

KACM400010302013



Govt. of
Karnataka
[C.R.P. 67]

TITLE SHEET FOR JUDGMENT IN SUITS

**Form No. 9 (Civil) Title
Sheet for Judgment
In Suits (R. P. 91)**

**IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC,
MUDIGERE**

**PRESENT: Smt. Suraksha K.K. B.B.M.,LL.B.,
I Addl. Civil Judge & JMFC.,
Mudigere.**

DATED THIS THE 01st DAY OF AUGUST 2026

**ORIGINAL SUIT No:186/2014 Club with OS
NO.120/2013**

Parties in OS No.120/2013

KACM400010302013



BETWEEN:

A.K.Shivamurthy,
Aged about 65 years,
S/o Late Kallappaiah,
R/o Abbigadde House,
Hemmakki Post, Idakini Village,
Kalasa Hobli, Mudigere Taluk.

.... Plaintiff

(By Sri. K.S.Adithya, Adv.,)

AND :

1. M.B.Narendra,
Aged about 60 years,
S/o.Bobegowda,
R/o Neddinahalli, Gabgal post,
Mudigere Taluk.
(Abated)



2. Mansoor,
Aged about 45 years,
S/O.Kareem,
R/o Dodda Angadi,
Gabgal post,
Mudigere Taluk.
(Abated)
3. M.S.Krishnappagowda,
Aged about 50 years,
S/oSubbegowda,
R/o Mundane Mane,
Hemmakki post,
Idakini village,
Mudgere Taluk.
4. Nouseer,
aged about years,
S/o Abdul Khadar
R/o No:15/291, Talapadi, Muda Village,
Jodumarga Post, Beltangadi Taluk,
Dakshina Kannada District.

.... Defendants

(D1 and 2 Abated)
(D3 By Sri.T. Ashoka, Adv.,)
(D4 By Smt.Malathi S Rao, Adv.,)

Date of Institution of suit	23.08.2013
Nature of the suit	Possession and Permanent Injunction
Date of commencement of evidence	07.02.2020
Date of closure of the evidence	15.10.2025

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O.S.No.186/2014
Club with OS No.120/2013

Date of pronouncement of judgment	01.08.2026
Total duration:	Years, Months, Days. 12 11 09

Parties in OS No.186/2014

KACM400013742014



BETWEEN:

A.K.Shivamurthy,
Aged about 61 years,
S/o Late Kallappaiah,
R/o Abbigadde House,
Hemmakki Post, Idakini Village,
Kalasa Hobli, Mudigere Taluk.

.... Plaintiff

(By Sri. K.S.Adithya, Adv.,)

AND :

1. Nouseer,
Aged about 27 years,
S/o Abdul Khadar,
Agriculturist.

2. Faizal,
Aged about 29 years,
S/o Abdul Khareem,
Agriculturist.

Defendants No.1 and 2 are
R/o 15-21 Thalapadi,
Mooda Village, Jodu Via Post,
Bantawala Taluk,
Dakshina Kannada District.



3. M.B.Narendra,
Aged about 46 years,
S/o.Bobegowda,
R/o Neddinahalli, Gabgal post,
Mudigere Taluk.
(Abated)

.... Defendants

(D1 and 2 By Smt.Malathi S Rao, Adv.,)
(D3 Abated)

Date of Institution of suit	01.12.2014
Nature of the suit	Permanent Injunction
Date of commencement of evidence	07.02.2020
Date of closure of the evidence	15.10.2025
Date of pronouncement of judgment	01.08.2026
Total duration:	Years, Months, Days. 11 08 00

(Suraksha K.K.)
I Addl. Civil Judge & JMFC,
Mudigere.

COMMON JUDGMENT

The plaintiff in OS No.120/2013 and OS No.186/2014 are one and the same and the subject matter of the suit is one and the same and relief claimed in OS No.120/2013 is with respect to the recovery of possession of the 'B' schedule



property and for permanent injunction and the relief claimed in OS No.186/2014 is with respect to the permanent injunction filed by the plaintiff against the defendants seeking for the relief to restraining the defendants, their men, agents, servants or anybody from not to trespassing into the schedule properties or from causing act of waste and damage to the schedule properties and in any way interfering with the plaintiff's peaceful possession, occupation and enjoyment over the suit schedule properties.

The matter has been remanded back for fresh disposal, after providing an opportunity for both the parties to appoint commissioner, in order to know the encroachment over the suit schedule properties. Hence, the matter has been taken on consideration for fresh disposal. When the matter has been remanded back to this Court, the suit against the defendant No.1 has been abated and the defendant No.2 has kept absent.

2. The plaintiff's case in OS No.120/2013 brief as follows:

It is the case of the plaintiff that, the plaintiff is the owner in possession, occupation and enjoyment of the suit 'A' schedule properties. Originally, Sl.No.1 property in suit 'A' schedule property has been granted in favour of the plaintiff under LRF(7) 2259 of 1976-77 and the katha has been



mutated in to the name of the plaintiff, under MR No.9/1978-79. The Sl.No.2 and 3 properties in suit 'A' schedule property has been granted in favour of the father of the plaintiff under LRF (7) 1401/1974-75. After the demise of the father of the plaintiff, the Sl.No.2 and 3 properties in the suit 'A' schedule has been mutated in to the name of the plaintiff, under MR No.27/1997-98, since then, the plaintiff is in the possession, occupation and enjoyment over the suit 'A' schedule properties. Now, the defendants who are not having any right over the suit 'A' schedule properties, the defendant No.1 and 2 who are being the adjacent owner of the suit 'A' schedule properties and the defendant No.3 being an adjacent owner of the Sl.No.1 of the suit schedule property is trying to encroach the suit 'A' schedule properties. With respect to the same plaintiff has also lodged a complaint before the Kalasa police station, since the matter is of the civil in nature no action has been taken. Such being so, on 18.01.2014 defendant No.1 and 4 along with one Sri.Fizal have tried to encroach the plaintiff schedule properties, with respect to the same plaintiff has also filed OS No.186/2014. Based on the commissioner report submitted in OS No.186/2014, it has been disclose that defendant No.4 has encroached 0.24 guntas of the Sl.No.1 of the suit 'A' schedule property. The same has been shown as suit 'B' schedule property in the present suit. Hence this suit.



3. On service of suit summons, the defendants in OS No.120/2013 have appeared through their counsel and defendant No.3 filed his written statement as follows.

The defendant No.3 has denied the entire contention of the plaintiff and further he contends that, he is the owner in possession, occupation, cultivation and enjoyment over the property measuring 2 acres 0.25 guntas in Sy.No.58/11 (Old Sy.No.58/2) of Idakani village, Kalasa Hobli, Mudigere Taluk. The same has been purchased by the defendant No.3 under sale deed SR No.340/2010-11, dated 17.07.2010. Since then, the defendant No.3 is the owner in possession, occupation and enjoyment over the said property. The katha of the said property has been mutated into the name of the defendant No.3 under MR No.13/2010-11, dated 04.10.2010. Now, the plaintiff who has got no manner of right, title or interest over the said property. The defendant No.3 has removed the old areca nut plants over the said property, taking the undue advantage of the same, the plaintiff is trying to trespass and encroach upon the defendant No.3 land by removing the fence on the northern side of the said property and also trying to dispossess the defendant No.3. Hence, the plaintiff has come up with this suit. After obtaining the ex-parte temporary Injunction, on 15.09.2013 the plaintiff and his men have tried to remove the fence on the northern side of the defendant



No.3 property and to cause the act of waste and damages over the said property. Even though the said matter has been reported to the police, since the matter is of the civil in nature no action has been taken. Hence, prays to dismiss the suit.

4. Learned counsel for defendant No.1, 2 and 4 filed their written statement as follows;

The defendant No., 2 and 4 have denied the entire contention of the plaint averments and prays to dismiss the suit.

5. The plaintiff's case in OS No.186/2014 brief as follows:

It is the case of the plaintiff that the plaintiff is the owner in possession, occupation and enjoyment of the plaint schedule properties. Originally, Sl.No.1 of the suit 'A' schedule properties has been granted in favour of the plaintiff under LRF(7) 2259/1976-77 and the katha has been mutated in to the name of the plaintiff under MR No.9/1978-79. The Sl.No.2 and 3 properties in suit 'A' schedule has been granted in favour of the father of the plaintiff under LRF (7) 1401/1974-75. After the demise of the father of the plaintiff, the Sl.No.2 and 3 properties in suit 'A' schedule has been mutated in to the name of plaintiff under MR No.27/1997-98, since then the plaintiff is in the possession, occupation and enjoyment over



the suit schedule properties. Now, the defendants who are not having any right over the suit schedule properties are trying to encroach towards the southern side of the suit schedule properties and on the instigation of the defendant No.3 and on 18.11.2014 defendants have tried to remove the fence and encroach the suit schedule properties. Hence this suit.

6. On service of suit summons, the defendants in OS No.186/2014 have appeared through their counsel and filed their written statement as follows.

The defendants have denied the entire contention of the plaintiff and further contends that the defendant No.1 has purchased the property in Sy.No.65/2 measuring 2 acre 0.23 guntas from one Sri.Durgha Prasad under sale deed SR No.1199/2013-14, dated 07.12.2013, situated at Kalasa Hobli, Mudigere Taluk, in Sy.No.65/3 measuring 2 acres 0.12 guntas from Sri.Madhusudun under sale deed SR No.1201/2013-14, dated 07.12.2013 situated at Idakani Village, Kalasa Hobli, Mudigere Taluk. In Sy.No.64/3 under sale deed SR No.1200/2013-14, from Sri.K.Sathish dated 07.12.2013, situated at Idakani Village, Kalasa Hobli, Mudigere Taluk, in Sy.No.58/9 measuring 1.00 acre and Sy.No.58/10 measuring 1.00 acre from Smt. Usha and defendant No.3. Since then, the defendant No.1 is in the possession, occupation and enjoyment over the said



properties. In order to obtain the wrongful possession of the defendant No.1's property the plaintiff has come up with this suit. Hence, prays to dismiss the suit.

7. On the basis of the above pleading this Court has framed the following issues;

ISSUES IN OS No.120/2013

1. Whether the plaintiff proves that he is the absolute owner in possession of the suit schedule property as on the date of the suit?
2. Whether the plaintiff proves the alleged interference by the defendants?
3. Whether the plaintiff is entitled for the reliefs as claimed in the plaint?
4. What order or decree?

ADDITIONAL ISSUE DATED 06.12.2019

1. Whether the plaintiff is entitled for possession of "B" schedule property from the defendant No.4?

ISSUES IN OS No.186/2014

1. Whether the plaintiff proves that he is in lawful possession over the suit



schedule property as on the date of filing of the suit?

2. Whether the plaintiff proves the alleged interference by the defendants?

3. Whether the plaintiff is entitled for the reliefs as claimed in the plaint?

4. What order or decree?

8. In proof of his case, the plaintiff in OS No.120/2013 examined as PW1 and got marked documents at Ex.P1 to P22 and ADLR Mudigere in OS No.120/2013 examined as PW2 and closed his side. On the other hand, the defendant No.2 in OS No.186/2014 got examined himself as DW1 and defendant No.2 in OS No.120/2013 got examined himself as DW2 and got marked documents as Ex.D1 to 7. Court commissioner in OS No.120/2013 got examined himself as CW1 and 2 and got marked documents as Ex.C1 to C11.

9. Heard Learned counsel for plaintiff and defendants in both the cases and also perused the entire materials on record. For the reasons stated below, the findings of this Court to the above issues are as follows:

Issues in OS No.120/2013

Issue No.1 : **In the Affirmative**

Issue No.2 : **In the Affirmative**



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Club with OS No.120/2013

Issue No.3 : **Partly in the affirmative**
Additional issue No.1:**In the Negative**

Issue No.4 : As per the final order
for the following:

Issues in OS No.186/2014

Issue No.1 : **Partly in the affirmative**

Issue No.2 : **Partly in the affirmative**

Issue No.3 : **Partly in the affirmative**

Issue No.4 : As per the final order
for the following:

REASONS

10. Addl. Issue No.1 in OS No.120/2013: In order to substantiate his case, plaintiff got examined as PW1 and also got marked the document as Ex.P1 to 22. Ex.P1 and 11 are RTC extract pertaining to Sy.No.58/2, measuring 2 acres 0.30 guntas, wherein the column No.9 shows the plaintiff is the owner of the Sl.No.1 of the suit 'A' schedule properties. Ex.P2, 12 and 15 are RTC extract pertaining to Sy.No.64/2 measuring 2 acres, wherein the column No.9 shows the plaintiff is the owner of the Sl.No.2 of the suit 'A' schedule properties, Ex.P3 RTC extract pertaining to Sy.No.65/1 measuring 1 acre, wherein the column No.9 shows the plaintiff is the owner of the Sl.No.3 of the suit 'A' schedule properties, Ex.P4 and 14 are mutation register wherein it



shows that the Sl.No.2 and 3 of the suit 'A' schedule property has been mutated in to the name of the plaintiff after the demise of his father. Ex.P5 and 13 are mutation extract wherein it shows that as per order passed in LRF (7) 2259/1976-77, the Sl.No.1 of the suit 'A' schedule property has been mutated into the name of the plaintiff herein. Ex.P6, 7, 16 and 17 are records of rights and index of land with respect to the prior owner of the Sl.No.2 and 3 of the suit 'A' schedule property from whom the father of the plaintiff has purchased the said properties. Ex.P8 sketch with respect to the suit 'A' schedule properties. Ex.P9 Kandayam paid receipts, Ex.P10 Patta book with respect to the payment of Kandayam over the suit schedule properties, Ex.P18 endorsement issued by the Kalasa police station, Ex.P19 the instructions given by the plaintiff counsel to the Court Commissioner, Ex.P20 sketch with respect to the suit schedule properties issued by the Court Commissioner, Ex.P21 notice issued by Court Commissioner to plaintiff and defendants and Ex.P22 grant certificates.

11. In order to disprove the case of the plaintiff, the defendant No.1 in OS No.186/2014 examined as DW1 and defendant No.3 in OS No.120/2013 examined as DW2 and also got marked the documents as Ex.D1 to 7. Ex.D1 photographs and RTC extract pertaining to Sy.No.65/2 measuring 2 acres 0.20 guntas, wherein the column No.9



shows that the defendant No.1 in OS No.186/2014 is the owner. Ex.D2 RTC extract pertaining to Sy.No.65/3 measuring 2 acres 0.10 guntas, wherein the column No.9 shows the defendant No.1 in OS No.186/2014 is the owner, Ex.D3 RTC extract pertaining to Sy.No.64/3 measuring 2 acres 0.25 guntas, wherein the column No.9 shows the defendant No.1 in OS No.186/2014 is the owner, Ex.D4 RTC extract pertaining to Sy.No.58/9 measuring 1.00 acre, wherein the column No.9 shows the defendant No.1 in OS No.186/2014 is the owner, Ex.D5 RTC extract pertaining to Sy.No.58/10 measuring 1.00 acre, wherein the column No.9 shows the defendant No.4 in OS No.120/2013 is the owner, Ex.D6 certified copy of registered sale deed dated 12.08.2013 and Ex.D7 is certified copy of Registered Gift Deed, dated 08.01.2015.

12. It is the case of the plaintiff that, the Sl.No.1 of the suit 'A' schedule property has been granted in favour of the plaintiff under LRF (7) 2259/1976-77 and the katha of the said property mutated into the name of the plaintiff under MR No.9/1978-79. Since, the day of the grant, the plaintiff is in the possession, occupation and cultivation over the Sl.No.1 of the suit 'A' schedule property. Such being so, on 18.11.2014 after the institution of the OS No.186/2014, defendant No.4 have encroached the 0.24 guntas of the Sl.No.1 of the suit 'A' schedule property and now, the defendant No.4 along with one Fizal are in possession over the said encroached property.



Further, plaintiff has also contends that, the said matter has been come to the knowledge of the plaintiff, when the Court Commissioner has submitted his report in OS No.124/2014. Based on the said commissioner report, the plaintiff is seeking the possession of the suit 'B' schedule property in OS No.120/2013.

13. In support of said contention, the Plaintiff has also produced the Document as Ex.P19 i.e., the answer given by the Court commissioner to the instructions given by the Plaintiff and Ex.P20 i.e., the Sketch issued by the court commissioner with respect to Suit 'A' schedule properties. On the other hand, the Court commissioner has also examined as CW.1 and marked the document as Ex.C1 to Ex.C11.

14. With respect to the contention of the plaintiff, when we look into the commissioner report which is marked as Ex.C6, wherein it is mentioned that property in Sy.No.58/2, measuring 1.00 acre 0.30 guntas has been encroached by defendant No.3, property measuring 0.12 guntas in Sy.No.58/2 has been encroached by Fizal, property measuring 0.10 guntas has been reserved for stream and property measuring 0.05 guntas has been encroached by unknown person. But, nowhere in the said report it is mentioned that the 0.24 guntas of plaintiff property in Sy.No.58/2 has been



encroached by the defendant No.4 or by Fizal, as contended by the plaintiff in his pleading.

15. Further when we look into the Ex.P22 i.e., the grant certificate issued in favour of the plaintiff with respect to Sl.No.1 of suit 'A' schedule property, wherein it mentioned that 2.00 acres of property in Sy.No.58, has been granted in favour of the plaintiff and but in RTC extract it is mentioned as the plaintiff is the owner of the 2.00 acres 0.30 gutnas. The said contents itself creates the doubt regarding the possession of the plaintiff over 2.00 acres 0.30 gutnas in Sy.No.58/2 and the encroachment of 0.24 gutnas by defendant No.3 and Fizal in Sy.No.58/2. When the 2.00 acres of property is granted to the Plaintiff in Sy.No.58, then how come the plaintiff is shown as owner for property measuring 2 acres 36 Gunas in Sy.No.58 and there is no material on record, in order to show how come the plaintiff is shown as owner, to the property measuring 2.30 gutnas in Sy.No.58/2, when only the 2.00 acres of property has been granted in his favor as per Ex.P22. Moreover, the one Sri.Fizal against whom the plaintiff is contending that, along with Defendant No.4 he encroached 24 gutnas in Sy.No.58/2 is not a party in OS No.120/2013. Hence Addl. Issue No.1 is answered in '**Negative**'.

16. Issue No.1 in OS No.120/2013: In so far as, possession over the Sl.No.2 and 3 of the suit 'A' schedule



property is concerned, the plaintiff contends that the said properties has been granted in favour of the father of the plaintiff under LRF (7) 1401/74-75. After the demise of the father of the plaintiff, Sl.No.2 and 3 of the suit 'A' schedule property have been mutated into the name of the plaintiff under MR No.27/1997-98. Since, then the plaintiff is in the peaceful possession, enjoyment and cultivation over the Sl.No.2 and 3 of the suit 'A' schedule property.

17. In order to prove his owner in possession over the Sl.No.2 and 3 of the property, plaintiff has produced Ex.P2 and 15 RTC pertaining to Sy.No.64/2, wherein column No.9 shows that the plaintiff is the owner of the property measuring 2.00 acres. Ex.P3 and 12 RTC pertaining to Sy.No.65/1, wherein column No.9 shows that the plaintiff is the owner of the property measuring 1.00 acre, Ex.P4 and 14 MR, wherein it is mentioned that after the demise of the father of the plaintiff the property in Sy.No.64/2 and 65/1 has been mutated into the name of the plaintiff. Ex.P6, 7, 16 and 17 index of lands and records of rights. Ex.P9 Kandayam paid receipt, Ex.P10 patta book with respect to the payment of kandayam.

18. On perusal of the above said documents it clearly disclose that the plaintiff is the owner in possession over the Sl.No.2 and 3 of the suit 'A' schedule property by acquiring



the same under pouthi katha. In Counter Defendants have denied the possession of the plaintiff over the Sl.No.2 and 3 of the suit 'A' schedule properties but, in support of said contention the defendants have not produced any documents and there is no material on record in order to disprove the possession of the plaintiff. Even though, the defendant No.2 contends that in order to encroach his property in Sy.No.58/11 (old Sy.No.58/2) the plaintiff has come up with this suit, he has not produced any document in support of his contention. Therefore, issue No.1 in OS No.120/2013 answered in the '**Affirmative**'.

19. Issue No.1 in OS No.186/2014: In so far as, possession over the suit schedule properties is concerned, the plaintiff contends that the Sl.No.1 of the suit schedule property has been granted in favour of the plaintiff under LRF (7) 2259/76-77. Since then, the plaintiff is in the possession occupation and cultivation over the Sl.No.1 of the suit schedule property. In support of his contention plaintiff has produced the document at Ex.P1 RTC pertaining to Sy.No.58/2 measuring 2.36 acres, Ex.P5 and 14 MR wherein in shows that as per the order passed in LRF (7) 2259/76-77 the property in Sy.No.58 measuring 2.00 acres has been mutated in to the name of the plaintiff and Ex.P22 grant certificate wherein it mentioned that the property in Sy.No.58



measuring 2.00 acres has been granted in favour of the plaintiff.

20. On considering the documents and the contentions of the plaintiff, one thing is clear that as per order under LRF (7) 2259/76-77 the property in Sy.No.58 measuring 2.00 acres has been granted in favor of the plaintiff i.e., Ex.P22 and katha has been mutated into the name of the Plaintiff for property measuring 2 acre in Sy.No.58 based on Ex.P22. Further in OS No.186/2014 the plaintiff claims the protection over his possession in Sy.No.58/2 measuring 2.36 acres, but in OS No.120/2013, the plaintiff seeks the recovery of possession measuring 0.24 guntas in Sy.No.58/2, by contending that the out of 2.36 acres 0.24 guntas have been encroached by the defendant No.2 in OS No.186/2014 and defendant No.4 in OS No.120/2013. The said contention in OS No.120/2013 that the part of the property in Sy.No.58/2 i.e., 0.24 guntas has been encroached by one Sri.Fizal and defendant No.4, shows that the plaintiff is not in possession over property measuring 2.36 guntas in Sy.No.58/2.

21. Further, plaintiff also seeks protection of his possession over the property in Sy.No.64/2 measuring 2.10 acres and 65/1 measuring 1.03 acres, by contending that the said properties has been granted in favour of his father under LRF (7) 1401/74-75. After the demise of the father of the



plaintiff the said properties has been mutated into the name of the plaintiff herein. In support of his contention plaintiff has also produced Ex.P2 and 15 RTC pertaining to Sy.No.64/2, wherein column No.9 shows that the plaintiff is the owner of the property measuring 2.00 acres. Ex.P3 and 12 RTC pertaining to Sy.No.65/1, wherein column No.9 shows that the plaintiff is the owner of the property measuring 1.00 acre, Ex.P4 and 14 MR, wherein it is mentioned that after the demise of the father of the plaintiff the property in Sy.No.64/2 and 65/1 has been mutated into the name of the plaintiff. Ex.P6, 7, 16 and 17 index of lands and records of rights. Ex.P9 Kandayam paid receipt, Ex.P10 patta book with respect to the payment of kandayam.

22. In counter defendants have denied the possession of the plaintiff over the suit 'A' schedule properties. But, in support of said contention the defendants have not produced any documents. Even though the Defendants have not produced any documents in order to disprove the possession of the plaintiff over the suit 'A' schedule properties, but, the documents placed on record clearly disclose that the Plaintiff has failed to prove his peaceful possession over Sl.No.1 of the suit 'A' schedule property. Therefore, issue No.1 in OS No.186/2014 answered '**Partly in Affirmative**'.



23. Issue No.2 in OS No.120/2013: In so far as, interference is concerned the plaintiff contends that the defendants who are not having any right over the Sl.No.2 and 3 of the suit 'A' schedule property, on 16.08.2013 the defendants have tried to encroach the Sl.No.2 and 3 of the suit 'A' schedule property by removing the fence surrounded towards the said property. With respect to the same the plaintiff has also lodged a complaint before the Kalasa police station. Since the matter is of the civil in nature the police have not took any action. In support of his contention plaintiff has also also produced the endorsement issued by the Kalasa Police which is marked as Ex.P18. Even though, there is no document other than the endorsement issued by the Kalasa police, the denial of the Plaintiff possession over the Sl.No.2 and 3 of the suit 'A' schedule properties, itself shows that the interference by the defendants over the Sl.No.2 and 3 of the suit 'A' schedule property. Therefore, issue No.2 in OS No.120/2013 answered in the '**Affirmative**'.

24. Issue No.2 in OS No.186/2014: In so far as, interference is concerned the plaintiff contends that the defendants who are not having any right over the suit schedule properties, on 18.11.2014 the defendants have tried to encroach the suit schedule properties by removing the fence surrounded towards the said property. With respect to the same the plaintiff has also lodged a complaint before the



Kalasa police station. Since the matter is of the civil in nature the police have not taken any action. In support of his contention plaintiff is also produced the endorsement issued by the Kalasa Police which is marked as Ex.P18.

25. On the basis of above discussion on issue No.1 in OS No.186/2014 the plaintiff has failed to prove his possession over the Sl.No.1 of the suit schedule properties which measures 2.36 acres. Since, the plaintiff failed to prove his possession over 2.36 acres in Sy.No.58, the question of interference from the defendants over the property in Sy.No.58 i.e., Sl.No.1., does not arise at all. In so far as Sl.No.2 and 3 of the suit schedule properties is concerned the plaintiff has proved that after the demise of his father he acquired owner in possession over the said properties.

26. Even though, there is no document other than the endorsement issued by the Kalasa police, the denial of the contention of the plaintiff itself shows that the defendants have tried to interfere over the plaintiff peaceful possession over the Sl.No.2 and 3 of the suit schedule properties. Therefore, issue No.2 in OS No.186/2014 answered '**Partly in Affirmative**'.

27. Issue No.3 in both the cases: Since these issues require common appreciation of materials on record so as to



arrive at a conclusion of the dispute involved therein, they are taken for common discussion so as to avoid repetitions.

28. In so far as, entitlement of the relief is concerned, the plaintiff has filed the OS No.120/2013 against the defendants seeking for the relief of possession and injunction and also filed the OS No.186/2014 against the defendants seeking for the permanent injunction. Based on additional issue No.1 the plaintiff has failed to prove his possession over the property measuring 2.36 acres in Sy.No.58/2 and encroachment of the 0.24 guntas out of 2.36 acres by the defendant No.4 and one Sri. Fizal. Based on discussion on issue No.2, 3 in both the suits the plaintiff has proved his possession and interference over the Sl.No.2 and 3 of the suit 'A' schedule properties and failed to prove his peaceful possession and interference over Sl.No.1 of the suit 'A' schedule property. Therefore, issue No.3 in both the cases answered in the '**partly in the affirmative**'.

29. Issue No.4 in both the cases: On the basis above discussion on this Court proceed to pass the following;

ORDER

OS.NO.120/2013

The suit of the plaintiff in OS No.120/2013 is partly decreed with cost.



The defendants their men agents or any other persons are hereby permanently restrained from trespassing into the Sl.No.2 and 3 of the suit 'A' schedule properties or from causing act of waste and damage to the Sl.No.2 and 3 of the suit 'A' schedule properties and in any way interfering with the plaintiff's peaceful possession, occupation and enjoyment of the Sl.No.2 and 3 of the suit 'A' schedule properties.

ORDER

O.S.NO.186/2014

The suit of the plaintiff in OS No.186/2014 is hereby partly decreed with cost.

The defendants their men agents or any other persons are hereby permanently restrained from trespassing into the Sl.No.2 and 3 of the suit schedule properties or from causing act of waste and damage to the Sl.No.2 and 3 of the suit schedule properties and in any way interfering with the plaintiff's peaceful possession, occupation and enjoyment of the Sl.No.2 and 3 of the suit schedule properties.



**In view of the above, all pending
IAs are disposed off.**

Draw decree accordingly.

(Dictated to the Stenographer, directly typed by him on computer,
corrected and then pronounced by me in the open court on **01st day of
AUGUST 2026, at Mudigere.**)

(Suraksha K.K.)
I Addl. Civil Judge & JMFC.,
Mudigere.

::ANNEXURE::

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE
PLAINTIFF:-**

PW.1 : A.K.Shivamurthy
PW.2 : Narasimhamurthy

**LIST OF DOCUMENTS MARKED ON BEHALF OF THE
PLAINTIFFS:-**

Ex.P1 to 3 : RTC extracts
Ex.P4 & 5 : Mutation extracts
Ex.P6 : ILR
Ex.P7 : Record of rights
Ex.P8 : Sketch
Ex.P9 : Tax paid receipt
Ex.P10 : CC of Patta book
Ex.P11 & 12 : RTCs



Ex.P13 & 14 : M.R. Extracts
Ex.P15 : RTC
Ex.P16 : ILR
Ex.P17 : Records of rights
Ex.P18 : N.C.
Ex.P19 : Certified copy of answers in OS No.124/2014
Ex.P20 : Certified copy of sketch in OS No.124/2014
Ex.P21 : Certified copy of notice in OS No.124/2014
Ex.P22 : Form No.10

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENDANTS:-

DW.1 : Faizal
DW.2 : M.S. Krishnegowda

LIST OF DOCUMENTS MARKED ON BEHALF OF THE DEFENDANTS:-

Ex.D1 to 5 : RTC extracts
Ex.D6 : Certified copy of sale deed
Ex.D7 : Certified copy of gift deed

LIST OF WITNESSES EXAMINED ON BEHALF OF THE COMMISSIONER:-

CW.1 & 2 : Raghu S.K.

LIST OF DOCUMENTS MARKED ON BEHALF OF THE COMMISSIONER:-

Ex.C1 : Memorandum dt: 16.07.2024

KACM400010302013



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O.S.No.186/2014
Club with OS No.120/2013

Ex.C2 : Certified copy of order dt 28.02.2024
Ex.C3 : Notice
Ex.C3(a) : Signature of CW1
Ex.C4 : Postal receipts
Ex.C5 : Statement
Ex.C5(a) : Signature of CW1
Ex.C6 : Sketch
Ex.C6(a) : Signature of CW1
Ex.C7 : Report
Ex.C7(a) : Signature of CW1
Ex.C8 : Sketch
Ex.C9 : Statement
Ex.C10 & 11 : Sketch

(Suraksha K.K.)
I Addl. Civil Judge & JMFC.,
Mudigere.

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