

KAUK720008772023



**In the Court of the Senior Civil Judge & Prl. JMFC,
Kumta, At: Kumta, Uttara Kannada**

Dated this the 06th day of August, 2025

PRESENT

**Smt. B.S.Rayannawar, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC, Kumta.**

O.S.No.08/2023

Plaintiff: Kamakshi Anant Ambiga,
Aged about 50 years,
Occ: Agriculturist,
R/o. Aghanashini, Kumta Taluk.

(By Sri. B.D.S., advocate)

V/s

Defendants: 1. Kamala Narayan Ambiga,
Age: 60 years,
Occ : Household,
R/o. Mirjan, Kumta Taluk,

2. Seeta Narayan Ambiga,
Age: 54 years,
Occ : Household,
R/o. Magod, Honnavara Taluk,

3. Geeta Ganapati Ambiga,
Age: 50 years,
Occ : Household,
R/o. Aghanashini, Kumta Taluk,
4. Mahalakshmi Ganapati Ambiga,
Age: 30 years,
Occ : Household,
R/o. Aghanashini, Kumta Taluk,
5. Malati Ganapati Ambiga,
Age: 28 years,
Occ : Household,
R/o. Aghanashini, Kumta Taluk,
6. Malini Ganapati Ambiga,
Age: 26 years,
Occ : Household,
R/o. Aghanashini, Kumta Taluk,
7. Raghavendra Ganapati Ambiga,
Age: 24 years,
Occ : Household,
R/o. Aghanashini, Kumta Taluk,
8. Veena Ganapati Ambiga,
Age: 22 years,
Occ : Household,
R/o. Aghanashini, Kumta Taluk,
9. Kumar Anant Ambiga,
Age: 30 years,
Occ : Fisherman,
R/o. Aghanashini, Kumta Taluk,
10. Sangeeta Mahendra Harikant,
Age: 28 years,
Occ : Household,

R/o. Ghattumane, Hiregutti, Kumta Taluk,

11. Rekha Anant Ambiga,
Age: 26 years,
Occ : Household,
R/o. Aghanashini, Kumta Taluk,
12. Pushpa Anant Ambiga,
Age: 25 years,
Occ : Household,
R/o. Aghanashini, Kumta Taluk,
13. Harish Anant Ambiga,
Age: 24 years,
Occ : Fisherman,
R/o. Aghanashini, Kumta Taluk,
14. Nagesh Sukrappa Ambiga,
Aged about 50 years,
R/o. Aghanashini, Kumta Taluk,
15. Vishnu Sukrappa Ambiga,
Aged about 48 years,
R/o. Aghanashini, Kumta Taluk,
16. Gowri Ishwar Ambiga,
Aged about 60 years,
R/o. Aghanashini, Kumta Taluk,
17. Shinnu Jatti Ambiga,
Aged about 58 years,
R/o. Aghanashini, Kumta Taluk,
18. Saroja Dayanand Ambiga,
Aged about 45 years,
R/o. Aghanashini, Kumta Taluk,
19. Sandesh Dayananda Ambiga,
Aged about 27 years,

R/o. Aghanashini, Kumta Taluk,

20. Sushma Dayanand Ambiga,
Aged about 24 years,
R/o. Aghanashini, Kumta Taluk,

21. Sumitra Chandrakant Kumta,
Aged about 48 years,
R/o. Near Old Post office,
Murukatte, Kumta, Kumta Taluk,

22. Kusuma Krishnappa Ambiga,
Aged about 45 years,
R/o. Anilgod, Honnavara Taluk,

(Defendant No.1 By Sri. N.M.H. advocate)
(Defendant No.2 to 8 By Sri. M.U.N. advocate)
(Defendant No.9 to 13 By Sri. N.S. advocate)
(Defendant No.14 & 15 Sri. S.D.N. advocate)
(Defendant No.16 to 18 By Sri. S.J.N. advocate)
(Defendant No.19 to 22 are Ex-parte)

Date of institution of the suit : 10.08.2023

Nature of the suit : Partition and separate
possession and for
declaration

Date of the commencement : 02.12.2023
of Recording of the evidence

Date on which the Judgment : 06.08.2025
was pronounced

Total Duration : Years Months Days
01 11 27

JUDGMENT

The present suit is filed by the plaintiff for partition and for declaration.

2. The brief facts of the plaintiff case is as under:

It is admitted fact that, the plaintiff and defendant No.1 to 8 are joint family members.

3. Suit properties are landed and house properties, which are more particularly shown in schedule 'A' and 'B' appeared to the plaint. In para No.2 of the plaint, genealogy of family of plaintiffs and defendants is given. According to it, Ganapa was the propositer of plaintiff and defendants family. Propositer Ganapa had two sons by name Govinda and Narayana both are no more, wife of Ganapa is no more and his son Ganapa were also dead. The defendant No.3 is wife and defendant No.4 to 8 are children of late Ganapa. The wife of Narayana, Smt. Mankali also dead, the Anant son of Narayana and Mankali also dead, defendant No.1 and 2 and Anant are children of Narayan and

Mankali, the Anant is also no more, the plaintiff is the wife of Anant.

4. Suit schedule properties are tenanted land granted by land tribunal to Narayana Ganapa Ambiga and Govind Ganapa Ambiga by tribunal order in L.R.M.S.-S.R. 6708+6709 the same was mutated in M.E. No.2330 in revenue documents, they were in possession and enjoyment of the properties. The Govind Ganapa Ambiga died on 02-06-1991 and property is got mutated in the name of his wife and children in M.E.No.3000. After death of Gowri and her son Ganapati, name of defendant No.3 to 8 mutated in to records and after death of Anant name of plaintiff entered in to revenue records.

5. Original home of the plaintiff and defendants was collapsed, during his life time the Ganapati was residing in the said original house. The plaintiff had no residential house, hence she given application to Kagal Gram Panchayath on 15-03-2007 the House No.69 granted to plaintiff, the plaintiff by her savings and under government scheme she constructed in the house no.69, hence the same is her self acquired property. But the

defendants are obstructing the plaintiff from enjoying peaceful possession of said house property, hence plaintiff demanded defendant No.1 for partition to get her legitimate share in suit schedule property, but defendant No.1 refused and obstructing plaintiff's peaceful possession and enjoyment in suit schedule property, hence plaintiff constrained to file this suit. The defendant No.2 relinquished her right into suit schedule property, hence the plaintiff, defendant No.9 to 13 together entitled for 1/4th share, defendant No.1 having 1/4th share, defendant No.3 to 8 are having 1/2 share in the suit schedule 'A' property and 'B' schedule H.No.69, Aghanashini Village is self acquired property of plaintiff. Defendant No.1 denying the share of plaintiff. Therefore plaintiff is constrained to file this suit.

6. In pursuance of suit summons issued by this court Defendant No.1 to 18 have appeared before the court through their respective counsels. Though summons served defendant No.19 to 22 not appeared before the court and hence defendant No.19 to 22 placed exparte.

07. Defendant No.1 filed her separate written statement, inter-alia denying the plaint averments. It is contended that the original house of property is joint family property of plaintiff and defendants. The plaintiff and defendants are residing in the said house in different portions. It is joint family property and the defendant No.1 is also having equal right in the said property. This defendant never obstructed the plaintiff from enjoyment of suit property, she do not know that defendant No.2 relinquished her right in suit schedule property. This defendant is entitled for 1/4th share in suit schedule 'A' property and house No.68/1 and she is ready to pay court fee with respect to her share. Hence prays to allot her share in suit property.

8. Defendant No.3 filed her written statement admitted genealogy of family of plaintiff and defendants furnished in plaint, further admitted of share. defendant No.2, 4 to 8 adopted the same.

9. Defendant No.9 also filed written statement admitting plaint averments written statement of defendant No.9 adopted by defendant No.10 to 13.

10. Defendant No.14 to 18 also filed their written statement contending that they are not necessary party to the suit. As their name appears in RTC plaintiff made them as party to the suit, this suit filed against them only to harass them, hence prays to dismiss the suit with cost.

11. In order to prove her case the plaintiff got examined herself as PW.1 and got marked document Ex.P1 to Ex.P5. On the other hand the defendant No.1 got examined herself as DW.1 got marked documents Ex.D-1 to Ex.D-22.

12. On rival contentions of the parties and on perused of material placed on record the following issues framed.

ISSUES

1. Whether the plaintiff proves that the house bearing No.69 is her self-acquired property?
2. Whether the plaintiff and the defendant No.9 to 13 prove that they are having 1/4th joint right in the plaint schedule properties?

3. Whether the plaintiff and defendants are entitled for share in the plaint schedule properties as prayed in their pleadings?
4. What order or decree?

ADDITIONAL ISSUES DATED 26-09-2024

1. Whether defendant Nos.14 to 18 prove that their ancestors were in cultivation, possession and enjoyment of suit property from time immemorial and now these defendants are in possession and enjoyment of suit schedule property, hence nor the plaintiff neither the other defendants have right in the schedule properties?

ADDITIONAL ISSUES DATED 07-07-2025

1. Whether the defendant No.1 proves that she also entitled for 1/4th share in the suit schedule property?
2. Whether defendant No.1 proves that she is entitled for share in house property No.68/1 situated at Kagal Gram Panchayat?

13. Heard arguments addressed by the learned advocate for the plaintiff and perused the entire materials on record.

14. My finding on the above Issue are as follows:

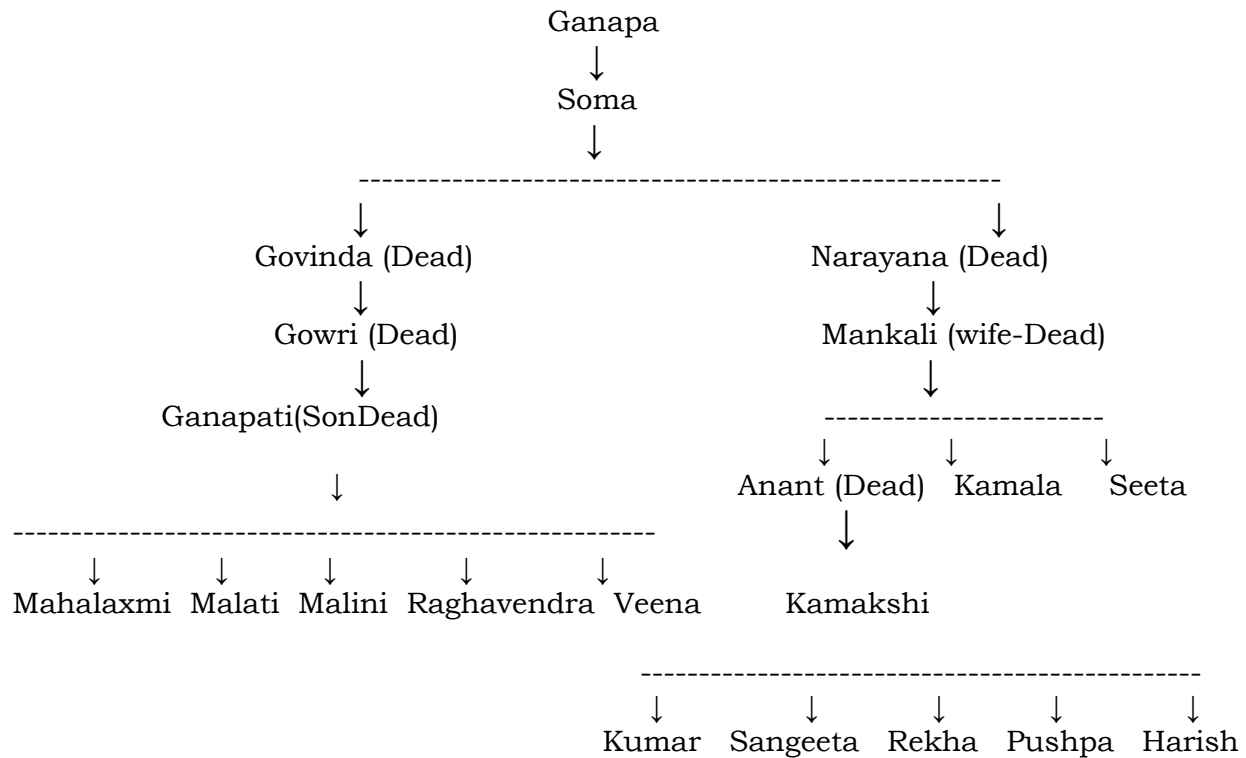
Issue No.1	: In the Affirmative
Issue No.2	: In the Affirmative
Issue No.3	: In the Affirmative
Addl.Issue No.1 dated 26.09.2024	: In the Negative
Addl.Issue No.1 dated 07.07.2025	: Partly in the Affirmative
Addl. Issue No.2	: In the Negative
Issue No.4	: As per the final order

For the following:

REASONS

15. **Issue No.2, 3 Addl. Issue No.1 dated 26.09.2024 and Addl. Issue No.1 dated 07.07.2025:** These four issues are inter related to each other hence to avoid repetition of facts taken for common consideration.

16. In this case the defendants no.1 to 13 not disputed the relationship between the parties. The defendants admitted the genealogical tree furnished by plaintiffs, hence the same is reproduced as below;



17. One Ganapa is propositus of plaintiff and defendant No.1 to 13. Except with respect to 'B' house No.69 property there is no dispute with respect to other plaintiff schedule properties. It is the contention of plaintiff that the suit schedule 'A' is joint family property hence she and defendant no.9 to 13 together entitled for 1/4th share in suit schedule 'A' property.

18. In the present case except the defendant no.1 other defendants not contested the matter, moreover the defendant no.1 except suit schedule 'B' property she is also not disputing

that the 'A' schedule property is joint ancestral property. All the defendants no.1 to 13 in their written statement have admitted that the suit schedule 'A' property are the joint family property plaintiff and defendant no.9 to 13 together entitled for 1/4th share, defendant no.1 entitled for 1/4th share and defendant no.3 to 8 together entitled for ½ share in suit schedule 'A' property and they are ready to pay court fee with respect to the same.

19. To prove that the suit schedule 'A' properties are the joint family properties of plaintiff and defendant no.1 to 13, the plaintiff got herself as PW.1 filed her chief affidavit by reiterating the contents of plaint averments. In support of her oral evidence has produced Ex.P.1 RTC with respect to Land Sy.No.269 meg 0-5-0 situated at Aghanashini, Ex.P.2 RTC with respect to land bearing Sy.No.270/1B meg 0-2-6, Ex.P.3 is Record of Rights, Ex.P.4 of Form no.3 and Ex.P.5 the tax paid receipt.

20. On the other hand the defendant No.1 also got examined as DW.1 filed her chief affidavit by reiterating the

contents of written statement, in support of her oral evidence has produced Ex.D.1 is copy of House tax register extract, Ex.D.2 is tax paid receipt with respect to house property no.68/1, Ex.D.3 is tax paid receipt with respect to House No.69, Ex.D.4 to Ex.D.13 are tax receipts with respect to house number 68/1, Ex.D.14 is residential certificate.

21. Except the defendant No.1 other defendants are not the contested parties. Admittedly there is no family partition with respect to suit schedule 'A' properties. The defendant No.1 is none other than the sister-in-law of plaintiff another sister in law that is defendant No.2 has already relinquished her right in the suit schedule property. The defendant no.2 to 13 have in their written statement have taken contention that the suit schedule 'A' property is joint family property and they are also entitled for their legitimate share in the said property and they are ready to pay the court fee, hence they prayed to decree the suit. Hence the admitted fact need not be proved. All the parties to the suit admitted that the suit schedule 'A' property is joint family property and till today there is no partition. Though defendant no.14 to 18 have contended that

they are cultivation and possession of suit property, but they not lead any evidence. Plaintiff and defendants no.1 to 13 admitted that they are the members of joint family till today there is no partition with respect to suit schedule 'A' property and suit schedule 'A' properties are the joint family property. Hence the plaintiff and defendants no.1 to 13 are entitled for the share in suit 'A' property hence **Issue no.2, 3 and Addl. Issue No.1 dated 07.07.2025 are answered in the Affirmative and Addl Issue No.1 dated 26.09.2024 answered in the Negative.**

22. **ISSUE NO.1 & ADDL ISSUE NO.2:** These two issues are inter related to each other hence taken for common consideration to avoid repetition.

23. In this case it is the contention of plaintiff that the suit schedule 'B' house property no.69 situated at Kagal Gram Panchayath is her self acquired property. She filed application dated 15.03.2007 to Kagal Gram Panchayath for grant of house, and the House No.69 was granted and she constructed the house in the said land her saving amount

and availing amount under government scheme and the plaintiff is in possession and enjoyment of the same.

24. The plaintiff claiming suit schedule 'B' property is her self acquired property, except defendant No.1 other defendants not disputed this fact. To prove her contention the plaintiff Ex.P.4 Form No.3, and Ex.P.5 the tax paid receipt with respect to House No.69 Kagal Village.

25. But it is the contention of defendant no.1 that the 'B' schedule property that is House No.69 is joint family property, house constructed in joint family property, and the defendant no.1 also got share in the said property. Admittedly during her cross-examination PW1 admitted that the house was constructed on original old foundation. Hence learned counsel for defendant No.1 submits that plaintiff during her cross-examination clearly admitted that the house constructed by the plaintiff on old foundation, the joint family the original house, the first defendant also residing in her parental house, and is entitled for share in the said property. But other defendants admitted that the house No.69 is constructed by

plaintiff and she is the owner of the same and the said property is self-acquired property of plaintiff.

26. To disprove the case of plaintiff the defendant No.1 has produced Ex.D1 certified copy of the house register extract wherein the house No.69 wherein the name of the owner of House No.60 shown Anant Narayana Ambiga. Defendant No.1 also produced Ex.D.2 to 12 the tax paid receipts, but the same are not title documents. Moreover in this case the defendant No.1 claiming right in house property No.68/1 and in Ex.D1 the house No.68/1 belongs to one Bojju Beerappa Ambiga, who is not party to the present suit and moreover the house No.68/1 is not the suit schedule property. Suit schedule 'B' is House No.69. DW.1 during his cross examination admitted that, the Ganapati has constructed the house in joint family property, further admitted that the House No.69 granted to the plaintiff by the Panchayath. Nor the plaintiff or other defendants claimed right in House number 68/1. further admitted that nor the plaintiff neither the other defendants have denied her right in joint family

property, further admitted that she is claiming her right in H.No.68/1.

27. Admittedly the house property in which the defendant No.1 claiming right that is the H.No.68/1 is not suit schedule property. None of the defendants have denied that the house number 69 not belongs to the plaintiff. The H.No.69 granted to plaintiff by Kagal Gram Panchayath and she constructed the house in the said property. Though first defendant denied it is self acquired property of plaintiff, but defendant no.1 not claiming right in H.No.69, but she is claiming right in H.No.68/1 which is not the suit property. Hence by perusal of evidence shows that the first defendant failed to prove that the suit scheudle 'B' property is joint family property, plaintiff proves that, the suit scheudle 'B' property is self acquired property of plaintiff. **Hence Issue no.1 answered in the Affirmative and Addl Issue No.2 answered in the Negative.**

28. **Issue No.4**: In view of the above discussion this court , proceed to pass the following:

ORDER

The suit filed by the plaintiff is hereby decreed.

It is held that plaintiff, defendant No.9 to 13 together entitled for 1/4th share, defendant No.1 entitled for 1/4th share, defendant No.3 to 8 are together entitled for 1/2 share in suit schedule 'A' property.

Further the 'B' schedule property H.No.69 is declared to be self acquired property of plaintiff.

Suit schedule property shall be partitioned as per Sec.54 of code of civil procedure, 1908.

Considering the relationship between the parties, costs are made easy.

Draw preliminary decree accordingly.

(Directly dictated to the stenographer, corrected and then pronounced by me in the open Court on this the **06th day of August, 2025**)

(Smt. B.S.Rayannawar)
Senior Civil Judge & Prl. JMFC.,
Kumta.

ANNEXURE**List of witnesses examined for plaintiff:**

PW1 : Kamakshi Anant Ambiga

List of documents exhibited for the plaintiff:

Ex.P1 and 2 : Record of Rights
Ex.P3 : Certificate copy of Mutation
Ex.P4 : Form No.3 (digital copy)
Ex.P5 : Tax receipt.

List of witnesses examined for defendants:

DW1 : Kamala Narayan Ambiga

List of documents exhibited for the defendants:

Ex.D1 : Copy of house tax register extract
Ex.D2 to 12 : Tax receipts
Ex.D13 : Form No.13
Ex.D14 : Residential certificate.

(Smt. B.S.Rayannawar)
Senior Civil Judge & Prl. JMFC.,
Kumta.