

KABG210038092019



IN THE COURT OF THE IV ADDL. CIVIL JUDGE & J.M.F.C., ATHANI

Present:

SRI. ONKARAMURTHY H.,

B.Com., LL.B.

Prl. Civil Judge & JMFC, Athani.

C/C. IV Addl. Civil Judge & JMFC, Athani.

Dated this 05th day of June, 2026

O.S.No. 719/2019

1. Smt. Chandrawwa
W/o. Gurappa Pujari
@ Khilegaon @ Honnagol,
Age: 60 years, Occ: H.H.Work,
R/o. Farm-House, Adalatti,
Tq: Athani, Dist: Belagavi.
2. Shri. Sangappa Gurappa Pujari
@ Khilegaon @ Honnagol,
Age: 38 years, Occ: Agri.,
R/o. Farm-House, Adalatti,
Tq: Athani, Dist: Belagavi.
3. Shri.Ramesh Gurappa Pujari
@ Khilegaon @ Honnagol,
Age: 35 years, Occ: Agri.,
R/o. Farm-House, Adalatti,
Tq: Athani, Dist: Belagavi.

4. Shri. Sidram Gurappa Pujari
@ Khilegaon @ Honnagol,
Age: 33 years, Occ: Agri.,
R/o. Farm-House, Adalatti,
Tq: Athani, Dist: Belagavi.

...Plaintiffs

(Represented by Shri.T.L.Patil., Advocate)

Vs

1. Shri. Mallappa Satteppa Honawad,
Age: 65 years, Occ: Agri.,
R/o. Adalatti, Tq:Athani,
Dist:Belagavi.

...Defendant

(Represented by Shri.P.G.Bisaguppi, Advocate)

Date of Institution of suit	19.07.2019
Nature of the suit	Declaration & Mandatory Injunction
Date of Commencement of evidence	23.08.2021
Date of pronouncement of judgment	05.06.2026
Total Duration	Year's Month/s Day/s 06 10 16

[Sri. Onkaramurthy H]

Prl. Civil Judge & JMFC, Athani.

C/C. IV Addl.Civil Judge & JMFC, Athani.

JUDGMENT

The present suit is filed seeking for the relief of declaration and mandatory injunction. That to declare the plaintiffs are the absolute owners of the suit property bearing VPC.No.273 of Adalatti village within Adahalli Gram Panchayat and grant mandatory injunction for removal of the statue erected in the suit property and for demolition of Katta constructed in the suit property and put them in the vacant possession of the suit property and cost of suit and other consequential relief deem fit.

2. The description of the suit property :

The suit property consists of VPC.No.273 measuring East-West: 16', South-North: 40', situated at Adalatti village under Adahalli Gram Panchayat and same is bounded by East: House and Open space of Mallappa Kallappa Kondi, West: Open space of Maruti Satteppa Sanadi and their bahubandas, South: Open space of Muttappa Ramappa Dodawad and Mallikarjun Ramappa Naik, North: Panchayat Road.

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

The grandfather of plaintiffs 2 to 4 by name Basappa @ Basagouda had the suit property bearing V.P.C.No.273 and he died in the year of 1998 and his wife also died in the year of 2005. The Dhareppa and Gurappa are the two children of Basappa @ Basagouda and Shivubai. The said Dhareppa is dead unmarried and issue less. The said Gurappa died on 20.12.2011 leaving behind the plaintiffs as his legal heirs. In the property extract of V.P.C.No.273 the name of the ancestor stood entered and hence the ancestor continued to be in possession and enjoyment of the suit property and after his death his son the said Gurappa inherited the suit property and after his death the plaintiffs inherited the suit property and hence absolute owners of the suit property.

Further submitted that, after the death of Gurappa the plaintiffs who are the legal heirs made enquiry with the Gram Panchayat and other relatives about the property held by Gurappa but could not get any information about the same. Hence under

circumstances the plaintiffs filed petition with the Gram Panchayat of Adahalli under the information Act to supply the property extract and the alleged resolutions if any with respect to the property held by Gurappa but the Panchayat authorities supplied only the Xerox copy of property extract of V.P.C.No.273 the Xerox copy of alleged Daan Patra and the resolution copy.

Further it is submitted the name of ancestor and Grand father of plaintiffs No.2 to 4 by name Basagouda Dhareppa Pujari stood entered in the property extract and the name of his son Gurappa is not entered even after the death of Basagouda but however the name of defendant stood entered in the property extract of the suit property who has no any kind of right title or interest in the suit property. The defendant claimed that the said Gurappa Basagouda Pujari on 23.10.2010 executed the alleged Daan Patra (Gift Deed) in favour Mallappa for the erection of statue of his deceased son Siddappa who was in Military Service in the suit property in presence of the Pancha's and accordingly filed an application with the Panchayat authorities. It is submitted no any

notice was issued to the said Gurappa by the Panchayat authorities and nor any opportunity of hearing was given to the said Gurappa or the plaintiffs before passing the alleged resolution. Further it is submitted on the date of alleged resolution the name of Gurappa was not at all entered in the property extract of suit property. Hence the alleged resolution No.16 dated 15.11.2010 passed in meeting No.3 of Gram Panchayat Adahalli is not binding on the plaintiffs. Further the defendant has not at all acquired any rights over the suit property. Further it is submitted the defendant claimed that the said Gurappa executed Daan Patra (Gift Deed) on 23.10.2010 in his favour and also handed over the possession and that the alleged Daan Patra is executed in presence of Panchaa's. It is submitted the said Gurappa was not the absolute owner of the suit property and further the value of the suit property being more than 100/- rupees the said Gurappa could never executed the alleged Daan Patra (Gift Deed) dated 23.10.2010 which is allegedly executed before the notary. The alleged thumb impressions on the

alleged Daan Patra is not at all that of said Gurappa. Hence the alleged Daan Patra is not binding on the plaintiffs.

Further submitted that, under the above mentioned facts and circumstances the plaintiffs continued to be the absolute owners of the suit property after the death of Gurappa and the defendant has got no any kind of right title or interest over the suit property.

Further submitted that, the defendant taking undue advantage of appearance of his name in the property extract of suit property without obtaining any building construction permission from the Panchayat authorities colluding with the Panchayat authorities highhandedly and illegally constructed the Katta measuring East-West 15' and North-South 24' and on the same erected the statue of his son Siddappa Mallappa Honawad who was in military service but died in the road accident near Halyal Cross at Athani.

Further submitted that, under the above mentioned facts and circumstances the plaintiffs approached the defendant

asserting their absolute ownership rights over the suit property requested the defendant to remove the statue erected by the defendant in the suit property and handover the vacant possession of the suit property for which the defendant stated that his name is entered in the property extract of suit property on the basis of alleged Daan Patra and Panchayat resolution and refused to fulfill the plaintiffs demand. Hence under the circumstances the plaintiffs are constrained to file the above suit for declaration that the plaintiffs are the absolute owners of the suit property and for mandatory injunction for removal of the statue erected in the suit property and for demolition of Katta constructed in the suit property and for vacant possession of the suit property.

4. Interallia, on service of suit summons, the defendant is appeared through his counsel and filed his written statement, wherein he denied all the averments of the plaint and contending that the property bearing VPC.No.273 measuring to an extent of East:West: 16 feet, South:North: 40 feet situated at Adalatti village of Athani Taluk is originally belongs to husband of the plaintiff No.1

and father of plaintiff No.2 to 4 and he was executed the Gift Deed dated: 23-10-2010 in favour of defendant for the purpose of build a statue of the defendant's son, who was soldier. Thereby the defendant has acquired the suit property and having possession and enjoyment of the said property. And the defendant and all the villagers and neighbors were performed a religious festival and all the public and government officials and others were joined together in the suit property. Further contending that the khata of suit property has been transferred into the name of defendant on the basis of Gift Deed made by the plaintiffs No.1 to 4 and the Adahalli panchayat passed resolution and mutated the khata in to the name of defendant. Further contending that, the Adhalli Panchayat was maintain the said place and by investing huge amount and formed a garden and arranged water facility from the government schemes and every year performed the Jatra and auspicious day and all the plaintiffs and defendants and public were joined together in the said occasion. Hence, he prayed for dismissal of the suit with compensatory cost of Rs.10,000/-.

5. On the basis of above rival pleadings of the parties and material placed on record the following issues have been framed by my predecessor :

: ISSUES :

1. Whether the plaintiffs prove that they are absolute owners and lawful possession in the suit schedule property bearing VPC No.237 situated at Adalatti village, Athani taluk?
 2. Whether the plaintiffs prove that the defendant has unlawfully erect the statue along with deck by encroaching the suit property?
 3. Whether the plaintiffs prove that alleged interference with the suit property by the defendants?
 4. Whether the plaintiffs entitled for the relief sought for?
 5. What order or decree?
6. In order to prove their claim, the plaintiff No.4 is examined himself as Pw.1 and got marked six documents as Ex.P.1 to 6 and

also examined one witness as Pw.2. On the other hand, in support of his contention the defendant examined himself as Dw.1 and got marked ten documents as Ex.D.1 to 10 and also examined another witness as Dw.2 on his behalf.

7. Heard the learned counsel for the plaintiffs and the defendant, and Perused the material placed on the record.

8. My findings to the above said Issues are as follows:

Issue No.1 : In the Negative,

Issue No.2 : In the Negative,

Issue No.3 : In the Negative,

Issue No.4 : In the Negative,

Issue No.5 : As per final order, for the following:

REASONS

9. **Issue No.1 to 3** :: These issues are inter linked with each other hence they are taken up together for common discussion in order to avoid the repetition of facts and the circumstance of the suit. The main contention of the plaintiffs that, they are the absolute owners and having possession and enjoyment of the suit schedule property. And same is acquired by way of inheritance. Further the plaintiffs submitting that the defendant claimed that

the said Gurappa Basagoud Pujari was executed the alleged Gift Deed dated: 23-10-2010 in favour of Mallappa for erection of statue of his deceased son Siddappa who was served in Army. And the Panchayat authority was passed a resolution on dated: 15-11-2010 on the ground of said Gift Deed and without the knowledge of plaintiffs. Hence said resolution is not binding on the plaintiffs. Further the defendant has not at all acquired any right over the suit property and the above said Gift Deed is unregistered document and it was created by defendant without the knowledge of plaintiffs. And the defendant erect the said statue along with deck (katta) by colluding with the Panchayat authority measuring to an extent of 15x24 feet. Further submitting that plaintiffs approached the defendant ascertaining their absolute ownership right over the suit property and requested the defendant to remove the statue erected in the suit property and handed over the vacant possession of the same. But the defendant is refused to do so. Hence the plaintiffs filed this suit for above said reliefs.

10. In order to prove their claim, the plaintiff No.4 examined himself as PW-1 by way of filing chief examination affidavit. Same is nothing but replica of the plaint averments and another witnesses examined as Pw.2. And the plaintiffs produced six documents which are marked as Ex.P1 to 6. On perusal the Ex.P.1 is the Assessment Extract of the site No.273, situated at Adahalli village, Ex.P-2 is the copy of Resolution passed by the Adahalli Gram Panchayat, Ex.P-3 is a copy of application submitted by the plaintiff under Right to Information Act, Ex.P4 is the postal receipt, Ex.P-5 and 6 are the Death Certificates.

11. On the other hand, the defendant denied the right and possession of the plaintiffs in the suit schedule property and contending that, the property bearing VPC.No.273 measuring to an extent of East:West: 26 feet, South:North: 15 feet situated at Adahalli village of Athani Taluk is originally belongs to husband of the plaintiff No.1 and he was executed the Gift Deed dated: 23-10-2010 in favour of defendant for the purpose of build a statue of his son, who was soldier. Thereby the defendant has acquired the

suit property and he erect the statue and along with deck (katta) and all the villagers and neighbors were performed a religious festival and all the public and government officials and others were joined together in the suit property. Further contending that the khata of suit property has been transferred into the name of defendant on the basis of gift made by the husband of the plaintiff No.1 and the Adahalli panchayat passed resolution and mutated the khata in to the name of defendant.

12. In support of his contention, the defendant himself examined as Dw.1 and one witness examined as Dw.2 and submitted 10 documents and the same are marked as Ex.D.1 to 10. And the defendant reiterated the contention which taken in his written statement in the chief-examination affidavit. Ex.D-1 to 3 are photos and CD, Ex.D.4 is a copy of resolution passed by Adahalli Gram Panchayat, and Ex.D-5 and 6 are certificates issued by Secretary and PDO of Adahalli Gram Panchayat, Ex.D-7 and 8 are Tax Paid Receipts, Ex.D-9 is Invitation Card, Ex.D-10 is Album.

13. Having regard the facts and circumstance of the case, It is comes to know that, the suit schedule property is originally belongs to the ancestor of the plaintiffs and the ExD-4 discloses that, the resolution has been passed on dated: 15-11-2010 by the Adahalli Gram Panchayat, accordingly the khata of the property bearing VPC.No.273 measuring to an extent of East:West: 16 feet and South: North:40 feet, situated at Adahalli village, has been transferred into the name of defendant on the basis of Gift executed by the husband of 1st plaintiff for the purpose of erect the statue of the soldier by name Siddappa, who is son of defendant. And the Ex.D-5 discloses that, there is water tank at western side in the suit schedule property. Ex.D-6 discloses that there is statue of Siddappa, (Army No.26145424) in the suit schedule property. Ex.D-9 is invitation card and and Ex.D-10 is photo album, same are discloses that a statue has been erected on dated: 26-12-2010. Further the defendant contending that, the Adhalli panchyat was maintain the said place and by investing huge amount and formed a garden and arranged water facility from the government

schemes and every year performed the Jatra and auspicious day and all the plaintiffs and defendants and public were joined together in the said occasion.

14. In view of above discussion, the Panchayat resolution was passed in the year 2010, accordingly the khata of the suit schedule property has been transferred in to the name of defendant and there is no any material on record to shows that whether the plaintiffs or anybody on behalf of plaintiffs are questioned the said resolution before any appropriate authority.

15. In this regard I would like to see the relevant provision of law that, **Under Section 133 of Karnataka Land Revenue Act 1964** held that, "an entry in the revenue record shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted there off". Accordingly, the revenue documents which produced by the defendant are unchallenged there is no reason to disbelieve the same. This court relied upon the decisions that **AIR 2004 SC 4667 and ILR 2010 KAR 2996**. In the said cases the Hon'ble Apex court dealing with the presumption available as to

the correctness of entries in the record of right **U/sec 133 of Karnataka Land Revenue 1964** and displacement of such presumption by a finding of fact to the contrary is enquiry made by the Tribunal U/sec. 48A of Karnataka Land Reforms Act 1961, in paragraph 4 has observed " When in fact the tribunal made local enquiry by spot inspection and had come to the conclusion that the appellants were in possesses that factor should have weighed with the appellate authority presumption arising **U/sec133 of the Act** in respect of the entries made in the Record of Rights stood displaced by the finding of fact recorded that the appellants were in actual possesses of the land and were cultivating the same. And the Honorable apex court given its consider opinion in the one more decision that when there is serious dispute regarding title even the bare injunction suit when the very basis of his title and identification of suit property is disputed by the defendant. The court can not grant any relief in favour of plaintiffs without proving the identification of land and possession of suit schedule property.

16. Further the plaintiffs submitting that, the Gift Deed dated: 23-10-2010 is a unregistered document and same is created by defendant for the purpose of grab the suit property. However, the learned counsel for the defendant has argued that, the gift made for the purpose of dedicated to god or any customs or rights of the religion is not required to registration, accordingly he relied upon the judgment that **AIR 2007 Rajstan 46, Moorti Shri. Adeshwar Bhagwan Jain Shwethamber Mandir Bharatpur Vs. Shimbunath Singh.** In the said judgment the Hon'ble Apex court held that, a document whereby disputed property was dedicated to god and was not required to be registered and was admissible in evidence for all purposes and not only by the collateral purpose.

17. In the present case, even there is no any registered gift deed, the revenue records discloses that, the Adahalli Panchayat was passed a resolution dated: 15-11-2010 and khata of suit property has been transferred into the name of defendant and the material discloses that the defendant has erect the statue of his son who was served as soldier in Indian Army and all the public,

neighbor, villagers are performed a jatra or religious function every year and the public are believed that said place is betel or holy place. Further during the cross-examination of PW-1 has admitting that the said deck was build about 9 years ago. Further she deposed that she submit the objection before the Panchayat and she submitted the relevant documents before this honorable court to shows the same. But no such any document submitted by the plaintiffs. Further during her cross-examination she admitting that no any complaint lodged before the police or no any suit filed by questioning the execution of the Gift Deed.

18. In support of plea of plaintiffs one witness by name Laxman Satyappa Naik has examined as PW-2 and he given corroborate statement in his chief examination affidavit. But during his cross-examination he deposed that he did not know that who filed a suit against whom and for what relief and he did not know the site number and he not involved in the family affairs of plaintiffs and he did not know how the plaintiffs are claim their right of ownership over the suit schedule property. Further he

admitting the existence of statue in the suit property and admitting that the flag host in the every year on August 15th and January 26 in the suit schedule property. Further the Ex.P-1 to 3 and 10 discloses that, at the time of statue was built, the politicians, abbot, villagers and all the public along with plaintiff No.1 and her husband were accompanied. It shows that, the plaintiffs are having knowledge of built a statue in the year of 2010. Further the plaintiffs are not questioned the said revenue entry and the occasion which performed by the people within the period of limitation. And the plaintiffs filed this suit after lapse of 9 years from erection of statue in the suit schedule property is barred by law of limitation. And the intention of the plaintiffs is clearly comes to know that the present suit is filed for the purpose to get unlawful benefit due to the property valuation is hike day by day. Therefore, in the opinion of this Honorable court that the plaintiffs are failed to prove that they are absolute owners and having possession and enjoyment of suit property and further the plaintiffs are failed to prove that the defendant has unlawfully

build a statue and deck or erect the statue by encroaching the suit property. Further more when the plaintiffs have failed to prove their ownership and possession of the suit property the question of interference is not arises. **Accordingly, I answer Issue No.1 to 3 in the Negative.**

19. Issue No. 4 : The above said suit filed for the relief of declaration and mandatory injunction against the defendant. In suit for Declaration and injunction the plaintiffs should prove their ownership with convey the relevant materials, and also prove the present possession and enjoyment of the suit schedule property and the alleged interference by the defendants. In view of above discussion and on perusal of oral and documentary evidence placed on record the material discloses that the suit property has been transferred into the name of defendant by way of resolution dated: 15-11-2010 passed by the Adahalli Gram Panchayat authority and same is not questioned by the plaintiffs till today. Further it is comes to know that the defendant built or erect a statue in the suit property and a fair (Jatra) or religion occasion as

performed in the said place by rite and customs of Hindu. And the plaintiffs have failed to prove that they are absolute owners and having possession and enjoyment of suit schedule property and also failed to prove that the alleged interference by the defendant. Therefore in the opinion of this Honorable court that the plaintiffs are not entitled to get any relief as sought in their plaint.

Accordingly I answering the Issue No.4 in the Negative.

20. Issue No.5 : In the light of the discussion made above, I pass the following:

ORDER

The suit of the plaintiffs is hereby dismissed with cost.

Draw decree accordingly.

[Dictated to the stenographer directly to the Computer, corrected by me and then, pronounced by me in the open Court this the **5th day of June, 2026**]

Place: Athani.

Date: 05.06.2024.

[Sri. Onkaramurthy H]

Prl. Civil Judge & JMFC, Athani.

C/C. IV Addl.Civil Judge & JMFC, Athani.

ANNEXURE

List of witnesses examined for plaintiffs:

Pw.1 : Sri. Sidram Gurappa Pujari
@ Khilegaon @ Honnagol.
Pw.2 : Sri. Laxman Satteppa Naik.

List of documents marked for plaintiffs side:

Ex.P.1 : Assessment Extract.
Ex.P.2 : Copy of Resolution
Ex.P.3 : Copy of Application
Ex.P.4 : Postal Receipt.
Ex.P.5 & 6 : Death Certificates.

List of witnesses examined on behalf of defendant:

Dw.1 : Sri. Mallappa Satteppa Honawad.
Dw.2 : Sri. Iragouda Bapugouda Patil.

List of documents marked for defendant side:

Ex.D.1 & 2 : Photos.
Ex.D.3 : C.D.
Ex.D.4 : Copy of Resolution.
Ex.D.5 & 6 : Certificates.
Ex.D.7 & 8 : Tax Paid Receipts.
Ex.D.9 : Invitation Card.
Ex.D.10 : Album.

Place: Athani.

Date: 05.06.2024.

[Sri. Onkaramurthy H]

Prl. Civil Judge & JMFC, Athani.

C/C. IV Addl.Civil Judge & JMFC, Athani.