

**IN THE COURT OF THE SENIOR CIVIL JUDGE, AT KUDLIGI.**

Present: Sri B.S. HONNASWAMY, B.A., LL.M.,  
Senior Civil Judge & JMFC, Kudligi.

**DATED THIS THE 7TH DAY OF OCTOBER, 2015.**

**O.S. No: 94/2013**

**PLAINTIFFS:-**

1. Goudra Channabasappa, S/o. Sidramappa, aged: 65 years, agriculturist, R/o. Sasalavada village, Kudligi Taluk, Ballari District.
2. Goudra Sidramappa, S/o. Sidramappa, aged: 58 years, agriculturist, R/o. Sasalavada village, Kudligi Taluk, Ballari District.
3. Goudra Marulasiddappa, S/o. Sidramappa, aged: 55 years, agriculturist, R/o. Sasalavada village, Kudligi Taluk, Ballari District.

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

//VS//

**DEFENDANTS:-**

- 1) Goudra Siddaramana Gouda @ Siddaramesha, S/o. Goudra Basappa, aged: 56 years, agriculturist, R/o. Sasalavada village, Kudligi Taluk, Ballari District.
- 2) Goudra Siddappa, S/o. Goudra Basappa, aged: 53 years, agriculturist, R/o. Sasalavada village, Kudligi Taluk, Ballari District.
- 3) Goudra Channabasappa, S/o. Goudra Basappa, aged: 51 years, agriculturist, R/o. Sasalavada village, Kudligi Taluk, Ballari District.
- 4) Goudra Sidramakka, W/o. Sidramappa, D/o. Goudra Basappa, aged: 60 years,

agriculturist, R/o. Sasalavada village, Kudligi Taluk, Ballari District.

- 5) Bellanni Channabasappa, S/o. Maralusiddappa, major, R/o. Sasalavada village, Kudligi Taluk, Ballari District.

(By Sri. K.J.G., Advocate for D-1 to D-4 and Sri. A.S.R., Advocate for D-5)

Date of institution of the suit : 26.7.2013  
Nature of the suit(suit on pronote,suit for : Partition  
Declaration and possession,suit for  
Injunction etc.,)  
Date of the commencement of recording of : 23.1.2014  
The evidence  
Date on which the Judgment was  
Pronounced : 07-10-2015

Year/s Month/s Day/s  
02 02 11

Total duration :

-----

(B.S. HONNASWAMY),  
SENIOR CIVIL JUDGE,KUDLIGI.

## O.S.No.94/2013

## J U D G M E N T

This is a suit filed by the plaintiffs, against the defendants for declaration of 1/7<sup>th</sup> share each of the plaintiffs in the plaint schedule-B properties in their favour and for possession of the respective share each of the plaintiffs and order for appointment of a Court Commissioner for partition and allotment of

1/7<sup>th</sup> share each of the plaintiffs in the plaint schedule-B properties and delivery of the same to them and to award the costs of the suit.

2. The brief facts of the plaintiffs' case are that,

Late Goudra Siddappa is the ancestor and he died long back. He had three sons namely Goudra Sidramappa died in the year 1964 and his wife Smt.Ningamma is also dead, second son Goudra Channabasappa died on 12.6.1992 and his wife Smt.Dodda Veeramma died on 13.11.2000. They have no issues. Third son Goudra Basappa died in the year 1978 and his wife Sanna Veeramma is also no more. The plaintiff No.1 to 3 are the sons of Late Goudra Sidramappa. Defendant No.1 to 3 are the sons and defendant No.4 is the daughter of late Goudra Basappa. The plaintiffs and defendants have succeeded to the plaint schedule-B properties jointly. Soon after the death of Goudra Siddappa, Goudra Sidramappa was the Kartha of the joint family and Sidramappa died on 12.6.1992. After the death of Goudra Sidramappa, Goudra Channabasappa took over as Kartha of the joint family. The plaintiffs and the defendants are Hindus and they are governed by the Hindu Succession Act, 1956 and Mitakshara School of law. The properties are ancestral and also joint family properties of Hindu undivided joint Family and some of the properties have also been purchased during the lifetime of Goudra

Channabasappa.

3. It is further submitted that, the grandfather of the plaintiffs and defendants by name Goudra Siddappa died intestate leaving behind the plaintiffs and the defendants. Therefore, the plaintiffs and the defendants have succeeded to the suit schedule-B properties. The suit schedule-B properties except Sy.No.604-C and 606-A are the properties of the ancestor Goudra Siddappa and he died intestate. Sy.No. 604-C measuring 0.57 acre purchased from one Chinnappa in the name of the father of the defendants, Basappa and Sy.No. 606-A measuring 0.56 acre was purchased in the name of defendant No.1 Siddaramesh on 2.7.1969 out of the joint family funds. The said properties are ancestral and joint family properties. According to the provisions of the Hindu Succession Act, 1956, the suit schedule properties will devolve to the plaintiffs and the defendants by succession. But the defendants have managed in getting the said properties mutated in their names by creating documents like partition deed, Will. They also misrepresented the revenue authorities so as to defeat the rights and interest of the plaintiffs and the intention of the defendants was to grab the said properties. The defendants have got the suit properties mutated in their names by created documents as per MR No.14/2005-06 on 1.11.2005.

The plaintiffs have demanded their shares in the plaint schedule-B properties left behind by Goudra Siddappa and other purchased properties as successors to the said properties. The defendants have refused for partition and allotment to the shares to the plaintiffs as per law. The plaintiffs and defendants have constituted the Hindu joint family and there is no legal partition by metes and bounds between plaintiffs and defendants. Joint family continued till today though there is some arrangement in the family properties for their livelihood.

4. It is further submitted that, the defendants have filed a suit against the plaintiffs in O.S.No.40/2012 on the file of the Civil Judge and JMFC, Kudligi for declaration and for permanent injunction against the plaintiffs restraining them from interfering with the peaceful possession of the plaint schedule-B properties and the said matter is also pending in this court. The plaintiffs have also filed appeals against the defendants before the Assistant Commissioner, Hospet in Appeal No.97/2012-13 and 98/12-13 and they are also pending. Appeal No.97/12-13 is filed against the order dated 2.7.2012 in Pahani Dispute No.18/2012-13 by the Tahasildar, Kudligi and another Appeal No.98/2012-13 is filed against the mutation dated 1.11.2005 in 14/2005-06 and they are pending. The plaintiffs have filed their written statement in the

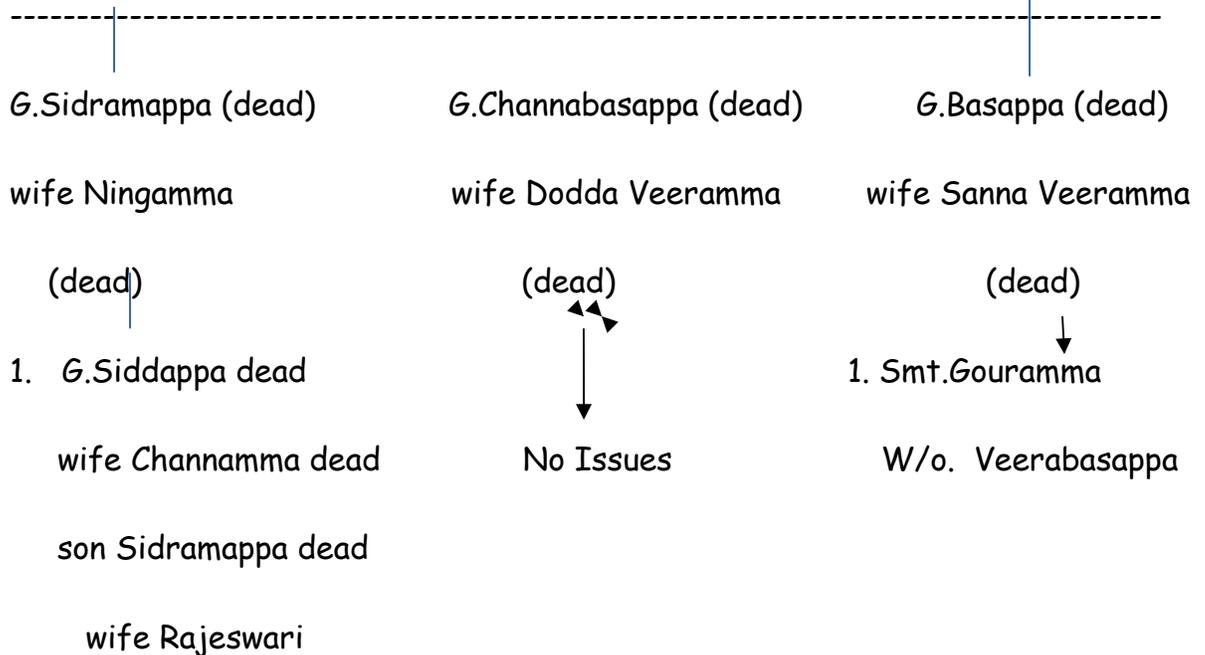
said suit. The defendant No.1 has alienated the properties bearing Sy.No.636A measuring 0.45 acre and Sy.No.636B measuring 0.85 acre in favour of defendant No.5 is not binding on the plaintiffs. Hence, the plaintiffs are entitled for 1/7<sup>th</sup> shares each in the plaint schedule-B properties. Therefore, the plaintiffs have no other alternative way except filing this suit for partition and possession of their legal share by meets and bounds. Hence, this suit.

**GENEALOGICAL TREE**

**SCHEDULE-A**

Goudra Siddappa (dead)

Wife Kotramma (Dead)



2. G.Channabasappa

2. Sidramakka

W/o. Sidramappa

3. G.Channappa dead

3. G.Sidramesha

wife Kotramma

4. Goudra Basappa dead

4. G.Siddappa

wife Parimala

5. G.Sidramappa

5. G.Channabasappa

6. G.Marulasiddappa

5. After service of summons, the defendant No.1 to 5 have appeared before the court through their counsels. The defendant Nos.2 and 5 have filed the written statements separately. The defendant No.1, 3 and 4 have adopted the written statement filed by the defendant No.2 by filing a memo. In their written statement, the defendants have denied the entire allegations made in the plaint. The defendants have submitted that, one Gowdra Siddappa is the ancestor of the defendant No.1 to 4. Gowdra Siddappa had three sons by name 1<sup>st</sup> son Sidda Basappa, 2<sup>nd</sup> son Channabasappa and 3<sup>rd</sup> son Basappa. First son Siddabasappa has died long back without issues and marriage. The 2<sup>nd</sup> son Channabasappa and his wife Veeramma @ Dodda Veeramma have died without issues. The 3<sup>rd</sup> son Basappa had died leaving behind defendant No.1 to 4 and

Gowramma as his legal heirs. Gowdra Channabasappa and his wife Veeramma have lived with defendant No.1 to 4. The defendant No.1 to 4 have looked after their senior uncle Gowdra Channabasappa and senior aunt Veeramma at their old age till their death. The defendant No.1 to 4 have performed the death ceremony of their senior uncle Channabasappa and aunt Veeramma.

6. It is submitted that, on 12.6.1992 the elder brother of the defendant No.1 to 4's father Gowdra Channabasappa has died leaving behind him his wife Dodda Veeramma and defendant No.1 to 4 as only his legal heirs and then Dodda Veeramma wife of Channabasappa had also died on 13.11.2000 leaving behind her these defendant No.1 to 4 as only her legal heirs. After the death of Gowdra Channabasappa and his wife Dodda Veeramma, the defendants have succeeded the suit properties from their senior uncle Gowdra Channabasappa and his wife Dodda Veeramma by way of succession and said Gowdra Channabasappa also executed register will deed with respect to suit properties in favour of the defendant No.1 to 4. After the death of Gowdra Channabasappa and his wife Veeramma, the defendant No.1 to 4 are in peaceful possession and enjoyment of the suit properties with their own right and title. The defendant No.1 to 4 are the members of undivided joint family, due to difference of opinion among the female members in the joint family, the

defendant No.1 to 4 were made some arrangements in their ancestral properties to eke out their livelihood, but partition is not effected by metes and bounds in all the ancestral and joint family properties of the defendant No.1 to 4. Again on 13.3.2011 the defendant No.1 to 4 have made some family arrangements, accordingly the defendants have filed application before the Tahasildar, Kudligi to change the mutation of the suit schedule mentioned properties as per the family arrangement made between themselves. Accordingly, the Tahasildar has passed mutation order in favour of the defendants with respect to 3 to 8 and 12 to 14 of suit properties, but all the ancestral and joint family properties are not brought into common hatch pot in the family arrangements made between the defendant No.1 to 4, hence the joint family is still continued.

7. It is further submitted that, the plaintiff No.1 to 3's father Sidramappa had 6 sons by name Siddappa, Channabasappa (P-1), Chinnappa, Basappa, Siddaramappa (P-2) and Marulusiddappa (P-3). The 1<sup>st</sup> son Siddappa and his wife Channamma have dead leaving behind them their two sons by name Siddaramappa and Shivappa. Now their elder son Siddaramappa had also died leaving behind him his wife Rajeshwari as the legal heir of Siddappa and Channamma. 3<sup>rd</sup> son of Siddaramappa by name Chinnappa had dead leaving

behind him his wife Kotramma and children as his legal heirs, 4<sup>th</sup> son Basappa has also dead leaving behind him his wife Parimala and children as his legal heirs. The plaintiffs were having other three brothers, now they are all dead leaving behind them their legal heirs as stated supra. They are all coparceners to the plaintiffs and they are having share in the ancestral properties of the plaintiffs. The legal heirs of plaintiffs brothers are all proper and necessary parties to the partition suit. The plaintiffs and their brothers are having their ancestral properties, they are in possession and enjoyment of their ancestral properties. Some of their ancestral properties are as follows: The lands bearing Sy.No.711 measuring 3.66 acres, RTC standing in the name of plaintiff No.2, Sy.No.745-A/1 measuring 3.70 acres, RTC standing in the name of plaintiff No.3, Sy.No.745-A/2 measuring 1.00 acres, RTC standing in the name of plaintiff No.2, Sy.No.745-B is totally measuring 6.79 acres it originally belongs to plaintiffs father Siddramappa, it has been subdivided into many parts after the partition and one part of the same Sy.No.745 B/1 measuring 1.40 acres, which has been fallen to the share of plaintiffs another brother Basappa, after his death his wife Parimala has sold the same to the plaintiff No.2's wife Channamma, now RTC standing in the name of Channamma wife of plaintiff No.2. The land bearing Sy.No.745 B/2 measuring 3.39 acres,

RTC standing in the name of plaintiff No.1. The land bearing Sy.No.715 measuring 1.26 acres, the RTC standing in the name of Channamma wife of plaintiff No.2. The land bearing Sy.No.531 A measuring 0.96 acre, the RTC standing in the name of plaintiff No.1 to an extent of 0.31 acre and plaintiff No.2 to an extent of 0.64 acre. The land bearing Sy.No.515-A measuring 0.36, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa. The land bearing Sy.No.514 was totally measuring 7.40 acres it originally belongs to plaintiffs father Siddramappa, it has been subdivided into many parts after the partition and one part of the same Sy.No.514/1 measuring 4.15 acres, the RTC standing in the name of plaintiffs' another brother Channappa. The land bearing Sy.No.487-C measuring 0.66, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa. The land bearing Sy.No.477-C measuring 2.24 acres, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa. The plaintiffs are also having some other properties, but all the properties are yet not traced.

8. It is further submitted that, the plaintiffs and their other three brothers by name Siddappa, Chinnappa and Basappa have partitioned by metes and bounds in their ancestral and joint family properties on 15.1.1976. Accordingly mutation also effected in their names respectively. The

plaintiffs and their other brothers and their legal heirs have made separate transactions with respect to their ancestral properties. The land bearing Sy.No.745 B/1 measuring 1.40 acres has fallen to the share of plaintiffs another brother Basappa, after his death his wife Parimala has sold the same to the plaintiff No.2's wife Channamma and after partition elder brother of the plaintiffs by name Siddappa has purchased the land bearing Sy.No.478-A measuring 10.96 acres from Bhavikatti Channabasappa through a registered sale deed, but even to this day purchaser Siddappa has not got mutation in his name, but RTC still standing in the name of vendor Bhavikatti Channabasappa. The plaintiffs are no way related to the defendants' family and to the suit properties. The plaintiffs at any point of time were in possession and enjoyment of the suit properties. The plaintiffs are belongs to different family, they are not the legal heirs of defendants grandfather Gowdra Siddappa. The plaintiffs without having any right and title or share over the suit properties by taking the similar names and sir name as Goudru, they have filed this suit for partition to counter blast the suit bearing O.S.No.40/2012 filed against the plaintiffs of this suit in hand by the defendants just to incline the plaintiffs in O.S.No.40/2012 to illegal compromise. The suit land bearing Sy.No.604-C measuring 0.57 acre

purchased by the defendant No.1 to 4's father G.Basappa through a registered sale deed from Chinnappa, son of Shankarappa. Since then the defendant No.1 to 4's father was in possession, after his demise, the defendant No.1 to 4 are in peaceful possession and enjoyment of the said property. The suit lands bearing Sy.No.606-A measuring 0.56 acres is purchased by the defendant No.1 Siddaramesh through his guardian senior aunt Veeramma @ Dodda Veeramma wife of Gowdra Channabasappa on 2.7.1969. Hence, they pray this court to dismiss the suit of the plaintiffs with exemplary costs.

9. In the written statement of defendant No.5, he has denied the entire allegations made in the plaint. The defendant No.5 has submitted that, he has purchased the item No.9 and 10 of the suit properties i.e., land bearing Sy.No.636-A extent 0.45 acres and another land bearing Sy.No.636-B extent 0.85 acres from the defendant No.1 - G.Siddarama Gouda through registered sale deed for a valuable consideration of Rs.24,000/- on 16.8.2001. After purchased the item No.9 and 10 of the suit properties, the mutation is also effected in the name of this defendant vide Mutation No.3/2001-02 dated 4.2.2002. Since the date of mutation of the above said properties, the RORs are also standing in the name of this defendant. This defendant has been in peaceful possession and enjoyment of the above said properties since the date

of purchase of the item No.9 and 10 of the suit properties. This defendant is the absolute owner of the above said properties without anybodies obstruction or interference over the above said properties. This defendant is paying the land revenue to the government with respect to the item No.9 and 10 of the suit properties. He has borrowed the loan of Rs.20,000/- from V.S.S.N., Hirehegdal by mortgaging the item No.9 and 10 of the suit properties in favour of the V.S.S.N., Hirehegdal in Kudligi Taluk. It is submitted that, previously, the item No.9 and 10 of the suit properties are originally belongs to one Goudru Channabasappa, S/o. Goudru Siddappa. The RORs of the item No.9 and 10 of the suit properties are standing in the name of said Goudru Channabasappa, S/o. Goudru Siddappa from 1968-69 to 1999-2000. The said Goudru Channabasappa, S/o. Goudru Siddappa has executed the registered Will in the name of vendor of this defendant G.Siddaramana Gouda, S/o. Basappa on 11.1.1988 with respect to the item No.9 and 10 of the suit properties along with some other properties, in the presence of the attestors of the said Will. The wife of the said Goudru Channabasappa namely Dodda Veeramma has also put her LTM, as consent witness to the above said Will. The mutation is also effected in the name of vendor of this defendant G.Siddaramana Gouda vide Mutation No.24/2000-01 dated 4.5.2001 as per the said registered will. The

ROR of the item No.9 and 10 of the suit properties are also standing in the name of *G.Siddarama Gouda*. The item No.9 and 10 of the suit properties are the absolute properties of the defendant No.1.

10. It is further submitted that, at the time of purchase of the above said properties, this defendant has verified all the bonafide documents and confirming the title of his vendor with respect to the above said properties. At the time of the purchase of the above said properties by this defendant, the RORs of the above said properties are standing in the name of his vendor *G.Siddarama Gouda*. This defendant is a bonafide purchaser of the item No.9 and 10 of the suit properties. The item No.9 and 10 of the suit properties are the absolute properties of this defendant. The plaintiffs are no way connected or related to this defendant. The item No.9 and 10 of the suit properties are not the joint family properties of the plaintiffs and the plaintiffs have no right or title over the above said properties. The plaintiffs are knowing fully well regarding the sale transaction between the defendant No.1 with this defendant. Now, the plaintiffs have just harassing this defendant, have filed this false and unholy suit against this defendant. Hence, he prays this court to dismiss the suit of the plaintiffs with costs.

11. On the basis of the above pleadings of both the parties, the following

issues are framed.

12. Accordingly, in order to prove the case of the plaintiffs, the plaintiff No.2 himself is examined as PW.1 and got examined two witnesses as PW.2 and 3 and got marked the documents at Ex.P.1 to 130 and closed their side. In order to rebut the case of the plaintiffs, the defendant Nos.2 and 5 are examined as DW.1 and 3 and got examined three witnesses as DW.2, 4 and 5 and got marked the documents at Ex.D.1 to 34 and closed their side evidence.

13. Heard the arguments on behalf of the learned counsel for the plaintiffs and defendants.

14. My answers to the above issues for consideration are:-

Issue No:1 Is in the Affirmative.

Issue No:2 Is in the Affirmative

Issue No:3 Is in the Negative

Issue No:4 Is in the Negative

Issue No:5 Is in the Negative

Issue No:6 Partly is in the Affirmative

Issue No.7 Is in the Affirmative

Addl. Issue No.1 Is in the Negative.

Issue No.8 Is as per final order.

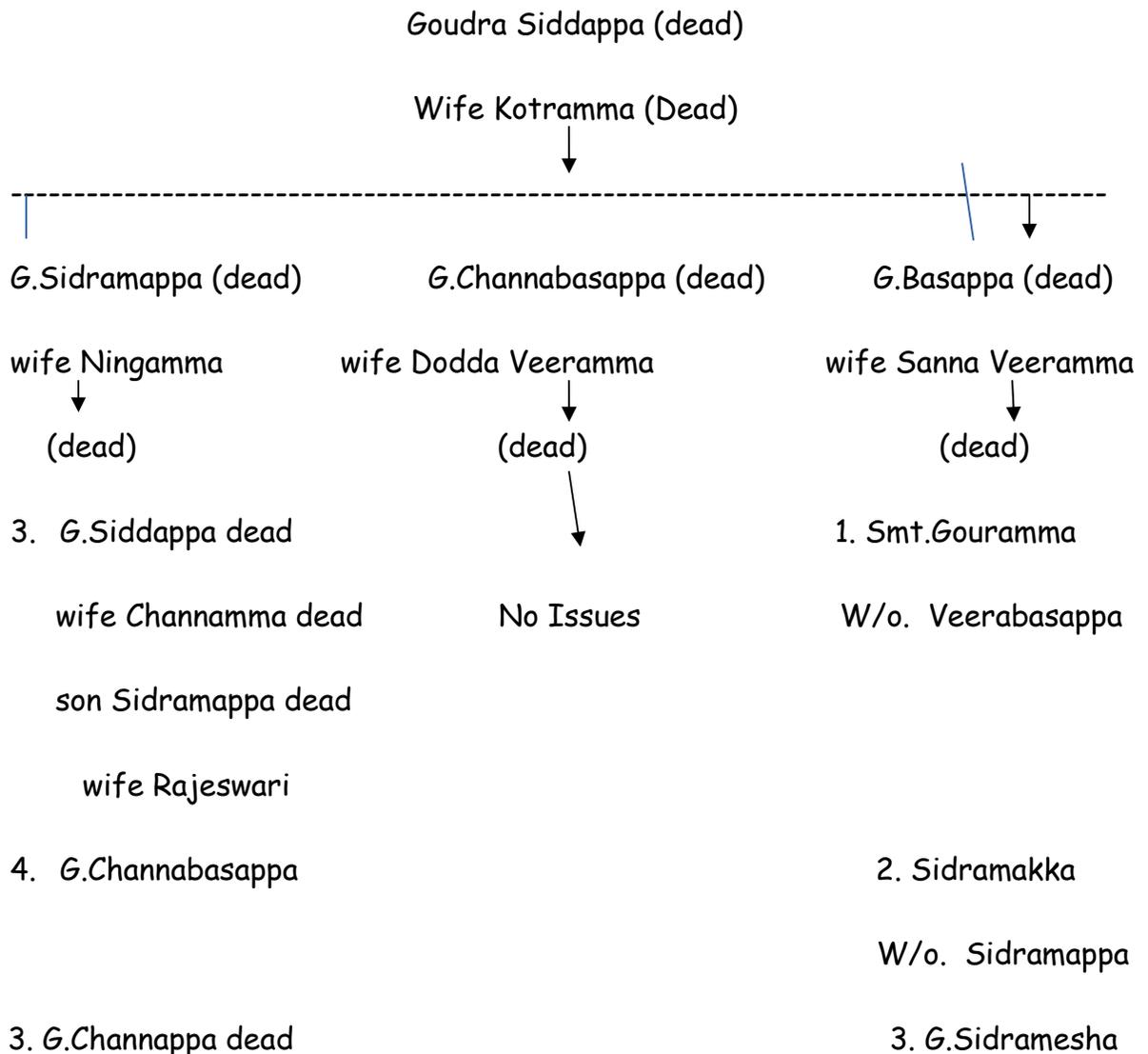
For the following:-

**REASONS**

15. **Issue No.1 and 4:-** As these two issues are inter connected to each other, hence, I would like to discuss these two issues together at one stretch in order to avoid repetition of facts.

**GENEALOGICAL TREE**

**SCHEDULE-A**



wife Kotramma

4. Goudra Basappa dead

4. G.Siddappa

wife Parimala

5. G.Sidramappa

5. G.Channabasappa

6. G.Marulasiddappa

16. The defendant No.2 has also taken contention in written statement that, one Gowdra Siddappa is the ancestor of the defendant No.1 to 4. Gowdra Siddappa had three sons by name 1<sup>st</sup> son Sidda Basappa, 2<sup>nd</sup> son Channabasappa and 3<sup>rd</sup> son Basappa. First son Siddabasappa has died long back without issues and marriage. The 2<sup>nd</sup> son Channabasappa and his wife Veeramma @ Dodda Veeramma have died without issues. The 3<sup>rd</sup> son Basappa had died leaving behind defendant No.1 to 4 and Gowramma as his legal heirs. Gowdra Channabasappa and his wife Veeramma have lived with defendant No.1 to 4. The defendant No.1 to 4 have looked after their senior uncle Gowdra Channabasappa and senior aunt Veeramma at their old age till their death. The defendant No.1 to 4 have performed the death ceremony of their senior uncle Channabasappa and aunt Veeramma. It is also taken contention that, the plaintiff No.1 to 3's father Sidramappa had

6 sons by name Siddappa, Channabasappa (P-1), Chinnappa, Basappa, Siddaramappa (P-2) and Marulusiddappa (P-3). The 1<sup>st</sup> son Siddappa and his wife Channamma have dead leaving behind them their two sons by name Siddaramappa and Shivappa. Now their elder son Siddaramappa had also died leaving behind him his wife Rajeshwari as the legal heir of Siddappa and Channamma. 3<sup>rd</sup> son of Siddaramappa by name Chinnappa had dead leaving behind him his wife Kotramma and children as his legal heirs, 4<sup>th</sup> son Basappa has also dead leaving behind him his wife Parimala and children as his legal heirs. The plaintiffs were having other three brothers, now they are all dead leaving behind them their legal heirs as stated supra. They are all coparceners to the plaintiffs and they are having share in the ancestral properties of the plaintiffs. The legal heirs of plaintiffs brothers are all proper and necessary parties to the partition suit.

17. The plaintiff No.2 also filed affidavit by reiterating the plaint averments. But in the cross-examination of PW.1, he admitted the relationship, the defendant No.1 to 4's father name is Basappa and Basappa's father name is Goudra Siddappa and Goudra Siddappa was having 3 children by name Ujjappa, Siddappa and Channabasappa and

Channabasappa was having one daughter by name Basamma, she was dead. Further he admitted that Ujjappa was having 3 sons by name Siddaramappa, Dodda Siddappa and Sanna Siddappa, among them Sanna Siddappa was dead. One propositor Basavanagoudagari Channabasappa and Siddappa and Ujjappa. But genealogy produced by the defendants is totally different from the plaintiffs family. The plaintiffs have sought for partition with regard to the plaintiffs father's brothers. But in the cross-examination of DW.1, he admitted that, defendant No.1 to 4 are the children of Goudra Basappa and his grandfather name is Siddappa and his grandfather was having 3 children by name Siddabasappa, Channabasappa and Basappa. Further he admitted that, his grandfather's first son name is Siddaramma was not having any such person is denied and he denied that first son name is Goudra Siddaramappa. He admitted that, the plaintiffs are the children of Goudra Siddaramappa. But he says that he has not seen Siddaramappa and conduct of the witness has to be appreciated because when he says that the plaintiffs are the sons of Siddaramappa and again he says that he has not seen Siddaramappa, only deposing such type of evidence. But he again denied that, before his

father's death said Channabasappa dead. Even he has not seen about the death of Siddaramappa. He denied that, Goudra Channabasappa was having 3 children. By knowing this fact deposing falsely.

18. DW.2 in the cross-examination, he also denied that Goudra Siddappa was having 3 sons. DW.3 is also purchaser of the suit properties item No.9 and 10 and he also denied the relationship of the plaintiffs and defendants and the defendants genealogy is totally different from the plaintiffs family. The plaintiffs family having original propositous is having 3 children. But at the time of arguments the defendants' counsel also argued that apart from 3 sons, Siddaramappa was having another person Channabasappa, but it was not mentioned in the written statement, it was not stated in the first instance, but it was amended in the said written statement. Due to the confusion of the names in the family of the plaintiffs and father name of the plaintiff is Siddaramappa. Hence, the plaintiffs have proved the genealogy. Hence, I answer the issue No.1 is in the affirmative and issue No.4 is in the negative.

19. **Issue No.2:-** The plaintiffs have taken contention that suit properties are the joint family and ancestral properties. But the

defendants also admitted in the written statement the suit schedule properties are the ancestral and joint family properties. Further they admitted some of the properties are also purchased during the lifetime of Goudra Channabasappa. Further the defendant No.2 admitted in the written statement in para-8 there is no legal partition by metes and bounds between the plaintiffs and defendants. Joint family continued till today, but some arrangement in the family properties. When the defendant No.2 admitted in the written statement, then admitted fact need not to be proved it is admittedly it is joint and ancestral properties. Even in the cross-examination of DW.1 this fact also very clear. Hence, I answer issue No.2 is in the affirmative.

20. **Issue No.3:-** DW.1 has filed affidavit stating that after death of Goudra Channabasappa, the defendant No.1 to 4 are cultivating the suit schedule properties. But DW.1 has filed affidavit that, the plaintiffs and their brothers are having their ancestral properties, they are in possession and enjoyment of their ancestral properties. Some of their ancestral properties are as follows: The lands bearing Sy.No.711 measuring 3.66 acres, RTC standing in the name of plaintiff No.2, Sy.No.745-A/1 measuring

3.70 acres, RTC standing in the name of plaintiff No.3, Sy.No.745-A/2 measuring 1.00 acres, RTC standing in the name of plaintiff No.2, Sy.No.745-B is totally measuring 6.79 acres it originally belongs to plaintiffs father Siddramappa, it has been subdivided into many parts after the partition and one part of the same Sy.No.745 B/1 measuring 1.40 acres, which has been fallen to the share of plaintiffs another brother Basappa, after his death his wife Parimala has sold the same to the plaintiff No.2's wife Channamma, now RTC standing in the name of Channamma wife of plaintiff No.2. The land bearing Sy.No.745 B/2 measuring 3.39 acres, RTC standing in the name of plaintiff No.1. The land bearing Sy.No.715 measuring 1.26 acres, the RTC standing in the name of Channamma wife of plaintiff No.2. The land bearing Sy.No.531 A measuring 0.96 acre, the RTC standing in the name of plaintiff No.1 to an extent of 0.31 acre and plaintiff No.2 to an extent of 0.64 acre. The land bearing Sy.No.515-A measuring 0.36, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa. The land bearing Sy.No.514 was totally measuring 7.40 acres it originally belongs to plaintiffs father Siddramappa, it has been subdivided into many parts after the partition and one part of

the same Sy.No.514/1 measuring 4.15 acres, the RTC standing in the name of plaintiffs' another brother Channappa. The land bearing Sy.No.487-C measuring 0.66, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa. The land bearing Sy.No.477-C measuring 2.24 acres, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa. The plaintiffs are also having some other properties, but all the properties are yet not traced. But para-8 of the affidavit is very clear that, the plaintiffs and their other three brothers by name Siddappa, Chinnappa and Basappa have partitioned by metes and bounds in their ancestral and joint family properties on 1.5.1976. Accordingly mutation also effected in their names respectively. The plaintiffs and their other brothers and their legal heirs have made separates transactions with respect to their ancestral properties. The land bearing Sy.No.745 B/1 measuring 1.40 acres has fallen to the share of plaintiffs another brother Basappa, after his death his wife Parimala has sold the same to the plaintiff No.2's wife Channamma and after partition elder brother of the plaintiffs by name Siddappa has purchased the land bearing Sy.No.478-A measuring 10.96 acres from Bhavikatti Channabasappa through a registered sale deed,

but even to this day purchaser Siddappa has not got mutation in his name, but RTC still standing in the name of vendor Bhavikatti Channabasappa.

21. But in the cross-examination DW.1 totally denied that there was no partition took place between the plaintiffs and defendants fathers' brothers.

22. On perusal of the documents produced by the plaintiffs, Ex.P.1 is the item No.1 in Sy.No.382 B which is standing in the name of defendant No.3's son G.Siddappa, Ex.P.2 is standing in the name of Goudra Channabasappa with regard to item No.2 property in Sy.No.560, but in column No.9 plaintiffs' father name is mentioned. Ex.P.3 is the joint possession of Goudra Sidrameshi, Goudra Siddappa and Goudra Channabasappa with regard to item No.3 property in Sy.No.604. Ex.P.4 is the ROR which is standing in the name of Goudra Channabasappa with regard to item No.4 property plaintiffs' brother name is mentioned. Ex.P.5 is also with regard to item No.5 of the property which is standing in the name of same person in Sy.No.605. Ex.P.6 is also with regard to item No.6 of the property the plaintiffs brother name is mentioned. The plaintiffs documents are very clear that as per the meets and bounds there

was no partition took place.

23. But the defendants have produced Ex.D.1 to D.34 documents. Ex.D.1 is the original registered sale deed 1961, EX.D.2 and 3 are the also registered sale deeds 1963 and 1969, Ex.D.4 is the original registered will 1981, Ex.D.5 is the original registered will 1988, Ex.D.6 to D-21 are the RORs which were standing in the name of Goudra Siddappa and Goudra Channabasappa and others. EX.D.22 and 23 is the encumbrance certificates, Ex.D.24 to 26 are the restatement letters, Ex.D.27 to 30 are the mutation extracts, Ex.D.31 is the sale deed. Ex.D.19 which shows that, Sy.No.514 which is standing in the name of Goudra Siddappa's brother Chinnappa is mentioned. Even Ex.D.21 Sy.No.477 C standing in the name of Goudra Siddappa, S/o. Siddramappa. But all the exhibited documents on the defendants' side does not show that there was a partition and the defendant No.1 to 4 are cultivating the said properties as per the partition. But of the plaintiffs' side documents it is very clear that which were standing in the name of first defendant in all the documents, it is very clear that there was no meets and bounds and there was no partition at all. Hence, the defendants have failed to prove the issue No.3. Hence, I

answer issue No.3 is in the negative.

24. **Issue No.5:-** During the pendency of the suit earlier O.S. No.42/2002 was filed by the present defendants and after appearance of the defendants i.e., present plaintiffs when it is posted for plaintiffs evidence, the defendants counsel filed an application to withdraw the suit with liberty to file a fresh suit on the same cause of action and the said application was allowed and given permission to withdraw the suit with liberty to file a fresh suit on the same cause of action. Hence the said issue No.5 become infructuous. Hence, I answer issue No.5 is in the negative.

25. **Issue No.6 and 7:-** As these two issues are inter connected to each other, hence, I would like to discuss these two issues together at one stretch in order to avoid repetition of facts.

26. The plaintiffs have filed a suit for partition in respect of the joint family properties. PW.1 to 3 supported the case of plaintiffs. But case of the defendants is that second son of the original propositor Channabasappa has died on 12.6.1992 leaving behind the defendant No.1, 3 and 4 as only legal heirs. He further stated in the affidavit that, on

12.6.1992 the elder brother of his father Gowdra Channabasappa has died leaving behind him his wife Dodda Veeramma themselves i.e., defendant No.1 to 4 as only his legal heirs and then Dodda Veeramma wife of Channabasappa has also died on 13.11.2000 leaving behind her herself and defendant No.1, 3 and 4 as only her legal heirs. After the death of Gowdra Channabasappa and his wife Dodda Veeramma, the defendant No.1 to 4 have succeeded the suit properties from their senior uncle Gowdra Channabasappa and his wife Dodda Veeramma by way of succession and said Gowdra Channabasappa also executed register will deed with respect to suit properties in favour of themselves. After the death of Gowdra Channabasappa, his wife Veeramma, the defendant No.1 to 4 are in peaceful possession and enjoyment of the suit properties with their own right and title. The defendant No.1 to 4 are the members of undivided joint family, due to difference of opinion among the female members in the joint family, the defendant No.1 to 4 were made some arrangements in their ancestral properties to eke out their livelihood, but partition is not effected by metes and bounds in all the ancestral and joint family properties of the defendant No.1 to 4. Again on 13.3.2011 the defendant No.1 to 4 have made

some family arrangements, accordingly the defendants have filed application before the Tahasildar, Kudligi to change the mutation of the suit schedule mentioned properties as per the family arrangement made between themselves. Accordingly, the Tahasildar has passed mutation order in favour of the defendants with respect to 3 to 8 and 12 to 14 of suit properties, but all the ancestral and joint family properties are not brought into common hatch pot in the family arrangements made between them, hence the joint family is still continued.

27. The DW.1 further stated in the affidavit that, the plaintiffs and their brothers are having their ancestral properties, they are in possession and enjoyment of their ancestral properties. Some of their ancestral properties are as follows: The lands bearing Sy.No.711 measuring 3.66 acres, RTC standing in the name of plaintiff No.2, Sy.No.745-A/1 measuring 3.70 acres, RTC standing in the name of plaintiff No.3, Sy.No.745-A/2 measuring 1.00 acres, RTC standing in the name of plaintiff No.2, Sy.No.745-B is totally measuring 6.79 acres it originally belongs to plaintiffs father Siddramappa, it has been subdivided into many parts after the partition and one part of the same Sy.No.745 B/1 measuring 1.40

acres, which has been fallen to the share of plaintiffs another brother Basappa, after his death his wife Parimala has sold the same to the plaintiff No.2's wife Channamma, now RTC standing in the name of Channamma wife of plaintiff No.2. The land bearing Sy.No.745 B/2 measuring 3.39 acres, RTC standing in the name of plaintiff No.1. The land bearing Sy.No.715 measuring 1.26 acres, the RTC standing in the name of Channamma wife of plaintiff No.2. The land bearing Sy.No.531 A measuring 0.96 acre, the RTC standing in the name of plaintiff No.1 to an extent of 0.31 acre and plaintiff No.2 to an extent of 0.64 acre. The land bearing Sy.No.515-A measuring 0.36, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa. The land bearing Sy.No.514 was totally measuring 7.40 acres it originally belongs to plaintiffs father Siddramappa, it has been subdivided into many parts after the partition and one part of the same Sy.No.514/1 measuring 4.15 acres, the RTC standing in the name of plaintiffs' another brother Channappa. The land bearing Sy.No.487-C measuring 0.66, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa. The land bearing Sy.No.477-C measuring 2.24 acres, the RTC standing in the name of plaintiffs' elder brother Gowdra Siddappa.

The plaintiffs are also having some other properties, but all the properties are yet not traced.

28. The defendants have taken contention about the will executed by the said Channabasappa, but the said will has not been produced by the defendants. On perusal of the exhibited documents produced by the plaintiffs, Ex.P.1 is the item No.1 in Sy.No.382 B which is standing in the name of defendant No.3's son G.Siddappa, Ex.P.2 is standing in the name of Goudra Channabasappa with regard to item No.2 property in Sy.No.560, but in column No.9 plaintiffs' father name is mentioned. Ex.P.3 is the joint possession of Goudra Sidrameshi, Goudra Siddappa and Goudra Channabasappa with regard to item No.3 property in Sy.No.604. Ex.P.4 is the ROR which is standing in the name of Goudra Channabasappa with regard to item No.4 property plaintiffs' brother name is mentioned. Ex.P.5 is also with regard to item No.5 of the property which is standing in the name of same person in Sy.No.605. Ex.P.6 is also with regard to item No.6 of the property the plaintiffs brother name is mentioned. Ex.P.7 is also with regard to item No.7 of the property the plaintiffs brother name is mentioned. Ex.P.8 is also with regard to item No.8 of the property which

is standing in the joint names i.e., Goudra Veeramma, Siddramesh, Goudra Channabasappa wife Veeramma, Basappa son Siddaramesh. Ex.P.9 is also with regard to item No.9 of the property, which is standing in the name of Siddramanagouda, B.Channabasappa, Marula Siddappa i.e., plaintiff No.3. Ex.P.10 is also with regard to item No.10 of the property, which is standing in the name of Siddramanagouda, B.Channabasappa, Marula Siddappa. Ex.P.11 is also with regard to item No.11 of the property. Ex.P.12 is also with regard to item No.12 of the property the plaintiffs brother name is mentioned. Ex.P.13 is also with regard to item No.13 of the property the plaintiffs brother name is mentioned. Ex.P.14 is also with regard to item No.14 of the property the plaintiffs brother name is mentioned. Ex.P.15 is also with regard to item No.15 of the property, which is standing in the name of G.Siddramanagouda S/o. Late G.Channabasappa. Ex.P.16 is also with regard to item No.16 of the property, which is standing in the name of G.Siddramanagouda, S/o. Late G.Channabasappa. Ex.P.17 is also with regard to item No.17 of the property , which is standing in the name of G.Channabasappa, S/o. Late J.Channabasappa.Ex.P18 is the certified copy of the mortgage deed dated 18-9-93.Ex.P18a is he translated copy. Ex.19 to 20

are the encumbrance certificates. Ex.P21 to Ex.P31 and Ex.P36 to 41 and Ex.P42 to Ex.P130 are the record of rights. Ex.P 32 resettlement register .Ex.P33 endorsement of thasildar Ex.P34and 35 are the mutation extracts. other exhibited documents standing in the name of Ist defednant, there was no equal partition but how the Ist defendant will get all the properties is not explained.

29. The defendants counsel also relied upon unregistered document which shows that on 1988 December 28 Goudra Siddappa son of Chennabasappa has executed the said unregistered document which shows that he has relinquished his share measuring 10.00 acres, but the said document was not marked for want of duty and penalty and even will also not produced by the defendants. But these documents i.e., Ex.D.1 to 34 which are standing in the name of defendant No.1 and some properties are standing in the name of plaintiffs father. But the defendant No.1 claiming that he is the son of Siddramappa and he has sold item No.9 and 10 of the suit properties in favour of defendant No.5. But the arguments canvassed by the defendants' counsel that, the defendant No.5 is the purchaser of the property and by knowing this fact. Further there are

other persons belongs to the family of the defendants and those persons are not included. But the said contention is untenable. Further, the defendants counsel argued that another son Channaveerappa is not made as party. But main branch is made out as a party. For that, Channaveerappa is not necessary to implead in the said suit.

30. The defendants have produced the list of documents which are,

1. Original Registered sale deed dated 15.11.1961 with respect to Sy. No.604-C
2. Original Registered sale deed dated 4.4.1963 with respect to Sy. No.604-B
3. Original Registered sale deed dated 28.7.1969 with respect to Sy.No.606-A
4. Original Registered Will dated 16.9.1981
5. Original Registered Will dated 11.1.1988
6. Partition deed dated 16.7.1978
7. 6- RTCs bearing Sy.No.745-B from 1968 to 1999 and 2007-08
8. RTC bearing Sy.No.745-B/1 for the year 2013-14
9. RTC bearing Sy.No.745-B/2 for the year 2013-14

10. RTC bearing Sy.No.745-B/3 for the year 2013-14
11. RTC bearing Sy.No.745-A/1 for the year 2013-14
12. RTC bearing Sy.No.745-A/2 for the year 2013-14
13. RTC bearing Sy.No.716 for the year 2011-12
14. RTC bearing Sy.No.715 for the year 2011-12
15. 6-RTCs bearing Sy.No.711 from 1968-99 and 2013-14
16. RTC bearing Sy.No.568-D for the year 2011-12
17. 6-RTCs bearing Sy.No.531-A from 1968-99 and 2013-14
18. RTC bearing Sy.No.515 for the year 2011-12
19. 2-RTCs bearing Sy.No.514 from 1968-84
20. 4-RTCs bearing Sy.No.514/1 from 1984-85 to 1998-99 and 2011-12
21. 5-RTCs bearing Sy.No.487-C from 1968-74, 1984 to 1999 and 2013-14.
22. 5-RTCs bearing Sy.No.477-C from 1968-80, 1984 to 1999 and 2011-12.
23. 2-Encumbrance certificates
24. 3-Resettlement Registers
25. 1-Mutation extract of M.R. No.10/2011-12 dated 25.6.2011
26. 1-Mutation extract of M.R. No.25/2011-12 dated 28.10.2011
27. 1-Mutation extract of M.R. No.38/2004-05 dated 1.2.2005

28. 1-Mutation extract of M.R. No.62/2010-11 dated 9.2.2011.

31. When the defendants have taken contention about the Will i.e., Ex.D.4, Will has to be proved in accordance with the principle laid down in 1. In 1959 Mys.L.J. 424, H. Venkatachala Iyengar V/s. B.N. Thimmajamma and others, it is a land mark judgment of Hon'ble Supreme Court of India, wherein it is clearly laid down the ratio how to consider about the will. He also relied upon another reported judgment of our Hon'ble High Court of Division Bench in R.F.A 1386 of 2007 which is similar case of will of Hospet of Bellary District. The said Hon'ble High Court also considered about the Supreme Court ruling in AIR 1959 SC 443 i.e., H. Venkatachala Iyengar V/s. B.N. Thimmajamma and others, wherein it is held as under:

32. However, there is one important feature which distinguishes wills from other documents. Unlike other documents the will speaks from the death of testator, and so, when it is propounded or produced before a Court, the testator who has already departed the world cannot say whether it is his will or not; and this aspect naturally introduces an element of solemnity in the decision of the question as to whether the document propounded is proved to be the last will and testament of the departed testator. Even so, in dealing with the proof of wills, the Court will start on the same enquiry as in the case of the proof of document. The propounder

would be called upon to how by satisfactory evidence that the will was signed by the testator, that the testator at the relevant time was in a sound and disposing state of mind, that the understood the nature and effect of the disposition and put his signature to the document of his own free will. Ordinarily when the evidence adduced in support of the will is dis-interested, satisfactory and sufficient to prove the sound and disposing state of the testator's mind, and his signature as required by law, courts would be justified in making a finding in favour of propounder. In other words. In other words, the onus on the propounder can be taken to be discharged on proof of the essential facts just indicated.

33. There may, however, be cases in which the execution of the will may be surrounded by suspicious circumstances. The alleged signature of the testator may be very shaky and doubtful and evidence in support of the pro-pounder's case that the signature, in question is the question of the testator may not remove the doubt created by the appearance of the signature, the condition of the testator's mind may appear to be very feeble and debilitated, and evidence adduced may not succeed in removing the legitimate doubt as to the mental capacity of the testator, the disposition made in the will may appear to be unnatural, improbable, or unfair in the light of relevant circumstances; or, the will may otherwise indicate that the said disposition may not be the result of the testator's free will and mind. In such cases, the court would naturally expect that all legitimate suspicious should be completely removed before the document is

accepted as a last will of the testator. The presence of such suspicious circumstances naturally tends to make the initial onus very heavy, and unless it is satisfactorily discharged, courts would be reluctant to treat the document as the last will of the testator. It is true that, if a caveat is filed alleging the exercising of undue influence, fraud or coercion in respect of the execution of the will propounded, such pleas may have to be proved by the caveators; but, even without such pleas circumstances may raise a doubt as to whether the testator was acting of his own free will in executing the will, and in such circumstances, it would be a part of initial onus to remove any such legitimate doubts in the matter.

34. Apart from the suspicious circumstances to which we have just referred, in some cases the wills propounded disclose another infirmity. Propounders themselves take a prominent part in the execution of the will which confer on them substantial benefits. If it is shown that the propounder has taken a prominent part in the execution of the will and has received substantial benefit under it, that itself is generally treated as a suspicious circumstances attending the execution of the will and the propounder is required to remove the said suspicion by clear and satisfactory evidence. It is in connection with wills that present such suspicious circumstances that decisions of English Courts, often mention the test of the satisfaction of judicial conscience. It may be that the reference to judicial conscience in this connection is a heritage from similar observations made by ecclesiastical courts in England, when they exercised

jurisdiction with reference to wills; but any objection to the use of the word conscience in this contest would, in our opinion, be purely technical and academic, if not pedantic. The test merely emphasizes that in determining the question as to whether an instrument produced before the Court is the last will of the testator, the court is deciding a solemn question and it must be fully satisfied that it had been validity executed by the testator who is no longer alive" one attesting witness must be compulsorily examined but will must be executed and there must be not been any circumstances to disprove the contents of will.

35. On perusal of Ex.D.4, there was overwritten in the said will and signature is also overwritten and it has not been proved in accordance with the above Supreme Court rulings. The plaintiffs are claiming the partition in respect of the plaintiffs fathers brothers and the plaintiffs are not claiming any share in respect of his father's properties. The DW.1 himself admitted in the cross-examination that there is some arrangements made between the parties. Even defendant No.5 has taken contention that he is bonafide purchaser of the suit properties item No.9 and 10. But the suit properties are the joint family properties. By knowing this fact, the defendant No.5 has purchased the item No.9 and 10 of the suit properties from the defendant No.1 which is not binding on the plaintiffs, because

when purchasing the joint family properties, the purchaser has to give notice to all the joint family members. The defendant No.1 is claiming that he is the son of Siddramappa and he has sold the said properties which is illegal one. Hence, the plaintiffs are entitled for the said share of partition. Hence, I answer the issue No.6 is partly in the affirmative and issue No.7 is in the affirmative.

36. **Addl. Issue No.1:-** The defendant No.5 has filed affidavit stating that he is the purchaser of item No.9 and 10 of the suit properties. As I already stated that he is the bonafide purchaser of item No.9 and 10 of the suit properties, but he has not given any notice to the joint family members as per law. The defendant No.5 has filed affidavit stating that, previously, the item No.9 and 10 of the suit properties are originally belongs to one Goudru Channabasappa, S/o. Goudru Siddappa. The RORs of the item No.9 and 10 of the suit properties are standing in the name of said Goudru Channabasappa, S/o. Goudru Siddappa from 1968-69 to 1999-2000. He further stated that, the said Goudru Channabasappa, S/o. Goudru Siddappa has executed the Registered Will in the name of his vendor G.Siddaramana Gouda, S/o. Basappa on 11.1.1988 with respect to the item No.9 and 10 of

the suit properties along with some other properties in the presence of the attestors of the said Will. The wife of the said Goudru Channabasappa namely Dodda Veeramma has also put her LTM as consent witness to the above said Will. The mutation is also effected in the name of his vendor G.Siddaramana Gouda vide Mutation No.24/2000-2001 dated 4.5.2001 as per the said registered Will. The ROR of the item No.9 and 10 of the suit properties are also standing in the name of G.Siddaramana Gouda. The item No.9 and 10 of the suit properties are the absolute properties of the defendant No.1. He further stated that, at the time of purchase of the above said properties, he has verified all the bonafide documents and confirming the title of his vendor with respect to the above said properties. At the time of the purchase of the above said properties by him, the ROR of the above said properties are standing in the name of his vendor G.Siddarama Gouda. He is the bonafide purchaser of the item No.9 and 10 of the suit properties. The item No.9 and 10 of the suit properties are his absolute properties. The plaintiffs are no way connected or related to him. The item No.9 and 10 of the suit properties are not the joint family properties of the plaintiffs. The plaintiffs have no right or title over the

above said properties. The plaintiffs are knowing fully well regarding the sale transaction between the defendant No.1 with himself. Now the plaintiffs have just harassing him, have filed this false and unholy suit against him.

37. But in the cross-examination of DW.5, he admitted that, plaintiffs and defendant No.1 and 2 are own brothers. He admitted that suit properties sold to the defendant No.5 by the defendant No.1 Siddaramanagouda, S/o. Goudra Basappa. He admitted that, Goudra Basappa's brother Channabasappa was not having any issues and he admitted that, said Goudra Siddaramappa was having 3 children. He denied that, by taking advantage that Goudra Channabasappa was having no issues and first defendant alleged that he is the only son of Channabasappa and created Ex.D.32. Ex.D.32 is very clear that the suit properties are belongs to the said plaintiffs and defendant No.1 and 2, they are own brothers. As per the admitted fact, suit properties are the joint family and ancestral properties. By knowing this fact, the defendant No.5 has purchased the item No.9 and 10 of the suit properties. At this stage, I relied upon the ruling of our Hon'ble High Court of Karnataka in

2015(3) Kar.L.J. 2192 in between Mallanna V/s. Smt.Lakshamma and Others, which reads as under:

"HINDU LAW - Joint family property-Claim for partition-Purchase of all properties by Manager of Joint family-Specific plea that they were self-acquired properties-But no evidence to prove that there was separate income other than joint family income-Law raises presumption that all properties were joint family properties-First respondent found to be member of one branch, whereas appellant and other respondents found to be members of other branch-Courts below granting-Justified-Appeal dismissed".

38. As per the above ruling, it applies to the present case on hand and documents and evidence on record, clearly goes to show that there was no partition between the plaintiffs fathers brothers. By knowing this fact, the defendant No.1 has sold the item No.9 and 10 of the suit properties illegally and the plaintiffs are entitled for share. Hence, I answer the Addl. Issue No.1 is in the negative.

39. **Issue No.8**:- For the foregoing reasons on issues, I proceed to pass

the following:

**ORDER**

The suit of the plaintiffs is hereby decreed.

The plaintiffs having 1/6<sup>th</sup> share each in the plaint schedule-B properties and the defendant No.1 to 4 are directed to hand over 1/6<sup>th</sup> share each in the plaint schedule-B properties to the plaintiffs and share of the first defendant has to be worked out at the time of final decree proceedings in respect of item No.9 and 10 of the suit properties.

The defendant No.5 can claim the share of first defendant in FDP proceedings.

Draw preliminary decree accordingly.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced in the open court on this the 7<sup>th</sup> day of October, 2015, at Kudligi).

(B.S. HONNASWAMY),  
Senior Civil Judge, Kudligi.

**ANNEXURE**

List of witnesses examined for the Plaintiffs:-

Pws.

1. G.Siddramappa
2. D.Siddramesh
3. G.Siddappa.

List of exhibits marked for the Plaintiffs:-

Ex.Ps.

- 1 to 17 : RORs
- 18 : C.C. of mortgage deed dated 18.9.1993
- 18(a) : Translated copy of Ex.P.18
- 19 & 20: Encumbrance certificates
- 21 to 25: 5-RORs
- 26 to 31: 6-RORs
- 32 : Resettlement register extract
- 33 : Endorsement of Tahasildar
- 34 & 35: 2-Mutation extracts
- 36 to 41: 6-RORs
- 42 to 130: 89-RORs

List of witnesses examined for the Defendants:-

Dws.

- 1) Siddappa
- 2) A.G.Gurusiddappa
- 3) B.Channabasappa
- 4) A.G.Gurusiddappa
- 5) Shettru Kotrappa

List of exhibits marked for the Defendants:-

Ex.Ds.

- 1) Original Registered sale deed 1961

- 2) Original Registered Sale deed 1963
- 3) Original Registered Sale deed 1969
- 4) Original Registered will 1981
- 5) Original Registered will 1988  
5(a): Signature of DW.2
- 6) 6-RORs in Sy.No.745-B
- 7 to 16) 10-RORs
- 17 to 21) 5-RORs
- 22 & 23) Encumbrance certificates
- 24 to 26) 3-Resettlement letters
- 27 to 30) 4-Mutation extracts
- 31) Copy of sale deed
- 32) Sale deed
- 33) Encumbrance certificate
- 34) ROR in Sy.No.636(A) and 636(B)

(B.S. HONNASWAMY,  
Senior Civil Judge, Kudligi.

O.S.No: 94/2013