

TITLE SHEET

**IN THE COURT OF SENIOR CIVIL JUDGE & JUDICIAL MAGISTRATE OF
THE FIRST CLASS AT JEWARGI**

**PRESENT : SRI KUMARA G. B.COM. LL.B.
SENIOR CIVIL JUDGE AND JMFC**

**ORIGINAL SUIT NO.92 OF 2017
DATED ON THIS 23RD DAY OF MARCH, 2019**

**PLAINTIFFS : - 1. SMT NEELAMMA,
W/O SHIVARAYA JOGUR,
AGED ABOUT 48 YEARS,
OCCUPATION: AGRICULTURE.**

**2. SRI SHIVARAYA,
S/O LATE NINGAPPA JOGUR,
AGED ABOUT 52 YEARS,
OCCUPATION: AGRICULTURE.**

**BOTH ARE R/O HANDNOOR VILLAGE,
TALUKA: JEWARGI,
DIST: KALABURAGI.**

(REPRESENTED BY SRI BB, ADVOCATE)

VERSUS

**DEFENDANTS : - 1. SMT DEVAKKI,
S/O DHARMANNA JOGUR,
AGED ABOUT 45 YEARS,
OCCUPATION: AGRICULTURE.**

**2. SRI DHARMANNA,
S/O SAIBANNA JOGUR,
AGED ABOUT 55 YEARS,
OCCUPATION: AGRICULTURE.**

**BOTH ARE R/O HANDNOOR VILLAGE,
TALUKA: JEWARGI,
DIST: KALABURAGI.**

(REPRESENTED BY SRI BSK, ADVOCATE)

ORIGINAL SUIT NO.92 OF 2017

DATE OF INSTITUTION OF SUIT : 14-11-2017
NATURE OF SUIT : DECLARATION & PERMANENT INJUNCTION

DATE OF COMMENCEMENT OF RECORDING OF EVIDENCE : 06-09-2018

DATE OF PRONOUNCEMENT OF JUDGEMENT : 23-03-2019

	YEARS	MONTHS	DAYS
TOTAL DURATION :	01	04	09

JUDGEMENT IN OS NO.92 OF 2017

This judgement arises out of suit filed by the plaintiffs against defendants seeking for the relief of declaration of title and permanent injunction relating to suit lands.

02. DESCRIPTION OF THE SUIT PROPERTIES:

A. Agriculture land bearing survey No.47/Aa, measuring 01-20 acres, situated at Handnoor village, Jewargi taluka, Kalaburagi district and bounded on:

East by : Government road leading to Rasanagi to Koodi Darga,
West by : Land of Sri Gangannagouda,
North by : Land of plaintiff and land in survey No.47 and
South by : Land of Sri Baburaya and now the land of defendants.

B. Agriculture land bearing survey No.46/E, measuring 07-09 acres, situated at Handnoor village, Jewargi taluka, Kalaburagi district and bounded on:

East by : Land of Sri Mallappa s/o Saibanna,
West by : Land in survey No.48,
North by : Land of Sri Siddappa and
South by : Land of plaintiffs survey No.47/Aa.

(Hereinafter description of the suit lands will be referred as "suit Item No.A & B" for the sake of convenience and brevity)

03. The case of the plaintiffs in nutshell is that plaintiff No.2 is the husband of plaintiff. Defendant No.2 is the husband of defendant No.1. Late Ningappa; Late Saibanna and Sri Bailappa are the natural brothers and they are the sons of late Shankreppa. Late Ningappa is the father of plaintiff No.2 and late Saibanna is the father of defendant No.2.

04. Late Ningappa; late Saibanna and Sri Bailappa have partitioned their family properties including land in survey No.46. An extent of 14-00 acres was allotted to the share of late Saibanna family and 19-23 acres was allotted to the share of late Ningappa family and portions of lands in survey No.48 and 49 were allotted to the share of Sri Bailappa. From the date of partition all the three brothers and their family members are in peaceful possession and enjoyment of properties fell to their respective shares.

05. Late Ningappa had three sons namely Sri Irappa; Sri Siddappa and Sri Shivaraya (plaintiff No.2). Sri Irappa and Sri Siddappa died leaving behind their wife and children as their legal heirs. During his lifetime Sri Siddappa s/o Ningappa Jogur had purchased suit Item No.A the land bearing survey No.47/Aa, measuring 01-20 acres through Registered Sale Deed bearing document No.329/1984-85 on 15-06-1984 for and on behalf of joint family. Oral partition was taken place among the three sons of late Ningappa and suit Item No.A and B and other non-suited lands and open plot bearing Panchayath No.1-25 were

allotted to the shares of plaintiffs. Accordingly their names have been entered in the concerned records. Hence the plaintiffs became the absolute owners and they are in lawful and actual possession and enjoyment of the suit properties without obstruction or interference from anybody.

06. Facts being so on 08-07-2016 defendant No.1 filed an application for preparation of Form No.10 and phodi sketch before the survey authority. The ADLR, Kalaburagi has passed an order on 10-09-2016 in file No.JEWARGI/LAND RECORDS/PHODI/DISPUTE NO.040470415847946/2016 and directed the survey authority for preparation of Form No.10 and phodi sketch by tallying the revenue records. The plaintiff No.1 has challenged the order passed by ADLR, Kalaburagi before the DDLR, Kalaburagi in Appeal No.180/2016-17 and the same also dismissed and against it the plaintiffs have preferred Revision before the Deputy Commissioner, Kalaburgi and the same is pending for consideration.

07. Though the defendants having no manner of right or title or interest over the suit lands after rejection of appeal by the DDLR, Kalaburagi they have started to cause obstruction and interfere with the plaintiffs' possession and enjoyment of the suit lands and trying to dis-possess them. On 10-10-2017 the defendants came upon the suit lands with their henchmen and tried to obstruct the agricultural operations of plaintiffs and the act of defendants amounts to denial of plaintiffs' title. The defendants are very rich and influential persons in the locality and their illegal activities cannot be restrained with intervention of

the court and hence they have constrained to institute the suit for declaration of title and consequential relief of permanent injunction.

08. In pursuance of service of suit summons defendants appeared through advocate and filed written statement inter-alia contended that the suit of the plaintiffs is not maintainable. However, the defendants have admitted the relationship of plaintiffs and defendants and also with their ancestors. These defendants also admitted the family partition taken place among three brothers who are the sons of late Shankreppa relating to lands in survey No.46, 48 and 49. These defendants also admitted the allotment of lands in survey No.48 and 49 to the share of Sri Bailappa, but denied the allotment of 14-00 acres in survey No.46 to the share of late Saibanna. These defendants also admitted the description suit Item No.B the land bearing survey No.46/E measuring 07-09 acres. These defendants also admitted the filing of application by defendant No.1 for preparation of Form No.10 and phodi sketch relating to survey No.47/Aa; also the orders passed by ADLR and DDLR and also pendency of Revision before the Deputy Commissioner, Kalaburagi.

09. But these defendants denied the description and boundaries and situation of suit Item No.A the land bearing survey No.47/Aa measuring 01-20 acre of Handnoor village as described in the plaint schedule. It is specifically contended by the defendants that Government road is not situated on the eastern side of suit Item No.A. It is further contended that the plaintiffs have given the eastern boundary by including the land belongs to defendants in

survey No.47/A measuring 01-20 acres. It is further contended that the suit Item No.A is situated on the western side of land belongs to defendants in survey No.44/A measuring 01-20 acres. These defendants denied the alleged denial of title and alleged obstruction or interference with the peaceful possession and enjoyment of the suit land by the plaintiffs within the boundaries mentioned in the plaint schedule. For the aforesaid reasons these defendants have prayed to dismiss the suit with exemplary costs.

10. Basing on the pleadings of the parties, the following issues have been for framed by this court for determination:-

ISSUES

01. Whether the plaintiffs prove that they are the absolute owners of the suit lands?

02. Whether the plaintiffs further prove that they are in lawful possession and enjoyment of the suit lands as on the date of filing of the suit and earlier to it within the measurements and boundaries as mentioned in the plaint schedule?

03. Whether plaintiffs further prove the denial of their title over the suit lands and also the alleged obstruction and interference by the defendants?

04. Whether the plaintiff is entitled for the relief of declaration and permanent injunction as sought for?

05. What order or decree?

11. In order to prove his case plaintiffs, plaintiff No.1 herself examined as PW-1 and tendered 4 documents and they have been admitted as per Exhibit P-1 to 4. Subsequently the affidavit evidence of PW-1 discarded in pursuance of

memo filed in this regard on the ground of ill-health of plaintiff No.1. Subsequently plaintiff No.2 has been examined as PW-2 and she tendered 28 documents and in all 32 documents have been admitted as per Exhibit P-1 to P-32 from the plaintiffs side. In order to disprove the case of the plaintiffs and to prove the contentions took-up in the written statement defendant No.2 examined as DW-1 and tendered 03 documents and they have been admitted as per Exhibit D-1 to D-3 and closed their side evidence.

12. After closure of evidence, heard the arguments advanced by Sri BBB, the learned counsel appeared for plaintiffs and Sri BSK, the learned counsel appeared for the defendant.

13. Upon hearing the arguments and on perusal of the evidence placed on records, my findings to the above points are as follows;

<i>Issue No.1</i>	<i>: - In the affirmative,</i>
<i>Issue No.2</i>	<i>: - Partly affirmative and partly negative,</i>
<i>Issue No.3</i>	<i>: - In the negative,</i>
<i>Issue No.4</i>	<i>: - In the negative and</i>
<i>Issue No.5</i>	<i>: - As per the final order for the following;</i>

REASONS

14. ISSUES NO.1 TO 3:- These issues are interlinked with each other.

Hence, they are taken together for joint discussion to avoid the repetition of discussion and reasoning.

15. By looking to the pleadings of the parties it is not in dispute late Ningappa; late Saibanna and Sri Bailappa are the natural brothers and they are

the sons of late Shankreppa. It is also not in dispute that plaintiff No.2 is the son of late Ningappa and defendant No.2 is the son of late Saibanna. It is also not in dispute that plaintiff No.1 is the wife of plaintiff No.2 and defendant No.1 is the wife of defendant No.2. It is also not in dispute that family oral partition was taken place among late Ningappa; late Saibanna and Sri Bailappa relating to the lands in survey No.46, 48 and 49. It is also not in dispute that the respective sharers are in possession and enjoyment of the properties fell to their shares in survey No.46, 48 and 49. It is also not in dispute that 01-20 acres in survey No.47/Aa has been purchased by the brother of plaintiff No.2 through Registered Sale Deed bearing document bearing No.329/1984-85 dated 15-06-1984 from its previous owner for valuable consideration. It is also not in dispute that brother of defendant No.2 also purchased 01-20 acres in survey No.47/A through Registered Sale Deed dated 15-06-1984 from its previous owners for valuable consideration. It is also not in dispute that the plaintiffs are the owners and possessors of suit Item No.B the land bearing survey No.46/E measuring 07-09 acres of Handnoor village within the boundaries mentioned in the plaint schedule.

16. According to the plaintiffs suit Item No.A the land bearing survey No.47/Aa measuring 01-20 acres of Handnoor village is situated on the western side of Rasanagi-Kudi Darga road and on the northern side of land belongs to the defendants. According to the defendants suit Item No.A is not situated within the boundaries described in the plaint schedule and it is situated on the western

side of their lands. So by looking to the contention and rival contentions of the parties it is also not in dispute that the lands belongs to the plaintiffs described as suit Item No.A and lands belongs to the defendants are exists, but the situation of the lands is in dispute. Hence in order to give findings on these material issues let me appreciate the oral and documentary evidence placed on record.

17. As I already stated initially in order to substantiate the plaint averments plaintiff No.1 examined as PW-1 and tendered 4 documents and they have been admitted as per Exhibit P-1 to P-4. Subsequently PW-1 not appeared before this court and not tendered for cross-examination. Subsequently the affidavit evidence of PW-1 has been discarded in pursuance of memo filed from plaintiffs' side on the ground of ill-health of plaintiff No.1/PW-1. Subsequently plaintiff No.2 examined as PW-2 in the form of affidavit and re-iterated all the plaint averments once again in the affidavit filed in lieu of chief-examination. Plaintiff No.2/PW-2 has tendered 28 documents and they have been admitted as per Exhibit P-5 to P-32. Similarly in order to disprove the case of the plaintiffs and to prove the contentions took-up in the written statement defendant No.2 examined as DW-1 and virtually re-iterated all the contentions of written statement. During the course of chief-examination defendant No.2/DW- 1 tendered 3 documents and they have been admitted as per Exhibit D-1 to D-3. There is no dispute among the plaintiffs and defendants as to the contents of Exhibit P-1 to P-32 and Exhibit D-1 to D-3. The documents placed on record from

both sides are the original and certified copies of Registered Sale Deeds, certified and computerized Record of Rights, Village Map and orders passed by the Survey Authorities. Hence I am going to discuss the documents placed on record from both sides simultaneously in order to avoid repetition of discussion and reasoning.

18. Exhibit P-1 is the original Registered Sale Deed dated 15-05-1984 bearing document No.329/1984-85; Exhibit P-9 is the certified copy of MR No.07 dated 19-07-1984 and Exhibit P-2, P-10 to P-32 are the certified and computerized Record of Rights for the year 1963-64 to 2017-18 relating to suit Item No.A the land bearing survey No.47/Aa measuring 01-20 acres. Exhibit P-8 is the Encumbrance certificate for the period from 01-04-1984 to 31-03-1993 relating to land in survey No.47. Exhibit P-3 is the computerized Record of Right for the year 2017-18 relating to suit Item No.B the land bearing survey No.46/Ee measuring 07-09 acres. Exhibit P-5 is the certified copy of Registered Sale Deed dated 15-06-1984 bearing document No.328/1984-85 and relating to the land bearing survey No.47/A measuring 01-20 acres belongs to defendant No.2. Exhibit P-7 is Handnoor Village Map. Exhibit D-1 is the certified copy of Registered Sale Deed bearing document No.1836/1966-67 dated 06-07-1966 relating to suit land is survey No.47/Aa. Exhibit D-2 is the order passed by ADLR Kalaburagi in Dispute No.1704070415847946/2016 dated 10-09-2016 and Exhibit D-3 is the order passed by DDLR, Kalaburagi in appeal No.180/2016-17 dated 20-05-2017.

19. As I already stated according to the plaintiffs suit land has been purchased by Sri Siddappa s/o Ningappa Jogur who is the brother of plaintiff No.2 for and on behalf of the joint family through Registered Sale Deed bearing document No.329/1978-79 dated 15-06-1984 from its previous owner Sri Mahadevappa s/o Jetteppa Naikodi. The said Registered Sale Deed is placed on record as per Exhibit P-1. It could be further seen from Exhibit P-1 that the land purchased by Sri Siddappa s/o Ningappa Jogur is bounded on East by :- Government road; West by :- Land of Sri Gangangouda; North by :- the land belongs to vendee i.e. Sri Siddappa s/o Ningappa Jogur in survey No.47 and South by :- Land of Sri Baburaya Shivappa Kokatagi.

20. But according to the defendants Sri Mahadevappa s/o Jetteppa Naikodi purchased the suit land from its original owner Sri Sharanappa and Sri Bhimasha sons of Rayappa Dodden through Registered Sale Deed dated 06-07-1976 vide document No.1836/1966 placed on record as per Exhibit D-1. It is further contended by the defendants that though the land of Sri Sharanappa s/o Shankreppa Dodden who is the vendor of brother of defendant No.2 is situated on the eastern side of the suit land and the same is mentioned in Exhibit D-1, the eastern boundary is wrongly shown as the Government road in Exhibit P-1 in order to locate the suit land on the western side of the Rasanagi-Kudi Darga road. It could be further seen from Exhibit D-1 that the eastern boundary of the suit land clearly mentioned as the land belongs to Sri Sharanappa s/o Shankreppa Dodden. The plaintiffs are locating the suit land as per the recitals

and boundaries mentioned in Exhibit P-1. But Exhibit D-1 is the earlier document basing on which Sri Mahadevappa s/o Jetteppa Naikodi acquired the title and possession of the suit land. When such being the case Exhibit D-1 is the earlier document in time and it is having more probative value than the subsequent documents. The recitals and boundaries of subsequent documents shall be in consonance with the recital and boundaries of earlier documents. If at all the boundaries of the earlier documents differs from the subsequent documents, the party who is claiming the rights through subsequent documents shall explain the differences between the earlier documents and subsequent documents. But in the present case on hand though the plaintiff produced the subsequent sale deed, he has not produced the earlier sale deed on which his vendor has acquired the title of suit land. Anyhow defendants have produced the earlier title deed of vendor of brother of plaintiff No.2 and which is showing the different boundaries especially on the eastern side than the title deed of brother of plaintiff No.2. Under these facts and circumstances of the case, I am of the clear opinion that the boundaries mentioned in Exhibit P-1 are contrary to the earlier title deed of vendor of brother of plaintiff No.2. Thus I am of the clear opinion that the eastern boundary as mentioned in Exhibit P-1 is contrary to Exhibit D-1 and hence the same is not in accordance with law and not acceptable.

21. Though the plaintiffs have contended that suit Item No.A is situated on the western side of Rasanagi-Kudi Darga road they have not produced any legally acceptable documents to substantiate their contention except relying on

the contents of Exhibit P-1 the Registered Sale Deed. But as I already stated, the boundaries mentioned in Exhibit P-1 are not in accordance with the boundaries of earlier title deed placed on record as per Exhibit D-1 which was executed by the original owner of suit Item No.A in favour of vendor of brother of plaintiff No.2. During the course of arguments the learned counsel for the plaintiffs argued that eastern boundary of suit Item No.A is wrongly shown as the land of Sharanappa s/o Shankreppa Dodden though the Government road is situated. He further argued that the vendor of brother of defendant No.2 i.e. Sri Saibanna s/o Shankreppa Dodden is the witness to Exhibit P-1 and hence the situation of suit land on the western side of Government road is proved. But the fact that the vendor of brother of defendant No.2 is witness to the sale deed vendor of brother of plaintiff No.2 will not changes the boundaries in the subsequent sale deed contrary to the earlier sale deed. Thus the argument canvassed from the plaintiffs' side is not appreciable.

22. It is well settled that if at all any mistake crept in or if at all the recitals are wrong in any registered documents they have to be rectified or corrected in accordance with law and the executants shall rectify the recitals are boundaries. If at all the executant refused or failed to rectify or correct the same the holder of the document shall get it rectify or correct it in accordance with law by initiate necessary legal proceedings. But in the present case on hand, though the eastern boundary of suit land is shown as the Government road it is not in accordance with the earlier document. The eastern boundary mentioned in

Exhibit P-1 is not in consonance with earlier sale deed of vendor of brother of plaintiff No.2 placed on record as per Exhibit D-1. When such being the case, the appropriate remedy available to the plaintiffs is to get it rectify or correct the boundaries of suit land in the title deed from the executant. After rectification of the boundaries and if the boundaries are in accordance with law and if the defendants denied their title and caused obstruction or interference with their lawful possession then the plaintiffs can initiate appropriate legal action. Unless and until the boundaries are rectified in the title deeds and they are in accordance with factual aspects, the suit itself is not maintainable relating to the boundaries mentioned in the plaint schedule which is contrary to the title deeds. Therefore under these facts and circumstances of the case I am of the clear opinion that plaintiffs are miserably failed to prove the situation and location of the suit land on the western side of Rasanagi-Kudi Darga public road by producing documentary evidence.

23. That apart it is pertinent to note here that during his cross-examination plaintiff No.2/PW-2 clearly admitted that Sri Mahadevappa s/o Jatteppa Naikodi who is the vendor of his brother was in possession and cultivating the land purchased from Sri Sharanappa and Sri Bhimappa sons of Rayappa. PW-2 also admitted that he and his brother Sri Siddappa s/o Ningappa Jogur are in possession and cultivating the land purchased from Sri Mahadevappa s/o Jetteppa Naikodi. When Sri Mahadevappa s/o Jetteppa Naikodi purchased the land situated on the western side of the land belongs to Sri

Sharanappa s/o Shankreppa Dodden from the sons of Sri Rayappa and his brother Sri Siddappa s/o Ningappa Jogur purchased the same, naturally suit Item No.A belongs to the plaintiffs is situated on the western side of land belongs Sri Sharanappa s/o Shankreppa Dodden. It is admitted fact that the brother of defendant No.2 namely Sri Mallappa s/o Saibanna Jogur purchased land bearing survey No.47/A measuring 01-20 acres which is situated on the western side of Government road through Registered Sale Deed bearing document No.328/1984-85 on 15-06-1984 and the same is enjoying by the defendants. On combined reading of recital of Exhibit D-1, P-3 and P-1 in the light of admissions of PW-1, it is crystal clear that land in survey No.47/A measuring 01-20 acres belongs to the defendants is situated on the western side of Rasanagi-Kudi Darga road and suit Item No.A the land bearing survey No.47/AA measuring 01-20 acre is situated on the western side of land belongs to defendants in survey No.47/A.

24. Exhibit P-2, P-10 to P-32 are the computerized Record of Rights for the year 1963-64 to 2017-18 and Exhibit P-9 is the certified copy of MR No.07 dated 19-07-1984 relating to suit Item No.A. These documents show that suit Item No.A originally belongs to Sri Rayappa s/o Mareppa Dodden and subsequently it was purchased by Sri Mahadevappa s/o Jetteppa Naikodi. They further shows that subsequently the same has been purchased by Sri Siddappa s/o Ningappa Jogur and subsequently it was mutated in the name of plaintiff No.1 and her name is appearing in both columns No.9 and 12 of Record of Right as possessor and cultivator. The ownership of plaintiffs as to suit Item No.A and

B is not in dispute except the situation and location of suit Item No.A. Hence I am not going to discuss much upon the contents of revenue records.

25. In order to prove the location and situation of the suit Item No.A the learned counsel for the plaintiffs has conducted cross-examination of PW-1 at length. He made attempts to locate the suit Item No.A on the western side of Rasanagi-Kudi Darga public road and on the northern side of land belongs to defendants in survey No.47/A. But defendant No.2/DW-1 also stated in his cross-examination that suit Item No.A is not situated on the western side of Rasanagi-Kudi Darga public road and also northern side of his land in survey No.47/A. As I already discussed the situation and location of suit Item No.A is contrary to the recital of earlier title deed. Hence I am of the clear opinion that plaintiffs are also failed to prove that suit Item No.A is situated on the western side of Rasanagi-Kudi Darga public road and on the northern side of lands belongs to defendants in survey No.47/A.

26. On overall appreciation of oral and documentary evidence placed on record from both sides I am of the clear opinion that the plaintiffs are able to prove that they are the absolute owners of the suit lands described as suit Item No.A and B. But the plaintiffs are miserably failed to prove the situation and location of suit Item No.A within the boundaries mentioned in the plaint schedule. The documents placed on record as per Exhibit D-1 and Exhibit P-5 in the light of admissions of PW-1 they makes it clear that suit Item No.A is situated on the western side of land of land belongs Sri Sharanappa s/o

Shankreppa Dodden in survey No.47/A which was sold by him in favour of Sri Mallappa s/o Saibanna Jogur who is the brother of defendant No.2. They also shows that the suit land is not situated on the western side of Rasanagi-Kudi Darga road and on the northern side of land in survey No.47/A belongs to defendants. Hence I am concluding that though the plaintiffs are prove that they are the owners of suit Item No.A and B and also situation of suit Item No.B within the boundaries mentioned in the plaint schedule, they are miserably failed to prove the situation and location of suit Item No.A within the boundaries mentioned in the plaint schedule. Hence I am answering to ***Issue No.1 in the affirmative and Issue No.2 partly in the affirmative relating to suit Item No.B and partly in the negative relating to suit Item No.A.***

27. ISSUE NO.3: - I am already given finding to Issue No.1 in the affirmative and Issue No.2 partly in the affirmative and partly in the negative holding that though the plaintiffs are able to prove that they are the owners of suit Item No.A and B and also situation of suit Item No.B within the boundaries mentioned in the plaint schedule, they are miserably failed to prove the situation and location of suit Item No.A within the boundaries mentioned in the plaint schedule. As I already stated the main dispute among the plaintiffs and defendants is relating to situation and location of suit Item No.A especially whether it is situated on the western side of Rasanagi-Kudi Darga road. Even single suggestion is not suggested in the cross-examination of defendant No.2/DW-1 to the effect that they are denying the title of the plaintiffs and

causing obstruction and interfering with the plaintiff's possession and enjoyment of suit Item No.B. When the suit Item No.A is not situated within the boundaries mentioned in the plaint schedule question of denying the title of plaintiffs and obstruction or interference with their possession and enjoyment did not arise. Under these facts and circumstances of the case and in view of findings to Issue No.1 and 2 and for the discussion made above and reasons assigned I am of the further opinion that plaintiffs failed to prove the denial of their title over the suit lands and alleged obstruction or interference. Hence I am answering to ***Issue No.3 in the negative.***

28. ISSUE NO.4:- I am already given finding to Issue No.1 in the affirmative and Issue No.2 partly in the affirmative and partly in the negative holding that though the plaintiffs are able to prove that they are the owners of suit Item No.A and B and also situation of suit Item No.B within the boundaries mentioned in the plaint schedule, they are miserably failed to prove the situation and location of suit Item No.A within the boundaries mentioned in the plaint schedule. But I am answered to Issue No.3 in the negative holding that plaintiffs failed to prove the denial of their title over the suit land alleged obstruction and interference. In view of findings to Issue No.2 and 3 plaintiffs are not entitle for any of the relief as sought for. Hence I am answering to ***Issue No.4 in negative.***

29. ISSUE NO.5:- In view of my findings to Issues No.1 to 4, for the discussion made above and reasons assigned, I proceed to pass the following:

ORDER

The suit of the plaintiff is dismissed with costs.

Draw the decree accordingly.

(Dictated to the stenographer, transcribed by her, corrected, then signed by me and pronounced in the open court on this 23^d day of March, 2019)

**(KUMARA G.)
SENIOR CIVIL JUDGE AND JMFC
JEWARGI**

ANNEXURE

I. LIST OF WITNESSES EXAMINED FROM PLAINTIFFS SIDE:

PW-1 : Smt Neelamma w/o Shivaraya Jogur (Discarded)
PW-2 : Sri Shivaraya s/o Ningappa Jogur

II. LIST OF DOCUMENTS EXHIBITED FROM THE PLAINTIFFS SIDE:

Exhibit P-1 : Original Registered Sale Deed dt: 15-06-1984
Exhibit P-2 : Computerized Record of Rights
Exhibit P-5 : Certified copy of Registered Sale Deed dt: 15-06-1984
Exhibit P-6 : Certified copy of Registered Sale Deed dt: 15-06-1984
Exhibit P-7 : Handnoor village Map
Exhibit P-8 : Encumbrance certificate
Exhibit P-9 : Certified copy of MR No.7 dated 19-07-1984
Exhibit P-10 to 32 : Computerized Record of Rights

III. LIST OF WITNESSES EXAMINED FROM DEFENDANT SIDE:

DW-1 : Smt Dharmanna s/o Saibanna Jogur

IV. LIST OF DOCUMENTS EXHIBITED FROM THE DEFENDANT SIDE:

Exhibit D-1 : Certified copy of Registered Sale Deed dt: 06-07-1966
Exhibit D-2 : Certified copy of order passed by ADLR, Kalaburagi
Exhibit D-3 : Certified copy of order passed by DDLR, Kalaburagi

**(KUMARA G.)
SENIOR CIVIL JUDGE AND JMFC
JEWARGI**
