

IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,
AT SINDHANUR

Present :- SRI. LAKSHMIKANTH JANAKIRAM MISKIN, M.A., LL.M.
Senior Civil Judge & J.M.F.C.
Sindhanur.

O. S. No.64/2025

Dated: 01st day of April 2025

- PLAINTIFFS: -**
1. Sri. Jangama Basaiah S/o late Amarayya,
Age: 75 years, Occ: Agri.,
R/o Kuruvalli village,
Tq: Siruguppa, Dist: Ballari.
 2. Sri. Jangama Shekaraiah S/o late Amarayya,
Age: 65 years, Occ: Agri.,
R/o Mittesuguru village,
Tq: Siruguppa, Dist: Ballari.

(Represented by: Sri.U.C.S., Advocate)

- Vs -

- DEFENDANTS:-**
1. Sri.Basavalingaiah Swamy S/o Late. Eshwarayya,
Age: 74 years, Occ: Agri.,
R/o Beereshwara Nagar, Hagaluru village,
Tq: Siruguppa, Dist: Ballari.
 2. Sri. A.Vasu Sai Krishna S/o A.B.Rayadu,
Age: 56 years, R/o House No.57, 10th ward,
BC Colony, Gajjalli village,
Holagunda Manadalam, Tq: Aluru,
Dist: Karnul, Andhrapradesh.
 3. Sri. G.Anataseyana Reddy S/o B.Sudhakar Reddy,
Age: 52 years, R/o Near Eshwara Temple,
Kuntanal village, Kowtalam Mandalam,
Tq: Adoni, Dist: Karnul.

(D-1 to 3 placed exparte)

Date of Institution of the suit : 21-02-2025
Nature of the suit : Partition.

Date of the commencement
of recording of evidence : 27-03-2025

Date on which the Judgment
is pronounced : 01-04-2025

Total duration : Year/s Month/s Day/s
00 01 11

J U D G M E N T

This suit filed by the plaintiff, for the relief of partition of their 1/3rd share in the suit A and B properties by metes and bounds by granting each 1/3rd shares to the plaintiffs, for appointment of a commissioner to divide the suit A and B properties and the Irre-revocable GPA under document No.SRG-1-01-01493/2011-12 dated 25-06-2011 are not binding on their share and cost of the suit.

2. The plaint in brief:

It is averred in the plaint that the originally suit schedule property belongs to the Government of Karnataka, the "Land Tribunal" has granted the 'A' suit schedule property jointly in favor of the plaintiff No.1 and 2 and their father's elder brother's wife namely Dodda basamma W/o. Eshwarayya she is non other then mother of the defendant no. 1 under "Prayanikarige Niru hakuva Inam". The "Certificate Of Registration Of A Tenant As An Occupant Of Land" herewith produced for kind perusal of this court. After that the ROR of the suit

'A' schedule property jointly stands in the name of plaintiffs and their aunty (ದೊಡ್ಡಮ್ಮ) namely Dodda basamma W/o. Eshwarayya till today. The Dodda Basamma W/o. Eshwarayya died intestate on: 27/12/2008 at Hagaluru Village, Siruguppa Taluku, Ballari Dist. leaving behind defendant No.1 as her legal heir. The defendant No.1 is the son of the said Dodda Basamma. Since from the grant and till today the plaintiffs and defendant no.1 having peaceful possession, enjoyment and cultivation over the suit 'A' schedule property without making any kind of partition as the ROR of the suit property till today stands in the names of plaintiffs and mother of the defendant no.1 jointly. The plaintiff No.2 is maintained the joint family affairs and properties and he purchased suit 'B' Schedule property from joint family earned funds. In the month of Dec-2024 some family dispute the plaintiffs and defendant no.1 are not ready to continuing in the joint family, the plaintiffs approached to the defendant No.1 and requested and demanded to make partition and allot their separate shares over the suit 'A' and 'B' schedule properties. The defendant No.1 not gave satisfactory answer. Hence the plaintiff, applied for revenue records and E.C. in respect of the suit 'A' property, after obtaining E.C. and register deeds, the plaintiffs surprisingly came to know that, the defendant no. 2 illegally created register illegal irre-revocable General power of Attorney vide Siruguppa sub register office document no vide registered document No.SRG-4-00191/2010-11 dated: 03/08/2010. Then after the plaintiffs came to know tha: Registered Sale Deed dated: 07/03/2011 under vide registered document No. SRG-1-01-01493/2011-12 dated 25/06/2011 executed illegally by defendant No.2 in favor of defendant No.3 in respect of the suit 'A' schedule property. Till today there is no partition among the plaintiffs and defendant No. 1. the Plaintiffs and defendant No.1 being Hindus and they are governed by Hindu Law and they come under Hindu succession Act. The plaintiffs and the defendant No.1 are got equal rights over the suit 'A' and 'B' schedule properties

and each are entitled their equal shares. The plaintiffs are unknown about the said illegal transactions made by they are no consent has been given for alleged sale deeds as stated supra and defendant No.2 do not have any full right, title and interest over the suit 'A' schedule property to alienate to the defendant no.3. The defendant no. 2 and 3 are not in possession in the suit 'A' schedule property and they have any right, title and interest in the suit 'A' schedule property. The plaintiffs are peace full possession and enjoyment in the suit 'A' schedule property and they are paying regular tax before the revenue authority till today. Therefore, the above said register irre revocable GPA and register sale Deed are not binding on the plaintiffs and those documents are sham and nominal documents, unlawful documents and the plaintiffs are not a parties to those unlawful documents nor they have given consent to those unlawful documents. Hence those illegal documents are not binding on the plaintiffs. There is no partition has held in between the plaintiffs and defendant No.1 till today. Therefore the suit properties are continuously flowing without partition and plaintiffs and defendant No.1 are in joint and constructive possession over the suit 'A' and 'B' schedule properties. Hence there is no alternative find by the plaintiffs except filing of this suit, hence this suit for partition. Therefore, the plaintiff constrained to file the suit.

3. On issuance of summons, defendants are not appeared before the court and placed them exparte.

4. In order to prove his case, plaintiff himself examined as PW-1 and got marked Ex.P1 to Ex.P37 and closed his side evidence.

5. Heard the arguments.

6. On the basis of above pleadings, the following points arise for my consideration are as under:

POINTS

- 1) Whether the plaintiffs proves that, the suit schedule properties are joint family properties of their and defendants?
- 2) Whether the plaintiffs are entitled for 1/3rd each shares as prayed in the plaint.
- 3) What order or decree?

7. I, perused the entire case papers and documents, My answer to the above points are as follows:

Point No.1 : In the Affirmative.

Point No.2 : In the Affirmative.

Point No.3 : As per final Order for the following:

REASONS.

8. **POINT No.1 & 2:** It is the specific case of the plaintiffs that, the plaintiffs and defendants are the members of Hindu Undivided Joint Family recognized by Hindu Mitakshara Law. The plaintiffs and defendants are the manager of Hindu un-divided joint family and suit properties stands in their names. The plaintiffs are claimed that the suit property is ancestral property. In support of their contention they produced RTC extract as per Ex.P6 to Ex.P34, reveals that originally the suit properties belongs to mother of the defendant No.1. The Ex.P1 to Ex.P37 clearly indicates that suit properties are ancestral properties of defendants and the plaintiffs acquired the interest in the above properties.

9. However, the defendants have appeared through their counsels before court but not contested the suit the plaintiff claim. The defendant dis not contest the suit therefor an adverse inference has to be drawn against them. The pleadings and documents produced by the plaintiffs remained un-rebutted and unchallenged till today. Therefore this court having no alternative has to presume that the case of the plaintiffs is true and correct. Therefore, this court opinion that the oral evidence coupled with documentary evidence shows that the suit properties are joint family properties of plaintiffs and defendants, accordingly point No.1 answered in affirmative.

10. **POINT No.3:-** In view of foregoing reasons and answered Point No.1 and 2 as above, I pass the following:

ORDER.

Suit of the plaintiff is decreed as follows;

Plaintiff No.1 and 2 are entitled for 1/3rd share each over the suit schedule 'A' land.

The defendant No.1 is entitled for 1/3rd share each over the suit schedule 'A' land.

The plaintiffs together entitled to enjoy suit schedule 'B' movable property perpetually.

The registered irrevocable General Power of Attorney vide Doc.No.SRG-4-00191/2010-11 dated 03-08-2010 and Registered Sale deed dated 07.03.2011 vide Registered Document No.SRG-01-01493/2011-12 dated 25-06-2011 are declared as null and void and not binding on the rights of the plaintiffs.

Issue directions to the Sub-register Siruguppa to make necessary entries in concerned registers declaring registered irrevocable General Power of Attorney vide Doc.No.SRG-4-00191/2010-11 dated 03-08-2010 and Registered Sale deed dated 07.03.2011 vide Registered Document No.SRG-01-01493/2011-12 dated 25-06-2011 as null and void.

Draw preliminary decree accordingly

In view of the directions issued in the case of Kattukandi Edathil Kishnana and Anor Vs. Kattukandi Edathil Vaisan and Others by the Hon'ble Supreme Court of India in Civil Appeal No.4606-6407/2010 dated 1306.2022 and Circular No.DJA-1/105 dated 21.10.2022 issued by the Hon'ble High Court of Karnataka. When the preliminary decree is passed in respect of the partition suit, the court has to initiate final decree proceedings as per Order XX Rule 18 of CPC suo motu. Hence, office is directed to register a Final Decree Proceedings under Order XX Rule 18 of CPC, case based on the preliminary decree passed in this suit and keep a certified copy of the preliminary decree passed of this suit in the said F.D.P. proceedings. Both parties are directed to appear in the FDP case (to be registered) on 15.04.2025 without waiting notice.

(Dictated to the Stenographer directly on computer, computerized by her and corrected and then pronounced by me in open court on 01st day of April 2025)

(Lakshmikanth J Miskin)
Senior Civil Judge & JMFC.,
Sindhanur.

ANNEXURE

1. List of witnesses examined on behalf of plaintiff.

PW-1 : Jangama Shekaraiah

2. List of documents marked on behalf of plaintiffs.

Ex.P1	:	Death certificate
Ex.P2	:	C/c of the register GPA
Ex.P3	:	C/c of register sale deed
Ex.P4	:	Survey settlement register copy
Ex.P5	:	Mutation order
Ex.P6 to 34	:	29 RORs
Ex.P35	:	Vehicle RC
Ex.P36	:	Two photos
Ex.P37	:	CD

3. List of witnesses examined on behalf of defendants:

----- NIL -----

4. List of documents marked on behalf of defendants:

----- NIL -----

(Lakshmikanth J Miskin)
Senior Civil Judge & JMFC.,
Sindhanur.