

KAYG030011692013



**IN THE COURT OF PRL CIVIL JUDGE AND JMFC., AT YADGIRI**

**PRESENT**

**Sri. Arun Chougule,  
B.A.LL.B.[Hons.]**

**Prl. Civil Judge and J.M.F.C,**

**Dated this the 10<sup>th</sup> day of October-2025**

**ORIGINAL SUIT NO.251/2013**

<b>PLAINTIFF/S:-</b>	Hanamantha S/o Banya Rathod, aged about: 31 years, Occ: Agriculture & Business, R/o Mundergi village, Tq: & Dist: Yadgiri.
	<b>(By Sri. B.B.K Advocate)</b>
<b>-V/S-</b>	
<b><u>DEFENDANT/S:-</u></b>	<p>1. Banya S/o Ganya Rathod, (Since dead represented by his LRs)</p> <p>1(a). Bhimabai W/o late Banya Rathod, Age: 65 years, Occ:House hold, R/o: Ashok Nagar Tanda, Mundergi, Tq &amp; Dist: Yadgiri.</p> <p>2. Somya S/o Banya, Age: 37 years, Occ: Agriculture, R/o: Village Mundergi, Tq &amp; Dist: Yadgiri.</p> <p>3.Devibai W/o Gangaram (D/o Banya Rathod), Age:35 years, Occ: House wife, R/o: Mudnal Tanda, Tq &amp; Dist: Yadgiri.</p>

KAYG030011692013



	<p>4. Vijibai W/o Gopal Chavan (D/o Banya Rathod), Age:31 years, Occ:House wife,</p> <p>5. Sonibai W/o Jayaram Chavan (D/o Banya Rathod), Age: 29 years Occ: House wife,</p> <p>6.Shantibai W/o Somu Chavan (D/o Banya Rathod), Age: 27 years, Occ: House wife,</p> <p>7. Gowribai W/o Lachya Jadhav (D/o Banya Rathod), Age: 25 years, Occ:Nil, R/o:Village Haligera, Tq &amp; Dist: Yadgiri.</p> <p>8. Mannu S/o Banya Rathod, Age: 19 years, Occ: Agriculture, R/o: Village Mundergi (Ashok Nagar), Tq &amp; Dist: Yadgiri.</p> <p>9. Khaja Bi W/o Mohammed Gouse, Age: 35 years, Occ: Agriculture, R/o: Yadgiri, now R/o Masar Galli, Tq: Shahapur, Dist: Yadgiri.</p> <p>10. G.Nagabhushanam S/o G.Chanchaiah, Age: 27 years, Occ:Tailor,</p> <p>11. Mohammed Ibrahim S/o Abdul Khader Gogi, Age: 65 years, Occ: Agriculture &amp; Business, R/o: Chakkarkatta area, Yadgiri, Tq &amp; Dist: Yadgiri.</p>
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KAYG030011692013



	<p>12. Subhash S/o Raghunathrao Dhadange, Age: 68 years, Occ: Agriculture &amp; Business, R/o: Yadgiri, Tq &amp; Dist: Yadgiri.</p> <p>13. Vithal Rao S/o Raghunathrao Dhadange, Age: 65 years, Occ: Agriculture &amp; Business R/o:Near Veerashaiva Kalyana Mantap, Yadgiri, Tq &amp; Dist:Yadgiri.</p> <p>14. Manik Rao S/o Raghunath Rao Dhadange, Age: 65 years, Occ: Agriculture, R/o:Near Veerashaiva Kalyana Mantap, Yadgiri, Tq &amp; Dist: Yadgiri.</p> <p>15. Dayanand S/o Raghunath Rao Dhadange, Age: 61 years, Occ: Agriculture, R/o:Near Veerashaiva Kalyana Mantap, Yadgiri, Tq &amp; Dist: Yadgiri.</p> <p>16. Dayanand S/o Raghunath Rao Dhandange, Age: 55 years, Occ:Agriculture, R/o:Near Veerashaiva Kalyana Mantap, Yadgiri, Tq &amp; Dist: Yadgiri.</p> <p>17. Chandrakant s/o Raghunathrao Dhadange, Age: 53 years, Occ: Agriculture &amp; Business, R/o: Yadgiri, Tq &amp; Dist: Yadgiri.</p>
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KAYG030011692013



	18. Rajkumar S/o Raghunathrao Dhadange, Age: 51 years, Occ: Agriculturist & Business, R/o: Yadgiri, Tq & Dist: Yadgiri.
	<b>(D-1(a) , 2 to 8 are Placed <i>ex parte</i>)</b> <b>(D-10 &amp; 11 By Shri.N.R.K Advocate)</b> <b>(D-12 to 18 By Shri.I.M.R Advocate)</b>

**IN I.A.No.6**

<b><u>Applicants/ defendants No.10 &amp; 11 :</u></b>	G.Nagabushanam S/o G.Chanchaiah and Another,
<b><u>-V/S-</u></b>	
<b><u>Opponents/ plaintiff :</u></b>	Hanmantha S/o Banya Rathod,

i.	<i>Provision under which the application is filed</i>	Order 6 Rule 17 Of CPC.
ii.	<i>Relief sought for</i>	<i>Permission to Amend the Written Statement</i>
iii	<i>The date on which the application is filed</i>	12-09-2025
iv.	<i>Number of the application</i>	IA No.6
v.	<i>The date on which the objections are filed by different opponents</i>	25.09.2025
vi.	<i>The date on which the orders were passed on the said application.</i>	10-10-2025

KAYG030011692013



**ORDER ON I.A.NO.6 FILED BY THE DEFENDANTS  
NO.10 AND 11 UNDER ORDER 6 RULE 17 OF CPC.**

The defendants No.10 and 11 have filed the present application under Order 6 Rule 17 of CPC seeking permission to amend the written statement. The proposed amendment is as under:

**A new para is to added at further pleas as under,**

**B) That the suit item No.2 Sy.No.505/3 measuring 04 acre 37 guntas situated at Mundargi is the self-acquired property of late defendant No.1 Banya, which he has purchased from its previous owner by name Mallappa S/o Yallappa through a registered sale deed for a consideration of Rs.28,000/- and got mutated his name in the revenue records vide MR No.186/1996-97, dated-25.07.1997. As such the suit item No.2 is the self-acquired property of defendant No.1 Banya and has sold in favor of defendant No.9, as such the plaintiffs have no right of share in the suit land.**

**Further the suit in present manner without including other family properties i.e. land Sy.No.171/Aa measuring 02 acre 29 guntas, situated at Ashok Nagar(Mundergi), which was standing in the name of Banya, Thakrya, and land Sy.No.610/611/Uu measuring 00 acre 04 guntas, situated at Ashok Nagar(Mundergi), which was standing in the name of plaintiff, and H.No.2-50 situated at Ashok Nagar(Mundergi), which was standing in the name of plaintiff, and H.No.2-14 situated at Ashok Nagar(Mundergi), which was standing in the name of defendant No.3, the suit is not maintainable.**

**C) That the suit proprieties are comes within the jurisdiction of Yadgiri city municipal council, thereby the valuation of the suit properties fetches more then a crore, as such this Court has no jurisdiction to entertain the present suit.**

**KAYG030011692013**

2. The defendant No.10 has sworn to an affidavit in support of the application stating that, plaintiff has filed the suit seeking the relief of partition and separate possession. The applicants have filed their written statement. But, some of the material information was not known to them at the time of filing the written statement. That, the defendant No.10 being a bonafide purchaser made thorough enquiry and came to know that suit item No.2 is a self-acquired property of defendant No.1 and the plaintiff has deliberately not included other family properties in the suit. As such, proposed amendment is essential for adjudication of the dispute. Hence, the defendants No.10 and 11 pray to allow the application.

3. The plaintiff has filed objections contending that the application is filed only with an intention to harass him. That, suit item No.2 is not a self-acquired property of defendant No.1, it was purchased out of joint family funds. That, house properties mentioned in the application are purchased by defendant No.3 and the land bearing Sy.No.610/611 measuring 06 guntas was purchased by the plaintiff from one Chandru S/o Kamyam Lamani. That, the plaintiff had filed suit against the said Chandru in OS No.67/2010 on the file of this Court and the

KAYG030011692013



same was compromised. On these grounds, the plaintiff prays to dismiss the application.

4. I have heard arguments of learned counsel for both parties and perused the records.

5. After hearing the arguments and perusal of pleading and records, the following points arise for my consideration.

**1. Whether the proposed amendment is necessary for the purpose of determining the real questions in controversy between the parties?**

**2. What order?**

6. My findings on the above points are as under;

**Point No.1 : Partly in the Affirmative**

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

**REASONS**

7. **POINT NO.1:** The plaintiff has filed the present suit seeking the relief of partition and separate possession claiming 1/9th share in the suit properties.

8. The case of the plaintiff is that one Ganya Rathod was the father of defendant No.1 and the grandfather of plaintiff and

**KAYG030011692013**

defendants No.2 to 8. He died somewhere in the year 1990 leaving behind 3 sons by names Banya (defendant No.1), Thavarya and Shankar. The said 3 sons got divided properties left behind by their father Ganya. That, the suit properties were inherited by the defendant No.1 from his father. It is stated that the plaintiff and defendants No.1 to 8 are in joint possession and enjoyment of the suit properties. It is alleged that recently the defendant No.10 trespassed in the suit land claiming to have purchased property from defendant No.9. Thereafter, plaintiff verified the revenue records and came to know that names of some other persons were appearing in the RTC without any basis and there were 2 sale deeds one in favour of defendant No.11 and another in favour of mother of defendants No.12 to 18 by name Chandamma. That, the defendant No.1 did not have exclusive right nor there was any family necessity for alienating the suit property. The suit lands are still in possession of the plaintiff. As such, the sale deeds are not binding upon the plaintiff. It is alleged that, taking undue advantage of sale deeds, defendants No.10 to 18 are trespassing over the suit property and threatening to dispossess plaintiff therefrom. Hence, the plaintiff was constrained to file the present suit.

**KAYG030011692013**

9. Defendants No.1 to 9 remained *ex parte*.

10. Defendants No.10 and 11 though appeared through their counsel on receipt of suit summons, they did not file their written statement.

11. Defendants No.12 to 18 having appeared through their counsel in response to suit summons filed written statement denying the case of the plaintiff contending that father of defendant No.1 by name Ganya Rathod has died prior to 1990 and after his death, defendant No.1 and his brothers by names Thavarya and Shankar had got the suit properties equally divided among them. That, though the plaintiff and defendants No.1 to 8 had undivided share in the suit properties, the defendant No.1 during the minority of plaintiff and defendant No.2 to 8 has sold the suit property under registered sale deed dated 26.09.1997 for family necessity and to repay the loans borrowed for welfare of the children. On the date of sale deed, the possession was also delivered to the purchasers. The defendants No.12 to 18 being the legal representatives of the purchasers are in possession and enjoyment of the suit property. That, the present suit has been filed after lapse of 16 years. That, the plaintiff and defendants No.1 to 8 colluding

**KAYG030011692013**

with each other have filed the present suit as there is hike in the market value of the properties. On these grounds, defendants No.12 to 18 sought to dismiss the suit with costs.

12. Thereafter, this Court having regard to pleadings of the parties framed necessary issues and posted the matter for evidence of the parties. However, as the plaintiff did not lead his evidence inspite of giving sufficient time and opportunities, the suit was dismissed for non-prosecution by an order dated 16.09.2016.

13. Thereafter, the plaintiff filed Civil.Misc No.20/2016, which came to be allowed on 02.08.2024 and the suit was restore to its original stage. Thereafter, defendant No.1 came to be a reported dead. The plaintiff filed a memo stating that defendants No.2 to 8 being the children of defendant No.1 are already on record and brought on record wife of defendant No.1 as defendant No.1(a). Thereafter, defendants No.10 and 11 filed IA No.5 under Section 151 of CPC along with their written statement, which was allowed and the written statement was taken on record. Thereafter, additional issue regarding bar of limitation was framed and matter was posted for evidence of the

**KAYG030011692013**

plaintiff. Accordingly, the plaintiff filed affidavit in lieu of his chief-examination and got marked Ex.P-1 to P-15 documents. When the matter was posted for cross-examination of Pw.1, the defendant No.10 and 11 filed the present application seeking permission to amend the written statement.

14. I have perused the entire material on record. The plaintiff is seeking the relief of partition and separate possession in respect of suit lands bearing Sy.Nos.128 measuring 04 guntas, 505/3 measuring 04 acres 37 guntas and 610-611/A measuring 01 acre 22 guntas and house bearing panchayath No.1-45 all situated at Mundergi village of Yadgiri Taluk and District. By way of proposed amendment, the defendants No.10 and 11 are intending to bring on record pleadings in their written statement to the effect that suit item No.2 land bearing Sy.No.505/3 measuring 04 acres 37 guntas is a self-acquired property of defendant No.1 who has purchased the same from its previous owner Mallappa S/o Yallappa under a registered sale deed dated 25.07.1997 and he has sold the same in favour of defendant No.9. The defendants No.10 and 11 are further intending to contend that lands bearing Sy.Nos.171/Aa measuring 02 acres 29 guntas standing in the name of

**KAYG030011692013**

defendant No.1 and Takrya, Sy.No.610-611/Uu measuring 04 guntas standing in the name of the plaintiff, House No.2-50 standing in the name of plaintiff and house No.2-14 standing in the name of defendant No.3 all situated at Ashok Nagar (Mundergi) are also the family properties of plaintiff and defendants No.2 to 8 and the suit is bad for non-inclusion of said family properties. The defendant No.10 and 11 are further intending to contend that the suit properties are situated within the jurisdiction CMC Yadgiri and they are worth more than Rs.1 Crore, therefore, this Court has no pecuniary jurisdiction to entertain the present suit.

15. This Court is of the opinion that, proposed amendment, insofar as contentions that suit item No.2 is a self-acquired property of defendant No.1 and non-inclusion of other family properties are concerned, is relevant to decide the case on hand. Though the plaintiff has filed his chief-examination affidavit, his cross-examination has not yet commenced. The claim of the plaintiff that suit item No.2 was purchased out of joint family funds and house property is self-acquired property of defendant No.3 and land Sy.No.610/611 is his self-acquired property are to be considered at the trial. This Court at this

KAYG030011692013



stage cannot go into the merits of proposed amendment. However, this Court is of the opinion that, the proposed amendment, insofar as contention that this Court has no pecuniary jurisdiction to try the suit is concerned, cannot be allowed at this stage since the same ought to have been taken up in the original written statement in view of provisions of Section 11(2) of the Karnataka Court Fees and Suits Valuation Act. As the plaintiff has already filed his chief-examination affidavit on all the issues, the defendants at this stage cannot be permitted to raise contentions regarding suit valuation and payment of court fee. Hence, this Court is of the opinion that, the application deserves to be partly allowed on costs. Accordingly, point No.1 is answered partly in the Affirmative.

16. **POINT NO.2:** In view of the above discussion, the following;

**ORDER**

IA.No.6 filed by the defendants No.10 and 11 under Order 6 Rule 17 of CPC is hereby partly allowed on costs of Rs.200/- payable to plaintiff by defendants No.10 and 11.

**KAYG030011692013**

The defendants No.10 and 11 are permitted to amend the written statement to insert para No.B of proposed amendment.

The application insofar as para No.C of proposed amendment is concerned is hereby dismissed.

Call on: 15.10.2025.

(Dictated to the stenographer, transcribed by him, transcript corrected by me and then pronounced on this the **10<sup>th</sup> day of October, 2025.**)

**(ARUN CHOUGULE)**  
**PRL.CIVIL JUDGE & JMFC,**  
**YADGIRI.**