

DW1

O.S. No. 68/2021

IN THE COURT OF HON'BLE PRL. SENIOR CIVIL JUDGE
GOKAK.AT: GOKAK.

Between:

- 1) Ningappa Fakirappa Hunshyali
Since deceased by his legal heirs.

.... Plaintiff

And:

- 1) Dinesh S/o Balappa Kadeli
and others

.... Defendants

**EXAMINATION IN CHIEF OF DEFENDANT NO.1 AS DW-1 BY
WAY OF AFFIDAVIT**

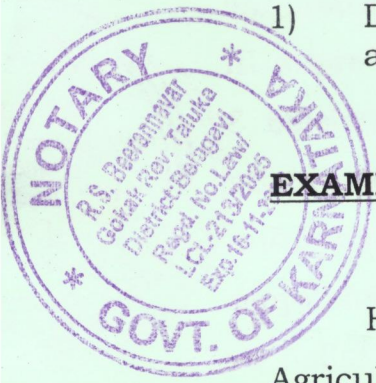
Herein, I Dinesh S/o Balappa Kadeli, Age:56 years, Occ: Agriculture, R/o: Shindikurbet, Tal: Gokak today at Gokak do hereby state on solemn affirmation and make the following affidavit in the form of my oral evidence.

- 1) I am the defendant No.1 in this suit, I know the facts of this suit and hence I am swearing this affidavit.

- 2) The plaintiffs have filed false suit on baseless grounds. The description of the suit property mentioned in plaint is not correct. The alleged boundaries mentioned in plaint is not existed on the spot and it is imaginary one. The Sy No.327 and 328 are separate survey numbers. I never joining hands in gloves with the officials of the defendant No.18 got entered my name in the suit properties by sub dividing the same. I am not stranger to suit properties and I having right, title or interest in the suit properties as co owner. No cause of action arisen to file this suit.

D. Kadeli

No. of CORRECTIONS
del



PIC
Signature
Admission

2/17

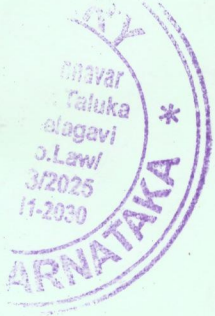
3) It is submitted that Originally suit properties and other properties were the ownership of Gursatappa Basappa Dandagi, who is grandfather of defendant No.18. Said Gursatappa Basappa Dandagi has got 3 sons by name (1) Dundappa, (2) Basappa, (3) Ishwarappa i.e. father of defendant No.18. Original suit lands and other land assigned as Sy No.118 measuring 10Ac-26Gs PK 0Ac-05Gs Rest area 10Ac-21Gs. After death of Gursatappa Basappa Dandagi, his 3 sons are succeeded the said property and got entered their names in record of right. In the year there was partition effected in between above said 3 persons. In said partition Sy No.118 was divided in 3 parts as Sy No.118/1 , 118/2 and 118/3. The land Sy No.118/1 measuring 3Ac-20 was fallen to the share of Basavanneppa Gurasatappa Dandagi, land Sy No.118/2 measuring 3Ac-20Gs was fallen to the share of Ishwara Gurasatappa Dandagi i.e. father of defendant No.18 and Sy No.118/3 measuring 3Ac-21Gs was fallen to the share of Dundappa Gurasatappa Dandagi. The partition effected in record of right under ME No.397 of Shindikurbet village. Thereafter in the year again phot hissa measurement was done by the concern department and Sy No.118 was divided in to 5 parts as Sy No.118/1 measuring 3Ac-18 in the name of Basavanneppa Gurasatappa Dandagi, (2)land Sy No.118/2 measuring 3Ac-19Gs in the name of father of defendant No.18, (3) land Sy No.118/3 measuring 3Ac-19 in the name of Dundappa Gurasatappa Dandagi. Remaining cultivation area 0Ac-05Gs +3Gs P.K. including 8Gs of land assigned as Sy No.118/4 measuring 0Ac-04Gs and 118/5 measuring 0Ac-04Gs. The above said (1) Dundappa, (2) Basappa, (3) Ishwarappa S/o. Gurasatappa Dandagi kept common these lands dig open well and plantation and it was



kept for common right to above said three persons. In the year 1965-66 the Govt. has introduced The Fragmentation and Consolidation of Holding Act of 1947 to the Shindikurbet village. After introducing said Act, the land Sy No.118/1 was assigned as Block No.326, the land Sy No.118/2 was assigned as Block No.329, the land Sy No.118/4 was assigned as Block No.327 and the land Sy No.118/5 was assigned as Block No.328 of Shindikurbet village. In the land Block No.327 and 328, the above said three persons by names (1) Dundappa, (2) Basappa, (3) Ishwarappa S/o Gurasatappa Dandagi each have got 1/3rd share each and no one was and is not absolute owners. Further land Block No.327 and 328 are the separate phot hissa numbers and separate properties.

4) This being a facts, the deceased plaintiff and his brother Balappa was jointly purchased the Sy No.118/1 from its erstwhile owner by name Basappa Gurasatappa Dandagi and his sons Sidlingappa Dandagi on 27/1/1965 under registered sale deed along with 1/3rd share in land Sy No.118/4 and 118/5 i.e. kept common for their vendor and his brothers. Further in this regard there was clear recitals in the sale deed. Now the plaintiff is illegally claiming he is absolute owner of suit properties land Sy No.118/4 i.e. Block No.327 and 118/5 i.e. Block No.328. Hence on this ground the suit of plaintiff is not maintainable in law.

5) The name of father of defendant No.18 was entered in Sy No.118/2 measuring 3Ac-19Gs and jointly entered in suit properties bearing Block No.327 and 328 along with brothers. The father of defendant No.18 died on 9-9-1994. After his death name of defendant No.18, his mother and his wife mutated to



land Block No.329, 327, 328 under ME No.4766 of Shindikurbet village. Neither the plaintiff nor defendant No.2 to 17 have not challenged the said mutation entry by admitting the joint 1/3rd right of deceased Ishwarappa and defendant No.18 over the suit properties. The defendant No.18 was in need of money for his family legal necessity. Therefore he sold the land Block No.329 measuring 3Ac-19Gs in my favour on 1-9-2006 along with his 1/3rd joint right in the Open WELL which is situated in the suit properties Block No.327 and 328. Since from the date of purchase, I was enjoying my property along with 1/3rd joint right in the suit properties. As per sale deed, I become owner of suit properties to the extent of 1/3rd share.

6) The Block No.327 and 328 are separate Phot hissa numbers and same are different. As per the documents, concern revenue department maintaining the records. Now the plaintiff made false allegation against me that I was divided the suit properties. When the both suit properties are different phot hissa numbers, the question of its dividetion as alleged by the plaintiff is does not arise. It is bounden duty off defendant No.19 to 21 to maintain the documents as per records, The Civil court has no jurisdiction give direction to Revenue Authority to change the records maintained by concern department. Hence plaintiff not entitle mandatory injunction as prayed in the plaint. On this ground also suit of plaintiff is not maintainable in law. As stated above the plaintiff is not absolute owner of suit properties and suit properties are joint properties as stated above. I become co-owner of suit properties and injunction cannot be granted against co-owner and plaintiff not entitle relief of injunction as prayed in the plaint. Hence suit of plaintiff is not maintainable in eye of law.

7) To support of my case, I have produced the documents and same may kindly be marked as exhibits.

Hence for all the reasons stated above amongst others, it is most humbly prayed that the suit of the plaintiff may kindly be dismissed with cost, in the interest of justice and equity.

Hence this Affidavit.

The above contents are read over and explained to me in kannada and the same are true and correct to the best of my knowledge, belief and information.

Gokak.

Date:09/07/2026

Deponent.

"I know the deponent"

(N.S.Ganiga)
Advocate, Gokak.



Sworn to before me

R. S. BEERANNAVAR
B.Com., LL.B. (Spl.)
ADVOCATE & NOTARY, GOKAK

9 JUL 2026

No. of CORRECTIONS