

KAVP400003632023



Presented on : 04-08-2023
Registered on : 05-08-2023
Decided on : 19-06-2026
Duration : 2 years, 10 months, 15 days

**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,
MUDDEBIHAL**

PRESENT: Shri.RAVINDRAKUMAR B. KATTIMANI
B.A., LL.B(Spl.)
Senior Civil Judge & JMFC., Muddebihal.

ORIGINAL SUIT No.99/2023

Dated on this 19th Day of June-2026

PLAINTIFF:

1. Channamma w/o:Channappa Halihal,
Age: 55 years, Occ:H.H.work,
R/o: Narasalgi, Tq:B.Bagewadi.

(By Sri.N.R.Mokashi, Advocate)

V/S

DEFENDANTS:

1. Ningappa s/o:Laxman Baluti,
Age: 60 yeas, Occ:Agriculture,
 2. Sangappa s/o:Laxman Baluti,
Age: 57 years, Occ: Agriculture,
 3. Siddanna s/o:Laxman Baluti,
Age: 50 years, Occ:Agriculture,
 4. Basavaraj s/o:Laxman Baluti,
Age: 35 years, Occ: Agriculture,
 5. Laxmibai w/o:Balavantappa Hulibenchhi,
Age: 65 years, Occ:Household work,
- D-1 to 5 are R/o:Kuntoji, Tq:Muddebihal, Dist:Vijayapura.

6. Neelamma @ Kamala w/o:Lakkappa Bailgond,
Age: 40 years, Occ:H.H.Work,
R/o:Basarkod, Tq:Muddebihal,
7. Malakappa s/o:Balavantappa Hulibenchi,
Age: 40 yeas, Occ:Agriculture,
R/o:Kuntoji, Tq:Muddebihal, Dist:Vijaypura.

[D-1 and 2 by Sri.M.S.A., Advocate]

[D-6 by Sri.C.M.A., Advocate]

[D-3 & 5 by Sri.V.C.U., Advocate]

[D-4 & 7 placed exparte.]

Date of Institution of suit	:	04-08-2023		
Nature of the suit	:	Partition and separate possession		
Date of the commencement of recording of the evidence	:	28-10-2024		
Date on which the Judgment pronounced	:	19-06-2026		
Total Duration	:	Year/s	Month/s	Day/s
		02	10	15

**Senior Civil Judge & JMFC.,
Muddebihal.**

JUDGMENT

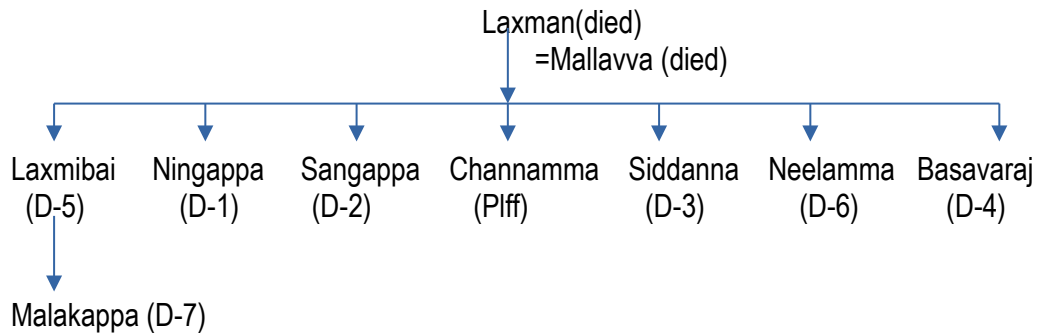
The plaintiff has filed this suit against the defendants for the relief of partition and separate possession claiming his 1/3rd share in the suit schedule properties by metes and bounds.

2. The brief facts of the plaintiff's case is as under:-

The Description of the suit properties:

Sl.No.	Survey Numbers	Measuring	Place
1	233*/1	16-23	Kuntoji
2	233*/3	05-00	-do-
3	403/1 ೨+2 ೩	19-00	-do-

The Genealogy of the plaintiffs and defendants is as under;



The suit properties are the standing in the name of plaintiff and defendants. The suit properties are inherited by the plaintiff and defendants from their ancestors. The plaintiff and defendants are in joint possession with cultivation of the suit schedule properties. The plaintiff requested to the defendants to give her legitimate share, but the defendants postponing the same by one or other protest. The defendant No.1 to 4 and 7 are in hurry to alienate the suit schedule properties. Therefore, the plaintiff constrained to file this suit and prayed to decree the suit of the plaintiff.

3. After institution of the suit, the suit summons were served to the defendants. After service of suit summons, the defendant No.1 to 3, 5 and 6 are appeared through their respective counsels, but they have not filed the written statement, hence, written statement of defendant No.1 to 3, 5 and 6 is taken as not filed. The defendant No.3 and 7 remained absent and placed *ex parte*.

4. In order to prove her case, plaintiff herself got examined as PW-1 and produced as much as 3 documents, which are got marked as Ex.P.1 to 3 and closed her side evidence.

5. I have heard the arguments of learned counsel for the plaintiff Sri.N.R.Mokashi and perused the materials available on record.

6. On careful examination of materials on record, the following points that arise for my consideration:

- (1) Whether the plaintiff proves that, the suit properties are the ancestral properties of the plaintiff and defendants?
- (2) Whether the plaintiff is entitled 1/7th share in the suit schedule properties?
- (3) What order or decree?

7. My answers to the above points are as under:-

Point No.1 : In Affirmative,

Point No.2 : Partly in the Affirmative,

Point No.3 : As per final order, for the following;

REASONS

8. POINT No.1 and 2:- These two points are inter linked to each other, hence these points are taken for common discussion at a time to avoid the repetition of facts and evidence.

9. It is the case of the plaintiff that, the suit properties are standing in the name of plaintiff and defendants. The suit properties are inherited by the plaintiff and defendants from their ancestors. The plaintiff and defendants are in joint possession with cultivation of the suit schedule properties. The plaintiff requested to the defendants to give her legitimate share, but the defendants postponing the same by one or other pretext. The defendant No.1 to 4 and 7 are in hurry to alienate the suit schedule properties.

10. To prove the plaintiff's case, the plaintiff herself got examined as PW-1 in lieu of her examination-in-chief, she filed affidavit U/o 18 Rule 4 of CPC, wherein she reiterated the

plaint averments. In support of her oral evidence, plaintiff produced 3 documents, which are got marked as Ex.P.1 to 3. Ex.P.1 to 3 are the record of rights in respect of the suit schedule properties.

11. On perusal of the record of rights, it is clearly goes to show that, the properties land bearing Sy.No.133*/1 and 233*/3 were standing jointly in the name of plaintiff and defendants. Ex.P.3 is the record of rights in respect of the suit property land bearing Sy.No.406/1A+1B, which is standing in the name of defendant No.2 and 3. It is clearly goes to show the, there is no partition taken place between the plaintiff and defendants in the family properties. Without partition the defendant No.2 and 3 have got mutated their names in the record of rights in respect of the land bearing Sy.No.406/1A+1B of Kuntoji village. The said revenue entries not at all binding upon the share of the plaintiff.

12. On perusal of the genealogy, it is clearly goes to show that, the plaintiff and defendants are the sons and daughter of Laxman and Mallawwa. The properties are the inherited by the plaintiff and defendants from their ancestors. Therefore, the

plaintiff is having 1/8th share in the suit schedule properties instead of 1/7th share. The plaintiff, successfully proved her case. Accordingly, I answered **Point No.1** in the **Affirmative** and **Point No.2 partly in the Affirmative.**

13. Point No.3: In view of the discussion made under Point No.1 and 2, this court proceed to pass the following:

ORDER

Suit of the plaintiff is hereby **partly decreed.**

It is ordered that, the plaintiff and defendants are having 1/8th share each in suit schedule properties by metes and bounds.

Office to draw preliminary decree and thereafter register decree, in terms of direction of the Hon'ble Apex Court in the Judgment of **Kattukandi Edathil Krishnan and another Vs Kattukandi Edathil Valsan and other (2022 SSC Online SC 737)**

No order as to costs.

(Dictated to the steno typed by him, corrected and then pronounced by me in open court on this **19th** day of **June-2026**).

(R.B.KATTIMANI)
Senior Civil Judge & JMFC.,
Muddebihal.

ANNEXURE

Witness examined on behalf of the plaintiff:

PW.1 : Channamma Channappa Halihal

Documents marked on behalf of the plaintiff:

Ex.P.1 : Record of right
Ex.P.2 : Record of right
Ex.P.3 : Record of right.

Witnesses examined on behalf of the defendants:

-NIL-

Documents marked on behalf of the defendants:

-NIL-

(R.B.KATTIMANI)

**Senior Civil Judge & JMFC.,
Muddebihal.**