

**IN THE COURT OF THE CIVIL JUDGE AND JMFC., MUNDARGI****PRESENT:- Sri. Basavaraj.,***BSW., LL.M.,***Civil Judge And JMFC, Mundargi.****Dated this the 01st of July, 2026****O.S.No.31/2020****PLAINTIFF/S:**

1. Shri. Fakkirappa S/o Mallappa Talwar(died)
(Since, his LR's by)
- 1(a). Smt. Padmavati W/o Mallikarjun Kempalli,
Age: 45 years, Occ: House wife,
R/o: Chavadal, Tq: Shirahatti, Dist: Gadag.
- 1(b). Sri. Basavannevva W/o Parameshwarappa Talawar,
Age: 35 years, Occ: House wife,
R/o: Chavadal, Tq: Shirahatti, Dist: Gadag.
- 1(c). Sri. Manjunath S/o Mallikarjun Kempalli,
Adopted father of Fakkirappa Talawar,
Age: 29 years, Occ: Agriculture,
R/o: Chavadal, Tq: Shirahatti, Dist: Gadag.

(By Sri. M.V.A Advocate)**Verses****DEFENDANT/S:**

Sri. Koteppa S/o Shetteppa Talwar @ Nayak,
Age: 35 years, Occ: Agriculture,
R/o: Chavadal, Tq: Shirahatti, Dist: Gadag.

(By Sri. V.D.A Advocate)



Date of Institution of suit	:	04.03.2020
Nature of suit	:	Permanent Injunction
Commencement of Evidence	:	26.03.2021
Date of Judgment	:	01-07-2026
Total duration	:	<u>Years</u> <u>Months</u> <u>Days</u> 06 03 27

(Basavaraj)
Civil Judge and JMFC, Mundargi.

:: JUDGMENT ::

This is the suit of plaintiffs against the defendant for permanent injunction in respect of the suit schedule properties.

Description of the suit property

The landed properties which are situated at Vitalapur village of Mundargi Taluk it's

	R.Sy.No	A-G	Assessment
A	17/1	03-12	03Rs-30ps
B	17/2	03-20	03Rs-30ps

The said properties are herein after referred as suit properties.

Boundaries of property-A:

North	:	Land of Huchappa
South	:	R.Sy.No.17/4 Land of Chandravva Budi
East	:	R.Sy.No.17/2 Land of defendant
West	:	Land of Dollin



Boundaries of property-B:

North	:	Land of Dollin
South	:	R.Sy.No.17/4 Land of Chandravva Budi
East	:	R.Sy.No.17/3 Land of Kotrappa Talwar
West	:	Land of plaintiff R.Sy.No.17/1

2. The brief case of the plaintiff's is as under;

The plaintiffs claims that, the suit Property No.1A belongs to them and Suit Property No.1B belongs to the defendant. Originally, both properties formed part of Survey No.17/1 measuring 11 acres 12 guntas, which was granted to their father Mallappa Talwar, as occupancy holder. After his death, the properties was partitioned among his sons and Mutation Entry No.618 was recorded on 10.03.1993. Under the partition, Survey No.17/1 measuring 3 acres 12 guntas was allotted to the plaintiffs, while Survey No.17/2 measuring 3 acres 20 guntas was allotted to the defendant. The plaintiff relies upon the PT sheet, survey map, and



revenue records to establish his ownership and boundaries.

3. Further the plaintiff, a retired KEB employee, states that he has been in possession and enjoyment of his land through cultivation carried out by his relatives. He alleges that the defendant, whose land is adjacent to the plaintiff's property, has been gradually encroaching upon his land. According to the plaintiffs, despite repeated requests by him and village elders to respect the boundary shown in the revenue records, the defendant continued the encroachment. A survey conducted through competent authorities allegedly revealed that the defendant had encroached upon 27 guntas of the plaintiff's land.

4. Further it is contends that the defendant has no right, title, or interest over the plaintiff's property and is unlawfully interfering with his peaceful possession and enjoyment. Therefore, the plaintiff has filed the present suit seeking protection



of his rights and removal of the alleged encroachment. Hence, this suit.

5. In pursuance of the suit summons, defendant appeared through his counsel and filed written statement.

6. The defendant in his written statement has partly admitted the averments made in the plaint and denied the remaining allegations. It is contended that after the family partition, both parties have been separately possessing and enjoying their respective lands for more than 30–40 years. Therefore, the plaintiff, having remained silent for such a long period, cannot now challenge the possession of the defendant.

7. The defendant states that a borewell was drilled about 15 years ago in the portion of land that fell to his father's share in R.Sy. No.17/2, and no objection was raised by the plaintiff at that time. The borewell yielded 3–4 inches of water. The



defendant alleges that the plaintiff, influenced by his grandson and acting with mala-fide intention, filed the suit to claim rights over the borewell. It is further alleged that the plaintiff obstructed and intimidated the defendant from using the borewell water, forcing him to leave a portion of his land uncultivated.

8. The defendant contends that the owners of R.Sy.No.17/1, 17/2, and 17/3 are different persons and that these lands had already been partitioned among them. Therefore, the owners of R.S.No.17/3 and R.Sy.No.17/4 are necessary parties to the suit, and without impleading them, the suit cannot be effectively and completely adjudicated. The survey records and map produced by the plaintiff also indicate the necessity of joining such persons as parties.

9. The defendant further states that due to the plaintiff's interference, he was unable to use the original borewell and had to incur debts to drill a



second borewell, which yields only about 1½ inches of water and is insufficient for agricultural purposes, causing financial hardship.

10. It is also contended that since the time of Mallappa, the parties have been enjoying their respective portions separately, and each has become owner of the land in his possession. The defendant claims long, uninterrupted possession without objection from the plaintiff and therefore asserts his rights over the property. The defendant also relies upon the doctrine of de facto possession and contends that the map produced by him reflects the true factual position. According to the defendant, the total extent of R.Sy.No.17 measuring 11 acres 12 guntas had already been divided among the concerned persons, making them necessary parties to the suit. On among other grounds defendant prayed to dismiss the suit of plaintiff.



11. On the basis of above pleadings, the following issues are framed.

ISSUES

1. Whether the plaintiff proves his possession over suit property as on the date of suit?
2. Whether the plaintiff proves the alleged obstruct by the defendant?
3. Whether the defendant proves that the present suit for bare injunction is not maintainable?
4. Whether the plaintiff is entitled for the relief as sought for?
5. What order or decree?

12. The plaintiff in order to prove his case got examined the himself as PW-1 and marked the documents at Ex.P1 to 8.

13. On the other hand, defendant examined himself as DW-1 and examined one witness on his behalf as DW-2 and marked Ex.D1 to 21.

14. Heard the arguments of both side counsels.



15. My findings to the above Issues are as under:

Issue No.1: Affirmative
Issue No.2: Affirmative
Issue No.3: Negative
Issue No.4: Affirmative
Issue No.5: As per Final order.

:: REASONS ::

16. **Issues No.1 to 3:** These Issues are interconnected with each other and they are taken together for common discussion to avoid repetition of facts.

17. It is the case of plaintiffs that, they are in possession of suit property as on the date of suit and the defendant has illegally encroached the suit properties in the suit properties without having any right over it. In order to establish the above said facts. The plaintiff in order to prove his case got examined the himself as PW-1 and marked the documents at Ex.P1 to 8. Ex.P.1 & 2 are the RTC extracts for the year 2019-20 of Sy.No.17/1 and



17/2, measuring 03 acres 12 guntas and 03 acres 20 guntas, which are standing in the name of Talawar Fakirappa S/o Mallappa and Talawar @ Nayak Koteppa S/o Sheteppa respectively. Ex.P.3 is the true copy of ME.No.618. Ex.P.4 is the true copy of PT sheet of Sy.No.17. Ex.P.5 is the true copy of map of Sy.No.17/1. Ex.P.6 is the true copy of PT sheet of Sy.No.17. Ex.P.7 is the true copy of From No.10 of Sy.No.17/1. Ex.P.8 is the true copy of ME.No.439 of Sy.No.17/1.

18. The defendant in his written statement has partly admitted and partly denied the plaint averments. He contended that after the family partition, both parties have been in separate possession and enjoyment of their respective lands for more than 30–40 years, and therefore the plaintiff cannot now dispute his possession.

19. The defendant stated that he had drilled a borewell about 15 years ago in his share of land without any objection from the plaintiff and alleged that the



present suit was filed with malafide intention to claim rights over the borewell. He further alleged that the plaintiff obstructed his use of the borewell, causing hardship and forcing him to drill another borewell at great expense.

20. The defendant also contended that the owners of R.S.Nos.17/3 and 17/4 are necessary parties to the suit and that the suit is not maintainable without their impleadment. He claimed long and uninterrupted possession of the property and relied upon de facto possession in support of his rights. On these and other grounds, the defendant prayed for dismissal of the plaintiff's suit. In order to rebut the suit of plaintiffs, defendant got examined himself as DW-1 and examined one witness on his behalf as DW-2 and marked Ex.D1 to 21. Ex.D.1 is the RTC extract for the year 2017-18 of Sy.No.17/2, measuring 03 acres 20 guntas, which is standing in the name of Talawar @ Nayak Koteppa S/o Shetteppa. Ex.D.2 & 3 are the true copy of ME.No.495 and 618



respectively. Ex.D.4 is the true copy of Map. Ex.D.5 to 8 are the MR.No.21, T16, 27 & 71 respectively. Ex.D.9 to 17 are the photographs respectively. Ex.D.18 is the PT sheet of Sy.No.17. Ex.D.19 is the true copy of ME.No.19. Ex.D.20 is the true copy of order sheet. Ex.D.21 is the true copy of From No.10 of Sy.No.17/1.

21. I have perused the oral and documentary evidence led by the plaintiffs and defendant. It is the specific contention of plaintiffs that, the plaintiff is in possession of suit property bearing Sy.No.17/1 measuring 3 acres 12 guntas situated at Vitalapur village. In this regard that, I have carefully gone through by evidence of DW-1. DW-1 during the course of cross examination dated 04.02.2025 has admitted that, ದಾವಾ ಆಸ್ತಿಯನ್ನು ಅಳತೆ ಮಾಡುವ ಪೂರ್ವದಲ್ಲಿ ಭೂಮಾಪಕರಿಂದ ನನಗೆ ನೋಟೀಸ್ ಬಂದಿದ್ದು, ಅಳತೆಯ ಕಾಲಕ್ಕೆ ನಾನು ಹಾಜರಿದ್ದೇ, ಆ ಪ್ರಕಾರ ಭೂಮಾಪಕರು ಈಗ ನನಗೆ ತೋರಿಸಿದ ನಿಪಿ.6 ರಂತೆ ನಕ್ಷೆ ನೀಡಿದ್ದರು ಎಂದರೆ ಸರಿ. ಸದರಿ ನಕ್ಷೆಯಲ್ಲಿ ನಾನು ದಾವಾ ಆಸ್ತಿ ಒತ್ತುವರಿ ಮಾಡಿದ್ದೇನೆಂದು ಕಾಣಿಸಿದ್ದೆನೆ ಎಂದರೆ ಸರಿ. In view of



admission given by the defendant, it can be ascertained that, the suit property bearing Sy.No.17/1 measuring at 27 guntas. Encroached by the defendant. Further, in this regard, I have carefully gone through Ex.P.6 is the Sketch Map issued by concerned authority of ADLR Office. It reveals that, in Ex.P.6 ಶರಾ ನಂ.2 ಈ ಗುರ್ತಿನಿಂದ ತೋರಿಸಿದ ಜಾಗೆಯು 0.27 ಗುಂಟೆ ಕ್ಷೇತ್ರವನ್ನು ರಿಸ.ನಂ.17/2ರವರು ಒತ್ತುವರಿ ಮಾಡಿರುತ್ತಾರೆ. In view of the same, over all perused the oral and documentary evidence that, it can be held that, the plaintiff is possession of the suit property as on the date and the defendant have encroached the suit land to extent of 27 guntas for which reasons only cause of action arise for the plaintiff filed present suit. On the contrary, nothing contrary is elicited from the mouth of PW-1 with respect to the defense taken by the defendant. In view of the same. This court is of the opinion that, the plaintiff has successfully established that, the defendant have encroached the suit land. Hence, I



answered **issue No.1 and 2 in affirmative, issue No.3 in negative.**

22. **Issue No.4:** In view of reasons on issue No.1 to 3 plaintiff has successfully established that, he is in lawful possession of suit properties as on the date suit and defendant is entering illegal interference and enjoyment of the plaintiff over suit property. Hence, I answered **issue No.4 in the affirmative.**

23. **Issue No.5:** In view of the reasons discussed above on Issues No.1 to 4, I proceed to pass the following;

ORDER

Suit of the plaintiffs is hereby Decreed with costs.

Defendant, his men's and servants or anybody claiming is hereby permanently restrained from interfering with peaceful possession and enjoyment in suit schedule bearing R.Sy.No.17/1, measuring 03 acres 12 guntas, situated at Vitalapur village, Tq:



Mundargi, Dist: Gadag, by way of perpetual injunction.

Office to draw decree accordingly.

(Dictated to the stenographer directly on the computer, typed by him and corrected by me and then pronounced in the open court on this the 01st day of July, 2026).

(Basavaraj)
Civil Judge and JMFC, Mundargi.

ANNEXURE

List of witnesses for plaintiff/s

PW.1: Fakkirappa S/o Mallappa Talavar

List of documents on behalf of plaintiff/s

Ex.P.1 & 2: RTC extracts
Ex.P.3 : T/c of ME.No.618
Ex.P.4 : T/c of PT sheet
ExP.5 : T/c of map
Ex.P.6 : T/c of PT sheet
Ex.P.7 : T/c of From No.10
Ex.P.8 : T/c of ME.No.439

List of witnesses for of defendant/s

DW-1 : Koteppa S/o Shatteppa Talavar @ Nayak
DW-2 : Sri. Virupaxppa S/o Hucchappa Dollin

LIST OF DOCUMENTS ON BEHALF OF DEFENDANT

Ex.D.1 : RTC extract
Ex.D.2 & 3: T/c of MR.No.495 & 618
Ex.D.4 : T/c of Map
Ex.D.5 to 8: MR.No.21, T16, 27 & 71



Ex.D.9 to 17: Photographs
Ex.D.18 : Map
Ex.D.19 : T/c of ME.No.381
Ex.D.20 : T/c of order sheet
Ex.D.21 : T/c of From No.10

(Basavaraj)
Civil Judge and JMFC, Mundargi.