



IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC AT
GUBBI

Dated this the 11th day of August 2026

:Present:

**KIRAN S.P., B.B.M., LL.B.,
Prl. Civil Judge & JMFC, GUBBI**

O.S. No.237/2021

Plaintiff/s :- Sri. M.G. Renukaiah
S/o Late Gurudevaru
Aged about 69 years
R/at Mooganayakanakote,
Nittur Hobli, Gubbi Taluk,
Tumkur District.

(By Sri. T.N.J., Advocate)

-V/S-

**Defendant/s :- Sri. M.G. Siddalingamurthy,
S/o Late Gurudevaru
Aged About 58 years
R/at Mooganayakanakote,
Nittur H obli
Gubbi Taluk, Tumkur Dist**

(By Sri. H.L.R.S., Advocate)

**ORDER ON ADMISSIBILITY OF DOCUMENT PRODUCED
BY THE DEFENDANT:**

The suit is for permanent injunction. The Plaintiff is seeking the order of permanent injunction by restraining the defendants from interfering with plaintiff's peaceful



possession and enjoyment of the suit schedule property in any manner.

2. While chief examination of DW1, defendant has produced one document which is styled as memorandum of partition which is unregistered and less stamped which has been tendered in evidence.

3. Learned counsel for defendant has contended that defendant has produced memorandum of partition and said document is not mandatory and it is optional under section 17 of Registration Act and it is not necessary to pay the stamp duty on the said document. He has also submitted that said document is admissible in evidence and it is not compulsorily required to be registered and said document is admissible in evidence. Therefore he prayed for acceptance of said document in evidence and to admit the said document in evidence by marking it in evidence.

4. Learned counsel for plaintiff contended that the said document produced by the Defendant is not admissible in eyes of law as said document is not registered and properly stamped. He has also submitted that, the said document which has to be registered compulsorily and properly stamped and said document is not properly stamped and not



registered and it is not admissible in the eyes of law and said document cannot be admissible in evidence and mark in evidence.

5. Materials on record disclosed that defendant has produced one document which is styled as memorandum of partition and said document is not registered. Then the question arises for my consideration is whether it is partition deed or memorandum of partition.

6. The said document was executed on 09.02.1978 and the recital of said document reveals that the oral partition was took place on 01.08.1966 and thereafter it was reduced into writing. Hence I hold that the document produced by the defendant is a memorandum of partition. Now the question arises of my consideration is whether the memorandum of partition is compulsorily registrable document or not. In this regard I relied on the decision reported in KAN LJ 2015(5) 193 (Venkataswamy and others **VIS** annemma) is relevant and where in it is held that

The partition had been affected back, it does not create any right in any property and its registration was not compulsory. It is simply a piece of evidence supporting the allegation that the partition was effected at a certain date but once it is held that a partition document has created title and interest of the parties in the property in dispute for the first time, then such writing / settlement would require registration under the provision of section 17 (2) of registration act.



7. After careful perusal of that document reveals that the document has not created any title and interest of the parties in the property for the first time hence I proceed to hold that document produced by the defendant is not a partition deed and it is a memorandum partition. And that the registration of memorandum of partition is not compulsory and it need not be registered and there is no stamp duty is prescribed for memorandum of partition under The Karnataka Stamp Act, 1957 and it need not be required stamp duty, However the defendant has already paid the duty and penalty; Hence, this court proceeds to pass the following:

ORDER

**Memorandum of partition dated
09.02.1978 produced by the defendant
is admissible in evidence.**

(Dictated to the stenographer, transcribed by her, corrected and then pronounced in the open Court on this the 11th day of August 2026)

**Sd/-
(KIRAN S.P.)
Prl. Civil Judge & JMFC.,
Gubbi.**