

KADG520016082013



Presented on : 29-10-2013
Registered on : 30-10-2013
Decided on : 10-04-2026
Duration : 12 years, 5 months, 12 days.

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

Dated: This the 10th day of April 2026.

PRESENT

Sri. PUNYAKOTI S N
BA LLB,
Addl. Civil Judge & JMFC,
Honnali.

ORIGINAL SUIT No.284/2013

Plaintiff : Virupakshappa C
S/o Shivappa
Agriculturist
R/o Guddehalli village
Belagutthi Hobli,
Honnali Taluk.
(Rep. By Sri. KPO Advocate)

V/s

Defendants 1. Mallappa dead by his LR's
a. Smt. Girijamma
W/o Mallappa
Aged about 65 years,
Agriculturist.
b. Sakamma

D/o Mallappa, Hindu
Aged about 24 years,
F.D.A Taluk Office
Honnali.

c. Yashoda

D/o Mallappa, Hindu
Aged about 22 years,
A, B, C are R/o:Hirekalmath Area
Honnali Taluk.

d. Lolakshi

D/o Mallappa, Hindu
Aged about 26 years
R/o Ittegehalli village,
Hosur Hobli
Shikaripura Taluk.

2. N Shekarappa

S/o Shivappa, Hindu
Aged about 61 years
Agriculturist
R/o Guddehalli (V) &(p),
Honnali Taluk.

3. Parameshwarappa C.S

S/o Late. Shivappa
Aged about 75 years

4. Smt. Gowramma

W/o Late. Lokeshwarappa
Aged about 60 years

5. Chandrashekarappa N L

S/o Late. Lokeshwarappa
Aged about 42 years.

6. Veeranagowda N L
S/o Late. Lokeshwarappa
Aged about 37 years

Defendant No.1 to 4 R/o Guddehalli,
Nyamathi Taluk,
Davanagere Dist.

7. Smt. Jayamma
D/o Late. Shivappa
Aged about 63 years
R/o Sri. Bommalingeshwara Nilaya
3rd cross, South Division,
Durgigudi Extension,
Honnali Town & Taluk
Davanagere Dist.

8. H M Shivanandappa
S/o Mahadevappa
Aged about 50 years
Agriculturist.

9. H B Vasanthappa
S/o Mahadevappa
Aged about 42 years, Teacher
R/o Marulasiddeshwara Nilaya ,
Marikoppa Road,
Left side, Durgigudi Extension,
Honnali Town & Taluk,
Davanagere Dist.

10. Manjulamma
D/o Mahadevappa
W/o Thimmappa

Aged about 44 years.

11. Megharaj
S/o Mahadevappa
Aged about 39 years.

12. Smt. Kamalakshi
W/o Chandraiah
D/o Mahadevappa
Aged about 40 years

Defendant No.8 &10 to 12
R/o S Mallapura,
Honnali Taluk
Davanagere Dist.

13. Smt. Shakunthala
W/o Virupakshappa
D/o Mahadevappa
Aged about 43 years.

R/o Guddehalli, Nyamathi Taluk
Davanagere Dist.

(Def.No.1(a) to (d) Rep. By Sri. UK Advocate)

(Def.No.2 Rep. by Sri. KTP Advocate)

(Def.No.3 Exparte)

(Def.No.4 to 13 Rep. by Sri. SHE Advocate)

1. Date of institution of the suit : 29-10-2013
2. Nature of the suit : Declaration and permanent injunction.
3. Date of the commencement of recording of the evidence : 01-04-2014
4. Judgment pronounced on : 10-04-2026.

JUDGMENT

Plaintiff has filed this suit for the relief of declaration and permanent injunction and for such other reliefs in respect of the suit schedule property.

2. The factual matrix which leads to file the present suit in brief can be crystallized as under :-

It is stated in the plaint that, suit schedule property was originally an ancestral property of plaintiff and defendants. The originator of their family was Shivappa. Hanumamma was the wife, plaintiff, defendant No.1 to 3 and husband of the defendant No.4 Lokeshwarappa are the sons of the said Shivappa. Due to difference of opinion, their family members partitioned their joint family properties through jubani hissa on 18/04/1983.

3. Further stated that, as per the jubani hissa, suit schedule Sy. No.112/1 measuring 39 guntas was in joint share of Shivappa, defendant No.2 and Eshwarappa S/o of Hanumanthappa, cousin of defendant No.2. As it was in joint possession they have entered into a registered partition deed on 15/05/2012. Wherein, out of 39 guntas of land, southern side 13 guntas was fallen to the share of the Eshwarappa and remaining 13 and 13 guntas continued in the name of the Shivappa and defendant No.2. As per the earlier partition deed dtd.18/04/1983, northern portion of 13 guntas was in possession of plaintiff, middle portion was in possession of defendant No.2. As per the earlier partition and partition dtd.05/09/2013, the northern portion 13 guntas of land is fallen to the share of

plaintiff because the plaintiff had paid said $\frac{1}{2}$ share value of Rs-4.000/- to the deceased defendant No.1. From the date of partition, the plaintiff has been in possession and enjoyment over the suit schedule property as rightful owner.

4. Further stated that, the defendants have no manner of right, title much less possession over the suit schedule property, taking the advantage of revenue records standing in their names, making hectic efforts to oust the plaintiff from suit schedule property in order to grab the same. On 16/10/2013, the defendants along with their men came at suit schedule property and tried to take possession of the tobacco barn situated in northern portion of 13 guntas of land. Though the plaintiff resisted, but the defendants threatened the same to do so. Hence, the plaintiffs knocked the doors of this justice by filing this suit.

5. In pursuance of suit summons, the defendants appeared before the Court through their counsels. Defendant No.1(a) filed her written statement, wherein she admitted the relationship of the parties and denied all other plaint averments as false. Further she specifically denied the partition as alleged in the plaint. Further averred that, during the life time of her husband deceased defendant No.1, they were kept quite but after his death, the plaintiff filed this suit by colluding with other defendants in order to grab the property of them. Plaintiff and defendants are joint family members and they are in joint possession over the suit schedule property, hence prayed to

dismiss the suit. Defendant No.1(b) to (d) adopted the written statement of defendant No.1(a) by filing a memo.

6. Defendant No.2 filed his written statement, wherein he admitted the relationship and the partition as alleged in the plaint but denied his interference as alleged by the plaintiff, hence prayed to dismiss the suit against him.

7. Defendant No.6 filed his written statement, wherein he admitted the relationship and the partition as alleged in the plaint but denied his interference as alleged by the plaintiff, hence prayed to dismiss the suit against him. Defendant No.4, 5, 7 to 13 have adopted the written statement of defendant No.6 by filing a memo.

8. On the basis of the rival pleadings the following issues are framed :

1. Whether plaintiff proves that he is the owner of the suit schedule property ?
2. Whether plaintiff proves that he is in possession & enjoyment of the suit schedule property ?
3. Whether plaintiff proves that defendants interfered in his possession and enjoyment over the suit schedule property and tried to take possession of the tobacco barn ?
4. Whether plaintiff is entitled for the reliefs claimed in the plaint?

5. What order or decree?

9. In order to substantiate the case, the plaintiff got examined himself as PW-1 and three witnesses as PW.2 to 4 and documents marked at Ex.P.1 to 54. Similarly, in order to prove the defence and to disprove the case of the plaintiff, the defendant no,1(a) got examined as DW-1 but her evidence was discarded in view of memo filed by her counsel, defendant No.1(b) examined as DW.2, defendant No.2 examined as DW.3, defendant No.6 examined as DW.4 and documents marked at Ex.D1 to Ex.D49.

10. Heard the arguments. In support of their arguments, learned counsel for plaintiff submits written arguments and also relied on the following decisions;

1. CIVIL APPEAL Nos. 568-571 OF 2005, Narasamma & Ors. Vs State of Karnataka & Ors.
2. CIVIL APPEAL No.293 OF 1984, Balwant singh & Anr. Etc. Vs Daulat singh (dead) by L.Rs & Ors.
3. Smt. Sawarni Vs Smt. Inder Kaur And Others.

11. My findings on the above issues are as follows :

- | | | |
|------------|---|---|
| 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 | : | As per the final order for the following: |

: R E A S O N S :

12. Issue No.1 and 2: Since these Issues are interconnected to each other, hence taken together for common discussion in order to avoid repetition of facts and appreciation of evidence.

13. The plaintiff claimed his ownership over the suit schedule property based on the alleged partition deeds. In order to prove his ownership, PW.1 produced unregistered partition deed as per Ex. P1 and 13. On perusal, Ex. P1 and 13 are one and the same and it depicts that the plaintiff's family got divided their family properties. Wherein, there is no recital that suit schedule property i.e 13 guntas of land in Sy. No.112 was allotted to the share of the plaintiff. There is just a recital that the vacant land in Sy.No.112 was allotted to the deceased Mallappa and the same is taken by the plaintiff for value of 4,000/-. But the extent and boundaries of said property was not described. Further the Ex. P1 and 13 is an unregistered document and even not an original document.

14. PW.1 also furnished certified copy of partition deed as per Ex. P2. On perusal, the plaintiff and deceased defendant No.1 are not parties to the document. Under the Ex. P2, the plaintiff did not get any property as his share.

15. PW.1 also furnished certified copy of partition deed as per Ex. P3 and 14. On perusal, Ex. P3 and 14 are one and the same and is an unregistered document and more importantly

the deceased defendant No.1 or his legal heirs are not parties to the document. Further, even these documents are not the original documents. Under these documents, the plaintiff taking the share of the deceased defendant No.1 but as already said deceased defendant No.1 or his legal heirs are not parties to the document. Hence the said partition deed cannot be taken into the consideration against the deceased defendant No.1 or against his legal heirs.

16. Except the above said partition deeds, the plaintiff has not produced any partition deed or any title documents with respect to the suit schedule property. It is pertinent to note that the plaintiff has not specifically pleaded on which partition deed he is relying his title. As already discussed, in Ex. P2, the plaintiff and deceased defendant No.1 or his legal heirs are not parties and the plaintiff did not get the suit schedule property. In Ex. P3 and 14, the deceased defendant No.1 or his legal heirs are not parties and it relied on earlier partition as per Ex. P1 and 13.

17. As already discussed, Ex. P1 and 13 are the one and the same and is an unregistered document and suit schedule property is not specifically shown. Further, the provision of Sec.17 of The Registration Act 1908 mandates the compulsory registration of the document, but Ex. P1/13 is not registered document. Under such circumstances, these alleged partition deeds does not creates a title over the suit schedule property on the plaintiff. Hence the plaintiff has failed to prove his title over the suit schedule property.

18. The plaintiff relied on the ratio held in the above decisions, wherein the Hon'ble Courts held that the 'revenue records cannot create any title over the property'. Though it is a settled position of law but to prove the title of the plaintiff over the suit schedule property, this ratio is not helpful for the plaintiff.

19. Plaintiff's contention is that he is in peaceful possession over the suit schedule property, the defendants causing interference to his possession. Hence, the plaintiff has to prove his possession over the suit schedule property as on date of filing of the suit. In supportive his assertion, produced mutation and RTC extracts as per Ex. P5, 6, 7, 16, 17, 18. On perusal of these revenue documents, it can be seen that the suit schedule property is not at all standing in the name of the plaintiff. As such, through the documentary evidence, the plaintiff failed to prove his possession over the suit schedule property as on date of filing of the suit.

20. On assessing the entire oral as well as documentary evidence, the plaintiff has failed prove his title and possession over the suit schedule property as on date of filing of the suit. Under these discussion, this court answers Issue No.1 and 2 in the Negative.

21. Issue No.3:- This issue revolves round the sphere and ambit of alleged interference by the defendants over the peaceful possession and enjoyment of plaintiff. Since the

plaintiff failed to prove his possession over the suit schedule property as on date of filing of the suit, the question of considering interference does not arise for consideration. Hence, this court answers Issue No.3 in the Negative.

22. Issue No.4 : As already discussed in the above Issues, the plaintiff has failed to prove his title and possession over the suit schedule property as on date of filing of the suit, hence he is not entitled for the reliefs as claimed in the plaint. Hence, this court answered Issue No.4 in the Negative.

23. Issue No.5 : For the aforesaid discussions on the above said Issues, this Court proceeds to pass the following:

O R D E R

The suit of the plaintiff is hereby dismissed with costs.

Draw decree accordingly.

[Dictated to the stenographer in the computer, typed by her, corrected and then pronounced by me in the open court on this day of 10th April 2026]

(Punyakoti S N)
Addl. Civil Judge and JMFC.,
Honnali.

ANNEXURE

1. Witness examined on behalf of plaintiff :

- PW-1 : Virupakshappa
- PW-2 : Lokeshwarappa
- PW-3 : M Basavanagowda

PW-4 : Karibasappa.

2.Documents marked on behalf of plaintiff :

- Ex.P-1 : C.C. of Jubani Hissa Pathra
Ex.P-2&3 : C.C. of Partition deeds.
Ex.P-4-6 : C.C. of Mutation Register extracts
Ex.P-7 : RTC Extract
Ex.P-8-10 : C.C. of death certificates
Ex.P-11&12 : C.C. of House/Land assessment register
extracts
Ex.P-13 : C.C. of Jubani Hissa Pathra
Ex.P-14 : C.C. of Partition deed
Ex.P-15 : C.C. of Will
Ex.P-16-18 : RTC extracts
Ex.P-19-24 : Death certificates
Ex.P-25 : Cash receipt
Ex.P-26-28 : C.C. of Applications to the Tahasildar, Honnali.
Ex.P-29-42 : Photos
Ex.P43 : C.C. of Intimation slip
Ex.P-44 : C.C. of order of A C Court, Shimogga

- Ex.P-45-47 : C.C. of Mutation extracts
Ex.P-48&49 : C.C. of RTC extracts
Ex.P-50 : C.C. of Demand register
Ex.P-51 : C.C. of Mutation register
Ex.P-52 : C.C. of Khata extract
Ex.P-53 : RTC extract
Ex.P-54 : C.C. of order of Tahasildar Court, Honnali.

3. Witnesses examined on behalf of defendants :

- DW-1 : Girijamma (Discarded)
DW-2 : Sakamma C M
DW-3 : Shekharappa N
DW-4 : Veeranagowda N L

4. Documents marked on behalf of defendants :

- Ex.D-1-7 : RTC extracts
Ex.D-8 : C.C. of judgment in OS No.283/2013
Ex.D-9 : C.C. of application to the Tahasildar, Honnali
Ex.D-10 : C.C. of registered sale deed
Ex.D-11 : C.C. of mutation registered extract
Ex.D-12&13 : C.C. of DCB register extracts
Ex.D-14 : C.C. of electricity bill

- Ex.D-15 : Cause notice
- Ex.D-16 : RTI information
- Ex.D-17 : C.C. of RTI application
- Ex.D-18 : Endorsement
- Ex.D-19 : Official memorandum
- Ex.D-20 : Gramapanchayath certificate
- Ex.D-21 : Tax paid receipt
- Ex.D-22 : C.C. of objection to Tahasildar, Honnali
- Ex.D-23 : C.C. of Statement of witness
- Ex.D-24 : C.C. of statement
- Ex.D-25 : C.C. of voter list
- Ex.D-26 : C.C. of legal notice
- Ex.D-27 : C.C. of Order sheet, plaint and written statement
in OS.No.222/2022
- Ex.D-28 : C.C. of Voter list
- Ex.D-29 : Mutation register extract
- Ex.D-30 : RTC extract
- Ex.D-31 : C.C. of application to EO
- Ex.D-32 : C.C. of Official memorandum
- Ex.D-33 : C.C. of order sheet in RA.No.68/24
- Ex.D-34 : C.C. of petition in RA.No.68/2024
- Ex.D-35-39 : C.C. of death certificates

- Ex.D-40 : RTC extract
- Ex.D-41 : C.C. of Mutation register
- Ex.D-42-44 : C.C. of RTC extracts
- Ex.D-45 : RTC Extracts
- Ex.D-46 : C.C. of RTC extract
- Ex.D-47 : RTC extract
- Ex.D-48 : C.C. of Registered sale deed
- Ex.D-49 : Electricity bill.

(Punyakoti S N)
Addl. Civil Judge and JMFC.,
Honnali.