



**IN THE COURT OF THE PRL. CIVIL JUDGE & J.M.F.C.,
DHARWAD**

Present:

**Sri. Kadappa Hukkeri
Prl. Civil Judge & J.M.F.C, Dharwad**

Dated this the 13th day of July, 2026

O.S.No.165/2023

<u>Plaintiff:</u>		Basanagouda S/o Ganganagouda Kallangoudra Age: 48 years, Occ: Agriculture, R/o: Kabbenur, Tq & Dist: Dharwad - 581 201
		(By Sri.N.B.Menasinakai., Adv)
		Versus
<u>Defendants:</u>	1.	Shivangouda S/o Ramangouda Kallangoudra, Age: 17 years, Occ: Student, R/o: Kabbenur Tq & Dist: Dharwad – 581 201
	2.	Shekhangouda S/o Ramangouda Kallangoudra Age: 16 years, Occ: Student, R/o: Kabbenur, Tq & Dist: Dharwad – 581 201 (Defendant Nos.1 and 2 are minor represented their grandmother) Smt. Basavannevva W/o Ganganagouda Kallangoudra Age: 68 years, Occ: Household work,



		R/o: Kabbenur, Tq & Dist: Dharwad – 581 201
		(Exparte)

Nature of the suit	:	Suit for injunction.
Date of institution of the suit	:	02-03-2022
Date of commencement of recording evidence	:	07-02-2024
Date of Judgement	:	13-07-2026
Total duration	:	Years Months Days
		03 04 15

**Prl. Civil Judge and J.M.F.C.
Dharwad.**

JUDGMENT

This suit is filed by the plaintiff against the defendants seeking a declaration that the gift deed dated 19.04.2022 is fraudulent, fabricated, null and void, and for a consequential permanent injunction restraining the defendants from interfering with the plaintiff's peaceful possession of the suit property.



2. The description of the property involved in the suit is the land survey No.4/1 measuring 24 guntas, assessment of 2 Rupees 1 paise, situated at Kabbenur village, Hobli Amminabhavi Taluk Dharwad. The boundaries of the said property is as follows. (The said property is hereafter referred to as suit property)

East : Government Road

West : Property of Shantveergouda Janagoudra

North : Property of Shivangouda Veerangoudra

South : Government Road

3. **The summary of the plaint is as follows:**

It is the case of the plaintiff that the father of the plaintiff and the father of the defendants are brothers, and accordingly, the father of the plaintiff is the grandfather of the defendants. The father of the plaintiff, at the age of 76 years, with an intention to defeat the rights of the plaintiff over the suit property, and the father of the defendants, with an intention to usurp the suit property, collusively executed a



fabricated and fraudulent gift deed dated 19.04.2022 through the father of the plaintiff. The suit property is the ancestral property of the father of the plaintiff, which devolved upon him by inheritance. In the said gift deed, no reason has been mentioned for transferring the rights in the suit property in favour of the defendants. It is further submitted that the mother of the plaintiff stood as guardian for the defendants in the alleged transfer of the suit property by way of gift, which prima facie renders the deed illegal. Despite objections raised by the plaintiff, the revenue authorities mutated the names of the defendants in the record of rights pertaining to the suit property. The suit property is an undivided joint family property of the plaintiff and the defendants. The defendants, without the knowledge of the plaintiff, have got their names mutated in the revenue records on the basis of fabricated documents. On 11.07.2022, the plaintiff approached the defendants and requested cancellation of the gift deed, but the defendants refused. Hence, the plaintiff has been constrained to file the present suit.



4. After institution of the suit, suit summons issued to the defendants. Despite service of the suit summons, the defendants remained absent. Consequently, they have placed ex-parte.

5. In order to prove his case, the plaintiff himself examined as PW1. The documents produced by the PW1 were marked as Ex.P1 to 6.

6. The plaintiff has submitted his written arguments.

7. Based on the pleadings and materials on the record, the point that arise for consideration is as follows.

POINTS

- 1) Whether the plaintiff has proved that the transfer of the suit property in favour of the defendants by way of gift deed dated 19.04.2022 is fabricated, fraudulent, and consequently an illegal document.
- 2) Whether the plaintiff has proved his joint possession along with the defendants as on the date of the suit? Whether the plaintiff is entitled to the reliefs as prayed for?
- 3) What order or decree?



8. The findings of this Court to the above points are as follows:

Point No.1 : In the Negative.

Point No.2 : In the Negative.

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

REASONS

9. **Point No.1 and 2:** To substantiate his claim, the plaintiff examined himself as PW-1 and filed affidavit evidence, wherein he has substantially reiterated the contents of the plaint. In support of his case, the plaintiff relied upon RTC No.4 Block, measuring 24 guntas of Kabbenoor Village, Dharwad. Ex.P1 to Ex.P3 are the records of rights pertaining to the suit property. Ex.P4 is the certified copy of the gift deed dated 19.04.2022. Ex.P5 and P6 are certified copies of the mutation register. It is to be noted that despite service of suit summons, the defendants have not appeared before the Court to contest the plaintiff's case.



10. In his evidence, PW-1 has categorically stated that the suit schedule property is ancestral property which devolved upon his father by way of inheritance. He further deposed that the father of the defendants, with dishonest intention, collusively got a false, fabricated and fraudulent gift deed executed and registered through the plaintiff's father. PW-1 also stated that, despite the defendants having natural parents alive, the mother of the plaintiff was shown as guardian in the transfer of rights by way of gift, which prima facie renders the transaction illegal.

11. It is the contention of the plaintiff that appointing his mother as guardian while the natural parents of the defendants were alive itself prima facie shows illegality. He relied upon Section 6 of the Hindu Minority and Guardianship Act, 1956, which defines natural guardians of a Hindu minor as the father, and after him, the mother. A grandparent does not automatically qualify as a natural guardian if the parents are alive and competent. On this ground, the plaintiff contends that the alleged gift deed is invalid.



12. However, on perusal of the record, it is evident that neither the Transfer of Property Act nor the Registration Act provides that mis-description of a minor's guardian automatically invalidates a registered instrument. Such mis-description is at best a technical defect or irregularity, but does not strike at the root of the transfer. The essential requirement under the Transfer of Property Act is voluntary divestment of title by the donor and acceptance on behalf of the minor. A mere technical mis-description of guardian does not defeat the donor's right of alienation. In the absence of independent and cogent proof of fraud, the validity of the deed cannot be impeached on this ground alone.

13. Under civil jurisprudence, the standard of proof is the preponderance of probabilities. When fraud or fabrication is alleged, clear and specific particulars must be pleaded as per Order VI Rule 4 CPC. In the present case, the plaintiff has made general allegations of fraud and fabrication without



furnishing specific details. Hence, the contention of fraudulent transaction cannot be accepted.

14. Further, under Section 60 of the Registration Act, and settled judicial precedent, there is a strong presumption that a registered document is validly executed before a public officer. The burden lies on the plaintiff to rebut this presumption by producing convincing evidence that the process was compromised or that the executant never appeared. No such evidence has been produced. Therefore, the registered gift deed must be treated as genuine.

15. It is also a settled principle that there is no automatic presumption that property held by a member of a Hindu undivided family is joint family or ancestral property. The initial burden lies on the plaintiff to establish that the property was inherited across three generations and retained its character as coparcenary property. Except for Ex.P1 to Ex.P3, the plaintiff has not produced any foundational documents such as partition deeds, title deeds, or certificates



tracing the property to his ancestors. Mere irregularity in appointment of guardian does not invalidate the gift deed. Moreover, the plaintiff has failed to produce evidence of joint possession with the defendants at the time of institution of the suit. Accordingly, this Court finds that the plaintiff has failed to prove that the suit property is ancestral, and consequently, the father of the plaintiff had the right to alienate the property. The allegations of fraud and fabrication remain unproved. Hence, Point Nos.1 and 2 are answered in the Negative.

16. **Point No.3:** In view of the findings on Points Nos.1 and 2, the plaintiff has failed to establish that the gift deed dated 19.04.2022 is fraudulent, fabricated, or illegal. The plaintiff has also failed to discharge the initial burden of proving that the suit property is ancestral or joint family property. Further, the plaintiff has not produced cogent evidence to demonstrate joint possession or coparcenary rights at the time of institution of the suit. Hence he is not entitled to the reliefs sought for in the plaint. This point is



answered in negative and consequently this court proceeds to pass the following order.

ORDER

The suit filed by the plaintiff is hereby
dismissed, with no orders to costs.

Draw decree accordingly.

(Dictated to the AI Adalat, corrected by me and then pronounced in the open Court on 13th day of July 2026)

(Kadappa Hukkeri)
Prl. Civil judge and J.M.F.C
Dharwad.

ANNEXURE

1. List of witnesses examined for the Plaintiff.

P.W.1	:	Basangouda S/o Gangangouda Kallangoudra
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2. List of the documents marked for the plaintiff:

Ex.P.1	:	RTC Extract in Sy No.4/1
Ex.P.2	:	RTC Extract in Sy No.142
Ex.P.3	:	RTC Extract in Sy No.176/1
Ex.P.4	:	Gift deed
Ex.P.5	:	Mutation Register in Sy. No.176/Block/1



Ex.P6	:	Mutation Register in Sy. No.4/Block/1
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3. List of witnesses examined for the Defendants.

-NIL-

4. List of documents marked for the Defendants.

-NIL-

**Prl. Civil Judge and J.M.F.C.
Dharwad.**