

KARC200018762024



Presented on : 02-08-2024
Registered on : 02-08-2024
Decided on : 26-03-2026
Duration :01 yrs, 07 months, 24 days

IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
DEVADURGA

Present:
Sri.Suresh Annappa Savadi.,B.A., LLB (SPL),
Senior Civil Judge & JMFC, Devadurga.

R.A.No.20/2024

DATED : THIS THE 26th DAY OF MARCH 2026

Appellants:

1. Yankappa S/o. Late Giriyappa Kyadigera,
Age: 30years, Occ: Agriculture
2. Govindappa S/o. Tippanna Kyadigera,
Age: 65 years, Occ:Agriculture,
3. Shreedevappa S/o. Tippanna Kyadigera,
Age: 56 years, Occ:Agriculture,
all are R/o. Teggihal village, Tq: Devadurga,
Dist: Raichur

(By Sri.H.L.C. Advocate)

--V/s--

Respondents :

1. Smt.Paddamma W/o. Ramayya D/o.Ranganna
Age: 48 years, Occ: Household,
R/o. Teggihal village, Tq: Devadurga,
Dist: Raichur.



2. Smt.Laxmi W/o.Somayya D/o. Ranganna,
Age: 45 years, Occ: Household,
R/o. Teggihal village, Tq: Devadurga,
Dist: Raichur.
3. Smt.Govindamma W/o.Late Giriyappa
Kyadigera, Age: 65 years, Occ: Household,
R/o. Manasagal village, Tq: Devadurga,
Dist: Raichur.
4. Tippanna S/o. Late Late Giriyappa Kyadigera,
Age: 35 years, Occ: Agriculture,
R/o. Manasagal village, Tq: Devadurga,
Dist: Raichur.
5. Smt.Balamma W/o. Ranganna D/o. Giriyappa,
Age: 40 years, Occ: Household,
R/o. Manasagal village, Tq: Devadurga,
Dist: Raichur.
6. Nandappa S/o. Tippanna Kyadigera,
Age: 58 years, Occ: Agriculture,
R/o. Teggihal village, Tq: Devadurga,
Dist: Raichur.

(R.1 & 2 by Sri.R.K. Advocate)
(R.3 death)
(R.4 Absent)
(R.5 Exparte)
(R.6 A.P.Advocate)

Nature of the judgment and decree appealed against	:	The appeal against judgment and decree passed by Civil Judge and J.M.F.C. Devadurga in O.S. No.39/2017, dated 26.02.2024.
Date of institution of appeal	:	02.08.2024
Date on which judgment	:	



was pronounced		26.03.2026		
Duration of the appeal	:	Year 01	Month/s 07	Day/s 24

JUDGMENT

The appellants have preferred this appeal by challenging the judgment and decree passed by the Civil Judge and JMFC, Devadurga in OS.No.39/2017 dated 26.02.2024.

2. For convenience sake the ranks of the parties are referred as per their ranks appeared in the trial court.

3) The Grounds of the appeal:

The defendant contended that the issue No.1 was wrongly answered by the trial court. The Ex.P.1 to 12 clearly shows that land is not existing in the form of single patty and it is not in joint possession of plaintiffs and defendants. The said documents establish that the suit land is not in single patty. As per evidence of PW.2 who is a respectable person of the Teggihal village clearly stated that there is a partition with knowledge of parents of plaintiffs and plaintiffs. As per partition, there are 04 strips and separately the defendants are cultivating their separate strips. The plaintiffs are not residing at Teggihal village so plaintiffs are out of possession. So the finding of the trial court is erroneous. Further contended that the PW.1 and 2 clearly deposes that suit is suffers from non-joinder of necessary parties and non-inclusion of other



properties. Hence trial court ought to have dismissed the suit. But the trial could not considered this valuable evidence and decreed the suit which is contrary to the law. Further, contended that suit is barred by limitation. As per the evidence 20 years back itself partition had taken place now plaintiff filed the suit for partition which is barred by limitation. The trial court has not considered the limitation point. The finding of the trial court on Issue No.1 and 2 are not as per pleadings, oral and documentary evidences. The trial court additional Issue No.1 to 3 mainly on the basis of evidence of respondent. But it was suit of the plaintiffs who has to prove their suit by producing consistent oral and documentary evidence. But as per the oral and documentary evidence of the plaintiffs, the plaintiffs have totally failed to prove their suit. The suit of the plaintiffs could have dismissed, but the trial court decreed the suit. The suit of the plaintiff suffers from non-joinder of necessary parties and non-inclusion of properties. Even then the trial court decreed the suit. The trial court wrongly gave finding on additional Issue No.1 to 3. Hence, with these set of contentions prays to set aside the judgment of the trial court and dismiss the suit of the plaintiff.

4. The respondent appeared through counsel and supported the judgment of the trial court.

5. As per the trial courts records the plaintiff filed this suit for partition and separate possession against the defendants stating that the suit schedule properties are the ancestral and joint family



properties. No partition had taken place. Behind the back of the plaintiffs the defendants trying to alienate the properties. For that the plaintiffs approached the defendants and requested for partition for which the defendants have denied the share of the plaintiffs. Hence the plaintiff filed this suit.

6. On the other hand the defendants after service of summons appeared through their respective counsels and filed their written statements and they have contented that in the year 1987 partition had taken place with consents of the plaintiffs, but not in accordance with law the suit is barred by law of limitation. Hence prays to dismiss the suit.

7. After considering the rival pleadings of the parties the trial court framed the issues and additional issues:

1. Whether the plaintiffs prove that the suit schedule properties are the ancestral and joint family properties of themselves and defendants ?
2. Whether the plaintiffs are entitled for the relief as sought for ?
3. What order or decree ?

ADDITIONAL ISSUE

1. Whether the defendant no.3, 5 and 7 prove that the plaintiffs are not furnished the correct family pedigree ?



2. Whether the defendant no.3, 5 and 7 prove that 30 years back partition took place between them and plaintiffs in the suit properties ?
3. Whether the defendant no.3, 5 and 7 prove that suit of the plaintiffs is barred by law of limitation ?
8. To prove the case, the plaintiff entered into witness box, examined herself as PW.1 and produced in all 13 documents which were marked as Ex.P.1 to 13 and in supported of her case one witness examined as PW.2 and closed the side. The defendants did not entered into witness box.
9. After hearing the arguments the trial court passed the judgment on 13.07.2022 and decreed the suit of the plaintiff with costs. Being aggrieved by the same the appeal preferred on the above grounds.
10. After institution of the appeal, the notice issued to the respondent. The respondent appeared through counsel. After hearing the both sides and delay was condoned. The trial court records were received.
11. After careful reading of the appeal memo, grounds of the appeal memo, grounds of the arguments and trial court records. The following points arises for my consideration: -



1. Whether appellants have made out sufficient grounds that the interference of this court is required in the judgment of the trial court ?

2. What order?

12. My findings on the above points are as under:

Point No.1 : In the negative.

Point No.2 : As per final order for
the following:-

R E A S O N S

13. **Point No.1:-** As per the records, the plaintiffs have filed the suit for partition and separate possession in respect of their legitimate share against the defendants in respect of suit property, as the suit schedule properties are the ancestral and joint family properties of the plaintiffs and defendants. Further, the defendants appeared through their counsel and filed their written statement and they have contented that in the year 1987 partition had taken place with consents of the plaintiffs, but not in accordance with law the suit is barred by law of limitation.

14. The appellant relied the evidence of PW.2. The PW-2 in the cross examination stated that partition had taken place about 20 years back and they are separated and independently cultivating their respective portion of suit land and there are four strips in the suit land. In the cross-examination the defendants suggested to the PW-1 that at the time of marriage, the gold and silver were



given to the plaintiffs towards their share. But to prove the same, the defendants did not place any material evidence and also did not adduce any evidence. Though the said contentions were taken by the defendants, but to prove the said contentions the defendants no.3, 5 and 7 was not entered into witness box. Moreover, the defendants have taken contention that the suit is bad for non-joinder of necessary parties. But did not plead in the written statement that who all are the necessary parties and also to prove the same the defendants did not place any material evidence. The plaintiff in the family tree mentioned as Lakshmana died without marriage. In the cross examination of PW.1 deposed that- she had no knowledge whether Lachamanna is alive or not. She doesn't know the name of the wife of the Lachamanna. The plaintiff suggested that Rangamma is the wife of the Lachamanna for that she deposed that she heard about the same. In this regard no pleadings of the defendants. The plaintiffs cross examined the DW-1. The defendant suggested that Lachamanna died without marriage for that he deposed the truth. In the evidence came that the Lakshmana and his wife were dead. Hence as on the date of filing of the suit the Lachamanna branch was not alive. Hence, considering the entire material, this court is of the opinion that the defendants have failed to prove their contentions that already partition had taken place. As per the evidence the defendants have given gold and silver to plaintiffs towards their share. But the defendants failed to prove the same. Considering the entire material the trial court decreed the suit of the plaintiffs. Hence this



court is of the opinion that the appellants failed to made out grounds to interfere the judgment of the trial court. Hence under such circumstances this court answered the point No.1 in the negative.

15. **Point No.2:** For the reasons stated in the above point no.1, this court proceed to pass the following;

O R D E R

The appeal filed by the appellants
U/o.41 rule 1 R/w.Sec.96 of C.P.C is hereby
dismissed with costs.

The judgment and decree of the trial
court in OS.No.39/2017 dated 26.02.2024 is
confirmed.

Draw decree accordingly.

Office is directed to send the trial court
records along with copy of this judgment
immediately.

(Dictated to the stenographer transcribed, computerized and printout taken by him, corrected and then pronounced by me in the open court on this the 26th day of March 2026).

(Sri.Suresh Annappa Savadi)
Senior Civil Judge and JMFC,
Devadurga.