

KAMD030002152024



**IN THE COURT OF THE II ADDL. CIVIL JUDGE &
JMFC., AT: MANDYA.**

DATED THIS THE 03rd DAY OF JULY, 2025

:PRESENT:

**SRI.SHANKARA., B.A.L.L.B.,
II ADDL. CIVIL JUDGE & JMFC.,
MANDYA.**

OS.No.72/2024.

Plaintiff :	Smt.Vinutha.C.T W/o Kempegowda D/o Late.Thammanna Gowda.C.M, Aged about 40 years, R/at Siddaiahnakoppalu Village, Kothathi Hobli, Mandya Taluk and District.
	(Represented by Sri.B.L.G., Adv.,)
	V/S
Defendants:	1.Smt.Sukanya.S.K W/o Late.Thammanna Gowda.C.M, Aged about 62 years.
	2.Smt.Usha.C.T W/o Dharmalingegowda.C.J D/o Late.Thammanna Gowda.C.M, Aged about 46 years.
	Defendants No.1 and 2 are R/at Chandagalu Village, Dudda Hobli, Mandya Taluk and District.
	3.Smt.Vidya.C.T W/o Venkatesh D/o Late.Thammannagowda.C.M, Aged about 43 years, R/at Gopalapura Viillage, Kasaba Hobli, Mandya Taluk and District.

	4.Smt.Ranjeetha.C.T W/o Yeshwanth, D/o Late.Thammannagowda.C.M, Aged about 38 years, R/at Hanakere Village, Mandya District.
	5.Sri.Sadhanandha Babu.S S/o Siddappa.H, Aged about 61 years, R/at Door No.182, Near RTO Office, 3 rd Main, 3 rd Cross, Upakara Layout, Bangalore North.
	6.Sri.Chandramoligowda.T.N S/o Ningegowda, Aged about 48 years, R/at Thandasnahalli Village, Kasaba Hobli, Mandya Taluk and District.
(D.No.1 to 6 Represented by Sri.B.L.G, Adv.,)	

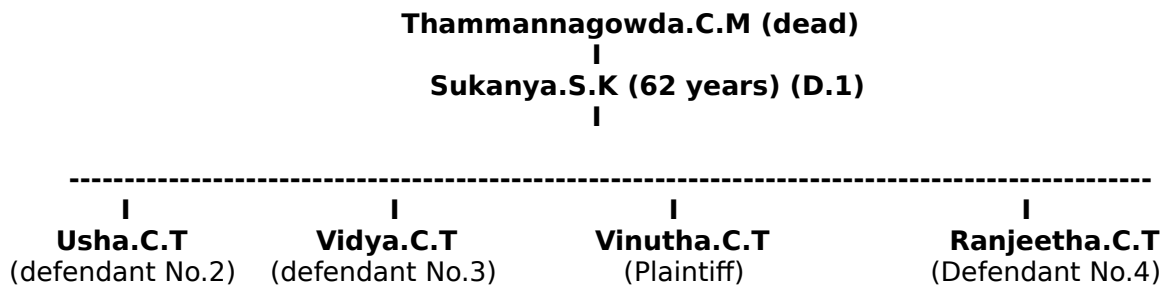
Date of Institution of the Suit	23.01.2024		
Nature of the suit	Suit for Partition and Separate Possession.		
Date pf Recording of Evidence	27.02.2025		
Date of Closing of Evidence	10.06.2025		
Date of Judgment Pronounced	03.07.2025		
	Year's	Month's	Day's
	01	05	10

(SHANKARA)
II Addl.Civil Judge & JMFC.,
Mandya.

: J U D G M E N T :

The present suit has been filed by the plaintiff against the defendants for the relief of Partition and Separate Possession in respect of suit schedule properties.

2. The Genealogical tree furnished below shows the relationship of plaintiff and defendants No.1 to 4 are as follows:



3. The brief facts of the plaintiffs case is that, the defendant No.1 is the mother of plaintiff and defendants No.2 to 4 are the Sisters of the plaintiff and the plaintiff and defendants No.1 to 4 were constituted the Hindu Joint family, the 1st defendant is managing the affairs of the said joint family including the properties mentioned in the plaint schedule, the plaintiff and the defendants No.1 to 4 are coparcener of Hindu joint family. The properties mentioned in the suit schedule are the ancestral and joint family. The plaintiff and the defendants No.1 to 4 are enjoying the said suit properties jointly as joint family properties. The plaintiff and defendants No.1 to 4. There was no division of properties between coparceners. The 1st defendant was managing the joint family properties, the consisting the

plaintiff and defendants No.1 to 4 the plaintiff along with the defendants No.1 to 4 are in joint possession and enjoyment of the all suit schedule properties. The suit schedule properties are ancestral properties of the plaintiff and the defendant No.1 to 4. The suit schedule properties are standing in the name of the defendant No.1 and defendant No.2 the suit schedule properties are ancestral properties. Mother of plaintiff and defendants No.2 to 4 nominal sale deeds to in favour of defendant No.5 and 6 in Item No.2 to 5 later return back the suit schedule property Item No.2 and 3 to the defendant No.2 by name Usha.C.T from the income of joint family. As such the defendants No.2 has try to alienate and mortgage that property to getting a loan from some banks and societies, without knowledge or intimate to the plaintiff., and try to sale the suit schedule properties without knowledge or intimate to the plaintiff. The properties mentioned in schedule are all valuable properties. Hence the defendant No.2 is try to sale the above properties, without knowledge or intimate to the plaintiff. In fact there is no legal necessity for the family to borrowed any money

from any others and banks, or to disposed of any land or any portion of the land described in the schedule.

4. It is further submitted that, the defendants No.2 and 5 is being a cleavers peoples colluding with officials, and the defendant No.2 and 5 attempt to alienate and try to sale suit schedule properties, item No.2 to 5 and valuable properties, in view to defraud and defeat the rights of the plaintiff defendants No.1 began secret the family income without giving proper account etc., to the plaintiff. The 2nd defendant has developed to an hostile attitude towards the plaintiff and other coparcener of the joint family. Having genuinely felt in the interest of the plaintiff over the suit schedule properties are no more safe in the hands of the defendants No.2. the defendants No.3 and 4 ill treating the plaintiff. After enquiry the plaintiff came to know that the executed nominal sale deed in favour of defendant No.5 and 6 behind the back of the plaintiff has created a nominal sale deed dated:19.11.2002, 22.10.2021 and 14.09.2022 after defendant No.6 sale deed dated:14.09.2022 in favour of defendant No.5 suit Item No.5

there was no need or necessity to sale deed the suit Item No.2 to 5 in favour of defendant No.5 and 6 alleged sale deed does not bind the share of the plaintiff. Hence the plaintiff demanded the defendant No.1 divide the family properties described in the plaint schedule and to give her legitimate share and to put them in separate possession of same. On 20.11.2023 in spite of plaintiff has request and demands defendant No.1 but the defendant No.1 in the instigate from the defendant No.1 they have deliberately evaded to divide the joint family properties and put the plaintiff in separate possession of their legal share and also the plaintiff. Conway the Panchayath in this regard on 20.11.2023, but the defendant No.1 was not accept the advice given by the said Panchayathdars, hence the plaintiff were filed this suit for partition and separate possession over the suit schedule properties. As per law the plaintiff was entitle for $1/5^{\text{th}}$ share out of all the suit schedule properties. Hence the suit is filed for partition and separate possession of the plaintiff, legal share against the defendant No.1 to 4. Therefore, plaintiff constrained to file present suit for the above said relief.

5. The defendant No.1 to 6 remained out of court, though suit summons duly served upon them. As such they were placed ex-parte.

6. In order to substantiate plaintiff case, the plaintiff got herself examined as P.W.1 she has also got marked 19 documents at Ex.P.1 to Ex.P.19. Thereafter the plaintiff closed her side evidence.

7. After hearing by learned counsel for the plaintiff and the on perusal of material available on record, the following points arise for consideration:

1. Whether the plaintiff proves that plaintiff and defendants No.1 to 4 are Hindu Undivided joint family members and suit schedule properties are her joint family properties?
2. Whether the plaintiff is entitled the relief of partition as sought for?
3. What order or decree?

8. On appreciation of material available on record, the above points are answered as under :

Point No. 1 : In the Affirmative

Point No. 2 : In the Affirmative

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

REASONS

9. Point No.1:-To prove the case of the plaintiff, the plaintiff got examined herself as P.W.1 by filing affidavit in lieu of examination-in-chief and reiterated the averments in the plaint and got marked documents at Ex.P.1 to Ex.P.19. The Ex.P.1 to Ex.P.5 are the RTC Extracts, Ex.P.6 to Ex.P.10 are the Computerized RTC Extracts, Ex.P.11 to Ex.P.13 are the Tax Assessment Extracts, Ex.P.14 to Ex.P.18 are the Record of Rights and Ex.P.19 is the Copy of the Sale Deed dated:22.10.2021.

10. Plaintiff and defendant No.2 to 4 are the childrens of the 1st defendant and deceased Thammannegowda.C.M there is no dispute regarding the relationship between the plaintiff and defendants. The Ex.P.1 to Ex.P.10 and Ex.P.14 to Ex.P.18 are the RTC extracts the Khata stands in the name of defendant No.1 and also joint family members of the plaintiff and defendants No.1 to 4 it is discloses that, the suit schedule properties are the joint family properties of the plaintiff and defendants No.1 to 4. The Ex.P.19 is the registered sale deed dated:22.10.2021 in respect of the suit

schedule Item No.2 and 3 properties sold by Smt.Usha.C.T in favour of the defendant No.6. But after issuance of the summons to this defendant No.6 he has not appeared before this court and also he has not denied the case of the plaintiff by filing of written statement and also relevant documents. The plaintiff has stated that, the averments made in the plaint that, after enquiry by the plaintiff came to known that knowledge regarding over the executed the sale deed by defendants No.1 to 4 in favour of the defendant No.5 and 6 in respect of suit schedule Item No.2 to 5 properties dated:19.01.2002, 22.10.2021 and 14.09.2022 the said alleged sale deed not binding of the plaintiff's share. But the defendants No.5 and 6 they are purchaser of the suit schedule Item No.2 to 5 properties after service of summons they are not appeared before this court for disprove the case of the plaintiff by filing of written statement.

11. Accordingly it is contents of the plaint averments and also documents produced by the plaintiff discloses that, the suit schedule properties are the Hindu undivided and joint family properties of the plaintiff and also the plaintiff has

stated that, the sale transaction made between the defendants regarding over the suit schedule Item No.2 to 5 said transaction not known to this plaintiff and also the defendants No.1 to 4 are without consent from this plaintiff they are sold the same. The said transactions and also the said Sale deeds does not curtail of the rights of the plaintiff and also further stated that, the said transaction made between above said defendants does not requirement of the legal necessities of the joint family of the plaintiff. Accordingly the said documents not binding upon the plaintiff's share. In this regard it is bounded duty to the defendant No.5 and 6 to disprove the above said transaction and also by declaring that there are bonafide purchaser by filing of written statement also by denied the case of the plaintiff. Accordingly the plaintiff and defendants No.1 to 4 are the coparcenars in view of Sec.6 of Hindu Succession (Amendment) Act 2005. Further till today no partition has taken place between plaintiff and defendants No.1 to 4 family. Further, in the plaint as well as in the examination in chief the P.W.1 categorically deposed that the suit schedule

properties are the Hindu Undivided Joint family properties of the plaintiff and defendants No.1 to 4. On careful perusal of the above said documents, it appears that plaintiff and defendants No.1 to 4 are joint family members and the suit schedule properties are their joint family properties. Thus oral evidence of PW-1 fully corroborates with above said documentary evidence and the same remains un-challenged as the defendants have not contested the matter. In the circumstance, this court does not find any reason to disbelieve the case of the plaintiff. Therefore, this court of the further view that plaintiff has established her case with satisfactory evidence that plaintiff and defendants No.1 to 4 are Hindu Undivided joint family members and suit schedule properties are her joint family properties. Thus without any further discussion on this Point **this court answered Point No.1 in the Affirmative.**

12. Point No.2: In Point No.1 this court comes to the conclusion that the suit schedule properties are joint family properties plaintiff and defendants No.1 to 4. Therefore, the plaintiff is entitled equal share of the suit schedule

properties as per Sec.6 of Hindu Succession Act. Therefore, plaintiff and defendant No.2 to 4 are equally entitled $6/25^{\text{th}}$ share of the suit schedule properties. The defendant No.1 she is the wife of deceased Thammannegowda.C.M. Hence she is entitled for $1/25^{\text{th}}$ share. Thus without any further discussion on this Point **this court answered Point No.2 in the Affirmative.**

13. Point No.3: For the reasons assigned at the Point No.1 and 2, the plaintiff, defendant No.2 to 4 are entitled $6/25^{\text{th}}$ share each in the suit schedule properties. The defendant No.1 entitled for $1/25^{\text{th}}$ share in the suit schedule properties. Accordingly this court proceeds to pass the following:

:: ORDER ::

The suit of the plaintiff is hereby decreed on the following terms;

It is hereby declared that the plaintiff is entitled $6/25^{\text{th}}$ share of suit schedule properties.

The defendant No.2 to 4 are entitled 6/25th share of suit schedule properties and the defendant No.1 is entitled to 1/25th share of suit schedule properties subject to payment of court fee.

Looking to the relationship between the parties no order as to costs.

Office to draw preliminary decree accordingly.

In view of the principles laid down in Civil Appeal No.(S). 6406-6407/2010 by the Hon'ble Supreme Court of India, office is directed to initiate the Final Decree proceedings suo-muto under Order XX Rule 18 of CPC.

Parties are directed to appearing the FDP, before this Court on 20.08.2025, without expecting further notice from this court.

[Dictated to the Stenographer, transcribed by her, transcript corrected by me and then signed and pronounced in the Open Court this the 03rd day of July - 2025]

**(SHANKARA)
II Addl. Civil Judge & JMFC.,
Mandya.**

:A N N E X U R E:

List of witnesses examined for plaintiff:

P.W.1	: Smt.Vinutha.C.T W/o Kempegowda.
-------	-----------------------------------

List of documents marked for plaintiff:

Ex.P.1 to 5	: RTC Extracts.
Ex.P.6 to 10	: Computerized RTC Extracts.
Ex.P.11 to 13	: Tax Assessment Extracts.
Ex.P.14 to 18	: RTC Extracts.
Ex.P.19	: Copy of the Sale deed dated:22.10.2021.

List of witnesses examined for Defendants:

- Nil -

List of documents marked for Defendants:

- Nil -

**II Addl. Civil Judge & JMFC.,
Mandya.**

Judgment pronounced in Open Court
(Vide separate judgment)

ORDER

The suit of the plaintiff is hereby decreed on the following terms;

It is hereby declared that the plaintiff is entitled 6/25th share of suit schedule properties.

The defendant No.2 to 4 are entitled 6/25th share of suit schedule properties and the defendant No.1 is entitled to 1/25th share of suit schedule properties subject to payment of court fee.

Looking to the relationship between the parties no order as to costs.

Office to draw preliminary decree accordingly.

In view of the principles laid down in Civil Appeal No.(S). 6406-6407/2010 by the Hon'ble Supreme Court of India, office is directed to initiate the Final Decree proceedings suo-muto under Order XX Rule 18 of CPC.

Parties are directed to appearing the FDP, before this Court on 20.08.2025, without expecting further notice from this court.

[Dictated to the Stenographer, transcribed by her, transcript corrected by me and then signed and pronounced in the Open Court this the 03rd day of July - 2025]

**II Addl. Civil Judge & JMFC.,
Mandya.**