

KAMS610001852024



**IN THE COURT OF THE PRL.CIVIL JUDGE AND JMFC.,
AT PERIYAPATNA.**

-: P R E S E N T :-

Sri.YOGESHA M.R., BA.LLB.,
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

OS.No.34/2024

*Dated this the **07th day of APRIL, 2026.***

PLAINTIFF/S : **1.** Manjula, 50 yrs,
D/o late Thammegowda,
R/at Boganahalli Village,
Ravanduru Hobli,
Periyapatna Taluk.

2. Savithramma, 48 yrs,
D/o late Thammegowda,
W/o Mahesha,
R/at Keremegalakoppalu
Village, Makodu Post,
Ravanduru Hobli,
Periyapatna Taluk.

[By Sri.CSH., Adv]

V/s.,

- DEFENDANT/S** : **1.** Nataraju, 51 yrs,
S/o late Thammegowda,
- 2.** Chandrashekhara, 51 yrs,
S/o late Thammegowda,
- 3.** Annayyaswamy, 45 yrs,
S/o late Thammegowda,

The defendant No.1 to 3 are
R/at Boganahalli Village,
Ravanduru Hobli,
Periyapatna Taluk.

- 4.** Shivanna, 62 yrs,
S/o late Lakkegowda,
R/at Keremegalakoppalu
Village, Makodu Post,
Ravanduru Hobli,
Periyapatna Taluk.
- 5.** Shekhara M.R, 36 yrs,
S/o Ramakrishna,
R/at Mantikoppalu Village,
Makodu Post,
Ravanduru Hobli,
Periyapatna Taluk.

[Dft-1 to 3 By **Sri.KJM.**, Adv]

[Dft-4 By **Sri.CPM.**, Adv]

[Dft-5 By **Sri.KS.**, Adv]

Date of Institution of suit : **22.01.2024**

Nature of the suit : **PARTITION AND SEPARATE
POSSESSION**

Date of commencement of
recording of evidence : **21.10.2024**

Date on which Judgment
was pronounced : **07.04.2026**

Total Duration : **YEAR/S MONTH/S DAY/S
02 02 17**

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

-: 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 in respect of the suit schedule properties.

2. The brief facts of the plaintiffs case is as under;

(a). One Thammegowda is married to one Puttamma. The said Thammegowda and Puttamma having 5 children i.e., plaintiffs and defendant No.1 to 3. The defendant No.4 & 5 are the purchasers of the item No.4 and 5 of the suit schedule properties. The suit schedule properties are the ancestral and joint family properties of the father of the plaintiffs and defendant No.1 to 3 by name Thammegowda. The said Thammegowda died on 18.01.2016 and his wife by name Puttamma died on 11.01.2021. Thereafter, the plaintiffs and defendant No.1 to 3 are in possession and enjoyment of the suit schedule properties.

(b). Thereafter, the plaintiffs learnt that, the father of the plaintiffs by name Thammegowda sold the item No.4 and 5 of the suit schedule property in favour of the

defendant No.4 under a Registered Sale Deed Dated 29.08.2015. without the knowledge and consent of the plaintiffs. Further, the defendant No.4 sold the item No.4 and 5 of the suit schedule properties in favour of the defendant No.5 under a Registered Sale Deed Dated 10.07.2023. The said sale deeds are not binding the rights of the plaintiffs over the item No.4 and 5 of the suit schedule properties. On 12.12.2023, the plaintiffs requested the defendant No.1 to 3 to effect partition in respect of the suit schedule properties. But, the defendant No.1 to 3 declined to effect the same. *Hence, this suit.*

3. After registration of suit; the summons were issued to the defendant No.1 to 5. The defendant No.1 to 5 appeared through their counsel and defendant No.4 and 5 filed written statement from their side by denying the

plaintiffs claim. The defendant No.1 to 3 have not filed the written statement from their side.

4. The Defendant No.4 in his written statement contended that:-

(a). The suit filed by the plaintiffs is not maintainable either under law or on facts. The suit is bad for non-inclusion of all joint family properties. The defendant No.4 purchased the item No.4 and 5 of the suit schedule properties from the father of the plaintiffs by name Thammegowda under a Registered Sale Deed Dated 29.08.2015. In the said manner, the defendant No.4 is the bonafide purchaser of the item No.4 and 5 of the suit schedule properties. The plaintiffs and defendant No.1 to 3 are not having any right and title over the same. Moreover, the suit is barred by law of limitation. *Hence prayed to dismiss the suit with exemplary cost.*

5. The Defendant No.5 in his written statement contended that:-

(a). The suit filed by the plaintiffs is not maintainable either under law or on facts. The suit is bad for non-inclusion of all joint family properties. The defendant No.5 purchased the item No.4 and 5 of the suit schedule properties from the defendant No.4 under a Registered Sale Deed Dated 16.06.2023. The defendant No.5 is the bonafide purchaser of the item No.4 and 5 of the suit schedule properties. Except the defendant No.5, nobody is having any title and possession over the same. *Hence prayed to dismiss the suit with exemplary cost.*

6. On the basis of the materials available on record, the following issues were framed.

ISSUES

1. *Whether the plaintiffs proves that, plaintiffs and defendant No.1 to 3 constitute a Undivided Joint family ?*

2. *Whether plaintiffs prove that, the suit schedule properties are the ancestral and joint family properties of the plaintiffs and defendant No.1 to 3 ?*
3. *Whether the defendant No.4 proves that, he is bonafide purchaser of the item No.4 and 5 of the suit schedule properties ?*
4. *Whether the defendant No.4 proves that, the suit is bad for non-inclusion of all ancestral and joint family properties ?*
5. *Whether the plaintiffs are entitled for the reliefs as claimed in the suit ?*
6. *What order or decree ?*

ADDITIONAL ISSUES

1. *Whether the defendant No.5 proves that, he is the bonafide purchaser of the item No.4 and 5 of the suit schedule properties ?*
2. *Whether the defendant No.5 proves that, the suit is bad for non-inclusion of all ancestral and joint family properties ?*

7. The plaintiffs in order to substantiate their case, not adduced any evidence from their side. Infact, this court on 22.08.2024 framed the issues and the case posted for plaintiffs evidence on 21.10.2024, 16.12.2024, 18.02.2025, 19.03.2025, 21.04.2025, 28.07.2025, 23.09.2025, 08.10.2025, 26.11.2025, 19.01.2026 and finally case posted for plaintiff evidence on 09.03.2026. On 09.03.2026 this court taken the plaintiffs evidence as Nil. Thereafter, the case posted for defendants evidence. The defendant No.5 examined himself as DW.1 and adduced as many as 10 documents as per Ex.D1 to D10. The plaintiffs neither lead any evidence from their side nor cross examined the DW.1. Hence, the cross of the DW.1 taken as Nil and the case posted for arguments.

8. Heard from both sides and perused the materials available on record.

9. On the basis of the materials available on record, this court answered the above issues are as under;

ISSUE NO.1	:	"NEGATIVE"
ISSUE NO.2	:	"NEGATIVE"
ISSUE NO.3	:	"AFFIRMATIVE"
ISSUE NO.4	:	"NEGATIVE"
ISSUE NO.5	:	"NEGATIVE"
ADDL.ISSUE NO.1	:	"AFFIRMATIVE"
ADDL.ISSUE NO.2	:	"NEGATIVE"
ISSUE NO.6	:	As per final order

for the following;

:- REASONS :-

ISSUE No.1 TO 3 & ADDL.ISSUE NO.1:-

10. Since this issues are interrelated to each other, they are taken up together in order to avoid the repetition of facts and better appreciation of evidence.

11. The case of plaintiffs is that, one Thammegowda is married to one Puttamma. The said Thammegowda and

Puttamma having 5 children i.e., plaintiffs and defendant No.1 to 3. The defendant No.4 & 5 are the purchasers of the item No.4 and 5 of the suit schedule properties. The suit schedule properties are the ancestral and joint family properties of the father of the plaintiffs and defendant No.1 to 3 by name Thammegowda. The said Thammegowda died on 18.01.2016 and his wife by name Puttamma died on 11.01.2021. Thereafter, the plaintiffs and defendant No.1 to 3 are in possession and enjoyment of the suit schedule properties. Thereafter, the plaintiffs learnt that, the father of the plaintiffs by name Thammegowda sold the item No.4 and 5 of the suit schedule property in favour of the defendant No.4 under a Registered Sale Deed Dated 29.08.2015. without the knowledge and consent of the plaintiffs. Further, the defendant No.4 sold the item No.4 and 5 of the suit schedule properties in favour of the defendant No.5 under a Registered Sale Deed Dated

10.07.2023. The said sale deeds are not binding the rights of the plaintiffs over the item No.4 and 5 of the suit schedule properties. On 12.12.2023, the plaintiffs requested the defendant No.1 to 3 to effect partition in respect of the suit schedule properties. But, the defendant No.1 to 3 declined to effect the same.

12. In support of the plaint averments, the plaintiff not adduced any oral and documentary evidence. Infact, this court on 22.08.2024 framed the issues and the case posted for plaintiffs evidence on 21.10.2024, 16.12.2024, 18.02.2025, 19.03.2025, 21.04.2025, 28.07.2025, 23.09.2025, 08.10.2025, 26.11.2025, 19.01.2026 and finally case posted for plaintiff evidence on 09.03.2026. On 09.03.2026 this court taken the plaintiffs evidence as Nil.

13. On the other hand, the contention of the defendant No.4 & 5 is that, the defendant No.4 purchased the item No.4 and 5 of the suit schedule properties from the father of the plaintiffs by name Thammegowda under a Registered Sale Deed Dated 29.08.2015. Thereafter, the defendant No.5 purchased the item No.4 and 5 of the suit schedule properties from the defendant No.4 under a Registered Sale Deed Dated 16.06.2023. The defendant No.5 is the bonafide purchaser of the item No.4 and 5 of the suit schedule properties. Except the defendant No.5, nobody is having any title and possession over the same.

14. The defendant No.5 examined himself as DW.1 and adduced as many as 10 documents as per Ex.D1 to D10. Ex.D1 Certified copy of Sale Deed Dated 16.06.2023; Ex.D2 RTC Extract in respect of Sy.No.83/13; Ex.D3 RTC Extract in respect of Sy.No.83/13; Ex.D4 RTC Extract in

respect of Sy.No.83/13; Ex.D5 RTC Extract in respect of Sy.No.84/25; Ex.D6 RTC Extract in respect of Sy.No.84/25; Ex.D7 RTC Extract in respect of Sy.No.84/25; Ex.D8 MR.No.H1/2023-2024; Ex.D9 Certified copy of Sale Deed Dated 29.08.2015; Ex.D10 Certified copy of Land Revenue tax clearance certificate.

15. The suit of the plaintiffs is for the relief of partition and separate possession in respect of the suit schedule properties. The plaintiffs have to prove that, the suit schedule properties are the ancestral and joint family properties of the father of the plaintiffs by name Thammegowda.

16. The burden of proving this issues were on the plaintiffs. The plaintiffs were required to lead oral and documentary evidence. However, in spite of sufficient opportunities to the plaintiffs, the plaintiffs have not lead

any evidence. The plaintiffs have to stand on their own legs, but the plaintiffs neither lead any evidence from their side nor cross examined the DW.1. Hence, the plaintiffs have failed to prove the plaint averments.

17. The Ex.D9 is the Registered Sale Deed Dated 29.08.2015 executed by the father of the plaintiffs by name Thammegowda in respect of the item No.4 and 5 of the suit schedule properties in favour of the defendant No.4 for a sale consideration of Rs.2,12,000/-. The Ex.D9 was duly registered before the Office of the Sub-Registrar, Periyapatna under Book No.I, document No.PYP-1-02387-2015-16, CD.No.PYPD193, Dated 29.08.2015.

18. Thereafter, the defendant No.4 sold the item No.4 and 5 of the suit schedule property in favour of the defendant No.5 under the Registered Sale Deed Dated 16.06.2023(Ex.D1) for a sale consideration of

Rs.4,55,000/-. The Ex.D1 was registered in the Book No.I, document No.PYP-1-01336-2023-24, Dated 10.07.2023.

19. As per the MR.No.H1/2023-2024(Ex.P8), the Katha of the item No.4 & 5 of the suit schedule properties were mutated in the name of the defendant No.5. The Ex.D2 to D7 are the RTC Extracts in respect of the Item No.4 and 5 of the suit schedule properties, which is standing in the name of the defendant No.5. Accordingly, as per Ex.D1 to D10, the defendant No.5 proved the contentions taken in the written statement and also proved that, the defendant No.4 & 5 are bonafide purchasers of the item No.4 & 5 of the suit schedule properties. The plaintiffs neither lead any evidence from their side nor cross examined the DW.1. Therefore, the plaintiffs are not entitle for the reliefs as sought in the plaint. *Hence, this court*

*answered the Issue No.1 & 2 in the **Negative** and Issue No.3 and Additional Issue No.1 in the **Affirmative**.*

ISSUE NO.4 & ADDL.ISSUE NO.2 :-

20. The defendant No.4 and 5 contended that, the suit is bad for non-inclusion of all the ancestral and joint family properties. In this regard, the defendant No.4 and 5 have not adduced any documentary evidence to prove that, the suit is bad for non-inclusion of all the ancestral and joint family properties. *Hence, this court answered the Issue No.4 and Additional Issue No.2 in the **Negative**.*

ISSUE NO.5 :-

21. The plaintiffs have failed to prove that, the suit schedule properties are the ancestral and joint family properties of the father of the plaintiffs by name Thammegowda. In spite of sufficient opportunities, the plaintiffs neither lead any evidence from their side nor cross

examined the DW.1. Therefore, the plaintiffs are failed to prove the plaint averments and they are not entitle for the reliefs as sought in the plaint. *Hence, this court answered the Issue No.5 in the **Negative**.*

ISSUE NO.6 :-

22. In view of the above discussions, this court proceeds to pass the following;

ORDER

The suit of the plaintiffs is
hereby dismissed with cost.

Draw decree accordingly.

*(Dictated to the Stenographer directly on the computer, typed and transcribed by him and corrected and then pronounced by me in the open Court on this the **07th day of APRIL, 2026.**)*

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

-: A N N E X U R E S :-**List Of Witnesses Examined On Behalf Of The Plaintiffs: Nil****List Of Documents Marked On Behalf Of The Plaintiffs : Nil****List Of Witnesses Examined On Behalf Of The Defendants:**

DW.1 : M.R.SHEKHARA

List Of Documents Marked On Behalf Of The Defendants:

Ex.D1 : Certified copy of Sale Deed Dated 16.06.2023

Ex.D2 : RTC Extract in respect of Sy.No.83/13

Ex.D3 : RTC Extract in respect of Sy.No.83/13

Ex.D4 : RTC Extract in respect of Sy.No.83/13

Ex.D5 : RTC Extract in respect of Sy.No.84/25

Ex.D6 : RTC Extract in respect of Sy.No.84/25

Ex.D7 : RTC Extract in respect of Sy.No.84/25

Ex.D8 : MR.No.H1/2023-2024

Ex.D9 : Certified copy of Sale Deed Dated 29.08.2015

Ex.D10 : Certified copy of Land Revenue tax clearance certificate.

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.