



**IN THE COURT OF ADDITIONAL CIVIL JUDGE AND J.M.F.C.,
AT TIPTUR.**

DATED THIS THE 06th DAY OF AUGUST, 2026.

**PRESENT : SMT. MADHUSHREE G. S., B.COM., LLB., L.L.M.,
ADDL. CIVIL JUDGE & JMFC., TIPTUR.**

O. S. NO. 92/2014

PLAINTIFF : 1. Chandramma
D/o Kariyamma and Huchanna
W/o N.Eshwaraiah
Aged about 50 years
R/at Thimmalapura Village
Honnavalli Hobli
Tiptur Taluk

(By Sri.K.S.R.I., Adv)

Vs

DEFENDANTS : 1. S.Manjula
W/o Late.H.Mallaiah
Aged about 50 years

2. M.Shruthi
D/o Late.H.Mallaiah
Aged about 25 years

3. M.Shwetha
D/o Late.H.Mallaiah
Aged about 22 years

Defendants No.1 to 3 are
R/at House No.245 Vidyanagara
Kanchaghatta
Tiptur Town.



4. **Rajanna**
S/o Late.Huchanna
Aged about 55 years
R/at Gudigondanahally Village
Kasaba Hobli
Tiptur Taluk
5. **Kamamma**
D/o Late.Huchanna
W/o Shivanna
Aged about 65 years
R/at Thandaga Village
Dabbeghatta Hobli
Turuvekere Taluk
6. **Kalavathi**
D/o Late.Huchanna
W/o Nanjundappa V.K
Aged about 45 years
R/at Vignasanthe Village
Nonavinakere Hobli
Tiptur Taluk
7. **Kariyamma**
W/o Late.Huchanna
Aged about 80 years
R/at Gudigondanahally Village
Kasaba Hobli
Tiptur Taluk

(By Sri.K.N.G., Adv for D1 to 3, 5)
(By Sri.S.S., Adv for D4 & 7)
(D6 Exparte)

Date of institution of the suit	05.03.2014
Nature of Suit	Partition and Separate Possession
Date of the Commencement of	20.07.2017



Evidence			
Date of Judgment	06.08.2026		
Total Duration	Years	Months	Days
	12	05	01

(MADHUSHREE G. S.)
Addl Civil Judge & JMFC.,
Tiptur.

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

The plaintiff has filed the present suit against the defendants seeking partition and separate possession of the suit schedule properties, claiming 1/6th share in the suit schedule properties, along with other consequential reliefs.

2. The facts of the plaintiffs' case are as follows :

One Huchanna was the prepositus of the family. The suit schedule property was originally ancestral property of Huchanna. The said Huchanna alleged to have executed a gift deed on 07.12.1946 in favour of his wife Kariyamma who is the defendant No.7. Actually the suit schedule properties are the joint family properties of Huchanna. The defendant No.7 Kariyamma, their sons namely H.Mallaiah (husband of defendant No.1 and father of defendant No.2 and 3), Rajanna (defendant No.4), three daughters i.e., plaintiff, defendant No.5 and defendant No.6. So, the plaintiff has 1/6th share in the suit schedule properties. To the exclusion of the



plaintiff and other daughters, there has been a panchayath palu patti alleged to have been entered into between the defendant No.7, H.Mallaiah and defendant No.4 Rajanna in respect of the suit schedule properties on 06.10.1996. The said alleged panchayath palu patti is not registered and as per the provisions of Amended Hindu Succession Act, the plaintiff being a co-parcener and there is no partition in the eye of law before 20th December 2004, the alleged palu patti will not affect 1/6th share of the plaintiff in the suit schedule properties. The suit schedule properties continues to be joint family property of plaintiff and defendants in which the plaintiff has 1/6th share.

About 3 years back, the H.Mallaiah (husband of defendant No.1 and father of defendant No.2 and 3) died. The khata of the suit schedule properties have been made in th name of defendant No.1 as the khata stood in the name H.Mallaiah before his death. On account of recent developments it has not been possible for the plaintiff to continue in the joint family and the plaintiff demanded the defendants particularly defendants No.1 to 3 entered into partition and to give separate possession of 1/6th share of plaintiff in the suit schedule properties for which defendants No.1 to 3 went on postponing and on 01.03.2014 the defendants No.1 to 3 refused to enter into partition and to given separate possession. The plaintiff and defendants are in constructive joint possession of the suit schedule properties. The defendant No.1 taking advantage of the khata and pahani stands in her name in collusion with the defendants No.2 and 3 are contemplating to alienate the suit



schedule properties without any legal necessity and without any benefit of the family. Hence, this suit.

3. Upon institution, summons were issued and duly served. The defendants No.1 to 5 and 7 have appeared through their counsel and filed written statements and defendant No.6 has not appeared before this court and placed exparte.

The defendants No.1 to 5 and 7 denied the entire plaint averments and the said suit is barred by the statute of limitations and the necessary properties have not been intentionally included by the plaintiff and the said suit is liable to be dismissed. The lands in the name of the defendant No.4 Rajanna, Tiptur Taluk Kasaba Hobli Sy No.69 measuring 1 acre 27 guntas, 69/3C measuring 10 guntas, 69/3D measuring 5 guntas, 69/3E measuring 1 acre 2 guntas have not been included by the plaintiff in the said suit and the plaintiff is not legally entitled to have any share in the said suit. The said suit is not within the jurisdiction of the Economic Judicial Authority of this court. The suit property in the said suit is of a very high value and is valued at more than 8,00,000 (Eight lakhs). The plaintiff has not come to this court with clean hands and the plaintiff has not brought the said suit in this court with full knowledge. It is just and necessary to dismiss the said suit as it relates to the movable property. If the suit is not allowed, the defendants would be cause hardship, loss and inconvenience. The defendant prays that this court to dismiss the suit.

4. Having heard and perused, the following issues have been framed :



ISSUES

1. Whether the plaintiff proves that the suit schedule properties are the ancestral and joint family properties of plaintiff and defendants?
 2. Whether the plaintiff is entitle for 1/6th share in the suit schedule properties?
 3. Whether the defendants prove that the suit is bad for non joinder of other family properties?
 4. Whether the plaintiff is entitle for reliefs as sought for?
 5. What order or decree?
5. In order to establish the case, the plaintiff No.2 stepped into the witness box, filed the evidence affidavit by reiterating the entire plaint averments, got examined as PW1, got marked 17 documents as per Ex.P-1 to Ex.P17 i.e., Ex.P1 is the certified copy of gift deed dated 07.12.1946, Ex.P2 & Ex.P3 are the encumbrance certificates, Ex.P4 is the mutation, Ex.P5 & Ex.P6 are the certificate copies of RTC extracts, Ex.P7 to Ex.P10 are the RTC extracts, Ex.P11 is the E-khata, Ex.P12 & Ex.P13 are the demand register extract, Ex.P14 to Ex.P17 are the RTC extracts and closed side.
6. Per contra, in order to rebut the plaintiffs' suit, the defendant No.1 stepped into the witness box, got herself examined as DW1, by filing affidavit in lieu of examination in chief, by reiterating the entire written statement averments and got marked 33 document as Ex.D-1 to Ex.D33 i.e., Ex.D1 to Ex.D17 are the seventeen RTC extracts, Ex.D18 to Ex.D20 are the RTC extracts in Sy.No.69/3A, Ex.D21 to Ex.D23 are the RTC extracts in Sy.No.39/3C, Ex.D24 to



Ex.D26 are the RTC extracts in Sy.No.69/3D, Ex.D27 to Ex.D29 are the RTC extracts in Sy.No.69/3E, Ex.D30 is the RTC extract in Sy/No.35/4, Ex.D31 is the RTC extract in Sy.No.2/1C, Ex.D32 is the copy of khata and Ex.D33 is the copy of letter of market value and closed side.

7. Heard both sides and perused the materials available on record including the decisions relied on by both the parties.
8. This court answers the above points as follows:-

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

REASONS

9. **ISSUE NO. 1 TO 4** : As these issues are inter-linked with each other and similar evidence is led on these issues, this Court has taken the issues together for common discussion. Since this court has already detailed the averments of the plaint at the inception of this judgment, it shall proceed to appreciate the evidence available on record, without repeating the same, for the sake of brevity.
10. The relationship between the parties is not in dispute. It is also not in dispute that one Huchanna was the propositus of the family. He had a wife by name Kariyamma, who is arrayed as defendant No.7 in the present suit. They had two sons and three daughters. The



sons are (i) H. Mallayya, who was the husband of defendant No.1 and the father of defendant Nos.2 and 3, and (ii) Rajanna, who is defendant No.4. The three daughters are the plaintiff, defendant No.5 and defendant No.6.

- 11.** It is the case of the plaintiff that the suit schedule properties are the joint family properties of the plaintiff and the defendants, having originally belonged to Huchanna, the propositus of the family, as his ancestral properties. However, Huchanna executed a gift deed dated 07.12.1946 in favour of his wife, Kariyamma, who is defendant No.7 herein. Subsequently, on 06.10.1996, an alleged Panchayat Palupatti is stated to have been entered into between defendant No.7, H. Mallayya and defendant No.4 in respect of the suit schedule properties. According to the plaintiff, the said Palupatti is an unregistered document and, therefore, is not binding in the eye of law. It is further contended that the plaintiff, being a daughter and a coparcener by virtue of the amended provisions of the Hindu Succession Act, is entitled to a share in the suit schedule properties. After the death of H. Mallayya, the husband of defendant No.1, the khata of the suit schedule properties came to be mutated in the name of defendant No.1.
- 12.** On the other hand, defendant Nos.1 and 3 have filed their written statement contending that a partition had already been effected among the family members on 06.10.1996. It is further contended that the plaintiff had received gold ornaments and money from the joint family and had relinquished her rights in the joint family properties. Therefore, according to them, the daughters of



Huchanna are not entitled to any share in the suit schedule properties. It is also contended that the suit is bad for non-joinder of necessary parties and non-inclusion of all the joint family properties.

13. As discussed above, the relationship between the parties is not in dispute. The principal controversy between the parties relates to the alleged partition said to have been effected on 06.10.1996 between the two sons of Huchanna and their mother, excluding the daughters.
14. Admittedly, the alleged Panchayat Palupatti is an unregistered document. More importantly, the said document has not been produced before the Court by either party. Though defendant Nos.1 and 3 have produced 33 documents, which are marked as Exs.D1 to D33, they have failed to produce the alleged partition deed. In the absence of satisfactory evidence proving the alleged partition, it cannot be held that the joint family stood divided. On the contrary, in the absence of proof of partition, the presumption is that the joint family continues to remain joint.
15. Though the plaintiff admits the existence of an unregistered Panchayat Palupatti, her contention is that the same is not legally valid, as it is unregistered and cannot bind her share in the suit schedule properties. It is well settled that where a partition deed itself creates or effects a partition for the first time, it requires compulsory registration. Only a document which merely records a past partition, being in the nature of a memorandum of partition, does not require registration. In the present case, the alleged



Palupatti is admittedly unregistered and has not even been produced before this Court. Consequently, this Court is unable to examine its nature so as to determine whether it is an instrument of partition or merely a memorandum recording a past partition. An unregistered partition deed cannot be relied upon as substantive evidence of partition and can be looked into only for collateral purposes, such as the nature of possession. Since the document itself has not been produced, it cannot even be looked into for any collateral purpose. Hence, this Court is of the considered opinion that the defendants have failed to establish that a valid partition had been effected between the parties.

- 16.** The plaintiff has further contended that the suit schedule properties were the ancestral properties of Huchanna and that he had no absolute right to execute the gift deed in favour of defendant No.7. The gift deed has been produced by the plaintiff and marked as Ex.P1. Admittedly, during the pendency of the suit, defendant No.7 died intestate. In such circumstances, even assuming that the suit schedule properties became the absolute properties of defendant No.7 by virtue of the gift deed, upon her intestate death, the plaintiff, defendant No.4, defendant No.5, defendant No.6 and the branch of deceased H. Mallaiah, represented by defendant Nos.1 to 3, being her Class-I legal heirs, would each succeed to 1/5th share in the suit schedule properties. Accordingly, the plaintiff is entitled to 1/5th share; defendant No.4 is entitled to 1/5th share; defendant No.5 is entitled to 1/5th share; defendant No.6 is entitled to 1/5th share; and defendant Nos.1 to 3, being the legal



representatives of the predeceased son H.Mallaiah, are collectively entitled to 1/5th share.

17. Even if the suit schedule properties are treated as ancestral properties, the ultimate division of the shares would remain substantially the same in view of the subsequent death of defendant No.7 during the pendency of the suit. Therefore, for the purpose of deciding the present suit, it is not necessary to conclusively determine whether the suit schedule properties were the ancestral properties of Huchanna or the absolute properties of defendant No.7 under Ex.P1, as the entitlement of the parties remains unaffected in the present facts and circumstances.
18. The defendants have also contended that the suit is bad for non-inclusion of all the joint family properties. However, the records disclose that the Hon'ble Appellate Court, while remanding the matter, specifically directed the plaintiff to include the remaining joint family properties in the suit. Pursuant to the said remand order, the plaintiff amended the plaint and brought all the joint family properties into the suit. Therefore, the objection regarding non-inclusion of joint family properties or non-joinder of properties no longer survives for consideration.
19. It is significant to note that defendant Nos.1 to 3 have admitted in their pleadings that the plaintiff is entitled to a share in the suit schedule properties, though they disputed the extent of such entitlement on other grounds. In view of the failure of the defendants to prove the alleged partition dated 06.10.1996 and in view of the admission made by defendant Nos.1 to 3 regarding the



plaintiff's entitlement to a share, this Court holds that the plaintiff is entitled to partition and separate possession of her lawful share. Since defendant no. 7 died during the course of trial, her share shall devolve equally upon her Legal heirs. Accordingly, the plaintiff is held entitled to 1/5th share in the suit schedule properties by metes and bounds. The defendant 1 to 3 are together entitled to 1/5th share in all the suit schedule properties. Further the defendant no.4 to 6 each are entitled to 1/5th share in all the suit schedule properties. Hence, the Issue No.1, 2 and 4 are answered in Affirmative and the Issue No.3 is answered in Negative.

20. **ISSUE NO.5** : In the light of discussions made and the findings given on Issue No.1 to 5, this court after careful consideration passes the following :-

ORDER

The suit of the plaintiff is hereby decreed with costs.

The Plaintiff is entitled to 1/5th share in all the suit schedule properties.

The defendant 1 to 3 are together entitled to 1/5th share in all the suit schedule properties.

Further the defendant no.4 to 6 each are entitled to 1/5th share in all the suit schedule properties.

Office is directed to draw preliminary decree accordingly.



Office is hereby directed to register FDP proceedings suo moto and put up on 20.08.2026 with the copy of the decree.

The parties are directed to appear on 20.09.2026 without waiting further notice from court.

(Dictated to the stenographer directly, who computerized the same and then, corrected by me, print out taken by her, signed and then pronounced by me in the Open Court 06th day of August, 2026.)

(MADHUSHREE G. S.)
Addl. Civil Judge and JMFC.,
Tiptur.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR THE PLAINTIFF :

PW.1 : Chandramma

LIST OF DOCUMENTS MARKED FOR THE PLAINTIFF :

Ex.P1 : Certified copy of gift deed dated
07.12.1946

Ex.P2 & 3 : Encumbrance certificates

Ex.P4 : Mutation

Ex.P5 & 6 : Certificate copies of RTC extracts

Ex.P7 to 10 : RTC extracts

Ex.P11 : E-khata



Ex.P12 & 13 : Demand register extract
Ex.P14 to 17 : RTC extracts

LIST OF WITNESSES EXAMINED FOR THE DEFENDANT :

DW.1 : S.Manjula

LIST OF DOCUMENTS MARKED FOR THE DEFENDANT :

Ex.D1 to 17 : Seventeen RTC extracts
Ex.D18 to 20 : RTC extracts in Sy.No.69/3A
Ex.D21 to 23 : RTC extracts in Sy.No.39/3C
Ex.D24 to 26 : RTC extracts in Sy.No.69/3D
Ex.D27 to 29 : RTC extracts in Sy.No.69/3E
Ex.D30 : RTC extract in Sy.No.35/4
Ex.D31 : RTC extract in Sy.No.2/1C
Ex.D32 : Copy of khata
Ex.D33 : Copy of letter of market value

(MADHUSHREE G. S.)
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