

Form No.9(Civil)  
Title Sheet for  
Judgement in Suits  
(R.P.91)

***TITLE SHEET FOR JUDGEMENTS IN SUITS***

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

**Dated : This the 10<sup>th</sup> day of June, 2015**

**Present: Sri. S.H. Hosagoudar, B.Sc., LL.B., (Spl.)**  
**Prl. Senior Civil Judge & C.J.M.,**  
**Ramanagara.**

**O.S. No. 549/2012**

**Plaintiffs** : 1 Smt. Chikkamma  
W/o.Mallaiah @ Moogappa  
D/o.late Budda Kempaiah  
Aged about 78 years,  
R/at Ramanahalli Village,  
Uragahalli Post,  
Bidadi Hobli,  
Ramanagara Taluk & Dist.

2 Smt.Chikkabyrakka  
W/o.Mayappa  
D/o.late Kempamma  
Aged about 66 years,  
R/at Karadigowdanadoddi village  
Bidadi Hobli,  
Ramanagara Taluk & Dist.

**(Rep. by Sri. P.K., Advocate)**

- V/s -

**Defendants** : 1 Venkatalakshamma  
w/o Chikkamariyappa  
d/o late Siddamma  
Aged about 63 years

- 2 Seenappa  
s/o late Thimmaiah and  
Smt.Siddamma  
Aged about 61 years,  
  
Both the defendants are r/at  
Ramanahalli village  
Uragahalli Post  
Bidadi Hobli  
Ramanagara Taluk & Dist.
- 3 Smt. Lakshmiddevamma  
d/o late Maregowda and  
Smt.Channamma  
w/o Govindaiah  
Aged about 62 years  
Kethiganahalli village  
Bidadi Hobli, Ramanagara
- 4 Smt.Mahadevamma  
w/o late Venkataramanapp  
Aged about 48 years
- 5 Nagaraju D.  
s/o Mahadevamma  
And late Venkataramanappa  
Aged about 26 years  
  
Defendants 4 and 4 are r/at  
Thalaguppe village  
Bidadi Hobli  
Ramanagara
- 6 Kavitha  
Aged about 30 years  
r/at Gungarahalli village  
Laxmipura Post  
Kootagal Hobli  
Ramanagara Taluk & Dist.
- 7 Pushpalatha  
Aged about 28 years  
r/at Gollahalli village  
Bidadi Hobli

Ramanagara Taluk & Dist.

Defendants 6 and 7 are  
The daughters of  
Smt.Mahadevamma and  
Late Venkataramanappa

**(D1 & 2 Rep. by Sri.M.L.V., Advo  
D3 to 7 Rep. by Sri.S.H.G., Advo)**

\* \* \* \*

Date of institution of the suit	:	19.11.2012		
Nature of the suit	:	Partition and Separate Possession		
Date of commencement of recording of evidence	:	16.02.2015		
Date on which the judgment is pronounced	:	10.06.2015		
<b>Total Duration</b>	:	<b>Years</b>	<b>Months</b>	<b>Days</b>
		02	06	21

**(S.H. Hosagoudar)  
Prl. Senior Civil Judge & CJM,  
Ramanagara.**

### **JUDGMENT**

The Plaintiffs have filed this suit against defendants for Partition and Separate Possession of their  $\frac{1}{4}$  share each in the suit schedule properties.

2. In brief the plaintiffs case are as under :

There was one Budda Kempaiah the original propositor. His wife is one Byramma. Now both Budda Kempaiah and Byramma are no more. Said Budda Kempaiah had four daughters by name deceased Siddamma the mother of the defendants 1 and 2 deceased Channamma the mother of the 3rd defendant and grand mother of the defendants 4 to 7 and Chikkamma the first plaintiff. The original propositor had no male issues.

3. The original propositor Budda Kempaiah possessed the suit schedule properties, which are his ancestral properties. During the life time of original propositor, he was in possession and enjoyment of the suit schedule properties in his own right, along with his four daughters, till his death and he was also paying the kandayam and original propositor died intestate. The katha of the suit schedule properties were in the name of original propositor.

4. The plaintiffs further submit that, after the death of original propositor, his four daughters continued in joint possession and enjoyment of the suit schedule properties as

the members of the joint Hindu undivided family without division among them. After the death of Kempamma, Siddamma and Channamma the plaintiffs and the defendants being the members of the joint Hindu undivided family members. There is no division among the members of the joint family and even now the plaintiffs and the defendants being the members of the joint family members, have been in joint possession and enjoyment of the suit schedule properties and they are growing crops jointly and paying kadayam jointly. Either the plaintiffs nor the defendants have no exclusive right or title over the suit schedule properties to deal with the same.

5. Such being the case, the 2nd defendant herein, who has no manner of right, title or interest nor possession exclusively over any portion of the suit schedule properties, in collusion with the revenue authorities, by suppressing the true and material facts, he obtained the katha of the suit schedule properties into his name, behind the back of the plaintiffs, without due notice to the plaintiffs. The suit schedule properties are liable to be partitioned by metes and bounds and the plaintiffs are entitled to 2/4th share each. The 2nd

plaintiff is entitled for the share being the share of his mother Kempamma, daughter of original propositor Budda Kempaiah. The defendants 1 and 2 are together entitled to  $\frac{1}{4}$  share together being the share of Siddamma, 2nd daughter of original propositor Budda Kempaiah. The defendants 3 to 7 are together entitled to  $\frac{1}{4}$  share, being the share of Channamma, the 3rd son of original propositor Budda Kempaiah.

6. The plaintiffs further submit that the 2nd defendant taking advantage of the katha, obtained illegally, has been making hectic attempts to dispossess the plaintiffs from the joint possession and enjoyment of the suit schedule properties by denying the right and share of the plaintiffs and he has been showing hostile attitude towards the plaintiffs. On coming to know of the evil intention of the 2nd defendant, these plaintiffs demanded the defendants to effect division and to allot their legitimate and specific share, but the defendant 2 did not complied with the demands of the plaintiffs, hence the plaintiffs convened a panchayath in the village, which became futile. Without second alternate the

plaintiffs approached this Hon'ble Court, seeking aid from the hands of this Hon'ble Court.

7. In response to suit summons issued by this court defendants appeared through their respective counsel and defendants No.3 to 7 have filed their joint written statement whereas the defendants No.1 & 2 have not filed any written statement.

8. In brief, the contents of the written statement filed by defendants No.3 to 7 are as under :

There is no dispute with regard to relationship of the parties. It is true that there was on Budda Kempaiah the original propositus and his wife one Byamma and now both of them are no more. The said Budda Kempaiah had 4 daughters by name deceased Kempamma the mother of the 2nd plaintiff. The deceased Siddamma mother of the defendants 1 and 2, deceased Channamma the mother of the 3rd defendant and grand mother of the defendants 4 to 7 and Chikkamma the 1st plaintiff. It is true that after the death of original propositor his 4 children continued in joint possession and enjoyment of the suit schedule properties. After the death of Kempamma, Siddamma and Channamma

the plaintiffs and defendants being the members of the joint family they continued in the joint family and there is no division among the members of the joint family. It is true that the 2nd defendant herein has no manner of right, title or interest exclusively over the any portion of the suit schedule properties and he in collusion with the revenue authorities got obtained katha of the suit schedule properties into his name behind the back of the plaintiffs. The suit schedule properties are liable to be partitioned by metes and bounds. These defendants are also entitled equal share in the suit schedule properties and they also sought for allotment of their share in the suit schedule properties.

9. On these grounds they requested to decree the suit and also request for allotment of their separate shares in the suit schedule properties.

10. On the basis of pleading of the parties, this court has framed the following :

## **ISSUES**

1. Whether the plaintiffs prove that the suit schedule properties are the ancestral properties of the plaintiffs and defendants?
2. Whether the plaintiffs are entitled for partition and separate possession of their 1/4th share each in the suit schedule properties?
3. Whether the defendants 3 to 7 are also entitled share in the suit schedule properties?
4. What order or decree?

11. In this case, the plaintiffs in order to prove their case, they got examined their power of attorney holder who is also the son of plaintiff No.1 as PW1 and also got examined 2 witnesses as PW2 and 3 and produced in all 18 documents which are marked as Ex.P1 to Ex.P18 and closed their side of evidence. On the other hand, defendants have not adduced any evidence in this case.

9. Heard the arguments on both sides and perused the entire records of the case.

10. My findings to the above issues are as under :

Issue No.1 : In the Affirmative

Issue No.2 : In the Affirmative

Issue No.3 : In the Affirmative

Issue No.4 : As per final order  
for the following

### **REASONS**

**11. ISSUES No.1 to 3** : Now I will consider these issues together as they are interconnected with each other and evidence is common and for the sake of brevity.

It is the case of the plaintiff that the suit schedule properties are their ancestral properties and there is no division among the plaintiffs and defendants and they are entitled  $\frac{1}{4}$  share each in the suit schedule properties. Further, the plaintiffs contend that the defendants who has no manner of right, title or interest nor possession exclusively over any portion of the suit schedule properties in collusion with revenue authorities he obtained katha of the suit schedule properties into his name behind the back of the plaintiff. The plaintiff further contend that since the suit schedule properties are the ancestral properties of themselves and defendants they are entitled to  $\frac{1}{4}$  share in the suit schedule properties.

12. In this case the defendants 3 to 7 appeared through their respective counsel and filed a written statement supporting the case of the plaintiffs. They also requested the court to allot their share in the suit schedule properties. In this case the defendants 1 and 2 even though they have appeared through their counsel but they have not filed written statement and contest the case of the plaintiffs.

13. In this case the plaintiffs in order to prove their case have got examined their PA holder who is the son of the 1st plaintiff as PW1. He filed affidavit evidence in lieu of his examination in chief. In examination-in-chief he reiterated the plaint averments. He produced in all 18 documents which are marked as Ex.P1 to P18. In this case the plaintiffs also got examined the 2 witnesses as PW2 and 3 and they filed affidavit evidence in lieu of their examination in chief, in their examination in chief they supported the case of the plaintiffs. Further, in their evidence they deposed that the suit schedule properties are the ancestral properties of the plaintiffs and defendants and there was no division among the plaintiffs and defendants and plaintiffs are also entitled share in the suit schedule properties.

14. I have perused entire evidence on record. In this case, there is no dispute with regard to the relationship of the parties. It is admitted fact that there was one Budda Kempaiah who is the original propositor of the family of the plaintiffs and defendants. It is also admitted fact that Byamma is the wife of original propositor Budda Kempaiah. It is also admitted fact that now both Budda Kempaiah and Byamma are no more. It is also admitted fact that the said Budda Kempaiah had 4 daughters by name deceased Kempamma who is the mother of the 2nd plaintiff, deceased Siddamma who is the mother of the defendants 1 and 2 and deceased Channamma is the mother of the 3rd defendant and grand mother of the defendants 4 to 7 and Chikkamma is the 1st plaintiff.

15. It is also admitted fact that the original propositor had no male issues only had 4 female issues. It is also admitted fact that the original propositor Budda Kempaiah possess the suit schedule properties which are his ancestral properties. In this case the plaintiffs got examined their PA holder who is also son of 1st plaintiff as PW1. In his evidence he reiterated the plaint averments. He produced Special power of attorney,

genealogical tree, MR copy, RTC extract which are marked as Ex.P1 to P18.

16. On perusal of the documents produced by the plaintiffs it is much clear that the suit schedule properties originally belongs to Budda Kempaiah. Further the evidence on record clearly shows that during the lifetime of the original propositor he was in possession and enjoyment of the suit schedule properties in his own right along with his 4 daughters till his death. Further documents produced by the plaintiff also clearly shows that the katha of the suit schedule properties were in the name of the original propositor. Further in his case the evidence on record clearly shows that after the death of original propositor his 4 daughters continued in possession and enjoyment of the suit schedule properties as a member of the joint Hindu undivided family without division among them.

17. Further, the evidence on record clearly shows that after the death of Kempamma, Siddamma and Channamma the plaintiffs and defendants being members of the joint Hindu undivided family continued in a joint family and there was no division among the members of the joint family in respect of

the suit schedule properties. Further the evidence on record clearly shows that the plaintiffs and defendants are in joint possession and enjoyment of the suit schedule properties and they are growing crops jointly. Further the evidence on record clearly shows that the 2nd defendant who is no manner of right, title or interest nor possession exclusively over the portion of the schedule properties in collusion with the revenue authorities he was obtained katha of the suit schedule properties into his name behind the back of the plaintiffs. It is pertinent to note that the suit schedule properties are the ancestral properties of the plaintiffs and defendants and there was no division among them. Hence, the suit schedule properties are liable to be partitioned by metes and bounds among the plaintiffs and defendants. Therefore, the plaintiffs are entitle  $\frac{1}{4}$  share each in the suit schedule properties. The 2nd plaintiff is entitle for share being the share of his mother Kempamma daughter of original propositor Budda Kempaiah.

18. In this case the defendants 1 and 2 are also together entitled to  $\frac{1}{4}$  share being the share of Siddamma who is the 2nd daughter of the original propositor Budda Kempaiah. Further, in this case the defendants 3 to 7 are together

entitled to  $\frac{1}{4}$  share being the share of Channamma the 3rd daughter of the original propositor Budda Kempaiah. Therefore, the plaintiffs are together entitled to  $\frac{2}{4}$ th share in the suit schedule properties and defendants 1 and 2 are together entitled for  $\frac{1}{4}$  share and defendants 3 to 7 are also together entitled to  $\frac{1}{4}$  share in the suit schedule properties. In this case the defendants 3 to 7 filed a written statement. They supported the case of the plaintiffs. They also sought for allotment of their share and they stated that they are ready to pay the court fee in respect of their share. Therefore, the defendants 3 to 7 being the members of Hindu joint family they are also together entitled to  $\frac{1}{4}$  share in the suit schedule properties being the share of Channamma subject to payment of court fee. Therefore, the plaintiffs are entitled for partition and separate possession of their  $\frac{1}{4}$  share each and defendants 3 to 7 are together entitled to  $\frac{1}{4}$  share in the suit schedule properties. The plaintiffs proved issue No.1 and 2 and defendants 3 to 7 also proved issue No.3. Accordingly, I answer **issue No.1 to 3 in the affirmative.**

**19. ISSUE No.4:** From my above discussions and findings on above Issues, the suit filed by the plaintiffs is

deserves to be decreed. In the result, I proceed to pass the following:

**ORDER**

The suit of the plaintiffs is hereby decreed as under.

The plaintiffs are entitled for partition and separate possession of their  $\frac{1}{4}$  share each in the suit schedule properties.

Further the defendants 3 to 7 are together entitled for partition and separate possession of their  $\frac{1}{4}$  share in the suit schedule properties subject to payment of court fee. Under the facts and circumstances of the case and considering the close relationship of parties there is no order as to cost.

Draw preliminary decree accordingly.

(Dictated to the Stenographer, transcribed by her, the transcript corrected and then pronounced by me in the open Court on this the **10<sup>th</sup> day of June, 2015.**)

**(S.H. Hosagoudar)**  
**Prl. Senior Civil Judge & CJM,**  
**Ramanagara.**

**ANNEXURE**

**Witnesses examined on behalf of the plaintiffs :**

PW1 - Shivanna  
PW2 - Govindaiah  
PW3 - Papanna

**Documents exhibited by the plaintiffs :**

Ex.P1 - Special Power of attorney  
Ex.P2 - Genealogical Tree  
Ex.P3 - MR Copy  
Ex.P4 to 15 - 12 RTC extracts  
Ex.P16 to P18 - 3 RTC extracts

**Witnesses examined on behalf of the defendants :**

- NIL -

**Documents exhibited by the defendants :**

- NIL -

**Prl. Senior Civil Judge &  
CJM, Ramanagara.**

**Judgment Pronounced in the  
Open Court vide separate)**

**ORDER**

The suit of the plaintiffs is hereby decreed as under.

The plaintiffs are entitled for partition and separate possession of their  $\frac{1}{4}$  share each in the suit schedule properties.

Further the defendants 3 to 7 are together entitled for partition and separate possession of their  $\frac{1}{4}$  share in the suit schedule properties subject to payment of court fee. Under the facts and circumstances of the case and considering the close relationship of parties there is no order as to cost.

Draw preliminary decree accordingly.

Prl. Senior Civil Judge &  
CJM, Ramanagara.

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

**O.S.549/2012**

Plaintiffs: Smt.Chikkamma and another

v/s.

Defendants: Smt.Venkatalakshamma and others

**ISSUES**

1. Whether the plaintiffs prove that the suit schedule properties are the ancestral properties of the plaintiffs and defendants?
2. Whether the plaintiffs are entitled for partition and separate possession of their 1/4th share each in the suit schedule properties?
3. Whether the defendants 3 to 7 are also entitled share in the suit schedule properties?
4. What order or decree?

**(S.H. Hosagoudar)  
Prl. Senior Civil Judge & CJM,  
Ramanagara.**

Place: Ramanagara  
Date : 08.06.2015