



IN THE COURT OF THE SENIOR CIVIL JUDGE AND

J.M.F.C., AT CHIKKANAYAKANAHALLI

**Present:- Sri. SATISH S.T., B.Com., LL.B.,
Senior Civil Judge and J.M.F.C.,
Chikkanayakanahalli.**

Dated :- This the 29th day of July, 2026

RA.No.38/2024

APPLICANTS:-

- Kenchamma.,
D/o Late Kamsagarappa.,
W/o Kariyappa.,
Aged about 70 years,
R/o Naduvanahalli Garden
House, Handanakere Hobli,
C.N.Halli Taluk, Tumkur District.,
Dead by Lr's.,
- a. Ningamma W/o Mallaiah.,
Aged about 65 years,
R/o Doddathekalavatti village,
Mathod Hobli, Hosadurga Taluk.
- b. Manjamma W/o Thimmappa.,
Aged about 50 years,
R/o Niduvalli village,
Panchanahalli Hobli, Kadur Taluk.
- c. Basappa S/o Kariyappa.,
Aged about 64 years,
- d. Beerappa S/o Kariyappa.,
Aged about 46 years,
- e. Basamma W/o Late Revanna.,
Aged about 52 years,
Dead by Lr's.,



- (a). Rangaswamy S/o Late Revanna.,
Aged about 28 years,
All are R/o Naduvanahalli
Garden house, (Karekatte),
Handanakere Hobli, C.N.Halli
Taluk Tumkur District.
- f. Kariyamma W/o Thimmanna.,
Aged about 38 years,
R/o Chikkayennegere village,
Handanakere Hobli, C.N.Halli
Taluk, Tumkur District.

(By Sri.MSR., Adv.)

// Versus //

RESPONDENT:-

1. Gavirangaiah.,
S/o Lakkamma & Hanumanthappa.,
Aged about 69 years,
2. Ningappa.,
S/o Lakkamma & Hanumanthappa.,
Aged about 67 years,
3. Bhagyamma W/o Beerappa.,
D/o Lakkamma & Hanumanthappa.,
Aged about 59 years,
4. Murthy S/o Beerappa.,
Aged about 34 years,
5. Tholasamma.,
D/o Lakkamma & Hanumanthappa.,
Aged about 64 years,
6. Channappa S/o Gavisiddappa.,
Aged about 94 years.,
(The husband of Doddaningamma-Dead)
The respondent No.7 to 11 & 15
are the only Lr's.



7. Lakkappa.,
S/o Doddaningamma & Channappa.,
Aged about 69 years,
8. Naganna.,
S/o Doddaningamma & Channappa.,
Aged about 67 years,
9. Gavisiddappa.,
S/o Doddaningamma & Channappa.,
Aged about 64 years,
10. Thimmanna.,
S/o Doddaningamma & Channappa.,
Aged about 63 years,
11. Jayanna S/o Doddaningamma & Channappa.,
Aged about 45 years,
All are R/o Doddathekalavatti village,
Mathod Hobli, HosadurgaTaluk,
Chitradurga District.
12. Sannaningamma.,
D/o Late Kamsagarappa.,
W/o Late Ningappa.,
Aged about 69 years,
13. Kamsagarappa.,
S/o Late Ningappa & Sannaningamma.,
Aged about 45 years,
Dead by Lr's.,
 - a. Jayamma W/o Kamsagarappa.,
Aged about 56 years,
R/o Naduvanahalli village,
Handanakere Hobli, C.N.Halli
Taluk, Tumkur District.
 - b. Shivamma D/o Kamsagarappa.,
Aged about 35 years,
R/o Madalu village, Kanakatte,
Arasikere Taluk.



c. Nagarathna D/o Kamsagarappa.,
Aged about 33 years,
R/o H.M.Kavalu village,
Karekatte garden house,
Handankere Hobli, C.N.Halli
Taluk, Tumkur District.

14. Rangappa S/o Ramaiah.,
Aged about 45 years,
All are R/o Naduvanahalli,
Handanakere Hobli, C.N.Halli
Taluk, Tumkur District.

15. Kamsagarappa.,
S/o Dodda Nigamma & Chennappa.,
Aged about 30 years,
R/o Doddathekalavatti village,
Mathod Hobli, Hosadurga
Taluk, Chitradurga District.

**(By Sri.SGK., Adv for R13(a) & R1 to 12,
13(a to c), 14 & 15-were exparte)**

Date and nature of the order	Appeal against the Judgment & decree passed in OS.343/2011 dated 29.06.2024 passed by Prl. Civil Judge & JMFC, C.N.Halli		
Date of institution of Appeal	21.08.2024		
Date of Disposal	29.07.2026		
Duration of Appeal	Year/s	Month/s	Day/s
	01	11	08

Sr.Civil Judge and J.M.F.C.,
Chikkanayakanahalli.



J U D G M E N T

This appeal is preferred by the Appellants under Order 41 Rule 1 R/w Section 151 of CPC against the Judgment and Decree passed in OS.No.343/2011 by Prl. Civil Judge and JMFC., C.N.Halli on 29.06.2024.

2. In order to avoid repetition of facts and for convenience, I refer the parties to the appeal as per their ranking before Trial Court.

3. The plaintiff has filed this suit for partition and separate possession. The suit of the plaintiffs against the defendants was dismissed.

The case of the plaintiff's are as follows :-

4. That the propositors by name Kamsagarappa had four daughters wherein the Plaintiff is one of the daughter and the other three daughters are Lakkamma, Doddaningamma and the defendant No.12 Sannaningamma. All the daughters are now dead and that their representative family members are said to be in joint family and that they are the coparceners. The defendants No.1 to 5 are the legal heirs of the said Lakkamma. The defendants No.6 to 11 and 15 are the legal heirs of Doddaningamma. The defendant No.13 is the son of defendant No.12. The defendant No.13 also being dead is represented by the legal representatives. It is submitted that there was demand for division of the suit properties however



the defendants refused. The suit properties are now standing in the name of defendant No.12 and 13 and upon the strength of such documents have alienated the Item No.5 suit property to the defendant No.14 without the consent of Plaintiffs. Hence, has filed this suit.

5. Upon the service of suit summons, the defendants No.14 has been placed exparte and all the other defendants have been represented by the Advocates. The only contesting defendant is the defendant No.13 who has filed the written statement. There is no dispute with regard to the relationship between the family members, it is specifically denied that the suit properties are joint family properties and of the plaintiffs having any share. It is further contended that some of the suit properties have been alienated around 15 to 20 years ago and the purchasers have not been made as parties to the suit and therefore the suit is bad for non-joinder of necessary parties. It is submitted that the propositor Kamsagarappa performed the marriages of his daughters Lakkamma, Doddaningamma and the original plaintiff herein and at the time of marriage was given the gold ornaments as their shares and not claim share in the suit properties. After their marriage they are said to be lived in their matrimonial home. With regard to another daughter of Kamsagarappa ie., defendant No.12 she was given



in marriage to his own sister's son by name Ningappa and since there was no male issue to him, the defendant No.12 and his son-in-law stayed with him at his house. Further the said Kamsagarappa has executed the registered Will in respect of all the suit properties in his favour and in favour of his mother defendant No.12. Based on the said registered Will the mutation was effected in his name and in the name of his mother defendant No.12. From then they were said to be in peaceful possession and enjoyment of the suit properties and had also obtained financial support from the Banks by mortgaging those properties. It is further submitted that the defendant No.13 has sold the Item No.1 suit property. Further the question of Item No.2, Item No.3 is not correctly stated in the suit properties and that the Item No.3 has been sold 20 years back in favor of one Ramanna and Item No.4 has been sold to one Gavirangaiah and Item No.6 is sold in favour of Ramanna and Item No.11 has been sold to one Hanumanthappa about 30 years back. All these properties were self acquired properties on the basis of registered Will. Further it is contended that the Plaintiff was born prior to 1956 and that the suit properties are not available to partition and that the suit is not maintainable. The defendant No.1 to 12 and defendant No.15 has adopted this written statement.



Further by way of amendment has brought in the pleadings with regard to written statement schedule property in respect of the property bearing Sy.No.33/3P2 (Old Sy.No.33/3) measuring to an extent of 1 acre is said that the said property belonged to the propositor Kamsagarappa. The said property has been sold by the defendant No.13 to one G.Gangadharaiah S/o Late Gaviyappa on 08.05.1992. Upon the death of Gangadharaiah now the written statement property stands in the name of P.G.Shobha W/o Late G.Gangadharaiah. Further has taken stand that the entire extent of Item No.9 suit property has not been included in the plaint and that if the Court comes to the conclusion that there has been no partition effected and that the property even now constitute as joint family property and has prayed partition of even written statement schedule property. Hence, with the above contentions prays to dismiss the suit.

6. Upon the rival pleadings, the following issues came to be framed:

1. Whether the plaintiff proves that she is the member of joint family and the suit schedule properties are joint and ancestral properties ?
2. Whether the plaintiff is entitled for relief of partition and separate possessed of $\frac{1}{4}$ th share in the suit schedule properties ?



3. Whether the defendants prove that the suit schedule property is the self acquired property ?
4. Whether the defendants prove that Kamsagarappa has executed Will dated 08.11.1975 in favour of defendant No.12 ?
5. Whether the defendants prove that suit schedule properties are sold to defendant person as stated in para 14 of written statement ?
6. Whether the plaintiff is entitled for enquiry into mesne profit ?
7. What order or decree?

ADDL. ISSUES DATED 05.10.2015

1. Whether the defendants prove that the plaintiff has not paid sufficient Court fee and the suit is excluding pecuniary jurisdiction of this Court ?
2. Whether the defendants prove that the suit is bad for non-joinder of necessary parties ?
3. Whether the defendants further proves that they have sold suit Item No.1 and 2 and Item No.3 is not correct ?
4. Whether the defendants further prove that since the Plaintiff born prior to 1956, she is not entitled to claim partition in the suit properties ?

7. The plaintiff in order to substantiate his case, the GPA holder of the plaintiff Basamma D/o Kariyappa got examined as Pw1 and examined three witnesses by name Kamsagarappa S/o Mallappa as Pw2, Lakkappa S/o Channappa as Pw3 and Gavisiddappa S/o Channabasappa as



Pw4 and marked Ex.P1 to Ex.P28. On the other hand the defendants in order to substantiate their case, the defendant No.13 got examined as Dw1 and defendant No.2 got examined as Dw2, defendant No.10 got examined as Dw3 and defendant No.13(a) got examined as Dw5 and one independent witness by name Jayaswamy got examined as Dw4 and marked Ex.D1 and Ex.D34.

8. Having heard both learned counsels, the Trial Court has dismissed the suit of the plaintiffs.

9. Feeling aggrieved by said judgment and decree, the appellants/plaintiffs have preferred this appeal with respect to dismissing of suit on following;

GROUND S

10. That the Trail Court has not properly appreciated the oral and documentary evidence available on record erred in dismissing the suit and the Trail Court has erred in answering the Issue No. 1, 2 and 6 in Negative, though the plaintiff has proved the said issues by producing cogent documentary and oral evidence. The Trail Court has erred in answering the Issue No.3 and 4 in Affirmative, though the defendants No.12 and 13 have not proved the said issues as per the settled principals of law. The relationship of the parties is not in dispute and it is an admitted fact between the parties that the



suit schedule properties originally belongs to Kamsagarappa. The contentions of the defendants is that Kamsagarappa S/o Kadanna has bequeathed the suit schedule properties to the defendants No.12 and 13 through the registered Will dated 08.11.1975. The defendants have not examined the attesters of the Will, one Jayaswamy has been examined as Dw4, who is the son of Chandappaji Urs alleged attester of the Will dated 08.11.1975. In the cross-examination in Kannada versions...

ನನಗೆ ತಿಳಿದಿರುವಂತೆ ನನ್ನ ತಂದೆ ಅವರ ಜೀವಿತ ಕಾಲದಲ್ಲಿ ಯಾವುದೇ ಜಮೀನು ಮಾರಾಟ ಮಾಡಿಲ್ಲ ಮತ್ತು ಖರೀದಿಸಿಲ್ಲ. ನಾನು ಮತ್ತು ಸಹೋದರರು ವಿಭಾಗ ಮಾಡಿಕೊಂಡಿದ್ದೇವೆ. ಸದರಿ ವಿಭಾಗವನ್ನು ನನ್ನ ತಂದೆಯ ಜೀವಿತ ಕಾಲದಲ್ಲಿ ಮಾಡಿಕೊಂಡಿರುತ್ತೇವೆ. ಸದರಿ ವಿಭಾಗ ಪತ್ರದಲ್ಲಿ ನನ್ನ ತಂದೆ ಸಹಿ ಮಾಡಿರುತ್ತಾರೆ. ಸದರಿ ದಾಖಲೆಯನ್ನು ಹಾಜರು ಪಡಿಸಲು ನನ್ನ ಯಾವುದೇ ಅಡಚಣೆ ಇರುವುದಿಲ್ಲ. ನನ್ನ ತಂದೆ ಮೃತಪಟ್ಟ ದಿನಾಂಕ ಗೊತ್ತಿಲ್ಲ. ನಾನು ನನ್ನ ತಂದೆ ಜೊತೆ ಯಾವುದೇ ವ್ಯವಹಾರದಲ್ಲಿ ಭಾಗವಹಿಸಿರುವುದಿಲ್ಲ. ನಿ.ಡಿ ೧ ದಾಖಲೆಯಲ್ಲಿ ಸಹಿಯನ್ನು ನನ್ನ ತಂದೆ ಎಲ್ಲಿ, ಯಾವ ಸ್ಥಳದಲ್ಲಿ, ಯಾವ ಸಂದರ್ಭದಲ್ಲಿ ಹಾಕಿರುತ್ತಾರೆ ಎನ್ನುವ ಬಗ್ಗೆ ನನಗೆ ಮಾಹಿತಿ ಇರುವುದಿಲ್ಲ. ನನ್ನ ತಂದೆಯ ಸಹಿ ಉಳ್ಳ ಯಾವುದೇ ನೋಂದಾಯಿತ ದಾಖಲೆಗಳು ನನ್ನ ಬಳಿ ಇರುವುದಿಲ್ಲ. ನಿ.ಡಿ ೧ರಲ್ಲಿ ಚಂದ್ರಾಪ್ಪಾಜಿ ಅರಸ್ ಬರೆದಿರುವುದರಿಂದ ಅದು ನನ್ನ ತಂದೆಯ ಸಹಿ ಎಂದು ಹೇಳುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ. ನಿ.ಡಿ ೧ ದಾಖಲೆಯನ್ನು ಮತ್ತು ಅದರಲ್ಲಿರುವ ನಿ.ಡಿ ೧ಬಿ ಸಹಿಯನ್ನು ಇದೇ ಪ್ರಥಮ ಬಾರಿಗೆ ನೋಡುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ.

It is further submitted that, the said evidence of the DW4 clearly establishes that the DW4 is not acquainted with the signature of alleged attester Chandapaji Urs and the alleged will dated 08.11.1975 as not been proved as per the provision



of Section 67 of Indian Evidence Act, but the Trail Court with out properly appreciating the documentary and oral evidence erred in answering the Issue No. 3 and 4 in Affirmative. After remand the Ex.D1 alleged will has been sent to the expert opinion on the request of the defendant No.12 for compression of the signatures of Kamsagarappa with the admitted document ie., is the registered sale deed dated 23.05.1960 marked as Ex.D17. After receipt of the said documents, the commissioner has send the letter to the Trail Court stating that the signatures found on the Ex.D1 and Ex.D17 are not sufficient to give the opinion. Thereafter, the defendants have produced the sale agreement dated 14.11.1973 to the Court. The said document has not been marked and the document has been send to the expert opinion along with Ex.D1 and Ex.17. Further submitted that, for the necked eye, it clearly establishes that the signature of Kamsagarappa differs from page to page in Ex.D1 and the same have not been tallied with the signatures found on the Ex.D17 registered sale deed but the Trail Court with out properly verifying the said document as per the provision of Section 73 of Indian Evidence Act erred in dismissing the suit. The sale agreement dated 14.11.1973 is an un-exhibited document and the same is not an admitted document. The Commissioner, who has not properly examined



the Ex.D1 and Ex.17 with that off the alleged sale agreement dated 14.11.1973 erred in giving the opinion that all the signatures found on the Ex.D1 and Ex.17 and the agreement dated 14.11.1973 are made by one person. The plaintiff has filed the objections to the commissioner report. The Trail Court with out providing opportunity to the plaintiff to cross-examine the commissioner rejected the objections filed by the plaintiff to the Commissioner report erred in decreeing the suit much relaying on the commissioner report. Further submitted that, the Ex.D1 is an laminated document. As per the settled principals of law, it is not possible to given opinion on the laminated documents, the Commissioner has mentioned in his report that the Ex.D1 is laminated sale deed, the commissioner has not chosen to read the contents of the document and to know the nomenclature of the document, has given the vague opinion on the ExD1. The Trail Court much relaying on the opinion on the Commissioner, with out providing an opportunity to the plaintiff to cross-examine the Commissioner, much relaying on the commissioner report erred in dismissing the suit. The Ex.D1 is an specious document and the same has not been proved as per the provisions of Section 67 and 68 of Indian Evidence Act but the Trail Court with out properly appreciating the settled



principals of law laid down by the Hon'ble Apex Court relayed by the plaintiffs erred in dismissed the suit. The Judgment and decree passed by the Trail Court is against the natural justice, weight of documentary evidence and the same is liable to be dismissed with costs. The Trail Court has made out his own case to dismiss the suit of the plaintiff, which is bad in law and the Trail Court has grossly erred in not considering the irreparable loss that the appellant/Plaintiff going to suffer because of dismissing the suit. The judgment and decree of the Trail Court is oppose to law, natural justice, equity and probabilities of the case and it is being improper, contrary to law and equity and the same is called for interference by this Court. The balance of convenience lies in favor of the Appellant in allowing the appeal. By this submission they pray for allow the appeal.

11. After receiving the TCR, I have heard arguments from both sides and perused the case papers.

12. To decided this appeal following points are arises for my consideration;

P O I N T S

1. Whether the plaintiff and defendants are the joint family members, suit properties are ancestral and joint family properties of plaintiff and defendants?



2. Whether the plaintiff is entitled the partition and separate possession of suit properties?
3. Whether the Kamsagarappa has executed Will dated 08.11.1975 in favour of defendant No.12 and 13 bequeathing suit properties?
4. Whether call for interference by this Court with respect of Judgment and Decree passed by the Trial Court is warranted?
5. What Order ?

13. My answer to above points are here under;

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Affirmative

Point No.4 : In the Negative

**Point No.5 : As per final order,
for the following;**

REASONS

14. **Point No.1 to 3** :- For a sack of convenience I would like to discuss all these points together for common discussion.

It is the specific case of the plaintiff that, the plaintiff and defendants are the joint family members, suit properties are their ancestral and joint family properties. The defendant No.12 and 13 who are residing with the plaintiff's father Kamsagarappa got created the documents and refused to effect partition of suit schedule properties. In order to prove the case of plaintiff, the plaintiff No.1(e) has been examined as



PW1 in her examination-in-chief she deposed reiterating the plaint averments and produced General Power of Attorney executed by plaintiff in favour of her daughter Basamma which is marked as Ex.P1. The Ex.P2 is the G-Tree of plaintiff and defendants family, the Ex.P3 to Ex.P5 are the records of right with respect of suit schedule properties, the Ex.P6 to Ex.P8 are the index of land, on perusal of these documents it goes to shows that, suit schedule properties are standing in the name of deceased Kamsagarappa and defendants. The Ex.P9 to Ex.P17 are the hand written RTC extracts, on perusal of these documents it goes to shows that, earlier suit properties are standing in the name of Kamsagarappa after that it was changed in the name of defendant No.12 and 13 by virtue of Will executed by Kamsagarappa. The Ex.P18 to Ex.P23 are the RTC extracts of suit properties for the year 2011-12 which are in the name of defendant No.2 and 3, the purchaser of suit properties. The Ex.P24 and Ex.P25 are the demand register extracts, the Ex.P26 is the MR extract, the Ex.P27 is the Aadhaar card of plaintiff, the Ex.P28 is the voter identity card. In the cross-examination of PW1 the learned Advocate for defendant No.12 and 13 has suggested that the defendant No.12 and 13 have taken care of Kamsagarappa, when the Kamsagarappa is in sound state of mind executed



registered Will on 08.11.1975 in favour of defendant No.12 and 13 bequeathing suit schedule properties, these facts are denied by the PW1. Further the learned Advocate for defendants has suggested that some of the properties are sold by the defendant No.12 and 13 this fact is also denied by PW1.

15. It is the specific case of the defendants that, the propositor Kamsagarappa was no male issues, hence his daughter Sannaningamma was married with Kamsagarappa's sister's son Ningappa and he kept both of them in his house during his old age 12th defendant and his son have taken care of Kamsagarappa, hence he has bequeathed suit properties in favour of defendant No.12 and 13. In order to prove the case of the defendant, the 3rd defendant himself examined as DW1 in his examination-in-chief he deposed reiterating the written statement averments and produced original Will executed by Kamsagarappa dated 08.11.1975 which is marked as Ex.D1. Since this document is registered document it can be held that it was executed in accordance with law. Further Ex.D1 being the Will it is compulsory attestable document, hence to prove the Will the defendant No.12 and 13 have examined on witness by name Jayaswamy as DW4. The said Jayaswamy is the son of one of the attested witness, at that time of evidence of defendants no one attested witnesses are alive, hence the



defendant No.12 and 13 have rightly examined one of the son of attested witness as DW4, in his evidence he has identified his father's signature in the said Will and in the cross-examination of DW4 the learned Advocate for plaintiff has not disputed that DW4 is the son of one of the attested witness. From the evidence of Dw4 it can be held that, the defendant No.12 and 13 have proved the Ex.D1 Will under Section 68 of Evidence Act and under Section 63 of Indian Succession Act. Further as per the Ex.D20 death certificate of Kamsagarappa he was died on 01.05.1990. The Will was executed on 08.11.1975. From the oral evidence of defendants it can be held that in the year 1975 the health of Kamsagarappa was good, hence it can be held that the Kamsagappa was executed Will in favour of defendant No.12 and 13 when he was sound disposing state of mind. Further the execution of Will by Kamsagarappa in favour of defendant No.12 and 13 is suspicious circumstance for consideration. Admittedly the Kamsagarappa was having four daughter except one of the daughter ie., defendant No.12 and her son he has excluded all the daughters in the Will, except the plaintiff and other daughters have not challenged the said Will executed by Kamsagarappa. The defendants have taken contention that since the Kamsagarappa was no male issue his daughter



Sannaningamma was married his sister's son Ningappa and he was kept them in his house. After the birth of a son to defendant No.12 her husband Ningappa was died within few years, hence the Kamsagarappa was bequeathed the suit properties in favour of defendant No.12 and 13, this fact is stated in the Will, hence bequeathing the suit properties to defendant No.12 and 13 by excluding the other daughters by Kamsagarappa is not suspicious circumstance. Further after the execution of Will in the year 1975 the katha of suit properties are mutated in the name of defendant No.12 and 13. This can be gathered in the revenue documents produced by both the parties and the katha of suit properties was effected after the death of Kamsagarappa in the year 1990 itself. After lapse of 21 years this suit was filed by the plaintiff, this being the fact eventhough the plaintiff and other her sisters have knowledge about the execution of Will by Kamsagarappa they have not taken any steps for more than 21 years. Further earlier after full fledged trial the Trial Court has decreed the suit of the plaintiff. Feeling aggrieved by the judgment and decreed passed by the Trail Court the defendant No.12 and 13 have preferred this Appeal before the Trial Court in RA.No.83/2015 and this Court was allowed the Appeal and remanded back the case to Trial Court with a direction to send



Ex.D1 to hand written expert along with admitted signature of the Kamsagarappa and dispose the matter in accordance with law. Accordingly, the Trial Court has appointed hand written expert as Commissioner and send the Will for his opinion along with admitted signature. The Commissioner has filed his report and in his report he has stated that the signature appearing in the Ex.D1 Will belongs to Kamsagarappa, this being the fact it can be held that the defendant No.12 and 13 have proved that Kamsagarappa has bequeathed the suit properties by virtue of Will in favour of them.

16. Further the defendants in their written statement they have taken contention that some of the properties have sold by the defendant No.12 and 13, on perusal of the sale deeds produced by the defendants and revenue records it goes to shows that some of the properties are sold to the third persons eventhough the plaintiffs have not made the purchasers as necessary parties, on this ground also the suit of plaintiffs is not maintainable. Considering all these aspects holding that, the plaintiff has failed to prove that plaintiffs and defendants are joint family members suit properties are ancestral and joint family properties of plaintiffs and defendants, hence the plaintiffs are not entitled any share in the suit schedule properties, on the other hand the defendants



have proved that the Kamsagarappa had executed the Will dated 08.11.1975 bequeathing the suit schedule properties in favour of defendant No.12 and 13. **Hence, I have answered Point No.1 and 2 in the Negative and Point No.3 in the Affirmative.**

17. **Point No.4** :- After full fledged trial the Trial Court has dismissed the suit of the plaintiffs, the Trial Court has rightly appreciated the documentary and oral evidence produced by both the parties. The Trial Court has rightly held that plaintiffs and defendants are not joint family members suit properties are not ancestral and joint family properties of them. The Trial Court has rightly held that the deceased Kamsagarappa had executed Will on 08.11.1975 bequeathing suit schedule properties in favour of defendant No.12 and 13. The Trial Court has held that the Kamsagarappa having only daughters he is the only coparcener and he has got every right to alienate the suit schedule properties. The Trial Court has held that the Karnataka Amendment of Section 6 of Hindu Succession Act is also not applicable to present case on hand. The Trial Court has rightly held that by virtue of Will dated 08.11.1975 the defendant No.12 and 13 are the owner and possessor of suit schedule properties. The grounds urged in this Appeal are not sustainable under law. Hence, call for



interference by this Court with respect of judgment and decree passed by the Trial Court is not warranted. **Hence, I have answered Point No.4 in the Negative.**

18. **Point No.5:-** In view of various reasons and discussions made on Point No.1 to 4, I proceed to pass the following:-

O R D E R

The Appeal filed by the appellants/plaintiffs is hereby dismissed.

The Judgment and Decree passed by the Prl. Civil Judge and JMFC, C.N.Halli in OS.No.343/2011 dated 29.06.2024 is hereby confirmed.

No order as to cost.

Send TCR to Trial Court with copy of this judgment.

(Dictated to the Stenographer, typed by him and after corrections, pronounced by me in the Open Court on this the 29th day of July, 2026).

(SATISH S.T.)

Senior Civil Judge & J.M.F.C.,
Chikkanayakanahalli.