



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 31ST DAY OF JANUARY 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

REGULAR FIRST APPEAL NO.100353 OF 2019 (PAR/POS-)

BETWEEN:

PREMALATHA W/O. KETHAN CHADDA,
AGED ABOUT 40 YEARS,
OCC. HOUSEHOLD WORK,
R/O. B-93, NEELKANT VILLAGE,
NEAR RAJAN MATHRE OFFICE, NERIVALI ROAD,
DOMBIVILI (E), KALYAN, MAHARASHTRA.

...APPELLANT

(BY SRI. ARAVIND D. KULKARNI, ADVOCATE)

AND:

1. GIRIJA W/O. MAHANTAPPA JANGERI @ PYATI,
AS PER ORDER DATED 18.08.2022, THE LRS OF
DECEASED R1 (R2 TO R6) ARE ON RECORD,
AMENDED AS PER MEMO FILED FOR TREATING R2 TO R6
AS LRS OF DECEASED R1
2. JAGADISH S/O. MAHANTAPPA JANGERI @PYATI,
AGED ABOUT 46 YEARS, OCC. BUSINESS,
R/O PANCHAXARI NAGAR, GADAG-582101.
3. MANJUNATH S/O. MAHANTAPPA JANGERI @ PYATI,
AGED ABOUT 44 YEARS, OCC. BUSINESS,
R/O PANCHAXARI NAGAR, GADAG-582101.
4. LAXMI W/O. JAGADISH JANGERI @ PYATI,
AGED ABOUT 41 YEARS,
OCC. HOUSEHOLD WORK,

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R/O PANCHAXARI NAGAR, GADAG-582101.

5. VIKAS S/O. JAGADISH JANGERI @ PYATI,
AGED ABOUT 16 YEARS,
OCC. STUDENT, GADAG
MINOR/GUARDIAN BY GUARDIAN MOTHER
LAXMI W/O. JAGADISH JANGERI @ PYATI,
AGED ABOUT 41 YEARS,
OCC. HOUSEHOLD WORK,
R/O. PANCHAXARI NAGAR, GADAG-582101.
6. PUTTARAJ S/O. MANJUNATH JANGERI @ PYATI,
AGED ABOUT 11 YEARS,
OCC. STUDENT,
MINOR/GUARDIAN BY GUARDIAN MOTHER,
CHETANA W/O MANJUNATH JANGERI @ PYATI,
AGED ABOUT 41 YEARS, OCC. HOUSEHOLD,
R/O. PANCHAXARI NAGAR, GADAG-582101.

...RESPONDENTS

(BY SRI. SABEEL AHAMED, ADVOCATE FOR R2 TO R6;
R2 TO R6 ARE LRS OF R1)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, PRAYING TO ALLOW THIS APPEAL AND BY SETTING ASIDE THE JUDGMENT AND DECREE IN O.S.NO.24/2018 PASSED BY ADDL. SENIOR CIVIL JUDGE, GADAG ON 20TH APRIL 2019 THEREBY DISMISSING THE SUIT OF PLAINTIFF IN SO FAR AS SUIT SCHEDULED 2, 3, 8 TO 11 PROPERTIES ARE CONCERNED AND CONSEQUENTLY DECREE THE SUIT OF THE PLAINTIFF BY HOLDING THAT APPELLANT HEREIN ALSO ENTITLED FOR 1/4TH SHARE IN THE SAID PROPERTIES AND ETC.

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

CORAM: THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(PER: HON'BLE MRS JUSTICE GEETHA K.B.)

This is the appeal filed by appellant/plaintiff under Section 96 of Code of Civil Procedure, 1908, praying for setting aside the judgment and decree dated 20.04.2019 passed in O.S.No.24/2018 on the file of Additional Senior Civil Judge, Gadag, in respect of dismissing the suit over suit schedule item Nos.2, 3, 8 to 11 of properties.

2. Parties would be referred with their ranks, as they were before trial Court for sake of convenience and clarity.

3. Plaintiff is the daughter of defendant No.1 and one Mahantappa Jangeri. Mahantappa had two sons and a daughter i.e. defendant Nos.2 & 3, plaintiff; defendant No.1 is wife of deceased Mahantappa Jangeri. Defendant No.4 is the wife of defendant No.2, defendant No.5 is the son of defendant No.2 and defendant No.6 is the son of defendant No.3. Plaintiff has filed the suit praying for partition and separate possession of her 1/4th share in all suit schedule properties by metes and bounds.



4. The contention of plaintiff is that all suit schedule properties are the ancestral and joint family properties of plaintiff and defendants. Plaintiff being daughter of deceased-Mahantappa Jangeri who died on 27.07.2017 is a coparcener as per Hindu Succession (Amendment) Act of 2005 (in short, the Act, 2005) and thus, she is entitled for share in all the suit schedule properties by metes and bounds.

5. Defendant No.2 filed his written statement which is being adopted by defendant Nos.1, 3 to 6, wherein they have admitted the relationship between parties. However, the contention of defendants is that, at the time of marriage of plaintiff, in view of her share, she has taken 10 tolas gold, 10 tolas silver and two lakhs cash for settling her family life. Hence, she is not entitled for any share in suit schedule properties. They have taken contention that some of the suit schedule properties were self-acquired properties and are purchased in the name of defendant No.1. Thus, those properties are her absolute properties. Furthermore, there is already partition between defendant No.1 and her husband. Defendant No.1 has executed registered gift deeds dated 03.06.2015 and 23.02.2015 and they



are legal documents and thus, conveyed some of the properties in favour of defendant Nos.4 to 6. Hence, plaintiff is not entitled for any relief prayed in the plaint and prayed for dismissal of suit with costs.

6. Based on above pleadings, the following issues were framed before the trial Court:

ISSUES

- "1. Whether the plaintiffs prove that, she and defendants are the members of Hindu Joint Family and suit properties are their joint family properties and available for partition?*
- 2. Whether the defendants prove that, the suit schedule properties purchased in the name of Mahantappa are the self acquired properties of deceased Mahantappa contended in para No.4 of their written statement?*
- 3. Whether the defendants proves that, the properties mentioned in para No.5 of their written statement are the self acquired properties of defendant No.1?*
- 4. Whether defendants further prove that, there was already a partition held in the joint family as contended in para No.6 of their written statement?*
- 5. Whether the defendants further prove that, the defendant No.1 being the absolute owner executed as of the property registered gift*



deed dated 21.06.2017 as contended in para No.6 of their written statement?

6. *Whether the plaintiff is entitled for the relief as claimed in plaint?*
7. *What Order or decree?"*

7. On behalf of plaintiff, plaintiff was examined as PW1, got marked Exs.P1 to P47 and closed her side before trial Court. On behalf of defendants, one of the defendants is examined as DW1 and examined a witness as DW2, got marked Exs.D1 to D8 and closed their side.

8. After hearing arguments of both sides, the learned trial judge has decreed the suit in respect of item Nos.1, 4 to 7 and 12 of suit schedule properties and dismissed the suit in respect of item Nos.2, 3, 8 to 11 of suit schedule properties.

9. Aggrieved by dismissal of suit in respect of item Nos.2, 3, 8 to 11, the present appeal is preferred by the plaintiff.

10. During pendency of this appeal, defendants/respondent Nos.2 to 6 have filed I.A.No.1/2025 under Order XLI Rule 27 of CPC with five documents.



11. In the affidavit annexed to I.A.No.1/2025, one of the respondents has stated that inadvertently, they could not produce some documents. The certificate of registration issued by Small Scale Industries Department and certificate of appreciations were kept in official files and were not available at the time of tendering their evidence. The sale deed dated 12.07.2016, gift deeds dated 03.06.2015 and 20.06.2017 were not traced and collected due to oversight and unavoidable circumstances. Thus, in spite of exercise of due diligence, they could not produce those documents. Now, they intend to produce those documents to substantiate their contention. Hence, prayed for allowing respondent Nos.1 to 6 to produce the additional documents and to permit them to adduce additional evidence in support of their case.

12. Learned counsel for appellant/plaintiff has filed objections to I.A.No.1/2025, wherein, he contended that ample opportunity was there for defendants to produce these documents because these documents were alleged to be the earlier documents and available at the time of filing their written statement and leading their evidence. In this appeal, the



respondents appeared in the year 2021. But only on 18.09.2025 i.e., about 4 years after filing of the appeal and service of notice of appeal, respondents have filed the application without any admissible reason and hence, prayed for dismissal of I.A.No.1/2025 with costs. In this regard, he relied on some citations. He further contended that there was no pleading in respect of some of these documents and hence, they cannot be taken on record.

13. Heard arguments of both sides on main appeal and also on I.A.No.1/2025.

14. Learned counsel for appellant Sri Aravind D. Kulkarni would submit that item No.2 of suit schedule properties was purchased by original propositus who died intestate and admittedly, it was purchased out of joint family nucleus. Item No.3 of suit schedule properties was standing in the name of original propositus and thus, it was also purchased by him. Item Nos.8 to 11 are purchased in the name of defendant No.1 by original propositus during his lifetime from 1991 onwards and defendant No.1 had no independent source of income to purchase those properties. Even, DW1 in his cross-examination



admitted that these properties were purchased by their father in the name of his wife-defendant No.1. Original propositus could not have executed gift deed in respect of item Nos.2 and 9 of suit schedule properties because they were ancestral properties and he being one of the coparceners, cannot execute gift deed in respect of those properties without the consent of other coparceners. Hence, it is void *ab initio* and said document was produced only along with I.A.No.1/2025, without any admissible reason and thus, cannot be looked into.

15. Learned counsel for appellant would further submit that admittedly, plaintiff married a person of other community and thus, her parents were angry with her and they have not attended her marriage and Ex.D8, the marriage invitation card was concocted and learned trial judge has clearly held that it is a concocted document and that finding is not questioned by defendants. Under these circumstances, definitely no gold, silver or cash was given to plaintiff by defendants or her father at the time of her marriage. Hence, plaintiff is entitled for equal share in all the suit schedule properties by metes and bounds.



16. During pendency of this appeal, respondent No.1 died intestate. Plaintiff and defendant Nos.2 and 3, i.e., appellant and respondent Nos.2 and 3 are her legal representatives and they are already on record. Hence, her share is to be equally divided amongst appellant and other defendant Nos.2 and 3. Hence, prayed for allowing the appeal and to dismiss I.A.No.1/2025.

17. Learned counsel Sri Sabeel Ahamed for respondent Nos.2 to 6 would submit that item No.2 of suit schedule properties was purchased by original propositus in the year 1977, by his hard earning and thus, it was his self-acquired property. Thus, he was having every right to execute registered gift deed in favour of his wife in respect of said property and also in respect of item No.9, which was also purchased in the year 1991.

18. Learned counsel for respondents would further submit that plaintiff has not prayed for cancellation of registered documents and also not even made a prayer that those registered documents are not binding on her share. Hence, she cannot pray for cancellation of those documents and further,



plaintiff has not established the existence of joint family nucleus to purchase these properties either in the name of original propositus or in the name of defendant No.1. Defendants have fairly conceded for decree in respect of ancestral properties and thus, they have not challenged the judgment and decree in respect of granting share to plaintiff in respect of item Nos.1, 4 to 7 and 12 of suit schedule properties. Furthermore, he has produced some documents along with this appeal, i.e., the certificate issued by Directorate of Small Scale Industries in the name of defendant No.1, to prove that defendant No.1 was having independent source of income. He has also produced the registered gift deed executed by original propositus in favour of defendant No.1 on 03.06.2015 and thus, plaintiff cannot claim any share in respect of item Nos.2 & 9 of suit schedule properties. As far as item Nos.10 & 11 of suit schedule properties are concerned, they are standing in the name of defendant No.1 and they are the absolute properties of defendant No.1. Furthermore, defendant No.1 has executed registered gift deed in favour of defendant Nos.4 to 6 in respect of item Nos.2 and 9 and thus, considering these aspects, the learned trial judge has dismissed the suit. These documents produced along with



I.A.No.1/2025, were not in custody of defendant Nos.2 and 3 at the time of filing their written statement or at the time of tendering their evidence and they could not trace them and now, they have traced those documents and they are proper and necessary documents and relevant documents to establish the contention of defendant Nos.2 to 6. Hence, prayed for allowing I.A.No.1/2025.

19. Having heard the arguments of both sides, verifying the appeal records along with the trial Court records, the points that arise for consideration are:

- i. Whether the plaintiff is entitled for share in item Nos.2, 3, 8 to 11 of suit schedule properties?*
- ii. Whether the learned trial judge erred in not considering the claim of plaintiff in proper manner and thus, the judgment and decree of trial Court on those items is erroneous?*
- iii. Whether interference of this Court on the above said judgment and decree in respect of item Nos.2, 3, 8 to 11 is required?*



iv. Whether respondents be permitted to adduce additional evidence?

20. Findings on those points are in AFFIRMATIVE for the following reasons:

21. The admitted facts of the case are that defendant Nos.2 & 3 are sons and plaintiff is the daughter of deceased- Mahantappa Jangeri and defendant No.1- Girija. It is an admitted fact that plaintiff married the person of another community on 19.11.2009.

22. The contention of plaintiff is that item Nos.2, 3 & 8 to 11 are also the ancestral and joint family properties of plaintiff and defendants and thus, she is entitled for share in those properties.

23. It is a fact that item No. 2 of suit schedule property is purchased in the name of original propositus under registered sale deed dated 21.02.1977. Ex.P.2-the record of rights of this property stands in the name of original propositus. However, Ex.P.2 reveals that its Pahani and mutation are not yet executed. The plaintiff has not produced even a single document to show



that this property was purchased in the year-1977 by original propositus and it is still in their family. Ex.P.2 will not establish the said position. But defendants have produced Ex.D.6-Mutation No.14894 to show that the original propositus has mortgaged this property in favour of Society. There is no dispute that this property belonged to the family, because defendants contended that original propositus has executed registered gift deed in favour of defendant No.1 in respect of this property during 2015 and now along with I.A.No.1/2025, they have produced the Xerox copy of said gift deed. Now if revenue entries are not standing in the name of the executants; then the revenue authorities cannot register the document. Hence, considering Ex.D.5 and admission of both sides, it could be said that, this property was standing in the name of original propositus.

24. As far as, item No.3 is concerned, plaintiff has produced the property extract of 1994-95 to show that, it was standing in the name of original propositus. This property is not sold or alienated by family members as per the contention of both sides. Hence, it was standing in the name of original propositus.



25. Item No.8 is re-survey No.444/A at plot No.5. Ex.P.7 is the R.T.C. extract of this property. It shows that, it was standing in the name of defendant No.1. Ex.P.8 also establishes that Item No.9 was standing in the name of defendant No.1. No documents are produced in respect of Item No.10 of the property. As far as Item No.11 is concerned, Ex.P.9 is produced. This is the original registered sale deed dated 29.06.1977 in the name of defendant No.1. Now along with I.A.No.1/2025, defendants have produced the certified copy of sale deed dated 12.07.2016 and original gift deed dated 20.06.2017 executed by defendant No.1 in favour of wife of defendant No.3. None of the revenue records of said property is produced by either side. As discussed earlier, these documents are recent documents and the revenue authorities could not have allowed the party to execute either sale deed or gift deed, if it is not standing in their respective names.

26. It is the specific contention of plaintiff/appellant that original propositus was not having any right to execute registered gift deed in favour of defendant No.1 in respect of Item No.2 of suit schedule properties, because it was purchased



from the ancestral and joint family income. In this regard, the cross-examination of DW.1 reveals that, DW.1 categorically admitted that his father was having 3 acres 5 guntas and it is the ancestral property of his father. When plaintiff established that, there was some ancestral property, which was giving yield, it is the duty of the person who is disputing its nature that, it was purchased from hard earned money of original propositus and it was his self-acquired property. Furthermore, even in the Gift deed, there is no recital that this is the self-acquired property of deceased Mahantappa Jangeri. In this regard, no material is produced by defendants. It is only deposed by DW.1 that his father was doing Coolie work and purchased said property. However, that cannot be accepted without any admissible evidence. DW.2 also not deposed anything on these points.

27. In the cross-examination, DW.1 admitted that his father has purchased some of the properties in the name of his mother (defendant No.1). However he has deposed that his mother was doing tailoring and earning income. But he does not know what her income was at that time. There shall be some specific pleading regarding these facts. In this regard in the



written statement, it is only stated that some of the properties were the self-acquired properties of their father and some of the properties were purchased by defendant No.1 and they are her absolute properties. However some material has to be placed that, from which source the original propositus has purchased those properties to which, defendants alleged that they are the self-acquired properties of original perpetrators. In the absence of such material, it cannot be said that Item No.2 of suit schedule properties was the absolute property of deceased original propositus-Mahantappa Jangeri.

28. Generally, if any property stands in the name of a female, then it would be her absolute property. However, in the instant case, DW.1 himself in the cross-examination categorically admitted that, his father has purchased some of the properties, in the name of his mother. Furthermore admittedly, Item No.9 of suit schedule properties was standing in the name of defendant No.1. Under those circumstances, there was no need or necessity for the original propositus to execute registered gift deed in respect of said property in to the name of defendant No.1. This execution of alleged registered gift deed by original propositus in



favour of defendant No.1 itself shows that, said property was not her absolute property.

29. There was partition between defendant No.1 and her husband as per Ex.P.10. Under this document, this Item No.9 was partitioned between defendant No.1 and her husband and registered partition deed was executed on 25.06.2011. When there are daughter and sons to original propositus and defendant No.1, there cannot be any partition between original propositus and defendant No.1 alone without impleading them. Hence, apparently this Ex.P10 has no value in the eye of law. But that can also substantiate the contention of plaintiff that this property was purchased in the name of defendant No.1 by her husband. As far as, other items of suit schedule properties i.e., Item Nos.10 and 11 are concerned, Ex.P.9 is the registered sale deed in respect of Item No.11. Even though, this property is purchased in the name of defendant No.1 alone, it is also to be considered as joint family property. Furthermore as it is defendant No.1 died intestate and plaintiff being her daughter, will get share even in Item No.11 of suit schedule property.



30. On careful perusal of the above documents, it is clear that, only to exclude the plaintiff to get share in these properties, it appears that original propositus has executed registered gift deed in respect of Item Nos.2 and 9 in favour of defendant No.1 who in turn has executed registered gift deed in respect of those properties in favour of defendant Nos.4 to 6 who are her daughter-in-law and grandchildren.

31. Learned counsel for respondents has produced several documents along with I.A.No.1/2025. Even though, proper reasons are not assigned for non-production of those documents before Trial Court, they are relevant documents to decide this case and hence, under Order XLI Rule 27(b) CPC, if the Court comes to the conclusion that, those documents are required to be examined to enable it to pronounce judgment, then the Court may permit the party to adduce additional evidence.

32. In the instant case, as discussed above, in respect of some of the suit schedule properties i.e., Item Nos.9 and 10 of suit schedule properties, no admissible revenue documents are produced. However, the respondents have produced additional



documents in respect of those properties i.e. registered gift deeds and registered sale deed. Those documents would enable the Court to say that they are the properties belonging to the family of plaintiff and defendants and hence, to come to said conclusion, those documents are relevant and important documents. Furthermore, there is no dispute amongst plaintiff and defendants about existence of these properties in the joint family. Under these circumstances, respondents have to be permitted to adduce additional evidence by producing additional documents.

33. As far as certificate issued by Small Scale Industries Unit and some appreciation letters produced along with I.A.No.1/2025, there is no specific pleading about these documents in the written statement and they are Xerox documents. Hence, they are inadmissible in law.

34. As discussed above, there is sufficient joint family nucleus in the family and out of that, some of the properties were purchased in the name of original propositus and some in the name of defendant No.1. When sufficient nucleus is established, the burden shifts upon the person who alleges that,



they are self-acquired properties of the original propositus and defendant No.1. Even though, defendant No.1 was alive during pendency of the suit, she has not made any efforts to enter the witness box and to depose that what was her income and savings to purchase Item Nos.8 to 11 of suit schedule properties in her name. In the absence of these things, it is to be held that, those properties were also the joint family properties.

35. With this background, it is to be analysed whether original propositus was having any right to execute registered gift deed in favour of defendant No.1 in respect of joint family properties. In this regard, learned counsel for appellant would rely upon the judgment of Co-Ordinate Bench of this Court in the case of Rudrawwa vs. Balawwa¹ wherein it is held as follows:

"This takes us to the question whether Shivalingappa could have validly gifted his undivided interest in the coparcenary property, under Ex.54. According to Mitakshara Law as applied in all States, no coparcener can dispose of his undivided interest in coparcenary property by gift. This we think is well settled, nor was that proposition controverted before us.

¹ (1967) MLJ (Part I) 71



Mr. Savanur relied on the decision of the Full Bench of this Court in Sundara Adava v. Girija (1), to which both of us were parties, in support of his contention. Therein we were considering the question whether a divided Hindu governed by Aliyasanthana Law could bequeath his interest in view of S.7 and 30 of the 'Act'. We came to the conclusion that he could not do so. While examining the provisions of the 'Act', dealing with S.6 this Court observed that the interest of the deceased coparcener is quantified and provision is made for its intestate succession under S.6 and that interest is made capable of testamentary disposition by S.30 (1). The quantification referred to therein, as mentioned earlier, is for the purpose of S.6 and the quantified share can be bequeathed by testamentary disposition in view of S.30 of the 'Act'. This Court did not lay down in that case that because of S.6 of the 'Act' it became permissible for a Hindu to gift away his undivided interest in the coparcenary property. If that decision is read as a whole, instead of helping Mr. Savanur's contention, it goes against it.

Mr. Savanur's another argument was that if a sale of his undivided interest by a Hindu coparcenary is permissible in law, there is neither reason nor logic for not permitting him to bequeath the same by gift. All that we need say is that law is not logic. In the matter of sales, we are governed by the Hindu Law texts as interpreted by Courts. In this case, we are considering whether there has been any change in the law relating to gifts because of the provisions of the 'Act'."



36. Learned counsel for appellant also relies upon the judgment of single Bench of this Court in the case of M.Narayanaswamy (deceased) by his legal representatives vs. M.Narayanappa and others². At paragraph No.9, relied the statement of law in Mayne's Hindu Law, sixteenth edition., paragraph No. 406, which reads as under:

"It is now equally well settled in all the states that a gift or devise by a coparcener in a Mithakshara family of his undivided interest is wholly invalid... A coparcener cannot make a gift of his undivided interest in the family property, movable, either to a stranger or to a relative except for purposes warranted by special texts."

37. The Co-ordinate Bench has relied upon Mayne's Hindu Law, sixteenth edition, wherein it is clearly held that the gift of undivided interest is void without the consent of other coparcener.

38. It is not in dispute that Mahantappa Jangeri was the propositus and was Karta of the joint family. The Karta of joint family is having right to gift some of the properties under pious obligation. A Hindu may dispose of by gift, his separate or self-

² RFA No.1906/2005 dated 09.12.2020



acquired property. However, a coparcener under Mitakshara law has no power to gift his share. In the instant case, the gift by husband to the wife which is not covered under Mitakshara law, only under Dayabhaga law, the coparcener can gift his property. However, parties are governed by Mitakshara law is not in dispute. But he can gift a small portion of joint family property being father and Karta to his daughter. However, that is not the situation in present case. Hence, even if the additional documents produced by respondents are considered, the gift by original propositus to defendant No.1 is not in accordance with law and void. Hence, she would not get any absolute right over the Item Nos.2 & 9 of suit schedule properties to execute gift deed in favour of defendant Nos.4 to 6. Hence, the gift deed executed by defendant No.1 in favour of defendant Nos.4 to 6 also held to be void. Under those circumstances, definitely plaintiff is entitled for her share even in Item Nos.2, 3 & 8 to 11 of suit schedule properties. However, the learned Trial Judge has not observed these points of law meticulously and come to the wrong conclusion that, the original propositus has a right to execute gift deed and has not considered the fact that DW.1 has given categorical admission about the purchase of properties in



the name of defendant No.1. Hence, to that extent, the judgment and decree of Trial Court is erroneous and it requires, interference. Accordingly, the points under consideration are answered as above and we proceed to pass the following:

ORDER

- i) The appeal filed by appellant under Section 96 of C.P.C. is allowed.
- ii) I.A.No.1/2025 filed by respondents under Order XLI Rule 27 R/w Section 151 of C.P.C. is allowed.
- iii) The plaintiff is entitled for 1/3rd share in Item Nos.2, 3 and 8 to 11 of the suit schedule properties by metes and bounds.
- iv) Draw preliminary decree accordingly.

**SD/-
(MOHAMMAD NAWAZ)
JUDGE**

**SD/-
(GEETHA K.B.)
JUDGE**