

KARN020004762014



Presented on : 21-03-2014

Registered on : 21-03-2014

Decided on : 26-03-2026

Duration : 12 Years, 00 Months, 05 days

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE AND C.J.M., AT RAMANAGARA.**

PRESENT:- SRI. LOKESHA B.A., LL.B.,
Prl.Senior Civil Judge and CJM,
Ramanagara.

DATED:- THIS THE 26th DAY OF MARCH, 2026

ORIGINAL SUIT No.173/2014

Plaintiff : 1. Smt. Jayalakshamma
W/o late Ramaiah,
D/o late Moodlaiah,
aged about 60 years,
R/at Mankunda Village,
Malur Hobli,
Channapatna Taluk,
Ramanagara District.

Since dead by her Lrs,

1(a) Smt. Shivamma
D/o late Jayalakshamma
@ Jayamma,
No.936, 5 feet road,
2nd Phase, Yelahanka New
Town,
Bengaluru-64



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Since dead by her Lrs.,

1(a) Sri. Lohith M.V.
S/o late Shivamma,
aged about 32 years,

1(b) Sri. Pramesh V.S.
S/o late Shivamma,
aged about 36 years,

Both are R/at
R/at No.936, 5 feet road,
2nd Phase, Yelahanka New
Town, Bengaluru-64.

1(b) Sri. Kumar
S/o Jayalakshamma
@ Jayamma,
R/at No.936, 5 feet road,
2nd Phase, Yelahanka New
Town, Bengaluru-64.

2. Smt. Puttamma
W/o Veerabhadraiah,
and D/o late Moodlaiah,
aged about 50 years,

3. Smt. Jayamma
W/o Siddalingamurthy,
and D/o late Moodlaiah,
aged about 47 years,

Both are R/at



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Bannikuppe Village,
Bidadadi Hobli,
Ramanagara Taluk,
Ramanagara District.

**(Plt No.1 and her Lrs., by Sri.
H.J. Adv.,
Plt No.2 and 3 by Sri. B.S.K.
Adv.,)**

-V/s-

- Defendants :1. Sri. Venkataramanaiah
S/o late Moodlaiah,
aged about 65 years,
Since dead by her Lrs.,
- 1(a) Smt. Showbhagya
D/o late Venkataramanaiah,.
W/o Madaiah,
aged about 48 years,
R/at Basavanapura Village,
Mynahalli Post,
Kasaba Hobli,
Ramanagara Taluk and
District.
- 1(b) Smt. Mangalamma
D/o late Venkataramanaiah,
W/o Gurulinga,
aged about 46 years,
R/at Anjanapura Village
and Post,
Kylancha Hobli,



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Ramanagara Taluk
and District.

- 1(c) Sri. Hanumanthaiah
S/o late Venkataramanaiah,
aged about 45 years,
R/at Lakshmipura Village,
Kootagal Hobli,
Ramanagara Taluk
and District.
- 1(d) Smt. Revamma
W/o late Venkataramanaiah,
aged about 60 years,
R/at Lakshmipura Village,
Kootagal Hobli,
Ramanagara Taluk
and District.
2. Smt. Savithramma
W/o late Krishnappa,
aged about 38 years,
3. Sri. Srinivasa
S/o late Krishnappa,
aged about 26 years,
4. Smt. Kusuma
D/o late Krishnappa,
W/o Puttaswamay,
aged about 30 years,
R/at Kengeri Hobli,
Bangalore South Taluk.



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5. Sri. Shivanna
S/o late Moodlaiah,
aged about 45 years,

The Defendants No.1 to 3
and 5 R/at Lakshmipura
Village, Kootagal Hobli,
Ramanagara Taluk,
Ramanagara District.

**(D-1 by Sri. C.D.J. Adv.,
D2, 3, 5 Sri. A.R.G. Adv.,
D4- Exparte
D1(a) to (d): Absent)**

* * *

J U D G M E N T

This suit is filed by the Plaintiffs against the Defendants for the relief of partition and separate possession. During pendency of the suit, deceased 1st plaintiff Jayalakshamma died and her only daughter Shivamma was brought on record. Subsequently, the said Shivamma also died and her legal heirs were brought on record.



2. The case of the Plaintiffs in brief runs as follows:-

That one original propositor by name Moodlaiah and his wife Chikkamma had 6 children viz., 1st defendant Venkataramnaiah, 1st plaintiff Jayalakshamma, 2nd plaintiff Puttamma, 3rd Plaintiff Jayamma and 2nd defendant husband Krishnappa and 5th defendant Shivanna. The suit properties are ancestral and joint family properties of Moodlaiah. On death of said Moodlaiah and his wife Chikkamma, plaintiffs and defendants continued to be in joint possession and enjoyment of suit properties as joint family members without any division. That suit properties are ancestral and joint family properties of plaintiffs and defendants. Recently, the plaintiffs came to know that the defendants colluding with each other have created the partition deed. On came to know about the alleged partition,



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the plaintiffs demanded the defendants for division of the properties and they have also issued notice on 27.12.2013 to the defendants seeking partition and they have replied to the notice that there was already Panchayath Parikath on 02.12.1982 during lifetime of Moodlaiah, who himself had divided the properties between his sons. Left with no option the plaintiffs come up with the present suit and prayed for decree the suit.

3. On the other hand, though the defendant No.1 had appeared before this court and filed his written statement and conceded to decree the suit stating that there is no partition in the family of the Plaintiffs and Defendants No.2, 3 and 5 have created alleged partition deed. During pendency of the suit 1st Defendant Venkataramanaiah died and his legal heirs brought on record. But, they have not chosen to file written statement.



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4. The Defendant No.2, 3 and 5 have appeared before this court through their counsel and they have filed their common written statement admitting the relationship between plaintiffs and defendants. They have also admitted the fact that originally suit properties were ancestral properties of Moodlaiah. They have denied the rest of the allegation made in the plaint. These defendants have pleaded that, Moodlaiah during his lifetime he himself had divided the properties under the Panchayath Parikath dated:02.12.1982 among his three sons viz., Venkatramanaiah, Krishnappa and Shivanna, khata has been changed to the name of Venkatramanaiah, Krishnappa and Shivanna by virtue of the partition deed and they have been in separate possession of these properties allotted to their share. Hence, they have sought for dismissal of suit. On the other hand, the 4th defendant has been placed ex-parte.



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5. In support of the case of the plaintiffs, 3rd plaintiff Smt. Jayamma examined herself as PW.1 and she has got marked in all 20 documents as Exhibit P1 to Exhibit P20. On the other hand, the Defendant No.3 Sri. Srinivasamurthy examined himself as DW.1 and he has got marked in all 53 documents as Exhibit D1 to Exhibit D53 and one witness by name Maranaika examined as DW.2. Thereafter, case was posted for arguments.

6. Based on the pleadings the following Issues have been framed by this court:-

ISSUES

1. *Whether the Plaintiffs prove that they are the joint family members and the suit schedule properties are the ancestral and joint family properties of themselves and the defendants as on the date of suit?*
2. *Whether the defendant No.1 proves that the defendants No.2, 3 and 5 on playing fraud on him have obtained his*



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signature to the reply notice and further they forged his signature in the alleged panchayath palu parikath?

3. *Whether the defendants No.2, 3 and 5 prove that during the life time of Sri. Moodlaiah he had executed a panchayath parikath on 02.12.1982 divided the suit schedule properties between his sons as pleaded?*
4. *Whether the plaintiffs are entitled for partition and separate possession of suit schedule properties in terms sought?*
5. *Whether the defendant No.1 is entitled for share in the suit schedule properties as sought?*
6. *What Order or Decree?*

7. I have heard the arguments of the learned counsel for the Plaintiffs No.2 and 3 and Defendant No.1, 2, 3 and 5, have perused the materials on record.

8. My findings to the above Points are as under:-

Issue No.1	:	In the Negative;
Issue No.2	:	In the Negative;



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Issue No.3	:	In the Affirmative;
Issue No.4 & 5	:	In the Negative;
Issue No.6	:	As per the final order for the following:-

R E A S O N S

9. Issue No.1 to 3 :-As these Issues are interconnected and they require common discussion and appreciation of evidence, they are taken together for consideration. In order to establish the case of the plaintiffs, the 3rd plaintiff Smt. Jayamma files her affidavit by examining herself as PW.1. PW.1 files her chief affidavit by reiterating the averments of the plaint. The plaintiffs have produced in all 20 documents as Exhibit P1 to 20. Before going to discuss the fact in issue, it is necessary to note the admitted facts and itself to narrow down the controversy between the parties to the suit. It is not in dispute that Moodlaiah and his wife Chikkamma had 6 children. 1st defendant Venkatraanaiah, deceased 1st plaintiff



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Jayalakshamma, 2nd plaintiff Puttamma, 3rd plaintiff Smt. Jayamma, 2nd defendant husband late Krishnappa and 5th defendant Shivanna. It is also not in dispute that, the defendant No.2 Savithramma is the wife of Krishnappa. The Defendant No.3 and 4 are the children of Krishnappa and 2nd defendant Savithramma. It is also not in dispute that the plaintiffs and defendants are Hindus and they are governed by Hindu Mithakshara School of Law. It is also not in dispute that originally suit properties were ancestral properties of Moodlaiah, who had acquired the same from his ancestors.

10. The case of the plaintiffs that still the suit properties are in joint possession and enjoyment of the plaintiffs and defendants and there is no partition and the defendant No.2, 3 and 5 have created the alleged partition deed. Per contra the case of the plaintiffs has been resisted



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by the defendant No.1, 2, 3 and 5 contending that Moodlaiah during his lifetime he himself has divided the properties among his three sons viz., Venkatramanaiah and Krishnappa, Shivanna and the joint family status has been severed in the year 1982 itself by virtue of the Panchayath Parikath.

11. I have perused the documents produced by the plaintiffs. Exhibit P1 is the genealogical tree which has not been disputed by the defendants. Exhibit P2 is the RTC of Survey No.165 for the year 2013-14. As per this Exhibit P2, the Katha of 19 gunts each stands in the name of Venkataramanaiah and Katha of 29 gunthas reflects in the name of Krishnamurthy S/o Hanumanarasaiah. Ex.P3 is the RTC extract in respect of Sy.No.165. As per Exhibit P3, Katha of 29 guntas reflects in the name of Nagesh S/o Hanumanarasaiah. Exhibit P4 is the RTC of Survey No.165,



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from which it evident that Katha of 19 guntas reflects in the name of 2nd defendant Savithramma. As per Exhibit P5, Katha of 20 guntas of land in Survey No.10/1 measuring 20 guntas reflects in the name of 1st defendant Venkatramanaiah and Katha of 19 guntas reflects in the name of Krishnappa and Katha of 19 guntas reflects in the name of Shivanna, 2nd defendant and katha has been changed into their name vide MRNo.16/1997-98 by virtue of the partition. Exhibit P6 is RTC of Survey No. 38/8, from which it evident the fact that Katha of 27 guntas in Survey No.39/8 reflects in the name of Venkatramanaiah 1st defendant and Katha of 26 guntas reflects in the name of 2nd defendant husband Krishnappa and 27 guntas in the name of his brother Shivanna and their name has came to be mutated in the revenue records vide M.R.No.16/1997-98 by virtue of the partition.



12. Exhibit P7 is the very important document which is the copy of the mutation register extract, in which the name of Venkataramanaiah, Krishnappa and Shivanna was ordered to be mutated in the revenue records vide M.R.No.16/1997-98 from the name of their father, as if there is a partition as A and B and C scheduledar. It is true that if this Exhibit P7 is also corroborates and consistent the case of the defendants rather the case of the plaintiffs. Exhibit P9 is the demand register extract. I have carefully perused Exhibit P9. This Exhibit P9 contains only property number as 319. It does not reflect the actual extent and boundary as described in the suit Item No.3. In other words, Exhibit P9 does not contain the extent and boundary of the suit Item No.3. So, Exhibit P9 is the only demand register extract which is not the katha document. In the absence of convincing other documentary corroborative evidence, Exhibit P9 cannot be said to be the conclusive proof with



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respect to the identity of the suit Item No.3. Exhibit P8 is the copy of the mutation extract. Exhibit P10 to 12 are tax paid receipts. Exhibit P13 is legal notice. Exhibit P14 is also copy of the legal notice. Exhibit P15 is the postal receipt. Exhibit P16 to 18 are the postal acknowledgments. Exhibit P19 is copy of the legal notice. These are the documents produced by the plaintiffs.

13. It is to be noted that in the written statement, Defendant No.2, 3 and 5 have categorically admitted the fact that originally suit properties were the ancestral properties of the Moodlaiah. So, when the defendant No.2, 3 to 5 have admitted the nature of the suit properties as ancestral properties of Moodlaiah, it is for them to establish the prior partition during lifetime of Moodlaiah among his three sons. It is well recognized principle of law that there is an essential distinction between burden of proof and onus of proof.



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Burden of proof lies upon a person who has to prove the fact and which never shifts. Onus of proof shifts. Such a shifting of onus is a continuous process in evaluation of evidence. In the case on hand, onus would shift on defendant No.2, 3 and 5 to prove the prior partition.

14. Keeping this principle of law in my mind, now I advert to the documents produced by the defendants No.2, 3 and 5. The defendants No.2, 3 and 5 are heavily relied upon Exhibit D42 which is the unregistered Panchayath Parikath. Exhibit D42 has been marked only on payment of stamp duty and penalty by the defendants No.2, 3 and 5 as Exhibit D42. I have carefully perused Exhibit D42. As per researchers of Exhibit D42, during lifetime of Moodlaiah, he had divided his properties among his three sons viz., Venkatramanaiah, Krishnappa and Shivanna and as per this partition deed, Venkatramanaiah was the 'A' Scheduler



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and he was allotted with 20 guntas each in Survey No.165 and 10/2 and one house property and backyard as 'A' Schedular. It evident from Exhibit D42 that when Krishnappa, husband of defendant No.2 was the 'B' Schedular, he was also allotted with 19 guntas of land each in Survey No.165 and 10/2 and he was also allotted with one house property and backyard. As per recitals of Exhibit D42, the Defendant No.5 Shivanna was allotted with 20 guntas of land each in Survey No.165 and 10/2 and also 27 guntas in Survey No.39. So, as per the recitals of Exhibit D42, Moodlaiah himself has divided his properties among his three sons, as there was a difference arose in the family of these three sons. It is to be noted that Exhibit P7 copy of the mutation register extract prove the fact that the katha has not been changed to the name of the 3 sons of Moodlaiah based on the partition deed in the year 1982 itself. But as per Exhibit P7 the name of the 3 sons of



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Moodlaiah was ordered to be mutated in the revenue records based on the partition only in the year 1996. I have also perused the revenue records produced by the defendants. It is true that as per these revenue records produced at Exhibit D2 to D45, which are the RTC extracts with respect to suit Item No.1 and 2, it evident that the name of Shivanna and Krishnappa was ordered to be mutated in the revenue records, vide M.R.No.16/1997-98 by virtue of the partition.

15. I have also perused the oral testimony of PW.1. PW.1 has been cross examined by the learned counsel for the defendants No.2, 3 and 5. Now I have carefully scanned the oral testimony of PW.1. She deposes that they have filed the suit with respect to Survey No.10/1, 165, 138/8 and one house property. She deposes that she does not know the extent and Survey number of the suit properties. When a specific suggestion is posed to PW.1 that after her marriage



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her brothers are living separately. PW.1 replied that at the time of her marriage they were living jointly but now her brothers are living separately since 30 years. PW.1 categorically deposes that since 20 years the plaintiffs are not allowed by the defendants for cultivation of the suit properties, prior to that they were cultivating the suit properties jointly. A further question is posed to PW.1 by the learned counsel for the defendants that after death of her father, his three sons have been separately cultivating the properties, PW.1 replied that her brother Venkatramanaiah had refused to give share to the plaintiffs. It is significant to note that PW.1 has categorically admitted that after the death of her father her three brothers were separately cultivating the properties and still the defendants have cultivating the suit properties separately.

16. It is significant to note that a further suggestion is



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also made to PW.1 by the learned counsel for the defendants with respect to the alleged Panchayath Parikath dated:02.12.1982 among her three brothers. But PW.1 replied that she is not the signatory to the partition deed and the partition deed is executed after filing of the suit. But, in the plaint itself the plaintiffs pleaded about the alleged panchayath parikath among the defendants. A specific question is posed to PW.1 that based on the partition deed dated 02.12.1982, khata has been separately changed in the name of her brothers. It has not been specifically denied by PW.1.

17. Keeping in view the oral testimony of PW.1, I also advert to the oral testimony of DW.1 Sri. Srinivasmurthy, who is the 3rd defendant in this suit. He has been cross-examined by the learned counsel for the plaintiffs. Exhibit D1 to 53 are produced by DW.1 Sreenivasamurthy. He admitted that the



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suit schedule properties were being cultivated jointly enjoyed by his father and his uncle. He also admitted that in the year 2013 that is on 27.12.2013 plaintiffs had issued notice to him calling upon for division of the properties and the said notice has been served on him. He admits that they have replied to the notice sent by the plaintiffs as per Exhibit P14. It is suggested to DW.1 by the learned counsel for the plaintiffs that in the joint family there is no partition as stated by them in the partition deed. In the written statement. It is denied by DW.1. It is true that the plaintiffs are not signatory to Exhibit D42 partition deed and same is admitted by DW.1. It is suggested that in order to deprive the share of the plaintiffs Exhibit D42 has been created. So, it is denied by DW.1. It is true that the katha has not been effected as per Exhibit P42 based on the Panchayath Parikath dated 01.12.1982.



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18. It is true that based on Exhibit D42, katha has not been effected in the year 1982 itself. But, undisputedly, the name of the three sons of Moodlaiah was came to be mutated in the year 1996 based on the partition. However, PW,1 herself has admitted the separate cultivation of the suit properties by her brothers. The very admission made by PW.1 that since 20 years the defendants are not allowed the plaintiffs for cultivation of the suit properties is sufficient to infer that joint family status has been severed by virtue of Exhibit D42 partition deed during the lifetime of Moodlaiah himself. However Exhibit D42 unregistered partition deed indicates the fact that joint family status between 3 sons of Moodlaiah has been severed in the year 1982 itself. Merely because the revenue records has not been effected in the year 1982 itself, it does not mean that there is no division of the joint family properties. There is severance of joint family status between the three sons of Moodlaiah. It is true that



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the plaintiffs are not signatory to the partition deed Exhibit D42. However, it is to be noted that even oral partition is permissible. However, by producing Exhibit D42, the defendants No.2, 3 and 5 probalilized their case that during lifetime of Moodlaiah himself, the partition has been effected among his three sons and joint family status has been severed in 1982 itself.

19. With respect to the concept of partition, it is necessary to know the meaning of partition. The partition is word of technical import in Hindu Law. Partition in one sence is a severance of joint status, and a co-parcenaar of a co-parcenary is entitled to claim it as a matter of his individual volition. In this narrow sence, all that it is necessary constitute partition is a definite and unequivocal indication of his intention. By a member of joint family to separate himself from the joint family and enjoy his share in



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severity. Such an unequivocal intention to separate brings about a disruption of the joint family status. At any rate, in interest of separating member or members and thereby puts an end to co-parcenary with right of survivor-ship and such separated members, holds from the time of disruption of joint family as tenants in common.

20. It is to be noted that though the DW.1 has been cross-examined by the learned counsel for the plaintiffs, nothing is elicited from his mouth to disbelieve Exhibit D42. From the conjoint reading of the oral testimony of DW.1, the revenue records produced by both parties and Exhibit D42, it is very clear that the case of the defendants No.2, 3 and 5 is more probable than the case of the plaintiffs. Moreover the Lrs., of the 1st defendant have not contested the case of the Plaintiffs. The case of the 1st Defendant that , defendant No.2 and 3 have obtained his signature without his knowledge



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and there is no severance of joint family remains as plea only without there being any evidence. Under such circumstances it can be said that defence raised by defendant No.1, who supports the case of Plaintiffs cannot be considered as probable defence. It is well settled principle of law that after partition there is a disruption of joint status, there cannot be any joint family. So, it can be said that conjoint reading of the oral and documentary evidence relied upon by both parties it can be said that the case pleaded by the defendant No.2, 3 and 5 is more probable than the case of the plaintiffs. So, the revenue records produced by the plaintiffs and defendants it is very clear that the name of the 3 sons of Moodlaiah has been came to be entered in the revenue records by virtue of the petition. In the year 1996, but not in the year 1982. However the katha has been separately affected in the name of sons of Moodlaiah by virtue of the partition as indicated in Exhibit P7. It can be



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said that the clear admission made by PW.1 is sufficient to hold that her three brothers have been separately enjoying the properties, So, it can be said that by virtue of Exhibit D42, partition deed joint family status between three sons of Moodlaiah has been severed in the year 1982 itself. For these reasons, I come to conclusion that the plaintiffs have failed to prove that still the suit schedule properties are in joint possession and enjoyment of plaintiffs and defendants and they are joint family members along with defendants No.2 and 3. **Therefore, I answer Issue No.1 and 2 in Negative and Issue No.3 in the Affirmative.**

21. Issue No.4 and 5 :- As I have already discussed above, the joint family estate between three sons of Moodlaiah has been severed in the year 1982 itself during lifetime of Moodlaiah by virtue of Exhibit D42 partition deed. So, as I have already discussed above, the plaintiffs have



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failed to prove the existence of joint family estate between themselves and defendants. For this reason, the plaintiffs are not entitled for decree for partition and separate possession and other reliefs. **For these reasons I answer Issue No.4 and 5 in the Negative.**

22. Issue No.6:- In view of my answers to the above Issues No.1 to 5, I proceed to pass the following:-

ORDER

The suit filed by the plaintiffs for the relief of partition and separate possession is hereby dismissed.

Considering the relationship of the parties, I direct the parties to bear their own costs.

Draw Decree accordingly.

(Judgment dictated by me in the laptop through Adalat-ai, corrected and pronounced by me in the Open Court on this 26th day of March, 2026).

(LOKESHA)
PRL.SENIOR CIVIL JUDGE & C.J.M.,
RAMANAGARA.



ANNEXURE

1. List of Witness/s examined on behalf of the Plaintiffs:-

P.W.1 : Smt. Jayamma

2. List of documents exhibited on behalf of the Plaintiff:-

Ex.P1 : Genealogical Tree;
Ex.P2 to 6 : RTC extracts;
Ex.P7 & 8 : Mutation Register extracts;
Ex.P9 : Demand Register extract;
Ex.P10 to 12 : Tax paid receipts;
Ex.P13 : Notice;
Ex.P14 : Reply Notice;
Ex.P15 : Postal Receipt;
Ex.P16 to 18 : Postal acknowledgments;
Ex.P19 & 20 : Postal Cover;
Ex.P19(a) &
20(a) : Returned notices.

3. List of Witness/s examined on behalf of the Defendants:-

D.W.1 : Sri. Srinivasamurthy;
D.W.2 : Sri. Mara Naika.

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4. List of documents marked on behalf of the Defendants:-

Ex.D1 to 41 : Computerized RTC extracts;
Ex.D42 : Unregistered Pnachayath



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	Parikath dated:02.12.1982;
Ex.D43 to 49	: Handwriting RTC extracts;
Ex.D50	: Mutation Register extract;
Ex.D51	: Handwriting RTC extract;
Ex.D52	: Death Certificate of Krishnappa;
Ex.D53	: Death Certificate of Moodlaiah.

PRL. SENIOR CIVIL JUDGE &
C.J.M., RAMANAGARA.