

IN THE COURT OF PRINCIPAL CIVIL JUDGE AND JMFC., RON

Present: **Sri. M.C. Nanjegowda, B.A.L, LLM.**

DATED THIS THE 17TH DAY OF JUNE, 2013

ORIGINAL SUIT.NO.246/2012

- PLAINTIFFS: 1) Fakiravva w/o.Ningappa Jalageri,
Age: 35 years, Occ: Agriculture,
R/o.Malagitti, Tq: Kustagi.
- 1) Renavva w/o.Kanteppa Meti,
Age: 33 years, Occ: Agriculture,
R/o.Balutagi, Tq: Yalaburga.

(By Sri K.G.Udupi, Adv.)

Vs.

- DEFENDANTS:1) Ningappa Basappa Sulibavi,
Age: 40 Years, Occ: Agriculture.
- 2) Shivavva w/o.Parasappa Sulibhavi,
Age: 35 Years, Occ: Agriculture.
Both are R/o.Madalageri, Tq: Ron.

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(D1 & 2 Sri.K.Y.Avadhut, Adv.,)

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Date of institution of the suit : 07.11.2012

Nature of the Suit. : For partition.

Date of the commencement
of recording of the evidence. : 13.06.2013.

Date on which the
Judgement was pronounced : 17.06.2013.

	Year/s	Month/s	Day/s
Total Duration	: 00	07	10

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Civil Judge, Ron.

J U D G M E N T

The plaintiffs have filed the present suit against the defendants for the relief of partition of suit properties into four shares and allot two such shares to the plaintiffs and for other reliefs.

2. The case of the plaintiffs in brief is that – One Basappa is the propositus of the plaintiffs and defendants. The said Basappa had four children by name Parasappa, Ningappa, Renavva and Fakiravva. The suit properties are originally belongs to Basappa, which were acquired by his ancestors. After the death of Basappa and his son Parasappa, the

plaintiffs and defendants have become the joint owners of the suit properties. Each plaintiff has got 1/4th share in the suit properties, whereas 1st and 2nd defendants have got 1/4th share each in the suit properties. So far, the plaintiffs and defendants have not partitioned the suit properties. The plaintiffs, though sought for partition of the suit properties, by issuing notice dtd.3.09.2012 to the defendants they have not chosen to do so and comply the notice of the plaintiffs. Hence, the present suit for partition.

3. In response to the summons issued by this Court, though the defendants appeared through an Advocate have not chosen to file the written-statement.

4. The plaintiffs in order to prove their case examined the 2nd plaintiff as P.W.1 and marked 10 documents as per Ex.P.1 to P-10. The defendants have not chosen to cross-examine P.W.1 and remained absent.

5. I have heard the case on merits.

6. On hearing the plaintiff and perusal of the documents the points that arise for the consideration of this Court are:-

POINTS

1. Whether the plaintiffs prove that the suit properties are the joint family properties of plaintiffs and defendants?
 2. Whether the plaintiffs have proved that, they have got $\frac{1}{4}$ share each in the suit properties?
 3. What order or decree?
7. My findings on the above points are as follows:
- Point No.1: In the affirmative.
- Point No.2: In the affirmative.
- Point No.3: As per the final order, for the following.

REASONS

8. **POINT NO.1:** It is the specific case of the plaintiffs that one Basappa the propositus of the plaintiffs and defendants had four children and the 1st son by name Parasappa is dead now. The 1st defendant is the brother of the plaintiffs and 2nd defendant is the wife of another brother Parasappa who is

dead now. The suit properties originally belongs to the said Basappa and he had acquired the same by succession by his forefathers. Now the propositus of the plaintiffs and defendants family i.e. Basappa and his wife Parvatevva are dead. The suit properties have not still being partitioned among the plaintiffs and defendants. The plaintiffs to prove this fact, have examined the 2nd plaintiff as P.W.1 and produced 10 documents. P.W.1 in his chief-examination has spoken about the contents of the plaint and has supported the plaintiffs case. The documents, such as RTC and Mutation documents are standing in the name of Ningappa and also Parasappa who are the sons of Basappa. In the mutation entry produced as per Ex.P.3 clearly shows that the properties have been transferred in favour of Parasappa and also Ningappa, after the death of Basappa i.e. the propositus of plaintiffs and defendants. On the other hand, the defendants, though appeared before this Court have not chosen to file their written-statement. No documents are produced before this Court. The evidence of P.W.1 is fully supporting the version of the plaintiffs and documents produced by her have remained

unchallenged and un-rebutted as there is no cross-examination by the defendants. In fact in the absence of written-statement, this Court can presume that the defendants have admitted the averments of the plaint. Under these circumstances, the version of the plaintiffs that the suit properties have been acquired by the Basappa by his ancestors and plaintiffs and defendants being legal heirs have got right in the properties cannot be rejected and therefore, this Court is of the opinion that the suit properties are joint family properties of plaintiffs and defendants and there is no partition in the family of the plaintiffs and defendants. Accordingly point No.1 is held in affirmative.

9. **POINT No.2:** This Court has come to the conclusion that the suit properties are the joint family properties of the plaintiffs and defendants. Propositus Basappa had four children, plaintiffs are daughters of Basappa and 1st defendant is the son and 2nd defendant is the wife of another son Parasappa. As such the properties of the Parasappa have

been succeeded by the plaintiffs and defendants and since the daughters also have got equal right as per the recent amendment, the suit properties have to be equally partitioned among the plaintiffs and defendants. As such the properties have to be divided into 4 shares and each plaintiff is entitled for one such share in the suit properties. Accordingly point No.2 is held in affirmative.

10. **POINT No.3**: For the reasons and discussions made above and the findings on the above points this Court proceed to pass the following:

O R D E R

Suit of the plaintiffs is hereby decreed with costs.

It is declared that each plaintiffs have entitled for
1/4th share in the suit properties.

Office to draw decree accordingly.

(Dictated to the Stenographer transcribed and computerized by him, corrected and signed by me and then pronounced in the open Court on this the 17th day of June 2013)

(Sri.Nanjegouda M.C)
Civil Judge, Ron.

ANNEXURE**LIST OF WITNESSES EXAMINED ON BEHALF OF PLAINTIFFS:**

P.W.1: Renavva Meti.

LIST OF DOCUMENTS MARKED ON BEHALF OF PLAINTIFFS:

Ex.P.1 & 2 RTC extracts.
Ex.P.3. M.R.No.23/2004-05.
Ex.P.4. Legal notice.
Ex.P.5 to 7 Notices.
Ex.P.5(a)to 7(a) Postal covers.
Ex.P.8. Postal receipt.
Ex.P.9 & 10. Postal acknowledgment cards.

LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANTS:

-NIL-

LIST OF DOCUMENTS MARKED ON BEHALF OF DEFENDANTS:

-NIL-

Dtd.17.06.2013

Civil Judge, Ron.