

KARN020017882023



Presented on : 20-12-2023

Registered on : 20-12-2023

Decided on : 23-03-2026

Duration : - 2 Years, 03 months, 03 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 C.J.M.,
Ramanagara.**

DATED:- THIS THE 23rd DAY OF MARCH, 2026

ORIGINAL SUIT No.613/2023

Plaintiff : Sri. Narasimhaiah
S/o late Eerappa,
aged about 47 years,
R/at Budda Bhovi Doddi,
Uragahalli Post,
Uragapura,
Bidadi Hobli,
Ramanagara Taluk,
Ramanagara District.

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

-V/s-

Defendants :1. Smt. Kamma
W/o late Eerappa,
aged about 73 years,
R/at Budda Bhovi Doddi,
Uragahalli Post,
Uragapura,



Bidadi Hobli,
Ramanagara Taluk,
Ramanagara District.

2. Smt. Lakshamma
@ Lakshmiddevamma,
D/o late Eerappa,
W/o Kariyappa,
aged about 54 years,
R/at No.129,
Kethiganahalli,
Bidadi Hobli,
Ramanagara Taluk,
Ramanagara District-562109.
3. Smt. Mangamma
D/o late Eerappa,
W/o late Basavaiah,
aged about 51 years,
R/at Rajapura Doddi,
Huliyurudurga Hobli,
Kunigal Taluk,
Tumkuru District.
4. Sri. Kumara
S/o late Eerappa,
aged about 39 years,
R/at Budda Bhovi Doddi,
Uragahalli Post,
Uragapura,
Bidadi Hobli,
Ramanagara Taluk,
Ramanagara District.



5. Smt. Shanthamma
D/o late Eerappa,
W/o Shivanna,
aged about 37 years,
R/at No.49,
Heggadagere Village,
Uragahalli Post,
Bidadi Hobli,
Ramanagara District-5562109.

**(D1, 4 and 5 Exparte
D2 and 3 by Sri. M.R.S. Adv.,)**

* * *

J U D G M E N T

The suit is filed by the Plaintiff against the Defendants for the relief of partition and separate possession.

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

That the suit schedule properties have been purchased by the plaintiff's father late Eerappa out of the joint family income and joint family fund in the name of plaintiff's father Eerappa. The plaintiff's father was died on 22.07.2017 leaving behind the



plaintiff and defendants as his class-1 heirs. The plaintiff and defendants No.1 to 5 have been in joint possession and enjoyment of the suit properties without any division. After the death of the plaintiff's father, the plaintiff demanded to the defendants for division of the suit properties. They have refused for the same. When the plaintiff verified the revenue records, he came to know that the 2nd defendant has obtained the gift deed in her favour with respect to suit Item No.5 and the 5th defendant has obtained the gift deed from her with respect to Item No.6 in her favour. That said, the gift deed has been obtained by defendant No.2 and defendant No.5 respectively with respect to Item Nos.5 and 6. And as such the said gift deeds are not binding and the plaintiff. Hence plaintiff filed this suit and prayed for decree the suit.

3. On the other hand, though the defendants No. 1, 4 and 5 are served with summons. They have not been appeared



before this court and they are placed ex-parte. Though the defendant No.2 and 3 have appeared before this court through their counsel, they have not chosen to file written statement. Hence, case was posted for plaintiff's evidence.

4. In support of the plaintiff case, plaintiff Narasimhaiah examined himself as PW.1 and he has got marked in all 16 documents as Exhibit P1 to Exhibit P16. As the defendant No.2 and 3 have not filed a statement, cross-examination was taken as nil.

5. Based on the plaint averments the following points would arise for the consideration of this court:-

1) Whether the Plaintiff proves that the suit schedule properties are the ancestral and joint family properties of themselves and Defendants?

2) Whether the Plaintiff is entitled for 1/6th share in the suit schedule properties?

3) What Order or Decree?



6. I have heard the arguments of the learned counsel for the Plaintiff and perused the materials on record.

7. My answers to the above points are as under:-

Point No.1 and 2 : In the Affirmative;

Point No.3 : As per the final order
for the following:-

REASONS

8. Point No.1:- The Plaintiff before this court seeking the relief of partition and separate possession in respect of the suit schedule properties. In order to establish the case of the plaintiff, the plaintiff Sri. Narasimhaiah examined himself as PW.1. This PW.1 files his chief evidence by reiterating the averments of the plaint. Plaintiff has perused in all 16 documents as Exhibit P1 to 16. I have perused the documents perused by the plaintiff. Exhibit P1 is the genealogical tree, which has not been disputed by the defendant. Exhibit P2 is the RTC of



suit Item No.1, from which it evident that khata of suit Item No.1 reflects in the name of defendant No.1 Kamma. Exhibit P2 is the RTC of suit Item No.2, from which it evident that khata of suit Item No.2 also reflects in the name of defendant No.1 Kamma. As per Exhibit P4, the khata of suit Item No.3 also reflects in the name of 1st defendant Kamma. It evident from Exhibit P5 that the khata of suit Item No.4 also reflects in the name of Kamma. From perusal of Exhibit P2 to P5, it becomes very clear that the khata of the suit Item No.1 to 4 has been changed into the name of 1st defendant Kamma by pouthi vaarasu on death of her husband. Exhibit P15 is a certified copy of the gift deed dated:15.07.2017 executed by Eerappa, father of the plaintiff in favour of the 2nd defendant Lakshamma. By virtue of Exhibit P15, the plaintiff's father gifted the suit Item No.5 in favour of the 2nd defendant. And in Exhibit P15, suit Item No.5 has been described as self-acquired property of the Eerappa. But, as per the plaint averments, the suit properties



have been purchased out of the joint family income in the name of the plaintiff's father-in-law. It is to be noted that this oral evidence of PW.1 with respect to the nature of the suit property has not been disputed by the defendant No.2 and 3. Though the defendant No.2 has put his appearance before this court she has not chosen to file written statement.

9. As per Exhibit P16 the plaintiff's father gifted the suit Item No.6 in favour of the 5th defendant Smt. Shanthamma. Even in this Exhibit P16 suit Item No.6 is described as self-acquired property of Eerappa. But, though the defendant No.6 is served with summons, he has not appeared before this court. However, the oral testimony of PW.1 that suit properties have been purchased out of the joint family income in the name of the plaintiff's father has not been disputed by the defendant No.2 and defendant No.5.



10. It is to be noted that oral and documentary evidence of plaintiff have not been challenged by the defendants. It is well recognized principle of law that when a fact stated by a witness has not been cross examined by the other side, that evidence shall be accepted as fully established as against such party. So, therefore in the case on hand, the evidence of PW.1 that suit properties have been purchased out of the joint family income in the name of plaintiff's father has to be accepted as fully established as against the defendants and in favour of the plaintiff. The case of the plaintiff is more probable and it probalilise the case of the plaintiff that suit properties have been purchased out of the joint family in the name of the plaintiff's father. Therefore, I come to conclusion that the document produced by the plaintiff Exhibit P2 to 5 are sufficient to hold that suit Item No.1 to 4 are joint family properties. Item No.5 and 6 are also held to be joint family properties, in the absence of contrary evidence by the defendants. As the defendants No.2 to



5 being the children of Eerappa and 1st defendant Kamma and the plaintiff and defendants are class-1 heirs of Eerappa, therefore suit properties have to be divided among the plaintiff and defendants equally into 6 divisions. Therefore, the plaintiff is entitled for 1/6th share in the suit schedule properties. The Defendants No.1 to 5 are also entitled for 1/6th share in suit schedule properties. Therefore, suit of the plaintiff is to be decreed. **With these reasons I answer point No.1 and 2 in Affirmative.**

11. Point No.3:- In view of my answers to the above Point No.1 and 2, I proceed to pass the following:-

ORDER

The suit filed by the plaintiff for partition and separate possession is hereby decreed.

The plaintiff is entitled for 1/6th share in suit schedule properties.



The Defendants No.1 to 5 are also entitled for 1/6th share each in suit schedule properties.

Draw Preliminary Decree accordingly.

Considering the relationship between the parties, parties are directed to bear their own costs.

As per the decision of the Hon'ble Apex Court in the case of Kattukandi Edathil Krishnan and Anr., Vs. Kattukandi Edathil Valsan and Ors., passed in Civil Appeal Nos.6406/6407 of 2010, dated:- 13.06.2022 and Circular No.DJA-1/105/2008, dated:-21.10.2022 of the Hon'ble High Court of Karnataka, Bengaluru, office is directed to register F.D.P. and put up the order sheet after expiry of appeal period.

(Judgment is dictated in the laptop by me in Adalat Ai and same is pronounced by me corrected, signed and then pronounced by me in the open court on this 23rd day of March 2026).

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



ANNEXURE

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

P.W.1 : Sri. Narasimhaiah.

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

Ex.P1 : Certificate of Geneological tree;
Ex.P2 to 10 : RTC extracts;
Ex.P11 to 13 : Mutation register extracts;
Ex.P14 : Certified copy of Death
Certificate;
Ex.P15 & 16 : Digital copies of Gift deeds
dated:15.07.2017.

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

- Nil -

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

- Nil -

**PRL.SENIOR CIVIL JUDGE & CJM.,
RAMANAGARA.**