



**IN THE COURT OF THE ADDL. SENIOR CIVIL
JUDGE & J.M.F.C., KUNIGAL.**

DATED THIS THE 16th DAY OF DECEMBER 2023

PRESENT:

Smt. Gangavva Ayatti, B.A. LL.B., (Hon's)
Addl. Senior Civil Judge & J.M.F.C.,
Kunigal.

O.S.No.70/2014

PLAINTIFF :

Smt.Parvathamma,
W/o Venkateshaiah.G.S,
D/o Late K.R.Huchanna,
Aged about 56 years,
Residing at Kothagere Hobli,
Kunigal Taluk, Tumakuru District.

(By Sri:G.R.K., Adv)

V/s

Defendant/s :

1. Smt.Yellamma,
W/o. Late K.H.Revanna,
Aged about 65 years.
2. Smt.Lakshamma,
D/o Late K.H.Revanna,
W/o Revanna,
Aged about 59 years.
3. Smt.Padmamma,
W/o Late. K.H.Krishnappa,
Aged about 58 years.
4. Sri.Revanna,
S/o Late K.H.Krishnappa,
Aged about 45 years.



5. Smt.Sujatha,
W/o Manjanna,
Aged about 42 years.
6. Smt.Geetha,
W/o Nagasraja,
Aged about 40 years,
D/o Late K.H.Krishnappa,
(legal heirs of K.H.Krishnappa)
Sl.No.1 to 6 are residing at
Byragi Mutt, Uppara Beedhi,
Kunigal Town.
7. Smt.Gangamma,
W/o Late K.H.Shivashankar,
Aged about 57 years,
Byragi Mutt, Uppara Beedhi,
Kunigal Town.
8. Smt.Annapoorna,
W/o Chandrakanth,
D/o Late K.H.Shivashankar,
Aged about 38 years.
9. Smt.Rekha,
W/o Ravi,
D/o Late K.H.Shivashankar,
Aged about 56 years.
10. Smt.Pramila,
W/o Raghukumar,
D/o Late K.H.Shivashankar,
Aged about 34 years.
11. Smt.Mala,
W/o Sri.Govindaiah,
D/o Late K.H.Shivashankar,
Aged about 32 years,
(Sl.No.7 to 11 are legal heirs of



Late K.H.Shivashankar)

12. Sri.K.H.Seshanna,
S/o Laate K.R Huchanna,
Aged about 38 years.
13. Smt.Meenakshamma,
W/o K.H.Seshanna,
Aged about 55 years.
14. Sri.K.H.Chandraiah,
S/o Late K.R.Huchanna,
Aged about 61 years,
Died
- 14(a) K.C.Siddesh,
S/o Late K.H.Chandraiah,
Aged about 41 years.
- 14(b) Smt.Sheela.K.C,
D/o Late K.H.Chandraiah,
Aged about 36 years,
Both are residing at
K.R.S. Agrahara, 1st Floor above
Federal Bank, Kunigal Town.
15. Smt.Rukmini,
W/o Sannegowda,
D/o Late Puttayellamma,
Aged about 55 years.
16. Smt.Mahalakshmi,
W/o Panduranga,
D/o Late Puttayellamma,
Aged about 50 years.
17. Sri.Ramanna,
S/o Ramegowda &
Late Puttayellamma,



Aged about 53 years.
Talakadu, T.N.Pura Taluk.

18. Sri.Narayana,
S/o Ramegowda &
Late Puttayellamma,
Aged about 49 years.
Hale Beedhi, Talakadu,
T.N.Pura Taluk.
19. Smt.Radhamma,
W/o Sundara &
D/o Late Puttayellamma,
Sl.No.15 to 19 are legal heirs of
Late Puttayellamma)
Hale Beedhi, Talakadu,
T.N.Pura Taluk.
20. Sri.Ranganatha,
S/o Thimmaiah & Chinnamma,
Aged about 58 years.
R/at Haranahalli,
Near Kadamanna Temple,
Arasikere Taluk, Hassan District.
21. Smt.Lalithamma,
W/o Narayana &
D/o Chinnamma,
Aged about 54 years.
R/at Lakshmi Puram,
Near Chunchanagiri Higher
Primary School, Arasikere Taluk,
Hassan District.
22. Smt.Chandramma,
W/o Nanjundappa,
D/o Chinnamma,
Aged about 45 years.
R/at Goolur, Goolur Post,



Tumakuru Taluk & District.

23. Smt.R.Nagarathna,
W/o Shankarappa,
D/o Chinnamma,
Aged about 46 years.
R/at No.9/3, 9th Cross,
3rd Main Road, Adarshnagar,
Chamarajpet, Bangalore-560018.
24. Sri.Chandrakantha,
S/o Thimmaiah & Chennamma,
Byaragi Mutt, Upparabeedhi,
Kunigal Town.
25. Smt.V.S.Sudha,
W/o B.C.Jagadeesh,
No.1642, Jodi KRS Agrahara,
Kunigal Town.
26. Sri.H.C.Seenappa,
S/o Late Chgennegowda,
No.1643, Jodi KRS Agrahara,
Kunigal Town.
27. Sri.C.C.Shivanna,
S/o Channammallaiah,
No.1644, Jodi KRS Agrahara,
Kunigal Town.
28. Sri.K.C.Umesh,
S/o Channigaraya Setty,
No.1645, Jodi KRS Agrahara,
Kunigal Town.
29. Smt.V.C.Sumathi,
W/o B.J.Narasimha Murthy,
No.1646, Jodi KRS Agrahara,
Kunigal Town.



30. Smt.Bhagyamma,
W/o H.C.Srinivasa,
No.1649, Jodi KRS Agrahara,
Kunigal Town.
31. Sri.H.S.Ragu,
S/o Late K.H.Srinivasa Murthy,
No.1648, Jodi KRS Agrahara,
Kunigal Town.
32. Sri.S.K.Vishwa Mohan,
S/o Kempegowda,
No.1649, Jodi KRS Agrahara,
Kunigal Town.
33. Sri.K.Sudha,
W/o S.Prakash,
No.1650, Jodi KRS Agrahara,
Kunigal Town.
34. Sri.R.K.Puttarama,
S/o Kempalakkaiah,
No.1652, Jodi KRS Agrahara,
Kunigal Town.
35. B.R.Sreedhara,
S/o Ramachandra,
No.1653, Jodi KRS Agrahara,
Kunigal Town.
36. Smt.Uma Devi,
W/o K.M.Rmesha,
No.1653, Jodi KRS Agrahara,
Kunigal Town.
37. Smt.M.S.Parvathamma,
W/o K.H.Chandraiah,
No.1657 RCC House,
Jodi KRS Agrahara,



Kunigal Town.

38. Smt.B.Nagamma,
W/o Narayana,
No.1662, Jodi KRS Agrahara,
Kunigal Town.
39. Smt.Shashikala,
W/o Anjanappa,
No.1663, Jodi KRS Agrahara,
Kunigal Town.
40. Smt.Padma,
W/o Siddagangaiah,
No.1665, Jodi KRS Agrahara,
Kunigal Town.
41. Sri.Siddalingaiah,
S/o Akki Nanjaiah,
No.1666, Jodi KRS Agrahara,
Kunigal Town.
42. Sri.N.Nagegowda,
S/o N.Govindappa,
No.1668, Jodi KRS Agrahara,
Kunigal Town.
43. Sri.Ramesh,
S/o Channarayappa,
No.1670, Jodi KRS Agrahara,
Kunigal Town.
44. Sri.G.K.Nagesh,
S/o Kote Narasimhaiah,
No.1682, Jodi KRS Agrahara,
Kunigal Town.
45. Smt.H.S.Padmavathamma,
W/o K.C.Krishnaraj,
Kote, Kunigal.



46. Thulasi,
D/o K.H.Sheshanna,
Aged about 17 years,
Represented by her
Natural Guardian Mother
Smt.Meenakshamma, i.e.
Defendant No.13, R/at
Byragi Mutt Upper Beedhi,
Kunigal Town, Tumakuru District.

[D1 to D14 by Sri.K.N.S., Adv, D14(a)(b) by
Sri.K.N.S.,Adv, D25 to D27, D31, D37 to D43
by Sri.C.S.C., Adv, D45 by Sri.M.G., Adv, D15
to 24, 28 to 30, 32 to 36, 44 -Exparte]

Date of institution of suit :	05.12.2014		
Nature of suit :	Partition		
Date of the commencement of recording evidence:	16.04.2018.		
Date on which the Judgment was pronounced :	16.12.2023		
Total duration :	Years	Months	Days
	09	00	11

sd/-

Addl. Senior Civil Judge and
JMFC, Kunigal.

J U D G E M E N T

The plaintiff has filed the present suit against defendants for relief of partition and separate possession of her legitimate share in the suit schedule properties by metes and bounds.

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

That the suit schedule properties are as under:

Item No.1: All the piece and parcel of the Sy.No.210 measuring 0-31 guntas inclusive of 1 gunta Kharab situated at Jodi KRS Agrahara Kasaba Hobli, Kunigal Taluk, which is bounded on East by: Siddanna & K.S.Shivanna's land, West by: Doddagangaiah & K.S.Krishnappa's land, North by: Canal, South by: Sree Krishnaswamy Temple Road.

Item No.2 : All the piece and parcel of the Sy.No.198/1 86 Sy.No.198/3 measuring 0-32 guntas situated at Jodi KRS Agrahara, Kasab Hobli, Kunigal Taluk, which is bounded on: East by: K.Seshanna 86 K.R.Huchappa land and then Yellamma land, West by Yellamma and Narayanamma's land, North by: Yellamma, Krishnaswamy Temple Road, South by: Honnamma & K. Seshanna's land.

Item No.3 : All the piece and parcel of the Sy.No.198/2 measuring 1-38 guntas inclusive of 1 gunta Kharab situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk, (residential sites formed as per the conversion order) East : by Siddagangappa's land, West by Honnamma's land, North by Sree Krishnaswamy Temple Road, South by Land of Subba Rao & NH 48. The aforesaid lands are converted for



the residential purpose and are covered by 41 sites.

Item No.4 : All the piece and parcel of the Sy.No.97/2 measuring 0-19 guntas of land situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk, which is bounded on: East by road, West by Mudalagiriappa land, North by Anjaneyaswamy Temple land, South by K.C.Krishnappa's land,

Item No.5: House bearing Sl.No.281, property No.294, measuring 11X12, $19 \frac{3}{4}$ X12, $(49+47)/2$ X19, $(51+49)/2$ X12, situated at Uppara Beedhi Byragimutt, Kunigal Town and bounded on East by Kenchamma's house, West by Road, North by Dyamappa's property, South by road.

Item No.6 : house bearing Sl.No.1323, property No.358 measuring 26 X 926 X 238626 X 13 situated at Uppara Beedhi, Byragimutt, Kunigal Town and bounded on: East by Road, West by Sunkappa's House, North by road, South by K.H.Chamaraj.

3. It is the case of the plaintiff that, one Doddarevanna is the original propositor of the family and he had four sons namely K.R.Huchanna, Periyappa, Doddayellappa and Dyavanappa. In the family partition i.e., panchayath Parikath dated 10.12.1942 among the brothers, K.R.Huchanna was allotted house properties at Uppara Beedhi, Tenginarada hatti, Kunigal Town



measuring East west-52 feet, north-south 13 feet, towards southern portion of the house and agricultural land bearing Sy.No.97/2 measuring 19 guntas. During his life time he retained house property and sold 19 guntas of wet land situated in Sy.No.97/2 at Doddakere Kunigal. The plaintiff and defendants are the legal heirs of original propositor K.R.Huchanna and the said K.R.Huchanna during his life time acquired the following properties.

- i) Sy.No.210 measuring 0-31 guntas (inclusive of 0-01 gunta Karab) situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk.
- ii) Sy.No.198/1 measuring 0-29 guntas 86 0-03 guntas of land situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.
- iii) Sy.No.198/2 measuring 1-38 guntas situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.
- iv) Sy.No.198/3 measuring 0-03 guntas situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.
- v) House bearing Sl.No.1251, property No.294, measuring 11X 12, $19 \frac{3}{4}$ X 12, $(49+47)/2$, $(51+49)/2$ X 12.
- vi) House bearing Sl.No.1323, property No.358 measuring 26 X $9\frac{1}{2}$, 26 X 23 86 26X13.

4. All the aforesaid properties are the self acquired



properties of K.R.Huchanna and he died intestate on 23.07.1974 leaving behind the plaintiff and defendants as successors. The sons of K.R.Huchanna have sold properties measuring 20 guntas of land in Sy.No.198/1. The son of K.R.Huchanna namely K.H.Shivashakar died on 11.07.1995, K.H.Krishnappa died on 06.01.2011, Puttayellamma died on 17.01.2010, Chinnamma died in the year 2008 and their Lrs were arrayed as defendants. During the life time of K.H.Krishnappa he obtained revenue entries in respect of land Sy.No.198/2, measuring 1 acre 38 guntas and thereafter he filed application before the Deputy commissioner, Tumakuru District for conversion of said land into residential sites. By virtue of order of the deputy commissioner order dated:31.10.1991 vide document No.ALN:SR:19/91-92 the land was converted and 41 sites including the park were formed. Amongst which few sites have been sold by retaining more than 80% of the sites in his possession. Like wise K.H.Sheshanna also got mutated his name to the land Sy.No.198/1 measuring 12 guntas in which 3 guntas of land have been mutated in his name and in the name of 12th defendant. The said 3 guntas of land is renumbered as 198/3 and 9 guntas of land in Sy.No.198/1 was mutated in the name of Yellamma wife of K.H.Revanna. The defendant No.1 is



not the legal heir of K.R.Huchanna both revenue entries made in favour of defendant No.1 under partition deed dated 27.08.2003 and the same is not a valid document. Land in Sy.No.210, measuring 30 guntas of land in which 15 guntas of land was numbered as 210/1 and 210/2 and the same was mutated in the name of Meenakshamma i.e., 13th defendant and she is also not the legal heir of K.H.Revanna. Similarly land in Sy.No.210, measuring 6-8 guntas and 8-8 guntas of land the revenue entries were made in the name of Padmamma i.e., defendant No.3 and the same is renumbered as Sy.No.210/3 and 210/4 and she obtained revenue entries under a partition deed dated 02.02.2012. The defendants are in possession and enjoyment of several house properties bearing property No.294, 294A and 358 which was received by the K.R.Huchanna under a family partition between his brothers. After conversion of the land in Sy.No.198/2, measuring 1 acre 37 guntas, situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk and the said sites were sold by the defendants to several purchasers and they are arrayed as defendants No.25 to 44. The defendant No.45 is the purchaser of agricultural property bearing Sy.No.97/2, measuring 19 guntas, situated at Kasaba Hobli, Kunigal Taluk. The details of the sites purchased by defendant No.25



to 44 are given as under :

Sl.No.	Name	Description of the property
1	V.S.Sudha	Sl.No.1642-Oni No.1500 (42+44)/2X50
2.	H.C.Seenappa	Sl.No.1643-Oni No.1501 (42+40)/2X50
3	C.C.Shivanna	Sl.No.1644-Oni No.1502 40X30
4	K.C.Umesh	Sl.No.1645-Oni No.1503 40X30
5	V.C.Sumathi	Sl.No.1646-Oni No.1504 (40+39)/2X30
6	Bhagyamma	Sl.No.1647-Oni No.1506 (36+37)/2X30
7	H.S.Raghu	Sl.No.1648-Oni No.1507 (36+35)/2X30
8	S.K.Vishvamohan	Sl.No.1649-Oni No.1508 (35+34)/2X40
9	K.Sudha	Sl.No.1650-Oni No.1509 34X40 Sl.No.1651-Oni No.1510 (34+32)/2X40
10	R.K.Puttaramu	Sl.No.1652-Oni No.1511 (32+30)/2X40
11	B.R.Sreedhara	Sl.No.1653-Oni No.1512 30X30
12	Umadevi	Sl.No.1653/A-Oni No.1512/A 30X10



		Sl.No.1654-Oni No.1513 30X19
13	H.S.Parvathamma	Sl.No.1657-Oni No.1516 RCC House measuring 74X51
14	B.Nagamma	Sl.No.1652-Oni No.1521 35X40
15	Shashikala	Sl.No.16663-Oni No.1505 (39+37/2X30
16	Padma	Sl.No.1665-Oni No.1523 35X40
17	Siddalingaiah	Sl.No.1666-Oni No.1455 20X39
18	N.G.Nagegowda	Sl.No.1668-Oni No.1525 35X40 Sl.No.1669-Oni No.1526 31X40
19	Ramesh	Sl.No.1670-Oni No.1527 32X40
20	G.K.Nagesh	Sl.No.1682-Oni No.1539 15X25

5. There was a registered partition deed dated 17.06.2000 between the sons of late K.R.Huchanna namely K.H.Chandraiah, K.H.Sheshaiah, K.H.Krishnappa and K.H.Shivashankar to which the plaintiff is not a party. The land in Sy.No.97/2, measuring 19 guntas, situated at Doddakere is the exclusive property that came to the share of



K.R.Huchanna and the said property has been sold by the sons of K.R.Huchanna in the year 2000 to one Padmavathamma W/o Krishnaraju. The house site bearing Sl.No.1251, property No.294 measuring (1) 11Ft.X 12 Ft, (2) $19 \frac{3}{4}$ Ft X 12 Ft, (3) $(51+49)/2$ X 12 Ft. (4) $(49+47)/2$ X 90 and house property bearing No.358 measuring 26 Ft X 9 V2 Ft, 26 Ft X 23 Ft & i6 Ft X 13 Ft, are the self acquired properties of K.R.Huchanna. The plaintiff is entitle for equal share in all the properties acquired by her father during his life time. The plaintiff in the month of October 2014 requested the defendants to effect partition for which they denied hence the plaintiff was constrained to file the present suit.

6. After service of suit summons, the defendant No.1 to 14, 25 to 27, 31, 37 to 43, 45 have appeared before the court through their counsel and filed written statement. The defendant No. 15 to 24, 28 to 30, 32 to 36, 44 have not appeared before the court. During the pendency of the suit the defendant No.14 died and his Lrs were brought on record and defendant No.46 was also brought on record.

7. The sum and substance of written statement filed by the defendants No.1 to 14 and 46 is as

**under:**

It is the contention of the defendants No.1 to 14 and defendant No.46 that, the suit schedule properties are the properties fallen to the share of defendants in view of the registered partition which took place on 17.06.2000 between wife of Late K.H.Revanna, K.H.Krishnappa, wife of K. H. Shivashanknar, K.H.Sheshanna and K.H.Chandraiah. They are in possession and enjoyment of the schedule properties by virtue of partition. In the said partition “A” schedule properties fallen to the share of K.H.Revanna, “B” schedule properties fallen to the share of K.H.Krishnappa, “C” schedule properties fallen to the share of K.H.Shivashankar, “D” schedule properties fallen to the share of K.H.Sheshanna and “E” schedule properties fallen to the share of K.H.Chandraiah and from the date of partition they are in possession and enjoyment of properties as owners as such the plaintiff has no right to claim partition. The partition is taken place prior to amendment act of 2005 and much prior to 20.12.2004 as such the suit of the plaintiff for partition is not maintainable. The plaintiffs and other female heirs are not recognized as a coparcener as on the date of partition. As such they have no locus standi to file present suit with respect to suit schedule properties. The father of plaintiff K.R.Huchanna died



on 23.07.1974 hence the plaintiff is not entitle to any reliefs as prayed in the plaint. Prior to registered partition deed dated 17.06.2000 there was a partition of family properties through panchayath palupatti dated 10.11.1980 and mutation was also effected in the names of sons of K.R.Huchanna. The sons of K.R.Huchanna have sold their properties to some third parties and they are also constructed houses and residing therein from long time. The plaintiff knowing all these facts has filed present suit with ulterior motive. Hence prayed to dismiss the suit.

8. The sum and substance of written statement filed by the defendants No.25 to 27, 29, 31, 37 to 39 and 43 is as under:

The plaintiff is not entitle for any reliefs as claimed in the suit and the prayers of the plaintiff are inconsistent and not specific and the plaintiff is not the co-parcener and the children of K.R.Huchanna have divided the properties under the registered partition deed dated 17.06.2000 hence, the plaintiff not entitle for any reliefs as per Amended Section 6 of the Hindu Succession Act. In the plaint there is no mention as to who have executed sale deeds in whose favour with respect to which property hence, she is not



entitle for any relief as prayed in the plaint. Suit item No.3 is not in existence and it was converted as residential sites and now some of purchasers have already constructed the residential houses and it is not the revenue land. Hence the description of suit item No.3 is not in existence within the said boundary. The suit of the plaintiff is not maintainable either in law or on facts and the suit of the plaintiff is barred by law of limitation and the suit of the plaintiff is hit by Section 6 of Hindu Succession Act and the suit of the plaintiff is not maintainable for non-joinder and mis-joinder of unnecessary parties and partial partition is not maintainable.

9. The defendant No.25 is the absolute owner in possession and enjoyment of written statement schedule item No.1 property purchased him under the registered sale deed dated 26.04.1996 from her lawful vendor by name K.H.Krishnappa for valuable consideration for his legal necessity. Likewise defendant No.26 purchased item No.2 property through registered sale deed dated 02.02.1998, defendant No.27 purchased item No.3 property through registered sale deed dated 09.08.2001, defendant No.29 purchased item No.4 property through registered sale deed dated 19.04.2000,



defendant No.31 purchased item No.5 property through registered sale deed dated 05.03.1998, defendant No.37 purchased item No.6 property through registered sale deed dated 17.11.1993, defendant No.38 purchased item No.7 property through registered sale deed dated 25.11.1993, defendant No.39 purchased item No.8 property through registered sale deed dated 20.02.1997 and defendant No.43 purchased item No.9 property through registered sale deed dated 25.06.2003 from K.H.Krishnappa for valuable consideration for his legal necessity. They are in possession and enjoyment of above said written statement schedule property and municipal records are standing in their name and they are bonafide purchasers.

10. As per para No.4 of the plaint the plaintiff was born prior to 1956 and she was married prior to 1994 and her father died on 23.07.1974 hence, the plaintiff is not entitle for any share in the suit schedule properties and there exist no joint family properties to allot partition and the written statement properties are absolute properties of defendant No.25 to 27, 29, 31 and 37 to 39 and 43 respectively and the suit of the plaintiff is barred by law of limitation and all those sale deeds are binding on her and some of the



defendants have also constructed RCC houses and residing in their respective houses as absolute owners.

11. The sum and substance of written statement filed by the defendants No.45 is as under:

The suit of the plaintiff is for partition without being in the possession of the property and without having any valid right is not maintainable as per law. The plaintiff has prayed to allot 1/8th share in the properties and she was born much prior to 1956 and no such right exists in respect of alleged joint family property thereby the plaintiff is not entitled for any share and the suit is liable to be dismissed. The relationship is admitted. The plaintiff was born much earlier to 1956 and age of the plaintiff is more than 68 years. Therefore she has no legal, executable right, title, interest in respect of alleged joint family property and therefore, she has no right in family properties and therefore she has no right to claim any share in any portion of the property. The defendant No.14 and son of the defendant No.14 by name K.C.Siddesha have had sold the suit schedule item No.45 on 23.05.2002 in favour of defendant No.45 under the registered sale deed for Rs.62,000-00 and handed over



the possession of the said property to the purchaser. Since from the date of purchase the defendant No.45 is in physical possession and enjoyment of the suit schedule property item No.4 as an absolute owner. The plaintiff and other children of deceased K.R.Huchanna are having knowledge of sale deed executed in favour of the defendant No.45. In spite of it the plaintiff with the ill wishers of defendant has filed false suit. Such being the stage of affairs question of claiming the right by the plaintiff and allotting the share of the plaintiff as alleged by the plaintiff in the suit schedule item No.4 which was purchased by the defendant No.45 does not arise at all. After purchasing the suit schedule item No.4 by the defendant No.45 all the revenue documents were mutated and he is paying kadayam to the government regularly he invested the huge amount to improve the suit schedule item No.4 and growing seasonal crops. Now the defendant No.45 is in peaceful possession and enjoyment of the suit schedule item No.4 out of 0.19 gunta of the land in survey number 97/2 measuring $0.9 \frac{1}{2}$ gunta land fallen to the share of defendant No.14 in the family partition and remaining $0.9 \frac{1}{2}$ gunta of land was purchased under the registered sale deed dated 17.06.2000 from one Gangamma S/o Shivashakar. So



the defendant No.14 was the absolute owner of entire 0.19 gunta of land. Hence prayed to dismiss the suit.

12. In order to prove the case, the plaintiff examined herself as PW-1 and got marked 31 documents as Ex.P-1 to Ex.P-31 documents. The defendant No.45 is examined as DW-1 and got marked Ex.D-1 to 7 and examined one witness namely K.N.Thimmaiah in support of his case as DW-2, defendant No.14 is examined as DW-3 and got marked Ex.D-8 to 88 documents, defendant No.25 is examined as DW-4 and got marked Ex.D-89 to 93 documents, defendant No.26 is examined as DW-5 and got marked Ex.D-94 to 98 documents, defendant No.27 is examined as DW-6 and got marked Ex.D-99 to 109 documents, defendant No.29 is examined as DW-7 and got marked Ex.D-110 to 115 documents, defendant No.31 is examined as DW-8 and got marked Ex.D-116 to 119 documents, defendant No.39 is examined as DW-9 and got marked Ex.D-120 to 125 documents, defendant No.43 is examined as DW-10 and got marked Ex.D-126 to 129 documents, SPA Holder of defendant No.37 is examined as DW-11 and got marked Ex.D-130 to 138 documents and defendant No.13 is examined as DW-12 and got marked Ex.D-139 and 140 documents.



13. Heard arguments and perused the materials placed on record.

14. On the above pleadings, the following Issues were framed:

ISSUES

1. Whether the plaintiff proves that the suit schedule properties are the joint family assets?
2. Whether the plaintiff further proves that sale deed executed by LRs of K.R. Huchanna in favour of defendant No.25 to 45 do not binds on her rights?
3. Whether the defendants prove that the suit is barred by limitations?
4. Whether the plaintiff is entitle for reliefs?
5. What order or decree?

ADDITIONAL ISSUE

1. Whether is there any cause of action for the plaintiff to institute the suit ?

15. My answer to the above said issues are as under:-

- | | | |
|------------|---|------------------|
| Issue No.1 | : | In the Negative; |
| Issue No.2 | : | In the Negative; |
| Issue No.3 | : | In the Negative; |



Issue No.4 : In the Negative;
Addl. Issue : In the Negative;
Issue No.5 : As per final order
for the following:-

REASONS

16. **ISSUE NO.1 AND 2** : In order to avoid repetition of facts issue No.1 & 2 have taken for common discussion.

17. In order to prove the case of the plaintiff herself entered the witness box and deposed as PW1 and got marked 31 documents. Ex.P1 is the S.P.A., Ex.P-2 to 4 are the RTC, Ex.P-5 is the MR 4/03-04, Ex.P-6 is the MR 14/02-03, Ex.P-7 is the RTC, Ex.P-8 to 12 are the Khathas, Ex.P-13 is the certified copy of Registered Partition deed dt.17.06.2000, Ex.P-14 & 15 are the certified copy of conversion orders, Ex.P-16 is the Letter from Thasildar dt.16.04.91, Ex.P-17 & 18 are the Notices, Ex.P-19 is the letter by K.H.Krishanappa, Ex.P-20 is the Letter dt.15.12.1990, Ex.P-21 to 30 are the certified copies of Tax demand register extracts and Ex.P-31 is the Genealogical Tree.

18. On the other hand the defendant No.45 is examined as DW-1 and got marked Ex.D-1 to 7 and



examined one witness namely K.N.Thimmaiah in support of his case as DW-2, defendant No.14 is examined as DW-3 and got marked Ex.D-8 to 88 documents, defendant No.25 is examined as DW-4 and got marked Ex.D-89 to 93 documents, defendant No.26 is examined as DW-5 and got marked Ex.D-94 to 98 documents, defendant No.27 is examined as DW-6 and got marked Ex.D-99 to 109 documents, defendant No.29 is examined as DW-7 and got marked Ex.D-110 to 115 documents, defendant No.31 is examined as DW-8 and got marked Ex.D-116 to 119 documents, defendant No.39 is examined as DW-9 and got marked Ex.D-120 to 125 documents, defendant No.43 is examined as DW-10 and got marked Ex.D-126 to 129 documents, SPA Holder of defendant No.37 is examined as DW-11 and got marked Ex.D-130 to 138 documents and defendant No.13 is examined as DW-12 and got marked Ex.D-139 and 140 documents. Ex.D-1 is the Sale Deed, Ex.D-2 is the RTC, Ex.D-3 is the Mutation Register, Ex.D-4 to 6 are the tax paid receipts, Ex.D-7 is the patta book, Ex.D-8 is the Death Certificate, Ex.D-9 is the School Admission extract, Ex.D-10 is the certified Copy of Sale Deed dt.29.09.46, Ex.D-11 is the conversion order, Ex.D-12 is the receipt, Ex.D-13 is the RTC, Ex.D-14 is the Endorsement, Ex.D-15 to 21



are the certified copies of demand register extracts, Ex.D-22 and 26 are the certified copy of partition Deeds dt.17.06.2000, Ex.D-23 to 24 are the certified copies of Sale deeds, Ex.D-27 is the certified copy of Sale Deed dt.13.09.2017, Ex.D-28 is the partition deed dated 10.12.1942, Ex.D-29 is the Partition deed dated 10.11.1980, Ex.D-30 to 50 are RTCs, Ex.D-51 to 66 are the Mutation Registers, Ex.D-67 to 69 are the Receipts, Ex.D-70 to 82 are Tax demand Register extracts, Ex.D-83 to 86 are Gift Deeds, Ex.D-87 is the certified Copy of Sale Deed dt.23.04.2007, Ex.D-88 is the Tax Demand Register, Ex.D-89 is the Sale Deed, Ex.D-90 is the Receipt, Ex.D-91 is the Tax Demand Register, Ex.D-92 is the Receipt, Ex.D-93 is the Demand Register Extracts, Ex.D-94 to 96 are the Receipts, Ex.D-97 is the Original Sale deed, Ex.D-98 is the Tax Demand Register, Ex.D-99 & 100 are Tax Demand Register extracts, Ex.D-101 is the Sketch, Ex.D-102 is the Assessment List, Ex.D-103-107 are the Tax paid Receipt, Ex.D-108 is the Building License, Ex.D-109 is the Sale Deed, Ex.D-110-112 are the Tax paid Receipts, Ex.D-113 is the Original Sale Deed, Ex.D-114 is the Tax Demand Register extracts, Ex.D-115 is the SAS Form, Ex.D-116 is the Original Sale Deed, Ex.D-117 is the Tax paid Receipt, Ex.D-118 and 119 are the Tax Demand Register extracts, Ex.D-



120 is the Tax paid Receipt, Ex.D-121 is the Building License, Ex.D-122 is the Original Sale Deed, Ex.D-123 is the Tax Demand Register extracts, Ex.D-124 is the Sketch, Ex.D-125 is the EC, Ex.D-126 is the Original Sale Deed, Ex.D-127 is the Tax Demand Register extracts, Ex.D-128-129 are the Tax paid Receipts, Ex.D-130 is the special power of attorney, Ex.D-131 is the Sale Deed, Ex.D-132-134 are the Tax paid Receipts, Ex.D-135 is the SAS form, Ex.D-136 is the Tax Demand Register extracts, Ex.D-137 is the Sketch, Ex.D-138 is the Sale deed dt.1.12.69, Ex.D-139 is the Adoption deed and Ex.D-140 is the Adhar Card.

19. The plaintiff by filing affidavit in lieu of examination in chief deposed that, original propositus is one Doddarevanna and he had four sons namely K.R.Huchanna, Periyappa, Doddayellappa and Dyavanappa. In the family partition i.e., panchayath Parikath dated 10.12.1942 which is marked by the defendant No.14 as per Ex.D28 which took place among the brothers, K.R.Huchanna was allotted house properties at Uppara Beedhi, Tenginamarada hatti, Kunigal Town measuring East west-52 feet, north-south 13 feet, towards southern portion of the house and agricultural land bearing Sy.No.97/2 measuring



19 guntas. During his life time he retained house property and sold 19 guntas of wet land situated in Sy.No.97/2 at Doddakere Kunigal. The plaintiff and defendants are the legal heirs of original propositus K.R.Huchanna. The said aspect is not disputed by the defendant No.1 to 24 who are the family members and the said aspect is disputed by the purchasers but, they have no locus standi to dispute the relationship. The plaintiff in order to prove the relationship got produced Ex.P31 which is the genealogical tree and perusal of the same it substantiates the case of the plaintiff with regard to relationship is concerned.

Further it is the case of the plaintiff that, her father K.R.Huchanna during his life time acquired the following properties.

- i) Sy.No.210 measuring 0-31 guntas (inclusive of 0-01 gunta Karab) situated at Jodi KRS Agrahara, Kasaba Hobli, Kunigal Taluk.
- ii) Sy.No.198/1 measuring 0-29 guntas 86 0-03 guntas of land situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.
- iii) Sy.No.198/2 measuring 1-38 guntas situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.
- iv) Sy.No.198/3 measuring 0-03 guntas situated at KRS Agrahara, Kasaba Hobli, Kunigal Taluk.
- v) House bearing Sl.No.1251, property No.294,



measuring 11X 12, 19 $\frac{3}{4}$ X 12, (49+47)/2, (51+49)/2 X 12.

vi) House bearing Sl.No.1323, property No.358 measuring 26 X 9½, 26 X 23 86 26X13.

20. To substantiate the said aspect the plaintiff has not produced any documents as to mode of acquisition of properties are concerned. It is an admitted fact that, the documents marked as per Ex.P7 to 12 are standing in the name of K.H.Krishnappa, K.H.Sheshanna, Yallamma, Padmamma, K.H.Chandraiah and K.H. Shivshankar by virtue of partition deed dated 17.06.2000 marked as per Ex.P13. The Ex.P.13, Ex.D22 and 26 are one and same document i.e., partition deed in which there is clear reference as to the suit properties are the self acquired properties and the plaintiff is not a party to said partition deed. The said aspect goes to show that, the suit properties are self acquired properties of K.R.Huchanna. Even the during the course of cross examination of DW1 to 12 it is elicited that, the suit properties are self acquired properties of the K.R.Huchanna and plaintiff is not a party to partition deed. During the course of cross of PW1 nothing worth is elicited to disprove that, the suit properties are not self acquired properties of K.R.Huchanna. Hence, it



can be gathered that, the suit schedule properties are the self acquired properties of the father of the plaintiff.

21. With regard to issue No.2 is concerned the plaintiff pleaded that the sale deeds executed in favour of defendant No.25 to 45 are not binding on the share of the plaintiff. Whereas the defendants No.25 to 27, 29, 31, 37 to 39, 43 and 45 have contended that, they are the bonafide purchasers and plaintiff has no right to seek partition in the said properties. They have also got produced Ex.D1, 87, 89, 97, 109, 113, 116, 122, 126 and 131 sale deeds to substantiate their claim and in the said sale deeds there is reference as to the son of K.R.Huchanna i.e., K.H.Krishnappa and his son have executed the sale deeds after forming sites as per the order of the Deputy Commissioner.

22. During the life time of K.H.Krishnappa he obtained revenue entries in respect of land Sy.No.198/2 measuring 1 acre 38 guntas and he filed application before the Deputy commissioner, Tumakuru District for conversion of said land into residential sites. By virtue of order of the deputy commissioner order dated:31.10.1991 vide document No.ALN:SR:19/91-92 the land was converted and 41 sites including the park



were formed. Amongst which few sites have been sold by retaining more than 80% of the sites in his possession. In order to show the same the defendant No.45 has produced the conversion order as per Ex.D11 which is the replica of Ex.P14 and 15.

23. The main contention of the defendants is that, the plaintiff was born in the year 1954 as such as per amended sec 6 of Hindu Succession Act she is not entitle for any share in the suit schedule properties. Even during the course of cross examination it is elicited that, the date of birth of the plaintiff is 13.05.1954 and in order to substantiate the said fact the defendant No.14 got produced Ex.D9 according to which the date of birth of the plaintiff is 13.05.1954. From the above document one thing is clear that, the plaintiff was born prior to coming into force of Hindu Succession Act. The defendants contended that, as per amended Sec 6 of Hindu Succession Act the plaintiff has lost her right in the suit schedule properties by virtue of partition deed dated 17.06.2000 and the sale deeds were taken place prior to 20.12.2004 hence, the sale deeds remained unaffected. If we go through the materials available on record in this background it appears that, if the property were to be ancestral property and plaintiff filed suit seeking relief under sec



6 of Hindu Succession Act claiming her right then the contention of the defendants would have been considered but, the plaintiff has filed the present suit seeking relief as per Sec 8 as the properties are the self acquired properties of the father of the plaintiff. The question that arises is whether the daughter born prior to coming into force of Hindu Succession Act 1956 is she entitle for share as a class I heir U/Sec 8 of the Act then it has to be answered in the negative. Before the introduction of Hindu Succession Act the daughter was not considered to be coparcener and in view of recent developments in law she is considered as coparcener and the plaintiff would have got share if suit filed claiming share under sec 6 of the Hindu Succession Act and properties were ancestral properties and there being no alienation or partition as disclosed therein as such the sale deeds executed by the Lrs of K.R.Huchanna are binding on her. During the course of arguments the counsel for plaintiff argued that, the plaintiff is seeking relief U/Sec 8 of Hindu Succession act since the suit properties are self acquired properties of father of the plaintiff therefore, the contention of the defendants cannot be considered and relied upon the following decisions.

2022 SAR (civil) 365

2017 (3) AKR 360



ILR 2022 KAR 5293

Laws (KAR) 2011 P 766

Eventhough the plaintiff is seeking relief U/Sec 8 of the Hindu Succession Act the above decisions are not applicable to the case in hand in view of the reasoning already stated above. Hence, Issue No.1 and 2 are answered in the negative.

24. Issue No.3: The question of limitation in a partition suits is recurring one and on reading of the plaint averments it goes to show that the filed present suit when the defendants refused allot her share in the suit properties. The counsel for plaintiff has also relied upon decision reported in ILR 2012 KAR 4129 wherein the Hon'ble High court at para No.41 and 45 held that, the cause of action in partition suit is recurring one and it comes to an end only after partition of property held in joint is severed and share to which each co-sharer is entitled to, put in possession of their respective share. Hence, the suit of the plaintiff is within period of limitation. Hence, issue No.3 is answered in the negative.

25. Addl Issue No.1: In view of the dismissal of the suit on the grounds already stated the question of considering this issue does not arise.



26. **Issue No.4:** The plaintiff is not entitle for share in view of answers to Issue No.1 and 2 in the negative. Hence, this issue is answered in the negative.

27. **Issue No.5:-** In view of findings on Issue No.1 to 4, I proceed to pass the following:

ORDER

The suit of the plaintiff is
hereby dismissed with costs.

Draw decree accordingly.

(Dictated to the stenographer directly to the computer, typed by him, corrected and then pronounced by me in the open Court on this day **16th day of December 2023**).

sd/-

(Smt.Gangavva Ayatti)

Addl. Senior Civil Judge and
JMFC, Kunigal.

:-ANNEXURE :-

LIST OF WITNESSES EXAMINED FOR PLAINTIFF

PW.1 : Puttarangaiah

LIST OF DOCUMENTS EXHIBITED FOR PLAINTIFFS

Ex.P-1	:	S.P.A.
Ex.P-2to4	:	RTC (3 in numbers)
Ex.P-5	:	MR 4/03-04
Ex.P-6	:	MR 14/02-03
Ex.P-7	:	RTC
Ex.P-8to12:	:	Copy of Khatha (5 in number)
Ex.P-13	:	Copy of Registered Partition deed



dt.17.06.2000

- Ex.P-14&15: Certified copies of conversion order
 Ex.P-16 : Letter of Thasildar dt.16.04.91
 Ex.P-17&18: Notice (2 in numbers)
 Ex.P-19 : Letter by K.H.Krishanappa,
 Ex.P-20 : Letter dt.12.12.1990
 Ex.P-21to30: Notarized Copy of Tax Register
 Ex.P-31 : Genealogical Tree

LIST OF WITNESSES EXAMINED FOR DEFENDANT

- DW.1 : H.S.Padmavathamma
 DW.2 : Thimmaiah.K.N
 DW.3 : K.H.Chandraiah
 DW.4 : K.Sudha
 DW.5 : H.C.Seenappa
 DW.6 : C.C.Shivanna
 DW.7 : V.C.Sumathi
 DW.8 : K.S.Raghu
 DW.9 : Shashikala.H
 DW.10 : Ramesh
 DW.11 : K.C.Siddesh
 DW.12 : Meenakshamma

LIST OF DOCUMENTS EXHIBITED FOR DEFENDANT

- Ex.D-1 : Sale Deed
 Ex.D-2 : RTC (18 in numbers)
 Ex.D-3 : Mutation Register
 Ex.D-4to7: Receipts
 Ex.D-8 : Death Certificate
 Ex.D-9 : Copy of School Admission
 Certificates



- Ex.D-10 : certified Copy of Sale Deed
dt.29.09.46
- Ex.D-11 : Conversion order
- Ex.D-12 : Receipts
- Ex.D-13 : RTC
- Ex.D-14 : Endorsement
- Ex.D-15to21: Assessment List (7 in number)
- Ex.D-22 : certified Copy of Sale Deed
dt.17.06.2000
- Ex.D-23 : certified Copy of Sale Deed
dt.26.05.2003
- Ex.D-24 : certified Copy of Sale Deed
dt.23.05.2002
- Ex.D-25 : certified Copy of Sale Deed
dt.31.10.2019
- Ex.D-26 : certified Copy of Sale Deed
dt.17.06.2000
- Ex.D-27 : certified Copy of Sale Deed
dt.13.09.2017
- Ex.D-28 : Partition Letter dt.10.12.1942
- Ex.D-29 : Partition Letter dt.10.11.1980
- Ex.D-30to50: RTC (21 in number)
- Ex.D-51to66: Mutation Register(16 in number)
- Ex.D-67 : Bank Challans
- Ex.D-68&69: Receipts (2 in number)
- Ex.D-70to82: Tax Register(13 in number)
- Ex.D-83to86: Gift Deeds
- Ex.D-87 : Notarized Copy of Sale Deed
dt.23.04.2007
- Ex.D-88 : Tax Demand Register
- Ex.D-89 : Sale Deed
- Ex.D-90 : Receipt
- Ex.D-91 : Tax Demand Register
- Ex.D-92 : Receipts
- Ex.D-93 : Demand Register Extracts
- Ex.D-94to96: Receipt (3 in number)
- Ex.D-97 : Original Sale deed
- Ex.D-98 : Tax Demand Register



Ex.D-99&100: Tax Demand Register
Ex.D-101 : Sketch
Ex.D-102 : Assessment List
Ex.D-103-107: Tax Receipt (5 in numbers)
Ex.D-108 : Building License
Ex.D-109 : Sale Deed
Ex.D-110-112: Tax Receipt
Ex.D-113 : Original Sale Deed
Ex.D-114 : Tax Demand Register
Ex.D-115 : SAS Form
Ex.D-116 : Original Sale Deed
Ex.D-117 : Tax Receipt
Ex.D-118 : Tax Demand Register
Ex.D-119 : Tax Demand Register
Ex.D-120 : Tax Receipt
Ex.D-121 : Building License
Ex.D-122 : Original Sale Deed
Ex.D-123 : Tax Demand Register
Ex.D-124 : Sketch
Ex.D-125 : EC
Ex.D-126 : Original Sale Deed
Ex.D-127 : Tax Demand Register
Ex.D-128-129: Tax Receipt (2 in number)
Ex.D-130 : Special Power of attorney
Ex.D-131 : Sale Deed
Ex.D-132-134: Tax Receipts
Ex.D-135 : SAS form
Ex.D-136 : Tax Demand Register
Ex.D-137 : Sketch
Ex.D-138 : Sale deed dt.1.12.69
Ex.D-139 : Adoption Letter
Ex.D-140 : Adhar Card

sd/-

(Smt.Gangavva Ayatti)

Addl. Senior Civil Judge and JMFC,
Kunigal.