

KACM200005022019



**IN THE COURT OF SENIOR CIVIL JUDGE,
AT KADUR.**

Dated this the 16th day of April – 2026.

Present :SRI.IRFAN

B.A., LL.B.

Senior Civil Judge & JMFC,

Kadur,

Chikkamagaluru District.

O.S.No.101/2019

PLAINTIFF:-

Smt. E Rudramma,
W/o P. Mallaiah,
Aged about 67 years,
House-wife,
R/o Near Veerabhadraswamy
Temple Road, Halepete,
Birur Town, Kadur Taluk,
Chikkamagaluru District.

(By: Sri. M.O. Jagadeesh, Advocate)

V/s

DEFENDANTS:-

1. Sri. R. Govindgowda,
S/o late Rangappa,
Aged about 69 years,



Retired Railway Employee,
R/o Near Malu Sleeper,
Rajaji Nagara, Birur Town,
Kadur Taluk,
Chikkamagaluru District.

2. The Special Land Acquisition Officer,
National Highway Authority,
No.206, Shivamogga Unit,
611-368/368-1, 2nd Floor,
Central Avenue,
Near S.B.I. Bank, N.T. Road,
Shivamogga.

(Defendant No.1 by: Sri. K. Ashok, Advocate)

(Defendant No.2 - Exparte)

Date of Institution of the Suit:	10.07.2019.
Nature of the suit :	Declaration & Injunction.
Date of commencement of recording of the evidence :	22.06.2022.
Date on which the Judgment was pronounce :	16.04.2026.
Total Duration	Years Months Days 06 09 06

Sd/-

(IRFAN)

Senior Civil Judge,
Kadur.



J U D G M E N T

This suit is for the relief of declaration of plaintiff's title over plaint 'A' schedule property and also for the consequential relief of perpetual injunction against the 1st defendant from causing obstruction to the plaintiff's peaceful possession and enjoyment over the suit 'A' schedule property.

2. The case of the plaintiff is as follows;

The plaintiff has purchased suit 'A' schedule property under a registered sale deed dated 30.06.2014 from its vendor for a valuable consideration and since the date of purchase the plaintiff has been in peaceful possession and enjoyment over the suit 'A' schedule property by cultivating and growing crops and has been leading her life peacefully. The 1st defendant is



having his property in Sy.No.175 measuring 3-00 acres of land which has been described as the plaint 'B' schedule property. The said property was belonged to one Lakkamma, who had sold the said property in favour of Smt. Sharadamma, the wife of 1st defendant under a registered sale deed dated 05.07.1986 and the said Smt. Sharadamma was in possession and enjoyment of suit 'B' property, till her life and after her demise, the 1st defendant being the husband of Smt. Sharadamma has succeeded over the same. It is specifically contended that the revenue authorities have made pakka phode durasth on the properties of plaintiff and 1st defendant, but they have not made the pakka phode on the said properties as per the possession and the said authorities have committed mistake and shown the possession of



plaintiff over the suit 'B' schedule property and the possession of the 1st defendant over the suit 'A' schedule property, which is illegal and unlawful. The said act of the revenue authorities is not in accordance with the possession and ownership of the parties and same is entirely different. In protest of the same, the plaintiff has preferred an appeal before the Deputy Commissioner, Chikkamagaluru and the said proceedings are pending consideration. The 1st defendant is noway concerned with the ownership and possession of plaintiff over the suit 'A' schedule property. In the meantime, the suit 'A' and 'B' schedule properties have been acquired by the 2nd defendant for widening of NH-206 and fixed the compensation. The 2nd defendant authority has issued notice to the 1st defendant regarding the acquisition of property



in Sy.No.175 and Sy.No.176. Even though the 1st defendant had no manner of right or interest over the suit 'A' schedule property, but he has been misleading the 2nd defendant by projecting himself that he is the owner of suit 'A' schedule property on the basis of concocted documents and also tried to get released the compensation amount in his favour. The act of the 1st defendant is illegal and it is the plaintiff who is entitled to receive compensation with respect to the acquisition of suit 'A' schedule property from the 2nd defendant. Therefore, the plaintiff has made requisition to the 2nd defendant by producing all the relevant documents to withhold the release of compensation in favour of 1st defendant, but despite of the same, the 1st defendant proceeded to cause obstructions to the peaceful possession and enjoyment of



plaintiff over the suit 'A' schedule property, which derived the plaintiff to institute the suit for the relief of declaration of her title over plaint 'A' schedule property and also for the consequential relief of perpetual injunction. Accordingly, sought to decree the suit.

3. In response to the service of summons, the 1st defendant entered appearance through his counsel and filed written-statement. In spite of service of summons, the 2nd defendant has not appeared before the court, hence, placed exparte.

4. The case of the 1st defendant is as follows:-

The 1st defendant claims himself to be the absolute owner, in lawful possession and enjoyment over the areca-nut garden property



bearing Sy.No.175/1, new Sy.No.175/p1 measuring 3-00 acres, which has been described as the written-statement schedule property. He admits that under a registered sale deed dated 25.07.1984, his wife Smt. Sharadamma had acquired the written-statement schedule property for a valuable consideration from its vendor and till her life she was in peaceful possession and enjoyment over the said property. He also admits that after the demise of Smt. Sharadamma, he has succeeded over the said property. It is claimed that Smt. Sharadamma along with 1st defendant after purchase of the written-statement schedule property have invested their hard labour and money and planted areca-nut plants, coconut plants, Chikkoo (sapota) and other trees and saplings, which are contended to be yielding and



1st defendant claims to be entirely dependent upon the said income. He further admits that the plaintiff is having property in Sy.No.176 measuring 4-00 acres and she has planted coconut, areca-nut, jack fruit and other profitable crops and the same is under the enjoyment of the plaintiff. Apart from the same, he has specifically denied that at no point of time, the revenue authorities have made pakka phode durasth on the properties belonging to the plaintiff and 1st defendant and by mistake they have shown the possession of plaintiff over suit 'B' schedule property and possession of 1st defendant over suit 'A' schedule property. He also admits regarding the acquisition of properties in Sy.No.175 and 176 for widening NH-206 by the 2nd defendant, which belongs to the plaintiff and 1st defendant and stated that in



view of acquisition of property belonging to the 1st defendant i.e., written-statement schedule property, the 2nd defendant has fixed the compensation of a sum of Rs.1,80,47,213/- and similarly the 2nd defendant has fixed the compensation of a sum of Rs.1,11,63,202/- in favour of plaintiff for the acquisition of property in Sy.No.176. It is further specifically asserted that the plaintiff being jealous of the fixing of more compensation amount in favour of 1st defendant for the acquisition of property belonging to the defendant has filed this false suit in order to avoid the release of compensation amount in favour of 1st defendant. The 2nd defendant by acquiring the properties in Sy.No.175 and Sy.No.176 has issued a statement of award of land acquisition by showing that it has acquired the property in



Sy.No.175 belonging to the 1st defendant consisting of 115 coconut trees, 16 chikoo plants, 1285 areca-nut trees and 1 Yelli tree and fixed the compensation of Rs.1,80,47,213/- and the 2nd defendant has shown the acquisition of property in Sy.No.176 belonging to the plaintiff, which consisting of 83 coconut trees, 5 mango trees, 02 guva trees, 1 jack tree, 790 arecanut trees, 6 teak trees and 8 silver trees and fixed the compensation of Rs.1,11,63,202/- in favour of plaintiff. There was no error whatsoever committed by the 2nd defendant while fixing the compensation in favour of plaintiff and 1st defendant. In spite of these facts, the plaintiff only on the basis of the concocted survey sketch prepared by Private Surveyor has filed this false suit in order to harass the 1st defendant. Accordingly, sought to dismiss the suit.



5. On the basis of the aforesaid pleadings of the parties, the following issues have been framed;

1. Whether the plaintiff proves that she is owner in possession of the 'A' schedule property?
2. Whether plaintiff proves the alleged interference by the 1st defendant as stated in the plaint?
3. Whether plaintiff is entitled for the reliefs as sought for?
4. What Order or Decree?

6. To establish her case, the Special Power of Attorney holder / husband of plaintiff got examined himself as PW-1 and got marked



13 documents under Ex.P-1 to 13 and closed her side. On the other hand, the 1st defendant got examined himself as DW-1 and got marked 20 documents under Ex.D-1 to 5 and closed his side.

7. Heard the arguments of learned counsel for plaintiff and 1st defendant.

8. Answers to the above Issues are 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

9. **Issues No.1 to 3:** These issues are taken together for common discussion to avoid repetition of facts.



This suit is for the relief of declaration of plaintiff's title over the suit 'A' schedule property and consequential relief of perpetual injunction restraining the 1st defendant from interfering with the peaceful possession and enjoyment of plaintiff over the suit 'A' schedule property. It is the specific case of the plaintiff that under a registered sale deed dated 30.06.2014 she has purchased suit 'A' schedule property measuring 4-00 acres of land situated at Birur Kavalu Village, Birur Hobli, Kadur Taluk, bounded on East by: Property of plaintiff, West by: Property of 1st defendant, North by: Property of Ramachandrappa and South by: Property of Shivakumar Shetty. It is specifically contended that since the date of purchase it is the plaintiff who has been in peaceful possession and enjoyment over the suit 'A' schedule property. It



is the comprehensive suit seeking for the relief of declaration of plaintiff's title over the suit 'A' schedule property. The plaintiff in order to establish her title over the same has got examined her husband being the power of attorney holder as PW-1 and produced documents under Ex.P-1 to 13. Ex.P-5 is the registered sale deed dated 30.06.2014. On reference to the same, it is noticed that the plaintiff on 30.06.2014 under the said sale deed has purchased the property to an extent of 4-00 acres of land in Sy.No.176 of Birur Kavalu village, which is shown to be bounded as East by: Property of the vendor in Sy.No.183 and Birur Kavalu, West by: Property of Rudramma i.e., plaintiff herself, North by: Property of Ramachandrappa in Sy.No.4 of Birur Kavalu and South by: Property of Shivakumar Shetty. If



the said boundaries are taken into consideration with reference to the boundaries mentioned in plaint 'A' schedule, the boundaries towards East and West differs i.e., they are mutually inconsistent whereas in the sale deed dated 30.06.2014 towards East: the Remaining property in Sy.No.183 belonging to the vendors of plaintiff has been shown, but in the schedule to the plaint towards East: the property of plaintiff has been shown and similarly towards west the remaining property of the plaintiff has been shown, but in the plaint 'A' schedule towards West: the remaining property of the 1st defendant has been shown to be in existence. However, during the course of cross-examination of 1st defendant as DW-1, a specific reference has been made with regard to the boundaries mentioned with respect to the plaint



‘A’ schedule property, wherein, the 1st defendant has specifically admitted that the plaintiff has been in possession and enjoyment over the suit ‘A’ schedule property within the boundaries mentioned therein. Moreover, the 1st defendant in his written-statement itself has specifically admitted that the plaintiff is the owner of plaintiff ‘A’ schedule property to an extent of 4-00 acres of land.

10. In the plaint, it is also specifically admitted by the plaintiff herself that the 1st defendant is the owner in possession and enjoyment of 3-00 acres of land in Sy.No.175 situated at Birur Kavalu village. The 1st defendant has also produced the registered sale deeds dated 25.07.1984 and 05.07.1986 under Ex.D-2 and 3. Ex.D-2 is the sale deed dated



25.07.1984 of the vendor of 1st defendant's vendor Smt. Lakkamma and a reference to the same would go to show that one K.Y. Mylara Shetty under the aforesaid sale deed has sold the said property measuring 3-00 acres in Sy.No.175 bounded on East by: Halla, West by: the Property of Vishwakarma Sanga, South by: Property of Ningappa and North by: Property of B.N. Puttadevirajchar in favour of Smt. Lakkamma for a valuable consideration. Under the registered sale deed dated 05.07.1986, said Smt. Lakkamma had sold the property purchased by her in Sy.No.175 to an extent of 3-00 acres of land in favour of Smt. Shardamma, the wife of 1st defendant and boundaries under both the sale deeds are shown to be one and the same. Further it is essential to mention that the defendant's sale



deed is much earlier one i.e., of the year 1986 and the sale deed of plaintiff is of the year 2014. If pre-supposes that the defendant and his wife were in possession of written statement schedule property close to three decades, before plaintiff come into possession of suit 'A' schedule property. Moreso, during the course of cross-examination, the power of attorney holder of plaintiff who deposed before this court as PW-1 has un-equ-vocally admitted regarding the possession of 1st defendant over the extent of 3-00 acres of land in Sy.No.175 as shown in the boundaries mentioned in the written-statement schedule of 1st defendant. If the documentary evidence produced by the plaintiff as well as the 1st defendant with reference to their respective properties in Sy.No.176 to an extent of 4-00 acres of land is admitted to have been in



possession and enjoyment of plaintiff and similarly the property measuring 3-00 acres of land in Sy.No.175 is in possession and enjoyment of the 1st defendant. The pleadings also establish the said fact.

11. The main area of controversy as per the plaint averment is that the revenue authorities while effecting pakka phode durast with respect to the properties in Sy.No.175 and Sy.No.176 belonging to plaintiff and 1st defendant have committed an error and projected that the plaintiff is in possession of suit 'B' schedule property and the 1st defendant is in possession of suit 'A' schedule property. In order to establish the said contentions, the plaintiff is mainly placing reliance upon the survey sketches produced under Ex.P-10 and



11. On a reference to the survey sketch produced under Ex.P-10, it is noticed that the 1st defendant has been shown as the owner in possession and enjoyment of property in Sy.No.176 and under shara, it is stated that as per RTC, the 1st defendant is the khatedar of property in Re-Sy.No.175, but in-fact he is in possession and enjoyment of property in Re-Sy.No.176. Similarly, under Ex.P-11, it is shown that the plaintiff as the owner of property in Sy.No.175, but under shara it is stated that as per RTC, the plaintiff is the Khathedar of property in Sy.No.176, but in-fact, she is in possession of property in Re-Sy.No.175. However, on reference to the statement of award of land acquisition by the 2nd defendant, which is produced under Ex.P-12, it is noticed that the compensation amount of a sum of



Rs.1,11,63,202/- has been awarded in favour of plaintiff for the acquired property in possession and enjoyment of plaintiff with respect to Sy.No.176 and similarly, a sum of Rs.1,80,47,213/- has been awarded in favour of Smt. Sharadamma, the wife of 1st defendant for the extent of property acquired by the 2nd defendant in Sy.No.175. The plaint averments itself discloses that it is the revenue authorities who have committed mistake while preparing sketch under Ex.P-10 and 11 by wrongly projecting the possession of plaintiff over the property in Sy.No.175 and possession of 1st defendant / Smt. Sharadamma in Sy.No.176 and the plaintiff herself has preferred an appeal before the Deputy Commissioner, Chikkamagaluru to rectify the said mistake and the same is pending consideration. Though at



the inception contended that the plaintiff has preferred an appeal before the Deputy Commissioner to rectify the aforesaid mistakes, but till the date of conclusion of the suit proceedings, she has not bothered to produce any documentary evidence in order to project the out-come of the orders passed by the Deputy Commissioner in that regard. Moreso, the plaintiff has not bothered to examine the concerned Revenue Officer / Surveyor, who has conducted spot inspection and prepared sketch under Ex.P-10 and 11 respectively in order to establish the alleged mistake committed by the said revenue authorities as contended in the plaint. The evidence as discussed in the forgoing paras is very much clear and there is a specific admission regarding the exclusive possession and enjoyment of plaintiff over an extent of 4-00



acres of land in Sy.No.176 as per schedule 'A' property in the plaint and there is also documentary evidence placed on record which clearly demonstrates the ownership of the plaintiff over the suit 'A' schedule property i.e., the registered sale deed dated 30.06.2014 and RTC extracts also establishes the ownership and possession of plaintiff over the suit 'A' schedule property. Thus, by considering the aforesaid aspects, there would be no hurdle to declare the plaintiff as the lawful owner in possession and enjoyment of suit 'A' schedule property. As far as the interference is concerned, it is crystal clear that both the plaintiff and 1st defendant have specifically admitted regarding the respective possession of plaintiff over 'A' schedule property and possession of 1st defendant over the suit 'B' schedule property /



written-statement schedule property. If at all, any mistake has been committed by the revenue authorities while preparing the sketch, it is for the plaintiff to work-out her remedies before the concerned authorities in accordance with law provided in that regard and filing of this suit merely on the ground that the revenue authorities have wrongly projected the plaintiff to be in possession of plaint 'B' schedule property instead of plaint 'A' schedule property would not by itself establishes the interference of the 1st defendant over the enjoyment of plaintiff over suit 'A' schedule property, but however, in view of clear establishment of plaintiff's title over the suit 'A' schedule property, a mere apprehension of interference by itself is sufficient to grant the relief of perpetual injunction in order to protect the



possession and enjoyment of plaintiff over the suit 'A' schedule property against the 1st defendant. At the same time, it is also necessary to mention that in the plaint itself, the plaintiff has clearly admitted regarding the possession and enjoyment of 1st defendant over an extent of 3-00 acres of land in Sy.No.175 and under such circumstances, there would be no hurdle for granting the relief of perpetual injunction in favour of plaintiff, as prayed. Accordingly, **issues No.1 to 3 under consideration are answered in the Affirmative.**

12. **Issue No.4:-** In view of the findings on the foregoing issues, the following;

ORDER

Suit is decreed.

The plaintiff is declared
as the owner in possession



and enjoyment of suit 'A'
schedule property.

The 1st defendant is
permanently restrained from
causing interfering with
peaceful possession and
enjoyment over the suit 'A'
schedule property.

No order as to costs.

Draw decree accordingly.

(Dictated to the Stenographer, directly on computer, printout taken by
him, corrected and then pronounced by me in the open court, today this 16th
day of April-2026)

Sd/-
(IRFAN)
Senior Civil Judge,
Kadur.

ANNEXURE

I List of witnesses examined on behalf of the plaintiff:

PW-1 : Sri. P. Mallaiah.

II List of witnesses examined on behalf of defendants:

DW-1 : Sri. B. Govindgowda.

**III List of documents marked on behalf of the plaintiff:**

- Ex.P.1 : Special Power of Attorney.
Ex.P.2 : RTC
(Sy.No.176 of Birur Kavalu village)
Ex.P.3 : RTC
(Sy.No.175 of Birur Kavalu village)
Ex.P.4 : Mutation Register Extract.
Ex.P.5 : Registered Sale Deed dated
30.06.2014.
Ex.P.5(a) : Signature of plaintiff – Smt. Rudramma.
Ex.P.6 : Copy Sale Deed dated 06.12.1967.
Ex.P.7&8 : Form-15.
Ex.P.9 : Information given by the Special
Land Acquisition Officer, Tumkur-
Shivamogga NH-206, Shivamogga
to the Sri. P. Mallaiah under RTI.
Ex.P.10&11 : Copies of Survey Sketch.
Ex.P.12 : Schedule-I,
(Statement of Award of Land Acquisition)
Ex.P.13 : Notification of Land Acquisition.

IV List of documents marked on behalf of defendants:

- Ex.D.1 : Hand Written RTC bearing Sy.No.175
of Birur Kavalu Village.
[1979-80 to 1995-96].
Ex.D.2 : Original Sale deed dated 25.07.1984.
Ex.D.3 : Original Sale deed dated 05.07.1986.



- Ex.D.4 : Copy of Hand-written Mutation Register
extract.
- Ex.D.5 : RTC
(Sy.No.175 of Birur Kavalu Village)

Sd/-
(IRFAN)
Senior Civil Judge,
Kadur.

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