

KAMD600012432022



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE AND
JMFC AT PANDAVAPURA**

Dated this the 13th day of July 2023

PRESENT : SRI.M.MANJUNATHA. B.A.(L), LL.B.
Addl. Senior Civil Judge & JMFC, Pandavapura.

O.S.No.101/2022

- PLAINTIFFS :**
- 1) Smt.M.K.Sowbhagyamma,
D/o Late Kenchegowda,
Aged about 56 years.
Hindu, Agriculturist,
R/o Manikyanahalli Village,
Melukote Hobli,
Pandavapura Taluk.
 - 2) Smt.Dhanalakshmi,
D/o Late Kenchegowda,
Hindu, Agriculturst,
Aged about 53 years,
R/o Menagara Village,
Melukote Hobli,
Pandavapura Taluk.

(Sri.N.M.G., Advocate)

V/s

- DEFENDANTS :**
- 1) Smt.Ningamma,
W/o Late Kenchegowda,
Aged about 76 years.
 - 2) Boregowda,
S/o Late Kenchegowda,

Aged about 50 years,

Both are Hindu, Agriculturist,
R/o Manikyanahalli Village,
Melukote Hobli,
Pandavapura Taluk.

(Exparte)

Date of institution of the suit.	14.10.2022		
Nature of the suit	Partition		
Date of the commencement of recording evidence	12.07.2023		
Date on which the Judgment was pronounced	13.07.2023		
Total duration	Years 00	Months 08	Days 29

(M.MANJUNATHA)

Addl. Senior Civil Judge & JMFC,
Pandavapura.

JUDGMENT

Suit filed for relief of partition, separate possession and for mesne profits, with respect to properties mentioned below ;

SCHEDULE

1. Land bearing Sy.No.53/3, measuring 0.20 acres bounded on East to West : Road, North – Land of Ramegowda,

S/o Siddegowda and South : Land of Chikkahonnappana Boregowda.

2. Land bearing Sy.No.53/7, measuring 0.08 acres bounded on East – Gowdagere Road, West : Katte, North : Land of Kundegowdana Siddegowda and South : Land of Tholasi Ramegowda.
3. Land bearing Sy.No.57/2b, measuring 1.00 acres bounded on East : Nala, West : Land of Gadagappana Boregowda, North : Road and South : Land of Siddegowdana Ramegowda.
4. Land bearing Sy.No.53/3 measuring 0.20 acres bounded on East and West – Road, North : Land of Ramegowda, S/o Siddegowda and South : Land of Chikkahonnappana Boregowda.
5. Land bearing Sy.No.87/1C, measuring 0.25 acres bounded on East : land of Kempamma, West : Nala, North : land of Chikkanna and South : land of Kuri Javarappana Kenchegowda.
6. Land bearing Sy.No.70/7, measuring 0.18 acres bounded on East : land of Kuri Javarappana Ramegowd, West : Mayamma Ramegowda, North : land of Mottanana Mahesha and South : Land of Koppalu Narayana.
7. Land bearing Sy.No.60/7 measuring 0.31 acres bounded on East : Land of Ramegowda, S/o Thimmegowda, West : Nala, North : Land of Mallegowdana Muddegowda and South : Land of Kuri Javaregowdana Kempegowda.
8. Land bearing Sy.No.79/2, measuring 0.12 acres, land in Sy.No.79/3, measuring 0.10 guntas, land in Sy.No.79/6A, measuring 0.28 guntas, Land in Sy.No.79/6B, measuring 0.14 guntas, land in Sy.No.79/6C, measuring 0.10 guntas, land in Sy.No.79/6G, measuring 0.10 guntas, Sy.No.79/6D, measuring 0.02 guntas, Sy.No.79/6E, measuring 0.15 guntas, Sy.No.79/6F, measuring 0.12 guntas, in total 3.03 acres commonly bounded on East : Land of Mariswamygowda, West and South : Land of

Helvanana Ramanna and North : Land of Mayamma
Muddegowda.

9. House property bounded on East : Road, West : Galli and Tholasi Ramegowda, North : Galli and House of Thibbegowda and South : House of Ramegowda.

2. Brief facts of the plaintiffs' case are that themselves and 2nd defendant are the children of 1st defendant and Kenchegowda. Their father died long back leaving behind themselves and 1st defendant as his Class – I heirs. After death of their father, their mother i.e., 1st defendant was managing the affairs of the joint family and revenue documents of some properties were mutated in the name of 1st defendant. Schedule properties are ancestral properties of themselves and defendants. Defendant No.1 and 2 were cordial with them. From sometime, 1st defendant by colluding with 2nd defendant started to show hostile attitude towards them and started to create documents in the name of 2nd defendant, hence demands were made for allotment of their share in schedule properties and panchayath was also conveyed, but defendants declined to partition the schedule properties. They are entitle for 5/16th share in the schedule properties, hence suit.

3. Inspite of service of summons, defendants remained absent, hence they were placed exparte.

4. In order to prove the case of plaintiffs, 1st plaintiff examined as PW1 and relied on 16 documents, which marked as Ex.P1 to Ex.P16. Ex.P1 to Ex.P16 are computerized RTCs with respect to schedule properties.

5. Heard Sri.N.M.G., learned Counsel for plaintiffs. Perused the materials placed before Court.

6. Now the points arose for consideration are;

1. Does, plaintiffs prove that schedule properties are joint family properties of themselves and defendants and they are joint family members?
2. Does, each plaintiff is entitle for 5/16th share in the schedule properties?
3. What order or decree?

7. By considering submissions of learned Counsel and the materials placed before Court, above points are answered as below;

Point No.1 : In the Affirmative,

Point No.2 : In the Affirmative,

Point No.3 : As per final order, for the following;

REASONS

8. **Points No.1** :- In order to prove the case of plaintiffs, 1st plaintiff examined as PW1. PW1, in her examination-in-chief reiterated all the averments of plaint and relied on 16 documents, which were marked as Ex.P1 to Ex.P16. Ex.P1 to Ex.P16 are computerized RTCs relating to schedule properties. Computerized RTCs discloses that some of the schedule properties were mutated in the name of 1st defendant on the basis of Pouthi Varasu and some properties standing in the name of Kenchegowda. Computerized

RTCs discloses that schedule properties were inherited by 1st defendant from her husband and some properties are standing in the name of Kenchegowda. No contrary is placed to disbelieve revenue entries. It is well settled that revenue entries shall presumed to be true unless contrary is proved. The oral and documentary evidence of plaintiffs remains unchallenged and no impediment from believing the version of plaintiffs and Ex.P1 to Ex.P16. Plaintiffs established that themselves and defendants are joint family members and schedule properties are joint family properties, hence **this Point answered in the Affirmative.**

9. **Point No.2** :- As per pleadings, plaintiffs and 2nd defendant are the children of Kenchegowda and 1st defendant. Admittedly, Kenchegowda is no more. All the children of Kenchegowda are entitle for equal share in the schedule properties. 1st defendant is entitle for notional share in the properties of her husband. Each plaintiff is entitle for 5/16th share. 2Nd defendant entitle for 5/16th share. 1St defendant entitle for 1/16th share, hence **this Point answered in the Affirmative.**

10. By considering nature of suit and relation between the parties, no costs are awarded and no order as to passed for separate enquiry for the mesne profits, as plaintiffs pleaded that they are in joint possession of the plaint schedule properties. When they are in joint possession of the schedule properties, they are entitle for mesne profits.

11. **Point No.3** :- For the reasons assigned to Point No.1 and 2, resulted in following :-

ORDER

The suit of the plaintiffs is decreed.

Each, plaintiff is entitle for 5/16th share,
2nd defendant is entitle for 5/16th share and 1st
defendant is entitle for 1/16th share, in the
schedule properties.

No order as to the costs.

Draw preliminary decree accordingly.

(Dictated to the Stenographer, transcribed by him, transcript corrected and
the same is pronounced by me in the open Court on **13th July 2023**)

(M.MANJUNATHA)

Addl. Senior Civil Judge & JMFC,
Pandavapura.

ANNEXURE**List of witnesses examined for Plaintiffs :-**

PW1 : Sowbhagyamma.

List of documents exhibited for Plaintiffs :-

Ex.P1 to 16 : Computerized RTCs.

List of witnesses examined for the Defendants :-

NIL

List of documents exhibited for the Defendants :-

NIL

(M.MANJUNATHA)

Addl. Senior Civil Judge & JMFC,
Pandavapura.
