

KATK620021532021



Presented on : 23-10-2021
Registered on : 23-10-2021
Decided on : 14-07-2026
Duration : 4 years, 8 months, 22 days

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

O.S.No.341/2021

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

DATED ON THIS THE 14th DAY OF JULY, 2026

PLAINTIFF:

Sri.Eshwaraiah,
S/o Late Muddanna @ Muddappa,
aged about 50 years,
Resident of
Shambonahalli village,
Kasaba Hobli,
Madhugiri Taluk,
Tumakuru District.

(By Sri.KVSK, Advocate)

//Versus//

DEFENDANTS:

1. Smt.Mamatha,
W/o Late Bettanna,
aged about 40 years,
2. Sri.Ravikumar,
S/o Late Bettanna,
aged about 20 years,
3. Smt.Ramya,



D/o Late Bettanna,
aged about 18 years,

All are residents of
Shambonahalli village,
Kasaba Hobli,
Madhugiri Taluk,
Tumakuru District.

4. Smt.Bhagyamma,
D/o Late Muddappa,
aged about 55 years,
Resident of
Lakkenahalli village,
Kasaba Hobli,
Gubbi Taluk,
Tumakuru District.

**(Def. No.1 to 3 by Sri.PCKR, Advocate,
Def. No.4 by Sri.RM, Advocate)**

Date of Institution of Suit	23.10.2021
Nature of the suit	Partition and Separate possession
Date of Commencement of evidence	21.10.2022
Date of Judgment	14.07.2026
Total Duration	Years Months Days 04 08 22

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

-:: JUDGMENT ::-

1. The plaintiff has filed this suit against the defendants for the relief of partition and separate possession, with a prayer to effect partition in the suit schedule properties and to allot his



legitimate share in the suit schedule properties and put him in separate possession of his share in the suit schedule properties by metes and bounds. In respect of following properties:

Sl.No.	Property Particulars
1.	Land bearing Sy.No.18/3 measuring 07 guntas, situated at Shambonahalli village, Kasaba Hobli, Madhugiri Taluk.
2.	Land bearing Sy.No.19/1 measuring 09 guntas, situated at Shambonahalli village, Kasaba Hobli, Madhugiri Taluk.
3.	Land bearing Sy.No.33/2 measuring 21 guntas, situated at Shambonahalli village, Kasaba Hobli, Madhugiri Taluk.
4.	Land bearing Sy.No.34/4 measuring 20 guntas situated at Shambonahalli village, Kasaba Hobli, Madhugiri Taluk.
5.	Land bearing Sy.No.36/3 measuring 1 acre 10 guntas including 01 guntas karab, situated at Shambonahalli village, Kasaba Hobli, Madhugiri Taluk.
6.	Land bearing Sy.No.36/5 measuring 1 acre 25 guntas including 02 guntas of karab, situated at Shambonahalli village, Kasaba Hobli, Madhugiri Taluk.

2. The plaintiff in the plaint presented by him contended that the propositus of the family of the plaintiff and defendants namely Muddappa @ Muddappa and he his wife namely Gangamma had three children namely Eshwaraiah i.e., plaintiff, Bettanna i.e., husband of defendant No.1 and Bhagyamma i.e., defendant No.4 and husband of defendant



No.1 namely Bettanna died leaving behind defendant No.1 to 3 to succeed his estate. Accordingly the plaintiff and defendants are the Hindu Joint family members governed by mitakshara school of law and the suit schedule properties are the ancestral and joint family properties of plaintiff and defendants and there is no partition between the plaintiff and defendants. Hence they are in joint possession and enjoyment of the suit schedule properties. Further contended that earlier katha of the suit schedule properties stood in the name of propositus Muddappa @ Muddanna, after the death of Muddapa @ Muddanna the katha of the suit schedule properties jointly mutated in the name of plaintiff and defendants as per M.R.No.H.3/2019-20 and M.R.No.H.10/2019-20. Further contended that due to difference arose between the plaintiff and defendants, the plaintiff decided that continuing in the joint family is not beneficial to the estate of plaintiff demanded the defendants to effect partition in the suit schedule properties, but the defendants refused to effect partition in the suit schedule properties. Hence the plaintiff without any other alternative approached this court with this suit, by stating so filed this suit.



3. Upon service of summons the defendants appeared and contested the suit by filing written statements. The defendant No.1 to 3 have filed one set of written statement and defendant No.4 has filed one set of written statement.
4. The defendant No.1 to 3 in the written statement filed by them admitted the relationship between the plaintiff and defendants as pleaded in the plaint, but defendant No.1 to 3 denied the existence of joint family and the existence of joint family 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.
5. The defendant No.1 to 3 in the written statement filed by them further contended that after the death of propositus Muddappa @ Muddanna, his wife namely Gangamma, his sons plaintiff and husband of defendant No.1 divided the family properties under the Paluvibhaga Pathra dated 08.01.2013. In the said Palu vibhaga Pathra dated 08.01.2013 'A' schedule property allotted to the share of Gangamma, 'B' schedule property allotted to the share of plaintiff and 'C' schedule property allotted to the share of



husband of defendant No.1. Further contended that in the said partition, item No.3 allotted to the share of Gangamma, after her death the same shall be divided between the plaintiff and husband of defendant No.1. Further contended that land to an extent of 0-03-08 guntas in Sy.No.18/3 i.e., item No.1, land to an extent of 0-16 guntas in Sy.No.19/1 i.e., suit item No.2, land to an extent of 0-09.08 guntas in Sy.No.34/4, land to an extent of 0-24.08 guntas in Sy.No.36/3 i.e., suit item No.5, land to an extent of 0-09.08 guntas in Sy.No.34/4 and land to an extent of 0-31.08 guntas in Sy.No.36/5 i.e., suit item No.6 and house property measuring East-West-35 feet and North-South-40 feet in suit item No.7 fallen to the share of 'B' schedule i.e., the plaintiff. Further contended that land to an extent of 0-03.08 guntas in Sy.No.18/3 i.e., suit item No.1, land to an extent of 0-04.08 guntas in Sy.No.19/1 i.e., suit item No.2, land to an extent of 0-09.08 guntas in Sy.No.34/4, land to an extent of 0-24.08 guntas in Sy.No.36/3 i.e., suit item No.5, land to an extent of 0-09.08 guntas in Sy.No.34/4 and land to an extent of 0-31.08 guntas in Sy.No.36/5 i.e., suit item No.6 and house property measuring East-West-35 feet and North-South-40 feet in suit item No.7 fallen to the share of 'C' schedule i.e., Bettanna



who is the husband of defendant No.1 and father of defendant No.2 and 3 and both the plaintiff and Bettanna having equal right over Tamarind trees, Neem trees and having 1/4th share in stone revetted Gerende Ghavi situated in Sy.No.33/2, but the plaintiff has not included the said trees and Bhavi in the schedule.

6. The defendant No.1 to 3 in the written statement filed by them further contended that on the basis of Paluvibhaga Pathra dated 08.01.2013 Bettanna and plaintiff are enjoying their respective shares. After the death of said Bettanna the defendant No.1 to 3 continued in possession and enjoyment of the share allotted to Bettanna. Hence the suit of the plaintiff is not maintainable and liable to be dismissed, by stating so prays to dismiss the suit.
7. The defendant No.4 in the written statement admitted the contents of the plaint and prays to decree the suit and to allot her legitimate share in the suit schedule properties and put her in separate possession of her share in the suit schedule properties.



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

ISSUES

1. *Whether plaintiff proves that himself along with defendants are constitute members of Hindu undivided joint family?*
 2. *Whether plaintiff proves that suit schedule properites are ancestral and joint family properites?*
 3. *Whether defendant No. 1 to 3 prove that on 08.01.2013 there was par in the suit scheudle property?*
 4. *Whether plaintiff is entitled for the reliefs as sought for?*
 5. *What Order or decree?*
9. The plaintiff in order to prove his case entered the witness box and gave evidence as PW1 and produced the documents which are marked as per Ex.P1 to Ex.P6. After completion of the evidence of plaintiff, the defendants in order to rebut the claim of the plaintiff the defendant No.1 entered the witness box and gave evidence as DW1, but she has not produced any documents. The defendant No.4 not adduced any evidence in support of her case.
10. Heard the arguments of Sri.RHN Advocate for the plaintiff and



Sri.PCKR Advocate for defendant No.1 to 3 and Sri.GMD advocate for defendant No.4.

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

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

For the following ;

:: REASONS ::

12. **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.
13. The plaintiff in order to prove that the plaintiff and defendants are the joint family members and suit schedule properties are the ancestral and joint family properties of plaintiff and defendants relied upon the oral evidence of PW1 and PW2 and Ex.P1 to Ex.P6. On the other hand the defendant No.1 to 3 in order rebut the claim of the plaintiff and to prove that the



plaintiff and defendants divided the suit schedule property on 08.01.2013, hence they are divided family members relied upon the oral evidence of DW1.

14. The PW1 in the examination-in-chief reiterated the contents of the plaint, but the PW1 in the cross-examination deposed that ನೀವು ಎಲ್ಲಾ ಆಸ್ತಿಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ವಿಭಾಗ ಮಾಡಿಕೊಂಡಿರುತ್ತೀರಾ ಎಂದು ಸೂಚಿಸಿದ್ದಕ್ಕೆ ಸಾಕ್ಷಿಯು ಸರಿ ಎಂದು ಉತ್ತರಿಸಿ ನಾನು ಮತ್ತು ನನ್ನ ತಮ್ಮ ಸಮ ಭಾಗ ಮಾಡಿಕೊಂಡಿರುತ್ತೇವೆ ಎಂದು ಉತ್ತರಿಸಿರುತ್ತಾರೆ. 2013 ರಲ್ಲಿ ಆದಂತಹ ವಿಭಾಗ ಪತ್ರಕ್ಕೆ ನಾನು ಸಹ ಸಹಿ ಮಾಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ವಿಭಾಗ ಪತ್ರದಲ್ಲಿ ನನ್ನ ತಾಯಿಗೂ ಸಹ ಪಾಲನ್ನು ನೀಡಿರುತ್ತೇವೆ ಎಂದು ಸೂಚಿಸುವುದು ಸರಿಯಲ್ಲ. ಸದರಿ ವಿಭಾಗ ಪತ್ರಕ್ಕೆ ಸಾಕ್ಷಿದಾರರ ಸಹಿಗಳನ್ನು ಪಡೆದುಕೊಂಡು ನಮ್ಮ ಭದ್ರತೆಗಾಗಿ ನಮ್ಮ ಮನೆಯಲ್ಲಿಟ್ಟುಕೊಂಡಿರುತ್ತೇವೆ ಎಂದರೆ ಸರಿ. ಆದರೆ ಸದರಿ ವಿಭಾಗ ಪತ್ರ ನೋಂದಣಿಯಾಗಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ವಿಭಾಗ ಪತ್ರದಂತೆ ನಾವು ಈಗ ಸ್ವಾಧೀನದಲ್ಲಿರುತ್ತೇವೆ ಎಂದರೆ ಸರಿ. ಸರ್ವೆ ನಂ.33/2 ನ್ನು 2013 ರಲ್ಲಿ ಆದಂತಹ ವಿಭಾಗದಲ್ಲಿ ನನ್ನ ತಾಯಿಯ ಪಾಲಿಗೆ ಬಿಟ್ಟಿರುತ್ತೇವೆ ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ನನ್ನ ತಾಯಿ ತೀರಿಕೊಂಡ ನಂತರ ನಾನು ಮತ್ತು ನನ್ನ ತಮ್ಮ ಸದರಿ ಆಸ್ತಿಯನ್ನು ವಿಭಾಗ ಮಾಡಿಕೊಂಡಿರುತ್ತೇವೆ ಎಂದು ಉತ್ತರಿಸಿರುತ್ತಾರೆ.

15. The plaintiff in support of his case produced the documents



which are marked as per Ex.P1 to Ex.P6. Ex.P1 is the RTC in respect of land bearing Sy.No.18/3, Ex.P2 is the RTC in respect of land bearing Sy.No.19/1, Ex.P3 is the RTC in respect of land bearing Sy.No.113/2, Ex.P4 is the RTC in respect of land bearing Sy.No.33/4, Ex.P5 is the RTC in respect of land bearing Sy.No.36/3 and Ex.P6 is the RTC in respect of land bearing Sy.No.36/5 of Shambonahalli village.

16. On the other hand the defendant No.1 to 3 in support of their case relied upon the oral evidence of DW1. The DW1 in the examination-in-chief reiterated the contents of the written statement, but the defendants not produced document in support of their case to prove the earlier partition taken place in the family as pleaded in the written statement. The DW1 in the cross-examination deposed that ಮುದ್ದಣ್ಣನ ಹೆಂಡತಿ ಹೆಸರು ಗಂಗಮ್ಮ. ಗಂಗಮ್ಮ ತೀರಿಕೊಂಡು 6-7 ವರ್ಷಗಳಾಗಿರುತ್ತದೆ. ನನ್ನ ಪ್ರತಿವಾದ ಪತ್ರದಲ್ಲಿ ನಮೂದು ಮಾಡಿಸಿರುವಂತೆ 2013ರಲ್ಲಿ ಆಗಿರುವ ವಿಭಾಗದಂತೆ ಕಂದಾಯ ದಾಖಲೆಗಳು ವರ್ಗಾವಣೆಯಾಗಿರುವುದಿಲ್ಲ ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ. ಪ್ರಸ್ತುತ ದಾವಾ ಸ್ವತ್ತುಗಳ ಖಾತೆ ನನ್ನ ಮತ್ತು ವಾದಿಯ ಹೆಸರಿನಲ್ಲಿ ಜಂಟಿಯಾಗಿ ಇರುತ್ತವೆ ಎಂದರೆ ಸರಿ. 2019ರಲ್ಲಿ ಪೌವತಿ ವಾರಸು ಮೇರೆಗೆ ನಿಮ್ಮ ಮತ್ತು ವಾದಿಯ ಹೆಸರಿಗೆ ದಾವಾ ಸ್ವತ್ತುಗಳ ಖಾತೆ ವರ್ಗಾವಣೆ ಮಾಡಿಸಿಕೊಂಡಿರುತ್ತೀರ ಎಂದು ಸೂಚಿಸಿದ್ದಕ್ಕೆ



ಸಾಕ್ಷಿ ಅದರ ಬಗ್ಗೆ ನನಗೆ ಗೊತ್ತಿರುವುದಿಲ್ಲ ವಾದಿಯೇ ಮಾಡಿಸಿರುತ್ತಾರೆ ಎಂದು ಉತ್ತರಿಸುತ್ತಾರೆ. ದಾವಾ ಸ್ವತ್ತುಗಳಲ್ಲಿ ಎರಡು ಭಾಗ ಮಾಡಲು ನಿಮಗೆ ಯಾವುದೇ ತೊಂದರೆ ಇರುವುದಿಲ್ಲವೇ ಎಂದು ಸೂಚಿಸಿದ್ದಕ್ಕೆ ಸಾಕ್ಷಿ ನನ್ನ ಭಾಗ ನನಗೆ ಬಂದರೆ ಸಾಕು ನನಗೆ ಯಾವುದೇ ತೊಂದರೆ ಇರುವುದಿಲ್ಲ ಎಂದು ಉತ್ತರಿಸುತ್ತಾರೆ. ಸಾಕ್ಷಿ ಮುಂದುವರೆದು ಮರಗಳಲ್ಲೂ ಸಹ ನನಗೆ ಭಾಗ ಬರಬೇಕು ಎಂದು ಉತ್ತರಿಸುತ್ತಾರೆ.

17. On perusal of the materials on record it is noticed that the plaintiff has filed this suit by contending that the plaintiff and defendants are the lineal descendants of propositus Muddappa @ Muddanna and defendants in the written statement filed by them admitted the relationship of the plaintiff and defendants as pleaded in the plaint. But the defendant No.1 to 3 claim that the plaintiffs and defendants are divided family members, hence the burden lies on the defendant No.1 to 3 to prove that the plaintiff and defendants are the divided family members.

18. Further it is relevant to note that in the present case though the defendant No.1 to 3 claim that the plaintiff and defendants are the divided family members and the partition taken place in the family on 08.01.2013 by way of



Paluvibhaga Pathra, the defendants No.1 to 3 have not produced Paluvibhaga Pathra dated 08.01.2013 taken place between the plaintiff and defendant No.1 to 3 to prove that partition was taken place in the family of the plaintiff and defendants and the partition dated 08.01.2013 is acted upon. Hence the defendant No.1 to 3 fail to prove that the plaintiff and defendants are divided family members.

19. Further it is relevant to note that on perusal of Ex.P1 to Ex.P6 it goes to show that as on the date of filing of suit the katha of item No.1 to 3, 5 and 6 jointly standing in the name of plaintiff and defendant No.1, said entries mutated in the name of plaintiff and defendant No.1 based in the inheritance. On the other hand except the oral evidence of DW1, there is no document in support of the case of the defedants to prove that the plaintiff and defendants are divided family members.
20. Further it is relevant to note that though the defendant No.1 to 3 in the written statement filed by them contended that the plaintiff and defendants are divided on 08.01.2013 by way of paluvibaga pathra and they are divided family members, the defendants have not examined any persons in whose



presence the partition was taken place nor produced Paluvibhaga Pathra dated 08.01.2013. That apart as on the date of filing of suit the katha of item No.1 to 3, 5 and 6 jointly standing in the name of plaintiff and defendants mutated based on inheritance. Hence there is no material evidence on record to prove that the plaintiff and defendants are divided family members. Hence only based on the evidence of DW1 it cannot be held that the plaintiff and defendants are the divided family members.

21. Further it is relevant to note that the counsel for the defendants by relying upon the admission given by PW1 in the cross-examination as referred above argued that the PW1 in the cross-examination admits that the partition was taken place between the husband of defendant No.1 and the plaintiff and they are divided family members. Hence the admitted facts need not be proved. Hence the defendant No.1 to 3 prove the earlier partition taken place in the family.

22. *It is relevant to note that as per section 6 of Hindu Succession (Amendment) Act 2005 and in view of the decisions rendered by the Hon'ble Apex Court in the matter of Vineetha Sharma Vs*



Rakesh Shama in (2020)9 SCC Page 1, daughter by birth become a coparcener and she is entitled for share that of a son.

Hence defendant No.4 being the daughter of propositus Muddanna is coparcener after 09.09.2005 and it is not the case of the plaintiff and defendants that the plaintiff, husband of defendant No.1 and defendant No.4 divided their family properties. Hence even if there is any partition between the plaintiff and his brother who is the husband of defendant No.1 it cannot be held that the partition taken place by metes and bounds. That apart as per the contents of the written statement filed by defendant No.1 to 3 and admission given by PW1 in the cross-examination it clearly goes to show that the defendant No.4 is not a party to the alleged partition. Hence it cannot be held that the plaintiff and defendants divided the family properties by metes and bounds. Hence only based on the admission give by PW1 in the cross-examination it cannot be held that the plaintiff and defendants are divided family members.

23. Further it is relevant to note that in view of Section 6 of Hindu Succession (Amendment) act 2005 partition must be effected by way registered partition deed or partition effected



by way of the court decree. In the present case the partition claims to be taken place between the plaintiff and husband of defendant No.1 is unregistered one. Hence in view of Section 6 of Hindu Succession (Amendment) Act 2005, the alleged partition claimed by the defendant No.1 to 3 is not a valid partition as per law. That apart the defendant No.1 to 3 have not produced documents to prove the partition. Hence only based on the oral evidence of DW1 and admission given by the PW1 in the cross-examination it cannot be held that the plaintiff and defendants are divided family members. Hence the contention of the plaintiff that the PW1 in the cross-examination admits the earlier partition hence the defendant No.1 to 3 proved the earlier partition is not acceptable one. Hence this court is of the opinion that the defendant No.1 to 3 fails to prove that the plaintiff and defendants are divided family members.

24. Further on perusal of the material evidence on record it goes to show that the plaintiff has filed this suit by contending that the suit schedule properties are the ancestral and joint family properties of plaintiff and defendants and defendants in the written statement admitted that the suit schedule properties



are the ancestral and joint family properties, but the defendant No.1 to 3 contended that the plaintiff and husband of defendant No.1 divided the suit schedule properties, but the defendants fail to prove the earlier partition taken place between the plaintiff and husband of the defendant No.1 as pleaded in the written statement. On the other hand on perusal of Ex.P1 to Ex.P6 it goes to show that item No.1 to 3 and item No.5 and 6 of the suit schedule properties jointly standing in the name of plaintiff and defendant No.1 as on the date of filing of suit. Further on perusal of Ex.P1 to Ex.P6 it goes to show that the item No.1 to 3 and item No.5 and 6 of the suit schedule properties mutated in the name of plaintiff and defendant No.1 based on inheritance. Hence it goes to show that the plaintiff and defendants inherited the item No.1 to 3 and item No.5 and 6 of the suit schedule properties. Hence item No.1 to 3, 5 and 6 of the suit schedule properties are the joint family properties of the plaintiff and defendants.

25. Further it is relevant to note that though the plaintiff and defendants claim that the suit schedule properties are the ancestral and joint family properties of plaintiffs and defendants, the plaintiff has not produced any documents to



prove that the suit schedule properties inherited by the plaintiff and defendants from four generations without any division, but katha of the suit schedule properties mutated in the name of plaintiff and defendant No.1 by way of inheritance. Hence it goes to show that the after the death of propositus Muddappa @ Muddanna, the plaintiff and defendants have inherited the item No.1 to 3 and item No.5 and 6 of the suit schedule properties. Hence this court is of the opinion that the plaintiff proved that item No.1 to 3 and item No.5 and 6 of the suit schedule properties are the joint family properties of plaintiff and defendants.

26. Further on perusal of the materials on record it goes to show that the plaintiff and defendants have not produced any documents to prove that item No.4 of the suit schedule property is the ancestral and joint family property of the plaintiff and defendants and the said property is in existence in the family as on the date of filing of suit. Hence the plaintiff fails to prove that item No.4 of the suit schedule property is the ancestral and joint family property of the plaintiff and defendants. Hence this court is of the opinion that the plaintiff fails to prove that item No.4 of the suit



schedule property is the ancestral and joint family property of the plaintiff and defendants.

27. Upon perusing the oral and documentary evidence on record and in view of the reason stated above, this court is of the opinion that the plaintiff proved that the plaintiff and defendants are the joint family members and the Item No.1 to 3 and item No.5 and 6 of the suit schedule properties are the joint family properties of plaintiff and defendants and fail to prove that item No.4 of the suit schedule property is the ancestral and joint family property of the plaintiff and defendants. On the other hand the defendant No.1 to 3 fail to prove that the plaintiff and defendants are divided family members and the suit schedule properties divided between the plaintiff and defendants by metes and bounds as per law.

Hence I answer Issue No.1 in the Affirmative, Issue No.2 Partly in the Affirmative and Issue No.3 in the Negative.

28. **ISSUE NO.4:-** The plaintiff has filed this suit against the defendants for the relief of partition and separate possession in respect of the suit schedule properties seeking 1/3rd share in the suit schedule properties. The plaintiff in order to entitle



for the relief of partition and separate possession as prayed for, the plaintiff has to prove that the suit schedule properties are the ancestral and joint family properties of plaintiff and defendants and there is no partition between the plaintiff and defendants and he is entitled for share in the suit schedule properties.

29. In the present case in view of findings on Issue No.1 to 3 and for the reasons stated above, this court held that the plaintiff proved that the plaintiff and defendants are the the joint family members and the suit item No.1 to 3 and item No.5 and 6 of the suit schedule properties are the joint family properties of plaintiff and defendants and the plaintiff fails to prove that item No.4 of the suit schedule property is the joint family property of the plaintiff and defendants. Hence the plaintiff and defendants are entitled for share in item No.1 to 3 and item No.5 and 6 of the suit schedule properties. On the other hand the plaintiff and defendants are not entitled for share in item No.4 of the suit schedule property.

30. So far as the shares of the parties is concerned, the propositus of the family of the plaintiff and defendants



namely Muddanna @ Muddappa had three children namely Eshwaraiah i.e., the plaintiff, Bettanna i.e., the husband of defendant No.1 and Bhagyamma i.e., defendant No.4. In view of Section 6 of Hindu Succession (Amendment) Act 2005, daughter by birth become a coparcener. Accordingly in the properties of Muddappa @ Muddanna the plaintiff, defendant No.4 and husband of defendant No.1 are entitled for equal share in the item No.1 to 3 and item No.5 and 6 of the suit schedule properties. Accordingly the children of propositus Muddappa @ Muddanna are entitled for $1/3^{\text{rd}}$ share each in in the item No.1 to 3 and item No.5 and 6 of the suit schedule properties . Hence this court is of the opinion that the plaintiff and defendant No.4 are entitled for $1/3^{\text{rd}}$ share each in item No.1 to 3 and item No.5 and 6 of the suit schedule properties and defendant No.1 to 3 together entitled for $1/3^{\text{rd}}$ share in the item No.1 to 3 and item No.5 and 6 of the suit schedule properties.

31. 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 plaintiff and defendant No.4 are entitled for $1/3^{\text{rd}}$ share each in the item No.1 to 3 and item No.5 and 6 of



the suit schedule properties and defendant No.1 to 3 together are entitled for 1/3rd share in item No.1 to 3 and item No.5 and 6 of the suit schedule properties. Under the facts and circumstances of the case and in view of the relationship between the parties, both the parties have to bear their own costs. Further the defendants in order to get the benefit of this Judgment she has to pay court fee as per law. **Hence I answer Issue No.4 in Partly in the Affirmative.**

32. **ISSUE NO.5:-** In view of the finding on Issue No.1 to 4 and additional issue No.1 and for the reasons stated therein, this Court proceed to pass the following:

ORDER

The suit of the plaintiff is partly decreed in respect of item No.1 to 3 and item No.5 and 6 of the suit schedule properties and suit of the plaintiff in respect of item No.4 of the suit schedule property is dismissed.

Consequently, the plaintiff and defendant No.4 are entitled for 1/3rd share each in item No.1 to 3 and item No.5 and 6 of the suit schedule properties and defendants No.1 to 3 together entitled for 1/3rd share in item No.1 to 3 and item No.5 and 6 of the suit schedule



properties.

Draw preliminary decree accordingly.

The defendants in order to get the benefit of this Judgment they have to pay the court fee as per law.

Under the facts and circumstances of the case, both the parties have to bear their own costs.

In view of the directions issued by the Hon'ble Apex Court in the matter of Kattukandi Edathil Krishnan and another V/s Kattukandi Edathil Valsan and others, reported in 2022 SCC Online SC 737, Office is hereby directed to register the FDP after drawing the preliminary decree and put up on 05.10.2026 for taking further steps to draw the final decree.

The plaintiffs and defendants are directed to appear before the court on 05.10.2026 without expecting any notice in the final decree proceedings to be registered based on the preliminary decree.

(Dictated to the stenographer, computerized by her, corrected by me and then pronounced in the open court today on this the 14th Day of July, 2026)

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



ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PLAINTIFF:

PW1 : Eshwaraiah,

LIST OF EXHIBITS MARKED ON BEHALF OF THE PLAINTIFF:

Ex.P1 to 6 : RTCs,

LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANTS:

DW1 : Mamatha,

LIST OF EXHIBITS MARKED ON BEHALF OF DEFENDANTS

- Nil -

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