

KAUK720002712025



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

**Dated this the 2<sup>nd</sup> day of May, 2026**

**PRESENT**

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

**R.A.No.2/2026**

**Appellant:** Rama Shivu Gouda  
Age: 62 years, Occ: Agriculturist  
R/o: Bimanakonda, Gokarn  
Tq: Kumta (U.K.)

(Original defendant no.11 in trial court)

(By Sri. V.S.S., advocate)

**V/s**

- Respondents:**
1. Venkatraman S/o. Ganapati Gouda  
Age: 70 years, Occ.: Agriculturist  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta
  2. Timmappa S/o. Ganapati Gouda  
Age: 64 years, Occ.: Agriculturist  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta
  3. Narayan S/o Ganapati Gouda

Age: 47 years, Occ.: Agriculturist  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta

4. Somi W/o. Sukru Gouda  
Age: 77 years, Occ.: Housewife  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta
5. Rama S/o. Sukru Gouda  
Age: 44 years, Occ.: Auto driver  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta

Sanni w/o Nagappa Gouda (deceased)

6. Laxmi Kumar Gouda  
Age: 37 years, Occ.: Housewife  
R/o Belehittal, Gokarn,  
Taluk: Kumta
7. Mangala Sukru Gouda  
Age: 32 years, Occ.: Housewife  
R/o Tippanige, Kadime,  
Taluk: Kumta
8. Shanti Nagappa Gouda  
Age: 34 years, Occ.: Housewife  
R/o Taramakki, Gokarn,  
Taluk: Kumta
9. Sharada Nagappa Gouda  
Age: 28 years, Occ.: Housewife  
R/o. Taramakki, Gokarn,  
Taluk: Kumta
10. Raghavendra Nagappa Gouda  
Age: 26 years, Occ.: Agriculturist/Coolie

R/o Taramakki, Gokarn,  
Taluk: Kumta

11. Nagappa Jogi Gouda  
Age: 62 years, Occ.: Agriculturist/Coolie  
R/o Taramakki, Gokarn,  
Taluk: Kumta

12. Laxmi W/o. Pandurang Gouda  
Age: 54 years, Occ.: Housewife  
R/o Narageri, Taluk: Karwar

13. Mangala Ramesh Gouda  
Age: 45 years, Occ.: Housewife  
R/o Ashoke, Nirahalli, Gokarn  
Taluk: Kumta

14. Sukri w/o Ganapu Gouda  
Age: 72 years, Occ.: Housewife  
R/o Gumble, Gokarn,  
Taluk: Kumta

Kuppi @ Laxmi w/o Mahadev Gouda  
(deceased)

By LRs.

15. Susheel Devanna Gouda  
Age: 52 years, Occ.: Housewife  
R/o Mulekeri, Gokarn,  
Taluk: Kumta

16. Sudha Rama Gouda  
Age: 50 years, Occ.: Housewife  
R/o Jadikambi, Gokarn,  
Taluk: Kumta

17. Ganapati Madev Gouda

Age: 46 years, Occ.: Agriculturist,  
R/o Kudle, Gokarn,  
Taluk: Kumta

18. Gouri w/o Venkataraman Gouda  
Deceased LRs.

18(a) Laxman Venkataraman Gouda

18(b) Parwati Devu Gouda

18(c) Maneshwar Venkataraman Gouda

18(d) Sukri Ganapati Gouda

All of R/at: Bijjur, Gokarn, Tq: Kumta

19. Subbi, W/o. Mahabaleshwar Gouda  
Age: 66 years, Occ.: Housewife  
R/o Gumble, Gokarn,  
Taluk: Kumta

20. Gange W/o Mankali Gouda  
Age: 74 years,  
Occ.: Agriculturist  
R/o Ajjihakkal, Gokarn,  
Taluk: Kumta

21. Shivanand Narayan Gouda  
Age: 44 years,  
Occ.: Agriculturist  
R/o Bijjur, Gokarn, Taluk: Kumta

22. Gulabi W/o. Narayan Gouda  
Age: 46 years, Occ.: Housewife  
R/o. Bavikodla, Gokarna,  
Taluk: Kumta

23. Somi W/o Venkatraman Gouda  
Age: 70 years, Occ.: Agriculturist  
R/o Bavikodla, Gokarn,  
Taluk: Kumta
24. Nagamma W/o. Shivu Gouda  
Age: 77 years, Occ.: Housewife  
R/o. Bimanakonda, Gokarn,  
Taluk: Kumta
25. Hulagi w/o Goydu Gouda  
Age: 66 years,  
Occ.: Agriculturist  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta
26. Sharada w/o Mankali Gouda  
Age: 51 years, Occ.: Housewife  
R/o. Bijjur, Gokarn,  
Taluk: Kumta
27. Madevi w/o Maneshwar Gouda  
Age: 64 years, Occ.: Housewife  
R/o Belehittal, Gokarn,  
Taluk: Kumta
28. Kariya s/o Goydu Gouda  
Age: 62 years, Occ.: Housewife  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta
29. Nagaveni Venkatraman Gouda  
Age: 56 years, Occ.: Agriculturist R/o  
Devana, Sanikatta, Gokarn,  
Taluk: Kumta
30. Venkatraman Soma Gouda  
Age: 48 years, Occ.: Agriculturist

R/o Bimanakonda, Gokarn,  
Taluk: Kumta

31. Manjunath Soma Gouda  
Age: 44 years, Occ.: Agriculturist  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta

32. Nagappa Soma Gouda  
Age: 40 years, Occ.: Agriculturist  
R/o Bimanakonda, Gokarn,  
Taluk: Kumta

(R1 to R3 by Sri. S.J.N., advocate  
R5 to 10 & 12 by Sri. A.I.N., advocate  
R4 and 11- Deceased.  
R15, 16, 20 to 24, 28, 30 to 32 by  
Sri. – A.M.N.  
R13, 18(a) to 18(d)-Absent.)

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Date and nature of decree : 01.10.2024. Suit for  
Partition was decreed

Date of the institution of the  
appeal : 28.10.2025

Date on which the Judgment  
was pronounced. : 02.05.2026

Duration of the Appeal : Year/s Month/s Days  
**00 06 05**

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## **JUDGMENT**

This regular appeal is preferred Under Order XLI Rule 1 and 2 R/w.96 of CPC by the defendant no.11 in O.S.No.98/2018 on the file of the learned Addl.Civil Judge and J.M.F.C., Kumta against the judgment and decree dated 01.10.2024 and the said suit is for partition of the suit schedule property.

2. The Appellant is defendant no.11 and respondents no.1 to 3 were the plaintiffs, respondent no.4 to 32 were defendant no. 1 to 10, 12 to 23 before the trial court. Parties are referred to as per their representative ranks assigned before the trial court.

3. Brief facts of the plaintiff's case are that;

The propositus Timmappa Gouda had two sons by name Sukru Timmappa Gouda and Ganapati Timmappa Gouda. The plaintiffs are the children of Ganapati Timmappa Gouda and defendant no.1 to 5 are the children of Sukru Timmappa Gouda. The suit properties cultivated by

Timmappa Gouda and hence the same was granted to father of plaintiffs and defendant no.1 to 5. The property land bearing Sy.No.1303 hissa 3 sold by father of plaintiffs and defendant no.1 to 5 for family necessity. Till today there is no partition, the suit schedule properties are the joint family properties belonging to the plaintiffs and defendants no.1 to 5 and they are having equal right over the properties, hence they are entitled for  $\frac{1}{2}$  share in the suit schedule properties. The name of defendant no.6 to 23 entered in RTC, hence they are made as formal party to the suit, but they are not entitled for share in the suit properties and their name jointly in revenue records. On 16.10.2017 the plaintiffs demanded their share in the suit schedule properties, but defendants refused to give them share in suit schedule properties. Hence the plaintiffs constrained to file this suit for partition.

4. After service of suit summons issued by learned trial court, the defendant no.1 to 5, 11, 19 and 21 appeared before the court through their respective counsels, but they have not filed written statement, defendant no.6 to 8, 10, 12 to 18,

20 to 23 are placed exparte and defendant no.3 reported to dead and LR's of defendant no.3 filed their written statement.

5. The LR's of defendant no.3 in their written statement admitted the relationship and contended that they have paid court fee, hence prays to decree the suit allotting equal share to plaintiffs and defendant no.1 to 5 in suit schedule properties. On the said grounds, defendant no 3 sought for decretal of the suit.

6. On the basis of the pleadings the learned trial court has framed the following issues:

### **ISSUES**

1. Whether the plaintiff proves that they are having right of  $\frac{1}{2}$  share in the suit properties?
2. Whether the defendant no.1 to 5 proves that they are having right of  $\frac{1}{2}$  share in the suit properties?
3. Whether the plaintiffs are entitled for the reliefs as claimed in the plaint?
4. What Order or Decree?

7. In order to substantiate their contentions, plaintiff No.3 got examined as PW-1 and got marked Ex.P-1 to P-12 documents. The defendant not lead any evidence.

8. After hearing argument by both learned counsels for plaintiffs and defendants the trial court decreed the suit, allotting  $\frac{1}{2}$  share infavour of plaintiff no.1 to 3 and defendant no.1,2 and 4, 5 and defendant no.3(a) to 3(f) are allotting  $\frac{1}{10}$  share each.

9. **Grounds of this appeal are that**

1. The judgment and decree passed by the lower court is contrary to the law and facts of the case.

2. The Court below has not looked into the merits of the defendant's case.

3. The Court below has not allotted half share in the suit schedule properties to the defenant no.6 to 23.

4. The defendants has proved his case on the strength of documents.

5. The trial court has wrongly decreed the defendants No.1 to 5.

6. Even through the plaintiffs and defendant admitted that the have and half share in the suit scheduled properties trial court has granted them full share that the trial court has answered issued on miss-conception of law and facts. Hence, prayed to set aside the judgment and decree.

10. On receipt of notice of this appeal, the respondent no. 1 to 3, 5 to 10, 15, 16, 20 to 24, 28, 30 to 32 appeared through their respective counsels and respondent Nos.13, 18(a) to (d) remained absent. Respondent no.4 and 11 reported to be dead. Thereafter, the records of the trial Court are secured.

11. Heard the arguments addressed by the learned advocates for appellants and respondents.

12. Following points arise for my consideration:

### **P O I N T S**

1. Whether the judgment and decree passed by the learned trial court is contrary to law, facts and materials on record?
  2. Are there any grounds to interfere in the impugned judgment and decree of the trial court?
  3. What Order?
13. My findings on the above points are as under:
- |            |  |
|------------|--|
| Point No.1 | : In the Negative.                         |
| Point No.2 | : In the Negative.                         |
| Point No.3 | : As per final order<br>For the following: |

### **R E A S O N S**

14. **Point Nos.1 & 2** : Since these two points are interlinked to each other, they are taken up together for common discussion in order to avoid repetition of facts, circumstances and evidence.

15. Plaintiffs filed suit for partition in suit schedule property. It is the contention of plaintiffs that the suit schedule property jointly allotted to the father of the plaintiffs and defendant no.1 to 5, hence they are entitled for  $\frac{1}{2}$  share

in the suit schedule property. Earlier property was cultivated by Timmappa Gouda, later on same was granted to Ganapati Timmappa Gouda and Sukru Timmappa Gouda jointly. Both Ganapati and Sukru sold property Sy.No.1303 hissa 3, Gokarna for their family necessity. In this case the relationship between the plaintiffs and defendants is not in dispute. It is not in dispute that the property jointly granted to Ganapati and Sukru.

16. To prove their case plaintiffs produced Ex.P.5 form no.7, Ex.P.8 the order of land tribunal and Ex.P.9 and Ex.P.10 are record of right. Father of plaintiff died on 11.03.2000, hence the properties mutated into the name of Lrs of Ganapati as per Ex.P.11, RTC's Ex.P.1 to 4 are standing in the name of plaintiffs and defendants.

17. In spite of service of summons defendant no.6 to 8, 10, 12 to 18, 20, 22 and defendant no.23 not appeared before the trial court, hence they placed exparte. Though defendant no.11, 19, 21 appeared through their advocate,

but they have not contested the matter by filing their written statement. Only defendant no.2 filed written statement which was adopted by defendant no.1, 3 to 5, they prayed to decree the suit by allotting equal share to plaintiffs and defendants.

18. The appellant who was defendant no.11 in the suit though appeared through his advocate, but not contested the matter by filing his written statement. Defendant no.11 not put forth his case before trial court by filing his written statement. Plaintiffs in their plaint averred that plaintiffs and defendant no.1 to 5 are members of joint family and suit property is joint family property of plaintiffs and defendant no.1 to 5. And to prove the same they have produced Ex.P.5 form no.7, Ex.P.6 order of land tribunal, Ex.P.9 to Ex.P.11 mutation entries, shows their names entered into revenue records. Further the plaintiffs mentioned that the name of defendant no.6 to 23 entered in RTC's, hence they made them as parties to the suit, but they are not entitled for share in suit properties, they are formal parties. Though defendant no.11 appeared before the court, but not filed his written

statement. Moreover in the present appeal also the defendant no.11 who is appellant not prayed for remand the matter giving an opportunity to him to file his written statement and to contest the matter. Not produced any document to show that how the defendant no.6 to 23 entitled for  $\frac{1}{2}$  share, hence without filling written statement, without producing any documents the defendant no.11 not entitled for any relief.

19. As there is no evidence by other defendants, the learned trial court considering the evidence available on record decreed the suit of the plaintiffs and allotted share to plaintiffs and defendant no.1 to 5. Hence the learned trial court appreciated the evidence on record properly and come to correct conclusion decreeing the suit of the plaintiffs. Hence there is no reason to interfere with the judgment and decree passed by the learned trial court. **Hence point no.1 and 2 answered in the Negative.**

20. **Point No.3:** In view of the reasons discussed above this court proceeds to pass the following;

**ORDER**

This regular appeal filed by the appellant against the respondents is hereby dismissed. No order as to cost.

Judgment and decree dated 01.10.2024 passed by the learned Addl. Civil Judge and JMFC, Kumta in O.S.No.98/2018 is hereby confirmed.

Draw decree accordingly.

Return the TCR of the trial court with copy of this judgment.

(Directly dictated to the stenographer to the computer, corrected and pronounced by me in the open Court on this the 2<sup>nd</sup> day of May, 2026)

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