

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

O.S.No. 83 OF 2020

PLAINTIFFS:

V/S

DEFENDANTS

Puttalingamma & Anr.

Doddalingappa & others.

EXAMINATION-IN-CHIEF OF THE DEFENDANTS NO.3 AND 4  
BY WAY OF AFFIDAVIT.

Dw1

Name : B.L.Shivanna.  
Father Name: Late Lingappa  
Age: 40 years,  
Occupation: Agriculture  
Residence: Badigondanahalli Village, Dodderi hobli,  
Madhugiri Taluk.

I, B.L.Shivanna, the Defendant No.3 in the case do hereby solemnly affirm and state on oath as follows.

I swearing this affidavit for and on behalf of Defendant No.4 also.

1. I submits that the plaintiffs and defendants 1 and 2 are the sons and daughters of Thippelingappa and Giriyamma is not known to us. Further averments that the plaintiffs and defendants 1 and 2 and their parents are constituted the members of the Hindu Undivided joint family is also not known to us. Further averments that during the life time of said Thippelingappa, he was the manager of the said family, who died intestate on 15-6-1997 and his wife Giriyamma also died recently is true and correct. Further averments that after



 B.L. Shivanna

the death of Thippelingappa, the 1<sup>st</sup> defendant is its manager is not known to us. That myself and defendant No.4 are the strangers of the family of plaintiffs and defendants 1 and 2 and the suit schedule properties is false.

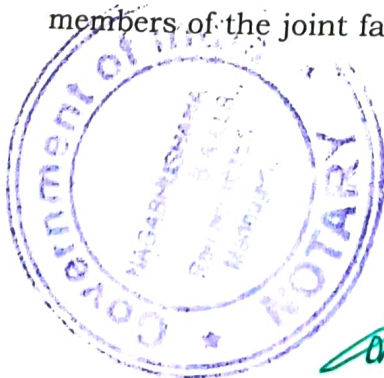
2. I submits that the averments pleaded in para 3 of the plaint that the Hindu undivided joint family own and possess the ancestral properties viz,, land bearing Sy.No.407/4, 407/P2 of Chandragiri and Sy.No.344/2B, 344/2A, 388/3 and 374/2 of Kotagarlahalli Village, Dodderi hobli, Madhugiri Taluk is not known to us. Further averments that the plaintiffs and defendants 1 and 2 and their father were and are in joint and there was, is no division either by metes and bounds in respect are all false. It is false to say that it is out of the joint family funds derived out of the joint family properties, it was under the head of Thippelingappa, the said joint family has acquired land bearing Sy.No.403/P5, measuring 3-00 acres of Chandragiri Village i.e. suit Item No.3 under the registered sale deed dated, 18-12-1975 in the name of deceased Thippelingappa. In fact the said Thippelingappa has purchased the above said Sy.no.403/P5 from his own earnings on his individual capacity. It is false that the plaintiffs and defendants 1 and 2 and their father Thipplingappa being the members of Undivided joint family are agriculturists and agriculture in the ancestral agricultural lands, is the sole and alone avocation for their too and it is out of joint family income derived therein the aforesaid land bearing Sy.No.403/P5 measuring 3-00 acres have been earned and acquired by the said joint family in the



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name of Thippelingappa under the aforesaid sale deed, they have by blending the ancestral properties with the property earned and acquired out of the joint family income continued and continuous to be in joint possession and enjoyment by investing their expenses and earning income universally and this pooling all the ancestral properties and property earned and acquired out of the joint family funds is in a common hot-potch, the property which acquired out of the joint family funds stated aforesaid paras, have acquired the characteristics of ancestral joint family properties, therefore, the suit schedule properties are all ancestral joint family properties of the plaintiffs and defendants 1 and 2 and they are in joint possession and enjoyment of the same are all absolutely false. Further averments that so for the suit schedule properties concerned between plaintiffs and defendants 1 and 2, there was no division earlier by metes and bounds and they being the members of joint family are still joint and in joint possession are all false.

3. I submits that the averments traversed in para 4 of the plaint that since the suit schedule properties are ancestral joint family properties and the joint family consisting of the plaintiffs and defendants No.1 and 2 and their father were and are still joint and undivided in status, no member of the joint family has any right to dispose of any of the suit schedule property or its part unless there is a comprehensive complete and full partition of the suit schedule properties between the members of the joint family by metes and bounds are all false.



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Further averments that in fact in the instant case of the plaintiffs, there is no such division or partition ever entered and all the members of the joint family is still joint, when this being the actual and true possession and condition of the joint family, the defendants 1 and 2 and the said Thippelingappa are the members of the family and being managing family affairs and misusing the faith, confidence and sincerity, exposed and expressing, exhibiting by plaintiffs and by encashing the same and out of ulterior motive in order to defeat and defraud the right of the plaintiffs, the defendants colluding with Thippelingappa have got created, concocted a sham document of sale dated, 2-12-1991 in respect of the schedule Item No.3 and while creating the said deed being aware of the said property is also ancestral and joint family property and it is undivided property and the plaintiffs have got undivided legitimate right therein also have not brought to the knowledge of plaintiffs or they have not obtained any consent of such transaction, therefore in the absence of any division of the suit schedule properties and in the absence of consent of all the members of the joint family, the said transactions is void and void ab-initio and by virtue of such spurious and illegal transaction, the defendants 3 and 4 or their father have not acquired any valid right over the suit Item No.3 and on the other hand the plaintiffs have not lost any right over the same, as such the Thippelingappa have no legal right to enter in the said transaction and the same is not binding on the plaintiffs legitimate share said document is sham, bogus and the same was kept in dark and never

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brought to the light ever since for any purpose and the same is not acted upon are all absolutely false. The plaintiffs are put to strict proof of the same. Further averments pleaded in para 4 at 18 and 19 lines that the sale deed is created and concocted is absolutely and certainly false. As per the version taken by plaintiffs that the registered sale deed which is executed by father of plaintiffs in the name of grand father of myself and defendant No.4 is absolute sale deed, the ancestors of myself and defendant No.4 have purchased the Item No.3 of suit property for valuable consideration. The consideration of the sale deed was also passed. The father of the plaintiffs has been sold out the suit item No.3 for his immediate and legal necessities, hence the version taken by the plaintiffs is incredible and untrustworthy. It is false that moreover the revenue authority have rightly rejected the M.R.32/1990-91 as the seller is not signed and not tally and the same is hit under the provisions of Fragmentation and consolidation act, as such myself and defendant No. 4 or our father have not derived any valid right, title, interest or muchless possession over the suit Item No.3 in fact no proceedings were initiated during the life time of Thippelingappa or Lingappa, so this silence and inaction of myself and defendant No.4 and our father clearly shows the alleged transaction is a Sham, created and concocted one. It is absolutely false that recently the defendants colluding themselves in order to defeat and defraud the valuable rights of the plaintiffs over the suit schedule properties, the defendant No.3 have filed an appeal in RRT(A):141/2019-20 on the file of Asst. Commissioner,



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Madhugiri and proclaiming in the village that he will got the katha and pahani in respect of the suit Item No.3 by saying that his father has purchased the same and to disposses the plaintiff and defendants 1 and 2 from the suit schedule Item No.3 and thereby, myself and defendant no.4 tried to interfering the joint possession of the plaintiffs and defendants 1 and 2, then only the plaintiffs came to know the above said illegal acts of the defendants and came to know the above said transactions, till then they have no occasion to know the same are all false.

4. The averments traversed in para 6 of the plaint that since the suit schedule properties are all joint and undivided properties of plaintiffs and defendants 1 and 2 and there is no division in its respect between plaintiffs and defendants 1 and 2, the plaintiffs being members of joint family and having legitimate right in all the suit schedule properties has questioned the authority of defendants in entering into the illegal acts and deeds in respect of the suit schedule properties, but they have flouted that they are having a such right and no body can questioned it. With such awful and stubborn reply from them, continuing any longer in joint is no benefit to the plaintiffs estate, hence they have asked and demanded the defendants 1 and 2 to effect partition all the suit schedule properties and to effect their legitimate share, for which the defendants gave deaf ears and refused and rejected to effect partition of all the suit schedule properties

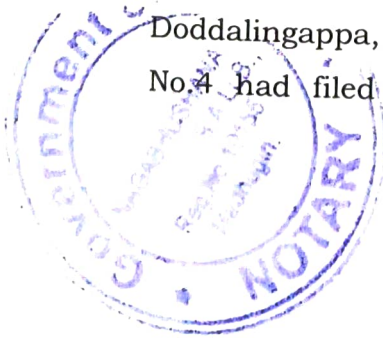
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5. The averments traversed in para 7 of the plaint are all false.
6. There is no cause of action for the suit, the alleged cause of action is false.

7. I submits that the suit of the plaintiffs against myself and defendant No.4 in respect of the suit schedule item no.3 i.e. land bearing sy.no.403/P5, measuring 3-00 acres situated at Chandragiri Village, Dodderi hobli, Madhugiri Taluk is not maintainable. In the year of 1991 one Thippelingappa, who is the father of plaintiffs had sold out the suit property i.e. suit schedule Item No.3 in the name of Doddalingappa, who is grand father of myself and defendant No.4 resepctively, Channalingappa, L.Chikkalingappa and Ningappa under a registered Sale deed dated, 2-12-1991 vide Reg.No.1441/1991-92 and on the same day itself, the possession of the said property was delivered to the above said purchasers. During the life time of above mentioned Doddalingappa, Channalingappa, L.Chikkalingappa and Ningappa, they were in peaceful possession and enjoyment of the said property jointly without disturbances of any body, thus the suit schedule Item No.3 is not available for partition and separate possession by metes and bounds.

Unfortunately the revenue entries like katha and pahani were not implemented, because all the above said Doddalingappa, Channalingappa, L.Chikkalingappa and Ningappa are innocent persons, any how fortunately one Doddalingappa, who is grand father of myself and defendant No.4 had filed a RRT(A):141/2019-20 before the Assistant



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Commissioner, Madhugiri for getting revenue entries to the said property. The said appeal is partly allowed.

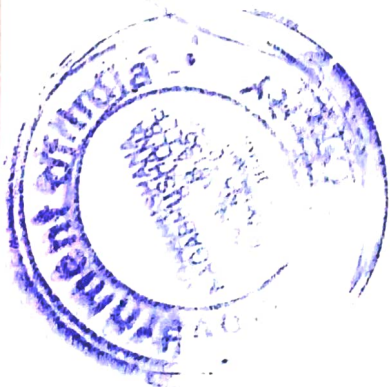
Moreover during the life time of father of plaintiffs, he had purchased the Item No.3 of the property from its lawful owner on 18-12-1975, hence the said property ie. Item No.3 was earned by father of plaintiffs under his individual capacity, so that is the self acquired property of father of plaintiffs. During the life time of father of plaintiffs i.e. Thipperangappa, he had been sold out the said property i.e. Item No.3 in the name of ancestors of myself and defendant No.4 and the father of plaintiffs had absolute rights to dispose the Item No.3 property in favour of any body at any point of time because the said property i.e. Item No.3 is self acquired property of father of plaintiffs.

Any how the suit schedule Item No.3 had been purchase by ancestors of myself and defendant no.4 about 30 years back, said property was disposed no property was available for partition, the said property was disposed prior to 2005, hence the plaintiffs have no loco standi to ask partition over the suit schedule Item no.3. The said property is not available for partition and it not belongs to family of plaintiffs.

8. The suit itself is not maintainable for non joinder of necessary parties and mis joinder of suit schedule properties.

9. I submits that the suit is also hit by law of limitation, the ancestors of myself and defendant No.4 and, myself and

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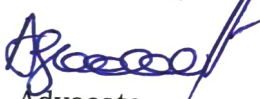
defendant No.4 have lawful possession and enjoyment of the suit schedule Item no.3 of the property since from 30 years. The plaintiffs are not entitled to any reliefs as sought for.

10. I pray the Hon'ble court, the documents produced by me may kindly be marked as Exhibits.

Wherefore, I pray the Hon'ble court be pleased to dismissed the suit of the plaintiffs with exemplary costs, in the ends of justice.

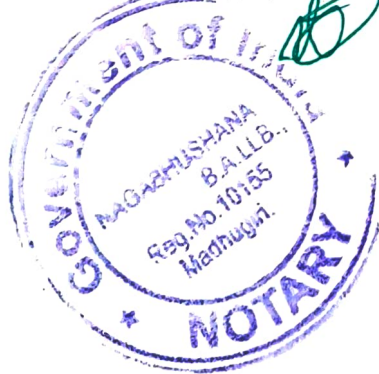
I do swear in the name of God, that my name, signature and contents of this affidavit are all true and correct.

Identified by me

  
Advocate

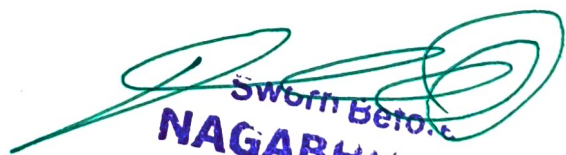
Madhugiri.

Date: 8-6-2026





Deponent.

  
Sworn Before  
**NAGABHUSHAN**  
B.A. LL.B.  
ADVOCATE & NOTARY  
MADHUGIRI  
8/6/2026

ದಿನಾಂಕ: 08.06.2026

ಸಾಕ್ಷಿಗೆ ಪ್ರಮಾಣ ವಚನ ಭೋದಿಸಲಾಯಿತು.

ಮುಖ್ಯ ವಿಚಾರಣೆ: 3 ಮತ್ತು 4 ನೇ ಪ್ರತಿವಾದಿಗಳ ಪರ ಶ್ರೀ ಎಸ್.ಆರ್.ಎ.  
ವಕೀಲರಿಂದ:

ನಾನು ನನ್ನ ಮುಖ್ಯ ವಿಚಾರಣೆ ಬದಲಾಗಿ ಪ್ರಮಾಣ ಪತ್ರವನ್ನು ಸಲ್ಲಿಸಿರುತ್ತೇನೆ ಸದರಿ ಪ್ರಮಾಣ ಪತ್ರದಲ್ಲಿರುವ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ತಿಳಿದುಕೊಂಡು ಸರಿ ಇರುತ್ತದೆಂದು ಎಂದು ಒಪ್ಪಿಸಹಿ ಮಾಡಿರುತ್ತೇನೆ.

ದಿ:18.12.1975ರ ಕ್ರಯಪತ್ರದ ದೃಢೀಕೃತ ನಕಲನ್ನು ಹಾಜರುಪಡಿಸಿರುತ್ತೇನೆ ಅದನ್ನು ನಿಡಿ-1 ಎಂದು ಗುರುತಿಸಲಾಯಿತು. ದಿ:02.12.1991ರ ಕ್ರಯಪತ್ರವನ್ನು ಹಾಜರುಪಡಿಸಿರುತ್ತೇನೆ ಅದನ್ನು ನಿಡಿ-2 ಎಂದು ಗುರುತಿಸಲಾಯಿತು. ಚಂದ್ರಗಿರಿ ಗ್ರಾಮದ ಸರ್ವೆ.ನಂಬರ್.403 ಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಒಂದು ಮುಣಭಾರ ರಹಿತ ಪ್ರಮಾಣ ಪತ್ರ ಮತ್ತು ಎರಡು ವ್ಯುಟಿಷನ್ ಗಳನ್ನು ಹಾಜರುಪಡಿಸಿರುತ್ತೇನೆ ಅವುಗಳನ್ನು ಕ್ರಮವಾಗಿ ನಿಡಿ 3 ರಿಂದ 5 ಎಂದು ಗುರುತಿಸಲಾಯಿತು.

(ವಾದಿ ಪರ ವಕೀಲರ ಕೋರಿಕೆಯ ಮೇರೆಗೆ ಪಾಟೀ ಸವಾಲನ್ನು ಮುಂದೂಡಲಾಯಿತು.)

(ತೆರೆದ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಾಕ್ಷಿಯ ಹೇಳಿಕೆಯಂತೆ ಕಂಪ್ಯೂಟರೀಕರಣಗೊಳಿಸಿ ಪ್ರಿಂಟ್ ತೆಗೆಯಲಾಯಿತು.)

Bu. Shivanra

ಓ. ಹೇ. ಕೇ. ಸರಿ. ಇದೆ.

08/06/2026

(ಶ್ರೀ ಅಮರನಾಥ ಬಿ.ಎನ್)

ಪ್ರಧಾನ ಸಿವಿಲ್ ನ್ಯಾಯಾಧೀಶರು ಮತ್ತು

ಜಿ.ಎಂ.ಎಫ್.ಸಿ. ಮಧುಗಿರಿ