

**IN THE COURT OF THE I ADDL.SENIOR CIVIL JUDGE AND JMFC
AT RAICHUR**

PRESENT: Smt. Hema Pastapur,
B.A. LL.B.
I Addl. Sr. Civil Judge and JMFC, Raichur,
c/c Prl.Sr.Civil Judge and CJM, Raichur.

Dated this the 14th day of December 2021

O.S.No.158/2021

Plaintiffs:-

1. Smt. Nagamma,

D/o Late Naganna @ Nagappa,

W/o Pyiati Hanumanthu,

Aged about 52 years,

Occ :- Household,

R/o Mehaboob Nagar,

Telangana,
2. Mahadevamma,

D/o Late Naganna @ Nagappa,

W/o Earanna,

Aged about 48 years,

Occ :- Household,

R/o Hirapur village.

(By Smt. Earamma, Advocate)

-VS-

Defendant:- Kashimappa,
S/o Late Naganna @ Nagappa,
Aged about 45 years,
Occ:- Post Office Employee,
R/o Mahalaxmi Nilaya,
H.No.1-3-573/168,
Officers colony,
Near Rajamatha temple,
Raichur.

(Exparte)

Nature of the suit	Partition and Separate Possession and Rectification of ROR.
Date of institution of the suit	22.09.2019
Date of commencement of evidence	10.12.2021
Date of Judgment	14.12.2021

Total duration	Year/s	Month/s	Day/s
	00	02	22

JUDGMENT

That, the plaintiffs have filed the present suit for Partition and Separate Possession and Rectification of ROR.

The suit property is as under:-

Land bearing Sy.No.42, measuring 13 acres 11 guntas situated at Mirjapur village, Tq and Dist. Raichur.

Facts of the case in nutshell are as under :-

1. That, one Shri. Naganna @ Nagappa was the father of the plaintiffs and defendant and he died long back leaving behind them as his legal heirs. That, the said Naganna @ Nagappa was not keeping good health and was finding difficulty in managing the suit land and hence, he got mutated the suit land nominally in the name of the defendant. That, after the death of the said Nagappa @ Naganna the suit land was devolved upon the plaintiffs and defendant. That, the plaintiffs in the month of July came to know that the defendant taking undue advantage of his name appearing in ROR's in respect of suit land is making hectic preparation to sell the suit land. That, when the plaintiffs have demanded the defendant for allotting their

legitimate share in the suit land, he refused for the same. Hence, this suit.

2. That, on suit summons being served, the defendant remained absent, hence he was placed as Exparte.

3. That, I have heard the arguments and perused the materials placed on record. That, the following points arise for My consideration and determination:-

1. Whether the plaintiffs have proved that, the suit property is the joint family property of themselves and the defendant?

2. Whether the plaintiffs are entitled for partition and separate possession in the suit land?

3. What order or decree?

4. That, the plaintiffs to substantiate their aforesaid contentions have got examined the plaintiff No.2 as PW1 and got marked the documents at EXs.P1 to 9 and closed their side.

5. That, My answer to the aforesaid points are as under:

Point No.1 :- In the AFFIRMATIVE

Point No.2 :- In the AFFIRMATIVE

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

REASONS

6. Points No.1 and 2:- That, as these points are interlinked, I have taken them for joint discussion to avoid repetition of facts.

That, the plaintiffs have contended that after the death of their said father the suit land was devolved upon them and the defendant as their said father was not keeping good health and finding difficulty in managing the suit land, he nominally got mutated the suit land in the name of the defendant. That, the plaintiffs have further contended that in the month of July they came to know that the defendant taking undue advantage of his name appearing in the ROR's in respect of suit is making hectic preparation to sell the suit land and when they have demanded the defendant for effecting the partition in suit land, he refused for the same. That, the PW1 in her chief affidavit has reiterated the said facts and got marked the documents at EXs.P1 to 9. That, the EXs.P1, 2 and 5 are the RTC's pertaining to the suit land. That, the said documents depicts that the suit land was standing in the name of said Naganna. That, the EX.P9 is the certified copy of M.R.No.18. That, the contents of said document reveals that on basis of decree passed in O.S.No.93/1/62 and Order of Collector, the name of the said Nagappa had been

mutated in respect of suit land. That, the EXs.P3, 4, 6 to 8 are the certified copies of the RTC's pertaining to the suit land. That, the contents of said documents reveals that the said land is standing in the name of defendant.

7. That, from the pleadings of the plaintiffs and oral and documentary evidence adduced by the plaintiffs it clearly appears that the suit land is the joint family property of the plaintiffs and defendant and till today partition has not taken place in suit land between the parties. That, the oral and documentary evidence adduced by the plaintiffs has remained unchallenged. That, in absence of any contra evidence, there is no reason to disbelieve the contentions of the plaintiffs. Hence, without much discussion I hold that, the plaintiffs have established that the suit land is the joint family property of themselves and the defendant and they are entitled for share in the suit land. Hence, points No.1 and 2 are answered in the **AFFIRMATIVE.**

8. **Point No.3:-** That, as discussed on points No.1 and 2, I proceed to pass the following:-

ORDER

That, the suit of the plaintiffs is decreed with costs.

That, the plaintiffs are entitled for 2/3rd share in the suit land.

That, draw the preliminary decree accordingly.

(Directly dictated to the Stenographer on Computer, corrected by me and then pronounced in the open court on this the 14th day of December 2021)

(Hema Pastapur)
I Addl. Senior Civil Judge and JMFC,
c/c Prl.Senior Civil Judge and CJM,
Raichur.

ANNEXURE

List of witnesses examined on behalf of plaintiffs :-

PW1 : Mahadevamma D/o Naganna

List of documents marked on behalf of plaintiffs:-

EXs.P1 to 8: Certified copies of RTC and

EX.P9 : Certified copy of M.R.

List of witnesses examined on behalf of defendant:-

-Nil-

List of documents marked on behalf of defendant:-

-Nil-

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Raichur,
c/c Prl.Senior Civil Judge and CJM,
Raichur.