

KADG520015682021



Presented on : 03-08-2021  
Registered on : 03-08-2021  
Decided on : 24-03-2026  
Duration : 4 years, 7 months, 21 days

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

Dated: This the 24<sup>th</sup> day of March 2026.

Present:

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

O.S.No.207/2021

Plaintiff : Malleshappa G. S/o Basappa  
Aged about 68 Years  
R/o: Chatnahalli Village  
Nyamathi Taluk, Davanagere District.  
(By Pleader Sri.SNP, Advocate)

V/s

Defendants : Rudramma W/o Eshwarappa  
Aged about 62 years  
R/o: Chatnahalli Village,  
Nyamathi Taluk, Davanagere District.  
(Rep.By Sri.SH., Advocate,)

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1. Date of institution of the suit : 03.08.2021
2. Nature of the suit : Declaration and permanent injunction
3. Date of the commencement of recording of the evidence : 14.06.2022
4. Judgment pronounced on : 24.03.2026

: J U D G M E N T :

The present suit is instituted by the plaintiff's against the defendant 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 Bheemacharaya son of Gururayacharaya had absolute owner of the property bearing Sy No.4/21 (Old No.4) measuring to an extent of 2 acres 10 guntas situated at Chatnahalli Village, Nyamathi Taluk, Davanagere District and he had sold the aforesaid property in favour of Basappa Son of Giryajji Mallappa under a registered sale deed in S.R.No.1483/1955-56, dated:05.01.1956 and delivered the same on the said day.

3. It is further affirm that, pursuant to the registered sale deed, one Basappa S/o. Giryajji Mallappa had become the absolute owner and was in peaceful possession and enjoyment over the aforesaid property. It is further affirm that, one Basappa had executed the registered sale deed in S.R.No.1467/1956-57, dated: 06.08.1956 in favour of

Ramappa S/o. Manganakoppa Teerthappa with respect to the property bearing Sy No.4/21 measuring to an extent of 2 acres 10 guntas and out of which, Basappa had retained 37 ½ feet towards eastern side and accordingly, one Basappa is the absolute owner and was in possession of the retained property bearing Sy No.4/21 measuring to an extent of 37 ½ feet (Morefully described at the end of the plaint and hereinafter called as suit schedule property for brevity).

4. It is further affirm that, one Basappa had died leaving behind the plaintiff and his family members are succeeded to his estate by way of inheritance/succession and accordingly, the plaintiff has became the absolute owner and is in peaceful possession and enjoyment over the suit schedule property.

5. It is further affirm that, as the facts stood at that stage, the defendant without having any right, title and interest over the suit schedule property is trying to interfere with the plaintiff's peaceful possession and enjoyment over the suit schedule property. Hence, the plaintiff without having any alternative and efficacious remedy has approached this Court and institute the present suit.

6. In response to the suit summons the defendant has appeared before this Court through his learned counsel and filed the written statement and wherein denied entire plaint averments and in addition to denial taken specific

defence that, husband of the defendant's by name Eshwarappa was acquired property bearing Sy No.4/21 measuring to an extent of 0.05 guntas situated at Chantnahalli Village, Belagutti Hobli, Nyamathi Taluk, Davanagere District through partition deed entered between his family members and after his death the defendant is succeeded to his estate by way of inheritance/succession and accordingly, the defendant is the absolute owner and is in peaceful possession and enjoyment over the aforesaid property and the revenue records are got mutated in her name.

7. It is further contend that, one Channabasappa was the absolute owner of the property bearing Sy No.4 measuring to an extent of 20 guntas and Eshwarappa was the absolute owner of the property bearing Sy No.4 measuring to an extent of 2 acres 10 guntas and both of them have sold the aforesaid property to the various prospective purchasers.

8. It is further contend that, the defendant is the absolute owner of the property bearing Sy No.4/21 measuring to an extent of 0.05 guntas and there is no existence of the suit schedule property and the plaintiff is not having any right, title and interest over the suit schedule property.

9. It is further contend that, the suit filed by the plaintiff is barred by law of limitation and the plaintiff has

filed the instant suit with an intention to deprive the suit schedule property belongs to the defendant. Hence prays to dismiss the present suit with exemplary costs.

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

1. Whether the plaintiff proves that declaration to declare that, he is the absolute owner of the suit schedule property?
2. Whether 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 defendant prove that declaration to declare that she is the absolute owner of the property bearing Sy.No.4/21 measuring to an extent of 0.05 acres?
5. Whether the suit is barred by law of limitation?
6. Whether the plaintiff is entitle for the

relief as sought in the plaint?

7. What order or decree?

11. In order to prove the suit of the plaintiff's, the plaintiff got examined himself as PW1 and examined three more witnesses as PW2 to PW4 and got marked documents as per Ex.P1 to Ex.P3. Similarly in order to substantiate the defence of the defendant, the GPA holder of the defendant got examined himself as DW1 and got marked documents as per Ex.D1 to Ex.D13.

12. Heard arguments on both sides.

13. 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	: In the Negative
Issue No.5	: Does not survive for consideration
Issue No.6	: In the Negative
Issue No.7	: As per final order for the following:

-: R E A S O N S :-

14. Issue Nos.1 to 4 :- 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.

15. 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 defendant, her men, agents, supporters, labours, contractors and etc., from interfere with 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 three documents and which have been marked as per Ex.P1 to Ex.P3 i.e., Ex.P1 is the registered sale deed dated:05.01.1956, Ex.P2 is the registered sale deed dated:06.08.1956 and Ex.P3 is the RTC extract.

16. The plaintiff in support of his suit got examined three more witnesses as PW2 to PW4. They have filed affidavit in lieu of their examination-in-chief and wherein they have corroborated the version of PW1. In order to disprove the suit of the plaintiff and to substantiate the defence of the defendant her learned counsel cross examined PW1 to PW4 at length.

17. To substantiate contentions of the defendant, the GPA holder of the defendant has 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 13 documents and which have been marked as Ex.D1 to Ex.D13 i.e., Ex.D1 is the GPA, Ex.D2 is the encumbrance certificate, Ex.D3 to Ex.D10 are the RTC extracts, Ex.D11 is the order passed by the Deputy Commissioner, Davanagere Sub-Division, Davanagere, Ex.D12 is the RTC extract and Ex.D13 is the mutation extract. In order to substantiate the plaint averments and to disprove the defence set out by the defendant the learned counsel for plaintiff's cross examined DW1 at length.

18. 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 be become a trump card to succeed the suit of the plaintiff. With this prelude in the back drop let this Court to analyze the rival contentions urged by the parties.

19. Further contention of the plaintiff is that, one Bheemacharaya son of Gururayacharaya had absolute owner of the property bearing Sy No.4/21 (Old No.4) measuring to an extent of 2 acres 10 guntas situated at Chatnahalli Village, Nyamathi Taluk, Davanagere District and he had sold the aforesaid property in favour of Basappa Son of Giryajji Mallappa under a registered sale deed in S.R.No.1483/1955-56, dated:05.01.1956 and delivered the same on the said day.

20. Further pursuant to the registered sale deed, one Basappa S/o. Giryajji Mallappa had become the absolute owner and was in peaceful possession and enjoyment over the aforesaid property. Further one Basappa had executed registered sale deed in S.R.No.1467/1956-57, dated: 06.08.1956 in favour of Ramappa S/o. Manganakoppa Teerthappa with respect to the property bearing Sy No.4/21 measuring to an extent of 2 acres 10 guntas and out of which, Basappa had retained suit schedule property and accordingly, one Basappa is the absolute owner and was in possession of the suit schedule property. Further one Basappa had died leaving behind the plaintiff and his family members are succeeded to his estate by way of inheritance/ succession and accordingly, the plaintiff has become the absolute owner and is in peaceful possession and enjoyment over the suit schedule property.

21. Further the plaintiff in order to substantiate the same himself examined as PW1 and in support of his oral evidence produced Ex.P1 to Ex.P3. Further on perusal of the Ex.P1 is the registered sale deed dated:03.01.1956 wherein reveals that, one Bheemacharaya had executed in favour of Basappa with respect to the property bearing Sy No.4 measuring to an extent of 2 acres 10 guntas. Further on perusal of the Ex.P2 is the registered sale deed dated:06.08.1956 wherein reveals that, one Basappa had executed in favour of Ramappa with respect to the property bearing Sy No.4 total measuring to an extent of 2 acres 10 guntas and out of which on the eastern side retained measuring to an extent of 37 ½ feet and remaining property was sold. Further on perusal of the Ex.P3 is the RTC extract wherein reveals that, the property bearing Sy.No.4/21 measuring to an extent of 0.05 guntas which is stand in the name of the defendant.

22. On the other hand the defendant has taken specific defence that, the husband of the defendant's by name Eshwarappa was acquired property bearing Sy.No.4/21 measuring to an extent of 0.05 guntas situated at Chantnahalli Village, Belagutti Hobli, Nyamathi Taluk, Davanagere District through partition deed entered between his family members and after his death the defendant is succeeded to his estate by way of inheritance/succession and accordingly, the defendant is the absolute owner and is in peaceful possession and enjoyment over the aforesaid

property and the revenue records are got mutated in her name.

23. Further taken specific defence that, one Channabasappa was the absolute owner of the property bearing Sy No.4 measuring to an extent of 20 guntas and Eshwarappa was the absolute owner of the property bearing Sy No.4 measuring to an extent of 2 acres 10 guntas and both of them have sold the aforesaid property to the various prospective purchasers. Further taken specific defence that, the defendant is the absolute owner of the property bearing Sy No.4/21 measuring to an extent of 0.05 guntas and there is no existence of the suit schedule property and the plaintiff is not having any right, title and interest over the suit schedule property. Further in order to substantiate her defence, the GPA holder of the defendant himself examined as DW1 and produced Ex.D1 to Ex.D13. Further on perusal of the Ex.D1 is the GPA wherein reveals that, which is executed by the defendant in favour of DW1, further on perusal of the Ex.D2 is the encumbrance certificate wherein reveals that, the property bearing Sy No.4 measuring to an extent of 2 acres 10 guntas which was transferred from Basappa to Ramappa, further on perusal of the Ex.D3 to Ex.D5 are the RTC extracts wherein reveals that, the property bearing Sy No.4 which is stand in the name of Basappa, further on perusal of the Ex.D6 is the RTC extract wherein reveals that the property bearing Sy No.4/2 which is stand in the name of M.Rudrappa, further on perusal of the

Ex.D7 is the RTC extract wherein reveals that, the property bearing Sy No.4 measuring to an extent of 2 acres 10 guntas which is jointly stand in the name of Basappa, Ramapp, Channabasappa, Ramappa and Rudrappa, further on perusal of the Ex.D8 is the RTC extract wherein reveals that, the property bearing Sy No.4 measuring to an extent of 2 acres 10 guntas which is jointly stand in the name of Ramappa S/o. Puttappa and Ramappa S/o. Teerthappa Manganakoppa, further on perusal of the Ex.D9 is the RTC extract wherein reveals that, the property bearing Sy No.4/21 measuring to an extent of 0.05 guntas which is stand in the name of defendant, further on perusal of the Ex.D10 is the RTC extract wherein reveals that the property bearing Sy No.4/17 measuring to an extent of 0.08 guntas which is stand in the name of defendant, Ex.D11 is the order passed by the Deputy Commissioner, Sub-Division, Davanagere wherein reveals that, one Manjappa, Basamma, Veerappa, Maleshappa and Manjappa have filed appeal before the Deputy Commissioner, Davanagere against the Tahasildar and Drakshyanamma and the said appeal was dismissed on the ground that in revenue records the property is mentioned in acres and guntas and not in feet, further on perusal of the Ex.D12 is the RTC extract wherein reveals that, the property bearing Sy No.4/1 measuring to an extent of 2 acres 10 guntas which is jointly stand in the name of Channabasappa, Veeramma and Eshwarappa and further on perusal of the Ex.D13 is the mutation extract wherein reveals that, the property bearing Sy No.4/3

measuring to an extent of 0.02 guntas, the property bearing Sy No.4/17 measuring to an extent of 0.08 guntas and the property bearing Sy No.4/21 measuring to an extent of 0.05 guntas which are stand in the name of the defendant.

24. On perusal of the oral as well as documentary evidence, this Court has presumed that, it is specific claim of the plaintiff is that, one Bheemacharaya son of Gururayacharaya had absolute owner of the property bearing Sy No.4/21 (Old No.4) measuring to an extent of 2 acres 10 guntas situated at Chatnahalli Village, Nyamathi Taluk, Davanagere District and he had sold the aforesaid property in favour of Basappa Son of Giriyajji Mallappa under a registered sale deed in S.R.No.1483/1955-56, dated:05.01.1956 and delivered the same on the said day. Further pursuant to the registered sale deed, one Basappa S/o. Giriyajji Mallappa had become the absolute owner and was in peaceful possession and enjoyment over the aforesaid property. Further one Basappa executed registered sale deed in S.R.No.1467/1956-57, dated: 06.08.1956 in favour of Ramappa S/o. Manganakoppa Teerthappa with respect to the property bearing Sy No.4/21 measuring to an extent of 2 acres 10 guntas and out of which Basappa had retained the suit schedule property and accordingly, one Basappa is the absolute owner and was in possession of the suit schedule property. Further one Basappa had died leaving behind the plaintiff and his family members are succeeded to his estate by way of inheritance/

succession and accordingly, the plaintiff has become the absolute owner and is in peaceful possession and enjoyment over the suit schedule property.

25. Further on perusal of the Ex.P1 is the registered sale deed dated:03.01.1956 wherein reveals that, one Bheemacharaya had executed in favour of Basappa with respect to the property bearing Sy No.4 measuring to an extent of 2 acres 10 guntas. Further on perusal of the Ex.P2 is the registered sale deed dated:06.08.1956 wherein reveals that, one Basappa had executed in favour of Ramappa with respect to the property bearing Sy No.4 total measuring to an extent of 2 acres 10 guntas and out of which on the eastern side retained measuring to an extent of 37 ½ feet and remaining property was sold.

26. Further the plaintiff in the present suit claim that he is the absolute owner and is in peaceful possession and enjoyment over the suit schedule property. Further as per Ex.P1 one Basappa had purchased the property bearing Sy No.4/21 measuring to an extent of 2 acres 10 guntas and subsequently, as per Ex.P2 sold aforesaid property in favour of Ramappa after retained on the eastern side measuring to an extent of 37 ½ feet. Further as per Ex.P1 and Ex.P2 the property bearing Sy No.4/21 is measured as acres and guntas and not as feet and there is no documentary evidence produced by the plaintiff to establish that the property converted into from acres to feet. Further the

plaintiff has not produced any documentary evidence to establish that the boundaries and extent of the suit schedule property and merely claim that he is the absolute owner and is in possession of the suit schedule property is not sufficient.

27. Further if any person claim right over the property then such person ought to have establish by placing documentary evidence that the property measurement like east to west and north to south how much extent and also clearly mentioned the boundaries of the property and the identification of the property must be establish. Further in the instant suit the plaintiff has not produced any single piece of documents to establish that the suit schedule property measurement like east to west and north to south how much extent and boundaries of the suit schedule property and also identification of the property. Further moreover one Basappa had purchased the property bearing Sy No.4/21 measuring to an extent of 2 acres 10 guntas as per Ex.P1 and subsequently, the said Basappa had sold the same. Further the plaintiff has not proved the existence of the suit schedule property.

28. On the other hand the defendant set-off defence that, husband of the defendant's by name Eshwarappa was acquired property bearing Sy No.4/21 measuring to an extent of 0.05 guntas situated at Chantnahalli Village, Belagutti Hobli, Nyamathi Taluk, Davanagere District

through partition deed entered between his family members and after his death the defendant is succeeded to his estate by way of inheritance/succession and accordingly, the defendant is the absolute owner and is in peaceful possession and enjoyment over the aforesaid property and the revenue records are got mutated in her name. Further on perusal of the Ex.D2 is the encumbrance certificate and Ex.D3 to Ex.D10 and Ex.D12 are the RTC extracts and Ex.D13 is the mutation register extract. Further the right of ownership over the property ought to have produce the title deeds i.e., Sale deeds, Gift Deed, WILL or grant certificate if any issued by the competent authority. Further in the instant suit the defendant has not produced any title deed documents to establish that she is the absolute owner of the property bearing Sy No.4/21 measuring to an extent of 0.05 guntas. Further the defendant has taken specific defence that her husband had acquired the property bearing Sy No.4/21 measuring to an extent of 0.05 guntas under a partition deed, but to substantiate the same, the defendant has not produced partition deed under which her husband had acquired aforesaid property. Further merely production of the revenue records i.e., RTC and mutation extract are not sufficient to prove ownership of the defendant over the property bearing Sy No.4/21 measuring to an extent of 0.05 guntas.

29. Under such circumstance this Court has presumed that, the plaintiff has failed to successfully

establish that he is the absolute owner and is in peaceful possession and enjoyment over the suit schedule property and the defendant is interfere with his peaceful possession and enjoyment over the suit schedule property by placing cogent and proper evidence. Further the defendant has also failed to establish that she is the absolute owner of the property bearing Sy No.4/21 measuring to an extent of 0.05 guntas by placing cogent and proper evidence. Accordingly, this Court has answered the Issues No.1 to 4 in the Negative.

30. 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 in the instant suit the plaintiff has failed to prove that the existence of the suit schedule property as extent and boundaries by placing cogent and proper evidence. Accordingly, this issue does not survive for consideration.

31. Issue No.6 In view of answered the issues No.1 to 3 in the Negative does not required much more discussion in this issue. Further in the instant suit the plaintiff has failed to establish that he is the absolute owner and is in peaceful possession and enjoyment over the suit schedule property and the defendant is interfere with his peaceful possession and enjoyment over the suit schedule property by placing cogent and proper evidence. Accordingly, this Court has answered issue No.6 in the Negative.

32. Issue No.7 :- In view of discussions and reasons stated in above, this court 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 24<sup>th</sup> day of March 2026]

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

ANNEXURE

1. Witness examined on behalf of plaintiff:

PW1 : Malleshappa G.

PW2 : M. Manjappa

PW3 : Rudrappa

PW4 : G. Omkarappa

2. Documents marked on behalf of plaintiff:

Ex.P1 : Registered Sale deed dt:05.01.1956

Ex.P2 : Registered sale deed dt:06.08.1956

Ex.P3 : RTC extract

3. Witnesses examined on behalf of defendant :

DW1 : V. Channappa

4. Documents marked on behalf of defendant:

Ex.D1 : GPA

- Ex.D2 : Encumbrance certificate  
Ex.D3 to 8 : Six RTC's extracts  
Ex.D9 & 10 : Two RTC's extracts  
Ex.D11 : Order passed by the Deputy Commissioner,  
Davanagere  
Ex.D12 : RTC extract  
Ex.D13 : Mutation extract.

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