



**IN THE COURT OF II ADDL.CIVIL JUDGE & JMFC,
AT MAGADI**

SMT.RANJITHA G.B, B.B.A, LL.B (Hons.)
II Addl.Civil Judge and JMFC, Magadi

Dated this 04th day of June, 2025

OS No.39/2023

PLAINTIFFS

- : Smt.Lakshamma
D/o Late.Jayamma & Channappa,
W/o Lakshman,
Aged about 51 years,
R/at Kattigehalli,
Yadiyuru Hobli,
Kunigal Taluk,
Tumkur District-572130
2. Smt.Girija
D/o Late.Jayamma & Channappa,
W/o Prakash.V,
Aged about 44 years,
R/at No.50, 2nd Floor,
4th Cross, Nagappa Block,
Bangalore North,
Bangalore-560021
3. Smt.Mangalagowri
D/o Late.Jayamma & Channappa,
W/o Late.Shivakumar,
Aged about 44 years
R/at No.25,
6th 'A' Cross Main Road,
Maruthi Extension,
Gayathrinagara,
Bangalore North,
Bangalore-560021



4. Smt.Bharathi
D/o Late Jayamma & Channappa,
W/o Nagaraju,
Aged about 36 years,
R/at No.203,
Hippe Anjaneya Swamy Layout
Puttaiahnapalya,
Nelamangala,
Bangalore Rural-562123.
5. Smt.Kavitha
D/o Late Jayamma & Channappa,
Aged about 34 years,
R/at No.2, 10th Cross,
D Street,
Magadi Road,
Bangalore North,
Bangalore-560023

-Vs-

DEFENDANTS :

1. Sri.Ramashetti,
S/o Revanna,
Aged about 75 years
2. Smt.Puttamma
W/o Ramashetti,
Aged about 70 years
3. Sri.Dinesh.R
S/o Ramashetti,
Aged about 44 years
4. Smt.Pramila H.M
W/o Dinesh.R,
Aged about 38 years,



5. Sri.Harshavardhan S.D
S/o Dinesh.R,
Aged about 20 years,
6. Sri.Suhas S.D
S/o Dinesh.R,
Aged about 19 years,
7. Sri.Ramesh
S/o Ramashetti,
Aged about 36 years,
8. Smt.Shashikala
W/o Ramesh,
Aged about 32 years,
9. Smt.Hanumakka S
S/o Ramashetti,
Aged about 34 years,
10. Smt.Renuka
D/o Late Ramashetti,
Aged about 40 years,

Defendants No.1 to 10 are
R/at Maharaja Beedi,
Bajane Mandira,
Nelamangala Taluk,
Bangalore Rural
Nelamangala-562123

11. Smt.Dakshayani
D/o Late.Hulluramma
& Prakash,
Aged about 40 years,
R/at Ward No.15,
Jyothi Nagar,
Magadi Taluk,



Ramanagara-562120.

12. Sri.Shetti
S/o Late Hulluramma & Prakash,
Aged about 36 years
R/at No.11 and 12,
Ward No-15,
Jyothi Nagar,
Magadi Taluk,
Ramariagar – 562120.
13. Smt.Bhagyamma,
D/o Revanna,
Aged about 52 years,
No.468, Bheemeshwara Nagar,
Chandrasekhar C/o
Renuka Building,
Madanayakanahalli Post,
Dasanpura Hobli,
Bengaluru North Taluk,
Bangalore-562162
14. Smt.Leela
D/o Late.Bhagyamma &
Rangaswamy,
Aged about 38 years,
No-138, Lakoor Village,
Mallassery Post,
Kozhencherry Taluk,
Pathanamthitta District,
Kerala-689646.
15. Smt.Shakuntala
D/o Late.Bhagyamma &
Rangaswamy,
Aged about 40 years,



16. Sri.Shekhar
D/o Late.Bhagyamma
& Rangaswamy,
Aged about 35 years,

Defendants No.15 to 16 are
R/at No.468,
Bheemeshwara Nagar,
Chandrasekhar C/o Renuka
Building, Madanayakanahalli
Post, Dasanpura Hobli,
Bengaluru North Taluk,
Bangalore-562162.

17. Sri.Gopalashetty S.R
S/o Late Revanna,
Aged about 54 years,

18. Smt.Anusuyamma
W/o Gopalashetty S.R,
Aged about 48 years,

19. Sri.Naveen Kumar
S/o Gopalashetty S.R,
Aged about 33 years,

20. Smt.Kavitha
W/o Naveen Kumar,
Aged about 24 years,

21. Kum.Rishika.N
D/o Naveen Kumar,
Aged about 5 years,
Since minor represented by her
guardian mother Smt.Kavitha

Defendants No.17 to 21 are
R/at No.191, Huskuru,



Nelamangala Taluk,
Bangalore Rural,
Nelamangala-562123

22. Smt.Vanitha.G
S/o Gopalashetty S.R,
W/o Ranganatha P,
Aged about 30 years,
R/at Narasipura,
Nelamangala Taluk,
Bangalore Rural-562123,

23. Sri.H.V Ashwath
S/o B.Venkatashamappa,
Aged about 59 years,
R/at No.28,
"Gowri Venkata Nilaya",
3rd Main Road, 1st Stage,
West of Chord Road,
Manjunathanagar,
Bangalore North-560010.

IA No.VI

APPLICANT/

DEFENDANT No.23:

Sri.H.V Ashwath

-V/s-

OPPONENTS /

PLAINTIFFS

: Smt.Lakshmmamma & Others

i	<i>Provision under which the application is filed</i>	<i>Order XIV Rule 5 read with Sec.151 of CPC</i>
ii	<i>Relief sought for</i>	<i>To frame additional issues</i>
iii	<i>The date on which the application is filed</i>	<i>08.07.2024</i>
iv	<i>Number of the application</i>	<i>IA No.VI</i>



<i>v</i>	<i>The date on which the objections are filed by different opponents</i>	<i>03.02.2025</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>04.06.2025</i>

**II Addl.Civil Judge & JMFC,
Magadi**

**ORDER ON IA No.VI FILED BY THE DEFENDANT
No.23 UNDER ORDER XIV RULE 5 READ WITH
SEC.151 OF CPC**

This Application filed at the stage of Plaintiff evidence. The Defendant No.23 had filed this application under Order XIV Rule 5 read with Sec.151 of CPC, seeking to frame an additional issues.

2. The Plaintiffs have filed the present suit as against the Defendants for the relief of Partition & Separate Possession and other consequential relief. When the matter is posted for Plaintiff evidence, the Defendant No.23 has filed this application along with accompanying affidavit and sworn that, the suit schedule property is valued more than Rs.75,00,000/- and the Plaintiffs have sought for the relief of Partition and Separate Possession seeking for 1/3rd share in respect of the suit schedule property, thus, the relief is valued more than Rs.25,00,000/-. The Plaintiffs have sought a relief in respect of Sale Deed dated 14.10.2022



and the same is valued at Rs.60,38,000/-. In para No.4 of written statement, the Defendant No.23 had taken specific contention stating that, this Court is not having pecuniary jurisdiction to try the suit. Therefore, it is necessary to frame an issue with regard to pecuniary jurisdiction.

3. The Defendant No.23 is in exclusive possession and enjoyment over the suit schedule property and on the other hand, the Plaintiffs are not in possession of the suit schedule property as on the date of filing the suit. As such, the Plaintiffs have valued the relief for partition under Sec.35(1) of KCF and SV Act, but, the Plaintiffs have not paid the proper Court fee. In para No.18 of written statement, the Defendant No.23 had taken specific contention with regard to the insufficient payment of court fee made by the Plaintiffs.

4. Further, the Plaintiffs have sought a relief seeking for cancellation of Release Deed dated 03.10.2022 executed by the Plaintiffs in favour of Defendants No.1 & 17, the said contention is denied by the Defendant No.23 in para No.7 written statement and the Defendants No.1 to 9, 17 to 20 and 22 have also denied the said contention in para No.6 of their written statement. Therefore, this application is filed seeking to frame an additional issues with regard to the pecuniary jurisdiction of this Court, payment of Court fee



and with respect to cancellation of Release Deed dated 03.10.2022. If this application is not allowed, the Defendant No.23 will be put to great hardship and on the other hand, no hardship will be caused to the Plaintiffs, as they can always contest the matter on merits. Hence, prayed to allow the application.

5. The Plaintiffs have filed objection and contended that, the issues framed by this Court are sufficient to adjudicate the matter and there is no need to frame additional issues. On 03.04.2024, this Court has framed issues and posted the matter for Plaintiff evidence. The only intention of the Defendant No.23 is to drag the proceedings. If this application is allowed, the Plaintiffs will be put to hardship and the same cannot be compensated in terms of money. Hence, prayed to reject the application.

6. Heard both sides. Perused the material on record.

7. In order to prove the contention of the Defendant No.23, he has relied on the following decisions:

1. ***Fire Luxur Developers Private Limited, Anchemuskar Village, Lakkur Hobli, Chikkatirupathi Post, Malur Taluk, Kolar District V/s Chikka Venkatamma & Others, reported in 2019(1) Kar.L.J 838***
2. ***T.N.Thimmarajachar V/s K.R Sathyanarayana & Others, reported in 2022 (2) Kar.L.J 458***



**3. *Azeez Mohammed and Others V/s Arthur R.W
Towt and Others, reported in 2018 (2) Kar.L.J484***

8. This Court arises the following Points for consideration:

1. Whether the Defendant No.23 has made out sufficient grounds to frame an additional issues?
2. What order?

9. The findings to the above Points are as follows:

Point No.1 : In the '**Affirmative**'

Point No.2 : As per the final order,
for the following:

REASONS

10. **POINT No.1**: The Plaintiffs have filed the present suit seeking for Partition & Separate Possession as against the Defendants. During the pendency of the suit, the Defendant No.23 had filed this application under Order XIV Rule 5 read with Sec.151 of CPC, seeking to frame the preliminary issue.

11. The contention of the Defendant No.23 is that, the suit schedule property is valued more than Rs.75,00,000/-, thus, this Court is not having pecuniary jurisdiction. The Plaintiffs are not in possession of the suit



schedule property as on the date of filing the suit. As such, the Plaintiffs have valued the relief for partition under Sec.35(1) of KCF and SV Act, but, the Plaintiffs have not paid the proper Court fee. Further, the Plaintiffs have sought a relief seeking for cancellation of Release Deed dated 03.10.2022 executed by the Plaintiffs in favour of Defendants No.1 & 17. Therefore, it is necessary to frame an additional issues with regard to the pecuniary jurisdiction of this Court, payment of Court fee and with respect to cancellation of Release Deed dated 03.10.2022.

12. On the other hand, the Plaintiff has contended that, the issues framed by this Court are sufficient to adjudicate the matter and there is no need to frame additional issues. On 03.04.2024, this Court has framed issues and posted the matter for Plaintiff evidence. The only intention of the Defendant No.23 is to drag the proceedings.

13. It is pertinent to note that, the present suit is filed seeking for the relief of Partition & Separate Possession and other consequential relief in respect of the suit schedule property. On perusal of written statement at para No.8, it reveals that, the Defendant No.23 has taken the contention that, as on the date of filing the suit, the market value of the suit schedule property is more than



Rs.60,00,000/- and this Court is not having pecuniary jurisdiction to try the suit. On perusal of written statement at para No.18, it reveals that, the Defendant No.23 has taken the contention that, the Court fee has to be paid on the basis of market value of the suit schedule property in respect of their share as per Sec.35(1) of KCF and SV Act and with regard to the relief in respect of Release Deed dated 03.10.2022, the Plaintiffs have to pay the Court fee as per Sec.38 of KCF and SV Act and thus, the Court fee paid by the Plaintiffs is improper.

14. On perusal of written statement at para No.7, it reveals that, the Defendant No.23 has taken the contention that, the Release Deed dated 03.10.2022 executed by the Plaintiffs in favour of Defendants No.1 & 17 are created and concocted and the said contention is also pleaded by the Defendants No.1 & 17 in their written statement at para No.6.

15. The issues raised by the Defendant No.23 in the present application are material issues. As such, the said issues are necessary to decide the matter effectively. Moreover, in the present suit, evidence is not yet commenced. Under such circumstances, if an additional and preliminary issues are framed, no hardship would be caused to the parties because both the parties will be given equal opportunities to lead their evidence on the said



issues. With due respect, the decisions relied by the Defendant No.23 is not applicable to the present case on hand, as the facts and circumstances are different. By considering the above reasons, this Court is of the opinion that, the Defendant No.23 has made out sufficient grounds to allow the application. Hence, this Court proceeds to answer Point No.1 in the “***Affirmative***”.

16. **POINT No.2:** In view of the aforesaid reasons, this Court proceeds to pass the following :

ORDER

IA No.VI filed by the Defendant No.23 under Order XIV Rule 5 read with Sec.151 of CPC is hereby allowed with cost of Rs.500/-

The following additional issues are framed:

1. Whether the suit of the Plaintiff is within the pecuniary jurisdiction of this Hon’ble Court?

2. Whether the valuation of the relief and Court fee paid by the Plaintiffs are proper and sufficient?

3. Whether the Plaintiffs prove that, Release Deed dated 03.10.2022 is void and inoperative and liable to be cancel?



***Addl.Issue No.1 is treated as
preliminary issue.***

(Dictated to the Stenographer directly on computer and typed by her, Order corrected and signed by me, then pronounced by me in Open Court on this 4th day of June, 2025).

**(Smt.Ranjitha G.B)
II Addl.Civil Judge & JMFC,
Magadi**