

KADG520000172023



Presented on : 04-01-2023
Registered on : 04-01-2023
Decided on : 24-03-2026
Duration : 3 years, 2 months, 20 days

IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC.,
AT HONNALI.

Dated: This the 24th day of March 2026.

Present:

Sri.Devadas H. B.A., L.L.B.,
Prl.Civil Judge & JMFC.,
Honnali.

O.S.No.05/2023

Plaintiff : Anjanappa S/o Late. Kariyappa
Aged about 53 Years
R/o: Chiradoni Village,
Channagiri Taluk, Davanagere District.
(By Pleader Sri.KRM., Advocate)

V/s

defendant : 1. Kariyamma W/o Late. Rudrappa
Aged about 45 Years.
2. Devaraj S/o Late. Rudrappa
Aged about 28 Years.
3. Megha W/o Devaraj
Aged about 25 Years

All are R/o. Nelavanne Village,
Honnali Taluk, Davanagere District.
(Rep.By Sri.SNP., Advocate,)

* * * * *

1. Date of institution of the suit : 04.01.2023
2. Nature of the suit : Declaration and permanent injunction
3. Date of the commencement of recording of the evidence : 05.01.2024
4. Judgment pronounced on : 24.03.2026

: J U D G M E N T :

The present suit is institute by the plaintiff's against the defendants seeking for the reliefs of declaration and consequential relief of permanent injunction over the suit schedule property and for such other reliefs.

2. The brief facts of the suit :- One Yellamma had acquired the property bearing No.50 measuring to an extent of 47 X 10 ½ feet situated at Malekumbluru Village, Honnali Taluk (Morefully described at the end of the plaint and hereinafter called as suit schedule property for brevity) under a registered sale deed in S.R.No.176/1959-60, dated:25.04.1959 and pursuant to the registered sale deed, the revenue records are got mutated in her name and accordingly, she was in peaceful possession and enjoyment over the suit schedule property.

3. It is further affirm that, one Yellamma had three children by name Kariyappa, Beerappa and Halamma and now all three children are died and the plaintiff is being the son of Kariyappa and the plaintiff had institute the present suit with the consent of the children of deceased Beerappa. It is further affirm that, after the death of Yallamma the revenue records were not changed by way of inheritance/succession and after the death of Yallamma leaving behind the plaintiff is succeeded to her estate by way of inheritance/succession. It is further affirm that, plaintiff is residing at Chiradoni Village, Channagiri Taluk and thereby, allowed the defendants to look after and residing over the suit schedule property.

4. It is further affirm that, till 2019 the plaintiff was in peaceful possession and enjoyment over the suit schedule property and subsequently with an apprehension that the existence of the house over the suit schedule would be detriment and thereby allowed the defendants are residing over the suit schedule property, but after even though the defendants without having any valid right, title and interest over the suit schedule property are refused to vacate the suit schedule property to the plaintiff and also to cause inconvenience and hurdles to the plaintiff.

5. It is further affirm that, on 03.12.2022 at Nelavanni Village in the presence of the elders advised to the defendants to hand over the suit schedule property to the

plaintiff, but the defendants did not hand over the suit schedule property to the plaintiff. Hence the plaintiff without having any alternative and efficacious has institute the present suit.

6. In response to the suit summons the defendants have appeared before this Court through their learned counsel and filed the written statement and wherein denied the entire plaint averments and in addition to denial taken specific defence that, the plaintiff has not properly valued the suit schedule property and sufficient Court fee has not been paid. Further contend that, the plaintiff is not having any right, title and interest over the suit schedule property and the defendants are the absolute owners and they are constructed the house over the suit schedule property and they are in peaceful possession and enjoyment over the suit schedule property.

7. It is further contend that, the plaintiff has filed the present suit only with an intention to deprive the suit schedule property which is belongs to the defendants. Further contend that, the defendants have constructed the house over the suit schedule property and they are residing therein since 5-6 decades. Hence the suit filed by the plaintiff is not maintainable and same is liable to be dismissed with exemplary costs.

8. On the basis of the above pleadings, this Court has framed the following issues :-

1. Whether the plaintiff proves that, he is the absolute owner of the suit schedule property?
2. Whether the plaintiff proves that he is in possession and enjoyment of the suit schedule property as on the date of the suit?
3. Whether the plaintiff further proves that there is interference by the defendant into his peaceful possession over the suit schedule property?
4. Whether the suit is properly valued and sufficient Court fee has been paid?
5. Whether the plaintiff is entitle for the relief as sought in the plaint?
6. What order or decree?

9. In order to prove the suit of the plaintiff's, the plaintiff got examined himself as PW1 and examined one more witness as PW2 and got marked documents as per Ex.P1 to Ex.P6. Similarly in order to substantiate the defence, the defendant No.2 himself examined as DW1 and got marked documents as per Ex.D1 to Ex.D4. During the course of cross of DW1, the learned counsel for the plaintiff has confronted the some documents and the photos and same has been admitted by the DW1 and same has been marked as Ex.P7 to Ex.P12.

10. Heard arguments on both sides.

11. On perusal of the records, oral and documentary evidence placed before this Court findings to the above issues are as under:-

Issue No.1	: In the Negative
Issue No.2	: In the Negative
Issue No.3	: In the Negative
Issue No.4	: Does not survive for consideration
Issue No.5	: In the Negative
Issue No.6	: As per final order for the following:

-: R E A S O N S :-

12. Issue Nos.1 to 3 :- Since these issues are inter-connected, hence in order to avoid repetition of facts, the above said Issues are taken up together for common discussion.

13. The plaintiff has knocked the doors of this justice seeking for the relief of declaration to declare that the plaintiff is the absolute owner of the suit schedule property and consequential relief of permanent injunction restrain the defendants, their men, agents, supporters, labours, contractors and etc., from interfere in plaintiff's peaceful possession and enjoyment of the suit schedule property in any manner and other relief. To substantiate the suit of the

plaintiff's, got examined himself as PW1 by filing affidavit evidence. In the course of the affidavit evidence, the PW1 reiterated the entire gist of the plaint averments. Therefore, this Court need not summarized those facts again at this stage. To corroborate the oral evidence, the PW1 has produced as many as 6 documents and which have been marked as per Ex.P1 to Ex.P6 i.e., Ex.P1 is the registered sale deed, Ex.P2 to Ex.P4 are three DCB register extracts, Ex.P5 is the encumbrance certificate and Ex.P6 is the genealogical tree.

14. The plaintiff in support of his suit got examined one more witness as PW2. He has filed his examination in chief by way of affidavit. In the affidavit he has stated that the suit schedule property therein existence of the house and vacant site and the plaintiff's grand mother had purchased the suit schedule property under a registered sale deed and the plaintiff is in peaceful possession and enjoyment over the suit schedule property. In order to disprove the suit of the plaintiff and to substantiate the defence of the defendants their learned counsel cross examined PW1 & PW2 at length.

15. To substantiate their contentions, the defendant No.2 stepped into the witness box and got examined himself as DW1 by filing an affidavit evidence. In the course of affidavit evidence, the DW1 has reiterated the contentions of the written statement. Therefore, this Court need not

summarized those facts again at this stage. To corroborate the oral evidence, DW1 has produced as many as 4 documents and which have been marked as Ex.D1 and Ex.D2 are the house list book and Ex.D3 and Ex.D4 are the Form No.9 and 11A. In order to substantiate the plaintiff's averments and to disprove the defence set out by the defendants the learned counsel for plaintiff's cross examined DW1 at length and during the course of cross-examination, the learned counsel for the plaintiff has confronted the some documents and photos and same has been admitted by the DW1 and same has been marked as Ex.P7 to Ex.P12.

16. In light of the arguments canvassed by the learned counsels for the parties, this Court has carefully perused the oral as well as documentary evidence on record. The plaintiff is being the dominus litus to his suit is bestowed with burden to prove the specific and positive assertion with the help of oral and documentary proof. The plaintiff has to succeed on his own strength. The weakness of the defendant defence cannot become a trump card to succeed the suit of the plaintiff. With this prelude in the back drop let to this Court to analyze the rival contentions urged by the parties.

17. Further it is specific claim of the plaintiff that, the plaintiff's grand mother by name Yallamma had purchased the suit schedule property as per Ex.P1 and pursuant to the

registered sale deed, the revenue records are got mutated in the name of Yallamma as per Ex.P2 to Ex.P4 which are the DCB register extracts and accordingly, the suit schedule property is transfer from the name of Ningamma and Gowramma to the name of Yallamma as per Ex.P5 which is encumbrance certificate and accordingly, Yallamma had become the absolute owner and was in peaceful possession and enjoyment over the suit schedule property.

18. Further taken specific claim that, one Yellamma had three children by name Kariyappa, Beerappa and Halamma and now all three children are died and the plaintiff being the son of Kariyappa and the plaintiff had institute the present suit with the consent of the children of deceased Beerappa. Further after the death of Yallamma the revenue records were not changed by way of inheritance/succession and after the death of Yallamma leaving behind the plaintiff is succeeded to her estate by way of inheritance/succession. Further the plaintiff is residing at Chiradoni Village, Channagiri Taluk and thereby, allowed the defendants to look after and residing over the suit schedule property and subsequently, the defendants have refused to hand over the suit schedule property and they are trying to interfere with the plaintiff's peaceful possession and enjoyment over the suit schedule property.

19. On the other hand, the defendants have taken defence that, they are the absolute owner and they are

constructed the house over the suit schedule property and they are residing therein and the plaintiff even though without having any right, title and interest over the suit schedule property is trying to interfere with their peaceful possession and enjoyment over the suit schedule property. Further taken specific defence that, the plaintiff is neither owner and nor in peaceful possession and enjoyment over the suit schedule property.

20. On perusal of the oral as well as documentary evidence this Court has presumed that, the plaintiff's grand mother by name Yallamma had purchased the suit schedule property under a registered sale deed dated:25.04.1959 as per Ex.P1 and pursuant to the registered sale deed, the revenue records are got mutated in the name of Yallamma as per Ex.P2 to Ex.P4 which are the DCB register extracts and the suit schedule property was transferred to name of Yallamma as per Ex.P5 which is encumbrance certificate and accordingly, Yallamma had become the absolute owner was in peaceful possession and enjoyment over the suit schedule property. Further Yallamma had died leaving behind the plaintiff is succeeded to her estate by way of inheritance/succession.

21. On the other hand the defendants have taken specific defence that, they are the absolute owner and they are constructed the house over the suit schedule property and they are residing therein and the plaintiff even though

without having any right, title and interest over the suit schedule property is trying to interfere with their peaceful possession and enjoyment over the suit schedule property. Further taken specific defence that, the plaintiff is neither owner and nor in peaceful possession and enjoyment over the suit schedule property.

22. Further in the instant suit there is no dispute that one Yallamma had purchased the suit schedule property under a registered sale deed dated:25.04.1959 from Ningamma and Gowramma as per Ex.P1 and the revenue records are got mutated her name as per Ex.P2 to Ex.P4 which are Demand register extracts and the suit schedule property which is transferred to her name as per Ex.P5 which is encumbrance certificate.

23. Further the plaintiff is claim that, one Yellamma had three children by name Kariyappa, Beerappa and Halamma and now all three children are died and the plaintiff is being the son of Kariyappa and the plaintiff had institute the present suit with the consent of the children of deceased Beerappa. Further claim that, after the death of Yallamma the revenue records were not changed by way of inheritance/succession and after the death of Yallamma leaving behind the plaintiff is succeeded to her estate by way of inheritance/succession. In this regard on perusal of the Ex.P6 is the genealogical tree wherein recital reveals that, Ramappa out of the wedlock with Yallamma had three

children i.e., Kariyappa, Beerappa and Halamma. Further Kariyappa had died leaving behind three children by name Basappa, Nagarajapp and Anjinappa (plaintiff). Further Beerappa had died leaving behind four children by name Ramachandrappa, Halesh, Kariyamma (defendant No.1) and Renukamma.

24. Further during the course of cross of PW1 admitted that as under :-

"ಯಲ್ಲಮ್ಮರವರು ನನಗೆ ಅಜ್ಜಿಯಾಗಬೇಕು ಅಂದರೆ ನನ್ನ ತಂದೆಯ ತಾಯಿ. ನಮ್ಮ ಅಜ್ಜಿ ಯಲ್ಲಮ್ಮರವರಿಗೆ 3 ಜನ ಮಕ್ಕಳು ಅಂದರೆ ಕರಿಯಪ್ಪ, ಬೀರಪ್ಪ ಮತ್ತು ಹಾಲಮ್ಮ. ಕರಿಯಪ್ಪನ ಹೆಂಡತಿ ಗಂಗಮ್ಮ ನನ್ನ ತಾಯಿ. ನಾವು ಒಟ್ಟು 3 ಜನ ಅಣ್ಣತಮ್ಮಂದಿರು ಅಂದರೆ ಬಸಪ್ಪ, ನಾಗರಾಜಪ್ಪ ಮತ್ತು ಅಂಜಿನಪ್ಪ. ಬಸಪ್ಪ ಮತ್ತು ನಾಗರಾಜಪ್ಪ ಈ ದಾವೆಯನ್ನು ಸಲ್ಲಿಸಲು ನನಗೆ ಯಾವುದೇ ಮುಖ್ಯಾರನಾಮೆಯನ್ನು ಬರೆದುಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ಆದರೆ ಮೌಖಿಕವಾಗಿ ದಾವೆಯನ್ನು ಸಲ್ಲಿಸಲು ಒಪ್ಪಿಗೆಯನ್ನು ಕೊಟ್ಟಿರುತ್ತಾರೆ. ಯಲ್ಲಮ್ಮನ 2 ನೇ ಮಗ ಬೀರಪ್ಪ. ಬೀರಪ್ಪನ ಹೆಂಡತಿ ಪಾರ್ವತಮ್ಮ. ಬೀರಪ್ಪರವರಿಗೆ 4 ಜನ ಮಕ್ಕಳು ಅಂದರೆ ರಾಮಚಂದ್ರಪ್ಪ, ಹಾಲೇಶ, ಕರಿಯಮ್ಮ ಮತ್ತು ರೇಣುಕಮ್ಮ. 1 ನೇ ಪ್ರತಿವಾದಿ ನನಗೆ ಚಿಕ್ಕಮ್ಮರಾಗಬೇಕು. ದಾವಾ ಆಸ್ತಿಯ ಖಾತೆ ಈಗಲೂ ಯಲ್ಲಮ್ಮರವರ ಹೆಸರಿನಲ್ಲಿದೆ ಎಂದರೆ ಸರಿ. ಯಲ್ಲಮ್ಮನ 2 ನೇ ಮಗನಾದ ಬೀರಪ್ಪನ ವಾರಸುದಾರರು ಈ ದಾವೆಯನ್ನು ಸಲ್ಲಿಸಲು ಮುಖ್ಯಾರನಾಮೆಯನ್ನು ಬರೆದುಕೊಟ್ಟಿರುವುದಿಲ್ಲ."

Further during the course of cross of PW1 admitted that as under :-

"ನಮ್ಮ ತಂದೆಯ ತಂದೆ ಮತ್ತು ಪ್ರತಿವಾದಿಯ ತಂದೆಯ ತಂದೆ
ಅಣ್ಣ ತಮ್ಮಂದಿರು. ನಾನು ಮತ್ತು ಪ್ರತಿವಾದಿಗಳು ಮೂಲತಃ
ಒಂದೇ ಕುಟುಂಬದವರು."

Further during the course of cross of PW2 admitted that as under :-

"ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ಈಗ ಪ್ರತಿವಾದಿಗಳು
ಸ್ವಾಧೀನದಲ್ಲಿದ್ದಾರೆ. ಯಲ್ಲಮ್ಮನಿಗೆ ವಾದಿ ಮತ್ತು
ಪ್ರತಿವಾದಿಗಳು ಸಂಬಂಧಿಕರು ಎಂದರೆ ಸರಿ."

25. Further on perusal of the Ex.P6 and the admission of PW1 and PW2 during their cross-examination that, the plaintiff and the defendants are the legal heirs of the deceased Yallamma. Further Basappa, Nagarappa, Halesh, Bhagyamma (who is the wife of deceased Ramachandrappa) and Renukamma are also legal heirs of the deceased Yallamma and aforesaid persons are not made as parties to the suit.

26. Further on perusal of the oral as well as documentary evidence demonstrate that one Yallamma had purchased the suit schedule property as per Ex.P1 which is registered sale deed and the revenue records are got mutated in her name as per Ex.P2 to Ex.P4 which are the DCB register extracts and accordingly, the suit schedule

property which was transferred to her name as per Ex.P5 which is encumbrance certificate. Further Yallamma had three children i.e., Kariyappa, Beerappa and Halamma. Further Kariyappa had died leaving behind three children by name Basappa, Nagarajapp and Anjinappa (plaintiff). Further Beerappa had died leaving behind four children by name Ramachandrappa, Halesh, Kariyamma (defendant No.1) and Renukamma. Further along with the plaintiff, Basappa, Nagarajappa, Bhagyamma (who is the wife of the deceased Ramachandrappa), defendant No.1 and Renukamma are legal heirs of the deceased Yallamma and they are succeeded to her estate by way of inheritance/succession. Further the plaintiff in the instant suit has not made all the family members as parties and moreover the plaintiff and the defendants are own family members and both are entitled to right over the suit schedule property along with their family members. Further no such documents produced in order to substantiate that there was partition took place between the family members and there is no existence of the joint family status between them.

27. Under such circumstance, this Court has presumed that, the sole plaintiff is not entitled to claim right and title over the suit schedule against the same family members and also without including all the family members and moreover the plaintiff had admitted that the defendants are in possession of the suit schedule property. Further sole plaintiff is not entitled to claim ownership over the suit

schedule property, because the suit schedule property as on today which is stand in the name of deceased Yallamma and she died without made any intestate and all the legal heirs of the deceased Yallamma are entitled to right over the suit schedule property. Further in the instant suit the plaintiff and the defendants are also legal heirs of deceased Yallamma and moreover Basappa, Nagarajappa, Bhagyamma (who is the wife of deceased Ramachandrappa), Halesh and Renukamma who are also legal heirs of the deceased Yallamma and they are not made as parties to the suit. Further one Yallamma died leaving behind the plaintiff, Basappa, Nagarajappa, Bhagyamma (who is the wife of Ramachandrappa), Halesh, Kariayamma (defendant No.1) and Renukamma are succeeded to her estate by way of inheritance/succession because Yallamma had died without made any intestate with respect to the suit schedule property and aforesaid persons are her legal heirs and they are succeeded to her estate by way of inheritance/succession. Therefore, the plaintiff has failed to demonstrate that he is the absolute owner and is in peaceful possession and enjoyment over the suit schedule property and the defendants are interfere with his peaceful possession and enjoyment over the suit schedule property and thereby, the suit filed by the plaintiff is not maintainable and accordingly, this Court has answered the issue No.1 to 3 in the Negative.

28. Issue No.4 In view of answered the Issues No.1 to 3 in the Negative, does not required much more

discussion in this issue. Further the plaintiff has failed to establish his right, title and interest and possession over the suit schedule property and the defendants are interfere with his peaceful possession and enjoyment over the suit schedule property. Accordingly, this issue does not survive for consideration.

29. Issue No.5 In view of answered the Issues No.1 to 3 in the Negative, does not required much more discussion in this issue. Further the plaintiff has failed to establish his right, title and interest and possession over the suit schedule property and the defendants are interfere with his peaceful possession and enjoyment over the suit schedule property. Accordingly, this Court has answered the Issue No.5 in the Negative.

30. Issue No.6 :- In view of discussions and reasons stated in above, this Court has proceed to pass the following:

ORDER

The suit of the plaintiff's is hereby
dismissed with costs.

Draw decree accordingly.

[Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this 24th day of March 2026]

(Devadas H.)
PrI.Civil Judge and JMFC.,
Honnali.

ANNEXURE**1. Witness examined on behalf of plaintiff:**

PW1 : Anjinappa

PW2 : M. Ramesh

2. Documents marked on behalf of plaintiff:

Ex.P1 : Registered Sale deed dated:25.04.1959

Ex.P2 to 4 : DCB register extracts

Ex.P5 : Encumbrance certificate

Ex.P6 : Genealogical Tree

Ex.P7 : Registered Sale deed dated :25.03.1959

Ex.P8 : Encumbrance certificate

Ex.P9 : Notice given by Temple to the plaintiff

Ex.P10 to 12 : Photos

3. Witnesses examined on behalf of defendants :

DW1 : Devaraj

4. Documents marked on behalf of defendants:

Ex.D1 & 2 : House list books

Ex.D3 & 4 : Form No.9 and 11.

(Devadas H.)
Prl.Civil Judge and JMFC.,
Honnali.