

PRELIMINARY DECREE

IN THE COURT OF II ADDL.CIVIL JUDGE & JMFC, AT KUNDAPURA.

Present:- Sri. Dhanesh Mugali, B.Com., L.L.B (Spl)
II Addl. Civil Judge & JMFC.,
Kundapura (c/c)

Dated: this the 17th day of December, 2021.

Original Suit No. 397/2016

Plaintiff: Philip Fernandes, 66 years,
S/o. Late Casmir Fernandes,
R/o. Kodi, Kundapura Kasaba Village,
Kundapura Taluk., Udupi District.

(By Advocate Sri. M.S.S.)

//AND//

Defendants:

1. Evelyn Fernandes, 81 years,
2. Pauline Fernandes, 72 years,
3. Peter Fernandes, 69 years,
4. Rocky Fernandes, 63 years,

All are children of late Casmir Fernandes,
All re residents of Kodi,
Kundapura Kasaba Village,
Kundapura Taluk, U.D.

(By Advocate Sri. H.R.S. for D1 & D4)
(D2 & D3-Exparte)

* * * * *

Plaint presented on 24-11-2016 and registered on 25-11-2016.

Suit for (a) preliminary decree for partition directing the division of 'A' schedule properties into 5 fair and equal shares with regard to good and bad soil fertility, frontage and valuation etc., and for delivery of one such share to the plaintiff (b) Directing the defendants pay the plaintiff, his share of income of the 'A' schedule properties from this date till delivery of his share (c) For full costs of the suit and for such other and further reliefs as this court deems fit to grant.

That the cause of action for the suit arose on and since 20-11-2016 and the same arose at Kundapura Kasaba Village, Kundapura Taluk a place within the jurisdiction of this Hon'ble Court.

That the plaintiff values this suit at Rs.5,045-00 for the purpose of court fees and at Rs.25,000-00 for the purpose of jurisdiction and a C.F. of Rs.100-00 is paid on the plaint under section 35(2) of KCF and SV Act.

Valuation Slip

For the purpose of Court Fees & Jurisdiction

Sl.No of the property in plaint schedule	The clause of Section 7(2) of the KCF and SV Act 1958 under which the property comes	The amount of Revenue or other basis for valuation	Method adopted to arrive at the valuation	Valuation arrived at Rs.Ps
1	2	3	4	5
Schedule 'A'	7(2)(b)	Land Revenue in respect of the 'A' schedule properties is Rs.18.000	Twelve and half times the assessment	225-00
	Market value of improvements situated over the 'A' schedule properties (as per affidavit)			25,000-00
	Total			25,225-00
	Value of Plaintiff's 1/ 5 th share			5,045-00
	<u>FOR THE PURPOSE OF JURISDICTION</u>			
	Market value of the 'A' schedule properties (As per affidavit)			1,00,000-00
	Market value of the buildings and all other improvements situated over 'A' Schedule properties (As per affidavit)			25,000-00
	Total			1,25,000-00
	Value of Plaintiff's 1/ 5 th share			25,000-00

DECREE: This suit coming on 22-11-2018, 16-03-2019, 28-05-2019, 07-12-2021 for recording evidence before me and on 14-12-2021 for hearing arguments before me in the presence of Sri. M.S.S. Advocate for plaintiff, Sri. H.R.S. Advocate for D1 & D4 and Defendants No.2 & D3 are being absent and placed exparte and the matter having stood over for

consideration till this day, this Court doth hereby ordered and decreed as follows:

1. That the suit of the plaintiff is decreed with cost.
2. That the suit 'A' schedule properties be divided into 10 shares out of it the plaintiff is entitled for 3/10 shares.
3. That the Defendants No.1 and 2 are entitled for two shares each in suit 'A' schedule properties.
4. That the Defendant No.4 is entitled for 3/10 shares in suit 'A' schedule properties.
5. That the defendants shall pay a sum of Rs.323-00 to the plaintiff towards the cost of this suit.

Given under my hand and the seal of this Court, this the 17th day of December, 2021.

**II ADDL. CIVIL JUDGE & JMFC,
KUNDAPURA (c/c).**

SCHEDULE 'A'

Description of immovable properties situated at Kundapura Kasaba Village,
Kundapura Taluk, U.D

Sl.No	S.No & S.D.No.	Extent (Acres-Cents)	Assessment (Rs-Ps)
1	260-1	0-34	6.44
2	260-2	1-10	8.68
3	260-4	0-11	2.09
(As shown in the computerized RTC)			

SCHEDULE OF COSTS

Sl. No	Particulars of Costs	Plaintiff Rs.	D1 & D4 Rs.	D2 & D3 Rs.
1	Stamp on plaint	100-00		Exparte
2	Stamp on process	23-00		
3	Typing charges	200-00	200-00	
4	Pleaders fees	MC not filed		
	Total	323-00	200-00	

(Winter vacation from 24-12-2021 to 01-01-2022)

Decree prepared on : 04-01-2022.

Decree signed on : 07-01-2022.

**II ADDL. CIVIL JUDGE & JMFC,
KUNDAPURA (c/c).**