



**IN THE COURT OF PRL CIVIL JUDGE & JMFC COURT,  
HOSANAGARA  
AT: HOSANAGARA**

**Present: Maruti R Shindhe (B.A, LL.B)  
PRL. CIVIL JUDGE & JMFC, HOSANAGARA**

**Dated: This the 24<sup>th</sup> day of JUNE 2026**

**ORIGINAL SUIT No.149/2020**

- : 1. Smt.Shruthi B.,  
W/o Ganesha,  
Aged about 27 years,  
Occu: Coolie,  
R/o : C/o Beerappa,  
Mumbalu, Mumbalu Post,  
Anadapura, Hobli,  
Sagara Taluk.
2. Raksha G D/o Ganesha,  
Aged about 11 month,  
Represented by  
natural guardian  
Smt.Shruthi B.,  
W/o Ganesha,  
Occu: Coolie,  
R/o : C/o Beerappa,  
Mumbalu, Mumbalu Post,  
Anadapura, Hobli,  
Sagara Taluk.

(Smt.SVM and Sri.GK., Advocates for  
Plaintiffs

Plaintiffs



And

- :
1. Sri. Eshwara Naika  
S/o late Karadinaika,  
Aged about 71 years,  
Occu: Agriculturist,  
R/o : Baruve village,  
Ripponpete post,  
Kerehalli Hobli,  
Hosanagara Taluk.  
Shivamogga District.
  2. Sri.Hemaraja  
S/o Late Eshwaranaika,  
Aged about 38 years,  
Occu: Agriculturist,  
R/o : Baruve village,  
Ripponpete post,  
Kerehalli Hobli,  
Hosanagara Taluk.  
Shivamogga District.
  3. Smt.Chandrakala  
W/o Rudrappa,  
Aged about 40 years,  
Occu: house maker  
R/o : Mumbaru, Baruve  
village, Ripponpete post,  
Kerehalli Hobli,  
Hosanagara Taluk.  
Shivamogga District.
  - 4.Smt.Sheshamma  
D/o Kadaranaika,  
W/of Kannaika



Aged about 73 years,  
R/at Shabarisha, Baruve  
viallge, Ripponpete 577426,  
Hosangara Taluk.  
Shivamogga District.

**(D1 to D3 Sri.YPM., Advocate and  
D4 placed ex-parte)**

**Defendants**

Date of Institution of the : 18.11.2020  
suit

Nature of the suit : Suit for partition and  
separate possession

Date of commencement of : 22.06.2022  
record of evidence

Date on which judgment : 24.06.2026  
pronounced

Total duration : Year: Months: Days:  
06 11 06

### **JUDGMENT**

The present suit is filed by the plaintiffs for the relief of partition and separate possession claiming 1/4th share against the defendants in respect of the suit schedule properties.



**The suit schedule properties:-**

1. The property measuring 34 gunte in the property bearing survey no.84 situated at Baruve village, Kerehalli Hobli, Hosanagara Taluk bounded as;

East by : The pond belongs to the Baruve village

West by : The areca nut plantation belongs to the Raghu S/o Bhaskra Batta

North by : The property belongs to the Keshava S/o Teekanaika

South by : The areca nut plantation belongs to the Sheshamma W/o Kannanaika

2. The property measuring 2 acres 3 guntas in property bearing survey no.85 situated at Baruve village, Kerehalli Hobli, Hosanagara Taluk bounded as;

East by : The pond belongs to the Baruve village

West by : The areca nut plantation belongs to the Raghu S/o Bhaskra Batta

North by : The property bearing survey no.84 belongs to the Eshwaranaika

South by : The areca nut plantation belongs to the Sheshamma W/o Kannanaika



3. The residential house DR.No.22 measuring 45X23 square feet situated at Baruve village, Kerehalli Hobli, Hosanagara Taluk bounded as;

East by : The pond belongs to the Baruve village

West by : The areca nut plantation belongs to the Raghu S/o Bhaskra Batta

North by : The property belongs to the Keshava S/o Teekanaika

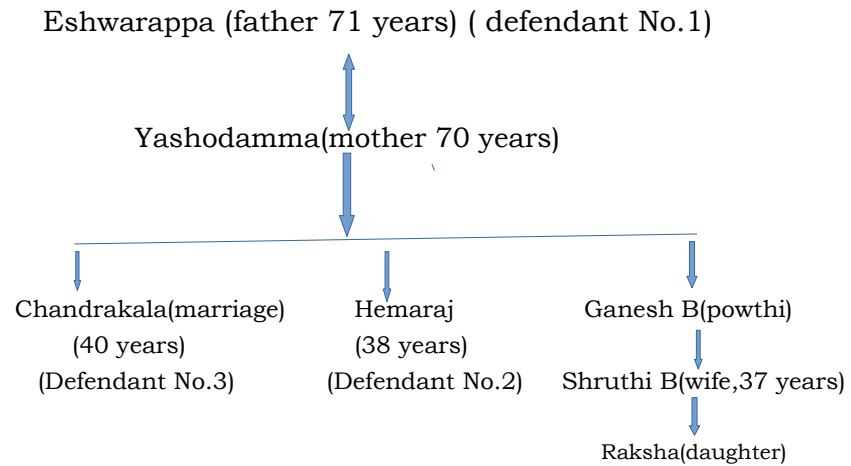
South by : The areca nut plantation belongs to the Sheshamma W/o Kannanaika

2. **The Brief facts of the plaintiff's case are as under: -**

It is the case of the plaintiffs that the first plaintiff is the wife and the second plaintiff is the daughter of Ganesh B. The first defendant is the father-in-law of the first plaintiff and the second defendant is the brother of first plaintiff's husband. Third defendant is the sister of first plaintiff's husband. The first plaintiff's husband died on 28.02.2020 the genealogy tree of the plaintiffs and the defendants family drawn as follows:



### **Genealogy tree**



3. The plaintiffs further submitted that the suit properties are ancestral properties of the plaintiffs and the defendants and they are in the joint possession and enjoyment of the suit schedule property. The first plaintiff is legal wedded wife of the Ganesh and their marriage solemnized on 30.05.2018. The first plaintiff's husband and the second plaintiff's father died on 28.02.2020 and the defendants are refused to allot the share of the plaintiffs. Hence, present suit.

4. After service of the suit summons, the defendants no.1 to 3 are appeared through their learned counsel. The second has filed the written statement and the



defendants No.1 and 3 have filed the memo adopted the written statement filed the second defendant.

5. Perused the order sheet dated 25.10.2021 which reflects that after service of the suit summons upon the defendant No.4 is not appeared before this court. Therefore, this court place him ex-parte.

6. The second defendant has filed the written statement by refuting the averment made in the plaint containing inter-alia that the plaintiffs are not approached this court with clean hands. The suit properties are not an ancestral properties of the plaintiffs and the defendants. The suit properties are self-acquired properties of the first defendant and their mother Smt.Hoovamma. The plaintiffs are not having any interest over the suit schedule properties. Hence, among all these grounds prays to dismiss the suit of the plaintiff with cost.

7. The defendants No.1 and 3 have filed memo adopting the written statement of the second defendant who is contested the suit. Perused the memo it indicates that it neither contained the signature of the second defendant nor verifying as required under law. At this juncture this



Court wishes to relied upon the judgment of Hon'ble High Court of MADHYA PRADESH in Babulal Agrawal Vs Jyoti Shrivastava and others reported in 2000(2) Civil LJ 539 In par 27 held thus It may be mentioned that Gourish Chandra, father of the Ajay Rajana and his four brothers did not file a separate written statement. He only filed written statement adopting the written statement filed by the contenting defendants namely Ajaya Rajana and his brothers. The provision of the Order VI Rule 1 read with Order VIII Rule 2 to 5 contemplate filing of a written statement with specific admission or denials of the averments in the plaint with a separate verification to pleadings. A written statement adopting the written statement of others without verification, is no written statement in the eye of law.

8. In case on hand, the defendants No. No.1 and 3 have filed memo adopting the written statement of the second defendant. The memo neither in the farm of the written statement as required under order VIII Rule 2 to 5 of CPC. The adopting a written statement by the defendants No. No.1 and 3 without verification in no written statement in the eye of law.



9. The learned counsel appearing for the plaintiffs and the learned counsel appearing for the defendants are argued. Perused the material on records, after going through rival contents of the parties and the documents, my predecessor of this court has framed the following:

**ISSUES**

1. Whether the plaintiffs prove that suit schedule property the joint family members and suit schedule properties are the joint family properties?
2. Whether the plaintiffs are entitled to relief sought?
3. What Order or Decree?

10. In order to prove the plaintiffs case, the first plaintiff has examined herself as PW1 and she has got marked the documents as Ex.P1 to Ex.P23 and closed their side.

11. Per contrary the defendants case, the defendant No.2 has examined himself as DW1 and he has not got marked the documents and closed their side.



12. The findings of this court at the above issues are as follows:

Issue No.1 : In the Negative  
Issue No.2 : In the Negative  
Issue No.3 : As per the final order  
for the following

**REASONS**

13. **Issue No.1 and issue no.2:** Issue no.1 and 2 are interlinked each other. Therefore, in order avoid repetition of the facts and discussion the issue no.1 and 2 are taken for the common discussion. It is the case of the plaintiffs that the first plaintiff is the wife and the second plaintiff is the daughter of Ganesh B. The first defendant is the father-in-law of the first plaintiff and second defendant is the brother of first plaintiff's husband and third defendant is the sister of first plaintiff's husband.

14. The plaintiffs further submitted that the suit properties are ancestral properties of the plaintiffs and the defendants and they are in the joint possession and enjoyment of the suit schedule property. The first plaintiff is legal wedded wife of the Ganesh and their marriage solemnized on 30.05.2018. The first plaintiff's husband



and the second plaintiff's father died on 28.02.2020 and the defendants are refused to allot the share of the plaintiffs.

15. The second defendant has filed the written statement by refuting the averment made in the plaint containing inter-alia that the plaintiffs are not approached this court with clean hands. The suit properties are not ancestral properties of the plaintiffs and the defendants. The suit properties are self-acquired properties of the first defendant and their mother Smt.Hoovamma. The plaintiffs are not having any interest over the suit schedule properties.

**16. The document placed by the plaintiffs.**

The plaintiffs have produced the documents vide Ex P1 to Ex.P26. Perused the documents vide Ex.P1 is the genealogy tree of the plaintiffs and the defendants family. Ex.P2 and Ex.P3 are is the marriage invitation card. Ex.P4 is the birth certificate of the second plaintiff. Ex.P5 is the record of right of the suit property bearing no.85 of item no.2 of the suit property in the year 2019-20. Ex.P6 is the record of right of the item no.1 of the suit property bearing no.84. Ex.P7 is the certified



copy of the mutation register No.19/1988-89. Ex.P8 is the certified copy of the mutation register No.9/1998-99. Ex.P9 is the certified copy of the demand register no.22 in the year 2020-21. Ex.P10 is the death certificate of Ganesha. Ex.P11 is the Ration card of the plaintiff. Ex.P12 is the Aadhar card of the plaintiff. Ex.P13 is the Aadhar card of the second plaintiff. Ex.P14 is the voter's ID card of the plaintiff. Ex.P15 is the certified copy of the CRTF order copy. Ex.P16 is the certified copy of the Form No.7. Ex.P17 is the certified copy of the From No.10. Ex.P18 is the certified copy of the mutation register No.9/1998-99. Ex.P19 is the mutation register. Ex.P20 is the certified copy of the record of right of the item no.2 of the property bearing no.85/1994 to 2000 Ex.P21 is the certified copy of the record of right of the item no.1 of the suit property bearing no.84 in the year 1989-90. Ex.P22 to Ex.P23 are certified copy of the record of right of the item no.1 and 2 of the property bearing no.84 in the year 1989-90.

**17. The document placed by the defendants.**

The defendants have not placed the relevant documents in support of their case.



18. **The oral submission on behalf of the plaintiff:**

The learned counsel appearing for the plaintiffs argued that the plaintiffs have filed this suit for the relief of partition and separate possession claiming 1/4th share in the suit schedule properties. The first plaintiff is the daughter-in-law of the first defendant and the second plaintiff is the grand daughter of the first defendant. The first plaintiff's husband and father of the second plaintiff and son of the first defendant died 28.02.2020 under vide Ex.P10 leaving behind the plaintiffs and their father and mother. The suit schedule properties are ancestral properties of the plaintiffs and the defendants there is no partition effected between the plaintiffs and the defendants in respect of the suit schedule properties.

19. The learned counsel appearing for plaintiffs further argued that the plaintiffs and the defendants are in the joint possession and enjoyment of the suit schedule properties. The plaintiffs have produced the relevant documents vide Ex.P1 to Ex.P23 and adduced the oral evidence to prove their case. Hence, among all these grounds prays to decree the suit of the plaintiff with cost.



20. **Oral submissions of the learned counsel appearing for the defendants:-**

The learned counsel appearing for the defendants argued the suit schedule properties are self-acquired properties of the first defendant and his wife. Therefore, the suit of the plaintiffs is not maintainable in eye of law. The first plaintiff admitted in her cross-examination that the suit schedule properties are self-acquired properties of the first defendant. Hence, the plaintiffs are failed to prove that the suit schedule properties are ancestral properties of the plaintiffs and the defendants. Hence, among all these grounds prays to dismissed suit of the plaintiffs with cost.

21. The plaintiffs in order to prove their case. The first plaintiff has filed affidavit in lieu of examination-in-chief wherein she reiterated the averment made in the plaint and examined herself as PW1 and in order substantiate the oral evidence. The first plaintiff has got marked the documentary evidence vide Ex.P1 to Ex.P23.

22. The defendants in order to prove their case. The second defendant has filed affidavit in lieu of



examination-in-chief wherein he reiterated averment made in the written statement and examined himself as DW1, the second defendant in order to substantiate their oral evidence has not got marked the documentary evidence.

23. This court gone through the oral evidence of the plaintiffs. The first plaintiff in her cross-examination deposed that the suit schedule property inherited by the first defendant from his mother and the suit schedule properties are in the name of the first defendant. The second plaintiff further admitted that the suit schedule item no.3 and 4 are her mother-in-law's name and which are situated in the Government place.

24. The testimony of the second plaintiff indicates that the item no.1 and 2 of the suit schedule property are inherited by first defendant from his mother and item no.3 and 4 property her standing in the name of her mother-in-law.

25. This court gone through the cross-examination of the second defendant. The second defendant deposed that item no.1 of the suit schedule property is self-acquired



property of the first defendant and which is granted under the Land Reforms Act. The second defendant further admitted that he has not produced relevant document pertaining to the item no.1 of the suit schedule property.

26. The second defendant further admitted that he has no idea of mode acquired the item no.2 of the suit schedule property. The second defendant further admitted that there is no partition effected among their family and item no.3 of the suit schedule property is ancestral property of the their family.

27. The second defendant further admitted that the item no.1 and 2 of the suit schedule property are in the first defendant's name and now the item no.3 and 4 properties are in the name of mother-in-law's of the first plaintiff. The grandmother had filed an application in respect of the item no.2 of the suit schedule property for benefit of family. The second defendant further admitted that the item no.1 of the suit schedule property is joint family property.



28. The testimony of the second defendant indicates that the item no.1 of the suit schedule property is self-acquired of first defendant and he has no idea about mode of acquisition of the item no.2 of the suit schedule property. No partition effected in the family of defendants and item no.3 of the suit schedule property is ancestral property of the defendants family. The item no.1 and 2 of the suit schedule property are in the name of the first defendant and item no.3 and 4 of the suit schedule property are in the name of his mother and item no.2 of the suit schedule property granted for benefit of family.

29. This court gone through the documentary evidence placed by the plaintiffs. There is no dispute about relationship between the plaintiffs and the defendants and marriage of the first plaintiff with the Ganesha who is the son of first defendant. Therefore, the documents produced by the plaintiffs vide Ex.P1, Ex.P2 and Ex.P3 and Ex.P11, Ex.P12 to Ex.P14 are not discussed. Since admitted facts need not be proved.

30. Accordingly, the document produced by the plaintiffs vide Ex.P5, Ex.P20 and Ex.P21 are the record of rights of



the item no.2 of the suit schedule property from 1994 to 2000 and 2019-20 which reflects that the item no.2 of the suit schedule property standing in the name of the first defendant and in the column no.10 shows ancestral in the record of right of the suit schedule property under vide Ex.P5 and earlier the item no.2 of the suit schedule property standing in the name of the Hoovamma who is none other than mother of the first defendant.

31. Accordingly, the document produced by the plaintiffs vide Ex.P6 and Ex.P22 are the record of right of the item no.1 of the suit schedule property in the year 1989 to 2000 which reflects that the item no.1 of the suit schedule property is in the first defendant's name. Accordingly, the document produced by the plaintiffs vide Ex.P9 is the demand extract in the year 2020-21 which reflects that it is the demand extract of item no.3 of the suit schedule property issued by the Ripponpete which reflects that the item no.3 and 4 of the suit schedule property standing in the name of Yashodhamma who is none other than the first plaintiff's mother-in-law and grandmother of the second plaintiff. But, the Yashodhamma is not party to the suit.



32. Accordingly, the document produced by the plaintiffs vide Ex.P7 which is the certified copy of the MR.No.19/1988 -89 which reflects that the name of the first defendant mutated in respect of item no.1 of the suit schedule property as per the order dated 17.06.1989 as per the tribunal order. Accordingly the document produced by plaintiffs vide Ex.P8 : Ex.P18 are the MR.No.9/1988-89 which reflects that it indicates that the first defendant's mother died on 26.10.1998. Accordingly, name of the first defendant mutated in record of right of item no.2 of the suit schedule property.

33. Accordingly, the document produced by the plaintiffs vide Ex.P15 it is the order sheet in respect of the land tribunal case. Accordingly, the document produced by the plaintiffs vide Ex.P16 it is the Form no.7 which reflects that the Hoovamma has filed Form no.7 in respect of the item no.2 of the suit schedule property. Accordingly, the document produced by the plaintiffs vide Ex.P17 it is Form no.10 which reflects that the land tribunal has issued Form no.10 in favour Hoovamma in respect of the item no.2 of the suit schedule property.



34. This court after appreciation of the entire pleadings and the documentary evidence of the plaintiffs and the defendants. The plaintiffs have filed this suit for the relief of partition and separate possession claiming 1/4th share in the respect of item no.1 to 4 of the suit schedule property. It is tried law that the initial burden lies upon the plaintiffs prove that the plaintiffs and the defendants are joint family members and the suit schedule properties are ancestral or joint family properties by adducing the sufficient oral and the documentary evidence.

35. The plaintiffs categorically admitted during her cross-examination that the suit properties are inherited by the first defendant from his mother. Accordingly, the documents produced by the plaintiffs vide Ex.P15, Ex.P16 and Ex.P17 clearly indicates that the item no.2 of the suit schedule property granted to the Hoovamma under Land Reforms Act, after demises of the Hoovamma the first defendant's name mutated in the record of right of the item no.2 of the suit schedule properties which clearly indicates that the suit item no.2 of the schedule property is not ancestral property inherited from four male heads.



36. The item no.2 of the suit schedule property inherited from his mother. Therefore, it cannot be holds it is an ancestral property of the plaintiffs and the defendants. The item no.1 of the suit schedule property is also acquired by the first defendant from his mother. Though the second defendant admits during his cross-examination that the suit item no.1 of the suit schedule property is granted for benefit of the family. The admission given by the second defendant is not having any worth since the evidence of the second defendant is contrary to the documentary to the evidence of the plaintiffs.

37. The document produced by the plaintiffs vide Ex.P9 which is demand extract of item no.3 and 4 of the suit schedule property which is standing in the name of first plaintiff's mother-in-law namely Yashodhamma who is not party to the suit which clearly indicates that the item no.3 and 4 property are not ancestral property of the plaintiffs and the defendants.

38. There is no dispute that the first defendant's son namely Ganesha married the first plaintiff and out their marriage wedlock the second plaintiff born. There is no



further dispute that the first plaintiff's husband namely Ganesha died on 28.02.2020. The first plaintiff's husband has not got birth right over the suit schedule property during his lifetime. Though the plaintiffs are the Hindu joint family members. But, they have no any right or interest over the suit schedule properties.

39. It is well settled law that in suit for partition and separate possession of the plaintiffs shall fill fulfilled the guidelines led down by the *Hon'ble Appex Court in Shashidar Vs. Ashwini Uma Mathad reported in (2015) 11 SCC 269 laid down principle in the suit for partition suit. In a suit filed by a co-sharers, co-parcener, co-owner or joint owners as case may be partition and separate possession of his/her share qua others. It is necessary for the court to examine, in first instance the nature and character of the properties, in such a suit was original owner of the suit schedule properties, how and by which source he/she acquired such properties, whether it was his/her self acquired property or ancestral property, or joint joint property or coparcenary property in his/her hand and, if so, who are/were the coparceners or joint owners with him/her as the case may be. Secondly, how the devolution of his/her interest in the property took place*



*consequent upon his/her death on surviving members of the family and in what proportion, whether he/she dies intestate or left behind any testamentary succession in favour of any family member or outsider to inherit his/her share in properties and if so, its effect. Thirdly, whether the properties in suit are capable of being partitioned effectively and if so, in what manner? Lastly, whether all properties are included in the suit and all co-sharers, coparceners, co-owners or joint owners, as the case may be are made parties to the suit? These issues being material for proper disposal of the partition suit, have to be answered by the court on the basis of family tree, interse relations of family members, evidence adduced and the principles of law applicable to the case.*

40. In the instance case, the during life time of first defendant and his wife their sons second and third defendant and the first plaintiff husband and father of second plaintiff are not having any birth right over the suit schedule property. Therefore, the plaintiffs are not having right over the suit schedule property. The plaintiffs are not made all the necessary parties to suit. The plaintiffs have failed to prove the suit schedule properties are ancestral or joint family properties of the



plaintiffs and the defendants. Though the defendants also not taken any defence in the written statement regarding non-joinder necessary parties. Hence, the plaintiffs have failed prove that the suit schedule properties ancestral properties of the plaintiffs and the defendants. The plaintiffs are not entitled relief sought in the plaint. Hence, in the light of above discussion, this Court answered issues no.1 and 2 are the Negative.

41. **Issue No.4** : In view of the above opinion, I proceed to pass the following;

**ORDER**

The suit of the plaintiffs is hereby  
dismissed with cost.

Draw preliminary decree accordingly.

(Dictated to the Stenographer directly on computer, typed by her, revised by me and then pronounced in the open court, on this 24<sup>th</sup> day of June 2026)

Prl.Civil Judge & JMFC,  
Hosanagara.

**ANNEXURE**

1. List of witness on behalf of plaintiff:  
PW1 : Smt.Shruthi



2. List of witness on behalf of defendants:

DW1 : Sri.Hemaraj

3. List of documents exhibited on behalf plaintiff:

- Ex.P1 : The genealogy tree of the plaintiffs  
the defendants family
- Ex.P2&3 : The marriage invitations cards
- Ex.P4 : The birth certificate of the  
second plaintiff
- Ex.P5 : Record of right of the item no.2 of the  
suit property bearing no.85
- Ex.P6 : Record of right of the item no.1 of the  
suit property bearing no.84
- Ex.P7 : Certified copy of the mutation  
register No.19/1988-89
- Ex.P8 : Certified copy of the mutation  
register No.9/1998-99
- Ex.P9 : Certified copy of the demand  
register no.22
- Ex.P10 : The death certificate of Ganesha
- Ex.P11 : The Ration card of the first plaintiff
- Ex.P12 : The Aadhar card of the first plaintiff
- Ex.P13 : The Aadhar card of the second plaintiff.
- Ex.P14 : The voter's ID card of the plaintiff
- Ex.P15 : Certified copy of the CRTF order copy
- Ex.P16 : Certified copy of the Form No.7
- Ex.P17 : Certified copy of the From No.10
- Ex.P18 : Certified copy of the mutation  
register No.9/1998-99
- Ex.P19 : The mutation register
- Ex.P20 : Certified copy of the record of right of  
the item no.2 of the property bearing no.85



- Ex.P21 : Certified copy of the record of right of  
the item no.1 of the suit property  
bearing no.84 in the year 1989-90
- Ex.P22&23: Certified copy of the records of rights  
of the item no.1 and 2 of the property  
bearing no.84

4. List of documents exhibited on behalf defendants:

: NIL

Prl. Civil Judge & JMFC,  
Hosanagara.