



Presented on : 11-07-2025  
Registered on : 11-07-2025  
Decided on : 04-08-2026  
Duration : 1 year, 0 months, 23 days

**IN THE COURT OF THE II ADDL. CIVIL JUDGE AND JMFC.,  
CHANNAGIRI.**

**PRESENT : Sri. Vajresha, B.A. L.L.B.  
II Addl. Civil Judge & JMFC,  
Channagiri.**

**Dated: This the 4<sup>th</sup> Day of AUGUST 2026**

**ORIGINAL SUIT NO.249/2025**

**Plaintiff.** : K S Chandrappa  
S/o Sanna Kallappa,  
Aged about 67 years,  
R/at Kanchiganal Village,  
Channagiri Taluk,  
Davanagere District.  
  
**(Shri. S. B.Patel., Advocate)**  
  
**V/s.**

**Defendants.** 1. Govinda Naik  
S/o Late Denya Naik,  
Aged about 55 years,  
R/at M.M. Govt.High School,  
Near B.E.O, Office, Holalkere,  
Chitradurga District.  
  
2. Rama Naik  
S/o Late Togya Naik,  
Aged about 72 years,



3. Govinda Naik  
S/o Late Bheema Naik,  
Aged about 50 years,
4. Rama Naik  
S/o Late Bheema Naik,  
Aged about 70 years,
5. Kamala Bai  
W/o Eshwara Naik,  
Aged about 58 years,
6. Bhagi Bai  
W/o Late Thippesh Naik,  
Aged about 55 years,
7. Rathna Bai  
W/o Late Chandra Naik,  
Aged about 50 years,  
  
Defendant No. 2 to 7 are  
R/at Kanchiganal Village,  
Channagiri Taluk,  
Davanagere District.

**( Defendants-1 to 7 are placed exparte)**

Sd/-  
**(Sri. Vajresha)**  
**II Addl. Civil Judge & J.M.F.C.,**  
**Channagiri.**

**JUDGMENT**

Plaintiff has filed the suit for the relief of permanent injunction against the defendants.



## **2. BRIEF FACTS OF THE CASE AS UNDER:**

The plaintiff has described the suit schedule properties in the schedule appended to the plaint. As per the plaint averments, the suit schedule properties consist of vacant sites situated at Kanchiganal Village panchayath area, Channagiri Taluk, measuring **22 × 36 feet**, **46 × 64 feet**, and **22 × 50 feet**, respectively.

3. It is the case of the plaintiff that he is the absolute owner and is in lawful possession and peaceful enjoyment of the suit schedule properties. Property bearing Khata No. 130, Property No. 91, measuring East to West 22 feet and North to South 36 feet, and property bearing Khata No. 131, Property No. 93, measuring East to West 46 feet and North to South 64 feet, were purchased by the plaintiff under a registered Sale Deed dated 09.03.2010. The said properties have been described as Schedule 'A' and Schedule 'B' properties respectively. It is further averred that, since the date of purchase, the plaintiff has been in peaceful possession and enjoyment of the said Schedule 'A' and Schedule 'B' properties and has been regularly paying the requisite taxes and other revenue to the Gram Panchayath. It is also stated that the concerned Panchayath authorities have issued e-Khatas in respect of the said properties.

4. It is further averred that the plaintiff purchased another property bearing Khata No. 130, Property No. 91, described as Schedule 'C' property, under a registered Sale Deed dated



31.03.2010, for valuable consideration from its erstwhile owner. The said property is stated to be situated adjacent to the Schedule 'A' and Schedule 'B' properties. It is further contended that, since the date of purchase, the plaintiff has been in peaceful possession and enjoyment of the said property. It is also averred that the Gram Panchayath authorities have maintained a combined khata in respect of Schedule 'A', Schedule 'B', and Schedule 'C' properties.

5. It is further averred that the suit schedule properties originally belonged to one **Murthyappa S/o Puttappa**. The said Murthyappa sold the suit schedule properties to one **Eranaik S/o Hemlanaik**, who in turn sold the same to the plaintiff. Thus, the plaintiff has derived valid title over the suit schedule properties. It is further stated that the plaintiff has been in continuous, peaceful possession and enjoyment of the suit schedule properties, to the knowledge of the defendants, without any interruption whatsoever.

6. It is further averred that the defendants, having no right, title or interest over the suit schedule properties, are taking undue advantage of the plaintiff's helpless condition and are frequently creating nuisance and annoyance with an intention to threaten the plaintiff and to take forcible possession of the suit schedule properties. It is stated that the defendants, who are neither owners nor have any semblance of right over the suit schedule properties, are attempting to dispossess the plaintiff forcibly. It is further stated that on 05.06.2025, the plaintiff made



efforts to excavate the land for the purpose of construction of a compound wall to safeguard his property. However, the defendants obstructed the said construction work and illegally interfered with the same, as a result of which the plaintiff suffered loss of construction materials stored at the site. It is further averred that on 30.06.2025, the defendants, along with their supporters, again attempted to trespass into the suit schedule properties with an intention to take forcible possession and also made an unsuccessful attempt to excavate the land at their whims and fancies. The plaintiff resisted the said illegal and high-handed acts of the defendants with great difficulty. The plaintiff is under a reasonable apprehension that the defendants may again attempt to take forcible possession of the suit schedule properties and may further obstruct the construction of the compound wall.

7. It is further averred that the plaintiff approached the Rural Development Authorities through the Gram Panchayath. The said authorities visited the spot and ascertained the boundaries of the suit schedule properties, which were found to be divided into two parts. One part is recognized as Khata No. 130/91 and the other part is recognized as Khata No. 131/93. The authorities have also issued e-Khata in respect of the said properties, and the description of the A, B, and C schedule properties has been accordingly updated as stated in Item No. 2 of the plaint. The plaintiff is regularly paying land revenue (kandaya) in respect of the properties reflected in the e-Swathu records. It is further stated that the cause of action for the suit



arose on 05.06.2025 and again on 30.06.2025, when the defendants attempted to take forcible possession of the suit schedule properties. Hence, the plaintiff has been constrained to institute the present suit. Accordingly, the plaintiff prays that this Court may be pleased to decree the suit with costs and such other consequential reliefs as this Hon'ble Court deems fit in the interest of justice and equity.

8. After registration of this suit, this court has issued summons to defendants. In response to the summons, defendants failed to appear before the court. Hence, they were placed ex-parte.

9. On the basis of the pleadings of the plaintiff, the following points arose for my consideration;

#### **POINTS**

1. Whether the plaintiff proves that, he is the absolute owner and in possession of the suit schedule properties as on the date of this suit?
2. Whether the plaintiff proves the defendants are trying to interfere with the possession of the suit schedule properties ?
3. Whether the plaintiff is entitled for the relief as prayed for?
4. What order or decree?



10. In order to prove his case, the plaintiff has examined himself as PW-1 by filing examination in chief affidavit by reiterating the plaint averments and got marked 21 documents as per Ex.P-1 to Ex.P-21 and closed his evidence. The defendants neither filed the written statement nor led any evidence.

11. Heard arguments of the counsel for plaintiff. Perused the records. Having heard and perused the oral as well as documentary evidence, my findings to the above points are as follows:-

#### **POINTS**

Point No.1 : In the Affirmative,

Point No.2 : In the Affirmative,

Point No.3 : In the Affirmative,

Point No.4 : As per final order

for the following;

#### **REASONS**

**12. Point No.1 to 3:-** The above three points are taken up together for common discussion in order to avoid repetition of facts and evidence.

13. As per the pleadings, the suit schedule properties originally belonged to one Murthyappa, S/o Puttappa. The said Murthyappa subsequently sold the suit schedule properties to one Eranaik, S/o Hemlanaik. Thereafter, the said Eranaik, S/o Hemlanaik, sold the suit schedule properties in favour of the plaintiff under registered sale deeds dated 09.03.2010 and



31.03.2010, respectively. It is further stated that, after the purchase of the suit schedule properties, the khata has been mutated and stands in the name of the plaintiff.

14. In order to establish the ownership and possession over the suit schedule properties the PW-1 has produced 21 documents and got marked as Ex P-1 to Ex P-21. Ex P-1 is registered sale deed bearing SR No. 3188/2009-10 Dt. 09.03.2010, Ex P-2 is the registered sale deed bearing SR No. 3527/2010-11 Dt. 31.03.2010, Ex P-3 and 4 are the DCB registers for the year 2010-11 and 2013-14, Ex P-5 to 12 are the receipts for having paid revenue, Ex P-13 to 17 are the DCB registers pertaining to 2006-07, 2009-10 and 1999-2000, Ex P-18 and 20 are the form No.9, Ex P-19 and 21 are form No.11(a) issued by Rural Development and Panchayath Raj Department.

15. It is the case of the plaintiff that the suit schedule properties have been purchased from one Eranaika, S/o Hemlanaik, under registered sale deeds marked as Ex.P-1 and Ex.P-2, and that the khata has been mutated in his name. In order to establish his title and possession over the suit schedule properties, the plaintiff has produced the sale deeds and e-khata records, which are marked as Ex.P-1, Ex.P-2, and Ex.P-18 to Ex.P-21. The plaintiff has further produced tax paid receipts pertaining to the suit schedule properties, which are marked as Ex.P-5 to Ex.P-12. On perusal of the said documents, it is evident that the plaintiff is in possession and enjoyment of the suit schedule properties.



16. Ex.P-1 to Ex.P-21 disclose that the plaintiff has right over the suit schedule properties and is in possession of the same. It is further seen that the plaintiff has complied with the procedure prescribed under the Code of Civil Procedure for service of summons upon the defendants. Despite due service of summons, the defendants have remained absent and have been placed exparte. Consequently, the evidence adduced by the plaintiff remains unchallenged and unrebutted. If the defendants had any right, title, or interest over the suit schedule properties, they would have appeared before this Court and contested the claim of the plaintiff after service of summons. However, the defendants have failed to do so. Therefore, an adverse inference is liable to be drawn that the defendants have no subsisting right over the suit schedule properties and have interfered with the plaintiff's peaceful possession. The unchallenged oral testimony of PW-1, coupled with documentary evidence marked as Ex.P-1 to Ex.P-21, establishes the case of the plaintiff. In the absence of any contra evidence, this Court has no reason to disbelieve the oral and documentary evidence adduced by the plaintiff. It is a well-settled principle of law that when the plaintiff proves his lawful possession over the suit schedule property and the same remains unchallenged, the Court is justified in granting relief in his favour. Accordingly, in the absence of any rebuttal evidence, this Court finds no reason to discard the case of the plaintiff, and the same deserves to be accepted.

17. In this regard, it is pertinent to refer the decision of **Hon'ble High Court of Karnataka** reported in **1999(1) Kar. LJ**



485 in the case of **J.N.Patil v/s Competent authority, B.U.A. and D.C.**, wherein, it is held as follows;

*“(B) CIVIL PROCEDURE CODE, 1908, Order 8 Rule 10- written statement – omission to file and rebutt plaintiff allegation – plaintiff allegation is to be taken as correct.*

*HELD – it is one of the settled principles of law that in allegations made in the petition by affidavit required to be controverted by the other side but the said allegation are not controverted by filing the counter or the rejoinder affidavit as the case may be, the said allegations have to be deemed and are taken to be correct.”*

18. In another decision reported in **1999(2) Kar LJ** in the case of **Narayan Venkatesh Pandit v/s S.Nuroddin Khadri**, wherein, it is held as follows;

(B) CIVIL PROCEDURE CODE 1908, Order 8 Rule 5 – Evidence Act, 1872 Section 17 and 114 – allegation facts – want of denial of – adverse presumption of admission of fact alleged can be raised against party not leading evidence to deny facts alleged.

19. In view of the proposition of law laid down by the Hon’ble High Court I extend the discretionary relief of granting of permanent injunction in order to protect the possession of the



plaintiff in the ends of justice. For the aforesaid discussions this court answers the point No.1 to 3 in the **Affirmative**.

20. **Point No.4:-** For the for going discussion, I proceed to pass the following:

**ORDER**

**The suit of the plaintiff is hereby decreed.**

**The defendants, their men, agents, servants or representatives are hereby restrained permanently from interfering with plaintiff's the peaceful possession and enjoyment of the suit schedule properties.**

**No order as to cost.**

**Draw Decree accordingly.**

(Dictated to the typist directly on the computer and corrected and then pronounced by me in the open court on this **04<sup>th</sup> Day of AUGUST, 2026.**)

Sd/-

**(Sri. Vajresha)**

**II Addl. Civil Judge & J.M.F.C.,  
Channagiri.**

**:-ANNEXURE:-**

**1. List of witnesses examined on behalf of plaintiff/s:-**

PW.1 : Chandrappa



**2. List of documents marked on behalf of plaintiff/s:-**

- Ex.P1 : Sale Deed Dt. 09.03.2010  
Ex.P2 : Sale Deed Dt. 31.03.2010  
Ex.P3 & 4 : DCB register extracts  
Ex.P5 to 12 : Receipts for having paid revenue  
Ex.P13 to 17 : DCB registers  
Ex.P18 : Form No.9  
Ex.P19 : Form No.11(a)  
Ex.P20 : Form No.9  
Ex.P21 : Form No.11(a)

**3. List of witnesses examined on behalf of defendant/s:-**

- NIL-

**4. List of documents marked on behalf of defendant/s:-**

- NIL-

Sd/-

(Sri. Vajresha)

II Addl. Civil Judge & J.M.F.C.,  
Channagiri.