



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

REGULAR SECOND APPEAL NO. 533 OF 2026 (PAR)

BETWEEN:

SMT VIRUPAKSHAMMA
W/O LATE SHANKARAPPA,
D/O LATE SIDDAPPA,
AGED ABOUT 69 YEARS,
R/AT. KONE MADENAHALLI VILLAGE,
KOPPA POST,
KADABA HOBLI,
GUBBI TALUK-572 219.

...APPELLANT

(BY SRI. RAVISHANKAR K., ADVOCATE)

AND:

1. SIDDANANJAPPA
S/O LATE SIDDAPPA,
AGED ABOUT 72 YEARS,





2. SHRI. MAHALINGAPPA
S/O LATE SIDDAPPA,
AGED ABOUT 67 YEARS

3. SMT. PRABHAMANI
W/O MAHALINGAPPA,
AGED ABOUT 54 YEARS,

ALL ARE R/AT JEEGANAHALLI
GARDEN HOUSE,
DODDA KUNNALA POST,
KADABA HOBLI,
GUBBI TALUK
TUMAKURU DIST.,-5722 19.

...RESPONDENTS

THIS RSA IS FILED U/S. 100 OF CPC AGAINST THE JUDGMENT AND DECREE DATED 15.12.2025 PASSED IN RA NO. 76/2025 ON THE FILE OF THE PRL. DISTRICT AND SESSIONS JUDGE, TUMAKURU, PARTLY ALLOWING THE APPEAL AND PARTLY SETTING ASIDE THE JUDGMENT AND DECREE DATED 27.06.2025, PASSED IN OS NO. 4/2022 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, GUBBI.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI



ORAL JUDGMENT

This appeal is filed by the appellant challenging the judgment and decree dated 15.12.2025 passed in RA No. 76 of 2025 by the Court of learned Principal District and Sessions Judge, Tumakuru ('First Appellate Court' for short).

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court¹. Appellant was the plaintiff and respondents were the defendants.

3. Brief facts leading rise to the filing of this appeal are as follows:

3.1. The plaintiff filed a suit for partition and separate possession against the defendants. It is the case of the plaintiff that, one Siddappa and Ningamma are the parents of the plaintiff and defendant Nos.1 and 2. Defendant No.3 is the wife of defendant No.2. The plaintiff

¹ OS No. 4 of 2022 on the file of the Court of Addl. Senior Civil Judge and JMFC, Gubbi



and the defendants are the members of a Hindu undivided family and the suit schedule properties are the ancestral and joint family properties of the plaintiff and the defendants. There is no partition effected between the parties to the suit. The plaintiff demanded for partition and separate possession, but the defendants refused to effect a partition. Hence, a cause of action arose for the plaintiff to file a suit for partition and separate possession.

3.2. Defendant Nos.1 and 2 filed separate written statements. Defendant No.3 adopted the written statement filed by defendant No.2, wherein the defendants have admitted the relationship between them with the plaintiff. It is contended that, there was a prior partition between Siddappa i.e., the father of the plaintiffs and defendant Nos.1 and 2, the same was reduced into writing and it was registered on 16.10.1996. Hence, the plaintiff is not entitled to claim any share in the suit schedule property. Hence, prays to dismiss the suit.



3.3. The Trial Court, based on the pleadings of the parties, has framed the relevant issues and additional issues.

3.4. The plaintiff, to substantiate her case, examined herself as PW1 and marked 9 documents as Exs.P1 to P9. In rebuttal, defendant No.1 was examined as DW1, the SPA holders of defendant No.1 were examined as DW2 and DW3, and marked 4 documents as Exs.D1 to D4.

3.5. The Trial Court, after assessing the verbal and documentary evidence, decreed the suit of the plaintiff with costs and it was declared that the plaintiff and defendant Nos.1 and 2 are entitled for $1/3^{\text{rd}}$ share in the suit schedule properties. The allotment of shares of defendant Nos.1 and 2 was subjected to payment of court fee.

3.6. Defendant Nos.1 and 2, aggrieved by the judgment and preliminary decree passed in OS No. 4 of



2022, preferred an appeal in RA No. 76 of 2025 on the file of the First Appellate Court.

3.7. The First Appellate Court, after re-appreciating the entire evidence on record, partly allowed the appeal, modified the judgment and preliminary decree passed by the Trial Court by decreeing the suit in part and held that, the plaintiff and defendant Nos.1 and 2 are entitled for $1/3^{\text{rd}}$ share each in 'A' schedule properties of the partition deed dated 16.10.1996 allotted to the estate of Late Siddappa.

4. The plaintiff, aggrieved by the judgment and decree passed in RA No. 76 of 2025, filed this regular second appeal.

5. Heard the arguments of the learned counsel for the plaintiff.

6. Learned counsel for the plaintiff submits that, the plaintiff is entitled for $1/3^{\text{rd}}$ share in all 'A' and 'B' schedule properties. He submits that, the plaintiff was not



a party to the registered partition deed effected between Siddappa and defendant Nos.1 and 2. The Trial Court was justified in granting $1/3^{\text{rd}}$ share in 'A' and 'B' schedule properties. The First Appellate Court has committed an error in granting $1/3^{\text{rd}}$ share in the share of Siddappa. Hence, on these grounds, he prays to allow the appeal.

7. Perused the records and considered the submissions of the learned counsel for the plaintiff.

8. It is undisputed fact that, one Siddappa was the father of the plaintiff and defendant Nos.1 and 2. He acquired the property from his ancestors. The plaintiff and defendant Nos.1 and 2 are the children of Siddappa and Ningamma. The plaintiff and defendant Nos.1 and 2 are the members of the Hindu joint family, and no partition is effected.

9. Defendant Nos.1 and 2 contended that, there was a partition between defendant Nos.1 and 2 and Siddappa i.e., the father of the plaintiff, and the said



partition was reduced into writing, which was registered on 15.01.1996. The defendants have produced the copy of the certified copy of the registered partition deed marked as Ex.D1, which clearly discloses that the partition was effected between Siddappa and defendant Nos.1 and 2. Siddappa got 1/3rd share in 'A' schedule properties, and defendant Nos.1 and 2 got 1/3rd share in the properties shown in the properties shown in the schedule annexed to the partition deed. The plaintiff did not challenge the registered partition deed executed between Siddappa and defendant Nos.1 and 2. From the perusal of Ex.D1, it is clear that partition was effected. Now, Siddappa is no more. The plaintiff is entitled for the share in the Siddappa's property i.e., in Schedule 'A' i.e., in respect of Sy.No.7 of Chakkenahalli Village, Kadaba Hobli, Gubbi Taluk under Section 8 of the Hindu Succession Act, as the property inherited by Siddappa becomes his separate property as per the proposition of law laid down by the Hon'ble Apex Court in the case of **Angadi Chandranna**



Vs. Shankar and Others². As the said property becomes the separate property of Siddappa, and after his demise, the plaintiff and defendant Nos.1 and 2 will become class-I legal heirs of the deceased Siddappa, the plaintiff is entitled 1/3rd share in the share of Siddappa. The First Appellate Court, considering the said aspect, has rightly modified the judgment and decree passed by the Trial Court. Hence, I do not find any error in the impugned judgment and any substantial question of law that arises for consideration in this appeal.

10. In view of the above discussion, I proceed to pass the following:

ORDER

- i. The appeal is ***dismissed***;
- ii. Pending IA(s), if any, shall stand disposed of.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

PA | List No.: 1 Sl No.: 26

² Civil Appeal No. 5401 of 225, disposed of on 22.04.2025