

KACD510009542014



Presented on : 27-06-2014
Registered on : 27-06-2014
Decided on : 03-08-2026
Duration : 12 years, 1 months, 6 days

**IN THE COURT OF ADDL. CIVIL JUDGE AND
JUDICIAL MAGISTRATE FIRST CLASS AT HOSADURGA**

Present: **SMT. THRINETHRA M.N.**
M.A., L.L.B.,
Addl. Civil Judge and JMFC.,
Hosadurga.

Dated this 03rd day of August - 2026

ORIGINAL SUIT No.218/2014

PLAINTIFFS:-

Sri. D. Maheswarappa,
S/o. Doddappa,
Hebballi post,
Hosadurga taluk,
Chitradurga district.

1(a). Sri. H.M Rudrakumar,
S/o. Late. D. Maheswarappa,
Aged about 54 years,
T.N Somanna complex,
Gandhinagar, Bengaluru 560009.

1(b). Smt. M. Kalpana,
W/o. Mahendra,
Aged about 52 years,
R/o. Kengute village,
Holalkere taluk,
Chitradurga district.

1(c). D.M Latha,

W/o. G.S Raju,
Aged about 50 years,
R/o. No.9, Basaweshwara Nilaya,
Rajeshwari Nagar, 1st cross, Laggere,
Bengaluru – 560058.

1(d). Smt. Mamatha,

W/o. Siddalingaiah,
Aged about 48 years,
R/o. # 110, 18th A. cross,
New Ragavendra layout,
Thigalarapalya, Bengaluru North,
Bangalore – 560058.

1(e). Smt. D.M Usha Devi,

W/o. A.C Thippeswamy,
Aged about 46 years,
R/o. Hebbally village,
Hosadurga taluk,
Chitradurga district – 577554.

(Rep. By Sri. H.M.R., Advocate)

-V/S-

DEFENDANT/S :-**1. Smt. Parvathamma,**

W/o. Late. H.D Kalappa,
Hebballi p. Hosadurga taluk,
Chitradurga district.

1(a). H.K Verupakshappa,

S/o. Late. H.D Kallappa,
Aged about 78 years,
House NO. 2239/D3, 5th cross,
Near 2nd bus stand Vidya Nagara,
Davanagere – 577005.

1(b). H. K. Ajjappa,

S/o. Late. H.D Kallappa,
Aged about 77 years,
Garepalya near Mangamana palya,
Bengaluru 9686396992.

1(c). Smt. Shivarudramma,
W/o. Late. Mahadevappa,
Mallenahalli, Holalkere taluk,
Chitradurga district.

1(c)a). M. Geethamma,
W/o. Ajjappa,
Aged about 57 years,
Mallenahalli, Holalkere taluk,
Chitradurga district.

1(c)b). M. Geerijamma,
W/o. H.K Basavaraja,
Aged about 55 years,
Hebballi post, Hosadurga taluk,
Chitradurga district.

1(c)c). M. Chandrashekara,
S/o. Late. Mahadevappa,
Aged about 53 years,
Mallenahalli, Holalkere taluk,
Chitradurga district.

1(c)d). M. Dakshyani,
D/o. Late. Mahadevappa,
Aged about 51 years,
Mallenahalli, Holalkere taluk,
Chitradurga district.

2. H.K Basavaraja,
S/o. Late. H.D Kalappa,
Hebballi post, Hosadurga taluk,
Chitradurga District.

3. H.K Halesha,
S/o. Late. H.D Kalappa,
Hebballi post, Hosadurga taluk,
Chitradurga district.

4. H.K Shivanna,
S/o. Late. H.D Kalappa,
Hebballi post, Hosadurga taluk,

Chitradurga district,
5. Smt. Prema,
 W/o. Late. H.E Gangadharappa,
 Hebballi post, Hosadurga taluk,
 Chitradurga district.

(Rep. by Sri. N.G, Advocate)

1	Date of Institution of the suit	27.06.2014
2	Nature of the Suit	Declaration & Permanent Injunction
3	Date of recording of Evidence	01.04.2015
4	Date of which judgment pronounced	03.08.2026
5	Duration	12 years, 01 months, 06 days

(THRINETHRA M.N.)
Addl. Civil Judge & JMFC.,
Hosadurga.

:J U D G M E N T :

The plaintiff has filed this suit against the defendants for the relief of declaration and permanent injunction.

2. The suit was earlier disposed of by this Court by judgment dated 02.01.2017 in O.S.No.218/2014, whereby the suit of the plaintiff came to be dismissed. Being aggrieved by the said judgment and decree, the plaintiff preferred R.A.No.15/2017 before the Hon'ble Senior Civil Judge and J.M.F.C ,Hosadurga.

The said appeal came to be allowed, and the matter was remanded to this Court with a direction to afford an opportunity to the appellant/plaintiff to lead additional evidence and to produce additional documents, and thereafter to decide the suit afresh in accordance with law. In compliance with the said order of remand, the case is now taken up for fresh adjudication.

3. Brief facts of the plaintiff's case are as follows:

It is the case of the plaintiff that he is the absolute owner and in lawful possession and enjoyment of the property bearing No.11/2, garden land, Katha No.238, situated at Hebbally village, Kasaba Hobali, Hosadurga taluk, Chitradurga district, measuring 2 acres, bounded as follows: East: H.D Rudrappa hisse; West: B. Maheswarappa land; North: Siddalingappa land; and South: 1st defendant Parvathamma land hisse; and that he acquired the same through partition as per the Tahsildar's Court order in R.R.T. Dispute No.16/1991-92 dated 27.02.1993. The aforesaid property, which is the subject matter of the present suit, is hereinafter referred to as the "**suit schedule property.**"

It is further the case of the plaintiff that since the date of the said Tahsildar's Court order, the plaintiff has been in peaceful

possession and enjoyment of the suit schedule property; that the khata also stands transferred in the name of the plaintiff vide Khata No.238 and the R.T.C extract stands in the name of the plaintiff. The plaintiff submits that he has been paying tax to the concerned authorities regularly and that he is the absolute owner of the garden and has been cultivating the same. It is submitted that the defendants are strangers to the suit schedule property and have nothing to do with it, being neighbours of the suit schedule property on its southern portion, and that they are disturbing and interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, though they have no right, title or interest over it. It is alleged that the defendants encroached upon a portion of the property so as to disturb the plaintiff's peaceful possession and enjoyment thereof.

It is further the case of the plaintiff that he has been developing the garden land day by day, but the defendants, without any right to do so, threatened the plaintiff on 19.05.2014 that if he continued to develop the property, they would destroy the same. When the plaintiff brought this illegal act to the notice of the police, cases came to be registered in Cr.No.189/2014 and Cr.No.200/2014, following which the plaintiff approached this

Court. The plaintiff, being a law-abiding senior citizen, was unable to resist the illegal acts of the defendants and apprehends that the defendants would further obstruct the day-to-day development of the garden. It is contended that the defendants are influential persons in the village, having the backing of anti-social elements, and are capable of interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property unless restrained by this Court.

On 19.05.2014, the defendants, without any justification, attempted to interfere with the peaceful possession and enjoyment of the suit schedule property by the plaintiff. This constitutes the cause of action for filing the present suit. Therefore, the plaintiff has filed the present suit against the defendants for the relief of declaration of title and permanent injunction restraining the defendants, their men, agents, servants, henchmen, supporters and followers, etc., from interfering with the peaceful possession and enjoyment of the suit schedule property by the plaintiff.

4. After service of suit summons, defendants have appeared before the court through their counsel. The defendants have filed the written statement.

5. The defendant, in his written statement, has denied the entire averments of the plaint. Apart from such denial, the defendant has taken specific contentions that the plaintiff's father, Doddappa, had five sons, namely, Nanjunappa, Kallappa, Rudrappa, Eshwarappa and Maheshwarappa (the plaintiff). It is contended that the plaintiff Maheshwarappa and Veerabhadrapa, son of late Nanjundappa, had separated from the said joint family by taking their respective lawful and legitimate shares, and since then, the said Maheshwarappa and Veerabhadrapa have been residing separately and enjoying their respective shares. The remaining brothers, namely, Kallappa, Rudrappa and Eshwarappa, continued to remain in the joint family and were living together by jointly enjoying the joint family properties.

It is further contended by the defendant that, after the death of Kallappa and Eshwarappa, the khata of the joint family properties was mutated as per IHC No.7/1996-97. Thereafter, Parvathamma, wife of late Kallappa, Rudrappa and the legal representatives of late Eshwarappa orally divided the joint family properties among themselves.

It is further contended that the suit schedule Survey No. originally belonged to Hebbally Village and measured a total extent

of 7 Acres 25 Guntas. Out of the said extent of 7 Acres 25 Guntas, in the family partition, an extent of 30 Guntas was allotted to the share of Veerabhadrapa, son of late Nanjundappa, and an extent of 1 Acre 31 Guntas was allotted to the share of Maheshwarappa, the plaintiff herein. It is further contended that Nanjundappa had left an extent of 30 Guntas out of his share in favour of defendant No.1. According to the defendant, the suit schedule property is shown as measuring 2 Acres, though the entire Survey No. measures 7 Acres 25 Guntas. Out of the said extent, Parvathamma was allotted one plot measuring 16 Guntas, another plot measuring 30 Guntas and another extent of 35 Guntas, in all measuring 2 Acres 1 Gunt. Rudrapa was allotted an extent of 1 Acre 15 Guntas. Eshwarappa was allotted one plot measuring 28 Guntas, another plot measuring 10 Guntas, an extent of 1 Acre 15 Guntas and an extent of 4 Guntas, in all measuring 2 Acres 17 Guntas.

Therefore, it is contended that the plaintiff is not the owner in possession and enjoyment of the suit schedule property measuring 2 Acres and that no such extent of 2 Acres is situated as described in the suit schedule. According to the defendant, the plaintiff is entitled to an extent of only 1 Acre 31 Guntas. It is

further contended that, with an intention to harass the defendants, the plaintiff has created documents and instituted the present false suit by furnishing false boundaries. The boundaries and extent mentioned in the plaint are imaginary and do not correspond to the actual property.

It is, therefore, contended that the plaintiff has absolutely no right, title, interest or possession over the suit schedule property and that the suit is not maintainable either in law or on facts. Hence, the defendant has sought for dismissal of the suit with costs.

6. On the basis of rival contentions of the parties, my predecessor-in-office has framed the following:

ISSUES

- 1. Whether plaintiff proves that he is in possession and enjoyment of suit schedule property?**
- 2. Whether plaintiff proves that defendants tried to interfere with his peaceful possession and enjoyment of suit schedule property?**
- 3. Whether plaintiff is entitled to perpetual injunction against the defendants as prayed in his plaint?**

4. What decree or order?**Additional issues**

1. Whether the plaintiff proves that he is absolute owner of suit schedule property?

2. Whether the plaintiff is entitled to the relief of declaration as sought for?

7. In order to prove the case of the plaintiff, the plaintiff himself was examined as PW.1, and three independent witnesses were examined as PW.2 to PW.4. 33 documents were got marked as Ex.P.1 to Ex.P.33 (including the documents marked after remand), which have been described in detail in the Annexure, and the plaintiff's side was closed. In order to rebut the case of the plaintiff, the defendants examined DW.1 and two independent witnesses as DW.2 and DW.3, and got marked 12 documents as Ex.D.1 to Ex.D.12, which have been described in detail in the Annexure, and the defendants' side was closed.

8. Heard the arguments on both sides. The learned counsel for the defendants filed written arguments. Perused the oral and documentary evidence available on record.

9. The answers of this Court to the above issues are as under:

Issue No.1	Negative
Issue No.2	Negative
Additional Issue No.1	Negative
Issue No.3	Negative
Additional Issue No.2	Negative
Issue No.4	As per final order

REASONS

10. Issue Nos.1 and 2 and Additional Issue No.1: Since Issue Nos.1 and 2 and Additional Issue No.1 are interconnected and involve consideration of common facts and evidence, they are taken up together for common discussion, so as to avoid repetition of facts and duplication of the discussion on law .The burden of proving these issues is upon the plaintiff. In the present case, the plaintiff initially instituted the suit seeking the relief of permanent injunction in respect of the suit schedule property. The said suit came to be dismissed. Aggrieved by the same, the plaintiff preferred R.A.No.15/2017 before the Hon'ble Senior Civil Judge and JMFC, Hosadurga. The said appeal came to be allowed, and the matter was remanded to this Trial Court for fresh consideration, with a direction to afford the plaintiff an opportunity to lead additional evidence and produce additional documents, and thereafter to decide the suit afresh in accordance with law.

11. After remand of the matter, the plaintiff amended the plaint and sought the relief of declaration of title, in addition to the consequential relief of permanent injunction, in respect of the suit

schedule property. Consequently, after the amendment of the plaint, the nature and scope of the relief sought by the plaintiff underwent a material change. The plaintiff is no longer required merely to establish his possession over the suit schedule property; having sought a declaration of title, he is required to establish, by acceptable and cogent evidence, his title to the specific property described in the suit schedule, the identity and extent of such property, as well as his actual possession and enjoyment thereof, and the alleged interference by the defendants.

12. It is not in dispute between the parties that Sri Doddappa is the common ancestor of the plaintiff and the defendants, and that the property originally belonged to him. Thus, the origin of the property in the family is not the real controversy between the parties. The controversy essentially relates to the extent of land in Sy.No.11/2 which fell to the share of the plaintiff, and, consequently, whether the plaintiff has established his title and possession over the specific extent of 2 acres described in the suit schedule property.

13. In support of his claim, the plaintiff has produced Ex.P1, the order passed by the Tahsildar, Hosadurga, in R.R.T. No.16/1991-92. Ex.P1 shows an extent of 2 acres 6 guntas in Sy.No.11 in the

name of the plaintiff on the basis of the family partition. The plaintiff has also relied upon Ex.P2, the mutation register extract for the year 1992-93, and Ex.P3, the R.T.C. for the year 1998-99, both of which reflect an extent of 2 acres 6 guntas in Sy.No.11 in relation to the plaintiff.

14. After remand, the plaintiff produced further documents in support of his claim. Ex.P19 is a general power of attorney. Exs.P20 to P24 are certified copies of the depositions recorded in R.R.T. Dis. No.16/1991-92. Ex.P25 is the Palupatti said to have been executed amongst the brothers of the plaintiff, though the plaintiff himself is admittedly not a party to it. Ex.P26 is the order of the Deputy Director of Land Records, Chitradurga. Exs.P27 and P28 are copies of R.T.C.s. Ex.P29 is the order of the Assistant Commissioner, Chitradurga, in R.A.No.152/2014-15. Exs.P30 to P32 are photographs, Ex.P33 is a CD, and Ex.P34 is a tax invoice.

15. These documents must be appreciated in light of the specific case pleaded by the plaintiff and the defence raised by the defendants. Ex.P25, relied upon by the plaintiff as evidencing the alleged family partition, does not name the plaintiff as a party thereto, and does not specifically disclose that an extent of 2 acres in Sy.No.11 was allotted to the plaintiff or that he was put in

possession of that specific extent.

16. Likewise, the depositions marked as Exs.P22 to P24 do not specifically establish that an extent of 2 acres in Sy.No.11/2 fell to the share of the plaintiff, or that he was put in possession and enjoyment of that specific extent. The statements contained therein must be understood in the context in which they were made and cannot, by themselves, be treated as conclusive proof of the plaintiff's title to the very property described in the present suit schedule.

17. Further, Ex.P26 and Ex.P29 do not satisfactorily establish that the plaintiff is in actual physical possession and enjoyment of the specific extent of 2 acres described in the suit schedule property. The documents relied upon by the plaintiff, individually or collectively, do not satisfactorily establish his specific claim that the property measuring 2 acres in Sy.No.11/2, as described in the suit schedule, exclusively fell to his share and that he is in actual possession and enjoyment of the same.

18. Thus, the material question for consideration is whether the plaintiff has satisfactorily established that the specific property described in the suit schedule, measuring 2 acres in Sy.No.11/2,

exclusively fell to his share, and that he is in actual possession and enjoyment of the said property.

19. The defendants have seriously disputed the plaintiff's claim, contending that upon division of the family properties, the plaintiff was allotted only 1 acre 31 guntas, and that he cannot, therefore, claim ownership and possession over the entire extent of 2 acres described in the suit schedule. The extent of the plaintiff's alleged share is thus not a peripheral issue; it goes to the very root of his claim for declaration and consequential injunction.

20. Where a plaintiff seeks a declaration of absolute ownership over a specifically identified and measured portion of immovable property, he must establish the identity, extent and boundaries of the property with reasonable certainty. This is particularly so where, as here, the defendants specifically dispute the extent and contend that the plaintiff was allotted only 1 acre 31 guntas. In such circumstances, the plaintiff cannot succeed merely by producing revenue entries showing a particular extent in his name. Revenue entries may have evidentiary relevance, but they do not, by themselves, conclusively establish title to a specifically disputed portion of immovable property, nor do they necessarily establish actual physical possession over the extent claimed.

21. The plaintiff relies substantially upon the alleged family partition and the subsequent revenue proceedings. He was, however, required to go one step further and establish that the property described in the suit schedule corresponds to the property allegedly allotted to him, and that he is in actual possession and enjoyment of the entire extent claimed. The evidence on record does not satisfactorily establish these essential aspects.

22. It is significant that the defendants have specifically disputed the extent, identity and possession of the property claimed by the plaintiff. In such circumstances, objective evidence relating to the physical identification and measurement of the property assumes considerable importance. The plaintiff could have sought local inspection and measurement of the suit schedule property and its correlation with the relevant survey records, boundaries and other supporting documents. Such evidence would have assisted the Court in determining whether the property claimed in the suit schedule corresponds to the property allegedly allotted to the plaintiff, and whether the extent claimed by him is actually identifiable on the ground.

23. This Court is conscious that appointment of a Court

Commissioner is not mandatory in every suit relating to immovable property. However, in the facts and circumstances of the present case, where the very extent and identity of the property are specifically disputed, and the plaintiff seeks a declaration in respect of a precise extent of 2 acres, the absence of any objective measurement or identification evidence assumes considerable evidentiary significance.

24. Despite the specific dispute raised by the defendants regarding the extent and possession, the plaintiff has not placed before the Court any independent survey or measurement material establishing the actual physical extent of the property in his possession and its correlation with the suit schedule property. The plaintiff, who seeks the discretionary and substantive relief of declaration, was required to establish his case on the strength of his own evidence; the Court cannot presume or reconstruct the identity and extent of the suit property merely on the basis of revenue entries.

25. The oral evidence of the plaintiff's witnesses also requires careful consideration. The plaintiff examined PW-2 Smt. Usha Devi, PW-3 Sri. A.C. Tippleswamy, and PW-4 Smt. Latha. PW-2 and PW-4 are daughters of the plaintiff, and PW-3 is his son-in-law; all

three are, therefore, closely related to the plaintiff.

26. It is well settled that the evidence of a related witness cannot be discarded merely on the ground of relationship, and must be assessed on its intrinsic worth, consistency and probability. However, in the present case, where the defendants have specifically disputed the extent and possession, and where the plaintiff seeks a declaration of absolute ownership and consequential injunction, the evidence required to establish actual possession over the specific extent claimed must inspire confidence.

27. Apart from the evidence of these closely related witnesses, the plaintiff has not examined any independent witness having direct knowledge of the actual physical possession of the disputed property. No neighbour, adjoining landholder, independent cultivator, or other person having direct knowledge of possession of the particular extent of 2 acres has been examined. This assumes significance because the dispute is not merely as to the existence of the ancestral property, but specifically whether the plaintiff is in possession of the very extent of 2 acres described in the suit schedule.

28. The plaintiff's documentary evidence does not fully cure this deficiency. Ex.P1 to Ex.P3 support the plaintiff's case only to the limited extent that an extent of 2 acres 6 guntas in Sy.No.11 was reflected in his name in the relevant revenue proceedings and entries. Exs.P19 to P34 must likewise be appreciated in the context of the proceedings in which they were prepared, issued or passed, and do not, by themselves, conclusively establish that the plaintiff is in actual physical possession of the entire extent of 2 acres described in the present suit schedule.

29. The plaintiff seeks a declaration of absolute ownership on the basis of the alleged family partition, and was, therefore, required to establish the precise extent that fell to his share and correlate the same with the property described in the suit schedule. The mere fact that an extent of 2 acres 6 guntas was reflected in Ex.P1 and in the subsequent revenue entries cannot substitute proof of the actual identity, extent and physical possession of the specific property, particularly when those aspects are specifically disputed.

30. The photographs (Exs.P30 to P32) and the CD (Ex.P33) do not, by themselves, establish the precise extent or identity of the suit schedule property. Photographs may demonstrate certain physical features of a property at a given point of time, but unless

satisfactorily correlated with the survey number, boundaries and extent of the suit property, they cannot establish that the property shown therein is the very property claimed by the plaintiff, or that it measures 2 acres.

31. It is pertinent to observe that the plaintiff's claim is for declaration of title and consequential permanent injunction. He cannot, therefore, obtain a declaration merely by establishing that the original property belonged to the common ancestor. The common ancestry and original ownership of Sri Doddappa are substantially admitted; what the plaintiff was required to establish is the subsequent allotment or devolution of the specific extent of 2 acres claimed by him, the identity of that property, and his possession over the very same property.

32. The contention of the defendants that the plaintiff was allotted only 1 acre 31 guntas directly puts the extent of the plaintiff's alleged share in issue. Once such a specific dispute was raised, the burden remained on the plaintiff to establish his affirmative claim that 2 acres in Sy.No.11/2 had fallen to his share. The plaintiff cannot obtain a declaration merely because revenue entries show a particular extent in his name, unless such entries are supported by other cogent evidence establishing the

source, identity and extent of the property claimed. There is yet another aspect of significance. The plaintiff initially instituted the suit only for permanent injunction; it was only after remand that he amended the plaint and introduced the substantive relief of declaration of title. Having sought such a declaration, the plaintiff was required to establish his title to the suit schedule property by cogent and acceptable evidence. The scope of adjudication after such amendment necessarily extends to the plaintiff's title, and the identity and extent of the property, and not merely to the question of possession.

33. The Court cannot grant a declaration merely because the plaintiff's name appears in certain revenue records, or because the property originally belonged to the common ancestor. Revenue records and orders of Revenue Authorities may be relevant pieces of evidence, but the ultimate question of title, and the plaintiff's entitlement to the specific suit schedule property, has to be determined on the basis of the entire evidence on record. As regards the alleged interference, the plaintiff has also not placed convincing independent evidence to establish that the defendants are interfering with his possession over the entire extent of 2 acres claimed by him. Where the plaintiff himself has failed to establish actual possession over the specific suit schedule property, the

consequential allegation of interference cannot be accepted merely on the basis of a general assertion.

34. On an overall appreciation of the oral and documentary evidence on record, this Court finds that the plaintiff has established only that the suit property originated from the property of the common ancestor, Sri Doddappa, and that certain revenue proceedings and entries, including Ex.P1 to Ex.P3, reflect an extent of 2 acres 6 guntas in Sy.No.11 in relation to the plaintiff. The plaintiff has, however, failed to establish, by cogent and convincing evidence, that the specific extent of 2 acres in Sy.No.11/2 described in the suit schedule property exclusively fell to his share, that the said property is identifiable with reasonable certainty, and, more importantly, that he is in actual possession and enjoyment of the entire said extent.

35. The absence of satisfactory independent evidence regarding possession, the absence of objective evidence identifying and measuring the disputed property, the specific defence of the defendants regarding the extent of the plaintiff's share, and the failure to establish by reliable evidence that the property reflected in the revenue records corresponds to the very property described in the suit schedule, when considered cumulatively, create a

serious infirmity in the plaintiff's case. This Court is not required to speculate or reconstruct the identity, extent or boundaries of the property in order to grant a declaration. The plaintiff, being the person seeking the relief, must succeed on the strength of his own case and must establish the essential ingredients of the relief claimed by acceptable evidence; he cannot rely upon any weakness or deficiency in the defence of the defendants to obtain a decree in his favour.

36. In view of the above discussion, this Court is of the considered opinion that the plaintiff has failed to discharge the burden cast upon him to prove that he is the absolute owner of, and in actual possession and enjoyment of, the entire extent of 2 acres described in the suit schedule property. Consequently, the plaintiff has also failed to establish the alleged unlawful interference by the defendants with his possession over the said property. **Accordingly, Issue Nos.1 and 2 and Additional Issue No.1 are answered in the Negative.**

37. **Issue No.3 and Additional Issue No.2:** Issue No.3 relates to the plaintiff's entitlement to the relief of permanent injunction, and Additional Issue No.2 relates to his entitlement to the relief of declaration. In view of the findings recorded on Issue Nos.1 and 2

and Additional Issue No.1, wherein this Court has held that the plaintiff has failed to prove his absolute ownership over the suit schedule property, and has also failed to establish his actual possession and enjoyment thereof and the alleged interference by the defendants, the plaintiff is not entitled to either of the consequential reliefs sought for in the suit.

38. As already discussed in detail, the plaintiff has failed to establish that the specific extent of 2 acres described in the suit schedule property fell to his share and that he is the absolute owner thereof. The revenue records and other documents relied upon by the plaintiff, though relevant and admissible for consideration in their proper perspective, are not by themselves sufficient to conclusively establish his title to and possession over the specific suit schedule property, particularly when the extent, identity and possession of the property are specifically disputed by the defendants.

39. The plaintiff has also failed to place satisfactory independent evidence establishing the actual physical extent and identity of the property in his possession. The evidence on record does not satisfactorily correlate the property claimed by the plaintiff with the specific extent of 2 acres described in the suit schedule. Once

the plaintiff has failed to establish his title to the specific property in respect of which declaration is sought, he is not entitled to the relief of declaration. Likewise, in the absence of satisfactory proof of actual possession over the suit schedule property and the alleged interference by the defendants, the consequential relief of permanent injunction also cannot be granted.

40. It is a settled principle that a plaintiff seeking declaratory and consequential injunctive relief must establish the foundational facts necessary for grant of such relief. In the present case, the plaintiff has failed to establish the essential foundation of his claim, namely, his title to the specific suit schedule property and his actual possession thereof. Consequently, the relief of permanent injunction cannot independently be granted in his favour. Therefore, this Court is of the considered opinion that the plaintiff is not entitled to either the relief of declaration or the consequential relief of permanent injunction as prayed for. Accordingly, **Issue No.3 and Additional Issue No.2 are answered in the Negative.**

41. Issue No.4: In view of the findings recorded on Issue Nos.1 to 3 and Additional Issue Nos.1 and 2, this Court proceeds to pass the following:

Suit of the plaintiffs is hereby dismissed with costs.

Draw decree accordingly.

(Dictated to the Stenographer, typed by her on computer and corrected by me, then pronounced in the open Court on this 03rd day of August, 2026)

(THRINETHRA M.N.)
Addl. Civil Judge & JMFC.,
Hosadurga.

1. WITNESSES EXAMINED FOR THE PLAINTIFF:-

PW.1	:-	Sri. Maheshwarappa
PW.2	:-	Smt. Ushadevi
PW.3	:-	Sri. A.C Thippeswamy

2. DOCUMENTS MARKED FOR THE PLAINTIFF:-

Ex.P.1	:-	Certified copy of order dated 27/02/1993 passed by Tahsildar Hosadurga RRT DIS No. 16/1991-92
Ex.P.2	:-	Mutation Register Extract
Ex.P.3	:-	RTC extract
Ex.P.4	:-	Patta book
Ex.P.5	:-	Tax paid receipt
Ex.P.6	:-	Certified copy of order sheet in CC No 529/2014
Ex.P.7	:-	Certified copy of final report filed in CR No 246/2014 of Hosadurga PS

- Ex.P.8 :- Certified copy of FIR filed in CR No 246/2014 of Hosadurga PS
- Ex P9 :- Certified copy of FIR filed in CR No 189/2014 of Hosadurga PS
- Ex P10 :- Certified copy of complaint in CR.No 189/2014 of Hosadurga PS.
- Ex P11 :- Certified copy of Mahazar drawn in CR.No 189/2014 of Hosadurga PS.
- Ex.P.12 :- Certified copy of FIR filed in CR No 200/2014 of Hosadurga PS
- Ex P.13 :- Certified copy of complaint in CR.No 200/2014 of Hosadurga PS.
- Ex P.14 :- Certified copy of Mahazar drawn in CR.No 200/2014 of Hosadurga PS.
- Ex.P.15 :- Postal acknowledgment
- Ex.P.16 :- Endorsement issued by Hosadurga PS.
- Ex.P.17 & 18 :- Copy of letter dated: 13.10.2014 along with postal receipts.
- Ex.P.19 :- General power of attorney
- Ex.P.20 :- Certified copy of statement of Sri. Veerabhadrappe in Case No.16/91-92
- Ex.P.20 :- Certified copy of statement of Sri. Veerabhadrappe in Case No.16/91-92
- Ex.P.21 :- Certified copy of statement of Sri. Kallappa in Case No.16/91-92
- Ex.P.22 :- Certified copy of statement of Sri. Eshwarappa in Case No.16/91-92
- Ex.P.23 :- Certified copy of statement of Sri. Rudrappe in Case No.16/91-92

- Ex.P.24 :- Certified copy of statement of Sri.
Maheshwarappa in Case No.16/91-92
- Ex.P.25 :- Certified copy of Palu patti
- Ex.P.26 :- Order copy in case No.19/14-15
- Ex.P.27 & 28 :- RTC extracts
- Ex.P.29 :- Order copy in RA No.152/14-15
- Ex.P.30 to 32 :- Photo's
- Ex.P.33 :- CD

3. WITNESSES EXAMINED FOR THE DEFENDANTS:-

- DW.1 :- Sri. H.K Basavaraja
- DW.2 :- Sri. H.M Dinesh
- DW.3 :- Sri. Suresh

4. DOCUMENTS MARKED FOR THE DEFENDANTS:-

- Ex.D.1 to 9 :- RTC extracts
- Ex.D.10 :- Mutation extracts
- Ex.D.11 :- Certified copy of order sheet in
OS.No.167/2025
- Ex.D.12 :- Certified copy of plaint in
OS.No.167/2025

(THRINETHRA M.N.)

**Addl. Civil Judge & JMFC.,
Hosadurga.**