



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,
AT: SHORAPUR

Dated this the 01st day of December 2023

Present : **SRI.MALLIKARJUN ISHWARAPPA KAMATAGI.,**

B.A.. LL.M.,

Senior Civil Judge & JMFC, Shorapur.

O.S.No.66/2023

- PLAINTIFFS:**
1. Nagamma W/o Malkangouda Police Patil,
Age: 78 years, Occ: House hold,
R/o Yadiyapur, Tq: Hunsagi, Dis: Yadgiri.
 2. Neelamma W/o Prabhugouda Police Patil,
Age: 54 years, Occ: House hold,
R/o Benakanhalli, Tq: Hunsagi, Dis: Yadgiri.
 3. Boramma W/o Bhimangouda Mali Patil,
Age: 48 years, Occ: House hold,
R/o Rabbanahalli, now residing at
Yadiyapur, Tq: Hunsagi, Dis: Yadgiri.

(By Sri. NSP., Advocate)

V/s

DEFENDANT : Nanagouda S/o Malkangouda Police Patil,
Age: 58 years, Occ: Agri,
R/o Yadiyapur, Tq: Hunsagi, Dist: Yadgiri.

(Ex-parte)

Date of institution of the suit.	30.03.2023
Nature of the suit	Partition and separate Possession



Date of the commencement of recording evidence	30.08.2023		
Date on which the Judgment was pronounced	01.12.2023		
Total duration	Years 00	Months 08	Days 01

(MALLIKARJUN ISHWARAPPA KAMATAGI)

Senior Civil Judge & JMFC
Shorapur.

JUDGMENT

Plaintiffs filed the suit against the defendant for partition and separate possession, cost and other reliefs.

2. Brief facts of the plaintiff's case is as under:

The land Sy.No.91/1 measuring 05 acre 18 guntas situated at Yadiyapur village of Hunsagi Taluk and land Sy.No.112 measuring 03 acre 06 gunta and land Sy.No.93 measuring 04-00 acre out of 27 acres 01 gunta all are situated at Yadiyapur village of Hunsagi Taluk are the suit properties. The plaintiff No.2 and 3 and defendant are sisters and brother and plaintiff No.1 is their mother. The plaintiffs and defendant are Hindu undivided joint family members. The suit schedule properties are ancestral and joint family properties of the plaintiffs and defendant. The plaintiffs are having 3/4th share in the suit properties. After the



death of father of the defendant he got mutated his name only in the revenue records of the suit properties but the plaintiffs are also having their share in the suit schedule properties. Hence filed the suit.

3. After service of summons the defendant neither himself nor through his counsel appeared before the court, hence place of defendant ex-parte.

4. Plaintiff No.3 herself examined as PW1 and got marked 07 documents as Ex.P1 to P7 closed her side.

5. Heard the argument.

6. Upon hearing the argument and perusal of the material placed on record the following points arise for my consideration.

POINTS

1. Whether plaintiffs prove that themselves and defendant are Hindu undivided joint family members and suit schedule properties are ancestral and joint family properties?
2. Whether plaintiffs are entitled the share?
3. What order or decree?
- 7.** My findings to the above points are as under:-



point No.1: In the Affirmative

point No.2: In the Affirmative

point No.3: As for final order
for the following.

REASONS

8. POINT No.1:- PW1 in her affidavit in lieu of examination-in-chief by reiterated the facts of the plaint once again. As per genealogical tree pleaded in para No.3 of the plaint one Malkangouda was a father of plaintiff No.2 and 3 and defendant and he had died leaving behind the plaintiffs and defendant as his legal heirs. The plaintiff No.1 is wife of Malkangouda and also mother of plaintiff No.2 and 3 and defendant. Therefore the said relationship has not disputed by the defendant because even after service of summons his placed ex-parte. Therefore the court has believed the relationship on the basis of the evidence of PW1 as well as the plaint averments.

9. Ex.P5 to 7 are the RTCs of the suit land for the year 1988-89 when the father of the defendant by name Malkangouda had died thereafter the defendant only got mutated his name as per mutation No.28 which is marked as Ex.P4. Looking into these Ex.P1 to 7 it is very much clear that the suit schedule properties are originally belongs to father of the plaintiff No.2 and 3 and



defendant. But after his death the defendant alone has gave a varadi and got mutated his name. Therefore the suit schedule properties are ancestral and joint family properties of the plaintiffs and defendant. Ex.P1 to 3 are the running RTCs of the suit properties which shown the name of defendant in column No.9 and 12 of the RTC. Hence the mutation register has not created any title in favour of defendant even he has entered his name in the suit schedule properties. Hence my answer on **point No.1 in the Affirmative.**

10. POINT NO.2:- The plaintiffs are claiming 3/4th share in the suit schedule properties. As per family pedigree the plaintiff No.1 is mother and plaintiff No.2 and 3 and defendant are their daughters and son. As per Sec.8 of Hindu Succession Act, 1956 and also Sec.6 of Hindu Succession (Amended) Act, 2005 the daughters are co-perceners and they are entitled equal share with a son. On that ratio the plaintiffs and defendant are entitled equal share in the suit schedule properties. Each party is entitled 1/4th share in the suit schedule properties. Hence my answer on **point No.2 in the Affirmative.**



11. POINT NO.3:- For going discussion and observation, I pass the following:-

ORDER

The suit of the plaintiffs is hereby decreed with cost.

The plaintiffs are entitled 1/4th share each in the suit schedule properties by meets and bunds.

The defendant is also entitled 1/4th share in the suit schedule properties.

Draw preliminary decree accordingly.

(Dictated to the Stenographer transcription computerized, printout taken, corrected and then pronounced by me in the open court today on this 01st day of December 2023)

(MALLIKARJUN ISHWARAPPA KAMATAGI)

Senior Civil Judge & JMFC,
Shorapur

ANNEXURE

List of witness examined for plaintiffs:

PW1 : Boramma W/o Bhimangouda Mali Patil

List of documents exhibited for plaintiffs:

Ex.P1 to 3 : RTC extracts



Ex.P4 : Mutation register No.28

Ex.P5 to 7 : RTC extracts

List of witnesses examined for the defendant:

-Nil-

List of documents exhibited for the defendant:

-Nil-

(MALLIKARJUN ISHWARAPPA KAMATAGI)

Senior Civil Judge & JMFC,
Shorapur.