



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

REGULAR FIRST APPEAL NO. 1159 OF 2009 (PAR)

BETWEEN:

RAMAKRISHNAIAH
AGED ABOUT 36 YEARS
S/O PUTTAIAH
R/AT SEEBAKATTE VILLAGE,
KAILANCHA HOBLI,
RAMANAGARA TQ.-571 511
RAMANAGARA DISTRICT.

...APPELLANT

(BY SRI. HIEMATH, ADVOCATE)

AND:

1. SRI. PUTTAIAH
S/O LATE NANJEGOWDA
AGED ABOUT 74 YEARS,
2. SRI. MUDDAIAH
@ MUDDE GOWDA
SINCE DEAD BY HIS LRS
- 2(a) SMT. SAKAMMA
AGED ABOUT 75 YEARS
W/O LATE MUDDEGOWDA
- 2(b) SRI SHIVANANJIAH
AGED ABOUT 62 YEARS
S/O LATE MUDDEGOWDA
- 2(c) SRI. KRISHNAPPA
AGED ABOUT 57 YEARS





S/O LATE MUDDEGOWDA
R/AT VEDERAHALLI
KASABA HOBLI
RAMANAGARA TALUK
AND DISTRICT - 571 511.

2(d) SMT. LAKSHMMA
W/O SRI. PUTTASWAMIAH
AGED ABOUT 54 YEARS
R/AT AGANAHALLI
KASABA HOBLI
RAMANAGARA TALUK AND DISTRICT.

3. SRI.SHIVANNA
S/O LATE NANJEGOWDA
AGED ABOUT 59 YEARS

4. RAMAIAH
S/O LATE NANJEGOWDA
AGED ABOUT 69 YEARS,

RESPONDENTS NO.3 AND 4
ARE R/AT K.GOPAHALLI,
BIDADI HOBLI,
RAMANAGARA TALUK -571 511
RAMANAGARA DISTRICT.

5. LOKESH
S/O LATE CHENNAPPA
AGED ABOUT 34 YEARS

6. MUDDARAJU
S/O LATE CHENNAPPA
AGED ABOUT 32 YEARS

7. MAYAMMA
W/O LATE CHENNAPPA
AGED ABOUT 55 YEARS

8. SMT. SUMA
D/O LATE CHENNAPPA



AGED ABOUT 30 YEARS

RESPONDENTS 5 TO 8
ARE R/OF DODDABYALAKERE VILLAGE,
SHIVAKOTE POST,
HESSARGHATTA HOBLI-560 088 ,
BANGALORE NORTH TQ.,
BANGALORE DISTRICT.

9. SMT. PARVATHAMMA
W/O PUTTAIAH
AGED ABOUT 49 YEARS,
R/AT SEEBAKATTE VILLAGE,
KAILANCHA HOBLI,
RAMANAGARA TALUK - 571 511
RAMANAGARA DISTRICT.

...RESPONDENTS

(BY SRI. CHANDRASHEKAR S., ADVOCATE FOR
SRI. VIVEK HOLLA., ADVOCATE FOR R1;
SRI. SANJAY M. SETHIYA., ADVOCATE FOR R2(A TO D) (VC)
V/O DATED 05.03.2012, NOTICE TO R5 TO R8 IS HELD
SUFFICIENT, SRI. SUBRAMANYA.,ADVOCATE FOR R9;
R3 AND R4 ARE SERVED)

THIS RFA IS FILED UNDER SECTION 96 OF CPC,
AGAINST THE JUDGMENT AND DECREE DATED 08.10.2009
PASSED IN O.S.NO.173/2005 ON THE FILE OF THE PRINCIPAL
CIVIL JUDGE(SR.DN) RAMANAGARA, DISMISSING THE SUIT
FOR PARTITION AND SEPARATE POSSESSION.

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

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL



ORAL JUDGMENT

This appeal is by the plaintiffs in O.S.No.173/2005, aggrieved by the judgment and decree dated 08.10.2009 on the file of Prl. Civil Judge, Ramanagara, (hereinafter referred to as 'the Trial Court') in terms of which the said suit for partition filed by the appellant has been dismissed.

2. Subject matter of the suit are as under:

" Agricultural lands situated at Vaderahalli village, Kasaba Hobli, Ramanagara Taluk bearing:

- 1) Sy.No. 21/1 measuring 2-10 guntas*
- 2) Sy.No. 21/2 measuring 1 acre 19 guntas*
- 3) Sy.No.22/1 measuring 5.02 guntas*
- 4) Sy.No. 22/2 measuring 3 acres 37 guntas*
- 5). Sy.No. 155/1 measuring 1-25 guntas.*
- 6). Sy.No. 155/2 measuring 2-23 guntas*

bounded commonly on;

East by: Land of Aga Saheb

West by: Government Katte

North by: Land of Byrappa

South by: Land of Siddalah.

7. House in Khaneshumari No. 12/362/363/A situated at Vaderahalli village, Kasaba Hobli, Ramanagaram Taluk, bounded on :-

East by: Government land

West by: Properties of Puttaswamaiah

North by: Property of Siddappa,

South by: Property of Nazeer.



8. Land in Sy.No. 276 measuring 4 acres 3 guntas situated at Gopahalli village, Bidadi Hobli, Ramanagaram Taluk, bounded on :-

East by: Government Channel

West by: Land of Siddaiah

North by: Government Halla

South by: Kanakapura boundary "

3. Brief facts of the case are as under;

3.1 That one Nanjegowda is the propositors of the family. He passed away in the year 1980, leaving behind five sons and four daughters namely; 1. Sri. Muddhaiah-defendant No.2, 2. Sri. Puttaiah-defendant No.1, 3. Ramanna- defendant No.4, 4. Channappa, father of defendant Nos.5 to 8 and 5. Shivanna-defendant No.3 6. Smt. Kenchamma-Not a party, 7. Smt. Nanjamma- Not a party, 8. Smt. Puttamma- Not a party, 9. Smt. Chikkamani- Not a party.

3.2 That plaintiff No.1 is the son and plaintiff No.2 is the wife of Puttaiah-defendant No.1. Suit properties are the ancestral properties. Plaintiffs have been neglected by the defendant No.1 without providing any share or maintenance out of the suit properties. Defendant No.1 at the instance of other defendants has neglected both the plaintiffs and they are living at the parental house of the plaintiff No.2 without any



alternate. Defendant Nos.3 and 4 have relinquished their rights in terms of relinquishment deed dated 02.12.1988 in favour of defendant Nos.1 and 2. Hence, the suit for partition and separate possession.

4. Defendants filed written statement admitting the relationship and also admitted that the plaintiff No.2 is the legally wedded wife of defendant No.1. They have also admitted that defendant Nos.3 and 4 having relinquished their right in favour of defendant Nos.1 and 2. The plaintiff No.2 never lived with defendant No.1 and her relationship with defendant No.1 was not cordial. The claim of plaintiff No.1 to be the son of defendant No.1 is denied. It is contented that there was already a partition amongst the sons of Nanjegowda on 01.12.1988 in terms of Panchayath Palu-parikath, pursuant to which each of the sons have been allotted $1/5^{\text{th}}$ share in the suit properties. After the partition, defendant Nos.3 and 4 have executed relinquishment deed dated 18.09.1992 relinquishing their right over the suit property by taking money in lieu of their share. Thus the partition has been acted upon. Defendant Nos.1 and 2 by virtue of Panchayath Palu-parikath and the relinquishment deed have jointly acquired the title and



subsequently during the year 1996, defendant Nos.1 and 2 have also got divided by partition between themselves and enjoying their respective shares separately. The defendant Nos.5 to 8 have filed another suit for partition in O.S.No.38/1992, which is pending consideration, which fact has been suppressed by the plaintiffs and sought for dismissal of the suit.

5. Defendant No.5 filed separate written statement admitting the case of the plaintiffs and has also sought for 1/5th share of the suit property.

6. Based on the pleadings, the Trial Court framed following issues for its consideration:

" 1. Whether plaintiffs prove the relationship as set out in genealogical tree is true and correct?

2. Whether plaintiffs prove that defendant 3 and 4 have relinquished their rights over the joint family properties as pleaded in para-2 of the plaint?

3. Whether defendant proves there was a family partition effecting under partition Karar (Panchyathi Parikath) on 02.12.1988?

4. Whether defendant 3 and 4 relinquished their right unless registered sale deed dated 18.04.1992 relinquishing all their right over the plaint schedule properties?



5. Whether plaintiff suppressed the fact of pending suit in O.S.No.38/1992 on the file of Civil Judge (Sr.Dn.) Ramanagara?

6. Whether the suit is bad for non-joinder of necessary parties?

7. Whether defendants 2 to 4 are unnecessary parties to the suit schedule there were already family parties?

8. What relief the plaintiff is entitle to for?

9. What order or decree?"

7. Plaintiff No.1 examined himself as PW.1 and plaintiff No.2 as P.W.2. In addition, the plaintiffs have examined three witnesses as PW.3 to PW.5 and got marked 22 documents as Ex.P1 to Ex.P22. The defendant No.1 examined himself as DW.1 and two additional witnesses have been examined as DW.2 and DW.3 and got marked 50 documents as Ex.D1 to Ex.D50.

8. The Trial Court answered issue Nos.1 to 5 and 7 in the affirmative, Issue No.6 and 8 in the negative. Consequently dismissed the suit. Being aggrieved, plaintiff No.1 is before this Court.

9. Learned counsel for the plaintiffs/appellants submits that admittedly suit properties are the ancestral properties and



the plaintiff No.1 being the son of defendant No.1 is entitled for the share in the properties. He submits that the suit in O.S.No.38/1992 filed by other members of family has been decreed granting share to each of the family members and the final decree proceedings are pending consideration. He submits in any event the plaintiff No.1 is entitled for the share from and out of the share allotted to the defendant No.1. The trial Court therefore according to him has not appreciated this aspect of matter while dismissing the suit. He submits that only on the technical issue of plaintiff having filed a suit for partition of the entire property and not restricting it to the extent of 1/5th share of defendant No.1, the trial Court has dismissed the suit without moulding the relief. Therefore, he submits that appeal be allowed and parties be relegated to participate in the ongoing final decree proceedings which have been filed pursuant to judgment and decree passed in O.S.No.38/1992.

10. Learned counsel for the defendant No.1/respondent No.1 and learned counsel for the defendant No.2/respondent No.2 appearing through video conferencing fairly submit that they have no objection in plaintiff No.1 being allotted half a share from and out of the share which was allotted/allocable to



defendant No.1-Puttaiah. They also submits that they have no objection in plaintiffs participating in the ongoing final decree proceedings claiming the share only to the extent of half a share from and out of their share allotted to defendant No.1-Puttaiah. However, it is further submitted that defendant No.1 subsequent to passing of the judgment and decree in O.S.No.38/1992 has executed a registered relinquishment deed dated 25.07.2018 in favour of defendant No.2-Muddaiah, notwithstanding the said registered relinquishment deed, both defendant Nos.1 and 2, are ready and willing to concede and allot half of the share of the defendant No.1-Puttaiah in favour of the plaintiffs.

11. Though, defendant No.1 has already executed registered relinquishment deed in respect of his share in the suit property in favour of defendant No.2, in the light of fair submissions made by learned counsel for defendant Nos.1 and 2, notwithstanding the execution of said registered relinquishment deed, the plaintiff No.1 would be entitled for half a share from and out of the property or share allotted to defendant No.1. In any event such relinquishment deed would not be binding on the plaintiff.



12. Learned counsel for the respondent No.1/defendant No.1 has filed a memo dated 12.02.2026 furnishing copy of the plaint in O.S.No.38/1992, judgment and decree dated 18.03.2025 passed in RSA No.469 of 2016 as well as copy of the said relinquishment deed dated 25.07.2018 executed by defendant No.1-Puttaiah in favour of defendant No.2-Muddaiah conveying item Nos.1 to 6 of the suit schedule property.

13. It is submitted that during the pendency of this appeal defendant No.2-Muddaiah has passed away and his legal representatives namely; defendant Nos.2(a) to defendant No.*2(d) are on record.

14. In view of the aforesaid facts situation of the matter and submissions made by the learned counsel for the parties, following:

ORDER

(i). Appeal is ***partly allowed***.

(ii). Judgment and decree dated 08.10.2009 passed in O.S.No.173/2005 by the trial Court is set aside.

** Corrected vide chamber order dated 23/03/2026.*



(iii). Plaintiff No.1 is held entitle for half share out of 1/5th share allotted to defendant No.1.

(iv) For the purpose of convenience and in order to avoid any further delay on technicalities, plaintiffs are permitted to participate in the ongoing final decree proceedings in FDP No.*19/2017 which is filed seeking execution of the judgment and decree passed in O.S.No.*38/1992. The plaintiff shall make a formal application to come and record in the said final decree proceedings. The FDP Court shall allow the same and pass further order allotting half a share to the plaintiff No.1 from and out of the share allotted to defendant No.1-Puttaiah.

(v). Draw decree accordingly.

Sd/-
(M.G.S. KAMAL)
JUDGE

RL
List No.: 1 SI No.: 17

** Corrected vide chamber order dated 23/03/2026.*