

KAVP420001732025



**IN THE COURT OF V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, VIJAYAPURA, (TO SIT AT
MUDDEBIHAL).**

DATED THIS THE 03rd DAY OF JULY 2026

PRESENT

**Sri. Sachin Kaushik R.N
B.Sc., LL.M**

V Additional District and Sessions Judge,
Vijayapura, To sit at Muddebihal.

R.A. No.5059/2025

(Old R.A.No.16/2023)

(Arising out of O.S.No.184/2008)

Appellant:

Manjunath S/o Basanagouda Hayyal
Age:37 years Occ:Employee in
Karnataka Power Corporation Ltd.,
R/o Bantanur, Tq:Muddebihal
Now at House No.377, 5th Cross
Kuvempu Nagar, Ward No.30
Bellary.

(Rep. by Sri.S.V.J/M.R.P., Advocate)

///Versus///

Respondents: 1. Sharada W/o Channappa Angadi

Age:55 years Occ:Agriculture
& Household
R/o Ibrahimpur Peth, Ward No.6
Near Sajjan High School, Vijayapura
C/o Channappa Bommaningappa
Angadi

2. Basavaraj S/o Virabhadrapa
Hipparagi, Age:50 years
Occ:Agriculture
R/o Karaganur Tq:Muddebihal
3. Channamma W/o Virabhadrapa
Hipparagi, Age:75 years
Occ:Household
R/o Karaganur Tq:Muddebihal
4. Virupaksha S/o Ramesh Pattanshetti
Age:36 years Occ:Agriculture
R/o Jambagi Tq & Dist:Vijayapura

Since deceased by his LRs
- 4A. Arati W/o Virupaksha Pattanashetti
Age:40 years Occ:Private nurse
- 4B. Nakshatra D/o Virupaksha
Pattanashetti, Age:5 years
Occ:Education

Respondent No.4b is minor,
M.G her natural mother 4A both are
R/o House No.176 Hudko colony
Ibrahimpur Nagar Vijayapur

Tq:Dist:Vijayapur

5. Vishal S/o Ramesh Pattanashetti
Age:29 years Occ:Agriculture
R/o Jambagi Tq & Dist:Vijayapura
6. Somanath S/o Ramesh Pattanashetti
Age:27 years Occ:Agriculture
R/o Jambagi Tq & Dist:Vijayapura
7. Annapurna W/o Mallikarjun @ Raj
Biradar, Age:45 years
Occ:Household
R/o Basarkod Now R/o Gandhinagar
Sindagi Road, Yogapur KSFC, Near
Godawan, Vijayapura O.S.No.79/217
8. Neelagangavva W/o Mallikarjun
Hulagabal, Age:43 years
Occ:Household
R/o Utnal, Tq & Dist:Vijayapura
9. Girija W/o Jagadeesh Pattanshetti
Age:40 years Occ:Household
R/o Jambagi Tq & Dist:Vijayapura
10. Shantappa S/o Mallappa Hipparagi
Age:85 years Occ:Agriculture
R/o Karganur Tq:Muddebihal
11. Ramangouda S/o Ayyanagouda Patil
Age:50 years Occ:Agriculture
R/o Karganur Tq:Muddebihal.

(Rep.by R1 Sri.C.R.J., Advocate

**R3, 6 and 9 Sri.T.M.H., Advocate
R2, 4(a) (b), 5, 7, 8, 10 and 11 placed ExParte)**

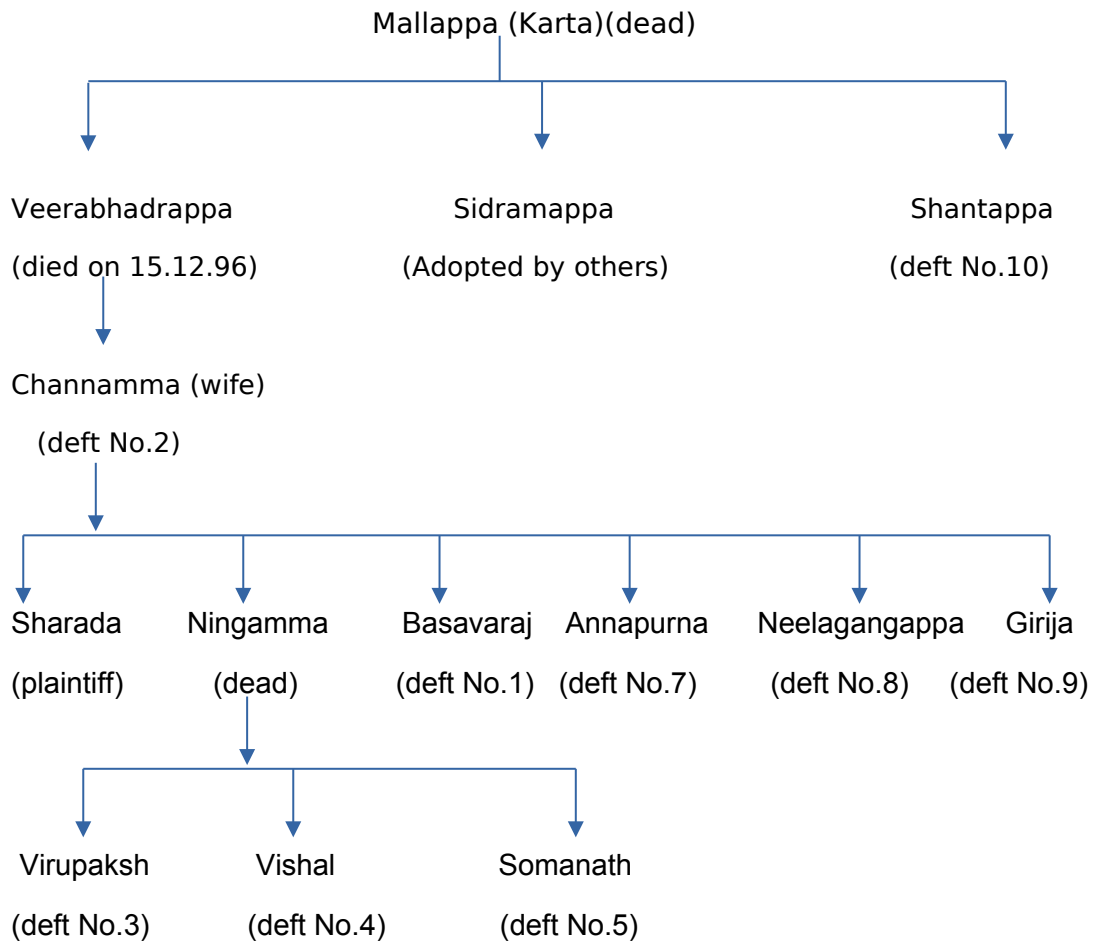
J U D G M E N T

The defendant No.11/appellant has preferred this appeal U/Sec.96 R/W O.XLI Rule 1 of C.P.C., assailing the decreetal of suit of plaintiff granting 1/14th share to her in suit schedule properties and for ordering for partition and separate possession of the same. Suit schedule properties are (1) Land bearing Sy.No.15/2A measuring 8 acres, (2) Land bearing Sy.No.15/2B measuring 7 acres 8 guntas, (3) Land bearing Sy.No.14/2A measuring 3 acres 25 guntas, (4) Land bearing Sy.No.14/2B measuring 3 acres 3 guntas, all in Karagnur village, Muddebihal; and also Karagnur gram panchayath house No.104A and 104B.

2. For sake of convenience, the parties shall be referred by their ranks in the suit.

3. The plaintiff states that, the propositus to the suit schedule properties is her paternal grandfather, late

Sri.Mallappa. Her father, late Sri.Veerabhadrapa expired on 15.12.1996. Her mother is defendant No.2. Her brother is defendant No.1. Defendants No.3, 4 and 5 are children of her deceased sister, Ningamma. The defendants No.7 to 9 are her sisters. Defendant No.10 is her father's brother. Defendant No.6, son of father of plaintiff is shown dead and his father, taken in adoption. Suit schedule properties are joint family properties of plaintiff and defendants No.1 to 10. The defendants No.1 and 10 have got only their names mutated. The defendant No.1 has sold land bearing Sy.No.14/2 measuring 3 acres 25 guntas to defendant No.11 on 30.05.2005 for Rs.1,42,000/-, though there was no legal necessity at all. Again the defendant No.1, to deprive the shares of plaintiff and other defendants, has sold land bearing Sy.No.15/2A to defendant No.12 on 15.02.2010 during pendency of suit. This transaction is hit by lis pendence. The genealogy shown by the plaintiffs is as follows:



The plaintiff has 1/14th share in suit schedule properties and she has prayed for partition and separate possession of the same.

4. The defendant No.10 has filed written statement that, the suit schedule properties were partitioned and the defendant No.10 has been allotted Sy.No.14/2B and Sy.No.15/2B in the year 2004-05, and yet the plaintiff

has filed false suit against him. He has prayed to dismiss the suit of the plaintiff with compensatory costs of Rs.10,000/-.

5. The defendant No.1 has filed written statement that he has sold the properties for family necessity to clear the debts with respect to treatment and marriages of defendants, and has prayed to dismiss the suit with compensatory costs of Rs.10,000/-.

6. The defendants No.3 and 8 have filed written statement, supporting the claim of the plaintiff and have prayed for 1/14th share each in suit schedule properties, where defendant No.8 has 1/14th share, and defendants No.3 to 5 together, 1/14th share.

7. The defendant No.11 has filed written statement that, he has purchased the property for valuable consideration of Rs.1,42,000/- by registered sale deed dated 30.05.2005. The plaintiff colluding with other defendants had earlier obtained ExParte decree on

30.08.2016 and final decree application was submitted. Then he came to know about the same. He filed Civil Misc.No.10/2016 and judgment and decree passed was set-aside by judgment dated 01.02.2002. He has prayed to dismiss the suit of plaintiff with costs.

8. On 30.08.2016 the suit was decided, and thereafter the matter was remanded, and then the suit was again decided on 15.03.2023.

9. The trial court framed following 5 issues and 4 additional issues:

1. Whether the plaintiff proves that, himself and defendants constitutes joint Hindu family?

2. Whether the plaintiff further proves that, the suit properties are ancestral Hindu joint family properties of plaintiff and defendant?

3. Whether the defendant No.1 proves the prior partition as contended in para No.3 of the written statement?

4. Whether the defendant No.1 proves that, the plaintiff is excluded from the

family of defendant No.1 about 30 years back as contended in para 7 of the written statement?

5. To what decree or order?

ADDITIONAL RECASTED ISSUE No.1

1. Whether the defendant No.3 to 5 are entitled for partition and separate possession of their 1/14th share jointly in the suit properties?

ADDITIONAL ISSUE No.2

1. Whether the plaintiff proves that she is entitled for partition and separate possession of her legitimate 1/14th share in the suit schedule properties?

ADDITIONAL ISSUE No.3

1. Whether the defendant No.8 is entitled for partition and separate possession of their 1/14th share jointly in the suit schedule properties?

ADDITIONAL ISSUE No.4

1. Whether the defendant No.11 proves that, he is the bonafide purchaser and in possession of the land bearing Sy.No.14/2A measuring 3 acres 25 guntas since 30.05.2005?

10(a). The plaintiff examined herself as PW1, and has got 19 documents exhibited.

(b). The defendants No.1, 3, 8, 11 and 3 more witnesses are examined as DW1 to 7, and 20 documents are exhibited.

11. The trial court answered the issues and additional issues as follows:

Issue No.1 : In Affirmative

Issue No.2 : In Affirmative

Issue No.3 & 4 : In Negative

Addl. issue No.1 to 3 : In Affirmative

Addl. issue No.4 : In Negative

Issue No.5 : As per the final

12. Being aggrieved by the decreetal of the suit, the defendant No.11 in this appeal has stated that, the trial court has not appreciated the evidence in the right perspective. The trial court has committed gross error by granting 1/14th share each to plaintiff and other

defendants. He has prayed to allow the appeal, and dismiss the suit.

13. The defendant No.3/respondent No.4 has expired during pendency of appeal, and his legal heirs, respondents No.4(a) and (b) are brought on record.

14. The points that arise for determination are as follows:

1. Whether the plaintiff, defendants No.3 to 5 together and defendant No.8 have proved that, suit schedule properties are joint family properties of plaintiff and defendants No.1 to 10?

2. Whether the plaintiff and defendants No.3 to 5 together and defendant No.8 have proved that, they are entitled for 1/14th share each in suit schedule properties, and for partition and separate possession of the same?

3. Whether the defendants No.11 and 12 have proved that, the properties are sold for legal necessity?

4. Whether the judgment and decree dated 15.03.2023, passed by trial

court is perverse, and calls for interference?

5. What order or decree?

15. Perused written arguments of Learned Advocate for appellant and respondents No.1, 3, 6 and 9 and depositions and exhibits.

16. The answers to the above points are:

Point No 1: Partly in the Affirmative

Point No 2: Partly in the Affirmative

Point No 3: In the Negative

Point No 4: Partly in the Affirmative

Point No 5: As per final order, for the following:

REASONS

17(a). **Points No.1 to 4:-** As these points are interconnected, they are taken together for consideration.

(b). The plaintiff/PW1 has produced the record of rights of the landed properties marked from Ex.P.1 to 4. The record of right of land bearing Sy.No.15/2A, is produced at Ex.P.1. It shows the name of defendant No.1 in column

No.9 i.e., occupation column/cultivators column. Even land bearing Sy.No.14/2A shows the name of defendant No.11 in column No.9. The same is marked as Ex.P.3. The record of right of land bearing Sy.No.15/2B is produced at Ex.P.2. It shows the name of defendant No.10 in column No.9. The record of right of land bearing Sy.No.14/2B is marked at Ex.P.4. Even Ex.P.4 shows the name of defendant No.10 in column No.9 i.e., occupation column/cultivators column. Ex.P.1 to 4 shows 'ಸರ್ಕಾರಿ' in ownership column i.e., patta column column No.6. Even old record of rights of Sy.No.15/2 and Sy.No.14/2 of the year 1982-83 is produced. The same are marked as Ex.P.5 and 6. Even Ex.P.5 and 6 shows 'ಸರ್ಕಾರಿ' in ownership column i.e., patta column. It shows the name of father of plaintiff and defendant No.10 in occupation column/possession column. Record of right of Sy.No.14/2 of the year 2000-01 is produced, marked as Ex.P.7. In Ex.P.7 the name of plaintiff and defendants No.1, 2,

mother of defendant No.3 to 5, 7 to 10 are shown in column No.9, and 'ಸರ್ಕಾರಿ' is entered in column No.6. In Ex.P.1 to 7, there is no entry of any land tribunal order or 'ಹೊಸಪರಗು or ಹಳೆಪರಗು or 15 ವರ್ಷ ಪರಾಧೀನ ಮಾಡಬಾರದು' in column No.11 or any other column of the record of rights. This shows that, the suit schedule Sy.No.14/2A and Sy.No.15/2A are all government properties/public properties. The ratio laid down in decisions reported in **ILR 2011 page No.480, ILR 2008 page No.2506, 2024(4) Kar.L.J. 480** between **BDA Vs Smt.B.L.Ramadevi** and decision of **Hon'ble High Court of Delhi** between **Udaiveer and others.,VS Union of India and others.,** that no injunction or any rights can be granted over government land, and that it causes losses to revenue of government, and in BDA case, even though building was partly constructed, temporary injunction was not granted, are applicable to facts and circumstances of this case. Recently, **Hon'ble**

High Court of Karnataka in RSA No.180/2019 on 12.12.2025 between Sri.C.Bhadra Reddy through LRs Vs State of Karnataka by Revenue Secretary, Assistant Commissioner and Tahasildar of Anekal taluk held that, the 2 acres 20 guntas land of Kotagenhalli village, Anekal taluk belongs to the government, as no grant was made in favour of plaintiff and there was no document in favour of plaintiff. The ratio laid down in this decision is also applicable to the facts and circumstances of this case.

18. When Ex.P.7, record of right in the year 2000-01 shows the name of plaintiff and the defendants No.1 to 10, and the said record of right Ex.P.7 does not show defendant No.1 as the karta or UFM (undivided family manager), and the plaintiff and all these defendants were major in age, already married, there was no question for defendant No.1 to alienate the cultivation rights of plaintiff and other defendants in suit schedule properties Sy.No.14/2A and Sy.No.15/2A. Even the purchaser,

defendant No.11 is duty bound to check all previous record of rights and mutation entries especially, Ex.P.10 that shows name of plaintiff and defendants No.1 to 10 entered on 18.03.1996. The principle of law 'caveat-emptor' that, 'let the buyer beware' is applicable. The burden is always upon the alienee to prove that he has purchased for legal necessity/family necessity. When all these plaintiff and defendants were already married and they were all major in age, it cannot be believed that, the defendant No.1 sold for treatment and marriages of the plaintiff and defendants. If that was really so, the signatures of the parties could have been taken in the sale deed of defendant No.11, but the defendant No.1 has sold the property to deprive the plaintiff and other defendants of their legitimate cultivation rights. The copy of the said sale deed produced at Ex.P.14 also marked as Ex.D.12, shows no signatures of plaintiff and other defendants on the said sale deed. Hence, the sale deed of defendants No.11 and defendant No.12, produced at

Ex.P.15 cannot bind the cultivation rights of plaintiff and other defendants. No doubt the suit schedule landed properties are government properties/public properties, but the plaintiff and the defendants have cultivation rights and they cannot be snatched away. Hence, the court finds that, the sale deed of defendants No.11 and 12 does not bind cultivation rights of plaintiff and other defendants. The trial court has not looked into the ownership aspect i.e., patta column and granted 1/14th share as ownership in suit schedule properties. This court finds that, the same is improper. Per contra, the court finds that, the plaintiff and other defendants are entitled for 1/7th cultivation rights in said suit schedule Sy.No.14/2A and Sy.No.15/2A properties, and their names be restored in the revenue records, as defendant No.10's half share i.e., Sy.No.14/2B and Sy.No.15/2B is not the real dispute.

19. Learned Advocate for respondents No.1, 3, 6 and 9 have relied upon following decisions (1) HCR 2025

Kant.518 between Saraswati and others Vs Totamma @ Lakshmibai and another, (2) HCR 2026 Kant.396 between Saroja (Smt) Vs Smt.Rajeshwari and others., (3) RSA No.187/2023 between Himachal Pradesh State Electricity Board Limited Vs Raj Kumar and another., and (4) 2014 SAR (Civil) 1159 between Rajni Rani and another Vs Khairati Lal and others. The said decisions with respect to no registered released deed, etc., is applicable over cultivation rights only.

20. As regards VPC No.104A and 104B. 2 documents are produced which are demand register extract marked as Ex.P.8 and 9. They are of the year 1993-94. The suit is filed on 26.08.2008, and demand register extract is of 14 years back. The plaintiff has to prove the existence of the property by producing the documents as on the date of suit. Hence, by the said Ex.P.8 and 9 it cannot be concluded that, VPC No.104A and 104B were in existence at the time of filing of the suit. Ex.P.8 i.e., VPC No.104A shows the name of defendant No.1, and VPC No.104B

i.e., Ex.P.9 shows the name of defendant No.10 in 1993-94. Hence, the claim of the plaintiff and defendants with respect to these 2 house properties fails. The trial court has not looked into that aspect and has just granted the share. The trial court has committed error with respect to the said 2 properties. The court finds that, the trial court has rightly answered the issues No.3 and 4 in the negative, and this court also answers the said issues No.3 and 4 in the negative. The trial court has wrongly answered issues No.1 and 2 in the affirmative, and this court answers the same as partly in the affirmative. The trial court has answered additional issues No.1 to 3 in the affirmative, and this court answers the said additional issues No.1 to 3 as partly in the affirmative, as only cultivation rights are granted. The trial court has rightly answered additional issue No.4 in the negative, and this court also answers additional issue No.4 in the negative. The decision reported in **RFA No.4043/2013 dated 07.11.2025** between **Bheemappa through Lrs. VS**

Basobi and others that, cultivation name, can be entered in cultivator's column of record of rights is applicable herein. Also U/O.XLI Rule 33 of C.P.C., the court has to pass the decree as it ought to be, and the decision with respect to same reported in **AIR 2012 (NOC) 268 (Mad)**, is also applicable. Accordingly, points No.1, 2 and 4 herein, are answered as **Partly in the Affirmative**, and points No.3 in the **Negative**.

21. **Point No.5:-** For the aforesaid reasons, this court proceeds to pass the following.

O R D E R

The appeal filed by defendant No.11/appellant U/Sec.96 R/W O.XLI Rule 1 of C.P.C., is hereby partly allowed.

The suit of the plaintiff is hereby partly decreed.

The counter claim of defendants No.3 to 5 together and defendant No.8 is hereby partly allowed.

It is hereby declared that, the plaintiff and defendants No.2, 3 to 5 together, and defendants No.7 to 9 have 1/7th each cultivation rights in suit schedule Sy.No.14/2A and Sy.No.15/2A, and the revenue authorities shall mutate their names accordingly in the record of rights of the said 2 lands of Karagnur village, Muddebihal in cultivation column.

The registered sale deeds of defendants No.11 and 12 with respect to cultivation rights only, is binding upon share of defendant No.1 only.

Parties shall bear their own costs in suit and appeal.

IA's pending if any stand disposed.

The judgment and decree dated 15.03.2023 passed by Learned Civil Judge and JMFC., Muddebihal in

O.S.No.184/2008 stands hereby modified.

Draw decree accordingly.

Office is directed to send trial court records to concerned court.

(Dictated to the Stenographer, transcribed and computerized by her, corrected by me and then pronounced in the open Court, on this the **03rd day of July, 2026**)

(Sachin Kaushik R.N)
V Additional District and Sessions
Judge, Vijayapura, To Sit at
Muddebihal.

ANNEXURES IN O.S.NO.184/2008

WITNESSES EXAMINED ON BEHALF OF THE PLAINTIFF:

PW1 : Sharada Angadi

DOCUMENTS MARKED ON BEHALF OF THE PLAINTIFF:

Ex.P.1 to 7: RTC extracts
Ex.P.8 and 9: Form No.15
Ex.P10 : C/c of the M.E.1635
Ex.P11 to 13: C/c of the MR.21/2003-04, 27/2003-04
and
56/2004-05
Ex.P14 & 15: Copy of Registered sale deeds
Ex.P16 & 17: RTC extracts
Ex.P18 & 19: Mutation registered extracts

WITNESSES EXAMINED ON BEHALF OF THE DEFENDANT:

DW1 : Basavaraj Hipparagi

DW2 : Virupakh Pattanashetti
DW3 : Neelagangavva Hulagabal
DW4 : Manjunath Hayyal
DW5 : Siddanagouda Biradar
DW6 : Hanamantray Navadagi
DW7 : Nanagouda Navadagi

DOCUMENTS MARKED ON BEHALF OF THE DEFENDANT:

Ex.D1 to 5: RTC extracts
Ex.D6 : Form No.15
Ex.D7 to 10: Mutation extracts
Ex.D11 : Death certificate
Ex.D12 : Purchase deed
Ex.D12(a): Signature of DW6
Ex.D13 : Mutation extracts
Ex.D14 to 20: RTC extracts

V Additional District and Sessions
Judge, Vijayapura, To Sit at
Muddebihal.