

KAVN200003652018



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC  
KUDLIGI**

**PRESENT : SRI. YOGESHA. J., B.A., L.L.B.,**

**DATED THIS 11<sup>TH</sup> DAY OF MARCH, 2026**

**O.S. No. 36/2018**

**PLAINTIFF**

J.S. Shanmukhappa,  
S/o Late Smt. Siddalingamma  
and Late Adivappa, Grandson of  
Late Bethooru Kariyappa, Aged 58  
years, Agriculturist,  
R/o Jagatagere Village,  
Kudligi Town and Taluk,  
Ballari District.

(By Sri T.A. Saleem Advocate)

**V/s**

**DEFENDANTS**

1) B. Maheshappa,  
S/o Smt. Sanneeravva @ Sanneerakka and  
Late Chikrappa, and grandson of  
late Bethooru Kariyappa, Aged 57 years.

2) Channabasappa,  
S/o Late Smt. Siddamma and grandson of  
Late Bethooru Kariyappa, Aged 56 years.

Both are Agriculturists,  
R/o Nadumavinahalli Village,  
Kudligi Town and Taluk,  
Ballari district.

3) Shivalingappa,  
S/o Dodda Chowdappa,  
Aged 40 years, Agriculturist,  
R/o Akkapura Village,  
Kudligi Town and Taluk,  
Ballari District.

4) D. Santhosh,  
S/o Devaramani Goneppa,  
Aged 35 years, Agriculturist,  
R/o Benakanahalli Village,  
Kottur Town and Taluk,  
Vijayanagara District.

(D-1 by Sri D.L.R., Advocate)  
(D-2 and 4 Exparte)  
(D-3 by Sri. K.S.N., Advocate)

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| Date of Institution of suit                   | 25.04.2018                             |
| Nature of the suit                            | Partition and separate possession.     |
| Date of commencement of recording of evidence | 13.06.2024                             |
| Date of pronouncing judgment                  | 11.03.2026                             |
| Duration of suit                              | <u>Years</u> <u>Months</u> <u>Days</u> |
|   | 07            10            16         |

### **JUDGMENT**

Plaintiff has filed this suit against the defendants for the relief of partition and separate possession in respect of the suit 'B' schedule properties with costs.

2. Plaint averments in brief is that the suit schedule 'B' properties are the joint family properties of the plaintiff and defendants and the said properties originally belongs to Bethooru Kariyappa. He had a wife by name Adivevva @ Mallavva. Both were died long back. They had 3 children by name 1) Chikroppa 2) Siddalingamma, 3) Siddamma, all the said persons also died long back. The plaintiff is the son of Siddalingamma and the defendant No.1 is the son of late Chikroppa and Sanneeravva @ Sannerakka and defendant No.2 is the husband of deceased Siddamma. The suit schedule properties are standing in the name of the defendants No.1 and 2 and taking advantage of the entries in their name in the RTC's they are trying to alienate the suit schedule property to the third persons without allotting the share of the plaintiff. In this regard, the plaintiff has approached the defendants No.1 and 2 to allot his share, but they have refused to allot his share. Hence, the plaintiff has

constrained to file the instant suit for the relief of partition and separate possession in respect of the suit schedule 'B' property.

3. On the other hand, the defendant No.1 has filed the written statement denying the entire plaint averments. He further contended that the mother of the plaintiff is not a daughter of deceased Bethooru Kariyappa. The said deceased Bethooru Kariyappa had only two children 1) Chikroppa 2) Siddamma. The defendant No.1 is the son of Chikorappa and defendant No.2 is the husband of Siddamma. The plaintiff no way concerned to the family of the defendants. During the lifetime of Bethooru Kariyappa, had purchased the suit item No.1, 3, 4 and 5 of the suit 'B' schedule properties and further submits that he had executed the gift deed in favour of his grandson by name Channabasappa who is defendant No.2 herein. At the time of executing the Gift Deed, the defendant No.2 was a minor, hence his mother was appointed as a guardian. Hence, the defendants No.1 and 2 are the absolute owners and in lawful possession over the suit schedule property and the plaintiff has no right,

title and interest over the suit schedule properties as such the suit of the plaintiff may be dismissed with costs.

4. Based on the pleadings, following issues are framed for consideration.

### **ISSUES**

1. *Whether the plaintiff proves that, he himself and defendants No.1 and 2 constitute Hindu Undivided Joint Family and that suit schedule properties are their family properties?*
2. Whether the defendant No.1 proves that, plaintiff is no way related to his family and the suit schedule properties?
3. Whether the defendant No.1 proves that, suit schedule properties are the self acquired properties of Bethooru Kariyappa?
4. Whether the defendant No.1 proves that, Bethooru Kariyappa executed Gift Deed in favour of defendant No.2 in respect of item No.1, 3, 4 and 5 of the suit schedule properties?
5. Whether the plaintiff is entitled to the reliefs as prayed for?

6. *What order or decree?*

5. The plaintiff in order to prove his case got examined himself as P.W-1 and the documents produced by him are marked as Ex's.P-1 to 13. On the other hand, defendant No.1 has filed the written statement, but has not adduced any evidence and no documents were marked on their behalf

6. Heard the learned counsel appearing for the parties and perused the entire records.

7. Under the circumstances, the issues framed for consideration are answered as under;

ISSUE No.1 : In the Affirmative

ISSUE No.2 : In the Negative

ISSUE No.3 : In the Negative

ISSUE No.4 : In the Negative

ISSUE No.5: In the Affirmative

ISSUE No.6 : As per the final order,  
for the following;

**REASONS**

8. **ISSUE No. 1 and 5**:- It is the case of the plaintiff that, the suit schedule properties are originally belongs to Bethooru Kariyappa. After the demise of Bethooru Kariyappa. He had a wife by name Adivevva @ Mallavva. Both were died long back. They had 3 children by name 1) Chikroppa 2) Siddalingamma, 3) Siddamma, all the said persons also died long back. The plaintiff is the son of Siddalingamma and the defendant No.1 is the son of late Chikroppa and Sanneeravva @ Sannerakka and defendant No.2 is the husband of deceased Siddamma. Originally the suit schedule 'B' properties are the joint family properties of the plaintiff and defendants. Now, the suit schedule 'B' properties are standing in the name of the defendants No.1 and 2 and taking advantage of the entries in their name in the RTC's they are trying to alienate the suit schedule property to the third persons without allotting the share of the plaintiff. In this regard, the plaintiff has approached the defendants No.1 and 2 to allot his share, but they have refused to allot his share. Hence, the plaintiff has constrained to file the instant suit for the relief of partition and separate possession in respect of the suit schedule 'B' property.

9. To prove the case of the plaintiff, he himself examined as PW-1, and he has reiterated the averments made in the plaint. He has produced the 13 documents which are marked as Ex.P-1 to 13. Ex.P-1 to 12 are the RTC Extracts for the year 2015-16 to 2017-18 which are standing in the name of the defendants No.1 and 2. Ex.P-13 is the Registered Gift Deed executed by the defendant No.1 in favour of defendant No.3 for the valuable consideration amount of Rs.6,17,000/- in respect of the suit schedule item No.8 property.

10. The defendant No.1 contended that the mother of the plaintiff is not a daughter of deceased Bethooru Kariyappa. The said deceased Bethooru Kariyappa had only two children 1) Chikroppa 2) Siddamma. The defendant No.1 is the son of Chikorappa and defendant No.2 is the husband of Siddamma. The plaintiff no way concerned to the family of the defendants. During the lifetime of Bethooru Kariyappa, had purchased the suit item No.1, 3, 4 and 5 of the suit 'B' schedule properties and further submits that he had executed the gift deed in favour of his grandson by name Channabasappa who is defendant No.2 herein. At the time of executing the Gift Deed, the defendant No.2 was a minor,

hence his mother was appointed as a guardian. Hence, the defendants No.1 and 2 are the absolute owners and in lawful possession over the suit schedule property and the plaintiff has no right, title and interest over the suit schedule properties as such the suit of the plaintiff may be dismissed with costs.

11. To prove the case of the defendant No.1 he has not adduced any evidence on his behalf. Hence, the defendants failed to prove that the plaintiff is not the grandson of deceased Bethooru Kariyappa and son of Siddalingamma and also the defendant No.1 failed to prove that during the lifetime of deceased Bethooru Kariyappa he had executed the Gift Deed in favour of the defendant No.2 in respect of item No.1, 3 to 5 properties. There is no documents to show that during the lifetime of Bethooru Kariyappa had executed the Gift Deed in favour of defendant No.2 and suit item No.8 was standing in the name of defendant No.1. But there is no documents to show that how the khatha was standing in the name of defendant No.1. Meanwhile the defendant No.1 has sold the suit item No.8 in favour of defendant No.3 as per Ex.P-13. But the defendant No.3 is the purchaser of the alleged item No.8,

but he failed to contest the case as he place exparte. Hence, he failed to prove that he is the bona-fide purchaser of item No. 8 property.

12. On perusal of the oral and documentary evidence adduced by the plaintiff, which are clearly shows that the plaintiff is the son of deceased Siddalingamma who is the daughter of deceased Bethooru Kariyappa and defendant No.1 is the grandson of Bethooru Kariyappa and son of the Chitroppa and defendant No.3 is the husband of deceased Siddamma who was the daughter of deceased Bethooru Kariyappa. But, the defendant No.1 taken contention that the deceased Siddalingamma is not a daughter of Bethooru Kariyappa and the plaintiff is not a son of Siddalingamma. But on perusal of the documents and oral evidence of the plaintiff, it clearly shows that the plaintiff is the son of the deceased Bethooru Kariyappa and son of deceased Siddalingamma. There is no documents to show that after demise of Bethooru Kariyappa the plaintiffs and defendants have entered into partition among the family properties. But, on perusal of Ex.P-1 to 12 which are clearly shows that the defendant No.1 and 2 names are standing in the RTC's. The defendants taken contention that during the lifetime of

deceased Bethooru Kariyappa, he had executed the Gift Deed in favour of defendant No.2 in respect of item No.1, 3 to 5. But, there is no documents to show that the deceased Bethooru Kariyappa had executed the Gift Deed in favour of defendant No.2 and the remaining properties are standing in the name of the defendant No.1 and 2 and Ex.P-13 reveals that the defendant No.1 has executed the registered sale deed in favour of defendant No.3 for the valuable consideration amount of Rs.8,80,000/-, but the defendant No.1 failed to prove how the the item No. 8 of the suit schedule property was standing in his name and also defendant No.3 failed to prove that he is the bona-fide purchaser of the suit schedule property. In this case as the defendant No.3 placed exparte. Hence, on perusal of the oral and documentary evidence adduced by the plaintiff which are clearly shows that, the suit schedule properties originally belongs to Bethooru Kariyappa. After demise of said Kariyappa, the suit schedule properties belongs to joint family properties of the plaintiff an defendants. Hence, the plaintiff is entitle to 1/3rd share over the ;suit schedule property and the defendant No.1 and 2 are also entitle to 1/3rd share over the suit schedule 'B' properties.

13. **ISSUES No.2 to 4**:- It is the case of the defendant No.1 that the mother of the plaintiff is not a daughter of deceased Bethooru Kariyappa. The said deceased Bethooru Kariyappa had only two children 1) Chikroppa 2) Siddamma. The defendant No.1 is the son of Chikorappa and defendant No.2 is the husband of Siddamma. The plaintiff no way concerned to the family of the defendants. During the lifetime of Bethooru Kariyappa, had purchased the suit item No.1, 3, 4 and 5 of the suit 'B' schedule properties and further submits that he had executed the gift deed in favour of his grandson by name Channabasappa who is defendant No.2 herein. At the time of executing the Gift Deed, the defendant No.2 was a minor, hence his mother was appointed as a guardian. Hence, the defendants No.1 and 2 are the absolute owners and in lawful possession over the suit schedule property and the plaintiff has no right, title and interest over the suit schedule properties.

14. To prove the case of the defendant No.1, he has not filed the written statement, but to prove his plea no oral and documentary evidence adduced by him. Hence, the defendants failed to prove that plaintiff is not a grandson of Bethooru Kariyappa and the suit schedule properties

exclusively belongs to the defendants No.1 and 2 and also failed to prove that during the lifetime of Bethooru Kariyappa had executed Gift Deed in favour of defendant No.2. Hence, the defendant No.1 failed to prove his contentions as contended in the written statement. Defendant No.3 is the purchaser of item No.8 of the suit schedule property as per Ex.P-13. But he is placed exparte. Hence, he failed to prove that he is the bona-fide purchaser of item No. 8 of the suit schedule property, as such the alleged sale deed executed by the defendant No.1 in favour of defendant No.3 is not binding on the share of the plaintiff. Hence, issue No.2 to 4 are answered in the Negative.

15. **ISSUE No.6**:- In view of answering the issue No's 1 to 5 as above, suit is to be decreed in respect of the suit schedule 'B' properties. Hence, I proceed to pass the following:

**ORDER**

Suit of the plaintiff is hereby  
decreed.

Plaintiff is entitle to 1/3<sup>rd</sup> share in respect of the suit schedule 'B' properties.

The defendants No.1 and 2 are also entitle to 1/3<sup>rd</sup> share each in respect of the suit schedule 'B' properties.

No order as to the costs.

Draw preliminary decree accordingly.

(Dictated to the Stenographer directly on computers, computerized by him, corrected by me and pronounced in the open Court on this 11<sup>th</sup> day of March, 2026)

**(YOGESHA. J)**  
**Senior Civil Judge & JMFC.,**  
**Kudligi**

**A N N E X U R E**

**LIST OF WITNESSES EXAMINED FOR PLAINTIFF**

P.W 1 : J.S. Shanmukhappa

**LIST OF DOCUMENTS MARKED FOR PLAINTIFF**

Ex.P-1 to 12 : RTC Extracts.

Ex.P-13 : C.C. of sale deed

**LIST OF WITNESSES EXAMINED FOR DEFENDANTS**

-Nil-

**LIST OF DOCUMENTS MARKED FOR DEFENDANDANTS**

-Nil-

**(YOGESHA. J)**  
**Senior Civil Judge & JMFC**  
**Kudligi**

(Order pronounced in the open Court)  
(Vide separate Judgment)

**ORDER**

Suit of the plaintiff is hereby decreed.

Plaintiff is entitle to 1/3<sup>rd</sup> share in respect of the suit schedule 'B' properties.

The defendants No.1 and 2 are also entitle to 1/3<sup>rd</sup> share each in respect of the suit schedule 'B' properties.

No order as to the costs.

Draw preliminary decree accordingly.

**(YOGESHA. J)**  
**Senior Civil Judge & JMFC.,**  
**Kudligi**