



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.NATARAJ

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

REGULAR FIRST APPEAL NO. 200058 OF 2018 (PAR)

BETWEEN:

1. SHIVALINGAYYA
S/O MURGAYYA MATH,
AGE: 59 YEARS,
OCC: AGRICULTURE,
R/O POST: PATTAN NEAR BASAVESHWAR
CHOWN (MADDI),
TQ: AND DIST: KALABURAGI.
2. BASAYYA
S/O MURGAYYA MATH,
SINCE DECEASED BY HIS LRS } Amended as per order
dated 27.01.2026
- 2(a). SMT. GANGAMMA
W/O LATE BASAYYA MATHO,
AGE: 40 YEARS,
OCC: HOUSEHOLD,
R/O: PATTAN,
TQ: AND DIST: KALABURAGI.
- 2(b). BHAGYASHREE MATH
D/O BASAYYA MATHO,
AGE: 23 YEARS,
OCC: HOUSEHOLD,
R/O: PATTAN,
TQ: AND DIST: KALABURAGI.





- 2(c). SHRUSTI
D/O BASAYYA MATHO,
AGE: 16 YEARS, MINOR,
R/O: PATTAN,
TQ: AND DIST: KALABURAGI.
REPRESENTED BY HER NATURAL
GUARDIAN AND MOTHER
2(A) SMT. GANGAMMA
3. REVAYYA
S/O MURUGAYYA MATH,
AGE: 44 YEARS,
OCC: AGRICULTURE,
R/O POST: PATTAN NEAR BASAVESHWAR
CHOWN (MADDI),
TQ: AND DIST: KALABURAGI.

...APPELLANTS

(BY SRI DASTAGIR B. NADAF, ADVOCATE)

AND:

1. GANGADHAR
S/O MURGAYYA MATH,
AGE : 39 YEARS,
OCC : AGRICULTURE,
R/O: PATTAN VILLAGE,
TQ : DIST : KALABURAGI - 585101.
2. SHARADABAI
W/O BASAYYA ISHWARMATH,
AGE: 62 YEARS,
OCC: HOUSEHOLD,
R/O: NARONA VILLAGE,
TQ: ALAND,
DIST: KALABURAGI - 585101.
3. KASTURIBAI
W/O KARBASAYYA MATHPATHI,
AGE: 56 YEARS,
OCC: HOUSEHOLD,



R/O: HUSE NO.9-587/7/114-A,
REVANSIDDESHWAR NILAYA,
NEAR BADAHI, GUMBAZ, DEVI NAGAR,
ALAND ROAD, KALABURAGI - 585101.

4. MAHADEVI
W/O SHIVANANDAYYA MATH,
AGE: 52 YEARS,
OCC: HOUSEHOLD,
R/O: CHOWDESHWARI COLONY,
BEHIND CHOWDESHWAR SCHOOL,
NEAR HOUSE OF CORPORATE KAMAKNOOR,
KALABURAGI - 585101.

...RESPONDENTS

(BY SRI MAHANTESH PATIL, ADVOCATE)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION
96 OF CPC, PRAYING TO SETTING ASIDE THE JUDGMENT AND
DECREE DATED 16.03.2018 PASSED IN O.S.NO.144/2014 BY
THE III ADDITIONAL SENIOR CIVIL JUDGE KALABURAGI, AND
CONSEQUENTLY DISMISS THE SUIT FO THE PLAINTIFFS, IN
THE INTEREST OF JUSTICE.

THIS REGULAR FIRST APPEAL, COMING ON FOR ORDERS,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R.NATARAJ
and
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE R.NATARAJ)

This appeal is filed by the defendants in O.S.No.144/2014 challenging the judgment and decree dated 16.03.2018 passed by the III Additional Senior Civil Judge at Kalaburagi by which the suit for partition and separate possession was decreed with costs.

2. The parties shall henceforth be referred to as they were arrayed before the Trial Court.

3. The suit in O.S.No.144/2014 was filed for partition and separate possession of agricultural lands situate in Pattan Village. The plaintiffs claimed that they were members of a joint family. They claimed that the suit schedule properties belonged to their mother Smt. Veeramma, she having inherited it from her father Bassayya Math. They further claimed that after the death of Smt. Veeramma, there were some misunderstandings between the plaintiffs and the defendants and hence,



plaintiffs called upon the defendants to partition and hand over separate possession of their shares in the suit properties. However, the defendants were postponing the issue on one or the other grounds and therefore, the plaintiffs sought for partition of their 1/7th share each in the suit schedule properties.

4. (i) The suit was contested by defendant No.1, who admitted that the suit schedule properties belonged to his mother Smt. Veeramma. However, he contended that during the lifetime of Smt. Veeramma, there was a partition between the male members of the family and that Plaintiff No.1 was allotted portions in Survey Nos. 148, 149, 150/10 and his name was entered in the revenue records based on Mutation Report No.161 dated 24.09.1998 in respect of 1 acre 24 guntas and that he is in separate possession and enjoyment of the shares. Therefore, he claims that plaintiff No.1 has nothing to do with the shares of the other brothers, namely defendant Nos.1 to 3.



(ii) He claimed that plaintiff Nos.2 to 4 were married sisters and the marriage of Sharadabai was in the year 1980, while Kasturbai's marriage took place in the year 1981 and Mahadevi's marriage took place in the year 1984 and therefore, they are not entitled to any share in their mother's property and hence, they are not allotted any share in the partition. However, he alleged that plaintiff No.1 had instigated plaintiff Nos.2 to 4 to file a suit on false and flimsy grounds.

(iii). He contended that during the lifetime of Smt. Veeramma, there were some misunderstandings between plaintiff No.1 and the defendants and therefore Smt. Veeramma got the suit schedule properties partitioned amongst her sons, namely plaintiff No.1 and defendant Nos.1 to 3 and placed them in separate possession of their respective portions. Since plaintiff Nos.2 to 4 were married, they were not allotted any share. However, they were given some money by Smt. Veeramma. With these contentions, he prayed that the suit be dismissed.



5. The defendant No.2 also took similar contentions.

6. Based on these rival pleadings, the Trial Court framed the following issues:

- "1. *Whether the plaintiffs prove that the suit schedule properties are joint family properties of plaintiffs and defendants?*
2. *Whether the defendants prove that the suit schedule properties are already partitioned during the lifetime of Veeramma?*
3. *Whether the plaintiffs are entitled for the relief claimed in the plaint?*
4. *What order or decree?"*

7. In support of the assertions made in the plaint, plaintiff No.1 was examined as PW-1 and two other witnesses were examined as PW-2 and PW-3 and Ex.P-1 to Ex.P-17 were marked. Defendant Nos.1 and 2 were examined as DW-1 and DW-2 and two other witnesses were examined as DW-3 and DW-4. They marked the Khata extract of the suit schedule properties in question as Ex.D-1.



8. Based on the oral and documentary evidence, the Trial Court held that the defendants had though claimed that there was a partition during the lifetime of Smt. Veeramma, it held that the said document was not marked in evidence. It also held that the said document was not even confronted to the plaintiffs. It also held that defendants did not lead any evidence on the said document to prove their contention. It also held that the defendants did not mention the date as to when exactly the partition was effected. Therefore, it held that the unregistered partition deed, which was not marked by the defendants was not sufficient to prove the partition of the suit schedule properties. It further held that the daughters of Smt. Veeramma were not allotted any share in their mother's properties. Consequently, it held that the Plaintiffs are entitled to an equal share along with the defendants. Therefore, it decreed the suit of the plaintiffs and declared that the plaintiffs are entitled to 1/7th share in the suit schedule properties.



9. Being aggrieved by the said judgment and decree, the defendants are before this Court.

10. Learned counsel for the defendants submitted that Ex.D-1 is the mutation brought about in respect of the suit schedule properties based on the partition effected during the lifetime of Smt. Veeramma. He, therefore, contends that the Trial Court ought to have considered Ex.D-1 and must have held that Smt. Veeramma had consented to such an arrangement and therefore, plaintiff Nos.2 to 4 are not entitled to any share in the suit schedule properties. He also contended that defendant No.3 was placed ex-parte before the Trial Court and therefore, an opportunity has to be granted to defendant No.3 to contest the suit on merits.

11. *Per contra*, the learned counsel for the plaintiffs contended that except Ex.D-1, the defendants did not produce the unregistered partition deed and did not take any steps to prove the same. He submits that by virtue of



Section 15 of the Hindu Succession Act, after the death of Smt. Veeramma, all her children are entitled to an equal share in her properties. He further submits that even if Ex-D-1 is taken into consideration, that did not efface the rights of the plaintiffs in the suit schedule properties.

12. We have considered the submissions of the learned counsel for the defendants and the learned counsel for the plaintiffs.

13. The only point that arises for consideration in this appeal is :-

"Whether the defendants had proved their defence that there was a partition during the lifetime of Smt. Veeramma and that plaintiff No.1 and the defendants had taken the suit schedule properties as their respective shares?"

14. The only contention urged by the defendants was that there was a prior partition during the lifetime of Smt. Veeramma. However no tangible evidence was



produced to prove the said contention. The only document relied by the defendants is Ex.D-1 which is a mutation extract in respect of the suit schedule properties, in terms of which certain properties were shown as allotted to the share of plaintiff No.1. It is not known whether Smt. Veeramma had consented to such an arrangement. The plaintiffs were not parties to the said partition and there is not even a whisper that the plaintiffs had ever consented to such an arrangement after the death of Smt. Veeramma.

15. It is not in dispute that Smt. Veeramma died intestate. Mere entries in the revenue records, did not effect partition of the properties as per the entitlement of the parties. As rightly contended by the learned counsel for the plaintiffs, once Smt. Veeramma died intestate, the inheritance provided under Section 15 of the Hindu Succession Act had to follow.



16. The Trial Court has applied its mind to the facts and circumstances and has rightly held that the defendants have failed to prove the partition of the suit schedule properties during the lifetime of Smt. Veeramma and consequently, was right in holding that the plaintiffs and defendants are entitled to an equal share in the suit schedule properties. Accordingly, we answer the point framed by us for our consideration and ***dismissed*** the appeal.

17. It is made clear that the plaintiffs are entitled to 1/7th share each in all the suit schedule properties.

**Sd/-
(R.NATARAJ)
JUDGE**

**Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE**