

KADG210002652025



Presented on : 19-04-2025
Registered on : 19-04-2025
Decided on : 13-03-2026
Duration : 0 years, 10 months, 24 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.
AT: CHANNAGIRI**

Present:
Soubhagya.B.Bhusher
B.A.,LL.M

**Senior Civil Judge & J.M.F.C.,
Channagiri**

DATED; THIS THE 13th DAY OF MARCH 2026

R.A.NO.33/2025

**APPELLANTS/
PLAINTIFFS**

1. Abdul Rabbani Sab S/o Mahamad Imam Sab, Age: 71 years,
2. Harshad Bi W/o Late Abusaleha @ Babu, Age:52 years,
3. Mahamad Jilani S/o Mahamad Imam Sab, Age: 59 years,
4. Mahamad Zikriya S/o Mahamad Imam Sab, Age: 56 years,
5. Barkath Ali S/o Mahamad Imam Sab, Age: 51 years, All Are R/o:Haralipura,

Tq:Channagiri, Dist:Davanagere.

(By Sri.M.S.Maheshwaraiah.,Adv.,)

V/s

**RESPONDENT/
DEFENDANT**

Imthiyaz S/o Ameer Jan Sab, Age: 64 years,
R/o:Haralipura Village, Tq:Channagiri, Dist:
Davanagere.

(By Sri.Y.M.Ramachandra Rao.,Adv.,)

1.	Date & Nature of decree appealed against.	Judgment and decree passed in O.S.No.149/2021 dated: 17.03.2025 on the file of II Addl. Civil Judge & J.M.F.C., Channagiri.		
2.	Date of Institution of the appeal.	19.04.2025		
3.	Date of Judgment.	13.03.2026		
4.	Duration of the Appeal.	Year	Month	Days
		00	10	24

(Soubhagya.B.Bhusher)
Senior Civil Judge & J.M.F.C.,
Channagiri

JUDGMENT

The present appeal is preferred by the appellants/plaintiffs under Order 41 Rule 1 and 2 R/w Section 96 of C.P.C., against the

respondent/defendant praying to set aside the judgment and decree passed in O.S.No.149/2021 dated:17.03.2025 on the file of II Addl. Civil Judge and J.M.F.C., Channagiri and further to decree the suit of the plaintiffs by allowing the appeal.

2. The appellants were the plaintiffs and the respondent was the defendant before the trial court. Thus, they are referred to by the same rank, in this case.

3. The summary of the suit of the suit, that was filed by the plaintiffs against the defendant for the relief of permanent Injunction. It is stated that the plaintiffs are the absolute owners in possession of the suit schedule property in Sy.No.27/1 measuring 5 acres 19 guntas situated at Marabanahalli Village, Basavapatna Hobli, Tq:Channagiri, Dist:Davanagere. The suit property described in the schedule of the plaint. The said property initially measuring 6 acres 39 guntas is belongs their ancestral, which is stood in the name of Husain Sab. The said Husain Sab died leaving behind his 4 sons namely Husain Sab, Buden Sab, Hayath Sab and Mohamad Imam Sab. After the death of Husain Sab all his sons were divided property through IHC in the year 1997. Accordingly, the property measuring 6 acres 39 guntas in Sy.No.27/A was fallen to the share of Mohamad Imam Sab. The said Mohamad Imam Sab was died on 04.10.2013 by leaving behind his five sons i.e., the plaintiff No.1, 3 to 5 and Abu Saleha @ Babu as his legal heirs. The said Abu Saleha @ Babu was died on 09.06.2017 leaving behind his wife i.e., the plaintiff No.2 as his

legal heir. The plaintiffs sold 1 acre 20 guntas of land out of 6 acres 39 guntas to one Murugendraiah in Sy.No.27/1. The remaining 5 acres 19 guntas i.e., suit schedule property continued with their joint possession and enjoyment without any hindrance. Such being the case the defendant claimed his ownership over the suit schedule property by creating the documents. Though he had knowledge about their possession in and over the suit schedule property. The defendant taking undue advantage of the innocence of the plaintiffs with an intention to engulf the valuable suit property causing interference for peaceful possession and enjoyment of the suit schedule property. The said interference of the defendant is recurring in nature. The defendant having no any manner of right whatsoever in and over the suit schedule property he appeared before the suit schedule property along-with his members made quarrel and tried to disposes them from the suit schedule property by threatening them. The plaintiffs resisted the said illegal acts with support of their well wishers and they also approached Basavapatna Police and filed complaint. But, the police directed them to approach civil court to get the remedy. Thus, the plaintiffs constrained to file this suit.

4. In the trial court, the defendant appeared through his counsel and contest the suit. In the written statement he has denied all averments of the plaint. It is the specific contention of the defendant that his father Ameer Jhan Sab S/o Balegara Kalandar Sab had purchased the land measuring 1 acre 25 guntas

situated at Marabanahalli village, Tq:Channagiri from it's owner Buddain Sab S/o Doddamane Imam Sab for valuable sale consideration through a registered sale deed vide SRO No.2102/1956-57 dated:29.03.1957. The possession also delivered on the same day to the purchaser. Since from the date of sale his father enjoyed the said property as it's absolute owner in possession till his death. Thereafter the defendant and his brother have continued the possession and enjoyment and personal cultivation of the said purchased land which is bounded by East: Land of Hayath Sab, West: Land of Buddain Sab, North: Land of Mallapa and South: Sarkari Oni. But the said land in sale deed in letters it is mentioned by bonafide mistake as Sy.No.20/7 instead of Sy.No.27. The said Sy.No.20/7 was not belongs to the plaintiffs' family. The RTC entries also depicts the same. Due to the said mistake and the continuation of revenue entries in the names of the plaintiffs' of the said Sy.No.27 was not accepted in the name of the defendant's father/Ameer Jhan Sab on the basis of sale deed. Thus, 1 acre 25 guntas was not reduced in the revenue documents pertaining to Sy.No.27 of the plaintiffs' family and same has been mechanically continued. Thus, the plaint schedule property includes the alleged sale deed property belongs to him.

5. Further contented that the plaintiffs have not approached the court with clean hands and have suppressed material, real and existing facts. The land bearing Sy.No.27/A measuring 6 acres 39 guntas belongs to late Husain Sab and subsequent to his death his children have sold an extent of 1 acre 25 guntas infavour of father

of this defendant in the same survey number. On the Eastern side his cousin brother Hayath Sab had cultivating an extent of 1 acre 20 guntas and Murugendrappa had purchased measuring 1 acre 20 guntas in the same survey number and 1 acre was cultivating by sons of Buddain Sab who are vendor of this defendant. The plaintiffs are not at all in possession of the suit schedule property with its' entire extent. The extent mentioned in the suit schedule property is includes the property of the defendant. The plaintiffs by taking undue advantage of continuation of revenue records in their names suppressed the material facts pertaining to registered sale deed and got created wrong revenue records in their names behind the back of the defendant. Thus, the alleged revenue entries are created and bogus documents. The plaintiffs not having any right with respect to 1 acre 25 guntas of property. Thus, he prays to dismiss the suit.

6. On the basis of the said pleadings of the parties and the documents so placed, the trial court framed the following;

ISSUES

1. Whether plaintiff proves that he is in possession of suit schedule property?
2. Whether plaintiff proves that alleged interference by the defendants?
3. Whether the plaintiff is entitled for the relief as sought for?
4. What order or decree?

7. In the trial court, the plaintiff No.4 himself examined as PW.1 and 10 documents were marked at Ex.P.1 to 10. During the course of cross-examination of DW.1 confronted with a document marked at Ex.P.11.

8. Per contra, the defendant examined himself as DW.1 and 5 documents were marked at Ex.D.1 to 5. The defendant in support of his contention also examined one independent witness as DW.2.

9. After trial, the trial court has answered the issue No.1 to 3 in the Negative and dismissed the suit of the plaintiffs. Being aggrieved by the said judgment and decree the plaintiffs is now in appeal before this court.

10. Feeling aggrieved by the impugned judgment, the plaintiffs have preferred this appeal on the main grounds that the trial court has grossly erred in dismissing the suit of the plaintiffs/appellants. Further the trial court has grossly erred in negating the issue No.1 to 3 without appreciating the documentary and oral evidence of PW.1. Further the trial court has grossly erred in negating the issue No.1 and 3 in the presence of the both documentary and oral evidence. It has grossly erred in holding that the plaintiffs/appellants is not produced the title deed of the suit schedule property in the presence of good documentary and oral evidence. Further the trial court has grossly erred in holding that the appellants/plaintiffs have not proved their lawful

possession and enjoyment of the suit schedule property. The trial court has grossly erred in not appreciating the oral admitted facts and documentary evidence of the parties of the suit while giving the findings and reasoning on issue No.1 and 2. Further trial court has grossly erred in appreciating and considering Ex.P.1 to 10 and oral evidence of PW.1 in support of the case of the appellants/plaintiffs and prove the issue No.1 and 2. The trial court has grossly erred in holding that the plaintiffs/appellants not proved the case without appreciating Ex.P.1 to 10. The trial court has grossly erred in observing and appreciating Ex.D.1 to 4 are related to the schedule property and these documents are produced for the purpose of proving the better title of the respondent/defendant. The trial court has grossly erred in giving findings and reasoning on issue No.1 and 2 without appreciating the evidence of PW.1 and Ex.P.1 to 10. The trial court has grossly erred in giving findings and reasonings the suit of the plaintiffs/appellants is filed for bare injunction without seeking declaration of title. Further the trial court has grossly erred in holdings that issue No.1 as negative when the appellants have proved that they are in possession and enjoyment of the suit schedule property since their ancestors without any interruption.

11. It has grossly erred in not granting the relief of permanent injunction over the suit schedule property without considering the oral and documentary evidence. The non granting of the relief on issue No.1 and 2 is inconsistent and negating those issues which is opposed to law and facts of the case.

Further the trial court has grossly erred in not appreciating the reported decisions and legal principles of granting the relief of permanent injunction while giving the findings and reasonings on issue No.1 and 2. The trial court has misconceived and confused that Ex.P.10 (Ex.D.2) vendee i.e..Buddain Sab S/o Doddamane Imam Sab is predecessor of the plaintiffs. The trial court grossly great error without enquiry of Ex.P.10 giving findings that predecessor of the plaintiffs. The trial court grossly error in findings of genealogical tree of the plaintiffs. The trial court has misconceived and confused with the facts of the case and principles of granting the relief of permanent injunction while dismissing the suit of the appellants/plaintiffs. The findings and reasonings of the trial court is basing upon the presumption and surmises. The trial court has misconceived the legal principles, oral and documentary evidence while giving findings and dismissing the suit of the plaintiffs/appellants. The judgment and decrees of the trial court is opposed to law facts and probabilities of the case. Hence, he prays to allow the appeal.

12. On appeal being registered the notice was issued to the respondent. The responded has appeared through his counsel. The trail court records were secured.

13. Heard the arguments and perused the appeal memo and also perused the entire trial court records. The following points that arise for my consideration;

1. Whether the judgment and decree under appeal are illegal, perverse and against the facts of the case thereby warranting interference by this court? If so to what extent

2.What order or direction?

14. On careful re-evaluation of the pleadings, evidence and on hearing the learned counsels for the appellants and the respondent, my findings on the above points are as under:

Point No.1: In the Affirmative.

Point No.2: As per the final order, for the following;

:REASONS:

15.POINT NO.1: The plaintiffs had filed the suit for permanent injunction against the defendant with respect to the suit schedule property. According to the plaintiffs they are the absolute owners and possessors of the suit schedule property. Further the said property is initially measuring 6 acres 39 guntas belongs to their ancestral and the said property is stood in the name of Husain Sab. The said Husain Sab died leaving behind his sons. After the death of Husain Sab his all sons were divided property through IHC in the year 1997. Accordingly the property measuring 6 acres 39 guntas in Sy.No.27/A was fallen to the share of Mohammed Imam Sab. The Mahammed Imam Sab was also died by leaving behind his sons i.e., the plaintiff No.1, 3 to 5 and Abu Saleha @ Babu as his legal heirs. The said Abu Saleha was died leaving behind his wife i.e., the plaintiff No.2 as his legal heir. The

plaintiffs sold 1 acres 20 guntas of land out of 6 acres 39 guntas to one Murugendraiah in Sy.No.27/1. The remaining 5 acres 19 guntas i.e., the suit schedule property continued with their joint possession and enjoyment without any hindrance. The defendant claimed his ownership over the suit schedule property by creating the documents. The defendant taking undue advantage of the innocence of the plaintiffs and with an intention to engulf valuable suit property causing interference for peaceful possession and enjoyment of the suit schedule property. The defendant having no manner of right whatsoever in and over the suit schedule property causing nuisance and illegal acts in and over the suit schedule property. Hence, the plaintiffs had approached the court seeking the relief of permanent injunction over the suit schedule property.

16. The defendant has contest the suit and filed the written statement. In his written statement he has denied each and every facts averred in the plaint. It is the specific contention of the defendant is that his father Ameer Jhan Sab S/o Balegara Kalandar Sab had purchased the land measuring 1 acre 25 guntas situated at Marabanahalli village, Tq:Channagiri from it's owner Buddain Sab S/o Doddamane Imam Sab for valuable sale consideration through a registered sale deed vide SRO No.2102/1956-57 dated: 29.03.1957. The possession also delivered on the same day to his father. Since from the date of sale his father enjoyed the said property as it's absolute owner in possession till his death. Thereafter the defendant and his brother have continued the possession and enjoyment and personal

cultivation of the said purchased land which as bounded. But the said land in sale deed in letters it is mentioned by bonafide mistake as Sy.No.20/7 instead of Sy.No.27. The said Sy.No.20/7 was not belongs to the plaintiffs' family. The RTC entries also depicts the same. Due to said mistake and the continuation of revenue entries in the names of the plaintiffs' of the said Sy.No.27 was not accepted in the name of the defendant's father on the basis of sale deed. Thus, 1 acre 25 guntas was not reduced in the revenue documents pertaining to Sy.No.27 of the plaintiffs' family and same has been mechanically continued. Thus, the plaint schedule property includes the alleged sale deed property belongs to him. Further the plaintiffs have not approached the court with clean hands and have suppressed material facts. The land bearing Sy.No.27/A measuring 6 acres 39 guntas belongs to late Husain Sab and subsequent to his death his children have sold an extent of 1 acre 25 guntas infavour of father of the defendant in the same survey number. On the Eastern side his cousin brother Hayath Sab had cultivating an extent of 1 acre 20 guntas and Murugendrappa had purchased measuring 1 acre 20 guntas in the same survey number and 1 acre was cultivating by sons of Buddain Sab who is vendor of this defendant. The plaintiffs are not at all in possession of the suit schedule property with its' entire extent. The extent mentioned in the suit schedule property is includes the property of the defendant. The plaintiffs by taking undue advantage of continuation of revenue records in their names suppressed the material facts pertaining to registered sale deed and got created

wrong revenue records in their names. Therefore, prays to dismiss the suit.

17. On perusal of the trial court record, it is apparent that there is only evidence of the plaintiff No.4. The defendant is also examined himself as DW.1 and one more witness examined as DW.2. The plaintiffs in the trial court has relied upon the RTC extract, mutation register extract, acknowledgment issued by Basavapatna Police, pakka book extract and certified copy of the sale deed dated: 29.03.1957. Only these documents marked on behalf of the plaintiffs.

18. On perusal of the judgement of the trial court, it is apparent that the trial court has held issue No.1 to 3 in the Negative. The trial court has considered at length documents produced by both the parties.

19. On perusal of Ex.P.10, which is the certified copy of registered sale deed dated: 29.03.1957 which depicts the sale transaction held between the Ameer Jhan Saheb S/o Balegara Khalandar Sab and Buddain Sab S/o Doddamane Imam Sab with respect to Sy.No.20/7 measuring 1 acre 25 guntas bounded by East: Land of Hayath Sab, West: Land of Buddain Sab, North: Land of Mallappa and South: Government Oni for valuable sale consideration. The possession of the said property was handed over to the purchaser on the same day. The defendant also placed

original registered sale deed marked at Ex.D.2 in consonance of his contentions of written statement para No.9.

20. The trial court it was held that it is specific assertion of the plaintiffs that the alleged Ex.D.2 is not belongs to Sy.No.27 and wherein it is mentioned and the said sale deed is executed with respect to property in Sy.No.20/7. The defendant to prove their possession on the basis of possession as well as title on the basis of Ex.D.2 which is to an extent of 1 acre 25 guntas in Sy.No.27. Further it was observed that the defendant successfully cross examined PW.1 and obtained oral admissions from the mouth of PW.1. Wherein PW.1 clearly admitted that he has filed the present suit on the basis of revenue records. He also not possess any document to establish the boundaries of the Sy.No.27 and he further expressed his ignorance with respect to boundaries mentioned in the RTC. He further admitted in his further cross-examination that towards Eastern side of Sy.No.27 measuring 1 acre 20 guntas is cultivating by the Murugendraiah who belongs to the Haralipura Village and he further denied suggestion of the abutting to the said extent Hayath Sab cultivating the property, who is elder uncle. Ex.P.2, 3, 6 to 8, which are RTC extracts of the suit schedule property. On perusal of Ex.P.2 it reveals that in respect of Sy.No.27/A of Marabanahalli Village measuring 6 acres 39 gutnas stands in the name of Husain Sab S/o Imam Sab later as per Ex.P.1 mutation entry is affected in the name of Mohammed Imam Sab S/o Husain Sab. Further Ex.P.3 is the RTC for the year 2020-21 measuring 7.26 guntas out of which 1 acre 20 guntas

stands in the name of Murugendraiah S/o H.M.Halasiddappa and 5 acres 19 guntas stands in the name of the plaintiffs jointly. Ex.P.6 to 8 are stands in the name of Husain Sab S/o Imam Sab for the year 1975 to 1978-79, 1979-80 to 1984-85, 1985-86 to 1989-90. Ex.P.1 is the certified copy of mutation register extract bearing IHC No.11/1996-97 of Sy.No.27/A measuring 6 acre 39 guntas. Ex.P.5 is the computerized copy of mutation register extract bearing MR No.H17/17-18 dated: 16.02.2018 bearing Sy.No.27/1 measuring 5 acres 19 guntas mutated from the name of Imam Sab S/o Husain Sab to the names of the plaintiffs jointly. Ex.P.9 is the certified copy of pakka book extract of Marabanahalli Village bearing Re-Sy.No.27/1 total measuring 7 acres 29 guntas, wherein 6 acres 06 guntas stands in the names of the plaintiffs jointly and 1 acre 20 guntas stands in the name of the Murugendraiah H.M S/o Halasiddaiah Haralipura.

21. Ex.P.10 is the certified copy of registered sale deed dated: 29.03.1957 which depicts the sale transaction held between the Ameer Jhan Sahab S/o Balegara Kalandra Sab and Buddain Sab S/o Doddamane Imam Sab with respect to the Sy.No.20/7 measuring 1 acre 25 guntas as bounded above. While answering the issue No.1, the trial court has wrongly come to the conclusion that on perusal of the documentary and oral evidence placed by the plaintiffs and the defendant in this suit, disputed the title of the plaintiffs over the suit schedule property by placing Ex.D.2. In the present suit also the plaintiffs disputed the survey number mentioned in the alleged sale deed Ex.P.10/Ex.D.2 is not belongs

to the subject matter of the suit. But PW.1 in his cross-examination admitted the boundaries mentioned therein. In view of the said admissions in judicial proceedings which have highest evidentiary value. PW.1 indirectly admitted the possession of the defendant to the extent of 1 acre 25 guntas. According to the authority mentioned in the judgment where the possession and title of the property is in dispute under cloud, the plaintiffs will have to sue for declaration of title and consequential relief of injunction. Therefore the present bare permanent injunction suit is not maintainable. Thus, the trial court wrongly come to the conclusion that the plaintiffs are not in actual possession and enjoyment of the suit schedule property. Thus, there is interference with the findings of the trial court regarding possession of the plaintiffs over the suit schedule property. The aforesaid documents produced by the plaintiffs it is clear that after the death of Husain Sab all his sons were divided property through IHC in the year 1997. Accordingly the property measuring 6 acres 39 guntas in Sy.No.27/A was fallen to the share of Mohammed Imam Sab. After his death his legal heirs are entitled to the said properties for IHC proceedings as per Ex.P.1. Further the plaintiffs sold 1 acre 20 guntas land out of 6 acres 39 guntas to one Murugendraiah. The remaining 5 acres 19 guntas i.e., suit schedule property continued with their joint possession and enjoyment.

22. The defendant has contended that his father had purchased land measuring 1 acre 25 guntas situated at Marabanhalli Village from its owner Buddain Sab S/o Doddamane

Imam Sab for valuable sale consideration through registered sale deed as per Ex.D.2/Ex.P.10 dated: 29.03.1957. The possession also delivered on the same day to his father. Since from the date of sale his father enjoyed the said property as its absolute owner and possessor till his death. Thereafter the defendant and his brother have continued the possession and enjoyment and personal cultivation of the said purchased land. On perusal of Ex.D.2/Ex.P.10 it clearly reveals that the alleged sale deed it is mentioned the survey number as 20/7. Further the said mistake is not rectified by the defendant or his father. Further father of the defendant not entered his name in respect of Sy.No.27 by mutation and in order to prove his possession over the suit schedule property the defendant has not produced any single documents like RTC and mutation in respect of the said purchased property. Further the defendant in the trial court not examined the said vendor legal heirs for sold out the said property by the Buddain Sab in favour of his father and the defendant is in possession of 1 acre 25 guntas in the suit schedule property. It clearly reveals that the defendant is not in possession over the said property. But the trial court has wrongly appreciated the oral and documentary evidence and come to the wrong conclusion the plaintiffs are not in possession and enjoyment over the suit schedule property.

23. However, while answering the issue No.2 and 3 the trial court has specifically observed that in the cross-examination PW.1 admitted the boundaries mentioned in Ex.D.2 therein. In view of

the said admissions PW.1 indirectly admitted the possession of the defendant to an extent of 1 acre 25 guntas. Further it was observed that the possession and title of the property is in dispute under cloud, the plaintiffs will have to sue for declaration of title and consequential relief of injunction. Therefore, the present bare permanent injunction suit is not maintainable. Hence, the plaintiffs is not entitled for the relief as sought in the plaint. Hence, answered the issue No.2 and 3 in the Negative.

24. No doubt, in the cross-examination of PW.1 was state the boundaries as mentioned in Ex.D.2. Having regard to the admission in the boundaries mentioned in the plaint and Ex.D.2 and oral testimony of PW.1 in his cross-examination, the trial court jumped to the conclusion that the plaintiffs are not in possession and indirectly admitted the possession of the defendant over the suit schedule property. Hence, there is no interference and ultimately dismissed the suit of the plaintiffs.

25. The law relating to grant of injunction is settled. The court in order to grant injunctive relief has to be satisfied about the actual possession of the plaintiffs over the suit schedule property as on the date of suit and it has to be also satisfied that there was interference by the defendant. It is needless to say that injunctive relief is an equitable relief and a person who comes to the court seeking equity must do equity. In the instant case, though there is dispute regarding title of the plaintiffs over the suit schedule property, the plaintiffs on producing the aforesaid documents

proved actual lawful possession over the suit schedule property as on the date of the suit. The documents produced by the plaintiffs clearly reveals that the possession of the plaintiffs is lawful. As the suit for bare injunction the question of title becomes irrelevant. Only when the defendant disputes the title of the plaintiffs, the court is obliged to look into the question of title. In the instant case though the defendant disputed ownership of the plaintiffs over the suit schedule property let no evidence in that regard. In fact, the defendant has admitted the aforesaid documents but has taken up the contention that his father had purchased the 1 acre 25 guntas land in Sy.No.27. But in bonafide mistake in the said sale deed it has mentioned as Sy.No.20/7. The said Sy.No.20/7 was not belongs to the plaintiffs family. Due to the said mistake and the continuation of revenue entries in the name of the plaintiffs of the said Sy.No.27 was not accepted in the name of father of the defendant on the basis of sale deed. Thus, being the case, it is an indirect admission that the plaintiffs are in possession over the suit schedule property.

26. In order to disbelieve the documentary evidence produced by the plaintiffs the defendant has not produced any single documents. In order to disbelieve the contents of the said documents there ought to have been some reliable evidence. In the trial court, the defendant has not produced any rebuttable evidence to disprove the documents produced by the plaintiffs. Therefore, the plaintiffs are in lawful possession over the suit schedule property on the basis of IHC proceedings. On perusal of

the RTC extract of the suit schedule property it is seen that the entries are made in the revenue records. This suit was filed in the year 2021 and the plaintiffs have produced RTC extract for the year 1975 to 1978-79, 1979-80 to 1984-85, 1985-86 to 1989-90 and 2020-2021, wherein their predecessor name as well as plaintiffs names is seen. Therefore, even as per the above documents the plaintiffs are in actual lawful possession of the suit schedule property as on the date of the suit, which is a revenant factor.

27. On perusal of plaint as well as examination in chief of PW.1 he has specifically stated that on 14.06.2021 when the defendant attempted to disposes the plaintiffs from the suit land the cause of action arose for the suit. These statements are sufficient to interference. Thus uttering of this date paved way for the trial court to misinterpret that there was no interference.

28. No doubt, in the cause of action column of the plaint, the plaintiffs have shown the date of cause of action as 14.06.2021. The same date is narrated in the chief examination. Be that so may, it is a settled principle of law that the evidence of a witness has to be read in whole and not piece meal. The entire examination in chief as well as cross examination have to be read together and the evidence cannot be read in isolation. On perusal of the examination in chief affidavit of PW.1, it is apparent that he has stated the exact date of interference. However, the defendant has not specifically suggestion that the defendant had not caused

interference on 14.06.2021. In the absence of specific cross-examination to that effect, the contents of examination in chief have to be believed. Thereby the trial court has erred in holding that there is no interference has proved. Further denial of right of the plaintiffs over the suit property, tender of cross-examination made, contents of written statement all shows that there was interference and trial court ought to have considered all these aspects also. Hence, in view of above discussion, this court is of the opinion that there are grounds made out to interfere with the findings given by the trial court on issue No.1 to 3. So also miscarriage of justice has been caused to the plaintiffs in dismissing the suit. Hence, the judgement of the trial court is not sustainable under law and requires interference. Hence, the point under consideration is answered in the Affirmative.

29.POINT NO.2: In view of the above discussion, I proceed to pass the following;

ORDER

The appeal filed by the appellants/ plaintiffs under order 41 Rule 1 and 2 R/w section 96 of C.P.C., is hereby allowed.

No order as to costs.

Consequently, the judgment and decree passed by the II Addl. Civil Judge & J.M.F.C.,

Channagiri in O.S.No.149/2021 dated: 17.03.2025
hereby set aside.

The suit of the plaintiffs is hereby decreed.
The defendant is hereby restrained by way of
permanent injunction from causing interference in
the possession of the plaintiffs over the suit
schedule property.

No order as to costs.

Office is directed to draw decree
accordingly.

The office is hereby directed to send back
the Trial Court Records along with copy of this
judgment and decree.

**(Directly dictated on computer script to stenographer,
typed by her, corrected by me, signed and then
pronounced in open court on 13th day of March 2026)**

**(Soubhagya.B.Bhusher).
Senior Civil Judge & J.M.F.C
Channagiri**