

KADG210001382025



Presented on : 25-02-2025
Registered on : 25-02-2025
Decided on : 08-06-2026
Duration : 1 years, 3 months, 11 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 08th DAY OF JUNE 2026

R.A.NO.16/2025

**APPELLANTS/
DEFENDANTS**

1. Nagaraja Naik S/o Late Tholachanaik, Age: 57 years, Occ: Agriculturist.
2. Smt.Sharadabai W/o Nagaraj Naik, Age: 55 years, Occ: Agriculturist.
3. Sathish Naik S/o Nagaraj Naik, Age: 35 years, Occ: Agriculturist.
4. Sandeep Naik S/o Nagaraj Naik, Age: 32 years, Occ: Agriculturist, All are R/o: Maravanji Thanda, Tq: Channagiri, Dist: Davanagere.

(By Sri.Kumar.K.,Adv.,)

V/s

**RESPONDENT/
PLAINTIFF**

Shekar Naik S/o Late Yankya Naik, Age: 54 years, Occ: Agriculturist, R/o: Hanumanthanagar, Tq:Channagiri, Dist: Davanagere.

(By Sri.Y.D.Suresh.,Adv.,)

1.	Date & Nature of decree appealed against.	Judgment and decree passed in O.S.No.63/2022 dated: 08.01.2025 on the file of Prl. Civil Judge & J.M.F.C.,Channagiri.		
2.	Date of Institution of the appeal.	25.02.2025		
3.	Date of Judgment.	08.06.2026		
4.	Duration of the Appeal.	Year	Month	Days
		01	03	11

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

JUDGMENT

The present appeal is preferred by the appellants/defendants under Order 41 Rule 1 of C.P.C., against the respondent/plaintiff praying to set aside the impugned judgment and decree passed in O.S.No.63/2022 dated: 08.01.2025 on the file of Prl. Civil Judge & J.M.F.C.,Channagiri.

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

3. The appellants have also filed IA No.1 under order 41 rule 22 R/w Section 151 of CPC., seeking permission to produced the additional evidence. This application is accompanied with the sworn affidavit of the appellant No.3, wherein he has stated that he has producing additional documents such as Gift deed, Genealogy tree, Aadhar card, Xerox copy of Post Office Passbook, Consent agreement, death certificate. These are necessary documents. These documents are shows that they are in possession over the suit schedule property and in the boundaries their grandfather name is mentioned. Therefore, he prays to permit them to produced those documents. Hence, he prays to allow the application.

4. It is the case of the plaintiff for the relief of permanent injunction against the defendants in respect of the suit schedule property. It is averred that one Chatranaik S/o Late Bheemanaik was propositus of the family, he had wife by name Gangabai, both are no more. The said couple had son by name Yankyanaik and he had wife by name Hemlibai, both are no more. The plaintiff, Puttaranganaik, Rudranaik and Haleshnaik are the sons of the said Yankyanaik. The suit schedule property was granted to the grandfather of the plaintiff from the Government. Accordingly, his name came to be mutated in the revenue records of the suit

property. After his death the revenue records came to be changed in the name of his grandmother Gangabai and her name is continued as such. The plaintiff, his 3 brothers are in joint possession and enjoyment of the suit schedule property and there is no difference amongst them. The plaintiff and his brothers are in joint possession and the plaintiff is representing them also. It is averred that the defendants without there being any right, title or interest in and over the suit schedule property interfered into the possession of it on 28.01.2022 and thereby attempted to dispossess the plaintiff therefrom. Thus, the plaintiff has constrained to file suit against the defendants.

5. In the trial court the defendants have appeared and contest the suit. In the written statement they denying the each and every contents of the plaint including the relationship of the plaintiff with Late Chatranaik and Gangabai. According to the defendants Gangabai and Chatranaik had no male issues and had only three daughters, namely, Devlibai, Somlibai and Shanthibai, The genealogical tree as provided under the plaint is absolutely false and it is provided to suit the claim. It is contended that the defendants are in possession of 1 acre of land out of 4 acres comprised in Sy.No.65/3cpa1 of Maravanji village about 40 to 50 years. The plaintiff never in possession of the said 1 acre of land. The plaintiff at the instigation of third parties, with the influence of political background, men and money power attempted to dispossess the defendants from the suit schedule property. In furtherance of the same, he filed a false suit without there being

any possession. Thus, prayed to dismissal of the suit.

6. On the basis of the said pleading the trial court had framed 4 issues. The GPA holder of the plaintiff examined himself as PW.1 and 12 documents were marked at Ex.P.1 to 12. The plaintiff had also examined one more witness as PW.2. Per contra, the GPA holder of the defendant No.3 examined himself as DW.1 and 11 documents were marked at Ex.D.1 to 11. The defendants also examined two more witnesses as DW.2 and 3. Thereafter the trial court heard arguments on both the sides and decreed the suit by the judgment and decree dated: 08.01.2025. Being aggrieved by the same, the appellants/defendants have preferred this appeal. The main grounds of appeal are that the judgment and decree passed by the trial court are not sustainable either on facts or in law. The trial court has failed to properly consider the pleadings of both the parties. The trial court has not duly appreciated the primary documents produced by the plaintiff and the defendants. The trial court has failed to properly evaluate the evidence and statements given by the appellants/defendants and the respondent/plaintiff. The trial court has not properly considered the evidence of D.W.1 to 3. The documents produced by the appellants before the trial court have not been properly examined. The trial court, without considering the above aspects, has passed the impugned judgment without proper appreciation. Further the impugned judgment and decree are erroneous as it was passed without proper consideration of the pleadings and evidence on record.

7. Further the trial court failed to appreciate that the plaintiff/respondent did not discharge the burden of proof by producing cogent evidence or examining witnesses to substantiate the claims. Despite this, the trial court hastily decreed the suit, which is unsustainable in law and liable to be set aside. The plaintiff did not produce sufficient documentary or oral evidence to establish lawful possession over the suit property. However, the trial court, without proper scrutiny of these deficiencies, passed the judgment and decree, rendering the decision legally untenable. Further, regarding issue No.2, the trial court failed to properly evaluate the inadequacy of the evidence placed on record by the plaintiff and erroneously granted relief. The appellants/defendants have been in possession of the suit property for over 35 years and had produced supporting documents. However, the trial court failed to consider these materials. The documents relied upon by the plaintiff, including Ex.P.9, do not establish possession and are insufficient to support the claim. The judgment passed without considering the appellants' possession and evidence is improper and unjustified. The trial court also failed to properly examine the documentary evidence, including records, photographs, CD, and related materials, leading to an incorrect and unsustainable conclusion. It appears that the judgment has been rendered without properly examining the records and statements on their face. Therefore, the judgment of the trial court is contrary to the principles of social justice, resulting in irreparable loss and injustice to the appellants. Hence, prayed to allow the appeal.

8. After service of notice of appeal, the respondent has appeared through counsel. The trial court records were called for. After receiving Trial Court records, I have heard the arguments on both sides and perused trial court records. The following points that arise for my consideration;

1. Whether the appellants have shown sufficient cause to allow IA No.1 filed under order 41 Rule 22 R/w Section 151 of C.P.C., for production of additional documents?

2. Whether the judgment and decree passed by the trial court suffers from illegality which has caused miscarriage of justice, hence the interference of this court is required for setting aside the judgment and decree of the trial court?

3. What order or direction?

9. My findings on the above points are as under:

Point No.1: In the Negative.

Point No.2: In the Negative.

Point No.3: As per the final order, for the following;

:REASONS:

10. POINT NO.1: The case of the plaintiff is that one Chatranaik S/o Late Bheemanaik was propositus of the family, he had wife by name Gangabai, both are no more. The said couple had son by name Yankyanaik and he had wife by name Hemlibai, both are no more. The plaintiff, Puttaranganaik, Rudranaik and Haleshnaik are the sons of the said Yankyanaik. The suit schedule property was granted to the grandfather of the plaintiff from the

Government. Accordingly his name came to be mutated in the revenue records of the suit property. After his death the revenue records came to be changed in the name of his grandmother and her name is continued as such. The plaintiff, his 3 brothers are in joint possession and enjoyment of the suit schedule property and they are in joint possession. It is stated that the defendants without there being any right, title or interest in and over the suit schedule property interfered into the possession of it and thereby attempted to dispossess the plaintiff therefrom. Thus, the plaintiff has constrained to file suit for permanent injunction against the defendants.

11. The defendants appeared and filed written statement by denying the plaint averments including the relationship of the plaintiff with Late Chatranaik and Gangabai. It is contended that Gangabai and Chatranaik had no male issues and had only three daughters. The genealogical tree as provided under the plaint is false and it is provided to suit the claim. It is contended that the defendants are in possession of 1 acre of land out of 4 acres comprised in Sy.No.65/3cpa1 of Maravanji village about 40 to 50 years. The plaintiff never in possession of the said 1 acre of land. The plaintiff attempted to dispossess the defendants from the suit schedule property and the plaintiff filed a false suit without there being any possession. Thus, they prayed to dismissal of the suit.

12. Now the said impugned judgement and decree are challenged mainly on grounds that the trial court is unjust,

capricious, erroneous and the trial court has illegally decreed the suit of the plaintiff without there being the necessary and supporting oral and documentary evidence produced by the defendants. Further the trial court without appreciating the oral and documentary evidence in a proper and prospective manner and by ignoring and over looking the vital evidence adduced on their behalf has proceed to decreed the suit of the plaintiff on untenable grounds. Further the trial court has grossly erred in answering the issue No.1 to 3 in the Affirmative. Further the appellants also seeking permission to produced additional evidence/documents in this appeal under I.A No.1.

13. The learned counsel for the respondent has filed detail objections to I.A.No.1 and prays to reject with costs.

14. Under Order 41 Rule 27 of C.P.C., the parties to an appeal shall not be entitled to produce additional evidence whether oral or documentary in the appellant court. However, the additional evidence can be allowed when the court from which the decree is under appeal has refused to admit evidence which ought to have been admitted or the parties seeking to produce such additional evidence establishes that not withstanding the exercise of due diligence such evidence was not within his knowledge or could not after the exercise of due diligence be produced by them at the time when the decree appealed against was passed or the appellants court requires such documents to be produced or witnesses to be examined to enable it to pass the judgment. Therefore, on

perusing the provisions of Order 41 Rule 27 before the appellant can be permitted to produce additional evidence he has to satisfy that inspite of due diligence he could not produce the said documents in the trial court or that the trial court had refused to admit such evidence without any reason or that such evidence is required for the appellant court to pass the judgment effectively.

15. In the case on hand the defendants/appellants are seeking for additional evidence for producing the Xerox copies of Gift deed, Genealogy tree, Aadhar card, Post Office Passbook, Consent agreement, death certificate. Further absolutely no reasons are shown as to why the documents are being filed belatedly. Merely because there is discretion it cannot be exercised in a routine manner unless it is absolutely warranted. The appellants are the defendants in the original suit and why they did not produce those documents at the trial court is not at all explained. Further the defendants/appellants have not stated any thing about those documents before the trial court. Thus there are absolutely no reasons assigned and no grounds to invoke discretion. No evidence is let to show why there was delay.

16. During the argument urging on the alleged grounds of appeal as already discussed the learned counsel for the appellants contended that the trial court has held that the plaintiff is in possession over the suit schedule property. Further the defendants are also uncertain as regards their possession. Further the defendants have not stated that how they came in possession of

the suit property. In support of their contention they have filed these documents to show that their possession over the suit schedule property. Further if the appellants are given opportunity to lead addition evidence, no hardship would be caused to the other side. On the other hand irreparable injury, hardship and inconvenience would be caused to them if they are not given an opportunity to lead additional evidence.

17. Now turning to the I.A.No.1, as mentioned by me earlier, as law is well settled to take up such I.A along-with main appeal and thereafter to decide on such application, I heard the learned advocates on the tenability of them and necessity to gather additional evidence. For this one has to refer Rule 27 of Order 41 again and again. No doubt the said rule enables the parties to adduce additional evidence at the appellate stage, but that relief cannot be sought as a matter of right. Instead it is controlled by sub-rules (1), (a), (aa) and (b). The circumstances under which a party is permitted to adduce additional evidence are, the trial court must have refused to admit such evidence or the party seeking to produce such additional evidence could not produce that evidence inspite of their due diligence in conducting the case at the trial court or the appellate court feels that such additional evidence is required for just decision in the matter. In the instant case existence of any one such pre-requisite is not made out by the appellants. The documents produced by the appellants are public documents which could have been obtained and produced in the trial court itself. The appellants have not stated why they have not

produced those documents before the trial court. If such application is allowed there will be no sanctity to the findings of trial Court. Therefore, the application is devoid of merit, so it is liable to be dismissed. For the foregoing discussion without any hesitation, I conclude that there is no merit in the any of the contentions taken by the appellants. Therefore, there are no grounds to allow I.A.No.1 to produce additional evidence. Hence, point No.1 is answered in the Negative.

18. POINT NO.2: If we go through the plaint averments, the suit is filed for permanent injunction against the defendants and if we go through the pleadings it is mentioned the suit schedule property is under the possession of the plaintiff. Further one Chatraniak was propositus of the family, he had wife by name Gangabai, both are no more. The said couple had son by name Yankyanaik and he had wife by name Hemlibai, both are no more. The plaintiff, Puttaranganaik, Rudranaik and Haleshnaik are the sons of the said Yankyanaik. The suit schedule property was granted to the grandfather of the plaintiff from the Government. Accordingly his name came to be mutated in the revenue records of the suit property. After his death the revenue records came to be changed in the name of his grandmother and her name is continued as such. The plaintiff and his 3 brothers are in joint possession and enjoyment of the suit schedule property. It is contended that the defendants without there being any right, title or interest in and over the suit schedule property interfered into the

possession of it and thereby attempted to dispossess the plaintiff therefrom.

19. After appearance of the defendants, they filed written statement by denying the plaint averments including the relationship of the plaintiff with Late Chathranaik and Gangabai. It is contended that Gangabai and Chatranaik had no male issues and had only three daughters. The genealogical tree as provided under the plaint is false and it is provided to suit the claim. It is contended that the defendants are in possession of 1 acre of land out of 4 acres comprised in Sy.No.65/3cpa1 of Maravanji Village about 40 to 50 years. The plaintiff never in possession of the said 1 acre of land. The plaintiff attempted to dispossess the defendants from the suit schedule property and he had filed a false suit without there being any possession.

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

ISSUES

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

21. In the trial court, the GPA holder of the plaintiff examined himself as PW.1. The plaintiff had also examined one more independent witness as PW.2. PW.2 has deposed in consonance with the case of the plaintiff and 12 documents were marked at Ex.P.1 to 12. Per contra, the GPA holder of the defendant No.3 examined himself as DW.1 and 11 documents were marked at Ex.D.1 to 11. The defendants had also examined two more independent witnesses as DW.2 and 3. DW.2 and 3 have deposed in consonance with the case of the defendants.

22. The learned counsel for the appellants has argued that from the evidence produced by the appellants, it is clear that the suit schedule property is belongs to the defendants and they are in possession. Further argued that the plaintiff is not in possession of the suit schedule property. Further the plaintiff has not made any effort to get change the revenue records. Further argued that the plaintiff and his brothers are foreign to village as well as Gangabai and Chatranaik. The plaintiff has not produced any kind of evidence to substantiate the alleged boundaries, since the Sy.No.65 is containing total 1,080 acres of land, after amalgamation. It was further argued that the plaintiff having no any right, title and interest over the suit schedule property are trying to interfere with the peaceful possession and enjoyment of the suit schedule property by the defendants. However the trial court has overlooked these aspects and wrongly decreed the suit. He further argued that the reasonings given by the trial court to rely on the

admission of DW.1 to 3. Though the plaintiff has not at all produced any evidence to prove his case, but the trial court wrongly observed that it was proved. So also on wrong presumption that the trial court has placed reliance on the admission of DW.1 to 3. Therefore, it was his argument that the judgment and decree of the trial court is perverse and against material on record. It was further argued that the trial court with a biased mind have proceeded to pass the judgment and decree, decreeing the suit of the plaintiff, in as much as in the preface to returning their findings on the issues framed and without applying the mind, the trial court have made a sweeping observation that the plaintiff has proved that he is in possession and enjoyment of the suit property as on the date of suit and the defendants interfere the lawful and peaceful possession of the plaintiff. This observation of the trial court has a big impact in assigning the reasons and in arriving at the findings returned on the issues framed by the trial court. Further the trial court have committed gross error of law and on facts which has resulted in passing the impugned judgment and decree and thereby resulted in great miscarriage of justice. Hence, he prayed to allow the appeal.

23. On the other hand the learned counsel for the respondent has supported the impugned judgment and decree passed by the trial court. He further argued that trial court after considering all the aspects has rightly decreed the suit holding that the very claim made by the defendants is not maintainable in law. Further argued that the plaintiff has proved that as on the date of

the suit he is in actual lawful possession over the suit schedule property and the defendants are interfered with the peaceful possession and enjoyment of the suit schedule property. Thus, there are no grounds to set aside the judgment or decree. It was his further argument that there are no grounds to interfere with the well reasoned judgment of the trial court. On perusing the oral and documentary evidence it is shown that the plaintiff and their family members are in possession of the suit schedule property. Hence, the trial court rightly observed this point and rightly decreed the suit of the plaintiff. Hence, he prayed to dismiss the appeal.

24. The trial court while considering O.S.No.63/2022 has made observation that the plaintiff has successfully proved his possession in and over the suit schedule property. Further has made an observation that the plaintiff has proved the defendants interfered with his possession over the suit schedule property. Hence, the plaintiff is entitled reliefs as prayed and therefore, decreed the suit of the plaintiff. Further it has made an observation that the defendants denied the relationship of the plaintiff, his brothers with late Chatranaik but have not denied the relationship of the plaintiff with Puttaranganaik, Rudranaik, Haleshnaik and the Yankanaik. Under such circumstances, the plaintiff, Puttaranganaik, Rudranaik and Haleshnaik are the children of Late Yankyanaik, who was son of Chatranaik and Gangabai. Admittedly, the RTC's of the suit schedule property, since the year 1985 till 2022 are standing in the name of Late Gangabai W/o Chatranaik. The same can be evident through the RTC's produced as per

Ex.P.4 to 8 , which are covering the period 1974 to 2001, 2019-20, 2021-22. The said RTC's or revenue entries have not been disturbed by anyone else intending the defendants. The school certificate of the plaintiff is at Ex.P.10 and it disclose the name of father of the plaintiff as Yankyanaik. Having taken note of these documentary evidence, in consonance with the oral evidence of DW.1, the plaintiff has established that he is descendant of late Chatranaik and Gangabai.

25. The trial court it was further observed that as regards the possession of the suit schedule property is concerned, the revenue records of the suit property produced as per Ex.P.2 to 8 and 11 discloses the name of the Gangabai and Chatranaik. Admittedly, the certified copy of the sale deed produced as per Ex.P.9 discloses that the Yankyanaik was the son of Gangabai and Chatranaik. The plaintiff, Puttaranganaik, Rudranaik and Haleshnaik are appears to be the children of late Yankyanaik. The revenue records of the suit schedule property stands in the name of Yankyanaik and Gangabai since long. Such long standing entries would always supports the possession of the person, in whose they stand. Therefore, the long standing revenue entries without any disturbance or without any proceedings held to cancel those entries pre-supposes the plaintiff's possession in and over the suit property. Since the plaintiff and his brothers are being the legal heirs of late Chatranaik, Yankyanaik may be continued possession of the suit schedule property. Hence, the trial court is of the opinion that the entries does got presumptive value in terms of

section 135 of the Karnataka Land Revenue Act. Those entries nonetheless would not have confirmed the title but could establish the possession of the landed property. Accordingly, the suit of the plaintiff came to be decreed.

26. If we go through the documents produced by the plaintiff, they are GPA, Genealogy tree, endorsement, RTC's, certified copy of sale deed, mutating extract, school certificate and Voter ID Card. If we go through the documents produced by the defendants, they are Positive Photographs, CD and receipts.

27. On perusal of the judgment, it is apparent that the trial court has considered the pleadings as well as evidence, cross-examination and materials on record. The trial court has also considered the aspects that the plaintiff's claim is based upon the descendant of Chatranaik and Gangabai. The trial court has observed that DW.1 during the cross-examination has deposed with reference to the relationship of the plaintiff with the Yankyanaik and late Chatranaik and Gangabai. It clearly shows that the plaintiff has established that he is descendant of late Chatranaik and Gangabai. The trial court having admission of DW.1, it was observed that the suit schedule property granted to grandfather of the plaintiff and the same have been admitted even the defendants also. It clearly goes to show that the plaintiff is in possession over the suit schedule property.

28. The trial court it was observed that having referred the documents and the oral evidence. Both the sides have produced

the records, the revenue records produced by the plaintiff, wherein the names of the Yankyanaik and Gangabai are appearing of the suit land. However, in view of the above noted admission made by DW.1 regarding the descendant of lata Chatranaik. The plaintiff has produced the documentary evidence and the plaintiff has proved he in exclusive possession and cultivation of the suit property the trial court held that plaintiff has proved his possession. It further has been observed that the defendants since from 1974 has not at all challenged the revenue entries in the name of the Yankyanaik and Gangabai. No evidence is produced to show that the said mutation and the revenue entries came to be passed illegally without the knowledge of the defendants. Therefore, such a long standing revenue entries were held to have given rise to the presumption of its correctness. The trial court also has observed that no evidence is produced by the defendants to disbelieve the correctness of the genealogy given in Ex.P.2. The trial court has referred the various documents relied upon by the parties and has held that the revenue entries will not confer any title, but in the case on hand the said entries remaining unchallenged for several years can be relied upon.

29. In view of the evidence on record the said reasonings of the trial court in holding that the defendants had admitted the possession of the plaintiff over the suit land which goes to prove the title of the plaintiff is in no way wrong or against the fact of the case. The defendants have not merely denied the case of the plaintiff but has sought that they are in possession over the suit

property. Then there was an equal burden on the defendants to prove their possession over the suit property. But except the vague evidence of DW.1 to 3, no other material has been produced to show that they are in possession of the same. So also has rightly observed by the trial court no explanation is made why the revenue entries in the name of the Yankyanaik and Gangabai has not been challenged. Therefore, this court does not find any illegality in the judgment and decree passed by the trial court.

30. The said judgment is well reasoned and has taken into consideration, the documents and the admission made by DW.1 to 3 in the right perspective. The say of the defendants that the admission could not be relied upon is not acceptable. Because when a specific admission has been made by DW.1 to 3 why it should be overlooked has not been explained by the defendants in this appeal. In that regard the plaintiff has also relied upon the RTC's of his property covering the period 1974 to 2001, 2019-20 & 2021-22, which are Ex.P.4 to 8. Those documents again disclose his extent and the ownership. Hence, the trial court is of the opinion that the plaintiff has successfully established that he is in possession of the suit schedule property as on the date of the suit. Further the trial court has observed that, the plaintiff has specifically alleged that the defendants are owing eye on the suit property attempted to dispossess the plaintiff therefrom. The same fact has been narrated in the examination in chief affidavit. Those allegations have not been controverted by the defendants. That apart, the defendants have taken the contention in the written

statement that the property which is claiming by the plaintiff is belongs to them to an extent of 1 acre and therefore he submitted that the plaintiff is not in possession of the suit schedule property. This itself suffice to conclude that the defendants did virtual interference in the possession of the suit schedule property. The very assertion and affirmation has been denied by the defendants and no such positive evidence has been placed by the defendants in that connection. Having taken note of oral evidence of the witnesses examined by the defendants, it appears that the defendants did interference in the suit property. Thus, the plaintiff's has proved the interference with all probabilities.

31. On perusal of the judgment of the trial court, it is apparent that the trial court has held Issue No.1 to 3 in the affirmative and it was held that the plaintiff has proved his possession over the suit schedule property. Further the defendants have failed to prove their possession over the suit schedule property, the alleged interference of the plaintiff and entitlement of the relief. The trial court has considered at length documents produced by the parties. Accordingly decreed the suit of the plaintiff and dismissed the counter claim of the defendants. Ex.P.4 to 8 are the RTC's of the suit property, covering the period 1974-2001, 2019-2020 and 2021-22. Ex.P.4 to 8 which are RTC's of the suit schedule property reveals that the suit property stands in the name of Yankyanaik and Gangabai since long. There is a presumption regarding genuineness of the said documents and the trial court has rightly considered the said documents and held that

the plaintiff is in lawful possession of the suit schedule property. While answering issue No.1 the trial court has rightly come to the conclusion that the plaintiff has producing documents proved his possession over the suit schedule property. Thus, there is nothing unlawful to interfere with the findings of the trial court regarding the possession of the plaintiff over the suit schedule property is concerned.

32. Further the trial court while answering issue No.2 and 3 has specifically observed that the defendants are owing eye on the suit property attempted to dispossess the plaintiff therefrom. The same fact has been narrated in the examination in chief affidavit. Those allegations have not been controverted by the defendants. That apart, the defendants have taken the contention in the written statement that, the property which is claiming by the plaintiff is belongs to them to an extent of 1 acre and therefore he submitted that the plaintiff is not in possession of the suit schedule property. This itself suffice to conclude that the defendants did virtual interference in the possession of the suit schedule property. Further the trial court has rightly observed that the contention as to the title and possession in the written statement is sufficient enough to hold virtual interference in and over the possession of the suit schedule property by the defendants. Moreover the plaintiff has placed positive evidence to believe his possession and also placed the documentary evidence to substantiate the alleged interference. Having to this oral testimony of the parties and the documentary evidence the trial court to come to the conclusion

that the plaintiff has proved the interference and ultimately decreed the suit of the plaintiff.

33. 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 plaintiff over the suit schedule property as on the date of the suit and it has to be also satisfied that there was interference by the defendants. It is needless to say that injunctive relief is an equitable relief and a person who comes to the court seeking equity. In the instance case also the plaintiff has successfully proved his actual lawful possession over the suit schedule property as on the date of the suit and also interference by the defendants over the suit schedule property. Hence, the trial court rightly observed the said aspect in the judgment. Further Ex.P.4 to 8 also the absolute and relevant documents to conclude facts in issue. The contents are to be taken as true and correct. In order to disbelieve the contents of these documents there ought to have been some reliable evidence. In the trial court, the defendants have not produced any rebuttable evidence to disprove the genuinity of the documents produced by the plaintiff. Therefore, the plaintiff is in lawful possession over the suit schedule property. The trial court has rightly considered the oral as well as documentary evidence. Infact the defendants have admitted Ex.P.4 to 8, but has taken up contention that the plaintiff was not in possession over the suit schedule property. Hence, the trial court has rightly in holding that the plaintiff is in possession over the suit schedule property as on the date of the suit. The trial court has

rightly considered the contents of the documents, written statement, evidence, cross-examination and all these facts also. Hence, in view of the above discussion this court is of the opinion that there are no grounds to made out to interfere with the findings given by the trial court on issue No.1 to 3. The trial court has rightly appreciated the entire oral as well as documentary evidence on record. No substantial evidence is brought in appeal to show the trial court overlooked material facts or misapplied the law. No new evidence shown to overturn trial court's factual findings and there is no scope for interference warranted. Therefore, in my opinion there is no miscarriage of justice as alleged by the appellants and interference of this court is not required for setting aside the judgment and decree passed by the trial court. Accordingly, I have answered point No.2 in the Negative.

34. POINT NO.3: For the aforesaid reasons, I proceed to pass the following:

ORDER

I.A.No.1 filed under order 41 Rule 22 R/w
Section 151 of CPC., by the
defendants/appellants is hereby dismissed.

The appeal filed by the
defendants/plaintiffs under order 41 Rule 1 of
C.P.C., is hereby dismissed with costs
throughout.

Consequently, the judgment and decree passed by the Prl. Civil Judge & J.M.F.C., Channagiri in O.S.No.63/2022 dated: 08.01.2025 is hereby confirmed.

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 08th day of June 2026)

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