

**Government of Karnataka**

**Form No.9 (Civil)  
Title sheet for  
Judgment  
in suits  
(R.P.91)**

**IN THE COURT OF THE CIVIL JUDGE & JMFC,  
HARAPANAHALLI.**

**Present: SMT. SHOBHA B.G., M.A., LL.B.,  
Civil Judge & JMFC, Harapanahalli.**

**Dated 18<sup>th</sup> Day of December 2019**

**O.S. NO.64/2011**

- Plaintiff / s** : 1) Kumbara Prabhappa  
S/o Late Halappa,  
Aged about 40 years,  
Occ: Agriculture,  
R/at Shingrihalli,  
Harapanahalli taluk.
- 2) Kumbara Kamalamma  
D/o Late Halappa,  
Since dead by LRs.
- 2(a) Ujjinappa,  
S/o Mallappa,  
Aged about 55 years,
- 2(b) Smt. Basamma,  
D/o Ujjinappa,  
Aged about 25 years,
- 2(c) Siddesha  
S/o Ujjinappa,  
Aged about 23 years,
- 2(d) Gurubasavaraja,  
S/o Ujjinappa,  
Aged about 21 years,
- 2(e) Mallikarjunappa,  
S/o Ujjinappa,  
Aged about 19 years,

All are agriculturists,  
R/at Malavi village,  
Hagaribommanahalli taluk,  
Ballary district.

- 3) Kumbara Annapurna,  
D/o Late Halappa,  
Aged about 38 years,  
Occ: Agriculture,  
R/at Jaibhimanagara,  
Harihara.
- 4) Kumbara Nagappa,  
D/o Late Halappa,  
Aged about 48 years,  
Occ: Agriculture,  
R/at JShingrihalli,  
Harapanahalli taluk.
- 5) Kumbara Rajappa,  
S/o Kuruvatyappa,  
Aged about 50 years,  
Occ: Stamp vendor,  
R/at Jaibhimanagara,  
Harihara.

**(Rept., by Sri P.J.G., Advocate)**

**Vs.**

- Defendant / s** :
- 1) Kumbara Gangamma,  
W/o Late Halappa,  
Aged about 68 years,
  - 2) Kumbara Renukamma(Savitramma),  
D/o Late Halappa,  
Aged about 32 years,

Both are R/at 1<sup>st</sup> main, 4<sup>th</sup> cross,  
Jaibhimanagar,  
Harihara.

- 3) Kumbara Siddlingamma,  
W/o Late Revanasiddappa,

- Aged about 50 years,
- 4) Kumbar Jagadesh,  
S/o Late Revanasiddappa,  
Aged about 35 years,
  - 5) Kumbara Karibasappa,  
S/o Late Revanasiddappa,  
Aged about 32 years,
  - 6) Kumbara Yasodamma,  
D/o Late Revanasiddappa,  
W/o Suresh,  
Aged about 25 years,
  - 7) Kumbara Geetha  
D/o Late Ravanasiddappa,  
W/o Siddalingappa,  
Aged about 22 years,
  - 8) Chowatigi Gurupadappa  
S/o Adivebasappa,  
Aged about 55 years,

Defendant Nos.3 to 8 are  
Agriculturists,  
R/at Shingrihalli village,  
Harapanahalli taluk.

**(Rept., by Sri B.K.M., Advocate for D1 & 2  
Sri. S.G.T., Advocate for D8  
D3 to 5 and D7 - Exparte  
D6 - Absent)**

Date of institution of the suit : 19-04-2011

Nature of suit : Partition and separate  
possession and cancellation of  
sale deed

Date of commencement of Trial : 29-01-2015

Date on which the judgment  
was pronounced : 18-12-2019

Duration of suit : Year/s Months Days  
08 07 29

**J U D G M E N T**

This is a suit for partition and separate possession with respect to the suit schedule properties by meets and bounds and cancellation of sale deed dated 17-01-2011.

**SCHEDULE**

**Item No.1:-** The land measuring 1.05 acres bearing Sy.No.80/B situated at Teligi village, Harapanahalli taluk, which is bounded as under;

East : Land of totappa

West: Land of Kumbara Rudravva

North: Land of Krishnamma

South: Land of Umapathi

**Item No.2:-** The land measuring 1.87 acres bearing Sy.No.84/B2 situated at Teligi village, Harapanahalli taluk, which is bounded as under;

East : Road

West: Land of K. Gonebasappa

North: Land of Chowtigi Gurupadappa

South: Land of B. Omana

**Item No.3:-** The House property bearing door No.197, measuring east-west 17 feet and north-south 44 feet having

block tiles situated at 1<sup>st</sup> ward, Shingrihalli village which is bounded as under;

East : House of Eramma

West: Belaur Maheshappa

North: Rasta

South: Open space of Kumbara Revanna and Siddappa

**(Hereinafter referred as suit schedule properties)**

**2. The brief facts of the case are as under:**

The defendant No.1 is mother, plaintiff Nos.1 to 4 and defendant No.2 are sons and daughters of defendant No.1. The plaintiff No.5 is the husband of deceased Kotramma who is daughter of defendant No.1 and she was died during the year 1992-93. The husband of defendant No.1 by name Kumbara Halappa was died in the year 1991. The plaintiff No.2 ,3 and defendant No.2 were got married and residing in their respective husband's village. The plaintiff No.1 and 4 are also married and residing at Shingrihalli village by cultivating the suit schedule properties. The daughter of defendant No.1 by name Kotramma was given in marriage to plaintiff No.5 but she was died then plaintiff No.5 got married the plaintiff No.3. The plaintiff No.5 was brought on record as a legal heir of deceased Kotramma. The suit schedule properties are

ancestral properties of plaintiffs and defendants. They are joint owners and possessors of suit schedule properties. There was no partition taken place between them. The defendant No.1 has no valid and substantial reasons, in order to defeat the legitimate shares of others by colluding with defendant No.2 executed nominal registered sale deed on 17-01-2011 for consideration of Rs.68,000/- in respect of item No.2 of suit schedule property without the knowledge of the plaintiffs. The defendant has given false address in registered sale deed so as to keep matter in secret and mutation was also effected. After came to know this fact the plaintiffs on 01-03-2011 questioned the alleged sale deed but the defendant No.1 assured the plaintiffs stating that shortly the registered sale deed will be canceled. But even to this day he has not taken any active steps for cancellation of said sale deed. The defendant No.2 had bad intention to knockoff the item No.2 of suit schedule property. She is actively prevented the defendant No.1 and prolong the cancellation of sale deed by saying one or other reasons. On 11-03-2011 all the plaintiffs demanded their legitimate share in the suit schedule land by canceling registered sale deed. But the defendants have postponed the same. Hence this suit.

**3.** Per contra the defendant No.1 and 2 have filed written statement wherein they have admitted the relationship between themselves and plaintiffs. Apart from that they denied other allegations made by the plaintiffs in plaint. Further they have contended that the plaintiff No.1 to 4 and defendant No.2 are the sons and daughters of defendant No.1. The plaintiff No.2,3 and defendant No.2 were married long ago and are residing in their husbands' house. At the time of marriage the plaintiff No.2, 3 and defendant No.2, the defendant No.1 had given cash and gold towards their shares. The plaintiff No.1, 4 and defendant No.1 have orally partitioned their family properties long ago. In said partition item No.1 and 3 of suit schedule properties and Sy.No.6/D measuring 0.87 cents and in Sy.No.84/B measuring 1.00 acre were allotted to the share of plaintiff No.1 and 4 and item No.2 of suit schedule property was allotted to the share of defendant No.1. After partition they were enjoying their respective shares. On 15-02-1995 the plaintiff No.4 has sold land measuring 1.00 acre in Sy.No.84/B in favour of Chowtigi Gurupadappa S/o Advibasappa for consideration of Rs.15,000/-. The plaintiff No.1 and 4 have sold land measuring 0.87 cents in Sy.No.6/D

to one Revanasiddappa. The plaintiffs have not included said properties in this suit. After partition the defendant No.1 is residing separately. Since she is a old aged lady and is not having income for leading her life, she has sold her share to the defendant No.2 through registered sale deed dated 17-01-2011 for a consideration of Rs.68,000/-. Since the date of purchase the defendant No.2 is enjoying and cultivating item No.2 of suit schedule property. The plaintiffs have no right, interest in said property. The plaintiffs and defendants are not the joint family members of defendant No.1 after partition. The defendant No.2 is a bonafide purchaser of item No.2 of suit schedule property. In case the Hon'ble Court decrees the suit, the item No.2 of suit schedule property be allotted to the share of defendant No.1 and confirm the sale executed by her to the defendant No.2. The suit is not maintainable as there was already partition. It is also not maintainable without bringing entire joint family members and without bringing necessary parties i.e., Chowtigi Gurupadappa and Revanasiddappa who is purchaser of joint family properties. The suit is also barred by law of limitation. Hence prayed to dismiss the suit with exemplary costs. Though the defendant No.8 appeared before the Court he did

not chosen to file written statement. In spite of service of summons the defendant Nos.3 to 5 and 7 remained absent.

Hence they were placed *ex parte*.

4. On the basis of above pleadings, the following issues have been framed by this Court.

1. Whether plaintiffs prove that they and defendants are the members of Hindu Joint Family and suit schedule properties are their ancestral properties ?
2. Whether the plaintiffs prove that the sale deed dated 17-01-2011 executed by defendant No.1 in favour of defendant No.2 in respect of suit schedule property without the knowledge of the plaintiff and therefore it is nominal one and not binding on the rights of the plaintiffs ?
3. Whether defendants prove that there was oral partition effected between the plaintiff No.1, 4 and defendant No.1 in their family properties long back and in the said partition the item No.1 and 3 of the suit schedule properties were allotted to the share of plaintiff No.1 and 2 and item No.2 of the suit schedule property was allotted to the share of defendant No.1 ?
4. Whether defendant No.2 proves that he is the bonafide purchaser of the item No.2 of the suit schedule property ?
5. Whether the plaintiffs are entitled 1/5th share in the suit schedule property ?
6. What decree or order ?

#### **Additional Issues**

1. Whether the defendants prove that suit is bad for non-inclusion of all the joint family properties ?

2. Whether the defendants prove that suit is bad for non-joinder of necessary parties ?

5. In order to prove the case of the plaintiffs, the plaintiff No.1 has been examined himself as P.W.1 and got marked 10 documents at Ex.P.1 to 10. On the other hand in order to substantiate the contention of the defendants the defendant No.1 and 2 have been examined themselves as D.W.1 and 2 and got marked 9 documents at Exs.D.1 to 9. The defendant No.3 to 8 have not contested the case.

6. Heard arguments on both sides.

7. My answer on the above issues is as follows:-

<b>Issue No.1 :</b>	<b>In the affirmative</b>
<b>Issue No.2 :</b>	<b>In the affirmative</b>
<b>Issue No.3 :</b>	<b>In the negative</b>
<b>Issue No.4 :</b>	<b>In the negative</b>
<b>Issue No.5 :</b>	<b>In the negative</b>
<b>Additional Issue No.1 :</b>	<b>In the affirmative</b>
<b>Additional Issue No.2 :</b>	<b>In the negative</b>
<b>Issue No.6 :</b>	<b>As per the final order, for the following:-</b>

### **REASONS**

8. **ISSUE NOS.1 TO 4:-** These issues are taken up together for discussion as they require same set of pleadings and documents and to avoid the repetition.

In order to prove the case of the plaintiffs, the plaintiff No.1 has been examined himself as P.W.1 and filed affidavit in lieu of his examination-in-chief in which he has reiterated averments of plaint. In support of the case of the plaintiffs they have produced Exs.P.1 to 10. According to them the suit schedule properties are ancestral properties of themselves and defendant No.1 and 2. The defendant No.1 is the mother, the plaintiff No.1 to 4 and defendant No.2 are the sons and daughter of first defendant. The defendant No.5 is the husband of deceased Kotamma who is daughter of first defendant. She was died during the year 1992-93. The husband of defendant No.1 by name Kumbara Halappa was died in the year 1991. The plaintiff No.2 and 3 and defendant No.2 were got married and residing in their respective husband's village. The plaintiff No.1 and 4 are married and residing at Shingrihalli village by cultivating the suit schedule lands. The 3<sup>rd</sup> daughter of defendant No.3 by name Kotamma was given in marriage to plaintiff No.5, but she was died. Thereafter the plaintiff No.5 got married the plaintiff No.3. the plaintiff No.5 was brought on record as a legal heir of deceased Kotamma. The defendant No.1 has no valid and substantial reasons to defeat the other legitimate shares. She

has colluded with defendant No.2 executed a nominal registered sale deed dated 17-01-2011 without the knowledge of the plaintiffs. In order to prove the relationship between plaintiffs and defendants they have produced Ex.P.1 which reveals that one Kumbara Halappa S/o Bullappa and his wife Gangamma who is defendant No.1 had 6 children namely Nagappa, Kamamma, Kotamma, Prabhu, Annapurna and Savithamma. All the children are parties to this suit, except Kotamma who was died. Since there was no dispute regarding relationship, more discussion is not required regarding said aspect. The ancestral properties is concerned the plaintiffs have produced documents. Exs.P.4 to 6 reveal that item No.2 of property bearing Sy.No.84/B/2 measuring 1.87 acres was standing in the name of Kumbara Gangamma W/o Halappa from the year 1997 to 2009. As per Ex.P.7 for the year 2010-11 said property is standing in the name of Bandri Renukamma who is defendant No.2 by virtue of sale bearing MR.No.155/2010-11. Exs.P.8 and 9 are pertaining to item No.1 of suit schedule property which discloses that the land measuring 1.05 acres is standing in the name of Gangamma who is defendant No.1 from the year 1995 to 2010-11. Ex.P.10 is pertaining to item No.3 of suit schedule

property which reveals that the property No.197 measuring 5 X 13 meter is standing in the name of Kumbara Halappa S/o Halappa.

9. On the other hand to substantiate the contention of the defendant No.1 and 2, the defendant No.1 has been examined herself as D.W.1 and filed affidavit in lieu of her examination-in-chief in which she has reiterated averments of written statement. The defendant No.2 also examined herself as D.W.2 and filed affidavit in lieu of her examination-in-chief in which she has also reiterated averments of written statement. In support of their contention they have produced Ex.D.1 to 9. As per Ex.D.1 on 24-04-1995 one Nagarajappa S/o Kumbara Halappa who is plaintiff No.4 has executed registered sale deed in favour of Gurupadappa S/o Adavi Basappa with respect to the land bearing Sy.No.84/B measuring 1.00 acre. Ex.D.2 reveals that from 01-04-1995 to 31-03-1998 there was one transaction with respect to the Sy.No.84 measuring 1.00 acre i.e., on 24-04-1995 one Nagarajappa has executed sale deed in favour of Gurupadappa. As per Exs.D.3 to 7 the land measuring 0.87 cents was standing in the name of Kumbara Halappa S/o Halappa from the year 1968 to 1998. The contention of the

defendant Nos.1 and 2 is that the plaintiffs have not included the aforesaid properties as per Exs.D.1 to 7. The defendant No.1 has sold item No.2 of suit schedule property to the defendant No.2 and katha of said property has been changed in the name of defendant No.2. In order to substantiate the same they have produced Ex.D.8 which reveal that on 17-01-2011 one Kumbara Gangamma W/o Halappa who is defendant No.1 has executed said registered sale deed in favour of one Bandri Renukamma W/o Hanumanthappa who is defendant No.2. The recital of Ex.D.8 discloses that she has sold said property for the purpose of purchasing another property. Ex.D.9 reveals that by virtue of said sale deed RTC of said property is standing in the name of Bandri Renukamma who is defendant No.2 for the year 2010-11. The allegation of the plaintiffs is that the defendant No.1 has no manner of absolute right to sell the item No.2 of suit schedule property to the defendant No.2. She has executed nominal sale deed in favour of the defendant No.2 to defeat the others legitimate shares without the knowledge of the plaintiffs. She has given false address in the registered sale deed so as to keep matter in secrete. In order to prove said allegation the plaintiffs have produced Ex.P.2 i.e., certified

copy of registered sale deed which reveals that 17-01-2011 Kumbara Gangamma has executed said registered sale deed in favour of defendant No.2. Ex.P.2 and Ex.D.8 are one and the same.

**10.** In support of their case they have not examined any witness evidence. In cross-examination of D.W.1 she admitted that in her written statement she has mentioned that she has sold the land measuring 1.87 acres in Sy.No.84/B2 to the defendant No.2 and received amount and handed over the possession of said property. Further he voluntarily deposed that they are all together sold the property and all are received the amount, but she has only put her signature. She has mentioned the same in her written statement. She has denied that she has created false sale deed in favour of her daughter in order to defeat the share of plaintiffs. Further she denied that there was no partition till today in their family. Apart from that she denied other suggestions regarding purpose of alienation of item No.2 of suit schedule property. The defendant No.2 has been examined herself as D.W.2. In cross-examination of D.W.2 she admitted that prior to purchase of item No.2 of suit schedule property she has no other properties and she has no

source of income. Further she deposed that she did not see the document, but her mother had orally partitioned. Further she admitted that there was no document to show that the shares had been allotted to her brothers and in this regard there was no document for changing of katha. It is suggested that she is not having capacity to purchase said property by giving Rs.68,000/-, for which she deposed her husband is a driver and her mother-in-law and father-in-law are having property. Hence she has purchased said property. Further she deposed that she has not mentioned the same in her written statement. Further she has admitted that she has not mentioned in her written statement that there was an oral partition between her brothers. Apart from that she denied other suggestions.

**11.** On the other hand in cross-examination of P.W.1 he denied that himself and plaintiff No.2 and defendant No.1 have partitioned their family properties and katha has been changed in their name. Further he denied that item No.1 and 3 of suit schedule properties and 0.87 cents of land in Sy.No.6/D measuring 1.00 acre of land in Sy.No.84/B have been allotted to him and plaintiff No.4. Further he denied that the remaining land in item No.2 of suit schedule property was

allotted to their mother. It is suggested that on 15-05-1995 the land measuring 1.00 acre in Sy.No.84/B has been sold under registered sale deed to Chowtgi Gurupadappa, for which he deposed his mother was sold the same. Apart from that nothing has been elicited by the counsel for defendants from the mouth of P.W.1. Though he has deposed that for the purpose of marriage of daughter, his mother has sold property, the recital of Ex.P.2 and Ex.D.8 clearly disclose that for the purpose of purchasing other property she has sold said property. The counsel for defendants failed to elicit from the mouth of P.W.1 regarding oral partition as alleged by them between plaintiff No.1, 4 and defendant No.1. On considering over all material placed before the Court it clearly disclose that the suit schedule properties are ancestral properties of plaintiffs and defendant Nos.1 and 2 and they are joint family members. The defendant No.1 has sold item No.2 of suit schedule property to the defendant No.2 on 17-01-2011 without the knowledge of the plaintiffs. In cross-examination of D.W.1 he clearly admitted that all are received amount of alienation of said property, she is only put her signature, which makes clear that said sale deed is nominal one. Moreover the defendant No.2 is a daughter of defendant

No.1. Under such circumstances if the defendant No.1 intends to alienate said property for the purpose of her daughter's marriage she would have sold the same any other 3<sup>rd</sup> party. She has not stated that for the purpose of which daughter's marriage she has sold as the defendant No.2, the plaintiff No.2 and plaintiff No.3 are also the daughters of defendant No.1. Moreover the recital of Ex.P.2 and the oral evidence deposed by the D.W.1 regarding purpose of alienation of item No.2 of suit schedule property is inconsistent. Therefore it clearly discloses that said sale deed is nominal one. Hence it is not binding on the rights of plaintiffs.

**12.** On the other hand though the defendant No.1 and 2 have taken contention that there was a oral partition between plaintiff No.1, 4 and defendant No.1 with respect to their family properties, in order to substantiate the same they have failed to place material before the Court. Apart from defendant No.1 and 2 they have not examined any witness evidence. If there was a oral partition the defendant No.1 and 2 would have adduced any witness evidence who were present at that time or any other cogent and inconveniencing witness. Moreover item No.1 and 2 were standing in the name of

defendant No.1 only. Item No.3 is standing in the name of Halappa who is husband of defendant No.1. If at all item No.2 of suit schedule property was allotted to the defendant No.1 and item No.2 and 3 were allotted to the plaintiff No.1 and 2. The katha would have changed in their respective name. The documents produced by the defendants disclose that both item No.1 and 2 were standing in the name of defendant No.1 only. In cross-examination of P.W.1 nothing has been elicited by the counsel for defendants regarding said aspect. Further the defendant No.2 has contended that he is a bonafide purchaser of item No.3 of suit schedule property but in her cross-examination she clearly deposed that she did not see the documents in which property was allotted to the share of her mother. She clearly admitted that there was no documents regarding allotting of share to her brother and changing of katha in their name. Further she deposed that she is not having any other property, she has purchased said property from the income of her husband and her mother-in-law and father-in-law. It clearly disclose that she is not having any source of income. When the defendant No.1 and 2 failed to prove that there was a oral partition and in said partition item No.2 of suit schedule property was allotted to

the share of defendant No.1 and when they have failed to prove that said sale deed is not nominal one, said sale transaction is not binding on the share of plaintiff No.1 to 4. During the course of arguments the counsel for plaintiffs submitted that since the Kotramma who is daughter of defendant No.1 had no issues, the plaintiff No.5 being her husband is having right of share which will be allotted to her as per section 15 of Hindu Succession Act. The arguments submitted by counsel plaintiffs cannot be accepted as section 15 of Hindu Succession Act is not applicable in the instant facts of the case. Said provision is applicable only when the Hindu female died instate. In this suit the Kotramma is not having absolute right over the suit schedule property as per section 14 of Hindu Succession Act. When the right of share of Kotramma is not yet decided, the plaintiff No.5 who is husband of said Kotramma is not entitled for share as per section 15 of Hindu Seccession Act. He is not having right to claim her share. The defendant No.2 is not considered as a bonafide purchaser. Therefore this Court is of the opinion that the defendant No.1 and 2 have failed to prove that there was a partition and defendant No.2 is bonafide purchaser.

Accordingly issue No.1 and 2 are answered in the **affirmative** and issue No.3 and 4 are answered in the **negative**.

**13. ADDITIONAL ISSUE NO.1 AND 2:-** These issues are taken up together for discussion as they require same set of pleadings and documents and to avoid the repetition.

The further contention of the defendant No.1 and 2 is that the suit is bad for non-inclusion of all the joint family properties. The plaintiff No.4 has sold 1.00 acre of land in Sy.No.84/B to one Chowtgi Gurupadappa and 0.87 cents of land in Sy.No.6/D to the one Revanasiddappa. In order to substantiate their contention they have produced Exs.D.1 to 7 which clearly disclose that above said survey number properties originally belonging to the ancestors of the plaintiffs and those properties have been subsequently alienated to one Chowtgi Gurupadappa and Revanasiddappa. In cross-examination of P.W.1 he deposed that in the year 1992-93 the Sy.No.6/D was standing in the name of his mother, thereafter in the year 1992-93 itself her name was rounded off and name of his brother Nagarajappa is inserted. He denied that himself and his brother Nagarajappa have sold said property to the Revanasiddappa. As such in the year 1999 their name was removed and name of Revanasiddappa

was inserted. He clearly admitted that he has not included Sy.No.6/D and 84/B measuring 1.00 acre of land in this suit. Further contention of the defendant No.1 and 2 is that the plaintiffs have not impleaded necessary parties to this suit. Since the plaintiff No.4 has sold properties in Sy.No.6/D and 84/B to one Chowtgi Gurupadappa and Revanasiddappa they are also necessary parties to this suit to adjudicate the matter. The material placed before the Court clearly disclose that subsequently the plaintiffs have impleaded the Chowtgi Gurupadappa and Revanasiddappa as parties to this suit. When the plaintiffs have included those persons as parties to this suit they ought to included the properties which have been sold to them by the plaintiff No.4, partial partition is bad under law. When the plaintiffs themselves very well aware that those properties are their ancestral properties and it has been sold by plaintiff No.4 they have to include said properties to this suit. Therefore in view of above discussion this Court is of the opinion that without including all the ancestral properties and joint family properties the suit is not maintainable. The defendant No.1 and 2 have successfully proved that suit is bad for non-inclusion of all the joint family properties. When the plaintiffs subsequently included the

purchaser as parties in this suit the non-joinder of necessary parties do not arise at all. Accordingly additional issue No.1 is answered in the **affirmative** and additional issue No.2 is answered in the **negative**.

**14. ISSUE NO.5:-** When the plaintiffs sought relief of partition stating that the suit schedule properties are their ancestral properties, they have to include all the properties and they have to bring entire joint family properties for hatch pot. In the instant suit the plaintiffs have not included all the ancestors and joint family properties. In spite of framing of issues regarding said aspect they have not chosen to include said properties. Therefore the partial partition is not permissible under law. Hence the plaintiffs are not entitled for the relief as sought for. Considering the relationship between the parties no order as to costs. Accordingly issue No.5 is answered in the **negative**.

**15. ISSUE NO.6:-** In view of above findings, I proceed to pass the following;

**ORDER**

**The suit of the plaintiffs is hereby  
partly decreed with respect to the relief of**

**cancellation of registered sale deed dated  
17-01-2011.**

**The suit of the plaintiffs is hereby  
dismissed regarding relief of partition and  
separate possession with respect to the suit  
schedule properties.**

**The defendant No.1 is directed to  
execute cancellation of registered sale deed  
dated 17-01-2011.**

**Draw decree accordingly.**

(Dictated to the stenographer transcribed, computerized by her, revised, corrected and then pronounced by me in the open Court on 18<sup>th</sup> day of December, 2019)

**(B.G. SHOBHA)  
Civil Judge & JMFC.,  
Harapanahalli.**

**ANNEXURES**

**List of witnesses examined for the plaintiff/s :-**

P.W.1 : Prabhu

**List of documents marked for the plaintiff/s :-**

Ex.P.1 : Genealogical tree  
Ex.P.2 : Sale deed  
Ex.P.3 : Mutation extract  
Exs.P.4 to 9 : Tax paid receipt  
Ex.P.10 : House list extract

**List of witnesses examined for the Defendant/s :-**

D.W.1 : Kumbara Gangamma  
D.W.2 : Kumbara Renukamma

**List of documents marked for the Defendant/s :-**

Ex.D.1 : Certified copy of sale deed  
Ex.D.2 : Encumbrance certificate  
Exs.D.3 & 7 : RTC extracts  
Ex.D.8 : Original Sale deed  
Ex.D.8(a) to 8(f) : Signatures  
Ex.D.9 : RTC extract

**Civil Judge & JMFC  
Harapanahalli.**

(Judgment pronounced in the open  
Court vide separate judgment)

**ORDER**

**The suit of the plaintiffs is  
hereby partly decreed with  
respect to the relief of  
cancellation of registered sale  
deed dated 17-01-2011.**

**The suit of the plaintiffs is  
hereby dismissed regarding**

**relief of partition and separate possession with respect to the suit schedule properties.**

**The defendant No.1 is directed to execute cancellation of registered sale deed dated 17-01-2011.**

**Draw decree accordingly.**

**Civil Judge & JMFC.,  
Harapanahalli.**