

**TITLE SHEET IN ORIGINAL SUITS.  
C.R.P.No.67  
Form No.  
9(Civil)  
Title sheet for  
judgement in  
suits (R.P.91)**

**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.  
AT MAGADI.**

**PRESENT**

**Sri. K. Mahadeva, B.A.,LL.B.,  
Senior Civil Judge and J.M.F.C.,  
Magadi**

**DATED THIS 10TH DAY OF MARCH, 2016.**

**:: O.S.NO.161/2015 ::**

**PLAINTIFF:-**

Smt. Siddamma D/o late Anjanappa, 27 years, R/o Ward No.27, Hosapete Circle, Magadi Town and Taluk, Ramanagara District.

(By **Sri.K.L.S.** Advo.)

**-V/S-**

**DEFENDANTS:-**

- 1 . Smt. Siddagangamma W/o late Anjanappa, 50 years,
2. Smt. Manjula D/o late Anjanappa, 29 years,
3. Smt. Shobha D/o late Anjanappa, 25 years,
4. Smt. Bhagya D/o late Anjanappa, 23 years,  
All are R/o No.82, Near Water Tank,  
Hosapete, Magadi Town, Ramangara District.
5. Smt. Savithamma W/o Shivalingaiah,  
78 years, R/o No. 553, 4th cross, 7th main road,  
RPC Extension, Vijayanagar, Bangalore.

-2-

O.S.No. 161-2015 Jt (Ex-parte)

**(D.1 to 4 by Sri. L.P.S.Advo.)  
(D.5 Ex-parte)**

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Date of institution of the suit: 30.04.2015.

Nature of the suit: Declaration

Date of recording of evidence 20.01.2016

Date on which judgement was pronounced. 10.03.2016.

Total duration.

Year/s.	Month/s.	Day/s.
00.	10.	10.

**( K. MAHADEVA),  
SENIOR CIVIL JUDGE.  
MAGADI.**

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## **J U D G E M E N T**

The plaintiff has filed this suit against the defendants for the relief of declaration that the plaintiff and defendants 1 to 4 are entitled for 1/5th share each in the suit properties and also for separate possession and also for declaration that the sale-deed dtd: 04.06.2007 executed by late Anjanappa in respect of suit item No.1 property is not binding on the rights of the plaintiff.

2. Brief averments of the plaint are as under:-

The plaintiff contend that she is the daughter of late Anjanappa. The 1st defendant is her mother. The defendants 2 to 4 are her sisters. The land bearing Sy No. 39/4 of Suliwara village measuring 1 acre 20 gts was the joint family property. The said property has been divided on 10.01.1999. In the said division the father of the plaintiff namely Anjanappa was allotted with 20 gts of land and the katha has been effected to his name as per M.R.No. 30/2005-06. He was in possession of the said property. The suit property is the ancestral property. The father of the plaintiff namely late Anjanappa and the 1st defendant representing their minor daughters have sold the suit property in favour of defendant No.5 on 04.06.2007. In the said sale-deed the name of the plaintiff and the name of the 2nd defendant were entered. But later the names of plaintiff and the 2nd defendant have been deleted from the sale-deed. The defendants 1, 3 and 4 and late Anjanappa had no right to alienate the suit property. They are entitle for 1/5th

share each in the suit property. The suit property is the joint family property. The sale-deed dtd: 04.06.2007 is not binding on the rights of the plaintiff. Her fatehr had sold the suit property by suppressing the real facts without disclosing all the family members. The 5th defendant is in possession of suit property based on the registered sale-deed. The defendant No.5 taking advantage of revenue entries she has attempted to sell the suit property. The plaintiff is entitled for 1/5th share in the suit property. Therefore she has filed this suit and pray for decree of the suit.

3. The plaintiff has filed this suit in respect of two properties. (1) Property bearing Sy No.39/4 measuring 20 gts and (2) Property bearing Sy No.39/4 measuring 9 gts, both are situated at Suliwara village, Tavarekere Hobli, Bangalore South Taluk. Afterwards the plaintiff has got deleted the item No.2 property and continued the suit only against Sy No. 39/4 measuring 20 gts.

4. The suit summons has been issued to the defendants. The defendants 1 to 4 have appeared through their advocates. They have not filed their written statements. Hence, it was taken on 15.09.2015 that the defendants 1 to 4 have not filed their written statement. The defendant No.5 remained ex-parte. Hence, the case has been posted for plaintiff's evidence.

5. The plaintiff has got examined herself as PW.1. She has got marked Ex.P.1 to Ex.P.9 documents and closed

her side of evidence. The defendants 1 to 4 have not filed their written statement. The defendant No.5 is ex-parte. Hence, their evidence is taken as no evidence and posted the case for arguments.

6. Heard the arguments of the learned advocate for the plaintiff. Perused the entire records.

7. The points that arise for my consideration are:

1. Whether the plaintiff prove that she is entitled for partition and separate possession of her 1/5th share in the suit properties?

2. Whether the plaintiff prove that the sale-deed dtd: 04.06.2007 executed by late Anjanappa and others in favour of defendant no.5 is not binding on the rights of the plaintiff and the 2nd defendant?

3. Whether the plaintiff is entitled for the relief's claimed?

4. To what order or decree?

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

Point No.1	In the affirmative
Point No.2	In the affirmative
Point No.3	In the affirmative
Point No.4.	As per final order For the following

**REASONS**

**9 POINTS No. 1 to 3:-**For the sake of convenience and also in order to avoid repetition of facts, I have taken these points together for my discussion.

10. It is the case of the plaintiff that she is the daughter of late Anjanappa. The 1st defendant is her mother. The defendants 2 to 4 are her sisters. The land bearing Sy No. 39/4 of Suliwara village measuring 1 acre 20 gts was the joint family property. The said property has been divided on 10.01.1999. In the said division the father of the plaintiff namely Anjanappa was allotted with 20 gts of land and the katha has been effected to his name as per M.R.No. 30/2005-06. He was in possession of the said property. The suit property is the ancestral property. The father of the plaintiff namely late Anjanappa and the 1st defendant representing their minor daughters have sold the suit property in favour of defendant No.5 on 04.06.2007. In the said sale-deed the name of the plaintiff and the name of the 2nd defendant were entered. But later the names of plaintiff and the 2nd defendant have been deleted from the sale-deed. The defendants 1, 3 and 4 and late Anjanappa had no right to alienate the suit property. They are entitle for 1/5th share each in the suit property. The suit property is the joint family property. The sale-deed dtd: 04.06.2007 is not binding on the rights of the plaintiff. Her fatehr had sold the suit property by supperssing the real facts without disclosing all the family members.The 5th defendant is in possession of suit property based on the registered sale-deed. The

defendant No.5 taking advantage of revenue entries she has attempting to sell the suit property. The plaintiff is entitle for 1/5th share in the suit property. Therefore she has filed this suit and pray for decree of the suit.

11. In support of her case the plaintiff has got examined herself as P.W.1 and she has deposed to the plaint averments and she prays to decree the suit.

12. The plaintiff got marked Ex.P.1 to P.9 documents.

Ex.P.1 is the Genealogical tree.

Ex.P.2 is the death certificate of Anjanappa. According to this document the said Anjanappa died on 18.04.2013.

Ex.P.3 is the RTC of Sy No. 39/4 of Suliwara village for the year 2013-14. It is in the name of the defendant No.5.

Ex.P.4 is the RTC of Sy No. 39/4 of Suliwara village for the year 2006-07. It is in the name of Anjanappa.

Ex.P.5 is the M.R.extract of M.R.No. 30/2005-06. According to this document the katha has been effected to the name of Anjanappa.

Ex.P.6 is the M.R.extract of M.R.No.17/2010-11. According to this document the katha has been effected to the name of defendant No.5.

Ex.P.7 is the copy of sale-deed dtd: 04.06.2007. According to this document one Lakshamma and her son Hanumanthappa and son of Hanumanthappa namely Anjanamurthy and one Anjanappa, his wife-Siddagangamma, his minor daughters Shobha, and Bhagya have executed sale-deed in favour of defendant No.5. The father of the plaintiff namely Anjanappa has sold 20 gts of land to the defendant No.5 for Rs. 11,25,000/-.

Ex.P.8 and 9 are the Encumbrance certificates. There is a reference of sale-deed in the Encumbrance certificates.

13. The plaintiff has filed this suit on 30.04.2015. The defendants 1 to 4 have not filed their written statements. The defendant No.5 is Ex-parte. The sale-deed refers to dated: 04.06.2007. The plaintiff and the defendant No.2 were not the parties to the said sale-deed. According to Ex.P.2 Anjanappa died on 18.04.2013.

14. The plaintiff has filed this suit for the relief of declaration that she is entitled for 1/5th share in the suit properties and also for declaration that the sale-deed dtd: 04.06.2007 executed by Anjanappa is not binding on her right over the suit property.

15. The plaintiff has got marked the said sale-deed at Ex.P.7. When we verified the copy of sale-deed Ex.P.7 it discloses that the names of plaintiff and defendant No.2 were initially entered in the sale-deed and afterwards the said names have been deleted. The plaintiff and defendant No.2 have not put their signatures to the said sale-deed. The defendant No.5 who is the purchaser of the suit property has not appeared and not contested the suit. She has not put forth her claim against the plaintiff. The Ex.P.7 establishes that the entering of name of plaintiff in the sale-deed is implied admission of the parties to the sale-deed that the plaintiff is having right over the suit property. But the plaintiff has not put her signature to the said sale-deed. Therefore it

can be said that the said sale-deed does not binds the rights of the plaintiff.

16. The defendant No.5 has not appeared and not contested the suit. Therefore it is necessary to accept the evidence of P.W.1 and the documents produced by the plaintiff. When the plaintiff is not the signatory to the sale-deed, the said sale-deed do not binds the rights of the plaintiff. Therefore the plaintiff is entitle for her 1/5th share in the suit property. Therefore I am holding **point No.1 to 3 in the affirmative.**

17. **POINT NO.4:-** In view of my findings to point No.1 to 3 and the reasons stated therein, I proceed to pass the following:-

### **ORDER**

**The suit of the plaintiff is hereby decreed.**

**The plaintiff is entitle for partition and separate possession of her 1/5th share in the suit property.**

**It is declared that the sale deed dtd: 04.06.2007 in favour of defendant No.5 in respect of suit property does not binds the rights of the plaintiff over her 1/5th share in the suit property.**

**No order as to costs.**

**Draw preliminary decree accordingly.**

( Dictated to the Stenographer, transcribed by him, corrected, signed and then pronounced by me in the open court on this the 10th day of March 2016.)

**( K. Mahadeva),**  
Sr. Civil Judge & J.M.F.C.  
Magadi.

**ANNEXTURE**

1. List of the witnesses examined by the plaintiff.  
P.W.1 Siddamma 20.01.2016.
2. List of the witnesses examined by the defendants.  
Nil
3. List of the documents exhibited by the plaintiff.  
Ex.P.1 Genealogical tree.  
Ex.P.2 Death certificate of Anjanappa.  
Ex.P.3-4 RTC extracts.  
Ex.P.5-6 M.R.extracts.  
Ex.P.7 Copy of sale-deed dtd: 04.06.2007.  
Ex.P.8-9 Two Encumbarance certificates
4. List of the documents exhibited by the defendants.

Nil.

Sr. Civil Judge & J.M.F.C.  
Magadi.

Dm/-.

