

FORM No.9 (CIVIL)  
SUIT (R.P.91)

TITLE SHEET FOR JUDGMENT IN SUIT  
IN THE COURT OF THE ADDL. CIVIL JUDGE  
AND JMFC; AT; HOSADURGA.

Present: **M.S. DARAGAD**, B.Sc., L.L.B (Spl)  
Addl. Civil Judge & JMFC.

**O.S.No-70-2012**

Dated: 12<sup>th</sup> day of February 2013

**PLAINTIFF:** 1) SATTAPPA S/o Late. Pani Kariyappa,  
Aged about 55 years, Agriculturist,  
R/o Menasinodu village,  
Mathodu Hobli, Hosadurga taluk,  
Chitradurga District.

(Reptd by Sri. M.P.K. Adv.,)

//Vs//

**DEFENDANTS:** 1) KARIYAPPA S/o Late. Chikkanna,  
Aged about 40 years, agriculturist,  
R/o Palenahalli village, Imangala  
Hobli,  
Hiriyur Taluk, Chitradurga District.

2) CHITTANNA S/o Sattappa,  
Aged about 60 years, agriculturist,  
R/o Kannagondi village, Kasaba Hobli,  
Hosadurga taluk, Chitradurga District.

3) SOMANNA @ SOMESHAPPA  
S/o Late, Karappa @ Chittappa,  
Aged about 55 years, agriculturist,  
R/o Menasinodu village, Mathodu  
Hobli,  
Hosadurga taluk, Chitradurga District.

4) THIMMANNA S/o Late. Karappa @  
Chittappa, Aged about 40 years,  
agriculturist, R/o Menasinodu village,  
Mathodu Hobli, Hosadurga taluk,  
Chitradurga District.

(Reptd by Sri. E.T.R. Adv. for D-1 & 3 W/S not  
filed )

(Exparte D-2 & 4)

Date of institution of the suit : 03-03-2012

Nature of the suit : Suit for declaration &  
Permanent Injunction.

Date of the commencement of: 08-01-2013  
recording the evidence.

Date of which judgement : 12-02-2013  
was pronounced.

Total duration : YEAR/S MONTH/S  
DAY/S  
00 10 09

Hosadurga.  
**DARAGAD),**  
Date: 12-02-2013

**(M.S.)**  
Addl. Civil Judge & JMFC  
Hosadurga.

## **JUDGMENT**

The present suit filed by plaintiff against defendants for declaration & permanent injunction against defendants.

2. The brief facts of the plaintiff case is as follows:

Originally suit schedule properties are ancestral and joint family properties of plaintiff and defendants. The father of the plaintiffs and father of defendants were got partition all joint family properties orally in presence's of panchayathdars the suit schedule 'A' properties are fallen to the share of the father of the plaintiff. 'B" schedule properties are fallen to the share of grand father of first defendant and father of defendant No.2 and 'C' schedule properties fallen to the share of defendant No.4 ever since the date of partition the respective Hissadars enjoyed their respective share as absolute and lawful owners and further averred that plaintiff is enjoying the suit schedule properties in his

own right as an absolute owner thereof by paying land revenue to the concerned revenue authorities. Defendant No.1 and 2 are enjoying the 'B' Schedule properties and defendant No.3 and 4 are enjoying the 'C' schedule properties as absolute owners without disturbance from anybody in any manner, but the Khata of the suit schedule survey numbers are still standing in the name of ancestors of the plaintiff and defendant. The plaintiff is enjoying the suit 'A' schedule property peacefully, continuously, without disturbance from anybody in any manner.

3. The defendants have absolutely no manner of right, title, interest, possession or anything over the suit schedule property, the plaintiff has improved the suit schedule 'A' properties by spending huge amount, but the defendants without any reasonable and probable cause unnecessarily came near the 'A' schedule property and trying to dispossess the plaintiff from the 'A' schedule properties by denying the right of

the plaintiff over the suit schedule 'A' properties and it constrained to file present suit against the defendants.

4. After service of suit summons, the defendants No-1 to 4 have appeared through their respective counsels, but not filed their written statement.

5. Plaintiff to substantiate his case got examined himself as PW1 and three witnesses have examined as PW-2 to 4 and got marked Exs.P-1 to 24 documents.

6. Heard arguments.

7. Perused pleadings, evidence and documents placed on record.

8. The following points arise for the consideration:

- 1) Whether the plaintiff proves he is owner of the 'A' schedule properties?
- 2) Whether the plaintiff proves lawful possession over suit schedule 'A' properties?
- 3) Whether the plaintiff proves obstruction of the defendants as narrated in plaint?
- 4) Whether the plaintiff entitled for the reliefs as sought?
- 5) What order or decree?

9. My answers to the above points are as follows:

Point no-1: In the affirmative,  
Point no-2: In the affirmative,  
Point no-3: In the affirmative,  
Point no-4: In the affirmative,  
Point no-5: As per final order; for the following;

### **REASONS**

**10. Point No-1 to 4:** All these points are discussed together in order to avoid repetition of discussion. It is specific contention of the plaintiff that father of the plaintiff and father of the defendants were partitioned their all joint family properties orally in the presence of panchayathdars long back about hundred years ago and further in his chief examination reiterated the contents of the averment of the plaint further PW-2 Chikkanna, in his evidence deposed in support of the PW-1 and he specifically deposed that plaintiff is in the possession of the 'A' suit schedule properties, PW-3 Rajappa and PW-4 Someshappa, were also deposed their evidence in support of the evidence of the plaintiff PW-1 and further more PW-4 Someshappa, being the

third defendant in the case. He specifically deposed that, the plaintiff and defendants have partitioned their joint family properties about hundred years ago orally in presence of panchayathdars, father of the plaintiff got 'A' suit schedule properties and he enjoying the 'A' suit schedule properties and defendants No.1 2 & 4 have also enjoying their properties and further their evidence is not challenged by defendants. The defendants have not filed any written statement and cross-examined the PW-1 to 4. The evidence of the PW-1 to 4 were unchallenged and un-contraverted and further the plaintiff have produced Ex.P1 to 24 said documents also unchallenged and their is no evidence to disbelieve the case of the plaintiff. The plaintiff succeeded to prove that he is owner of the 'A' suit schedule properties and he is in the possession of the same and further the plaintiff in his plaint categorically stated that, the defendants denied the right, title and interest and possession over the suit schedule properties said evidence is also not

challenged. It denotes alleged interference from defendants since plaintiff proves the interference. Hence I answered Point No.1 to 4 as affirmative.

**11. Point No-5:** In view of my aforesaid reasons, I proceed to pass the following;

**ORDER**

*The suit of the plaintiff is partly decreed.*

*The plaintiff is declared as owner in possession of the 'A' suit schedule property and further defendants their men, agents, servants etc., are restrained from interfering the peaceful possession and enjoyment of the suit schedule 'A' properties of the plaintiff.*

*The prayer with respect to issuance of direction to the concern Tahasildar to get change the Khata of the suit schedule property is rejected.*

*Draw decree accordingly.*

(Dictated to the Typist-Copyist online computer, corrected by me and then pronounced in open court on this 12<sup>th</sup> day of February 2013).

Hosadurga.  
DARAGAD)

(M.S.

Date: 12-02-13  
JMFC

Addl. Civil Judge &

Hosadurga.

### **ANNEXURE**

#### **Number of witnesses examined for the plaintiff:**

PW-1: Sattappa.  
PW-2: Chikkanna.  
PW-3: Rajappa.  
PW-4: Someshappa.

#### **Documents exhibited for the plaintiff:**

EX.P-1 to 12: RTC  
EX.P-13: Geological Tree  
EX.P-14 to 23: Tax Paid Receipt  
EX.P-24: Order copy of Village Accountant.  
EX.P-25: Patta Book

#### **Number of witnesses examined for the defendants:**

----Nil-----

#### **Documents exhibited for the defendants:**

-----Nil-----

Hosadurga.  
**DARAGAD)**

**(M.S.**

Date: 12-02-2013  
JMFC

Addl. Civil Judge &

Hosadurga.

Judgment pronounced in open court

**ORDER**

*The suit of the plaintiff is partly decreed.*

*The plaintiff is declared as owner in possession of the 'A' suit schedule property and further defendants their men, agents, servants etc., are restrained from interfering the peaceful possession and enjoyment of the suit schedule 'A' properties of the plaintiff.*

*The prayer with respect to issuance of direction to the concern Tahasildar to got change the Khata of the suit schedule property is rejected. Draw decree accordingly.*

(Vide separate judgement)

JMFC

Addl. Civil Judge &  
Hosadurga.