

KAVP310004282024



Presented on : 26-02-2024
Registered on : 28-02-2024
Decided on : 03.06.2026
Duration: 02 year 03 months 07 days.

**IN THE COURT OF I ADDITIONAL CIVIL JUDGE &
JMFC, AT INDI.**

-PRESENT-
SHREE. VIKAS DALAWAI
B.A., LL.B.
I Additional Civil Judge & JMFC, Indi.

Dated this the 3rd day of June -2026

Original Suit No.102/2024

Plaintiff/s

- 1. Smt. Sarubai @ Sarojani W/o. Bhagavant
Bhimanagar,**
Age:55 years, Occ: HH work,
R/o. Gang Boudi, Kakkayya Colony, Vijayapur
Tq:& Dist: Vijayapur.
- 2. Smt. Lalita W/o. Sayabanna Sutar,**
Age:45 years, Occ: HH work,
R/o.657 Market Yard Mage Sayyad Baba Nagar
Shirur, Pune-Maharashtra
- 3. Shri. Vinod S/o. Mareppa @ Parasappa Mallari @
Pujari.**
Age:30 years, Occ: Agril.,
R/o.Devarhipparagi Tq: Devar Hipparagi,
Dist:Vijayapur.

4. **Shri. Viresh S/o. Mareppa @ Parasappa Mallari @ Pujari,**
Age:38 years, Occ:Agril.,
R/o.Devarhipparagi Tq: Devar Hipparagi,
Dist:Vijayapur.
5. **Shri. Shridevi W/o. Harish Hadimani**
Age:35 years, Occ: HH work,
R/o.Devarhipparagi Tq: Devar Hipparagi,
Dist:Vijayapur.
6. **Smt. Shailashree (D/o. Madeppa Kannur)W/o. Ravi Kamble,**
Age:33 years, Occ: HH work,
R/o.Ward No.6, Near Bharat Gas Godown back side,
KHB Colony, Divya Nagar,Vijayapur,
Tq & Dist: Vijayapur.

(By Sri.DSH Advocate)

V/s

Defendant/s/

1. **Shri. Kallappa S/o. Madeppa Kannur,**
Age:55 Yrs., Occ: Agril.,
2. **Smt. Mallavva W/o. Kallappa Kannur,**
Age: 50 Yrs., Occ: HH work,,
3. **Smt. Sugalabai W/o. Govind Dabe,**
Age: 57 Yrs., Occ: HH work,
R/o. Havinal Now at KMF head office, Navanagar,
Bagalkot, Tq & Dist: Bagalkot.
4. **Smt. Nayana (Paru), D/o. Malkappa Chalawadi,**
Age: 48 Yrs., Occ: HH work,
R/o. Devi East Mumbai, Devi Colony road
Adarsh apartment, Room No. 504, 505 Opp.
Maharani Sadi Center, Bombay State, Maharashtra.

5. **Shri. Rajakumar S/o. Malkappa Chalawadi,**
Age: 40 Yrs., Occ: Business,
6. **Shri. Arun S/o. Malkappa Chalawadi,**
Age: 38 Yrs., Occ: Business,
7. **Shri. Aswin S/o. Malkappa Chalawadi,**
Age:36 Yrs., Occ: Business,
8. **Smt. Mayavva D/o. Malkappa Chalawadi,**
Age: 32 Yrs., Occ: HH work,
All R/o. Devi East Mumbai, Devi Colony road,
Adarsh apartment, Room No. 504, 505 Opp.
Maharani Sadi Center, Bombay State, Maharashtra.

(D-1 to 8 Exparte)

1	Date of institution of the suit	26.02.2024
2	Nature of the suit	Partition and separate possession.
3	Date of commencement of recording of the evidence	28.10.2025
4	Date of pronouncing the Judgment	03.06.2026
5.	Duration of the suit	Year/s Month/s Day/s 02 03 07

(VIKAS DALAWAI)

I Addl.Civil Judge and J.M.F.C., Indi.
Indi.

J U D G M E N T

The plaintiffs have filed the present suit against the defendants seeking the relief of partition and separate possession of their legitimate share each in the suit schedule properties.

2. Brief facts of the case of the plaintiffs' are as follows:

The plaintiffs submit that the suit schedule property is agricultural land bearing Sy.No.132/1, measuring 6 Acres 18 Guntas, situated at Havinal Village. Further case of the plaintiffs that after the death of one Madappa S/o Somanna Kannur, the names of his son, namely Defendant No.1 Kallappa and his 6 daughters were entered in the revenue records as his legal heirs and successors. In this regard, ME. No.4573 was duly certified. The plaintiffs further submitted that defendant Nos.1 and 2 behind the back of the plaintiffs and without their knowledge or consent, created MR.No.154/2009-10 of Havinal Village and got the names of all the daughters of deceased Madappa deleted from the revenue records.

Thereafter, the suit property was entered exclusively in the names of defendant No.1 and his wife defendant No.2, without any registered document or lawful authority. The plaintiffs further contend that they along with Defendant Nos.1 and 3 to 7 are co-parceners/co-sharers in the suit schedule property. The plaintiffs, defendant No.1 and defendant No.3 are each entitled to 1/7th share in the suit property. Defendant No.4 to 8 are jointly entitled to 1/7th share representing the share of their deceased mother, Premabai. The plaintiffs further submit that they came to know through reliable sources and village rumours that defendant No.1 and 2 in collusion with each other are making efforts to alienate the suit schedule property. Therefore, on 10.01.2024, the plaintiffs approached defendant Nos.1 and 2 and requested them to allot their legitimate share in the suit property. However, Defendant No.1 and 2 neither responded positively nor acceded to the request of the plaintiffs. On the contrary, they threatened to alienate the suit schedule property and did not heed the

advice and intervention of the respectable elders of the village.

3. It is further submitted that, upon the advice of the village elders, they collected the relevant revenue documents and came to know that defendant Nos.1 and 2 had behind their back and without their knowledge or consent, caused the deletion of the names of all the daughters of deceased Madappa from the revenue records. Thereafter, an extent of 3 Acres 18 Guntas was entered in the name of defendant No.1 and the remaining 3 Acres was entered in the name of Defendant No.2. it is submitted that the said mutation entries and revenue records have been created fraudulently and with an intention to deprive the plaintiffs and other legal heirs of their lawful shares in the suit schedule property. The said entries are illegal, void and not binding on the rights of the plaintiffs. Hence, the plaintiffs have been constrained to file the present suit seeking partition and separate

possession of their legitimate shares in the suit schedule properties

4. Though summons were served on defendant No.2 and 3, they failed to appear before the court and contest the proceedings. The defendant No.1 & 4 to 8 were served through substituted service. Despite sufficient opportunity, they failed to appear before the court and failed to file their written statement. Hence all the defendants were placed exparte. Thereafter, case is posted for plaintiff's evidence.

5. In order to substantiate the contention, The plaintiff No.1 herself examined before this court as PW.1 and examined 1 witness as PW-2 and got marked 8 documents as per Ex.P.1 to Ex.P.7 and closed his side evidence. On the other hand, the defendants have not appeared before the court and hence they have been placed exparte.

6. Heard the arguments. Perused the available materials on record.

7. Following points would arise for consideration for this court;

1. Whether the plaintiffs prove that they are entitled for the relief as sought for?

2. What order or decree?

8. My answer to the above points are as follows ;

Point No.1 :: **In the Affirmative**

Point No.2 :: **As per final order,**
for the following ;

REASONS

9. **POINT No.1.** The plaintiffs have filed the suit for partition and separate possession of their alleged 1/7th share each in the suit schedule properties.

10. In order to substantiate plaintiffs' case, the plaintiff No.1 has stepped into the witness box and examined himself as PW-1. The testimony of PW-1 is supported by the documentary evidence marked as per Ex.P.1 to P.8. The records reveals that, despite sufficient opportunity, the defendants failed to appear before the

court and failed to file their written statement. Hence all the defendants were placed exparte.

11. PW-1 has deposed that, the suit schedule property bearing Sy.No.132/1 measuring 06 acres 18 guntas situated at Havinal village, originally belonged to deceased Madappa S/o.Somanna Kallur. After the death of Madappa, the names of his son and daughters were entered in the revenue records as his legal heirs through ME No.4573. To substantiate the said contention, the plaintiff No.1 has produced the certified copy of ME No.4573 which is marked as per Ex.P.4. On perusal of Ex.P.4 discloses that, after the death of Madappa, the names of his legal heirs were entered in the revenue records. The said documents supports the case of the plaintiffs that, the property devolved upon all the legal heirs of deceased Madappa.

12. Ex.P-3 is the certified copy of ME No.3731 and Ex.P.4 further disclosed the succession of the property in favour of the legal representative of deceased

Madappa. These documents are public documents and carry a presumption regarding their correctness unless rebutted. On perusal of these documents itself reveals that, subsequently, the names of the daughters of deceased Madappa were deleted and the revenue entries were made in the names of defendant No.1 and 2. The defendants have not appeared before the court to explain under what authority such mutation was effected and whether there existed any register partition deed, relinquishment deed, gift deed or other documents extinguishing the rights of the daughter.

13. The entries found in Ex.P.3 and 4 are public documents maintained in the regular course of official business and there is no material placed before the court to doubt their genuineness. The Ex.P.1 and 2 RTC Extracts presently standing the names of defendant No.1 and 2. Such revenue entries do not confer title nor do they extinguish the lawful rights of their legal heirs.

14. In the absence of any registered partition deed, relinquishment deed, release deed or any other document showing surrender of rights by the daughters of Madappa, the mutation effected in favour of defendant No.1 and 2 cannot defeat the succession rights of the plaintiffs and other legal heirs. The plaintiffs have produced the certified copy of Ex.P.3 i.e., ME No.3731 reveals that, pursuant to the order of the land tribunal Indi, dtd; 29.09.1983 occupancy rights in respect of suit schedule property were granted in favour of Madappa Somanna Kannur. Therefore, the evidence on record clearly establishes that, the suit schedule property belonged to deceased Madappa and that after his death all his legal heirs succeeded to the same. The plaintiffs being the legal heirs, are entitled to claim partition and separate possession of their legitimate share in the suit schedule property. Accordingly this court holds that, the plaintiffs have successfully proved the point No.1, and hence I answer the point No.1 in the **Affirmative**.

15. POINT NO.2: In view of findings on the above points, I proceed to pass the following:

ORDER

The suit filed by the plaintiffs for the relief of partition and separate possession against the defendants is hereby decreed with costs.

It is declared that, the suit schedule properties bearing Sy.No.132/1 measuring 03 acres 18 guntas and Sy.No.132/2 measuring 03 acres situated at Havinal village is the joint property of the legal heirs of deceased Madappa.

It is declared that, the plaintiff No.1, 2, 6 and defendant No.1 & 3 are each entitled to 1/7th share in the suit schedule properties.

It is further declared that, the legal representative of deceased Premabai, namely

defendant No.4 to 8 are jointly entitled to 1/7th share and the legal representative of deceased Gajarabai namely plaintiff No.3 to 5 are jointly entitled to 1/7th share in the suit schedule properties.

Draw preliminary decree accordingly.

Office is directed register Suo-moto FDP proceedings as per the directions issued by the Hon'ble Supreme Court of india in a decision reported in 2022 SCC online S.C.737 (between Kattukandi Edathil Krishnan v/s Kattukandi Edathil Valsan) Hon'ble Supreme Court of India in a decision reported in 2022 SCC online S.C. 737 (between Kattukandi Edathil Krishnan v. Kattukandi Edathil Valsan)

(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me in Open Court, on this the 3rd day of June, 2026)

(VIKAS DALAWAI)

I Addl. Civil Judge and J.M.F.C., Indi.

ANNEXURE**List of witnesses examined on behalf of Plaintiff/s:**

P.W-1: Smt. Shailashree W/o. Ravi Kambale

List of documents exhibited on behalf of Plaintiff/s:

Ex.P.1 & 2 : RTC Extracts

Ex.P.3 : C/C of ME No.3731

Ex.P.4 : C/C of ME No.4573

Ex.P.5 : C/C of MR No.154

Ex.P.6 : Death Certificate

List of witnesses examined on behalf of Defendant/s:

NIL

List of documents exhibited on behalf of Defendant/s:

NIL

(VIKAS DALAWAI)

I Addl. Civil Judge and J.M.F.C., Indi.