



Dated this the 15th day of March 2024

O.S.NO. 491/2022

$$/V_s/$$

DEFENDANTS : 1. Gangamma,
W/o. Late Muniyachar,
Aged about 75 years,

2. Sarvamangalamma,
W/o. Vishweshwara Char,
Aged about 56 years,



3. Bhagyamma,
W/o. Guruswamy,
Aged about 54 years,
D2 and 3 are daughters of
Late Muniyachar and
D1 to 3 are residents of
Kere Hindalahatti,
Sira Town,
Tumakuru District.
4. Vanajakshi @ Vanajamma,
W/o. Late Puttalingachar,
Aged about 50 years,
Residing at
Chandragiri,
Madhugiri Taluk,
Tumakuru District.
**(Sri. Harisha N.,
Advocate, for D1 to 3,
Smt. C.S.Pallavi,
Advocate for D4)**

Date of Institution of suit : 19.10.2022

Nature of suit : Partition and Separate Possession

Date of commencement of
Recording of evidence : 06.03.2024



Date on which Judgment was
Pronounced

:

15.03.2024

Total duration taken for
Disposal of the suit

:

Day/s Month/s year/s

26

04

01

Sd/-

(LAKSHMI M.V.)

Prl. Civil Judge & JMFC.,
Sira

J U D G M E N T

The plaintiff has filed this suit against the defendants for the relief of partition and separate possession, for costs and such other reliefs.

2. Case of the plaintiff in brief is as under;

The plaintiff and the defendants are the members of Hindu Undivided Joint Family and the suit schedule properties are the ancestral and Joint family properties of the



plaintiff and the defendants. One Lingappachar has two sons namely Muniyachar and Murthachar, who were separated from each other from the joint family, very long back. Now the said Muniyachar and Murthachar are no more and the plaintiff and the defendants are the descendants of deceased Muniyachar. The share of the said Muniyachar has been devolved equally between the plaintiff and the defendants. Further averred that, the said Muniyachar had only wife by name Gangamma-defendant No.1, The said couple had four children namely Puttalingachar, Sarvamangala-D2, Bhagyamma-D3 and Jayalakshmi(Plaintiff). Defendant No.4 is the wife of deceased Puttalingachar. Item No.1 stands in the name of defendant No.1 and item No.2 was purchased by the husband of defendant No.4 out of joint family fund through the Registered Sale Deed dated 16.06.2011. The said purchaser Puttalingachar died on 13.12.2018. As such,



defendant No.4 is arrayed as party to the suit. The plaintiff and defendants are not in good terms. Hence, the plaintiff is not willing to continue as Joint family member. Therefore, the plaintiff has requested and demanded the defendants to effect the partition and allot her respective 1/5th share in the suit schedule properties. But the defendants refused to allot the share of the plaintiff. Hence, this suit.

3. After service of summons, defendants No.1 to 4 appeared before the court through their respective counsel. But they did not file written statement, in spite of giving sufficient opportunities. Hence, the written statement of defendants taken as not filed.

4. In order to substantiate the case, plaintiff herself examined as PW1 and got marked twenty four documents at Ex. P1 to P24.



5. The points that arise for my consideration are;

1. Whether the plaintiff proves that she and defendants are the members of Hindu Undivided Joint Family and they are in joint possession and enjoyment of the suit schedule properties?
2. Whether the plaintiff is entitled for the releif as prayed in the plaint?
3. What Order or Decree?

6. Heard the arguments. Perused the pleadings, oral and documentary evidence placed on record.

7. My answer to the above Issues are as under;

Point No.1: In the **Affirmative**,

Point No.2: In the **Affirmative**,

Point No. 3: **As per Final Order**

for the following;

REASONS

8. **POINT NO.1 & 2 :** In order to avoid repetition



of facts, I have taken these points together for common discussion.

It is the case of plaintiff that, herself and the defendants are the members of Hindu Undivided Joint Family and the suit schedule properties are ancestral and joint Family Properties. Since the plaintiff and defendants are not in good terms, she requested the defendants to give her 1/5th share in the suit schedule properties. But they refused to give her share. Hence, she filed this suit.

9. As per Section 101 to 103 of the Indian Evidence Act, the burden of proof lies on the plaintiff to establish her case. In order to prove her case, plaintiff examined herself as PW1 and filed her chief examination affidavit by reiterating the averments of the plaint and produced in all twenty four documents. Ex. P1 is Genealogical tree, Ex. P2 is the death certificate of Puttalingachar, Ex. P3 is the RTC Extract, Ex. P4



to 9 are Tax paid receipts, Ex. P10 is the Self Assessment Form with regard to properties and tax, Ex. P11 is Demand Register Extract, Ex. P12 is Sale deed dated 16.06.2011, Ex. P13 is another Genealogical tree, Ex. P14 is Demand Register extract and Ex. P15 to 24 are Tax paid receipts.

10. To show that, plaintiff and defendants are the members of Hindu Undivided Joint Family, PW1 has produced Ex. P1- Genealogical tree. On going through this document, it reveals that, the said document supports the case of the plaintiff in proving their relationship. Ex. P3 is the RTC Extract pertaining to item No.1 of the suit schedule properties. On going through this document, it reveals that, the name of the defendant No.1 finds place in column No.9 and 12, who is the mother of both plaintiff and defendants No.2 and 3 and Mother-in-law of defendant No.4. Ex. P12 is the Sale Deed dated 16.06.2011. On going through this document, it reveals



that, Puttalingachar, who is the husband of defendant No.4, during his life time, had purchased the item No.2-house property bearing old Assessment No. 1594/2/2195/2234 and New Assessment No. 3316/2432 measuring 30X30 feet from one Shanmugam S/o. Late Kumaraswsamy. Further, PW1 has produced Ex. P10 – Self Assessment Form of property tax and particulars of property to show that, the said property stands in the name of Puttalingachar. Ex. P11 is the Tax Demand Register Extract for the year 2022-23, which stands in the name of R. Shanmugam, who is the previous vendor of item No.2. Ex. P4 to 9 and Ex. P15 to 24 are tax paid receipts, which show that the defendants have paid tax in respect of item No.1 and 2. From all these documents, it reveals that, the plaintiff and defendants are the Members of Hindu Undivided Joint Family and the suit schedule properties are



ancestral and joint Family Properties of plaintiff and the defendants.

11. The case of the plaintiff is that, since herself and the defendants are not in good terms, she requested the defendants to allot her 1/5th share in the suit schedule properties. Hence, she filed this suit. Defendants No.1 to 3, though appeared before the court, did not file their written statement in spite of giving sufficient opportunities. Defendant No.4 remained absent, hence she placed exparte. Therefore, the evidence of plaintiff remained unchallenged. As discussed above, the plaintiff has successfully proved her case by way of adducing oral evidence and producing documentary evidence. Hence, she is entitled for the relief as prayed for. Accordingly, Points No.1 and 2 are answered in the **Affirmative.**



12. POINT NO.3: In view of my findings on the above points, I proceed to pass the following;

ORDER

Suit of the plaintiff is decreed.

Plaintiff is entitled for 1/5th share
in the suit schedule properties.

No order as to costs.

Draw preliminary decree accordingly.

(Directly dictated to the stenographer on computer, typed and printout taken by her, then corrected and pronounced by me in the open court on **15th March 2024**)

Sd/-
(LAKSHMI M.V.)
Prl. Civil Judge & JMFC.,
Sira

ANNEXURE

List of witnesses examined on behalf of the Plaintiff:

PW1 : Juyalakshmi,

List of documents marked on behalf of the Plaintiff:

Ex. P1 : Genealogical tree,



- Ex. P2 : Death Certificate,
Ex. P3 : RTC Extract,
Ex. P4 to 9 : Tax paid receipts,
Ex. P10 : Self Assessment Form
with regard to tax and property,
Ex. P11 : Demand Register Extract,
Ex. P12 : Sale Deed dated 16.06.2011,
Ex. P13 : Another Genealogical tree,
Ex. P14 : Another Demand Register Extract,
Ex. P15 to 24 : Tax paid receipts,

List of witnesses examined on behalf of the defendants:

-Nil -

List of documents marked on behalf of the defendants:-

-Nil-

Sd/-
Prl. Civil Judge & JMFC.,
Sira

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