



IN THE COURT OF THE CIVIL JUDGE AND JMFC MUNDARGI

PRESENT: Smt. Jyoti B. Kaginakar,
B.Sc., LLB.,
Civil Judge and JMFC, Mundargi.

Dated this the 30th day of June, 2025

O.S.No.137/2022

PLAINTIFF:

Kumari Gangamma D/o Halappa Kavalur,
Aged: 19 years, Occ: Student,
R/o: Mevundi, Now at: Vadaganal,
Tq/Dist: Koppal.
(by Sri. B.V.H Advocate)

//V/s//

DEFENDANTS:

1. Sri. Yallappa S/o Ningappa Kavalur,
Aged: 75 years, Occ: Agriculture,
R/o: Mevundi, Tq: Mundargi, Dist: Gadg.
2. Smt. Renukavva W/o. Adivappa
Narasapura, Aged: 55 years,
Occ: Housewife, R/o: Hirekoppa,
Tq/Dist: Koppal.
3. Smt. Shankravva W/o Prakash Ganiger,
Aged: 52 years, Occ: Housewife,
R/o: Dambal, Tq: Mundargi, Dist: Gadag.



4. Sri. Sharanappa S/o Yallappa Kavalur,
Aged: 48 years, Occ: Agriculture,
R/o: Mevundi, Tq: Mundargi,
Dist: Gadag.
5. Sri. Rajappa S/o Yallappa Kavalur,
Aged: 46 years, Occ: Agriculture,
R/o: Mevundi, Tq: Mundargi,
Dist: Gadag.
6. Smt. Halvva W/o Nagaraj Masanakatti,
Aged 44 years, Occ: Housewife,
R/o: Kalavad, Tq: Laxmeshwar, Dist: Gadag.
7. Sri. Shivaraj S/o Yallappa Yallappa Kavalur,
Aged: 42 years, Occ: Agriculture,
R/o: Mevundi, Tq: Mundargi, Dist: Gadag.
8. Sri. Nilappa S/o Bharamappa Adegar,
Aged: 55 years, Occ: Agriculture,
R/o: Mevundi, Tq: Mundargi, Dist: Gadag.
9. Kallolappa S/o Hanamappa Huligeri @ Vaddara,
Aged: 54 years, Occ: Agriculture,
R/o: Mevundi, Tq: Mundargi, Dist: Gadag.
10. Sri. Ashok S/o S.Hanamappa Huligeri @
Vaddara, Aged: 45 years, Occ: Agriculture,
R/o: Mevundi, Tq: Mundargi, Dist: Gadag.

(By D.1 to 10 Exparte)

Date of Institution of Suit	:	31.10.2022
Nature of Suit	:	Suit for Partition and Separate Possession and Permanent Injunction
Date of Commencement	:	14.02.2025



of Recording of evidence		
Date of closing of evidence	:	21.02.2025
Date on which judgement was pronounced	:	30.06.2025
Total Duration	:	<u>Year/s</u> <u>Month/s</u> <u>Days</u> 02 08 02

(Smt. Jyoti B. Kaginakar)
Civil Judge and JMFC,
Mundargi.

JUDGMENT

This suit is filed by the Plaintiffs against the Defendants for seeking the relief of partition and a permanent injunction in respect of the suit properties.

THE DESCRIPTION OF THE SUIT PROPERTIES

The suit properties are agricultural lands situated in Baradoor village, and their details are as follows:



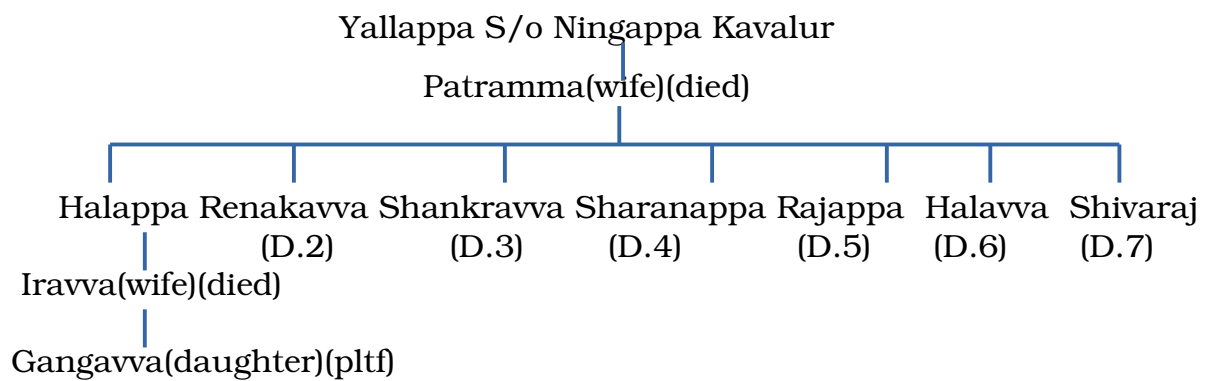
Agricultural Lands:

Sl.No.	Village	R.Sy.No	Measuring	Assessment
1	Mevundi	216/1	03-24	10-91
2	Mevundi	142/2	11-00	7-22
3	Mevundi	30/2BP 3	03-17	04-00

Residential Sites:

Sl.No.	Village	VPC.No	Measuring
1	Mevundi	33	50x75
2	Mevundi	32	40x50

GENEALOGY





2. The averments of the plaint in brief is as follows;

In the present suit, the plaintiff seeks partition and permanent injunction, asserting that the suit properties are ancestral joint family assets belonging to herself and defendants 1 to 8, each being entitled to a 1/8th share. These properties, located in Mevundi village, Dambal Hobli, Mundargi Taluk, are recorded in the names of Yallappa (son of Ningappa Kavalur) and defendants 9 and 10, who are alleged to be purchasers.

3. The plaintiff is the daughter of the late Halappa and Eramma. It is submitted that Halappa passed away on 02.03.2005 and Eramma on 22.12.2021. At the time of her father's death, the plaintiff was nine months old and was thereafter taken by her mother to her maternal home in Vadaganala. It is alleged that Yallappa, the



plaintiff's grandfather and Eramma's uncle, did not provide any care or financial support.

4. The plaintiff and her late mother resided in the house of her maternal grandmother, who bore all the plaintiff's educational and living expenses due to the refusal of Yallappa to support them. It is further alleged that defendants 1, 3, 4, 5, and 6 have been cultivating the suit lands and earning around ₹20 lakhs annually but have not extended any financial support to the plaintiff.

5. Now that the plaintiff is an adult, it is submitted that her maternal family is unable to support her future needs, including marriage. Despite enjoying the benefits of the ancestral properties, the defendants have neglected her entirely. Moreover, some properties were sold to defendants 9 and 10, who have therefore been impleaded.



6. The plaintiff claims a right to mesne profits from her late father's estimated 1.20-acre share, which could have yielded her an annual income of Rs.20,000 to Rs.25,000 if cultivated. It is stated that she approached the defendants through village elders, seeking support, but the defendants refused, asserting that her maternal family should continue bearing her expenses. Owing to this rejection and the uncertainty about her future, the plaintiff has filed the present suit seeking her rightful $1/8^{\text{th}}$ share.

7. After the plaintiff filed the present suit, the Court issued summons to the defendants directing them to appear before the Court. Though summons were served upon Defendants they failed to appear before the Court. Consequently, the matter was ordered to proceed ex parte against them.



8. The following points arose for the consideration of this court;

POINTS

1. Whether the suit schedule properties are ancestral joint family properties of the plaintiff and defendants 1 to 8?

2. Whether the alienation/sale of suit properties by defendants 1 to 8 in favour of defendants 9 and 10 is not binding on the plaintiff?

3. Whether the plaintiff is entitled to claim mesne profits from the suit properties, and if so, at what rate and from which date?

4. Whether the plaintiff is entitled to 1/8th share in the suit properties as claimed?

5. What order or decree?



9. In order to prove her case, the plaintiff entered the witness box and was examined as PW.1. In support of her claim, she also examined one more witness, who was marked as PW.2. On her behalf, a total of twenty-one documents were produced and marked as Ex.P.1 to Ex.P.21. Since some of the defendants remained ex parte and the remaining defendants failed to file their written statements, the evidence of PW.1 and PW.2 has remained unchallenged and uncontroverted. No evidence has been adduced on behalf of the defendants.

10. Heard the arguments of the Learned Counsel appearing for the Plaintiffs and perused the materials on record.

11. The findings of this Court on the above said Points are as under;



POINT No.1: In the Affirmative

POINT No.2: In the Affirmative

POINT No.3: In the Affirmative

POINT No.4: In the Affirmative

***POINT No.5: As per the final order
for the following;***

REASONS

12. POINT NO.1: In this plaint, the plaintiff seeks partition and permanent injunction, claiming a 1/8th share in ancestral joint family properties situated in Mevundi village, jointly owned with defendants 1 to 8. The properties are said to be wrongfully sold to defendants 9 and 10. The plaintiff, daughter of the late Halappa, asserts she was denied care and support after her father's death and has been raised by her maternal family. Despite earning substantial income from the properties, the defendants allegedly neglected the plaintiff. She now claims her rightful share and mesne profits, and the



matter is proceeding ex parte due to non-appearance of the defendants.

13. As per Sections **101 and 103 of the Indian Evidence Act, 1872**, the burden of proof lies on the plaintiff. In support of his case, the plaintiff entered the witness box and was examined as PW.1. In his affidavit filed in lieu of chief-examination, PW.1 has reiterated the contents of the plaint. On his behalf, seven documents were produced and marked as Ex.P.1 to Ex.P.21.

Ex. No	Description
Ex.P.1	Record of Rights of House Property No. 33, Mevundi Village, standing in the name of Defendant No.1
Ex.P.2	Record of Rights of House Property No. 32, Mevundi Village, standing in the name of Defendant No.1
Ex.P.3	Certified copy of handwritten RTC of Survey No. 216/1, Mevundi Village, for the years 1996–2002, standing in the name of defendant No.1 and his brother.
Ex.P.4	Certified copy of handwritten RTC of Survey No. 142/2, Mevundi Village, for the years 1996–2002, standing in the name of defendant No.1 and his brother.



Ex. No	Description
Ex.P.5	Certified copy of handwritten RTC of Survey No.308/2B, Mevundi Village, for the years 1996–2002, standing in the name of defendant No.1
Ex.P.6	Certified copy of Mutation Entry No.8457, which reveals that the suit property RS No.308/2B was partitioned among the defendant No.1 and his brother. In which the defendant No.1 got RS No.308/2B/3
Ex.P.7	Certified copy of Mutation Entry No. 1724, which reveals about the partition among the defendant No.1 and his brothers in respect of the properties. Accordingly the defendant No.1 got suit landed properties to his share.
Ex.P.8	Certified copy of Mutation Entry No. 8709
Ex.P.9	Certified copy of MR No. H75, RS No. 308/5, it shows that, the defendant No.9 and 10 purchased the land bearing RS NO. 308/5 and the same has been mutated.
Ex.P.10	Death Certificate of Plaintiff's father, Halappa
Ex.P.11	Death Certificate of Plaintiff's mother, Eramma
Ex.P.12	Certified copy of Plaintiff's SSLC marks card, in which father and mother name can be seen as Halappa and Eramma.
Ex.P.13	Certified copy of Plaintiff's Aadhaar Card
Ex.P.14	Newspaper publication (notice to defendant No.6 and 8)
Ex.P.15	RTC of Survey No. 216/1, Mevundi Village, for the year 2024–25, standing in the



Ex. No	Description
	name of Defendant No.1
Ex.P.16	RTC of Survey No. 142/2, Mevundi Village, for the year 2024–25 standing in the name of Defendant No.1
Ex.P.17	RTC of Survey No. 308/2BP3, Mevundi Village, for the year 2010–11 standing in the name of Defendant No.1
Ex.P.18	RTC of Survey No. 216/1, Mevundi Village, for the year 2022–23 standing in the name of Defendant No.1
Ex.P.19	RTC of Survey No. 142/2, Mevundi Village, for the year 2022–23 standing in the name of Defendant No.1
Ex.P.20	RTC of Survey No. 308/5, Mevundi Village, for the year 2022–23 standing in the name of Defendant No.9 and 10
Ex.P.21	RTC of Survey No. 308/2B/P3, Mevundi Village, for the year 2024–25 standing in the name of Defendant No.1

14. The plaintiff has contended that the suit schedule properties, both agricultural lands and residential houses, are ancestral properties forming part of the joint family estate. To substantiate this claim, she has produced documents ranging from historical RTCs (Ex.P.3 to Ex.P.5) and mutation



entries (Ex.P.6 to Ex.P.8) that reveal the names of Defendant No.1 and his brother, as joint holders of the properties. Mutation Entry No. 1724 (Ex.P.7) establishes a formal partition among Defendant No.1 and his brothers, where Defendant No.1 received his share, including the suit properties. This clearly indicates that the properties were initially held jointly and descended from a common ancestor.

15. Further, the plaintiff has demonstrated a lineage connection to Halappa (her father) and through him, to the original joint family, via documentary evidence like the Death Certificates (Ex.P.10, Ex.P.11), SSLC marks card (Ex.P.12), and Aadhaar card (Ex.P.13), affirming her parentage.

16. Since the defendants have neither entered appearance nor denied these assertions, the



evidence adduced by PW.1 remains unchallenged. Therefore, the Court has no reason to disbelieve the plaintiff's assertion that the suit properties are ancestral joint family properties. **With these observations this Court has answered Point No.1 in the Affirmative.**

17. POINT NO.2: The sale of part of the ancestral properties particularly land bearing R.S.No.308/5, as evidenced by Mutation Record Ex.P.9 and RTC Ex.P.20 is shown to have been executed by Defendants No.1 to 8 in favour of Defendants No.9 and 10. However, there is no evidence to show that the plaintiff, a Class I legal heir through Halappa, had either consented to or received any share from the consideration of these alienation. The plaintiff was a minor at the time of these transactions and has now approached the Court upon attaining majority.



18. As per established principles of Hindu Law, no coparcener can alienate ancestral property to the detriment of another coparcener without legal necessity or consent. In this case, there is neither proof of legal necessity nor prior consent from the plaintiff.

19. Accordingly, such alienation, in so far as it affects the plaintiff's undivided 1/8th share, is voidable at her instance. Hence, the alienation made in favour of Defendants No.9 and 10 are not binding on the plaintiff. **With these observations this Court has answered Point No.2 in the Affirmative.**

20. POINT NO.3: The plaintiff has claimed mesne profits on the grounds that Defendants 1, 3, 4, 5, and 6 have been exclusively enjoying the agricultural income from the suit lands, while denying her any share in the income derived



therefrom. She has estimated that had she been in possession of her father's 1.20-acre share, she could have earned between ₹20,000 to ₹25,000 annually.

21. Though there is no exact evidence of accounts or records of agricultural yield, the Court is satisfied that some mesne profits are due, especially as the suit lands are fertile and have been in active cultivation. The claim is modest, and in absence of rebuttal, it appears reasonable. Therefore, the plaintiff is entitled to mesne profits at the rate of ₹10,000 per annum from the date of filing of the suit till delivery of possession or partition by metes and bounds.

22. POINT NO.4: The plaintiff is the only child of late Halappa, one of the coparceners in the joint Hindu family. As per the Hindu Succession Act, she is a Class I heir and is entitled to succeed



to her father's undivided share in the coparcenary property. Since the joint family consists of 8 branches (as admitted by the plaintiff), each branch, including that of Halappa, is entitled to a 1/8th share.

23. There is no contrary evidence from the defendants to challenge the plaintiff's status or the share she claims. The documentary evidence and deposition of PW.1 sufficiently establish her claim. Hence, she is held entitled to 1/8th share in the suit properties.

24. POINT NO.5: For the aforesaid discussion on Point No.1 and 2, this Court proceeds to pass the following:

ORDER

The suit of the plaintiff is
hereby decreed.



It is declared that the plaintiff is entitled to 1/8th share in the suit schedule properties, as described in the plaint.

It is declared that the defendant No.1 to 7 are each entitled to 1/8th share in the suit schedule properties, as described in the plaint.

It is declared that the alienation made in favour of defendants 9 and 10 are not binding upon the plaintiff's 1/8th share.

The plaintiff is entitled to mesne profits at the rate of Rs.10,000/- per annum from the date of the suit till partition or delivery of possession.

As per the directions of the Hon'ble Supreme Court of India, the office is hereby



directed to initiate final decree proceedings after the expiry of the appeal period.

The defendants shall pay the requisite court fee on the share to which they are entitled.

By looking into the relationship of the parties cost is not imposed.

Draw a decree accordingly.

(Directly typed by me on my laptop, corrected, then printed and pronounced in the Open Court on this the 30th day of June, 2025)

(Smt Jyoti B. Kaginakar.)
Civil Judge and JMFC,
Mundargi.

ANNEXURE

I. Witness examined for the plaintiff/s:

PW-1 : Gangamma S/o Halappa Kavalur
PW-2 : Basappa S/o Sangappa Nellugal

**II. Exhibits marked in evidence for plaintiff/s:**

- Ex.P.1 & 2 : House extracts of VPC.No.33, 32
Ex.P.3 to 5: : Hand written RTC extracts of
R.Sy.No.216/1, 142/2, 308/2B
Ex.P.6 to 8 : M.E.No.8457, 1724, 8709
Ex.P.9 : M.R.No.H75
Ex.P.10 & 11 : Death certificates
Ex.P.12 : Notarized copy of SSLC marks card
Ex.P.13 : Notarized copy of Aadhar card
Ex.P.14 : Newspaper publication
Ex.P.15 to 21 : Computerized RTC extracts of
R.Sy.No.216/1, 142/2, 308/2BP3,
216/1, 142/2, 308/5, 308/2BP3

III. Witness examined for the defendant/s:

-Nil-

IV. Exhibits marked in evidence for defendant/s:

-Nil-

**Civil Judge and JMFC,
Mundargi.**