

KABK700002082025



OS/No.59/2025

IN THE COURT OF PRL SENIOR CIVIL JUDGE & JMFC., JAMKHANDI.

: PRESENT :

**Shri. Vaidya Shreekant
B.Sc, LL.B.,
Prl. Senior Civil Judge & JMFC Jamkhandi.**

Original Suit No.59/2025

Dated this, the 1st day of July 2026.

BETWEEN :

1. Shri. Mallappa S/o Kallappa Kishori,
Age: 65 years, Occ : Agriculture,
R/o: Hulyal, Tq: Jamkhandi, Dist: Bagalkot.

... Plaintiff.

(Plaintiff by Shri.M.B.N., Advocate)

AND :

1. Smt. Chandrawwa W/o Bhimappa Itagoni,
Age: 57 years, Occ : Agriculture,
R/o : Hanagandi, Tq: Rabakavi-Banahatti
Dist: Bagalkot.
2. Shri. Hanamant S/o Ramappa Sunagad,
Age: 55 years, Occ: Agriculture,
R/o: Hulyal, Tq: Jamkhandi, Dist: Bagalkot.

3. Shri. Shekappa S/o Ramappa Sunagad,
Age: 52 years, Occ: Agriculture,
R/o: Hulyal, Tq: Jamkhandi, Dist: Bagalkot.
4. Shri. Basappa S/o Ramappa Sunagad,
Age: 48 years, Occ: Agriculture,
R/o: Hulyal, Tq: Jamkhandi, Dist: Bagalkot.
5. Shri. Yamanappa S/o Ramappa Sunagad,
Age: 45 years, Occ: Agriculture,
R/o: Hulyal, Tq: Jamkhandi, Dist: Bagalkot.
6. Husainsab S/o Haidarsab Dafedar,
Age: 50 years, Occ: Agriculture,
R/o: Hulyal, Tq: Jamkhandi, Dist: Bagalkot.
7. Abbasab S/o Haidarsab Dafedar,
Age: 48 years, Occ: Agriculture,
R/o: Hulyal, Tq: Jamkhandi, Dist: Bagalkot.

... Defendants

(Defts No.1, 6 & 7 placed Ex-parte)

(Defendant No.3 engage counsel)

(Defts No.2, 4 & 5 by Shri.S.A.A., Advocate)

Date of Institution of the suit	08.04.2025		
Nature of the suit.	Suit for Declaration of title & possession		
Date of commencement of the recording the evidence.	13.02.2026		
Date of pronouncement of the Judgment.	01.07.2026		
Total Duration.	Year/s	Month/s	Day/s
	01	02	23

JUDGMENT

The plaintiff has filed this suit seeking the relief of declaration of title & possession in respect of land bearing Sy.No.160/1 measuring to the extent of 2 Acres 35 Guntas situated at Hulyal village, Tq: Jamkhandi more specifically described in the schedule of the plaint.

CASE OF THE PLAINTIFF IN BRIEF:

2. The plaintiff is the absolute owner of suit schedule property described in the schedule of the plaint at "ABCD". The defendants No.1 to 5 are the joint owners of land bearing Sy.No.160/2 measuring to the extent of 4 Acres 25 Guntas described at "BEFD" in the schedule of the plaint. Likewise, the defendants No.6 and 7 are the owners of land bearing Sy.No.160/3 measuring 3 Acres 35 Guntas more particularly described at letters "CFHG" in the schedule. The said properties are referred as suit properties. The Eastern portion measuring 00 Acres 32 Guntas shown by the letters "OBPN" and Southern portion measuring 7 Guntas shown by the letters "MNPDC" belongs to RS.No.160/1 which belongs to plaintiff and are subject matter of the suit.

3. Originally land bearing R.S.No.160/1 measuring 02 Acres 35 Guntas was owned by family of one Siddappa S/o Yamanappa Kallolli and others. The present plaintiff has

purchased said land from Siddappa Kallolli and others under registered sale deed dated 11.12.1992 for value. From the date of purchase, the plaintiff is in possession and enjoyment of the property so purchased being lawful owner. Towards Eastern side of land of the plaintiff R.S.No.160/2 belonging to defendants No.1 to 5 is situated and towards Southern side land bearing R.S.No.160/3 belonging to defendants No.6 & 7 is situated. The land of the defendants are situated abutting to land of the plaintiff.

4. The defendants by taking undue advantage of old age of the plaintiff started to encroach the suit land for last 1½ years day by day and whenever plaintiff used to protest for the encroachment, the defendants used to take quarrel with the plaintiff. The plaintiff approached elderly persons with request to settle the dispute. The defendants stated before the elderly persons that, they have not encroached any land belonged to the plaintiff. They also stated that, if the plaintiff is saying so, measurement may be done, then truth will come out. Thereafter, also the defendants continued their encroachment in the land belonged to plaintiff. It has become very difficult to the plaintiff to keep an eye over high handed acts of the defendants.

5. Subsequently, as per the advise of the elders of the village, the plaintiff & defendants moved applications to the office of ADLR, Jamkhandi for fixation of the boundaries of their lands. The defendants are backed by some bad elements and continued their high handed acts and started to encroach the property of the plaintiff day by day. Fed up with the attitude of the defendants, the plaintiff had approached them and requested to stop illegal encroachment. But the defendants did not heed the request of the plaintiff.

6. In the facts and circumstances referred above in order to safeguard his rights the plaintiff moved an application before ADLR, concerned for survey and fixation of the boundaries of his property. The defendants also moved similar applications. Accordingly ADLR, Jamkhandi clubbed all applications and ordered to conduct survey work. Thereafter, surveyor Jamkhandi has conducted survey work on 08.11.2023 by issuing prior notice to all concerned and prepared Haddubastu sketch showing encroachment to the extent of 32 Guntas on Eastern portion in Sy.No.160/1 described at letters "OBPN" by the owners of the RS.No.160/2 i.e., the defendants No.1 to 5 herein.

7. The portion shown at letters "MNPDQC" measuring to the extent of 7 Guntas has been encroached by the owners of

land bearing Sy.No.160/3 i.e., defendants No.6 and 7 herein. The Taluka Surveyor by following proper procedure had measured the suit schedule property and also prepared Haddubastu sketch by showing the encroachment made by the defendants over the property of the plaintiff. The defendants have not challenged said Haddubastu prepared by Taluka Surveyor and hence it became final.

8. After survey of the land, in order to gave an end to the litigation the plaintiff approached the defendants along with elderly persons and requested them to hand over encroached portion. The elderly persons also advised defendants to get settle the dispute with the plaintiff amicably. But the defendants are not ready to hand over vacant possession of encroached area to the plaintiff. That apart, they bent upon to grab the encroached portions illegally. Hence the plaintiff constrained to file the instant suit.

9. In response to the summons, the defendant No.2 to 5 appeared in the suit. The defendants No.1, 6 & 7 did not choose to appear and contest the claim of the plaintiff. However, the defendants No.2, 4 & 5 only have filed their written statement. The defendant No.3 failed to engage the counsel and put forth his defence in spite of giving sufficient opportunity.

WRITTEN STATEMENT OF DEFENDANTS No.2, 4 & 5:

10. The defendants referred above admitted contents of the plaint with regard to ownership of the properties and also location of the same. However, they denied the contents of plaint para No.5 and contended that, as per the advise of the village elders in order to identify their lands, along with plaintiff they also moved application to the ADLR. They also denied the allegations made in para No.6 to 8 of the plaint, however admitted that ADLR concerned prepared Haddubastu by showing encroachment over the land of the plaintiff. They also admitted that they have not challenged Haddubastu map being prepared by Taluka Surveyor.

11. They further admitted that before the elders of the village they agreed for survey of the suit land along with their properties. But contended that, they also cooperated for survey of the properties. After the survey, the Taluka Surveyor identified 32 Guntas of encroachment over the property of the plaintiff and prepared sketch. Now also the defendants are ready to hand over vacant possession of encroached portion to the plaintiff. Hence the plaintiff has no cause of action for filing the suit. Hence suit is not maintainable and liable to be dismissed.

12. Based on the above pleadings, this court framed the following;

ISSUES

1. Whether the plaintiff proves that, he is the owner of suit schedule property as shown in the plaint hand sketch map ?
2. Whether the plaintiff is entitled to the relief of possession as sought for?
3. Whether the plaintiff is entitled to the relief as sought for?
4. What order or decree?

13. In order to prove his case, the plaintiff got examined himself as PW.1 and got marked 12 documents at Ex.P.1 to 12. The defendants though cross-examined PW.1, submitted they have no any evidence on their behalf.

14. Heard the arguments of the learned counsel for plaintiff, defendants and appreciated the material available on record.

15. On hearing both sides and appreciation of the evidence on record, I answer the above issues as under:-

- | | | |
|------------|---|--|
| Issue No.1 | : | In the Affirmative |
| Issue No.2 | : | In the Affirmative |
| Issue No.3 | : | In the Affirmative |
| Issue No.4 | : | As per the final order
for the following; |

REASONS

16. ISSUES No.1 to 3: Since all these issues are inter connected with each other, the findings given on one issue have direct impact on others, I have taken all these issues together for common discussion to avoid the repetition.

The plaintiff herein filed this suit seeking the relief of declaration of the ownership and possession of the property alleged to be encroached by the defendants. According to plaintiff he is the absolute owner of land bearing RS No.160/1 measuring to the extent of 2 Acres 35 Guntas including 10 Guntas of kharab. He purchased the said property through registered sale deed during the year-1992 for value. He had noticed that for last 1½ years the defendants started to encroach his property gradually and on survey of the properties, it is confirmed that the defendants No.1 to 5 encroached 32 Guntas of land shown by the letters "OBPN" and the defendants No.6 and 7 have encroached 7 Guntas of land shown by the letters "MNPDQC". They denied to hand over vacant possession of the above encroached area hence, he is before this court.

17. The defendants No.2, 4 & 5 though filed written statement, admitted that there was survey of the land belonged to plaintiff and their land is well. They also admitted

that the surveyor found encroachment in the land of the plaintiff as per the sketch and also admitted that they have not challenged the sketch being prepared by the surveyor. However, they contended that they are ready to hand over vacant possession of the properties being encroached by them. Even then, the plaintiff instituted this suit.

18. In support of oral evidence the plaintiff also got marked 12 documents as discussed supra. Out of which Ex.P.12 is the material document. In Ex.P.12 the encroachments made by defendants No.1 to 5, 6 and 7 are clearly shown. The defendants referred above themselves have admitted that there is encroachment over the land of the plaintiff and they are ready to hand over vacant possession of the same to the plaintiff. Hence, without much discussion, I am of the opinion that the suit filed by the plaintiff deserves to be decreed. **Accordingly, I answer Issues No.1 to 3 in Affirmative.**

19. ISSUE No.4: In view of the aforesaid reasons and findings, I proceed to pass the following:

ORDER

The suit filed by the plaintiff is hereby decreed.

It is declared that the plaintiff is the absolute owner of land RS.No.160/1 measuring to the extent of 02 Acres 35 Guntas situated at Hulyal village, Tq: Jamkhandi.

The defendants No.1 to 5 are directed to hand over vacant possession of 32 Guntas of land and defendants No.6 and 7 are directed to hand over vacant possession of 7 Guntas of land as shown in Ex.P.12 within 60 days from the date of this Judgment.

In the facts and circumstances of the case, the cost is made easy.

Draw Decree Accordingly.

(Directly dictated to the stenographer, directly computerized by her, corrected and then pronounced by me in the open court on this the 1st day July, 2026.)

(VAIDYA SHREEKANT)

PRL. SENIOR CIVIL JUDGE & JMFC.,
JAMKHANDI.

A N N E X U R E

List of witnesses examined for the plaintiff/s:

PW.1 : Shri. Mallappa S/o Kallappa Kishori.

List of witnesses examined for the defendant/s:

- NIL -

List of documents marked for the plaintiff/s:

Ex.P.1 to 3: (3) RTC extracts

Ex.P.4 : C/c of mutation extract

Ex.P.5 & 6: C/c of RTC extracts
Ex.P.7 : Computerized M.R extract
Ex.P.8 : C/c of Akarbad
Ex.P.9 : C/c of Form No.4
Ex.P.10 : C/c of Form No.11
Ex.P.11 : C/c of map
Ex.P.12 : C/c of map (Haddubastu map).

List of documents marked for the defendant/s:

- NIL -

PRL. SENIOR CIVIL JUDGE & JMFC.,
JAMKHANDI.