

KATK620002492017



Presented on : 15-06-2017
Registered on : 15-06-2017
Decided on : 03-06-2026
Duration : 8 years, 11 months, 18 days

**IN THE COURT OF THE PRL.CIVIL JUDGE AND JMFC AT,
MADHUGIRI**

O.S.No.198/2017

**PRESENT: SRI.AMARANATHA B.N.
B.A., L.L.B,
Prl.Civil Judge & JMFC,
Madhugiri.**

DATED ON THIS THE 3rd DAY OF JUNE, 2026

PLAINTIFF:

1. Smt.Muddamma,
W/o Late Kengigappa,
Since dead by her LRs:
- 1(a). Smt.Sakamma,
D/o Late Muddamma,
aged about 58 years,
- 1(b). Smt.Rathnamma,
D/o Late Muddamma,
aged about 52 years,
2. Sri.Chandranna,
S/o Late Kengigappa,
aged about 30 years,
3. Sri.Ramachandraiah,
S/o Late Kengigappa,
aged about 35 years,

All are residents of
Lakshmaiahnapalya village,
Doddahosahalli Majre,



Puravara Hobli,
Madhugiri Taluk.

(By Sri.GPM, Advocate)

//Versus//

DEFENDANTS:

1. Sri.Lakshmana,
S/o Late Doddappaiah,
aged about 52 years,
2. Sri.Ramakrishnaiah
S/o Late Doddappaiah,
aged about 50 years,
3. Sri.Doddavenkatappa,
S/o Late Ramanna,
aged about 50 years,
4. Smt.Yellamma,
W/o Late Venkatappa,
aged about 40 years,
5. Sri.Thimmaiah,
S/o Late Kengigappa,
aged about 42 years,
6. Sri.Venkatashamaiah,
S/o Late Kengigappa,
aged about 36 years,
7. Sri.Muddukrishna,
S/o Late Kengigappa,
Since dead by his LRs:
- 7(a). Smt.Ashwathamma,
W/o Late Muddukrishna,
aged about 42 years,
- 7(b). Sri.Venu,



S/o Late Muddukrishna,
aged about 18 years,

7(c). Smt.Savitha,
D/o Late Muddukrishna,
aged about 16 years,
Minor, represented by
Natural Guardian,
Mother Ashwathamma,

All are residents of
Lakshmaiahnapalya village,
Doddahosahalli Majre,
Puravara Hobli,
Madhugiri Taluk.

(By Sri.DVS, Advocate)

Date of Institution of Suit	15.06.2017
Nature of the suit	Declaration and partition and Separate Possession
Date of Commencement of evidence	29.06.2022
Date of Judgment	03.06.2026
Total Duration	Years Months Days 08 11 18

***Prl. Civil Judge & JMFC,
Madhugiri.***

-:: JUDGMENT ::-

1. The plaintiffs have filed this suit against the defendants for the relief of declaration and partition, with a prayer to declare that the gift deed dated 16.11.1977 said to have been executed by the deceased Yallappa in favour of defendant No.1



in respect of the suit schedule properties is not binding upon the share of the plaintiffs in the suit schedule properties and to effect partition in the suit schedule properties and to allot 1/3rd share to the plaintiffs in the suit schedule properties and put them in separate possession of their share in the suit schedule properties by by metes and bounds. In respect of following properties:

Sl.No.	Property Particulars
1.	Land bearing Sy.No.39/2A measuring 08 guntas out of 35 guntas, situated at Doddahosahalli village, Puravara Hobli, Madhugiri Taluk.
2.	Land bearing Sy.No.11/1A measuring 26 guntas, situated at situated at Doddahosahalli village, Puravara Hobli, Madhugiri Taluk.
3.	Land bearing Sy.No.11/2 totally measuring 1 acre 01 gunta, situated at Doddahosahalli village, Puravara Hobli, Madhugiri Taluk.
4.	Land bearing Sy.No.12/1A measuring 01 acre 20 guntas out of 8 acres 19 guntas, situated at Doddahosahalli village, Puravara Hobli, Madhugiri Taluk.

2. The plaintiffs in the plaint presented by them contended that the propositus of the family of the plaintiffs and defendants namely Venkataravanappa had four sons namely Doddappaiah, Ramanna, Kengigappa and Yallappa and all are no more. Further contended that Doddappaiah died leaving



behind defendant No.1 and 2 as his Legal representatives, Ramanna died leaving behind defendant No.3 and husband of defendant No.4, Kengigappa died leaving behind the plaintiffs and defendants No.5 to 7 and Yallappa died as bachelor. Accordingly the plaintiffs and defendants are joint family members governed by Mitakshara school of law and suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and katha of the suit schedule properties earlier stood in the name of Yallappa who is the uncle of plaintiff No.2 and 3 and he died as bachelor. Further contended that the plaintiffs and defendants continued in joint possession and enjoyment of the suit schedule properties and there is no partition between the plaintiffs and defendants or between the children of propositus Venakaravanappa i.e., Doddappaiah, Ramanna, Kengigappa and Yallappa. Further contended that the plaintiffs are no longer interested continue in the joint family. Hence the the plaintiffs demanded the defendants to effect partition in the suit schedule properties. But the defendants refused to effect partition. Hence the plaintiffs without any other alternative convened panchayath in that regard. Even in the panchayath, the defendants did not come forward to effect



partition in the suit schedule properties and to allot their legitimate share. Further contended that recently defendant No.1 exposed the execution of gift deed by deceased Yallappa. Further contended that the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. Hence Yallappa has no exclusive right over the suit schedule properties to execute gift deed in favour of defendant No.1. On enquiry they came to know that there is a gift deed dated 16.11.1977 in favour of defendant No.1, said gift deed is created, concocted and manipulated for the purpose of knock off the suit schedule properties. The defendant No.1 by claiming right over the suit schedule properties based on the gift deed dated 16.11.1977 refused to effect partition in the suit schedule properties. Hence the plaintiffs without any other alternative approached this court with this suit, by stating so filed this suit.

3. Upon service of summons, defendants appeared and contested the suit. The defendant No.1 in the written statement filed by him admitted the relationship of the plaintiffs and defendants as pleaded in the plaint and denied the existence of the joint family and ancestral and joint family properties of plaintiffs



and defendants as pleaded in the plaint. Further contended that joint family is not in existence and also denied the joint possession and enjoyment of the plaintiffs and defendants in the suit schedule properties as pleaded in the plaint and there is no cause of action for the suit and the alleged cause of action is created for the purpose of filing the suit.

4. The defendant No.1 in the written statement filed by him further contended that Yallappa during his life time executed the gift deed dated 16.11.1977 in favour of defendant No.1 in respect of item No.I of the suit schedule property. Hence the defendant No.1 is the absolute owner of the item No.I of suit schedule property and and he is in possession and enjoyment of the Item No.I of the suit schedule property based on the gift deed.
5. The defendant No.1 in the written statement filed by him further contended that the plaintiffs have no right to challenge the gift deed executed by Yallappa in favour of defendant No.1. Hence the plaintiffs and defendant No.5 to 7 have no right, title or interest over the suit schedule properties. Further contended that the suit schedule



properties are not the joint family properties of plaintiffs and defendants. Hence the plaintiffs and defendants are not in joint possession and enjoyment of the suit schedule properties. Further contended that deceased Yallappa and his brothers divided the family properties by way of oral partition about 50 to 60 years back. In the said partition item No.I of the suit schedule property fallen to the share of Yallappa. Further contended that the defendant No.1 look after the deceased Yallappa during his life time. Hence Yallappa gifted the item No.I of the suit schedule property along with other properties to defendant No.1 under the gift deed dated 16.11.1977. Since from the date of gift deed the defendant No.1 is in exclusive possession and enjoyment of item No.1 of the suit schedule property as absolute owner. Further contended that based on the gift deed the revenue documents in respect of item No.1 of the suit schedule property mutated in the name of defendant No.1 and item No.2 to 4 of the suit schedule properties are not the ancestral properties of plaintiffs and defendants. Hence the plaintiffs have no right in item No.2 to 4 of the suit schedule properties. Hence the plaintiffs are not entitled for share in the suit schedule properties. Therefore the suit of the plaintiffs is liable to be



dismissed, by stating so prays to dismiss the suit.

6. Based on the pleadings this court framed the issues as here under:

ISSUES

1. *Whether the plaintiffs prove that they along with defendants constitute members of Hindu undivided joint family?*
 2. *Whether the plaintiffs prove that suit schedule properties are ancestral joint family properties of them along with defendants?*
 3. *Whether plaintiffs prove that the gift deed dated 16.11.1977 executed by deceased Yallappa in favour of defendant No.1 with respect to suit schedule properites is not binding on them?*
 4. *Whether defendant No.1 prove that he is in exclusive possession and enjoyment of suit item No.1 property vide Gift deed dated 16.11.1977?*
 5. *Whether plaintiffs are entitled for the reliefs as sought for?*
 6. *What order or decree?*
7. The plaintiffs in order to prove their case the plaintiff No.3 entered the witness box and gave evidence as PW1 and produced the documents which are marked as per Ex.P1 to Ex.P5. The plaintiffs in support of their case also examined one witness as PW2. After completion of the evidence of



plaintiffs, the defendant No.1 entered the witness box and gave evidence as DW1 and produced the documents which are marked as per Ex.D1 to Ex.D15. The defendants in support of their case examined one witness as DW2.

8. Heard the arguments of Sri.GPM Advocate for the plaintiffs and Sri.DVS advocate for defendants. The counsel for the plaintiff also files written arguments.

9. Based on the pleadings and oral and documentary evidence, I answer above said issues as hereunder:

Issue No.1	: In the Negative,
Issue No.2	: In the Negative,
Issue No.3	: In the Negative,
Issue No.4	: In the Affirmative,
Issue No.5	: In the Negative,
Issue No.6	: As per the final Order

For the following ;

:: REASONS ::

10. **ISSUE NO.1 to 3:-** These issues are inter-connected with each other. Hence, in order to avoid repetition of facts and appreciation of the evidence, taken up together for common discussion.



11. The plaintiffs in order to prove that the the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties plaintiffs and defendants and gift deed dated 16.11.1977 executed by deceased Yallappa in favour of defendant No.1 is not binding upon them relied upon the oral evidence of PW1 and PW2 and Ex.P1 to Ex.P5. On the other hand the defendants in order to rebut the case of the plaintiffs relied upon the oral evidence of DW1 and DW2 and Ex.D1 to Ex.D15.
12. The PW1 in the examination-in-chief reiterated contents of the plaint. But the PW1 in the cross-examination deposed that ಯಲ್ಲಪ್ಪ ಮಾಡಿಕೊಟ್ಟಿರುವ ದಾನ ಪತ್ರದಂತೆ 1ನೇ ಪ್ರತಿವಾದಿ ದಾವಾ 1 ನೇ ಸ್ವತ್ತಿನ ಸ್ವಾಧೀನದಲ್ಲಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿ ಮುಂದುವರೆದು ಎಲ್ಲಾ ಸ್ವತ್ತುಗಳಲ್ಲಿ ಅವರು ಸ್ವಾಧೀನದಲ್ಲಿರುತ್ತಾರೆ ಎಂದು ಉತ್ತರಿಸಿರುತ್ತಾರೆ.
13. Further the PW2 in the examination-in-chief deposed in support of the case of the plaintiffs. But the PW2 in the cross-examination deposed that ದೊಡ್ಡಹೊಸಹಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ ನನಗೆ ಯಾವುದೇ



ಜಮೀನು ಇರುವುದಿಲ್ಲ. 3ನೇ ವಾದಿ ನಮ್ಮ ಗ್ರಾಮದಲ್ಲಿ ಮದುವೆಯಾಗಿರುವುದರಿಂದ ನನಗೆ ಅವರ ಪರಿಚಯ ಇರುತ್ತದೆ. 3ನೇ ವಾದಿಯ ತಾತನ ಹೆಸರು ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ. 3ನೇ ವಾದಿಯ ತಾತನಿಗೆ ಎಷ್ಟು ಜನ ಮಕ್ಕಳು ಎಂದು ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ. ದಾವಾ ಸ್ವತ್ತುಗಳು ಮೂಲತಃ ಯಾರಿಗೆ ಸೇರಿದ್ದವು ಎಂದು ಪ್ರಶ್ನಿಸಿದ್ದಕ್ಕೆ ಸಾಕ್ಷಿಯು ರಾಮಚಂದ್ರಯ್ಯರವರೊಂದಿಗೆ ನಾನು ಹೋಗಿ ಹೊಲ ಉಳುಮೆ ಮಾಡುತ್ತಿದ್ದೆ ಆದರೆ ಅವರು ಯಾರೊಂದಿಗೆ ಜಂಟಿ ಸ್ವಾಧೀನದಲ್ಲಿರುತ್ತಾರೆ ಮತ್ತು ಅವರ ಅಣ್ಣ-ತಮ್ಮಂದಿರ ವ್ಯವಹಾರಗಳ ಬಗ್ಗೆ ನನಗೆ ಸಂಪೂರ್ಣವಾಗಿ ಗೊತ್ತಿರುವುದಿಲ್ಲ ಎಂದು ಉತ್ತರಿಸಿರುತ್ತಾರೆ. ದಾವಾ ಸ್ವತ್ತುಗಳು ಸರ್ವೆ ನಂಬರ್, ವಿಸ್ತೀರ್ಣ ಮತ್ತು ಚಕ್ಕುಬಂಧಿ ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ. ನಾನು ರಾಮಚಂದ್ರಯ್ಯರವರೊಂದಿಗೆ ಹೋಗಿ ಬರುತ್ತಿದ್ದ ಕಾರಣ ದಾವಾ 1ನೇ ಆಸ್ತಿಗೆ ದಾನ ಪತ್ರ ಬರೆದುಕೊಟ್ಟಿರುವುದಿಲ್ಲ ಎಂದು ನನಗೆ ಗೊತ್ತಿರುತ್ತದೆ. ದಾವಾ 2 ರಿಂದ 4ನೇ ಆಸ್ತಿಗಳು ವಾದಿಗಳ ಕುಟುಂಬಕ್ಕೆ ಹೇಗೆ ಬಂದಿರುತ್ತವೆ ಎಂದು ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ. In view of the admission given by the PW2 in the cross-examination as referred above it goes to show that the PW2 has no knowledge about the family of the plaintiffs and defendants and the suit schedule properties. Hence the oral evidence of PW2 is not helpful for the plaintiffs to prove that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants.



14. The plaintiffs in support of their case produced the documents which are marked as per Ex.P1 to Ex.P5. Ex.P1 is the certified copy of gift deed dated 16.11.1977 executed by Yallappa S/o Chikkavenkatappa in favour of defendant No.1 in respect of item No.1 of the suit schedule property and other properties, Ex.P2 to Ex.P5 are the RTC extracts in respect of the suit schedule properties.
15. On the other hand the defendant No.1 in order to rebut the claim of the plaintiffs relied upon the oral evidence of DW1 and DW2 and Ex.D1 to Ex.D15. The DW1 in the examination-in-chief reiterated the contents of the written statement. Further the DW1 in the cross-examination deposed that ವಾದಿಗಳು ನನ್ನ ಚಿಕ್ಕಪ್ಪನ ಮಕ್ಕಳು. ನಮ್ಮ ಮತ್ತು ವಾದಿಗಳ ಕುಟುಂಬದ ಮೂಲ ಪುರುಷ ವೆಂಕಟರವಣಪ್ಪ ಎಂದರೆ ಸರಿ. ವಾದಿಗಳು ಮತ್ತು ನಾವು ವೆಂಕಟರವಣಪ್ಪರವರ ವಾರಸುದಾರರು ಎಂದರೆ ಸರಿ. ನನ್ನ ತಂದೆ ಮತ್ತು ಚಿಕ್ಕಪ್ಪಂದಿರು ತೀರಿಕೊಂಡ ನಂತರ ನಾನೇ ಕುಟುಂಬದ ಮುಖ್ಯಸ್ಥನಾಗಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ನಾನೇ ಕುಟುಂಬದ ಮೇಲ್ವಿಚಾರಣೆಯನ್ನು ನೋಡಿಕೊಳ್ಳುತ್ತಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ನಮ್ಮ ಕುಟುಂಬದ ಸದಸ್ಯರಲ್ಲಿ ನಾನೇ ಬುದ್ಧಿವಂತ ವ್ಯಕ್ತಿ ಎಂದರೆ ಸರಿ. Further deposed that



ದಾವ ಸ್ವತ್ತುಗಳು ಮೂಲತಃ ಮೂಲ ಪುರುಷ ವೆಂಕಟರವಣಪ್ಪ ರವರಿಗೆ ಸೇರಿತ್ತು ಎಂದರೆ ಸರಿ. ವೆಂಕಟರವಣಪ್ಪ ರವರು ತೀರಿಕೊಂಡ ನಂತರ ದಾವ ಸ್ವತ್ತುಗಳಲ್ಲಿ ಅವರ ಎಲ್ಲಾ ಮಕ್ಕಳು ಜಂಟಿಯಾಗಿ ಸಾಗುವಳಿ ಮಾಡುತ್ತಿದ್ದರು ಎಂದರೆ ಸರಿ. Further deposed that ದಿನಾಂಕ: 16.11.1977ರಲ್ಲಿ ಧಾನ ಪತ್ರ ಬರೆದುಕೊಡುವ ದಿನದಿಂದ ಯಲ್ಲಪ್ಪರವರ ಹೆಸರಿನಲ್ಲಿ ಯಾವುದೇ ಆಸ್ತಿಯ ದಾಖಲೆಗಳು ಇರಲಿಲ್ಲ. ಯಲ್ಲಪ್ಪನಿಗೆ ಆಸ್ತಿ ಬಂದಿರುತ್ತದೆ ಎಂಬುದಕ್ಕೆ ನಾನು ಯಾವುದೇ ದಾಖಲೆ ನೋಡಿರುವುದಿಲ್ಲ. ದಾವ ಸ್ವತ್ತುಗಳು ನಮ್ಮ ಕುಟುಂಬದ ಪಿತ್ರಾರ್ಜಿತ ಆಸ್ತಿಗಳಾಗಿರುವ ಕಾರಣ ಯಲ್ಲಪ್ಪರವರಿಗೆ ಧಾನ ಪತ್ರಬರೆಯಲು ಹಕ್ಕು ಇರಲಿಲ್ಲ ಎಂದು ಸೂಚಿಸಿದ್ದಕ್ಕೆ ಸಾಕ್ಷಿ ಇರಲಿಲ್ಲ ಎಂದು ಉತ್ತರಿಸಿರುತ್ತಾರೆ. Further the DW2 in the examination-in-chief deposed in support of the case of the defendant No.1. Though the counsel for the plaintiffs fully cross-examined the DW2 nothing has been elicited to disbelieve the evidence of DW2 and to prove that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and the gift deed dated 16.11.1977 is not binding upon the share of the plaintiffs in the suit schedule properties .

16. The defendant No.1 in support of his case produced the



documents which are marked as per Ex.D1 to Ex.D15. Ex.D1 is the registered gift deed dated 16.11.1977 under which the defendant No.1 claiming right over item No.1 of the suit schedule property, Ex.D2 to Ex.D15 are the RTCs and Mutation register extracts in respect of the suit schedule properties.

17. On perusal of the materials on record it goes to show that it is the specific case of the plaintiffs that the plaintiffs and defendants are the lineal descendants of the propositus Venkataravanappa and plaintiff No.2 and 3 and the defendants are the grandchildren of propositus Venkataravanapa and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and there is no partition in the suit schedule properties between the plaintiffs and defendants or between the children of propositus Venkataravanappa. Hence they are entitled for share in the suit schedule properties.
18. It is relevant to note that though the plaintiffs claim that the plaintiffs and defendants are the joint family members and the suit schedule properties are their ancestral and joint



family properties and they are in joint possession and enjoyment of the suit schedule properties, the plaintiffs have not produced documents to prove that as on the date of filing of suit the plaintiffs and defendants are the members of joint family and they are in joint possession and enjoyment of the suit schedule properties. Further it is relevant to note that though the plaintiffs in support of their case examines one witness as PW2, on perusal of oral evidence of PW2 it goes to show that the PW2 is not the resident of Lingaiahnapalya village where the plaintiffs and defendants are residing. Further as per the admission given by the PW2 in the cross-examination as referred above it clearly goes to show that the PW2 has no knowledge about the family of the plaintiffs and defendants and the suit schedule properties. Hence the oral evidence of PW2 is not helpful for the case of the plaintiffs to prove that the plaintiffs and defendants are the joint family members as on the date of filing of suit and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and they are in joint possession and enjoyment of the suit schedule properties.

19. Further on perusal of the Ex.P1 and Ex.D1 i.e., the registered



gift deed dated 16.11.1977 it goes to show that way back in the year 1977 uncle of the plaintiff No.2 and 3 and defendant No.1 to 7 namely Yallappa executed the gift deed in favour of defendant No.1 wherein there is clear recital to the effect that ಆದಾಗಿ ನಮ್ಮ ತಂದೆಗೆ 4 ಜನ ಅಣ್ಣ-ತಮ್ಮಂದಿರುಗಳಿದ್ದು ನಮ್ಮ ನಮ್ಮ ಭಾಗಗಳಿಗೆ ಬರಬೇಕಾಗಿದ್ದ ಚರಸ್ಥಿರ ಸ್ವತ್ತುಗಳನ್ನು ಈಗ್ಗೆ ಸುಮಾರು ಮುಪತ್ತು ವರ್ಷಗಳ ಹಿಂದೆಯೇ ವಿಭಾಗ ಮಾಡಿಕೊಂಡು ನನಗೆ ಬರಬೇಕಾಗಿದ್ದ ಸ್ವತ್ತುಗಳನ್ನು ನನ್ನ ಸ್ವಾಧೀನಕ್ಕೆ ತೆಗೆದುಕೊಂಡಿರುತ್ತೇನೆ. Hence it goes to show that in an undisputed point of time the 4th son of propositus Venkataravanappa executed the registered gift deed, wherein there is recital to the effect that Yalappa and his brothers divided their family properties 30 years prior to 16.11.1977. Hence it goes to show that the children of Venkataravanappa divided prior to 1977 and gift deed dated 16.11.1977 came into existence in an undisputed point of time and the plaintiffs have not produced any documents contrary to the recitals contained in Ex.P1 and Ex.D1 to prove that after 1977 or as on the date of filing the suit the plaintiffs and defendants continued in the joint family. Hence it goes to show that the four sons of propositus Venkataravanappa prior to 1977 divided their family properties and same recited in the gift deed. Hence it goes to show that the children of propositus Venkataravanappa are



divided family members.

20. It is relevant to note that though the plaintiffs claim that the plaintiffs and defendants are in joint family members as on the date of filing of suit, the plaintiffs in support of their case they have not produced any documents to prove that as on the date of filing of suit the plaintiffs and defendants are the joint family members nor examined any witness who is the resident of Lakshmaiahnapalya village, Doddahosahalli Majre where the plaintiffs and defendants are residing to depose that the plaintiffs and defendants are the joint family members and they are in joint possession and enjoyment over the suit schedule properties as on the date of filing of suit. Hence the plaintiffs fail to prove that the plaintiffs and defendants are the joint family members as on the date of filing of suit.

21. Further it is relevant to note that the plaintiffs in the plaint presented by them contended that the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. The plaintiffs in support of their case produced the documents which are marked as per Ex.P2



to Ex.P5. On perusal of Ex.P2 to Ex.P5 it goes to show that the katha of item No.1 of the suit schedule property standing in the name of defendant No.1 i.e., Lakshmana S/o Doddappaiah, same is evident from Ex.P2 and the katha of item No.2 standing in the name of Dasappa, Chikkahanumaiah, T.M.Ramanna, M.Kupendraiah, Ramaiah, L.V.Ramappa, Venkatappa, Lakshmana, Ramaiah, Venkataramaiah and Venkataravanappa, same is evident from Ex.P3 and as per the genealogy produced by the plaintiffs in para No.2 of the plaint, the above said persons are not members of the family of the plaintiffs and defendants and the plaintiffs in the plaint presented by them they have not explained as to how the above said persons are related to the family of the plaintiffs and defendants. Hence there is no material evidence on record to prove that item No.2 of the suit schedule property is the ancestral and joint family property of the plaintiffs and defendants.

22. Further it is relevant to note that on perusal of the Ex.P4 it goes to show that the katha of item No.3 of the suit schedule property jointly standing in the name of T.R.Ramachandra, T.R.Hanumanna, T.R.Narayanappa, T.M.Suresh, Yarappa,



Doddanna, Venkatappa and Yallappa, but they are also not the members of the family of the plaintiffs and defendants. Further on perusal of Ex.P5 it goes to that katha of item No.4 of the suit schedule property measuring 1 acre 20 guntas jointly standing in the name of Lakshmana, Venaktaramaiah, Chikkavenkatappa and Lakshmipathi. But the above said persons are not the joint family members of the plaintiffs and defendants and the plaintiffs in the plaint presented by them they have not explained as to how the persons in whose name katha of the Item No.3 and 4 of the suit schedule properties are standing as on the date of filing the suit are related to the family of the plaintiffs and defendants. Hence there is no material evidence on record to prove that item No.3 and 4 of the suit schedule properties are the ancestral and joint family properties of the plaintiffs and defendants.

23. Further it is relevant to note that the plaintiffs in the plaint presented by them contended that the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants, but the plaintiffs in order to prove that the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants not produced



any documents. Hence in the absence of material documents to prove that the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and they have inherited the same from their ancestors only based on the oral evidence of PW1 and PW2 and Ex.P1 to Ex.P5 it cannot be held that the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants.

24. Further it is relevant to note that the plaintiffs in the plaint presented by them further contended that the gift deed executed by the Yallappa in favour of defendant No.1 is not binding upon them. But the plaintiffs in order to prove that the the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and deceased Yallappa has no right to execute the gift deed in favour of defendant No.1 and they had birth right in the suit schedule properties not produced any document and fails to prove their right over the suit schedule properties. Hence the plaintiffs have no right to question the gift deed dated 16.11.1977.

25. Further it is relevant to note that as per the case of the



plaintiffs, the plaintiff No.1 is the 2nd wife of Kengigappa, hence she has no birth right in the suit schedule properties. Further as per the age mentioned in the cause title the plaintiff No.2 is aged about 30 years and plaintiff No.3 is aged about 35 years. Hence it goes to show that the plaintiff No.2 and 3 might have born in the year 1982 or subsequently and the Yallappa executed the gift deed dated 16.11.1977 prior to birth of the plaintiff No.2 and 3. Hence the plaintiff No.2 and 3 have no right to challenge the gift deed executed by his uncle prior to their birth. Hence the contention of the plaintiffs that the gift deed dated 16.11.1977 is not binding upon the share of the plaintiffs in the suit schedule properties is not acceptable one.

26. Further it is relevant to note that the counsel for the plaintiffs by relying upon the admission given by DW1 in the cross-examination as referred above filed written argument contending that the DW1 in the cross-examination clearly admits that the suit schedule properties are the ancestral properties and defendant No.1 was the Kartha of the joint family. Hence the plaintiffs proved that the plaintiffs and defendants are the joint family members and the suit



schedule properties are the ancestral and joint family properties of plaintiffs and defendants and prays to decree the suit.

27. It is relevant to note that the the Division Bench of Hon'ble High Court of Karnataka in the matter of Smt.Parmeshwari Bai Vs Sri.Muthojirao, reported in AIR 1981 KAR 81 held as here under:-

Para No.19:- Thus, the Supreme Court has pointed out that before the right of a party can be considered to have been defeated on the basis of an alleged admission by him, the implication of the statement made by him must be clear and conclusive. There should not be any doubt or ambiguity about the alleged admission and to examine whether there is ambiguity in the admission, it would be necessary for the Court to read the other parts of the evidence and the stand taken by him in the pleadings.

28. Further it It is relevant to note that the the Division Bench of Hon'ble High Court of Karnataka in the matter of Puttanna Shetty Vs. Padma Shetty reported in (2007) 3 KCCR 2107, held that admission in civil case has to be clear and such admission must be read in the light of pleadings and other evidence. One stray sentence cannot be picked up to decide the dispute between the parties in respect of immovable properties.



29. *In view of the above said decisions it is settled principle of law that the admission given by the witness during the cross-examination must be clear and such admission has to be read in the light of pleadings and other evidence on record and only one stray sentence from the cross-examination cannot be picked up to decide the dispute between the parties in respect of immovable properties.*
30. In the present case it is the specific case of the defendant No.1 that the plaintiffs and defendants are the divided family members and there is no joint family and the suit schedule properties are not the ancestral and joint family properties of plaintiffs and defendants. Hence only based on the admission given by the DW1 in the cross-examination it cannot be held that the defendant No.1 admits that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and they are in joint possession over the suit schedule properties. Further it is relevant to note that on perusal of cross-examination of DW1 it goes to show that the counsel for the plaintiffs nothing has been elicited to prove that as on the date of filing of suit the



plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. On the other hand it goes to show that the DW1 deposed that originally the suit schedule properties belongs to Venkataravanappa, after the death of Venkataravanappa his children were jointly cultivating the said properties, same itself is not sufficient to held that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants in the absence of necessary documents. On the other hand the 4th son of Venkataravanappa namely Yalappa way back in the year 1977 in the registered gift deed dated 16.11.1977 clearly stated that 30 years prior to 16.11.1977 Yallappa and his brothers divided the family properties and the plaintiffs have not produced any documents contrary to the recital contained in the Ex.P1 and Ex.D1 to prove that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. That apart on perusal of Ex.P2 to Ex.P5 it goes to show that the katha of item No.2 to 4 of the suit schedule properties standing in the name of



various persons and the persons in whose name the katha of item No.2 to 4 is standing as on the date of filing of suit are not the family members of plaintiffs and defendants and the plaintiffs in the plaint presented by them they have not explained as to how the persons in whose name the katha of item No.2 to 4 standing as on the date of filing of suit are related to the family of the plaintiffs and defendants. Hence only based on the admission given by DW1 as referred above it cannot be held that the defendant No.1 admits the case of the plaintiffs that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants. Hence the contention of the counsel for the plaintiffs that the defendant No.1 admits that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral properties of plaintiffs and defendants. Hence the admitted facts need not be proved is not acceptable one.

31. Further it is relevant to note that the counsel for the defendants in the written argument contended that the defendants have not proved the execution of the gift deed



dated 16.11.1977 and mere production of gift deed is not proof of the said document. Hence the defendant No.1 fails to prove the execution of the gift deed as per law. Hence the defendant No.1 will not get any right over the suit schedule property. It is relevant to note that the gift deed dated 16.11.1977 is registered gift deed under the registration Act and the defendant No.1 produced the original gift deed dated 16.11.1977. Further it is relevant to note that in view of the proviso to section 68 of Indian Evidence Act it is not necessary to examine attesting witness in proof of execution of any document not being a Will, which has been registered in accordance with the provisions of Indian Registration Act unless its execution is denied by the executant.

32. In the present case the gift deed dated 16.11.1977 is executed by Yallappa S/o Venkatappa, said Yallappa not denied the execution of the gift deed and the plaintiffs produced the original gift deed and the plaintiffs have not adduced any evidence to rebut the presumption attached to the registered gift deed. That apart the gift deed dated 16.11.1977 is 30 years old document. Hence the presumption attached to the gift deed dated 16.11.1977 under Section 90 of Indian



Evidence Act. Hence this court is of the opinion that the contention of the counsel for the plaintiffs that gift deed dated 16.11.1977 is not proved in accordance with law is not acceptable one.

33. Upon perusing the oral and documentary evidence on record and in view of the decisions referred above and for the reasons stated above, this court is of the opinion that the plaintiffs fail to prove that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and they are in joint possession and enjoyment of the suit schedule properties as on the date of filing of suit and the gift deed dated 16.11.1977 executed by Yallappa in favour of defendant No.1 is not binding on them. ***Hence I answer Issue No.1 to 3 in the Negative.***

34. **ISSUE NO.4:** The defendant No.1 in order to prove that the defendant No.1 is in exclusive possession and enjoyment of item No.1 of the suit schedule property based on the gift deed dated 16.11.1977 relied upon the oral evidence of DW1 and DW2 and Ex.D1 to Ex.D5 and admission given by PW1.



On perusal of the materials on record it goes to show that Yallappa executed the gift deed dated 16.11.1977 and handed over the possession of item No.1 of the suit schedule property to the defendant No.1, based on the gift deed dated 16.11.1977 the revenue records in respect of item No.1 of the suit schedule property mutated in the name of defendant No.1 as per M.R.No.11/1977-78 and revenue records continued in the name of defendant No.1 as owner and in possession of item No.1 of the suit schedule property till 2016-17, same is evident from Ex.D1 to Ex.D15 and the revenue records mutated in the name of defendant No.1 in respect of item No.1 of the suit schedule property are remained unchallenged. Hence the presumption arises that the revenue records mutated in the name of defendant No.1 in respect of item No.1 of the suit schedule property are correct. Hence the presumption arises that the defendant No.1 is in possession item No.1 of the suit schedule property.

35. Further it is relevant to note that though the plaintiffs claim that item No.1 of the suit schedule property is the ancestral and joint family property of the plaintiffs and defendants and they are in joint possession and enjoyment of the suit



schedule properties, the plaintiffs have not produced any documents to prove that the item No.1 of the suit schedule property is the joint family property of the plaintiffs and defendants and they are in joint possession over the suit schedule properties. On the other hand the PW1 in the cross-examination deposed that ಯಲ್ಲಪ್ಪ ಮಾಡಿಕೊಟ್ಟಿರುವ ದಾನ ಪತ್ರದಂತೆ 1ನೇ ಪ್ರತಿವಾದಿ ದಾವಾ 1 ನೇ ಸ್ವತ್ತಿನ ಸ್ಥಾ ಧೀನದಲ್ಲಿರುತ್ತಾನೆ ಎಂದರೆ ಸರಿ. That apart the DW2 clearly deposed in support of the case of the defendants stating that the defendant No.1 is in possession of item No.1 of the suit schedule property based on the gift deed dated 16.11.1977.

36. Further it is relevant to note that on perusal of the materials on record it goes to show that Yallappa handed over the possession of item No.1 of the suit schedule property under the gift deed dated 16.11.1977 and based on the gift deed revenue records mutated in the name of defendant No.1 way back in the year 1977, said entry continued till 2016-17 and revenue entries mutated in the name of defendant No.1 are not challenged till date. That apart the PW1 in the cross-examination also admits that the defendant No.1 is in possession of the item No.1 of suit schedule property. Hence it



goes to show that the defendant No.1 is in possession and enjoyment of the item No.1 of the suit schedule property based on the gift deed dated 16.11.1977.

37. Upon perusing the oral and documentary evidence on record and in view of the reasons stated above, this court is of the opinion that the defendant No.1 proves that the defendant No.1 is in possession and enjoyment of item No.1 of the suit schedule property based on the gift deed dated 16.11.1977.

Hence I answer Issue No.4 in the Affirmative.

38. **ISSUE NO.5:-** The plaintiffs have filed this suit against the defendants for the relief of declaration and partition with a prayer to declare that the gift deed dated 16.11.1977 executed by Yallappa in favour of defendant No.1 is not binding upon the share of the plaintiffs in the suit schedule properties and to effect partition in the suit schedule properties and to allot their legitimate share in the suit schedule properties and put them in separate possession of their share in the suit schedule properties. The plaintiffs in order to entitle for the relief of declaration and partition as prayed for, the plaintiffs have to prove that the plaintiffs and defendants are the joint family



members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and they are in joint possession and enjoyment over the suit schedule properties and the deceased Yallappa has no exclusive right to execute the gift deed dated 16.11.1977 in favour of defendant No.1.

39. In the present case in view of finding on Issue No.1 to 3 and for the reasons stated above this court held that the plaintiffs fail to prove that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and they are in joint possession and enjoyment of the suit schedule properties as on the date of filing of suit. On the other hand the recitals in the gift deed dated 16.11.1977 which came into existence in an undisputed point of time clearly goes to show that the children of propositus Venkataravanappa divided the family properties prior to 1977, hence the plaintiffs fail to prove that the plaintiffs and defendants are the joint family members and the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants and they are in joint possession and enjoyment of the suit schedule



properties as on the date of filing of suit and Yallappa has no right to execute the gift deed dated 16.11.1977. Hence the plaintiffs are not entitled for the relief of declaration and partition as prayed for.

40. Further it is relevant to note that on perusal of the revenue records in respect of item No.2 to 4 of the suit schedule properties it goes to show that katha of item No.2 to 4 of the suit schedule properties standing in the name of various persons as referred above, said persons are not the joint family members of the plaintiffs and defendants and the plaintiffs in the plaint presented by them they have not pleaded as to how the above said persons are related to the family of the plaintiffs and defendants. Hence in the absence of above said persons the present suit of the plaintiffs is bad for non-joinder of necessary parties. Hence the suit of the plaintiffs is bad for non-joinder of necessary parties.

41. Upon perusing the oral and documentary evidence on record and in view of the reasons stated above, this court is of the opinion that the plaintiffs fail to prove that the suit schedule properties are the ancestral and joint family properties of



plaintiffs and defendants and the suit of the plaintiffs is bad for non-joinder of necessary parties. Hence the plaintiffs are not entitled for the relief of declaration and partition as prayed for. ***Hence I answer issue No.5 in the Negative.***

42. **ISSUE NO.6:-** In view of the finding on Issue No.1 to 5 and for the reasons stated therein, this Court proceed to pass the following ;

ORDER

*The suit of the plaintiffs is
dismissed with costs.*

Draw decree accordingly.

(Dictated to the stenographer, transcribed and computerized by her, corrected by me and then pronounced in the open court today on this the 3rd day of June 2026.)

**(AMARANATHA B.N.)
Prl.Civil Judge & JMFC,
Madhugiri.**

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PLAINTIFF:

PW1	:	Ramachandraiah,
PW2	:	Kantharaju,

LIST OF EXHIBITS MARKED ON BEHALF OF THE PLAINTIFF:

Ex.P1	:	C/C Gift deed,
Ex.P2 to 5	:	RTCs,

**LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANT:**

DW1 : Lakshmana,
DW2 : G.Gangappa,

LIST OF EXHIBITS MARKED ON BEHALF OF DEFENDANT:

Ex.D1 : Gift deed,
Ex.D2 to 15 : RTCs.

(AMARANATHA B.N)
Prl.Civil Judge & JMFC
Madhugiri.