

KAUK720001812021



**IN THE COURT OF THE SENIOR CIVIL JUDGE & PRL. JMFC.,
KUMTA, AT; KUMTA, UTTARA KANNADA**

Dated this the 13th day of January, 2025

PRESENT

**Smt. B.S.Rayannawar, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC, Kumta.**

O.S.No.17/2021

Plaintiffs:	1.Sri. Chandrakant S/o Dattatraya Gopi @ Bhatgopi Age: 45 years, Occ: Private Employee R/at: Near Ambedkar Hall, Dandeli, U.K. District 2. Sri. Dinesh S/o Dattatraya Gopi @ Bhatgopi Age: 43 years, Occ: Railway Employee R/at: Flat No. FF-2, Harming Classic Aquem, Margoa, Goa 3. Smt. Shubha, W/o Nagaraj Poornamath D/o Dattatraya Gopi @ Bhatgopi Age: 41 years, Occ: Housewife R/at: Opp. Khandoba Mandir Dombivili, Mumbai, Maharashtra State.
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Defendants:	1. Sri. Yogaraj S/o Dattatraya Gopi @ Bhatgopi Age: 47 years, Occ: WCPM Employee R/at: House No. 280/A, DSFA Township Dandeli, U.K. District 2. Sri. Ganesh Damodar Adimule Age: 45 years, Occ: Agriculturist R/at: Manibhadra Road, Gokarna Tq: Kumta, Uttara Kannada 3. Sri. Sukru Kare Gouda Age: 71 years, Occ: Agriculturist R/at: Belehittal, Gokarna Tq: Kumta, Uttara Kannada 4. Sri. Subbu Kare Gouda Age: 69 years, Occ: Agriculturist R/at: Belehittal, Gokarna Tq: Kumta, Uttara Kannada 5. Sri. Venkatraman Kare Gouda Age: 66 years, Occ: Agriculturist R/at: Belehittal, Gokarna Tq: Kumta, Uttara Kannada 6. Sri: Nagappa Goydu Gouda Age: 69 years, Occ: Agriculturist R/at: Belehittal, Gokarna Tq: Kumta, Uttara Kannada 7. Sri: Ganapati S/o. Maneshwar Gouda Age: 74 years, Occ: Agriculturist R/at: Belehittal, Gokarna Tq: Kumta, Uttara Kannada
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	8. Sri: Dilip Umamaheshwar Nayak Age: 46 years, Occ: Agriculturist R/at: Hittalamakki, Post: Torke Tq: Kumta, Uttara Kannada 9. Smt. Bhagyarekha Ganesh Adimule Age: 42 years, Occ: Household work R/at: Manibhadra Road, Gokarna Tq: Kumta, Uttara Kannada 10. Sri. Nagesh Ganesh Soori Age: 36 years, Occ: Agriculturist and Engineer R/at: Rathabeedi, Gokarna Tq: Kumta, Uttara Kannada 11. Sri. Shankaranarayan Ganapati Joshi Age: 56 years, Occ: Agriculturist R/at: Gumble, Gokarna Tq: Kumta, Uttara Kannada 12. Smt. Roopashree W/o Yogaraj Gopi @ Bhatgopi Age: 43 years, Occ: Household work R/at: House No. 280/A, DSFA Township Dandeli, U.K. District 13. Sri: Rajaram M, Shastri Age: 66 years, Occ: Retired Employee R/at: C/o M. R. Shastri, 12-5-55/A, Vijayapura, South Lalguda Inside Badam Apartment, Secundarabad-500017
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	14. Sri: Ravi M. Shastri Age: 64 years, Occ: Retired Employee R.at: C/o. M. R. Shastri, 12-5-55/A, Vijayapura, South Lalguda, Inside Badam Apartment, Secundarabad-500017 15. Smt. Bharati M, Shastri Age: 62 years, Occ: Housewife R/at: C/o M. R. Shastri, 12-5-55/A, Vijayapura, South Lalguda Inside Badam Apartment, Secundarabad-500017 16. Sri. Kumar M, Shastri Age: 60 years, Occ: Private Employee R/at: C/o M. R. Shastri, 12-5-55/A, Vijayapura, South Lalguda Inside Badam Apartment, Secundarabad-500017 17. Sri. Manohar M, Shastri Age: 58 years, Occ: Private Employee R/at: C/o M. R. Shastri, 12-5-55/A, Vijayapura, South Lalguda Inside Badam Apartment, Secundarabad- 500017 18. Smt. Sandhya M, Shastri Age: 56 years, Occ: Advocate R/at: C/o M. R. Shastri, 12-5-55/A, Vijayapura, South Lalguda Inside Badam Apartment, Secundarabad-500017 19. Smt. Rekha Narasinha Upadya Age: 50 years, Occ: Housewife
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	R/at: Nandigadda, Po: Gunda Tq: Joida-581325 20. Sri: Sadanand M. Upadya Age: 59 years, Occ: Agriculturist R/at: Nandigadda, Po: Gunda Tq: Joida-581325 21. Sri. Dayanand M. Upadya Age: 57 years, Occ: Agriculturist R/at: Nandigadda, Po: Gunda Tq: Joida-581325 22. Smt. Mangala R. Hegde Age: 55 years, Occ: Housewife R/at: Chinchkhanda, Po: Gunda Tq: Joida-581325 23. Sri. Shripad Madhav Moole Age: 55 years, Occ: Private Employee R/at: Near Bhadrakali Temple, Gokarna. Tq: Kumta-581326 24. Smt. Poornima Nandan Hegde Age: 52 years, Occ: Private Employee R/at: C/o. Shripad Mahadev Moole Near Bhadrakali Temple, Gokarna Tq: Kumta-581326 25. Smt. Indumati Sadanand Joshi Age: 70 years, Occ: Housewife R/at: C/o. Vikram J. Patil Rs No. 198, Ambedkar Nagar, Near J.J. Patil Workshop Angol, Begum-59006 26. Smt: Mandakini Shankar valagalli Age: 66 years, Occ: Housewife
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	R/at: C/o. Shankar Valagalli Veerabhadra Galli, Sirsi-581401
	<u>Rank of the Parties On I.A.No.XVII and XVIII</u>
Applicants/plaintiffs	Sri. Chandrakant, S/o Dattatraya Gopi @ Bhatgopi
	(Rep.by Sri. N.M.N.-Advocate)
Opponents/defendants:	Sri. Yogaraj, S/o Dattatraya Gopi @ Bhatgopi
	(Rep.by Sri. S.V.A.-Advocate)
Provision	U/s. 151 of CPC
Relief sought for	To Reopen and recall of defendant no.2 for the purpose of cross examination.
Application dated	26-06-2025
Application No.	XVII and XVIII
Objection filed on	16-07-2025
Order passed on	13-01-2026

COMMON ORDER ON I.A.Nos.XVII and XVIII

Present applications filed by the applicants/ plaintiffs
Under Section 151 of CPC with an prayer to reopen and recall
defendant no.2 for the purpose of cross examination.

2. I.A.No.XVII and XVIII supported with Affidavit of applicant/plaintiff no.1 stating that, they filed present suit against the defendants seeking declaration and partition of suit schedule properties. Already the defendant no.2 was cross examined by the plaintiffs, but there is no clarity with respect to purchase of property and payment of consideration amount. And by oversight some questions not asked with respect to sale transaction during his cross examination, the same is very necessary to prove the case of the plaintiffs. The defendant no.2 is resident of Gokarna, hence if the application is allowed and if defendant no.2 recalled for the purpose of further cross examination no injustice or inconvenience will be caused to defendants, on the other hand, if the application is not allowed great injustice and inconvenience will be caused to him. Hence, prayed to allow the applications.

3. Applications opposed by defendant no.2 by filing written objections, contending that, the applications filed by the plaintiffs are not tenable under law, the plaintiffs already cross examined defendant no.2 in detail, this application is filed only

to harass the defendant no.2 and only to drag the matter. The application cannot be filed when case is posted for final arguments, hence if the application is allowed hardship caused to the defendant no.2. Hence prays to reject the applications.

4. Heard both respective counsel for plaintiff and defendants.

5. Perused applications, annexed affidavit, objections and other material on record. The points arise for my consideration are ;

1. Whether the plaintiff has made out ground to allow the I.A.No.XVII and XVIII ?
2. What order?

6. My findings on the above points are as follows:-

Point No.1 : In the Affirmative
Point No.2 : As per final order
For the following:

REASONS

7. **Point No.1**: Plaintiffs have filed this suit against the defendants for declaration and partition. Now the case is posted for arguments at this stage plaintiffs filed present applications to

reopen and recall the case for cross examination of defendant no.2.

8. It is the contention of plaintiff that, at the time of cross examination there is no clarity with respect to transaction of property and payment of sale consideration, hence it is necessary to recall defendant no.2 for the purpose of further cross examination.

9. Admittedly the present application filed when the case is posted for arguments. But it is well settled legal principle that court while deciding such matters should not adopt hyper technical approach and liberal approach should be the general rule, particularly in cases where other side can be compensated with the costs. Hence to meet out the ends of justice and for striking balance between the interest of the parties. It is just and proper to recall defendant no.2 for the purpose of further cross examination. Hence point no.1 answered in the Affirmative.

10. **Point No.3:** In view of above discussions, I proceed to pass the following:

ORDER

I.A.Nos.XVII and XVIII filed by the applicant/ plaintiffs Under Section 151 of CPC are hereby allowed on cost of Rs.500/-.

DW.2 is recalled for further cross examination.

Plaintiffs are hereby directed to cross examine DW.2 without seeking any further adjournment.

(Directly dictated to the stenographer to the computer, corrected and then pronounced by me in the open Court on this the 13th day of January, 2026)

(Smt. B.S.Rayannawar)
Senior Civil Judge
& Prl. JMFC., Kumta.