

KABG510025912023



Presented on : 28-03-2023

Registered on : 28-03-2023

Decided on : 29-06-2026

Duration : 3 years, 3 months, 1 days

IN THE COURT OF PRL. CIVIL JUDGE AND JMFC,

GOKAK

**Present: Sri.SAMPATTAKUMAR BALOLAGIDAD
B.A, LL.B, (Spl),**

Prl. Civil Judge & JMFC, Gokak

O.S.No.158/2023

Dated this the 29th day of June 2026

Plaintiff/s

1. Suresh Laxman Patil,
Age : 53 years, Occ :Agriculture
R/o : Paschapur, Tq: Gokak

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

V/s

Defendant/s

1. Avannappa Ningappa Patil,
Age: 69 years, Occ: Agriculture,
R/o: Paschapur, Tq: Gokak,
2. Smt. Neelavva W/o. Laxman Patil
Age : 66 years, Occ :Household,
R/o : Paschapur, Tq: Gokak.

This defendant is abated as per the order on memo dtd 01/08/2025, her legal heirs are already on record as plaintiff and defendant No.3.

3. Smt. Mallavva W/o. Raju Naik,
Age : 44 Years, Occ: Household,
R/o. Paschapur, Tq. Gokak
4. Smt.Laxmibai W/o.Lagamappa
Patil,
Age : 55 Years, Occ: Household,
R/o. Paschapur, Tq. Gokak
5. Shivaraj Lagamappa Patil,
Age : 35 Years, Occ: Agriculture
R/o. Paschapur, Tq. Gokak
6. Smt. Sunitha W/o. Laxman
Pawar,
Age : 34 Years, Occ: Household,
R/o. Paschapur, Tq Gokak
7. Anandraj Lagamappa Patil,
Age : 31 Years, Occ:
Agriculture,
R/o. Paschapur, Tq. Gokak
8. Smt. Jayashree W/o. Anand
Naik,
Age : 28 Years, Oc: Household,
R/o. Paschapur, Tq. Gokak
9. Fakiravva W/o. Avanappa Patil,
Age : 65 Years, Occ: Household
& Agriculture,
R/o. Paschapur, Tq. Gokak
10. Mahadevi W/o. Ramesh
Kakkale,
Age : 45 Years, Occ: Household
& Agriculture,
R/o. Paschapur, Tq. Gokak
11. Ningappa S/o. Avanappa Patil,
Age : 43 Years, Occ:
Agriculture,
R/o. Paschapur, Tq.Gokak

12. Laxmi W/o. Ramesh Dandu,
Age : 40 Years, Occ: Household
& Agriculture,
R/o. Kaitanal, Tq. Gokak

(D1 to 8 R/by Sri. H.B.K Adv. D9
to 12 Sri. B.B.K Adv.)

Date of institution of suit	28-03-2023		
Nature of suit	Declaration		
Date of commencement of recording of evidence	16-11-2024		
Date of pronouncement of judgment	29-06-2026		
Total duration	Year/s	Month/s	Day/s
	03	03	01

J U D G M E N T

The plaintiff has filed the present suit for declaration and permanent injunction against the defendant in respect of suit properties.

2. **The description of the suit properties are as follows:**

It is the case of the plaintiff that the agricultural lands bearing R.S.No.651*/ , area measuring 02Ac-07Gts assessed at Rs 9.10Ps, out of it 1/4th share, 2)

R.S.No.405/*, area measuring 3Ac-04Gs, assessed at Rs 11.57Ps, out of it 1/12th share and 3] R.S. No.659, area measuring 02Ac-13Gs, assessed at Rs 9.97Ps, out of it 1/12th share, which are situated within the revenue limits of Kundaragi. Tq Gokak

3. The suit properties are the agricultural landed properties which are situated within the revenue limits of Kundaragi village. Tq Gokak. Accordingly the one Mallappa Ningappa Patil was jointly use and enjoyment and cultivation the suit properties with other coparceners/co-owners. Accordingly the said Mallappa was use and enjoyment and cultivation the suit properties with his joint 1/4th share in suit R.S.No.651/* as well as he was jointly use and enjoyment to his 1/12th share in suit R.S.No.405/" and 659 Thus, the said Mallappa was absolute and exclusively use and enjoyment to the extent of his respective legitimate share in the suit properties.

4. Such being a fact, during his lifetime the said Mallappa not married any one person and also he was not got male or female issues, he was under care and custody of the plaintiff. The plaintiff is only lookafter the said Mallappa and he is providing all necessary things te., food, cloths, medicine etc Further the said Mallappa was more kept love and affection towards the plaintiff. Such being a fact subsequently the said Mallappa was executed a Will in favour of the plaintiff on 13.02.2020 in respect of above said his joint shares thereon the suit properties and other concerned his movable and immovable properties. After lapse of six months i.e., from the date of execution of the Will on 11.08.2020 the said Mallappa was died at Paschapur village. After his death the present plaintiff has conducted funeral ceremonies as per customs prevailing in their community and also the present plaintiff has conduct the death anniversary every year till this day

5. The defendants none are else than brother of the deceased Mallappa and wife of the brothers and

daughter-in-law, grandson, granddaughter and son of his brother of deceased Mallappa Ningappa Patil respectively. The said defendants are trying to obstruct and disturbance and also denied the Will executed by the Mallappa Ningappa Patil and also they have orally objected to entered the name of the plaintiff in the place of deceased Mallappa Ningappa Patil in the R/R of suit properties. But actually they have got any right, title and interest in respect of the share of the deceased Mallappa Ningappa Patil. On the contrary the present plaintiff has got every right, title and interest and possession over the suit properties to the extent of share of deceased Mallappa Ningappa Patil.

6. The plaintiff is subsequently came to know that the execution of Will executed by the said Mallappa in his favour in respect of the suit properties. Accordingly, the present plaintiffs has jointly use and enjoyment and cultivation the suit properties as per the Will along with other coparceners/co-owners till this day. Further on the strength of the Will the plaintiff approached the revenue

authority on 16.02.2023 to entered his name in the place of deceased Mallappa Ningappa Patil, but the revenue authorities have refused to entered his name in the R/R of suit properties and also they have told that to get the decree from the competent Court of law, thereafter the revenue authorities entered the name of plaintiff. So, the request made by the plaintiff in all are vent in vain. So, the plaintiff is came to know that he has not got any alternative remedy except to approach this Hon'ble Court for filing the suit for Declaration that on the strength of the Will dtd: 13.02.2020 the plaintiff is the absolute and exclusive owner of the suit properties in respect of share of the deceased Mallappa Ningappa Patil. The same has been continued till to the filing of the suit. Hence plaintiff has constrained to file this suit.

7. After filing of the suit summons from this Court, the defendants No.1 to 12 appeared through their counsels and Defendant No. 1 to 8 have filed their written statement and also defendant No.9 to 12 have adopted the same. The defendant No.2 has reported to be dead.

Hence, Lr's of defendant No.2 is taken on record. In the written statement they have admitted the averments of the plaintiff and they also admitted the claim of the plaintiff. The defendants also contended that during the life time of the Mallappa under care and custody of the plaintiff. Accordingly the plaintiff was providing the food, clothes, medicine and etc., to the said Mallappa. Till his death he was under custody of present plaintiff. Subsequently the said Mallappa was died. After his death the plaintiff has conducted the funeral ceremony by investing his self earnings. Further during the life time of the said Mallappa Ningappa Patil was kept more faith and affection upon the plaintiffs, for this he was executed will on dtd 13/2/2020. Hence, prayed to decree the suit.

8. Based on the contentions of both the parties the following issues were framed by my predecessor

ISSUES

1. Whether the plaintiff proves that as per Will date: 13-02-2020 executed by the Mallappa Ningappa Patil, he is absolute owner and in possession of the suit properties?

2. Whether the plaintiff is entitled to the relief as prayed?
3. What order or decree?

9. To prove the case the plaintiff No. 1 is entered into witness box examined himself as PW1 and 03 other witnesses have examined as PW-2 to 4 and produced in all 4 documents which were marked as Ex.P1 to P7 closed the side. On the other hand the defendants have not entered into witness box.

10. My answers to the aforesaid issues are as under:

Issue No.1 and 2 : **In the Affirmative**
Issue No.3 : As per the final
order for the following:

REASONS

11. **ISSUE NO.1 and 2:** These issues are interlinked with each other and to avoid the repetition of facts and separate discussion taken together for common consideration.

12. The plaintiff No.1 in support of his case has examined as PW1 reiterated all the averments made by

him in the plaint. He also got marked Ex.P1 to 7. Ex.P1 is the RTC extract pertaining to land bearing R.S.No.651*/* measuring 02 acres 07 guntas. Ex.P2 is the RTC extract pertaining to land bearing R.S.No.405*/* measuring 03 acres 04 guntas. Ex.P3 is the RTC extract pertaining to land bearing R.S.No.659*/* measuring 02 acres 13 guntas. Ex.P4 is the Will dated 13-02-2020, Ex.P5 is the Genealogy Certificate, ExP6 is the death certificate of Mallappa Ningappa Patil, Ex.P7 is the Karnataka Times Daily New paper publication.

13. It is the case of the plaintiff that the suit properties are the agricultural landed properties which are situated within the revenue limits of Kundaragi village. Tq Gokak. Accordingly the one Mallappa Ningappa Patil was jointly use and enjoyment and cultivation the suit properties with other coparceners/co-owners. Accordingly the said Mallappa was use and enjoyment and cultivation the suit properties with his joint 1/4th share in suit R.S.No.651*/* as well as he was jointly use and enjoyment to his 1/12th share in suit

R.S.No.405/" and 659 Thus, the said Mallappa was absolute and exclusively use and enjoyment to the extent of his respective legitimate share in the suit properties.

14. Such being a fact, during his lifetime the said Mallappa not married any one person and also he was not got male or female issues, he was under care and custody of the plaintiff. The plaintiff is only lookafter the said Mallappa and he is providing all necessary things. Further the said Mallappa was having love and affection towards the plaintiff. Such being a fact subsequently the said Mallappa was executed a Will in favour of the plaintiff on 13.02.2020 in respect of his joint shares thereon the suit properties. Thereafter, the said Mallappa was died on 11-08-2020.

15. The Defendants appeared through their counsel. They have admitted the claim of the plaintiff. They have admitted that, Mallappa during his life time was under care and custody of plaintiff. Therefore the said Mallappa executed Will on 13-02-2020 in favour of plaintiff.

16. Thus, the oral evidence as well as the documentary evidence put-forth by the plaintiff established that, the plaintiff is in possession and absolute owner of suit schedule properties on the basis of Will dated 13-02-2020. And moreover, the documents produced before the Court and marked on behalf of the plaintiff reflects that, the plaintiff is the absolute owner of suit schedule properties. There is nothing on record to disbelieve the versions of plaintiff and defendants. The plaintiff by oral evidence as well as documentary evidence has proved before the Court that, the plaintiff is the absolute owner of suit schedule properties on the strength of Will deed. The defendants have admitted the claim of the plaintiff.

17. At this stage, it is relevant to refer the decision of Hon'ble Apex Court in **BALARAJ TANEJA AND ANOTHER V/S. SUNIL MADAN AND ANOTHER** wherein the Hon'ble Apex Court has held as under:

“No fact needs to be proved if the parties or their agents agree to admit it.”

18. The ratio laid down by the Hon'ble Apex Court in above said decision is aptly applicable to the case on the hand. The defendants categorically admitted that, the Mallappa was under care and custody of the plaintiff. As such said Mallappa executed Will in favour of plaintiff on 13-02-2020.

19. This defendants further admitted that, they do not have any objections to accept the prayer of the plaintiff. As such, this Court is of the opinion that there is no any legal impediment to decree the suit of the plaintiff.

20. In view of the above discussion, I answer issue No.1 and 2 in affirmative.

21. **ISSUE NO.3:** For the reasons stated in the issue No.1 and 2 this Court proceeds to pass the following:

ORDER

The suit of the plaintiff is hereby decreed.

It is further ordered that the plaintiff is the absolute owner of the suit properties on the strength of the Will dated: 13-02-2020 executed by deceased Mallappa Ningappa Patil.

For the facts and circumstances of the case no cost is awarded.

Draw Decree accordingly.

(Dictated to the Stenographer, directly on computer and typed by her, corrected and then pronounced by me in the open Court on this the **29th day of June 2026**)

(SAMPATAKUMAR BALOLAGIDAD)

Prl. Civil Judge & JMFC,
Gokak.

ANNEXURES**WITNESSES EXAMINED ON BEHALF OF THE PLAINTIFF:**

PW1:	Suresh Laxman Patil
PW2:	Fakruddin Nageersab Mujawar,
PW3:	Anandraj L Patil,
PW4:	Maruti Adivappa Kabadagi

DOCUMENTS MARKED ON BEHALF OF THE PLAINTIFF:

Ex.P1 to 3 : RTC extracts,
Ex.P4 : Will deed dated 13-02-2020,
Ex.P5 : Genealogy Certificate,
Ex.P6 : Death Certificate of Mallappa N. Patil,
Ex.P7 : Paper publication.

WITNESSES EXAMINED ON BEHALF OF THE DEFENDANT:

-NIL-

DOCUMENTS MARKED ON BEHALF OF THE DEFENDANT:

-NIL-

(SAMPATAKUMAR BALOLAGIDAD)

Prl. Civil Judge & JMFC,
Gokak.