

**IN THE COURT OF ADDL. CIVIL JUDGE & J.M.F.C, MUDHOL,
AT: MUDHOL.**

Present:

SMT.SARASWATI HOTAKAR,

Addl. Civil Judge & JMFC., Mudhol. ^{B.A., LL.B.,}

Dated this the 2nd day of June - 2023

E.P.No.6/2020

Decree holders/Plaintiffs:

1. Smt.Jivubai W/o. Bhimappa Gurav,
Age: 50 years, Occ: Agriculture,
R/o. Belagali, Tal:Mudhol, Dist: Bagalkote.
Since dead by her LR/s,.
- 1A. Basappa S/o.Bhimappa Gurav,
Died on 09-01-2022
- 1A1. Smt. Parvati W/o. Basappa Gurav.
Age: 68 years, Occ: Housewife,
R/o. Belagali, Tal: Mudhol.
- 1A2. Shri. Bhimappa S/o. Basappa Gurav.
Age: 48 years, Occ: Agriculture,
R/o.Belagali, Tal: Mudhol.
- 1A3. Smt. Yamanawwa W/o. Maruti Gurav.
Age: 46 years, Oc: Agriculture,
R/o. Mugalkhod, Tal: Mudhol.
- 1A4. Shri. Gulappa S/o. Basappa Gurav.
Age: 44 years, Occ: Agriculture,
R/o. Belagali, Tal: Mudhol..
- 1A5. Shri. Mallappa S/o. Basappa Gurav.
Age: 42 years, Occ: Agriculture,
R/o. Belagali, Tal: Mudhol.

- 1A6. Shri. Kallappa S/o. Basappa Gurav.
Age: 40 years, Occ: Agriculture,
R/o. Belagali, Tal: Mudhol.
- 1B. Shri.Shankareppa S/o. Bhimappa Gurav.
Since dead by his LR/s.
- 1B1. Smt. Sumitra W/o. Shankareppa Gurav.
Age: 69 years, Occ: Agriculture & HW,
R/o. Mudhol, Tal: Mudhol.
- 1B2. Smt. Anjana W/o. Babu Gurav.
Age: 50 years, Occ: Agriculture & HW,
R/o. Mudhol, Tal: Mudhol.
- 1B3. Smt. Nanda W/o. Prabhu Gurav.
Age: 41 years, Occ: Agriculture & HW,
R/o. Mudhol, Tal: Mudhol.
- 1B4. Smt. Savitri W/o. Ningappa Gurav.
Age: 44 years, Occ: Agriculture & HW,
R/o. Malali, Tal: Mudhol.
- 1B5. Smt. Neela W/o. Gajanand Gurav.
Age: 43 years, Occ: Agriculture & HW,
R/o. Mudhol, Tal: Mudhol.
- 1B6. Sri.Ramesh S/o.Shankareppa Gurav.
Age: 42 years, Occ: Agriculture,
R/o. Mudhol, Tal: Mudhol.
- 1B7. Sri.Gopal S/o. Shankareppa Gurav.
Age: 36 years, Occ: Agriculture,
R/o. Mudhol, Tal: Mudhol.
- 1B8. Sri.Mahantesh S/o. Shankareppa Gurav.
Age: 34 years, Occ: Agriculture,
R/o. Mudhol, Tal: Mudhol.
- 1B9. Sri.Shivanand S/o. Shankareppa Gurav.
Age: 32 years, Occ: Agriculture,
R/o.Mudhol, Tal: Mudhol.
- 1C. Smt. Kasturibai W/o. Hanamant Gurav.
Age: 55 years, Occ: Agriculture & HW,
R/o. Belagali, Tal: Mudhol.

- 1D. Sri.Shrikant S/o. Hanamant Gurav.
Age: 42 years, Occ:Agriculture,
R/o. Belagali, Tal: Mudhol.
- 1E. Sri.Shrinivas S/o. Hanamant Gurav.
Died on 26-11-2013 Unmarried,
Lrs already on record.
- 1F. Hema W/o. Kallappa Gurav.
Age: 33 years, Occ: Agriculture & HW,
R/o. Ranjanagi, Tal: Mudhol.
- 1G. Smt. Gourawa W/o. Ramanna Gurav.
Since dead by her LR.
- 1G1. Sri. Prabhu S/o.Ramanna Gurav.
Age: 52 years, Occ: Agriculture,
R/o. Mudhol, Tal: Mudhol.
- 1H. Smt. Kamalawwa W/o. Nagappa Gurav.
Age: 53 years, Occ: Agriculture & HW,
R/o. Mugalkhod, Tal: Raibag.
- 1I. Smt. Bandawwa W/o. Dundappa Gurav.
Age: 50 years, Occ: Agriculture,
R/o. Malali, Tal: Mudhol, Died.
- 1I1. Sri. Ningappa S/o. Dundappa Gurav.
Age: 50 years, Occ: Agriculture,
R/o. Malali, Tal: Mudhol.
- 1I2. Smt. Kasturi W/o. Babu Pujari.
Age: 48 years, Occ: HW,
R/o. Kodaganur, Tal: Athani.
- 1I3. Smt. Bourawa W/o. Bhimappa Gurav.
Age: 45 years, Occ: HW,
R/o. Belagali, Tal: Mudhol.

-Versus-

Judgment Debtors/Defendants:

1. Kristappa Channappa Gurav.
Since dead by his LR/s.

- 1A. Channappa Kristappa Gurav.
Since dead by his LR/s.
- 1A1. Smt.Kasturewwa W/o. Channappa Gurav.
Age: 60 years, Occ: Household work,
R/o.KPTCL, Mahalingapur, Tal: Mudhol.
- 1A2. Smt. Kallawwa W/o. Laxman Gurav.
Age: 35 years, Occ: Agriculture & HW,
R/o. KPTCL, Mahalingapur, Tal:Mudhol.
- 1A3. Sri.Mahaling S/o.Channappa Gurav.
Age: 33 years, Occ: Agriculture,
R/o. KPTCL, Mahalingapur, Tal: Mudhol.
- 1B. Sri.Gopal S/o. Kristappa Gurav.
Age: 68 years, Occ: Agriculture,
R/o. Belagali, Tal: Mudhol.
- 1C. Sri. Maruti S/o. Kristappa Gurav.
Age: 65 years, Occ: Agriculture,
R/o. Belgali, Tal: Mudhol.
- 1D. Sri.Balachandra S/o. Kristappa Gurav.
Age: 60 years, Occ: Agriculture,
R/o. Belagali, Tal: Mudhol.
- 1E. Smt. Sharawwa W/o. Shankareppa Gurav.
Age: 63 years, Occ: Agriculture,
R/o. Kullolli, Tal: Jamakhandi.

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DHRs by Sri MSM, Advocate
JDRs by Sri SCU, Advocate

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:: ORDER ON MAIN PETITION ::

The DHRs have filed this application seeking possession of suit properties from the JDRs.

The DHrs described the suit schedule landed properties as under;

R.S.No.	Are A - G	Assessment Rs. - Ps.	village
167/1	01 - 27	05 = 60	Belagali, Tq: MUDhol
168/1B	06 - 02	05 = 80	Belagali, Tq: MUDhol

2. **The brief averments of the petition is as follows;**

That, the DhRs/plaintiffs have filed suit in O.S.No.20/1964 seeking recovery of possession of land bearing R.S.No.167/1 measuring 1 acre 27 guntas and R.S.No.168/1B measuring 6 acres 02 guntas both situated at Belagali village of Mudhol taluka Bagalkot district. The said suit came to be decreed and it is ordered that, the defendants are directed to hand over the possession of the suit lands to the Lrs of original plaintiffs i.e. plaintiff No.1(A) to 1(I) within 3 months from the date of judgment. In spite of repeated requests, the Jdrs have not handed over the possession of said lands in favour of DhRs. Therefore, the plaintiffs/DHrs have filed this petition seeking to handover possession of suit properties. Hence this petition.

3. After issuance of notices, the JDRs appeared through their counsel and have not filed any objections.

4. On the basis of the above pleadings, the following points would arise for my consideration:

:POINTS:

1. Whether the DHRs are entitle for the relief as sought for?

2. What order?

5. I have heard the arguments. Perused the materials available on records. My answers to above points are as under;

Point No.1: In the Affirmative.

Point No.2: As per final order for the following

: R E A S O N S :

6. **Point No.1:-** The decree holder has filed present petition seeking possession of lands bearing R.S.No.167/1 measuring 1 acre 27 guntas and R.S.No.168/1B measuring 6 acres 02 guntas both situated at Belagali village of Mudhol taluka Bagalkot district.

7. In the petition decree holder contended that he has filed O.S. No.20/1964 seeking recovery of possession of the above said lands. This court after considering the pleadings and evidences of both parties decreed the suit of the plaintiffs and directed the defendants to hand over the possession of lands of plaintiffs. Defendants have preferred appeal against the judgment and decree passed in OS.20/1964 in R.A.No.32/2020 before the Addl. Senior Civil Judge & JMFC, Mudhol. The said appeal came to be dismissed on 28-03-2023. Hence petitioner filed present petition seeking possession of suit lands as aforementioned. Per contra JDRs, have not filed any objections even though petition notices have been served and appeared through their counsel.

8. I have meticulously gone through the entire file and heard the arguments advanced by both counsel.

9. The material on record discloses that this court had decreed the suit of the plaintiffs that is decree holders herein, in OS.20/1964 on 11.12.2019 and had held that the plaintiffs are entitled for recovery of possession and directed the defendants/JDRs to hand over the possession of suit properties. But till date the judgment debtors have not complied the decree passed by this court. Therefore, the decree holders were constrained to file this petition. In fact, the decree holders have not been able to enjoy the fruits of the decree even after 4 years of its passing. Per contra, the judgment debtors are trying to resist the execution of the decree. However, this court is being executing court cannot go beyond decree. In order to enable the decree holders to enjoy the fruits of the decree this petition deserves to be allowed. Moreover, though the judgment debtors have preferred appeal against the said judgment and decree in R.A.No.32/2020 before the Addl. Senior Civil Judge, Mudhol same has been dismissed on 28-03-2023 and no second appeal is pending. In view of the above discussion and for effective execution of the decree passed by this court, the petition deserves to be allowed. Consequently, I proceed to pass the following...

:ORDER:

Petition filed by the decree holder U/o.21

Rule 11 of CPC is hereby allowed. Accordingly,

office is hereby directed to issue possession warrant to judgment debtors to hand over the possession of land bearing R.S.No.167/1 measuring 1 acre 27 guntas and R.S.No.168/1B measuring 6 acres 02 guntas both situated at Belagali village of Mudhol taluka Bagalkot district.

Issue possession warrant. If necessary P.F. and documents are furnished.

For inquiry and report.

Call on: 30.06.2023.

(Dictated to the stenographer directly on to the computer typed by him, transcript revised, corrected and then pronounced by me in the open court this the day of 2nd day of June 2023)

(Smt.Saraswati Hotakar)
Addl. Civil Judge & JMFC., Mudhol.

(Order pronounced in the open court, vide separate order)

:ORDER:

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(Smt.Saraswati Hotakar)
Addl. Civil Judge & JMFC., Mudhol.