/o Late Thimmegowda,
Age: 62 years.
6. Nagaraju @ Nagarajegowda S/o Late Thimmegowda,
Age: 60 years.
7. Lakshmegowda S/o Late Thimmegowda,
Age: 58 years.
8. Jayamma D/o Late Thimmegowda,
Age: 56 years, All are R/at, Bekya Village,
Kasaba Hobli, Periyapatna Taluk, Mysore Dist.

(D1 by Sri BS, Adv.

D6 by Sri CSH, Adv.

D2 to 5, 7 & 8 Ex parte)

Date of Institution	03.04.2024		
Nature of the Suit	Partition & Separate Possession and Mesne Profits		
Date of recording of evidence	02.07.2025		
Pronouncement of judgment	02.05.2026		
Total duration	YY 02	MM 00	DD 29

**Senior Civil Judge,
Periyapatna.**

J U D G M E N T

The plaintiffs have filed this suit for the relief of partition and separate possession of their 1/7th share in the suit schedule properties by metes and bounds and such other reliefs as the court deems fit.

2. The plaint averments in brief is as under;

Propositus Thimmegowda died leaving behind his wife i.e., defendant No.1 and his children i.e., defendant Nos 2, 4 to 8 & deceased Javaregowda (father of plaintiffs and husband of defendant No.3); they constituted joint family; suit properties are ancestral and joint family properties; there is no severance of joint status.

3. It is further averred that khatha is standing in the name of deceased Thimmegowda in respect of item No.7 of the plaint schedule and also in the name of defendant No.1 in respect of item Nos.1, 2 (which were obtained under the joint family nucleus) and 4 to 6 of the plaint schedule and joint khatha in respect of item No.3 of the

plaint schedule is standing in the name of defendant No.1 and defendant Nos.6 to 8 which were obtained behind the back of the plaintiffs. Plaintiffs and defendant-3 are having 1/7th share in the suit properties. Hence, the plaintiffs sought for their legitimate share in the suit schedule properties with defendant No.2-Varadegowda but he went on postponing the matter one or the other pretext. Therefore, they issued legal notice on 02.03.2024 which was duly served on the defendants which is of no use. Hence, the suit is filed.

4. After service of suit summons, the defendant No.1 and 6 appear before the Court and filed their respective written statement which are almost one and the same. Defendant Nos.2 to 5, 7 & 8 remained absent before the Court. Consequently, they were placed ex-parte.

5. Defendant Nos. 1 and 6 have admitted the relationship between the parties but denied the origin of

the suit schedule properties that they are the ancestral and joint family properties. Further they contended that item Nos.1 and 2 of the plaint schedule are the self acquired properties of the defendant No.1 which were purchased by her under a registered sale deed dated: 29.03.1996 and item Nos. 3 to 7 of the plaint schedule have been divided under an oral partition between the deceased Javaregowda (husband of defendant No.3 and father of plaintiffs) defendant No.2 and defendant Nos.5 to 7 during the year 1990 and they are in possession and enjoyment of their respective shares. Hence, the present suit is not maintainable. Therefore, among these grounds they prayed to dismiss the suit.

6. Following issues were framed;

- 1.** Whether plaintiffs prove that suit schedule properties are joint family properties for themselves and defendants?
- 2.** Whether plaintiff prove that they are entitled for 1/7th share each out of the suit schedule properties?

3. Whether plaintiff is entitled for the relief sought for?
4. What order or decree?

7. In order to prove their case, plaintiffs got examined plaintiff No.4-Smt.Rashmi as Pw.1 and got marked the documents at Ex.P1 to 12. In spite of given sufficient opportunity the defendants did not adduce evidence.

8. Heard arguments.

9. Answer to the above issues are as under;

<i>Issue No.1</i>	<i>: Partly in the Affirmative.</i>
<i>Issue No.2</i>	<i>: Partly in the Affirmative.</i>
<i>Issue No.3</i>	<i>: Partly in the Affirmative.</i>
<i>Issue No.4</i>	<i>: As per final order for the following;</i>

REASONS

10. **Issues No.1 & 2:** As these issues are interlinked they are taken together for common discussion to avoid repetition of facts. That by reiterating all the

averments made in the plaint, the plaintiff has filed her affidavit in lieu of chief-examination and the same is considered as Pw.1. As pleaded in the plaint, propositus Thimmegowda died leaving behind his wife i.e., defendant No.1 and his children i.e., defendant Nos 2, 4 to 8 & deceased Javaregowda (father of plaintiffs and husband of defendant No.3). Defendant Nos.1 and 6, in their respective written statement have admitted the relationship as pleaded in the plaint. The plaintiffs have also produced notarised copy of G-Tree marked at Ex.P1. The relationship pleaded in the plaint is mentioned in the G-Tree. However, the relationship between the plaintiffs and defendants is not in dispute. Hence the relationship of plaintiff and defendants as pleaded in the plaint is accepted.

11. According to the plaintiffs, the suit schedule properties originally belonged to their father Late Thimmegowda, in support of their contention the

plaintiffs have produced 6 RTCs which are marked at Ex.P1 to 7. As per the RTCs, the properties in item Nos.1 to 6 of the plaint schedule are standing in the name of defendant No.1 by name Kalamma w/o Thimmegowda who is the mother of defendant Nos. 2, 4 to 8 and deceased Javaregowda (father of plaintiffs and husband of defendant No.3). As mentioned in column No.10 of the RTCs , the defendant No.1 got changed the katha of the properties in item No.1 & 2 by way of sale, properties in item No.3 by way of partition and property in item No.4 to 6 through inheritance. Later property in item No.3 is in the joint names of defendants No.6 to8. There is no document to prove that 1st defendant has acquired the properties in item No. 1 to 6 through her father or her husband. As per Ex.P8 certified copy of demand register extract issued by the concerned village panchayath, the property at item No.7 of

the plaint schedule is standing in the name of propositus Thimmegowda who is none other than father of defendant Nos.2, 4 to 8 and deceased Javaregowda (father of plaintiffs and husband of defendant No.3).

12. During the course of her cross-examination of Pw.1 it has been suggested that properties in item No. 1 and 1& 2 are purchased by Kamma and Thimegowda but there is no document to prove that they have purchased that properties.

Section 133 of the Karnataka Land Revenue Act says that “**Presumption regarding entries in the records.—An entry in the Record of Rights and a certified entry in the Register of Mutations 1 [or in the patta book]1 shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.**”

Whereas the properties in item No.1 to 6 of the plaint schedule originally was in name of

defendant No.1, in view of the above provision it is to be presumed all those properties belonging to defendant No.1 only.

Section 14 Hindu Succession Act says that “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”

In 1987 (3) SCC 674 Gulwant Kaur & another V/s Mohinder Sing &other it is held as fallow;

“ The legal effect of [section 14\(1\)](#) would be that after the coming into operation of the Act there would be no property in respect of which it could be contended by anyone that a Hindu female is only a limited owner and not a full owner. (We are for the moment not concerned with the fact that sub-section(2) of [section 14](#) which provides that [Section 14\(1\)](#) will not prevent creating a restricted estate in favour of a

Hindu female either by gift or will or any instrument or decree of a civil court or award provided the very document creating title unto her confers a restricted estate on her). There is nothing in [Section 14](#) which supports the proposition that a Hindu female should be in actual physical possession or in constructive possession of any property on the date of the coming into operation of the Act. The expression 'proposed' has been used in the sense of having a right to the property or control over the property. The expression 'any property possessed by a Hindu female whether acquired before or after the commencement of the Act' on an analysis yields to the following interpretation:

- (1) Any property possessed by a Hindu female acquired before the commencement of the Act will be held by her as a full owner thereof and not as a limited owner.
- (2) Any property possessed by a Hindu female acquired after the commencement of the Act will be held as a full owner thereof and not as a limited owner."

13. In view of the above provision and citation it has to be considered that the properties in item No. 1 to 6 are the absolute properties of defendant No.1 and it is not the joint/ancestral properties of plaintiffs. Whereas the property in item No.7 is in the name of plaintiff's grand father Thimmegowda, after his death plaintiffs and defendants have succeeded as their joint family property. Therefore, issues No.1 & 2 is answered **partly in the Affirmative.**

14. **Issue No.3:** As held above only the property in item No.7 is the joint family property of plaintiffs and defendants. The defendants 2,4 to 8 and deceased Javaregowda are the children of late Thimmegowda. Hence the said property is divided into 7 share, and all of them are entitled for 1/7th share each. Since Javaraegowda is no more, his LRs -plaintiffs No. 1 to 4 and defendant No.3 are jointly entitled for 1/7th share. Therefore, issues No.3 is answered **partly in the Affirmative.**

14. Issue No.4: In view of findings on Issue Nos.1 to 3 this Court proceeds to pass the following;

ORDER

Suit is decreed in part.

Plaintiffs and defendants No.3 are jointly entitled for **1/7th** share in item No.7 of the suit schedule property by metes and bounds.

Defendant Nos.1, 2, 4 to 8 are entitled for 1/7th share in item No.7 of the suit schedule

property by metes and bounds.

The claim of plaintiffs in respect of the properties in item No. 1 to 6 is hereby rejected.

Draw preliminary decree accordingly.

(Dictated to Stenographer directly on computer, typed by her, corrected by and then pronounced in the open Court by me on this the 02.06.2026).

(Raju.M.)
Senior Civil Judge
Periyapatna

ANNEXURE

List of witnesses examined on behalf of plaintiff:

Pw.1 : Smt.Rashmi

List of documents marked on behalf of plaintiff:

Ex.P1	: Notarised copy of G-Tree
Ex.P2 to 7	: RTCs
Ex.P8	: Assessment Register Extract
Ex.P9	: Legal Notice
Ex.P10	: Postal Receipts
Ex.P11	: Postal Acknowledgments
Ex.P12	: Death Certificate

List of witnesses examined on behalf of defendants: Nil

List of documents marked on behalf of defendants: Nil

Senior Civil Judge
Periyapatna