



Presented on : 26-09-2013
Registered on : 26-09-2013
Decided on : 05-08-2026
Duration : 12 Years, 10 Months, 09 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 5th DAY OF AUGUST, 2026

ORIGINAL SUIT No.489/2013

Plaintiff : Smt. Kalyanamma
W/o Channappa,
D/o late Shivappa,
aged about 60 years,
R/at Hosuru Gollahalli
Village, Bidadi Hobli,
Ramanagara Taluk
and District.

(Rep. by Sri. A.C.C. Adv.,)

-V/s-

Defendants :1. Smt. Kempamma
W/o Kariyappa,
D/o Shivappa,
(Since dead by Lrs.,)

1(a) Sri. Shivananja
S/o late Kempamma,



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aged about 40 years,
R/at Manganahalli
Village, Hosur Post,
Bidadi Hobli,
Ramanagara Taluk
and District.

1(b) Smt. Rathna
W/o Dasappa,
D/o late Kempamma,
aged about 38 years,
R/at Hosur Village,
Hosur Post,
Bidadi Hobli,
Ramanagara Taluk
and District.

1(c) Smt. Shobha
W/o Krishnappa,
D/o late Kempamma,
aged about 35 years,
R/at Vaderahalli Village,
Kaggalhalli Post,
Harohalli Hobli,
Kanakapura Taluk,
Ramanagara District.

2(a) Smt. Nagamma
W/o Nagappa,
D/o Ankamma,
aged about 30 years,
R/at Vaderahalli Village,
Kaggalhalli Post,
Harohalli Hobli,



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Kanakapura Taluk,
Ramanagara District.

- 2(b) Smt. Hema
W/o Raju,
D/o Ankamma,
aged about 28 years,
R/at Hebbidrametlu
Village, Maralavadi Hobli,
Kankapura Taluk,
Ramanagara District.
- 2(c) Smt. Shivamma
W/o Venkatappa,
D/o Ankamma,
aged about 26 years,
R/at Maregowdanadoddi
Village, Bidadi Hobli,
Ramanagara Taluk
and District.
- 2(d) Sri. Muniraju
S/o Ankamma,
aged about 24 years,
R/at Aralalusandra Village,
Bidadi Hobli,
Ramanagara Taluk
and District.
3. Smt. Jayamma
W/o Shivanna,
D/o late Shivappa,
aged about 45 years,
R/at No.61, 4th Cross,



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2nd Main, TWS Block,
Banashankari 3rd Stage,
Bangalore-85.

4. Smt. Bhagyamma
W/o Kumarichari,
aged about 37 years,
R/at Aralalusandra Village,
Bidadi Hobli,
Ramanagara Taluk
and District.
5. Sri. Kempaiah
S/o
aged about 65 years,
Aralalusandra Village,
Bidadi Hobli,
Ramanagara Taluk
and District.
6. Sri. Mudlappa
S/o late Thimmaiah,
aged about 65 years,
R/at Aralalusandra Village,
Bidadi Hobli,
Ramanagara Taluk
and District.

**(D-1, 4 to 6: Exparte
D3: by Sri. K.N.B.S.
D2(a) to d): by Sri. M.G.M.)**

* * *

J U D G M E N T



This is a suit filed by the Plaintiff against the Defendants for the relief of partition and separate possession. Initially suit was filed only with respect to suit item No.1 to 4 and Defendants No.1 to 3. During pendency of the suit, the suit item No.5 and 6 are included and Defendant No.4 to 6 are impleaded.

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

That original propositus one Shivappa had two wives viz., 1st wife Kempamma and 2nd wife also Kempamma. On death of 1st wife Kemamma Shivappa married his 2nd wife Kempamma. The Plaintiff Kalyanamma is the only daughter of 1st wife Kempamma. The 2nd wife Kempamma had three children viz., deceased 1st Defendant Kempamma, deceased 2nd Defendant Ankamma, 3rd Defendant Jayamma. That originally suit



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properties were belonged to Shivappa and on his death his 2nd wife, Plaintiff and Defendants have succeeded and continuation to be in joint possession and enjoyment of the properties. On death of Shivappa, 2nd Defendant Ankamma got the khata transferred in her name behind the back of the Plaintiff without give any share to the Plaintiff. When the Plaintiff demanded the Defendants for division of the suit properties, they have refused for the same. Hence, the Plaintiff has filed this suit and prayed for decree the suit.

3. On the other hand though the Defendant No.1 is served with summons she has not appeared before this court, she has been placed exparte. Though the 3rd Defendant appeared before this court she has not chosen to file written statement. The Lrs., of the 2nd Defendant Ankamma are only contesting Defendants. During



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pendency of the suit, 2nd Defendant died and his legal heirs were come on record. The Lrs., of the Defendant No.2 have filed their written statement admitting the relationship of the Plaintiff and Defendants No.1 to 3. The Lrs., of Defendant No.2 have plead that there was already partition among Plaintiff and Defendants. The property fell to the share of 1st wife Kempamma has been sold by the Plaintiff for construction of house by the Plaintiff. It is further pleaded that, the 2nd wife Kempamma had executed Will in respect of properties allotted to her share in favour of her daughter Ankamma. The 2nd Defendant has sold Sy.No.22/1 measuring 3 guntas in favour of Bhagyamma on 10.11.2006. the 2nd Defendant has also sold 6 ¼ guntas in Sy.No.22/1 on 12.02.2001 in favour of on Mudalappa of Aralalusandra Village and they are not made as parties. It is further pleaded that suit item No.4 land bearing Sy.No.24/6



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measuring 14 guntas is self acquired property of Ankamma who purchased on 06.08.1998 and as such it is absolute property of Ankamma and Plaintiff has no right over the suit properties. Hence, they have sought for dismissal of suit.

4. In support of the case of the Plaintiff, the Plaintiff Smt. Kalyanamma herself examined as PW.1. Subsequently, as she has not at all appeared before the court, court commissioner was appointed to record her further cross-examination and she has been further cross-examined through court commissioner. The Plaintiff has produced in all 14 documents as per Ex.P1 to P14. One Sri. Muniraju the Lr No.4 of deceased Defendant No.2 himself examined as DW.1. Ex.D1 to 6 are marked through DW.1. Thereafter, case was posted for arguments.



5. Based on the rival pleadings of both the parties,
this court has framed the following Issues:-

ISSUES

1. *Whether the plaintiff proves that the suit schedule properties are ancestral and joint family properties of herself and Defendants and they are all co-parceners?*
2. *Whether the Defendants No.2(a) to (d) proves that suit schedule item No.4 is the self acquired property of their mother deceased Smt. Ankamma the 2nd Defendant?*
3. *Whether the said Defendants further prove that already there was partition between Plaintiff and the Defendants as pleaded at paragraph No.6 and 7 of their written statement?*
4. *Whether the suit is bad for non-joinder of necessary parties?*
5. *Whether the Plaintiff is entitled for partition and separate possession of suit schedule properties in terms sought?*
6. *What order or decree?*



6. Heard the arguments of the learned counsel for Plaintiff and Lrs., of Defendant No.2. Though the Defendants No.4 to 6 impleaded, they have not appeared before this court and they have been placed exparte. I have perused the materials on record.

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

Issue No.1	:	In the Negative;
Issue No.2	:	In the Affirmative;
Issue No.3	:	In the Affirmative;
Issue No.4	:	In the Negative;
Issue No.5	:	In the Negative;
Issue No.6	:	As per the final order for the following:-

R E A S O N S

8. Issue No.1 to 3 :- In order to establish the case of the Plaintiff Smt. Kalyanamma examined herself as PW.1. PW.1 relied upon 13 documents as Exhibit P1 to 13. Before going to discuss the fact on issue, it is



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necessary to note the admitted facts herein itself, to narrow down the controversy between the parties to the suit. It is not in dispute that the propositus Shivappa had two wives by name Kempamma and 2nd wife also Kempamma. It is also not in dispute that the Plaintiff Kalyanamma is the only daughter of late Shivappa through his 1st wife late Kempamma. It is also not in dispute that Shivappa married 2nd wife Kempamma only on death of 1st wife late Kempamma. It is also not in dispute that deceased Defendant No.1 Kempamma deceased 2nd Defendant Ankamma and 3rd Defendant Smt. Jayamma are the daughters of 2nd wife late Kempamma. It is also not in dispute that Shivappa died instate.

9. Initially suit was filed by the Plaintiff only with respect to suit item No.1 to 4. Suit item No.5 land bearing Sy.No.221 measuring 3 guntas, suit item No.6, Sy.No.22/1



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measuring 6 $\frac{1}{4}$ guntas have been included during pendency of the suit. According to the Plaintiff suit properties were belonged to late Shivappa and on his death, his 2nd wife and children have succeeded the same and they have been in joint possession of these properties.

10. I have perused the documents produced by the Plaintiff. As per Ex.P2 khata of suit item No.1 stands in the name of 2nd Defendant Ankamma. As per Ex.P3, khata of suit item No.2 also stands in the name of Defendant No.2 Ankamma. It evident from Ex.P4 that khata of suit item No.3 also stands in the name of 2nd Defendant Ankamma. It reveals from Ex.P5 that, khata suit item No.4 jointly reflects in the name of Ankamma and her husband Kempaiah. It evident Ex.P12 copy of the mutation register extract, the name of 2nd Defendant Ankamma was ordered to be mutated in the revenue records pertaining to Sy.No.22/1 measuring



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1 acre 4 guntas and Sy.No.26/4 measuring 17 guntas by virtue of the settlement deed executed by Kempamma W/o Shivanna. Ex.P6 to 10 are the old RTC extracts with respect to Sy.No.22/1, 26/4 and Sy.No.24/6.

11. On the other hand the Defendant No.2(d) has produced sale deed date:06.08.1998, under which 2nd Defendant Ankamma and her husband Kempaiah had purchased property bearing Sy.No.24/6 measuring 14 guntas i.e., item No.4 from Thagadappa. It is to be noted that as rightly submitted by the learned counsel for the Defendant No.2 Lrs., the Plaintiff has not pleaded as to the mode of acquisition of suit item No.4. The Plaintiff simply plead that suit schedule properties were owned and possessed by late Shivappa. I have also perused the oral testimony of PW.1. It is suggested to PW.1 by the learned counsel for the Defendant No.2 Lrs., that late Ankamma and



her husband Kempanna had purchased property bearing Sy.No.24/6 measuring 14 guntas from Ankappa. It is denied by PW.1. It is further suggested that the said property was sold by Thagadappa S/o Ankaiah on 06.08.1998 in favour of Ankamma and Kempanna. PW.1 deposed her ignorance. She further deposes that she does not know as to how suit item No.4 has been acquired. She further deposes her ignorance for the suggestion that based on the sale deed khata had been changed into the name of Ankamma and Kempanna. She further admits that she does not know as to who acquired Sy.No.24/6 measuring 14 guntas.

12. The learned counsel for the Plaintiff would repeatedly argued that no document has been produced to prove the partition of the properties among children of Shivappa. On the other hand the learned counsel for the Defendant No.2 Lrs., submit that PW.1 herself has admits



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the fact that, 6 ¼ guntas in Sy.No.213/4 of Aralalusandra Village had been allotted to share of herself and her mother, which has been alienated. It is true that at page No.5 of cross-examination dated:03.10.2023 PW.1 has categorically admits that, 6 ¼ guntas in Sy.No.213/4 of Aralalusandra Village had been allotted to share of herself and her mother.

The relevant testimony of PW.1 is extracted as under:-

"ಅರಳಾಳುಸಂದ್ರದ ಸರ್ವೆ ನಂ.213/4 ರ 6 ಕಾಲು ಗುಂಟೆ ಜಮೀನು ನನ್ನ ತಾಯಿ ಹಾಗೂ ನನ್ನ ಭಾಗಕ್ಕೆ ಬಂದಿತ್ತು ಎನ್ನುವುದು ನಿಜ. ಸದರಿ ಜಮೀನನ್ನು ನಾನು ಹಾಗೂ ನನ್ನ ತಾಯಿ ಚನ್ನಪ್ಪ ಎಂಬುವವರಿಗೆ ಮಾರಾಟ ಮಾಡಿದ್ದೇವೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಸದರಿ ಜಮೀನನ್ನು ಈ ದಾವೆಯಲ್ಲಿ ಸೇರಿಸಿಲ್ಲ ಎನ್ನುವುದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ."

13. PW.1 further admits that from the lifetime of her mother itself she and children of her Aunt have been living separately in the properties allotted to their share. The relevant testimony of PW.1 is extracted as under:-

"ನಮ್ಮ ತಾಯಿಯ ಜೀವಿತ ಕಾಲದಲ್ಲೆಯೇ ನಾವು ಹಾಗೂ ನನ್ನ ಚಿಕ್ಕಮ್ಮನ ಮೂರು ಜನ ಮಕ್ಕಳು ನಮ್ಮ ನಮ್ಮ ಭಾಗದ



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ಸ್ವತ್ತುಗಳಲ್ಲಿ ಪ್ರತ್ಯೇಕವಾಗಿ ವಾಸ ಮಾಡುತ್ತಿದ್ದವು ಎನ್ನುವುದು
ನಿಜ.”

14. It is further suggested to PW.1 by the learned counsel for the Defendants that, Ankamma had sold property bearing Sy.No.22/1 measuring 1 acre 3 guntas acquired from her mother in favour of Bhagyamma and said Bhagyamma is the 4th Defendant in this suit. She further admits that Ankamma has also sold property measuring 6 ¼ guntas in Sy.No.22/1 in favour of Mudalappa, which was acquired by her through Will and same has not been pleaded in the plaint. She further admits that, her Aunt Kempamma had been cultivating the properties allotted to share of Kempamma. The relevant testimony of PW.1 is extracted as under:-

"ನನ್ನ ಚಿಕ್ಕಮ್ಮ ಕೆಂಪಮ್ಮನ ಭಾಗಕ್ಕೆ ಬಂದಿದ್ದಂತಹ ಸ್ವತ್ತುಗಳನ್ನು
ಆಕೆಯ ಮಗಳಾದ ಅಂಕಮ್ಮ ಅನುವಿಸುತ್ತಾ ಬಂದಿದ್ದಾಳೆ
ಎನ್ನುವುದು ನಿಜ.”



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These admissions made by the PW.1 with respect to the division of the properties among two wives of Shivappa is clear and unequivocal admission. Though it is not a conclusive proof, it binds the Plaintiff. Unless it is withdrawn by the Plaintiff as not correct it shall be considered as clear admission, which need not be proved. Moreover, as rightly submitted by the learned counsel for the Defendant No.2 Lrs., subsequent to inclusion of suit item No.5 and 6 there is no specific pleadings as to nature of suit item No.5 and 6. As suit item No.4 has been purchased by Ankamma and her husband it was joint property of Ankamma and her husband. On death of Kempaiah, Ankamma became absolute owner of suit item No.4 and it can be said that it was separate property of Ankamma. The item No.4 cannot be said to be joint family property. The admission made by PW.1 is clear about the severance of joint status between children of two wives of Shivappa. Under such



circumstances, it cannot be said that there is existence of joint family between Plaintiff and Defendants No.1 to 3.

15. It is true that Ex.D2 Will has not been proved by the Defendant No.1 Lrs., as required under the provisions of Indian Evidence Act and corresponding provision of Bharathiya Sakshya Adhiniyam by examining at least one of the attesting witness. However, as division of the property among children of Shivappa proving of Ex.D2 Will in accordance with law will be of no consequences. So, it can be said that the Plaintiff has failed to prove that suit schedule properties are still joint family properties of herself and Defendants No.1 to 3. It can be held that Defendant No.2 Lrs., have proved the partition as pleaded in their written statement. They have also proved that suit item No.4 is self acquired property of deceased Defendant No.2 Ankamma. **With these reasons I answer Issue No.1 in**



Negative and Issue No.2 and 3 in Affirmative.

16. Issue No.4:- Undisputedly, 2nd Defendant Ankamma had sold property measuring 3 guntas in Sy.No.22/1 on 10.11.2006 in favour of 4th Defendant Smt. Bhagyamma. 2nd Defendant Ankamma had also sold 6¼ guntas in Sy.No.22/1 in favour of Mudalappa on 12.02.2001 and he is made as Defendant No.6 in the suit. So, in view of the fact that Defendant No.4 and 6 are made as parties to the suit it cannot be said that suit is bad for non-joinder of necessary party. Hence, **I answer Issue No.4 in the Negative.**

17. Issue No.5:- As I have already discussed above, the Plaintiff has failed to prove the existence of joint family status between herself and Defendants No.1 to 3. She also failed to prove that still suit properties are joint family



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properties and they are available for partition. Therefore, it can be said that the plaintiff is not entitled for any share in the suit properties. Therefore, I do not find any merits in the suit. **Hence, I answer Issue No.5 in the Negative.**

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

ORDER

The suit filed by the Plaintiff is hereby dismissed.

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

Draw Decree accordingly.

(Judgment dictated to the stenographer directly on the computer and then corrected and pronounced by me in the Open Court on this 5th day of August, 2026).

(LOKESHA),
PRL.SENIOR CIVIL JUDGE & CJM.,
RAMANAGARA.

ANNEXURE

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

P.W.1 : Smt. Kalyanamma.



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

Ex.P1 : Genealogical Tree;
Ex.P2 to 11 : RTC extracts;
Ex.P12 to 14 : Mutation register extracts.

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

D.W.1 : Sri. Muniraju.

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

Ex.D1 : Sale Deed dated:26.12.1974;
Ex.D2 : Will dated:07.06.1989;
Ex.D3 : Sale Deed dated:06.08.1998;
Ex.D4 : Digital copy of sale deed
dated:10.11.2006;
Ex.D5 : Certified copy of sale deed
dated:12.02.2001;
Ex.D6 : Death Certificate of
Kempamma.

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