



**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE &
JMFC, AT SIRA**

PRESENT: **Sri.VINOD KUMAR.M** BAL.,LLB,LLM.,
ADDL. SENIOR CIVIL JUDGE & JMFC
AT SIRA

Original Suit No.48/2020

Dated this the 18th day July - 2026

Geetha W/o late S.Srinivas,

Aged about 44 years,
R/at Revanna Siddeshwara,
Kalyana Mantapa,
Kalidasanagara, Sira Town,
Tumakuru District.

... Plaintiff

-VERSUS -

1. Shantharaju,

S/o Late R.Subbarayappa,
Aged about 48 years,

2. Raju,

S/o Late R.Subbarayappa,
Aged about 42 years,

3. Umadevi,

S/o Late R.Subbarayappa,
Aged about 52 years,

4. Manjula Dead by LR's,

a. Ambika H.R,

D/o Rangaiah H.B. @ Ranganna,
Aged about 38 years,

b. Ranga Raju H.R,

S/o Rangaiah H.B. @ Ranganna,
Aged about 39 years,

Defendant No.4(a & b) both are
R/at 2nd ward, Jyothinagara,
Sira Town, Tumakuru District.



5. Nagamani,
D/o late R.Subbarayappa,
Aged about 46 years,

6. Savithramma,
W/o Shantharaju,
Aged about 38 years,

7. Shilpa W/o Raju,
Aged about 35 years,

All are R/at Kanekallappa,
Jyothi Nagara, Sira Town,
Tumakuru District.

... Defendants

* * * * *

Plaintiff – Sri. M.T.G., Adv.,
Defendants No.1 & 2 – Sri. P.D.T., Adv.,
Defendants No.3 to 7 – Placed Exparte,
Defendant No.4(a & b) – Sri. S.K.U., Adv.,

Date of institution of suit	23-03-2020
Nature of the suit	Partition & Separate Possession
Date of commencement of the recording of evidence.	03-04-2024
Date on which the judgment was pronounced.	18-07-2026
Total duration	Year/s : Month/s : day/s
	06 03 26

Sd/-
(VINOD KUMAR. M)
Addl. Senior Civil Judge &
JMFC., Sira



:: J U D G E M E N T ::

This is the suit filed by the Plaintiff against Defendants for the relief of partition & separate possession in respect of suit schedule property and to grant other reliefs, in the interest of justice and equity.

2. The brief facts of the Plaintiffs' case is as under:-

Her husband/Srinivas and defendants No.1 to 5 are children of late Subbarayappa and late Lakshamma. The defendants No.6 & 7 are wives of defendants No.1 & 2 respectively. She and defendants are Hindu Undivided Joint family members and suit property is their ancestral and joint family property, which was stands in the name of Subbarayappa none other than kartha of the joint family. The said Subbarayappa died intestate in the year of 2019. Now the suit properties are standing in the name of Lakshamma and defendants No.1, 2, 6 & 7. During the life time of her husband/Srinivas, Lakshamma and defendants No.1 & 2 have converted the item No.1 to 3 of suit property into 56 residential sites vide ALN(MG)CR. 45/2008-09 dated 11.03.2009. Her husband/Srinivas died due to met with car accident in the year of 2011 and after death of her husband, the defendants No.1 to 5 were looking at the joint family properties. There was a dispute between defendants No.1 & 2 in the month of January 2020 and all of us decided to make partition of the suit properties. But the defendants No.1 & 2 refuse to effect share in suit property. The cause of action for



the suit arose on two months back, when the defendants decided to make partition and refused to allot share in suit property within jurisdiction of this court. Hence, she constrained suit for the relief of partition & separate possession.

3. After service of suit summons, the Defendants appeared through their counsel and defendants No.1 & 2 filed their written statement by denied the contents of plaint except relationship. The defendant No.3 to 7 called out absent and placed exparte. During the pendency of suit, the defendant No.4 died leaving behind LR's on record and filed their written statement by admits the pleadings of the plaint inter-alia contended to effect partition of their share. Thus, the admission and denial of written statement filed by defendants No.1 & 2, LR's of defendant No.4 need not necessary to reiterate in once again.

4. The defendants No.1 & 2 specifically contended that, the daughters of Subbarayappa except defendant No.3 have executed registered relinquishment deed dated 06.08.2011 by relinquish all the rights of the suit property in their favor. Smt. Lakshamma was receiving a sum of Rs.5,00,000/- from them and no longer the member of the joint family nor co-perceners. After the death of plaintiff husband/Srinivas, the plaintiff has voluntarily approached with them to pay a sum of Rs.5,00,000/- and executed relinquishment deed in their favor on dated 06.08.2011 by relinquish all rights over suit property



after received the amount of Rs.5,00,000/-. The suit property is subjected for conversion lands. On these grounds, they prays to dismissal the suit with cost.

5. The defendant No.4 LR's specifically contended that, the plaintiff being absolute owner of the land belongs to Subbarayappa as contended in para No.1 to 6 of the plaint. The suit property is Hindu Undivided Joint family and ancestral property. The khatha of the suit property was standing in the name of Subbarayappa, who died intestate in the year of 2008 leaving behind plaintiff and defendants as legal heirs. After death of Subbarayappa, the Khatha of suit property got transferred in the name of Lakshamma, who died in the year of 2019 leaving behind plaintiff and defendants. On these ground, they prays to decree the suit and allot their share equally.

6. On the basis of pleadings by plaintiff, the below Issues that arise for my consideration are;

- 1. Whether the plaintiff prove that she and defendants No.1 to 5 have constituted the Hindu Undivided Joint Family and suit schedule properties are the ancestral and joint family properties?**
- 2. Whether the Plaintiff further prove that, she is entitled for 1/6th share in the suit schedule properties?**
- 3. Whether the defendants prove that plaintiff had relinquished the right over the suit property by receiving**



Rs.5,00,000/- from the defendant No.1 and 2?

4. Whether the plaintiff is entitled for the relief sought in the plaint?

5. What order or decree?

7. In order to prove this case, original plaintiff herself examined as PW1 and got marked Ex.P.1 to 16 i.e., Ex.P.1 to 10/RTC extracts and Ex.P.11 to 16/Encumbrance certificate. On other hand, the defendant No.1 examined as DW.1 and got marked 6 documents i.e., Ex.D.1/Relinquishment deed, Ex.D2/Pass Book, Ex.D3/Account statement and Ex.D4 to 6/Relinquishment deed. Closed the both side evidence.

8. Heard the arguments by learned counsel for plaintiff with written argument and list of citations and learned counsel for defendants No.1 & 2.

9. The counsel for plaintiff argued that, one Subbarayappa and his wife had six children i.e., 1. Srinivas died leaving behind plaintiff, 2. Shantharaju and his wife i.e., defendants No.1 & 6, 3. Raju and his wife i.e., defendants No.2 & 7, 4. Umadevi i.e., defendant No.3, 5. Manjula i.e., defendant No.4 and 6. Nagamani defendant No.5. The suit property is joint family and ancestral property. It is further argued that, the plaintiff never received any amount from defendants No.1 & 2 and Ex.D.1/Release deed created at the time of her husband hospitalization. Since beginning, the plaintiff never received any amount and no clarity about amount receiving of amount of



Rs.5,00,000/-. In support of contention, the counsel for plaintiff has relied following decisions as hereunder:

- 1. Between S.P.Chengalvaraya Naidu V/s Jagannath, reported in 1994 AIR 853,**
- 2. Between Prem Singh V/s Birbal, reported in AIR 2006 SC 3608,**
- 3. Between Kale V/s Deputy Director of Consolidation, reported in 1976 AIR 807,**
- 4. Between Krishna Mohan Kul @ Nani Charan Kul V/s Pratima Maity, reported in AIR 2003 SC 4351,**
- 5. Between Ganduri Koteshwaramma V/s Chakiri Yanadi,**
- 6. Between Vineeta Sharama V., V/s Rakesh Sharam, reported in AIR 2020 SC 3717.**

On these grounds, the counsel for plaintiff prays to decree the suit.

10. On other hand, the counsel for defendants No.1 & 2 argued that, originally suit property belongs to Subbarayappa. But the defendants have disputed the relationship with plaintiff. It is further argued that, the plaintiff received the consideration of Rs.5,00,000/- and relinquish her right over the suit property in favor of defendants No.1 & 2. As such the plaintiff has no right over the suit property. On these grounds, the counsel for defendants No.1 & 2 prays to dismissal the suit.



11. On considering the both pleadings and oral as well as documentary evidence led by both sides and perused the materials available on record, my findings on the above said issues are as under:

Issue No.1	:	In the Negative
Issue No.2	:	In the Negative
Issue No.3	:	In the Affirmative
Issue No.4	:	In the Negative
Issue No.5	:	As per the final order, for the following.

:: R E A S O N S ::

12. Issue No.1 & 3: Both issues are inter-connected each other to decide the contention of plaintiff and defendants No.1 & 2 regarding execution of release deed dated 06.08.2011. Thus, both issues have taken up together for common discussion in order to avoid the repetition of facts. The suit filed by the Plaintiff against Defendants for the relief of partition & separate possession in respect of suit property, which is lies on Plaintiff to prove their case as contemplated U/Sec.101 of the Indian Evidence Act.

13. It is not in dispute by both parties and their counsel that, plaintiff husband/Srinivas and defendants No.1 to 5 are children of late Subbarayappa and late Lakshamma. The defendants No.6 & 7 are wives of defendants No.1 & 2 respectively. It is also not in dispute by both sides, originally item No.1 to 6 of suit property belongs to father in law of



plaintiff and father of defendants No.1 to 5 by name Subbarayappa acquired under ancestors and said Subbarayappa died intestate leaving behind plaintiff husband and defendants No.1 to 5 as class-I legal heirs.

14. It is only dispute between plaintiff and defendants No.1 & 2 regarding **“whether the plaintiffs executed the release deed dated 06.08.2011 in favor of defendants No.1 & 2 by relinquish the right over the suit property or family property or not?”**

In order prove the said contention, PW1 specifically deposed that, they and defendants are Hindu Undivided Joint family member and suit property is their joint family property. But the defendants No.1 & 2 illegally obtained release deed at the time of her husband in hospitalized. The PW.1 has lengthy cross examined. But in the cross-examination of PW.1 admits the relationship with defendants and suit property belongs to their father in law/Subbarayappa acquired under ancestors. The very cross-examination of PW.1 reads in vernacular language as hereunder:

ಈಗ ನೋಡುತ್ತಿರುವ ದಾಖಲೆ ಹಕ್ಕು ನಿವೃತ್ತಿ ಪತ್ರವಾಗಿದ್ದು, ಅದರಲ್ಲಿರುವ ಭಾವಚಿತ್ರ ಹಾಗೂ ಸಹಿ ನನ್ನದು. ಸದರಿ ದಾಖಲೆ ಸಾಕ್ಷಿ ನೋಡಿ ಗುರುತಿಸಿದ ಮೇರೆಗೆ ಅದನ್ನು ನಿಡಿ.1 ಎಂದು ಗುರುತಿಸಲಾಯಿತು.

From the cross-examination of PW.1 itself establish that, she executed Ex.D1/Release deed in favor of defendants No.1 & 2 by relinquish all the rights over the family property for Rs.5,00,000/-. But in the cross-examination of PW.1 denied the



she executed Ex.D.1/Release deed in favor of defendants No.1 & 2 by receiving a sum of Rs.5,00,000/- each.

15. To substantiate oral evidence PW.1 produced Ex.P.1 to 10/RTC clearly reveals that, item No.1 to 6 of suit property stands in the name of Lakshmamma none other than mother in law and defendants No.1 & 2. But PW.1 never produced Ex.D.1/Release deed before the court nor challenged the same for execution at the death bed of her husband/Srinivas. In the plaint and chief examination of PW.1 has suppressed the facts of Ex.D.1/Release deed that to admits in cross-examination.

16. In order to disprove the contention, DW.1 clearly deposed that, plaintiff has voluntarily executed registered Release deed dated 06.08.2011 in their favour by receiving Rs.5,00,000/- (Five Lakhs) and they have relinquished their right in the family properties. The sale transaction and relinquishment deed are well within the knowledge of the plaintiff and no conspiracy has been played by the defendants as alleged in the cross-examination. DW.1 also lengthy cross-examined. But in the cross-examination of DW.1 categorically deposed in vernacular language as hereunder:-

ನಿಡಿ.1 ರ ನಿವೃತ್ತಿ ಪತ್ರದ ರೂ.5 ಲಕ್ಷವನ್ನು ಚೆಕ್ ಮೂಲಕ ಕೊಟ್ಟಿರುತ್ತೇನೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಉಪನೋಂದಣಾಧಿಕಾರಿಗಳ ಆದೇಶದಂತೆ ನಗದು ಕೊಡದೆ ಚೆಕ್ ಕೊಟ್ಟಿರುತ್ತೇನೆ.

From the chief and cross-examination of DW.1 clearly establish that, the release deed executed by plaintiff after receiving amount of Rs.5,00,000/-. Even though DW.1 admits



that, he paid a sum of Rs.5,00,000/- to the plaintiff at the time of Ex.D.1/Release deed.

17. In support of oral evidence by DW.1 produced Ex.D.1/Release deed dated 06.08.2011 clearly reveals that, the plaintiff has executed release deed in favor of defendants by relinquish the right of the joint family property by receiving a sum of Rs.5,00,000/-. By close reading of Ex.D.1/Release deed seems as hereunder:-

ಅದಾಗಿ ಮೇಲ್ಕಂಡ ನೀವು ನನ್ನ ಗಂಡ ಶ್ರೀನಿವಾಸ ರವರ ತಾಯಿ ಹಾಗೂ ಸಹೋದರರಾಗಿದ್ದು, ಹಾಲಿ ನಾನು ಮತ್ತು ನೀವುಗಳು ಜಂಟಿ ಕುಟುಂಬದಲ್ಲಿ ವಾಸವಾಗಿದ್ದು, ಹಾಲಿ ನಮ್ಮ ಕುಟುಂಬದಲ್ಲಿರತಕ್ಕ ಚರ-ಸ್ಥಿರಾಸ್ತಿಗಳನ್ನು ಒಂದೇ ಕುಟುಂಬದವರಾಗಿ ಅನುಭವಿಸಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದು, ನನ್ನ ಗಂಡ ಎಸ್.ಶ್ರೀನಿವಾಸ ರವರು ದಿನಾಂಕ:**29-04-2011**ರಂದು ಮರಣ ಹೊಂದಿರುತ್ತಾರೆ. ನಾನು ನಷ್ಟ ಸಂತತಿಯವಳಾಗಿದ್ದು, ನಾನು ನನ್ನ ತಂದೆ-ತಾಯಿಯರ ಜೊತೆ ಇರುವ ಕಾರಣದಿಂದ ಒಟ್ಟು ಕುಟುಂಬದಲ್ಲಿರತಕ್ಕ ಚರ-ಸ್ಥಿರಾಸ್ತಿಗಳ ಪೈಕಿ ಈ ದಿನ ನಾನು ಒಟ್ಟು ಕುಟುಂಬದಿಂದ ಹಾಗೂ ನಿಮ್ಮಗಳಿಂದ ಕುಟುಂಬದ ಈ ಕೆಳಕಂಡ ಸಾಕ್ಷೀದಾರರ ಸಮಕ್ಷಮ ರೂ.**5,00,000-00** (ಐದುಲಕ್ಷ) ರೂಪಾಯಿಗಳನ್ನು ನಗದಾಗಿ ನನ್ನ ಹಿಸ್ಸೆಗಾಗಿ ಪಡೆದು ನನ್ನ ಹಿಸ್ಸಾ ಭಾಗದ ಸ್ಥಿರಾಸ್ತಿಗಳ ಮೇಲಿದ್ದ ಸಂಪೂರ್ಣ ಹಕ್ಕುದಾರಿಕೆಯನ್ನು ಮೇಲ್ಕಂಡ ಲಕ್ಷ್ಮಮ್ಮ ಕೋಂ ಲೇಟ್ ಸುಬ್ಬರಾಯಪ್ಪ ಮತ್ತು ಆರ್.ಎಸ್.ಶಾಂತರಾಜು ಮತ್ತು ಎಸ್.ರಾಜು ಬಿನ್ ಲೇಟ್ ಸುಬ್ಬರಾಯಪ್ಪ ಆದ ನಿಮ್ಮಗಳಿಗೆ ಬಿಟ್ಟುಕೊಟ್ಟಿರುತ್ತೇನೆ ಹಾಗೂ ಈಲಾಗಾಯ್ತು ನಮ್ಮ ಒಟ್ಟು ಕುಟುಂಬದಲ್ಲಿರತಕ್ಕ (ಅವಿಭಕ್ತ) ಚರ-ಸ್ಥಿರಾಸ್ತಿಗಳಿಗೆ ಮೇಲ್ಕಂಡ ನೀವುಗಳೇ ಹಕ್ಕುದಾರರಾಗಿ ಅನುಭವಿಸಿಕೊಂಡು ಹೋಗಬಹುದಾಗಿರುತ್ತದೆ. ಒಟ್ಟು ಕುಟುಂಬದಿಂದ ಈ ದಿನ ನಿವೃತ್ತಳಾಗಿರುತ್ತೇನೆ. ಇನ್ನು ಮುಂದೆ ಒಟ್ಟು ಕುಟುಂಬಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಯಾವುದೇ ಚರ-ಸ್ಥಿರಾಸ್ತಿಗಳಲ್ಲಿ ನನಗೆ ಯಾವುದೇ ರೀತಿಯ ಹಕ್ಕು-ಭಾದ್ಯತೆಗಳು ಇರುವುದಿಲ್ಲ ಹಾಗೂ ಈಗಾಲಾಯ್ತು ಒಟ್ಟು ಕುಟುಂಬಕ್ಕೆ ಇರತಕ್ಕ ಸಾಲಗಳಲ್ಲಾಗಲೀ, ಮುಂದೆ ಸಂವಾಧಿಸತಕ್ಕ ಚರ-ಸ್ಥಿರಾಸ್ತಿಗಳಲ್ಲಾಗಲೀ ನನಗೆ ಯಾವುದೇ ರೀತಿಯ ಹಕ್ಕು ಇರುವುದಿಲ್ಲ ಮತ್ತು ಈಲಾಗಾಯ್ತು ನನಗೂ ನಿಮಗೂ ರಕ್ತ ಸಂಬಂಧವೇ ಹೊರತು ಯಾವುದೇ ರೀತಿಯ ಆರ್ಥಿಕ ವಿಧವಾದ ಸಂಬಂಧಗಳು ಇರುವುದಿಲ್ಲ ಹಾಗೂ ಈ ಹಕ್ಕು ನಿವೃತ್ತಿ ಪತ್ರದ ಮೂಲಕ ನಾನು ನನ್ನ ಹಿಸ್ಸೆಗಾಗಿ ಪಡೆದಿರತಕ್ಕ ನಗದು ಹಣವನ್ನು ನನ್ನ ಇಷ್ಟಾನುಸಾರ ಸುಖದಿಂದ ಅನುಭವಿಸಿಕೊಂಡು ಹೋಗಲು ಬದ್ಧಳಾಗಿರುತ್ತೇನೆ ಎಂಬುದಾಗಿ ನನ್ನ ಆತ್ಮಸಂತೋಷದಿಂದ ಒಪ್ಪಿ ಬರೆಸಿಕೊಟ್ಟ ಕೌಟುಂಬಿಕ ಹಕ್ಕು ನಿವೃತ್ತಿ ಪತ್ರ.



From the reading of contents in Ex.D.1/Release deed clearly establish that, the plaintiff executed release deed by relinquish their right over joint family property in favor of defendants by receiving a sum of Rs.5,00,000/- in the presence of witnesses. But the plaintiffs denied the receiving a sum of Rs.5,00,000/- from defendants. In support of contention DW.1 produced Ex.D.2 & 3/Pass book and Bank statements shows that, the plaintiff got received amount of Rs.5,00,000/- from defendants No.1 & 2. But on perusal of Ex.D.1 to 3 shows an receiving a sum of Rs.5,00,000/- in the presence of Witness before sub-register of Sira. As such the contention of plaintiff and counsel is not acceptable one.

18. DW.1 further produced Ex.D.4 & 6/Two release deed dated 10.01.2013 and 30.08.2011 clearly establish that, defendant No.5 and second wife of Srinivas by name Ashwini have executed release deed in favor of Lakshamma and defendants No.1 & 2 by relinquish their right over the family properties for consideration amount of Rs.5,00,000/-. On other hand, the defendant No.5 never disputed the Ex.D.4/Release deed through counsel. The oral evidence of DW.1 & Ex.D.1, 4 & 6 clearly establish that, the plaintiff, defendant No.5 & Ashwini W/o Srinivas have executed the release deed in their favor by relinquish their right over the suit property. But the defendants No.3 & 4 never released their right over the suit property, which is admitted by defendants No.1 & 2 in their written statement. As such, the right of the defendants No.3 & 4 have been



retained over the suit property. Moreover that, the LR's of defendant No.4 filed their written statement by seeking counter claim over the suit property for allot their share. Even though the defendants No.1 & 2 never filed any objections to counter claim of LR's of defendant No.4.

19. It is important to note that, the plaintiff has executed Ex.D.1/Release deed in favor of defendants No.1 & 2 and Lakshamma by relinquish their right over suit property or family property by receiving a sum of Rs.5,00,000/-. Moreover that, Ex.D.1/Release deed on dated 06.08.2011 is registered one and having sanctity in the eye of law. Admittedly, Ex.D.1/Release deed taken place on dated 06.08.2011. But the present suit filed on dated 23.03.2020 even after lapse of 9 years. Even though, the plaintiff never lodged any complaint against defendants No.1 & 2 before Police Station for fabricated the Ex.D.1/Release deed. But the plaintiff has not done so. If the plaintiff once executed Ex.D.1/Release deed in favor of defendants No.1 & 2, the question of joint family in joint possession of suit property does not arise. The oral evidence of PW.1 has not corroborated with Ex.P.1 to 16. On other hand, the defendants/DW.1 clearly establish that, the plaintiff has executed Ex.D.1/Release deed by relinquish their right over family property nothing but suit property by receiving amount of Rs.5,00,000/-. As such, this court is safely comes to conclusion that the plaintiff has voluntarily executed Ex.D.1/Release deed in favor of defendants No.1 & 2 with intended to relinquish their right over property, but not by



defendants No.3 & 4 over suit property. Therefore, the plaintiff failed to prove the existence of joint family and suit property is their ancestral & joint family property after execution of Ex.D.1/Release deed. On other hand, the defendants No.1 & 2 proved that, the release deed dated 06.08.2011 executed by plaintiff by preponderance of probability. **Accordingly I answered to Issue No.1 in the Negative & Issue No.3 in the Affirmative.**

20. Issue No.2 & 4:- Both issues are inter-connected each other in order to decide the relief of parties. Thus both issues have taken up together for common discussion in order to avoid the repetition of facts. In present suit the plaintiff sought for partition and separate possession of share against defendant in suit property. But the plaintiff has already executed Ex.D.1/Release deed by relinquish their right over family property nothing but suit property in favor of defendants No.1 & 2 as discussed in issue No.1 & 3 supra.

21. It is pertinent to note that, the plaintiff are very much aware of execution of release deed as per Ex.D.1. As such, the plaintiffs cannot claim for partition against defendants even after execution of registered Ex.D.1/Release deed. Therefore, the Ex.D.1/Release deed is binding on plaintiff. I have gone through the ratio laid down by Hon'ble Apex Court as hereunder:



- 1. Between S.P.Chengalvaraya Naidu V/s Jagannath, reported in 1994 AIR 853,**
- 2. Between Prem Singh V/s Birbal, reported in AIR 2006 SC 3608,**
- 3. Between Kale V/s Deputy Director of Consolidation, reported in 1976 AIR 807,**
- 4. Between Krishna Mohan Kul @ Nani Charan Kul V/s Pratima Maity, reported in AIR 2003 SC 4351,**
- 5. Between Ganduri Koteshwaramma V/s Chakiri Yanadi,**
- 6. Between Vineeta Sharama V., V/s Rakesh Sharam, reported in AIR 2020 SC 3717.**

By close reading of above ratio laid down by Apex Court pertaining to rights of the daughter over coparceners/ancestral property. But in the instant case the plaintiff and defendant No.1 to 5 are claiming the property of their deceased father and mother by name Subbarayappa and Lakshamma as class I legal heirs. Such being the facts and circumstances of this case is different from ratio laid down by Hon'ble Apex Court. As such, the oral arguments of counsel for plaintiff with written argument and ratio laid down in the above cases are not acceptable one.

22. On other hand, the defendant No.4 LR's claimed their share in respect of suit property through written statement. Admittedly, the defendant No.3 & 4 never executed any release deed in favor of defendants No.1 & 2 and their mother Lakshamma. Even though, the defendants No.1 & 2 admits in



written statement about except defendant No.3 have executed release deed in their favor. Such being, the rights of the defendants No.1 to 4 have been retained over suit property after death of their father/Subbarayappa and mother/Lakshamma because the defendants No.1 to 4 are being class-1 legal heirs of Subbarayappa and Lakshamma and succeed the suit property. In order to consider the relationship between both parties, no cost shall be imposed by this court either parties. Therefore, the Plaintiff is not entitle for any relief of partition as prayed in the plaint. But the counter claim filed by defendant No.4 LR's is allowed by way of preponderance of probability. **Accordingly, I answered to Issue No.2 & 4 in the Negative.**

23. Issue No.5: In view of my findings on issue No.1 to 4, this court answered the same in the Negative and Affirmative, the suit of the Plaintiff is deserves to be dismissed and counter claim filed by defendant No.4 LR's is hereby allowed. Accordingly, I proceed to pass the following:

:: O R D E R ::

The suit of the Plaintiff is hereby dismissed.

The counter claim filed by defendant No.4 LR's
(a and b) is hereby Allowed.

It is further declared that, the Defendants No.1
to 4 are entitled for 1/4th share each in item No.1 to



6 of suit schedule property by metes & bounds for partition & separate possession.

The Defendants No.1 to 4 shall get their share in item No.1 to 6 of suit schedule property U/Sec.54 of CPC by metes & bounds.

Office is directed to put up the records for drawing up final decree after completion of appeal period as per circular issued by Hon'ble High Court of Karnataka vide RJ.No.03/2024 on dated 03.01.2024.

Draw preliminary decree accordingly.

Both parties shall bear their own costs.

(Dictated to the stenographer by directly on Computer, script corrected, signed by me & then pronounced in the open Court on this the 18th day July – 2026)

Sd/-

(VINOD KUMAR. M)

Addl. Senior Civil Judge &
JMFC., Sira

:: A N N E X U R E S ::

List of witnesses examined on behalf of Plaintiff:

PW1 : Geetha

List of documents marked for Plaintiff:

Ex.P1 to 10 : RTC extracts

Ex.P11 to 16 : Encumbrance Certificates

**List of witnesses examined on behalf of Defendant:**

DW1 : Shantharaju R.S

List of documents marked for Defendant:

Ex.D1 : Relinquishment deed

Ex.D2 : Pass Book

Ex.D3 : Account statement

Ex.D4 to 6 : Relinquishment deed

Sd/-

(VINOD KUMAR. M)

Addl. Senior Civil Judge &
JMFC., Sira