



IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC,

AT TIPTUR.

PRESENT

SRI. BHARATH CHANDRA K. S. B.A.LL.B,

PRL. CIVIL JUDGE & JMFC,

TIPTUR.

Dated this th 11th day of June, 2026

O.S. No.391/2016

Plaintiffs: 1. Pushpa W/o Late Prakash,

Aged about 45 years,

R/o Madenuru village,

Kasaba hobli,

Tiptur taluk.

2. Archana W/o Murthy,

D/o Late Prakash,

Aged about 24 years,

R/o Kengallapura village,

Handanakere hobli,

C.N.Halli taluk.

3. Ashwini W/o Malikarjunaiah,

D/o Late Prakash,

Aged about 22 years,

R/o Madihalli village,



Shettikere hobli,
C.N.Halli taluk.

(R/ by Sri.SS Advocate)

Vs.

Defendants: 1. Ratnamma W/o

Late M.P.Chandrashekaraiiah,
Aged about 70 years,
R/o Madenuru village,
Kasaba Hobli,
Tiptur taluk.

2. M.C.Bramarabha W/o Dakshinamurthy,
Aged about 55 years,
R/o 1st cross, Sri Basaveshwara Krupa,
Balagade Mane compound,
Shankarappa Layout, Tiptur.

3. Shamala W/o Late Chandrashekaraiiah,
Aged about 48 years,
R/o Nageshwara Nilaya, 8th main,
Kanchaghatta extension, Tiptur.

4. Manjula W/o Parameshwarappa,
Aged about 45 years,
R/o Nagara Navile,
Baguru Hobli,

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Channarayapatna taluk.

(D-1 to 4 R/ by Sri.CCG Advocate)

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|-------------------------------------|-----------------------------------|
| 1. Date of presentation of the suit | : 17.12.2016 |
| 2. Nature of the suit | : Partition & separate possession |
| 3. Evidence commenced on | : 23.06.2023 |
| 4. Evidence closed on | : 01.06.2026 |
| 5. Judgment pronounced on | : 11.06.2026 |
| 6. Duration of the suit | : Year/s Month/s Day/s |
| | 09 05 25 |

Sd/-
(Bharath Chandra K.S)
Prl. Civil Judge and JMFC.
Tiptur.

J U D G E M E N T

The Plaintiffs have filed the present suit against the defendants seeking partition and separate possession of their share by metes and bounds and for a declaration that the gift deed dated 27.09.2013 is not binding upon their share, along with mesne profits and costs.

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2. Description of the Property:-

SCHEDULE

1) Land bearing Sy.No.121/2A, measuring 2-02 Gts, assessed at Rs.3.02 ps, bounded by:-

East: Mahadevanna's property

West: Doddegowda's property

South: Land of Rathnamma

North: Gollarahatti

2) Land bearing Sy. No. 123/2A, measuring 1-09 Gts, assessed at Rs. 1.70ps, bounded by:-

East: Murthy's property

West: Sadashivaiah's property

South: Road

North: Rathnamma's property

3) Land bearing Sy.No.131/6 measuring 2-22 Gts, assessed at Rs.3.75ps, bounded by:-

East: Somanna's property

West: Umesh's property

South: Land of Basavaraju

North: Katte

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4) Land bearing Sy.No.2/4E2, measuring 0.03 Gts, assessed at Rs.0.10ps, bounded by:-

East: Rangappa's property

West: Chandraiah's property

South: Road

North: Suryanarayanachar

5) Land bearing Sy.No.104/1, measuring 1-29 Gts, assessed at Rs.2.72, bounded by:-

East: Tank

West: Puttappa's property

South: Gangadharappa's property

North: Kumaranna's property & Road

6) Land bearing Sy.No. 199/2, measuring 1.11 gts, assessed at Rs.8.59ps, bounded by:-

East: Murthy's property

West: Road

South: Anandamurthy's property

North: Tank

7) Land bearing Sy.No.199/1, measuring 1-17 Gts, assessed at Rs. 10.36ps, bounded by:-

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East: Murthy's property

West: Road

South: Anandamurthy's property

North: Tank

8) House bearing Serial No.56, Assessment No.265/2 measuring

East-West: 43 feet and North-South 32 feet, bounded by:-

East: Site of Siddaramanna

West: Road

South: House of Honnappa

North: House of Gangamma

All the properties are situated at Madenuru village, Kasaba Hobli, Tiptur Taluk.

3. The brief facts of the case of plaintiff is as follows:

3.1 It is the case of the plaintiffs that one Paravegowda was the propositus of the family and he had three sons namely, M.P. Shivananda, M.P. Rajanna and M.P. Chandrashekaraiah. The wife of M.P. Chandrashekaraiah is defendant No.1 and defendants No.2 to 4 are his children. The husband of plaintiff No.1, by name Prakash, was the son of M.P. Chandrashekaraiah and father of plaintiffs No.2 and 3. It is stated that M.P. Chandrashekaraiah died on 25.03.2014 and his son Prakash had



predeceased him on 23.07.1994. The plaintiffs contend that they and defendants No.1 to 4 are the legal heirs and successors of late M.P. Chandrashekaraiah.

3.2 It is further contended that the suit schedule properties are ancestral and joint family properties of the plaintiffs and defendants No.1 to 4 and they are coparceners in possession and enjoyment of the same. It is pleaded that during the lifetime of M.P. Chandrashekaraiah, he was managing the joint family affairs and after his death defendant No.1 has been managing the properties. However, defendant No.1 has not properly managed the joint family properties and has failed to render accounts regarding the income derived from the suit schedule properties.

3.3 The plaintiffs further contend that the defendants, in collusion with the revenue authorities, have got the revenue records changed in the name of defendant No.1. It is alleged that defendant No.1, without having absolute right over the joint family properties, has executed a registered gift deed dated 27.09.2013 in favour of defendant No.2 in respect of the suit properties. According to the plaintiffs, the said gift deed is fraudulent, sham and not binding upon their share in the suit schedule properties.



3.4 It is also pleaded that defendants No.3 and 4 have executed a release deed dated 27.09.2013 in favour of defendant No.1. The plaintiffs contend that despite their demand for effecting partition and separate possession of their legitimate share, the defendants have failed to do so. Hence, the plaintiffs have filed the present suit seeking partition and separate possession of their share by metes and bounds and for a declaration that the gift deed dated 27.09.2013 is not binding upon their share, along with mesne profits and costs.

4. Issuance of Process: Upon the institution of the suit, this court issued summons to the Defendants, which was duly served. In response to the summons, the Defendants appeared before this court through their advocates and submitted their written statement contesting the plaintiff's case.

5. Brief facts as averred in the written statement of Defendants are as follows :

5.1 The defendants have denied all the plaint averments except the relationship between the parties. The defendants contend that the suit schedule properties are not ancestral or joint family properties as alleged by the plaintiffs. It is specifically contended that suit schedule item Nos.2, 4 and 6 bearing Sy.No.123/2A measuring 1.09 guntas, Sy.No.2/4E2 measuring 3



guntas and Sy.No.199/2 measuring 1.11 guntas were purchased by the husband of defendant No.1 and father of defendants No.2 to 4 and the said properties are his self-acquired properties.

5.2 The defendants further contend that after the death of the husband of plaintiff No.1 and father of plaintiffs No.2 and 3, an oral partition was effected about 17 years prior to filing of the suit between plaintiff No.1 and defendant No.1. According to the defendants, under the said oral partition, suit schedule item Nos.1 to 3 and the eastern half portion of item No.8 were allotted to the share of the plaintiffs, whereas item Nos.5 to 7 and the western portion of item No.8 were allotted to defendant No.1. It is contended that pursuant to the oral partition, the parties are in separate possession and enjoyment of their respective shares.

5.3 It is further contended that subsequent to the oral partition, defendant No.1, with the consent of defendants No.3 and 4, executed a registered gift deed dated 27.09.2013 in favour of defendant No.2 in respect of suit schedule item Nos.1 to 3, pursuant to which the revenue records were changed in the name of defendant No.2. The defendants contend that the said transaction was within the knowledge of the plaintiffs and defendant No.2 is in absolute possession and enjoyment of the said properties. Therefore sought for dismissal of the suit.



6. Upon perusal of the Plaint and written statement, this court has framed issues following issues : -

ISSUE No.1 : Whether the plaintiffs proves that, suit schedule properties are the ancestral joint family properties of plaintiffs and defendants?

ISSUE No.2 : Whether the plaintiffs proves that the gift deed dtd.27.09.2013 executed by 1st defendant is fraudulent, share and concocted one?

ISSUE No.3 : Whether the plaintiffs proves that, they are entitled for $\frac{1}{2}$ share + $\frac{1}{5}$ th share in the share of properties in all the suit schedule properties?

ISSUE No.4 : Whether the plaintiffs proves that the gift deed dtd:27.09.2013 will not binds the share of plaintiffs?

ISSUE No.5 : Whether the defendants proves that there was a partition in the family between the plaintiffs & defendants?

ISSUE No.6 : Whether the plaintiff is entitled for the relief claimed?



ISSUE No.7 : What order or decree?

7. Plaintiff evidence: In order to prove their case, the plaintiff examined himself as PW-1 by filing an affidavit in lieu of examination-in-chief and got marked 11 documents as Ex.P-1 to 11, which are as follows:-

EX. P-1 to 3	The RTC extracts pertaining to the suit schedule item Nos.1 to 3 properties, wherein the name of defendant No.2 is entered at column No.9 and the said entry is made on the basis of a gift deed dated 27.09.2013.
EX. P-4 to 7	RTCs pertaining to the suit schedule item Nos.4 to 7 properties, wherein the name of defendant No.1 is entered at column No.9, and the said entries have been made on the basis of inheritance.
EX. P-8	Is the Katha extract pertaining to the suit Item No.8 schedule property, which stands in the name of the father-in-law of Plaintiff No.1.
EX. P-9	Is the gift deed dated 27.09.2013 executed by Defendant No.1 in favour of Defendant No.2.
Ex.P-10	Is the death of the father-in-law of Plaintiff No.1.
Ex.P-11	Is the Relinquishment deed dated 27.09.2013.
Ex.P-12	Is the mutation register bearing MR.No.6/2004-05.

8. Defendant evidence : Inpite of giving sufficient opportunity, the defendants neither cross-examined Pw-1, nor did they lead any evidence.



9. Heard the arguments of the counsels on behalf of the Plaintiff and the Defendants.

10. Upon careful examination of all the materials on record, including the plaint, written statement, and the oral and documentary evidence provided by the plaintiff, the findings of this court on the aforementioned issues are as follows :

Issue No.1,2 and 4 : In the **Affirmative.**

Issue No.3 and 6 : In the **Partly affirmative.**

Issue No.5 : In the **Negative.**

Issue No.7 : **As per final order.**

for the following:

REASONS

11. **ISSUE No.1 to 6** : As these issues are interconnected with each other and since the same evidence is lead on both these issues, this court has taken them together for common discussion to avoid repetition and for the sake of brevity. Having already outlined the plaint and written statement at the outset of this judgment, the court will now proceed to assess the evidence on record without restating those details, in the interest of brevity.



12. It is not in dispute that the relationship between the parties. It is also not in dispute that except suit schedule item Nos.2, 4 and 6, the remaining suit schedule properties are the joint family properties of the plaintiffs and defendants. The specific contention of the defendants is that suit schedule item Nos.2, 4 and 6 are the self-acquired properties of the husband of defendant No.1 and father of defendants No.2 to 4. On the other hand, the plaintiffs have contended that all the suit schedule properties are the ancestral and joint family properties.

13. Even assuming that suit schedule item Nos.2, 4 and 6 were the self-acquired properties of M.P. Chandrashekaraiah, admittedly he died on 25.03.2014. After his death, the succession to his estate would open and the same would devolve upon his Class-I legal heirs as per Section 8 of the Hindu Succession Act. Therefore, the said properties would also be available for partition amongst his legal heirs.

14. The defendants have further contended that there was an oral partition effected between plaintiff No.1 and defendant No.1 about 17 years prior to filing of the suit. However, the defendants have not stated the specific date on which such oral partition was allegedly effected. A perusal of the written statement discloses that the defendants have pleaded that under the alleged oral partition, suit schedule item Nos.1 to 3 and the eastern half



portion of item No.8 were allotted to the share of plaintiffs, whereas item Nos.5 to 7 and western portion of item No.8 were allotted to defendant No.1.

15. The said contention of the defendants itself indicates that all the suit schedule properties were treated as the properties available for division between the parties. Therefore, even according to the defence, the said properties were included in the alleged oral partition. Thus, though the defendants contend that certain properties were self-acquired properties of M.P. Chandrashekaraiah, their own pleadings indicate that the same were treated as family properties available for partition.

16. However, except filing the written statement, the defendants have not produced any evidence to prove the alleged oral partition. No document has been produced to establish that such partition was acted upon and the parties were separately enjoying their respective shares.

17. On the other hand, plaintiff No.1 has examined herself as PW-1 and has produced documents marked as Ex.P1 to Ex.P12. Ex.P1 to Ex.P7 are the RTC extracts pertaining to the suit schedule properties. A perusal of Ex.P1 to Ex.P3, which relate to suit schedule item Nos.1 to 3, shows that the name of defendant No.2 is entered in column No.9 and the said entry is made on the



basis of gift deed dated 27.09.2013. Further, Ex.P4 to Ex.P7 pertaining to the other suit schedule properties show the name of defendant No.1 in the revenue records, and the said entries have been made on the basis of inheritance.

18. Ex.P8 is the tax register extract pertaining to suit schedule item No.8, which stands in the name of the husband of defendant No.1. These documents do not establish that there was any oral partition between the parties as contended by the defendants.

19. If really there was an oral partition as pleaded by the defendants, the same ought to have been acted upon and the parties ought to have been in separate possession of their respective allotted shares. However, the revenue records do not support the said contention. Though the defendants contend that suit schedule item Nos.1 to 3 were allotted to the share of plaintiff No.1 under the oral partition, the entire extent of item Nos.1 to 3 has been mutated in the name of defendant No.2 pursuant to the gift deed.

20. The said gift deed dated 27.09.2013 is produced and marked as Ex.P9. A perusal of the said document shows that defendant No.1 has gifted the entire suit schedule item Nos.1 to 3 in favour of defendant No.2 and not merely her alleged share therein. Therefore, the said transaction itself contradicts the defence



taken by the defendants regarding the alleged oral partition.

21. Hence, this Court is of the considered opinion that the defence of oral partition has remained unsubstantiated and unproved. The parties have continued to constitute a Hindu Undivided Joint Family and the suit schedule properties are liable to be partitioned amongst the legal heirs.

22. Since the relationship between the parties is admitted, M.P. Chandrashekaraiah is the common ancestor of the parties. Defendant No.1 is his wife, defendants No.2 to 4 are his children, and plaintiffs are the wife and children of his predeceased son Prakash. Therefore, the plaintiffs together are entitled to succeed to the share of Prakash.

23. Accordingly, the suit schedule properties are liable to be divided into five equal shares. Defendant No.1 to defendant No.4 are each entitled to one such share, and the plaintiffs together are entitled to one share representing the share of deceased Prakash. Since it is now concluded that the suit schedule properties are joint family properties of the Plaintiffs and Defendants, the Defendant No.1 did not have the sole right to execute the gift deed dated 27.09.2013 in favour of Defendant No.2 with respect to the suit schedule Item No.1 to 3 properties. Therefore the said gift deed will not bind the share of the



Plaintiffs over the suit schedule properties and will only bind the Defendants, as the Defendant No.3 and 4 have consented to the said gift deed. The Plaintiff has sought for mesne profit, however mesne profit arises only when there is unlawful possession. Therefore mesne profit cannot be awarded in a suit for partition when the suit schedule properties are joint family properties and all the parties are construed to be in joint possession of the same and the possession of neither party can become unlawful. Hence the Plaintiff is not entitled for mesne profits. Accordingly, this court answers **Issue No.1, 2 and 4** is answered in the **Affirmative**, **Issue No.3 and 6** are answered in the **Partly Affirmative** and **Issue No.5** is answered in the **Negative**.

24. ISSUE No.7: In view of the findings of this court on Issue No.1 to 4, this court proceeds to pass the following;

ORDER

The suit of the plaintiff is decreed
in part with costs.

The Plaintiffs are hereby declared to be
entitled to 1/5th share together in the
suit schedule properties.

The Defendants are hereby declared to
be each entitled to 1/5th share in the suit



schedule properties.

It is further declared that the gift deed dated 27.09.2013 executed by Defendant No. 1 in favour of the Plaintiffs do not bind their share over the suit schedule properties.

Draw preliminary decree accordingly.

Office is directed to register FDP proceedings suo-moto and put up the same along with a copy of the judgment and decree on or before 30.06.2026.

[Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this day of 11th day of June 2026]

**Sd/-
(Bharath Chandra K .S)
Prl Civil Judge and JMFC.
Tiptur**

ANNEXURES

Witnesses examined on behalf of plaintiff :

PW-1 : Pushpa

List of documents exhibited for the plaintiff :

Ex:P1 to 3 : RTC extracts

Ex:P4 to 7 : RTCs

Ex:P8 : Katha extract

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Ex:P9 : Gift deed
Ex:P10 : Death of the father-in-law of Plaintiff No.1.
Ex:P11 : Relinquishment deed dated 27.09.2013
Ex:P12 : Mutation register

Witnesses examined on behalf of defendant:

- Nil-

Documents marked on behalf of defendant:

-Nil-

Sd/-
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