



IN THE COURT OF THE CIVIL JUDGE AND JMFC, MUNDARGI

**PRESENT:- Sri. Basavaraj.,
BSW., LL.M.,
Civil Judge and JMFC, Mundargi**

Date of Judgment 02nd Day of July, 2026

O.S No.42/2018

PLAINTIFF/S:

1. Tippanna S/o Hanamappa Hyati,
(Since, he is deceased, his LR's)
- 1(a). Shivagangavva W/o Tippanna Hyati,
Age: 65 years, Occ: Agriculture,
R/o: Beluru, Tq: Badami, Dist: Bagalakote.
2. Channappa S/o Hanamappa Hyati,
Age: 67 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
3. Shankrappa S/o Ramappa Hyati,
Age: 53 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
4. Tippanna S/o Balappa Hyati,
Age: 61 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
5. Siddappa S/o Balappa Hyati,
Age: 48 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
6. Basappa S/o Beerappa Hyati,
Age: 65 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
7. Siddappa S/o Beerappa Hyati,
Age: 53 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.



8. Gavishiddappa S/o Shivalingappa Hyati,
Age: 42 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
9. Basavaraj S/o Shivalingappa Hyati,
Age: 38 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
10. Shivappa S/o Shivalingappa Hyati,
Age: 35 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.

(By Sri. M.B.P Advocate)

Versus

DEFENDANT/S:

1. Siddappa S/o Irappa Muralan,
Age: 70 years, Occ: Household,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
2. Ishappa S/o Beerappa Hyati,
Age: 65 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
3. Ramappa S/o Beerappa Hyati,
Age: 60 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
4. Hanamappa S/o Basappa Bakalabbi,
Age: 50 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
5. Devakka W/o Lachamappa Hanaval,
Age: 42 years, Occ: Household,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
6. Devappa S/o Lachamappa Hanaval,
Age: 24 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
7. Praveen S/o Lachamappa Hanaval,
Age: 22 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.



8. Sharanappa S/o Basappa Hanaval(died),
Age: 44 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
- 8(a). Smt. Girijavva W/o Sharanappa Hanaval,
Age: 55 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
- 8(b). Chandrashekhar S/o Sharanappa Hanaval,
Age: 35 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
9. Parasappa S/o Basappa Hanaval,
Age: 42 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
10. Hanamappa S/o Basappa Hanaval,
Age: 40 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
11. Irappa S/o Mahadevappa Hugar,
Age: 70 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
12. Devakka W/o Balappa Kinnarl,
Age: 50 years, Occ: Household,
R/o: Harogeri, Tq: Mundargi, Dist: Gadag.
13. Annapurna W/o Mailarappa Kambali,
Age: 45 years, Occ: Agriculture,
R/o: Tuppadakurahatti,
Tq: Navalagunda, Dist: Gadag.
14. Hanamappa S/o Karyappa Bhajammanavar,
Age: 45 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
15. Hanamappa S/o Yallappa Kurtakoti,
Age: 58 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.



16. Halappa S/o Yallappa Kurtakoti,
Age: 48 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
17. Babusab S/o Allamaprabhu Kammar,
Age: 49 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
18. Nagappa S/o Yallappa Vyapari,
Age: 40 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
19. Halappa S/o Nagappa Hyati,
Age: 36 years, Occ: Agriculture,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
20. Radhabai W/o Krushnamurthi Bindagi,
Age: 61 years, Occ: Agriculture,
R/o: Saraswatapur, Tq/Dist: Dharwad.
21. The PDO Gram Panchayat,
R/o: Petalur, Tq: Mundargi, Dist: Gadag.
22. Executive Engineers,
PWD Department, Mundargi.
23. The District Collectors,
Administrative Office, Gadag.
24. The Deputy Divisional Officers, Gadag,
Deputy Devision, Gadag.
25. The Tahashildar,
Mini Vidhansoudha, Mundargi.

**(D.1 to 19 By Sri. G.M.K Adv,
(D.20 By Sri. S.G.P Adv,
D-21 by Sr. S.K.P. Adv,)
(D.22 to 25 By Sri. A.G.P Adv,
D8(a & b) absent)**



1	Date of Institution of suit	17-04-2018
2	Nature of suit	Declaration & Permanent Injunction
3	Commencement of Evidence	08-07-2025
4	Date of Judgment	02-07-2026
5	Total duration	Years Months Days
		08 02 15

(Basavaraj)
Civil Judge and JMFC,
Mundargi.

:: JUDGMENT ::

This is the suit of plaintiff against the defendants for the relief of declaration and permanent injunction in respect of the suit property.

DESCRIPTION OF THE SUIT PROPERTY

Village	R.Sy.No	Measurement	Akar
Petalur	2/2	02-A 27-G	1-98 Paisa

Bounded by:

Towards East : Venkatapur Road
Towards West : Land of Halappa Hugar
Towards North : Land of Doddahonnappagouda
Radder
Towards South : Road



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

The suit property was granted in the years 1978–79 by the Land Tribunal to the plaintiffs' predecessors by name Hanamappa, Balappa, and Beerappa sons of Shiddappa Hyatti. The total extent granted was 16 acres 28 guntas. Out of this, about 14 acres were donated by the plaintiffs for public purposes such as a school, hospital, Ashraya houses, and the Hal Shivayogishwara Educational Institution. The remaining land constitutes the present suit property, over which the plaintiffs claim ownership and possession as legal heirs.

3. The suit land is adjacent to Pethalur village. With the instigation of the Gram Panchayat, encroachments were made on the property and VPC Nos.134 to 142 were illegally created, resulting in nine separate khatas. Although the Panchayat had no ownership rights over the land, it entered the names of the original owners in one column and the names of occupiers in another, thereby creating false records. The successors of such occupiers are Defendant Nos.1 to 20,



who are now asserting rights over the property and causing interference.

4. Further, the defendants in collusion with Panchayat officials and government authorities, are attempting to construct a public road and unauthorized structures on the suit property. The plaintiffs submitted applications and sought information from the Gram Panchayat on 27.01.2017 and under the Right to Information Act on 28.03.2017, but no response was provided. The plaintiffs also sought survey and boundary fixation of the land on 18.07.2017, but the process was obstructed by the defendants and Panchayat members. A legal notice was issued on 07.11.2017 under Section 289(1) of the Panchayat Raj Act, yet no action was taken.

5. A private survey conducted at the plaintiffs instance revealed encroachment of approximately 1 acre of land. Despite this, the defendants and certain politically motivated persons continued to threaten and harass the plaintiffs, compelling them to file the present



suit to protect their ownership and possession of the property. Hence, this suit.

6. After service of suit summons, Defendant No.1 to 25 appeared through their respective counsels. Though summons were duly served on Defendant No.8(a & b), they failed to appear and were consequently placed ex-parte. Defendant No.17, 20 and 22 have filed their written statement. Defendant No.1 to 3 and 5 to 11 and 15 to 19 filed a memo adopting the written statement of Defendant No.17 and defendant No.23 to 25 filed a memo adopting the written statement of defendant No.22.

7. The defendant No.17 in his written statement has denied the entire averments of plaint. It is further contended that, they submit that the suit property originally belonged to late Indirabai, who had no natural children and had adopted Venkanagouda. After her death, Venkanagouda became the owner of the property by virtue of adoption and succession. Upon his death,



the property devolved upon his family, and ultimately the 20th defendant, being his sole legal heir, became the absolute owner. The Gram Panchayat had formed house sites in the property and allotted them to defendants No1 to 19. The 20th defendant retained Site No. 136 and lawfully sold the remaining sites for family necessities. It is denied that the 20th defendant has encroached upon any land or created any false documents. The plaintiff has no right, title, or interest in the suit property. Therefore, the defendants pray that the suit be dismissed with costs.

8. The defendant No.20 in his written statement has denied the entire averments of plaint. The defendant submits that the suit property, measuring 3 acres 6 guntas, originally belonged to late Indirabai w/o Shripadgouda Aparanji, who was its absolute owner. As she had no children, she adopted the defendant's father, Venkanagouda, who succeeded to the property by virtue of adoption. After his death, the property devolved upon



his wife Ratnabai and, thereafter, upon the defendant, their sole legal heir. During the defendant's minority, her name was entered in the Panchayat records as Sheela d/o Venkanagouda Aparanji. The Gram Panchayat formed house sites bearing Nos. 134 to 142 in the property. After her marriage, the defendant applied to correct her name to Radhabai w/o Krishnamurthy Bindagi, and the correction was made for Site No. 136. She thereafter lawfully sold Site No. 136 under a registered sale deed dated 04-01-2013 for Rs.39,000, and the plaintiff has himself produced a copy of the sale deed. Applications for correction of her name in respect of the remaining sites are still pending before the Gram Panchayat. The defendant denies having encroached upon any land or created any illegal or false records. She asserts that she is the sole legal heir and lawful owner of the property, which devolved upon her father by adoption, and contends that the plaintiff has no right, title, or interest in the suit property. Hence, the suit is liable to be dismissed with costs.



9. The defendant No.22 in his written statement has denied the entire averments of plaint. The defendants contend that the plaintiff's allegations are false and the suit is not maintainable in law. It is submitted that Defendant No.22 has not encroached upon the plaintiff's property. The road in question has been in public use for a long time, and as it had become damaged, CC road construction was undertaken solely in the public interest to facilitate smooth movement of the public. Defendant No.22, being a government servant, has merely discharged official duties and had no intention of causing any loss or damage to the plaintiff's property. It is further alleged that the plaintiff has instituted the suit by creating false facts for personal benefit and to obtain governmental advantages.

10. The defendants further rely upon Section 41 of the Specific Relief Act, which provides that an injunction shall not be granted if it would impede or delay the progress or completion of an infrastructure



project or interfere with the provision of related public facilities or services. Since the present suit seeks to restrain the construction of a public road, no permanent injunction can be granted under the said provision. It is also contended that the suit is barred by limitation and is bad for non-joinder of a necessary party, namely the State of Karnataka, represented by its Chief Secretary. Accordingly, the defendants pray that the suit be dismissed with costs.

11. On the basis of above pleadings, the following issues are framed by my predecessor in office.

:: ISSUES ::

1. Whether the plaintiffs prove their ownership over the suit property?
2. Whether the plaintiffs prove that, they are in possession of suit property?
3. Whether the plaintiffs prove the alleged obstruction by the defendants?
4. Whether the plaintiffs are entitled to the relief sought for?
5. What order or decree?



ADDITIONAL ISSUES

1. Whether the plaintiffs prove that, the defendant No.21 to 25 trying to construct CC Road illegally by encroaching the suit property?
2. whether the plaintiffs prove that, they are entitle for recovery of the encroached suit property from the defendants?
3. Whether defendant No.22 proves that the plaintiffs have not paid proper court fee?

12. The plaintiff No.6 in order to prove his case got examined the himself as PW-1 and marked the documents at Ex.P1 to 41 and closed his side. On the other hand, defendant No.11 got examined himself as DW-1 and marked 4 documents at Ex.D1 to D4. The court commissioner examined has CW1 and marked 9 document at Ex.C1 to 9.

13. Heard the arguments of both side counsels.

14. My findings to the above Issues are as under;

Issue No.1:	Negative
Issue No.2:	Negative
Issue No.3:	Negative



Issue No.4: Negative
Addl Issue No.1: Negative
Addl Issue No.2: Negative
Addl Issue No.3: Negative
Issue No.5: As per Final order
for the following:

:: REASONS ::

15. **Issues No.1 to 3 & Add Issue No.2:** These Issues are inter-connected with each other and they are taken together for common discussion to avoid repetition of facts.

16. It is the case of plaintiff that, suit property is the ancestral property of plaintiff previously standing in the name of the father of plaintiff by name Basangouda S/o Nimbanna Kodandi, after his death, plaintiff became the owner and possessor of suit land, plaintiff went to Bangalore since 4-5 years back for his livelihood, thereby the suit land became without cultivation, defendants colluded with each other with Gram Panchayat authority, without any construction permission or without converting the suit land in to NA, defendants have illegally got constructed the houses in the suit land. The plaintiff No.6 in order to prove his



case got examined the himself as PW-1 and marked the documents at Ex.P1 & 41. PW1 has reiterated the plaint averments in his chief examination. Ex.P1 to 5 are the true copy of Mutation No.818, 838, 839, 927 and 1132, Ex.P.6 to 12 are the hand written and computerized ROR. Ex.P.13 is the true copy of sale deed, Ex.P.14 and 15 are the letter to PDO, Petalur, Ex.P.16 is the Legal notice, Ex.P.17 is the letter, Ex.P.18 is the hand sketch map, Ex.P.19 to 27 are the Khata extracts, Ex.P.28 is the notice, Ex.P.29 to 32 are the postal receipts, Ex.P.33 to 36 and 38 to 41 are the postal acknowledgments, Ex.P.37 is the letter.

17. The defendant No.17, 20, 22 in their written statement have denied the entire averments of plaint. It is further contended that, the suit property originally belonged to late Indirabai who had no children and adopted one Venkanagouda. After her death Venkanagouda become a owner of the suit property by virtue of adoption and succession upon his death the



property devolved in his family and ultimately the defendant No.20 being his sole legal heir become the defendant No.20 is absolute owner. The Gram panchayath has formed house sites in the suit property and allotted them to the defendant No.1 to 19. The defendant No.20 is sold site No.36 and remaining sites for her family necessity. Further defendant No.20 is contended that, the suit property had measuring 3 acres 6 guntas belonged to Indirabai, she had no children she adopted her father Venkanagouda. After his death the property devolved upon his wife Padmabai and defendant No.20. The plaintiffs are no rights title interest over the suit schedule property. Further defendant No.22 contend that, the CC road constructed undertaken in the public interest to facilitate smooth movement of the public. Further they are merely discharged official duties and had no intention of causing any loss and damages to the suit property. The plaintiffs are instituted the suit by creating false facts for personal benefit. Hence, prayed to dismiss the suit.



18. In order to rebut the case of plaintiffs, the defendant No.11 got examined himself as DW-1 and marked four documents at Ex.D1 to D4, Ex.D1 is the RTC Extract, ExD2 is VPC Extract bearing No.134, 137, 138, 141, 142, 453, 266, Ex.D3 is the Mutation extraction bearing No.838, 839, 1132, Ex.D4 is the 2 Tax paid receipts.

19. I have perused the oral and documentary evidence led by the plaintiffs. It is the specific contention of plaintiffs that they are the owner in possession of suit property as on the date of suit. But the plaintiffs are not produced any single iota of documents to show that, the defendants are encroached the suit property, the plaintiff No.6 being examined has PW-1 has deposed in his cross examination that, ದಾವಖಾನೆಗೆ ಆಶ್ರಯ ಯೋಜನೆಗೆ ಹಾಗೂ ಹಾಲಶಿವಯೋಗೇಶ್ವರ ಶಾಲೆಗೆ ನೀಡಿದ ಆಸ್ತಿ, ಅಪರಂಜಿ ಮನೆತನಕ್ಕೆ ಸೇರಿದ ಆಸ್ತಿ ಎಂದರೆ ನಿಜ. ಆಶ್ರಯ ಯೋಜನೆಯ ಅಡಿ ಸುಮಾರು 200 ಮನೆಗಳನ್ನು ದಾನ ಕೊಟ್ಟ ಆಸ್ತಿಯಲ್ಲಿ ಕಟ್ಟಲಾಗಿದೆ. ಸುಮಾರು 8-10 ವರ್ಷಗಳಿಂದ ಸದರಿ ಮನೆಗಳನ್ನು ದಾನ ಕೊಟ್ಟ ಆಸ್ತಿಯಲ್ಲಿ ಕಟ್ಟಲಾಗಿದೆ. Further, PW-1 has deposed that, ನಮ್ಮ ಜಮೀನು 2 ಎಕರೆ 27



ಗುಂಟೆ ಕ್ಷೇತ್ರವನ್ನು ಭೂಮಾಪಕರಿಂದ ಆಳತೆ ಮಾಡಿಸಿರುತ್ತೇವೆ
ಭೂಮಾಪನಾಧಿಕಾರಿಗಳು ನಮ್ಮ ಜಮೀನಿನ ಪೈಕಿ ಎಷ್ಟು ಕ್ಷೇತ್ರವನ್ನು
ಪ್ರತಿವಾದಿಯರು ಅತೀಕ್ರಮಣ ಮಾಡಿರುತ್ತಾರೆಂದು ತೋರಿಸಿರುವುದಿಲ್ಲ

Further, there is suggestion that, 1 ರಿಂದ 19 ನೇ
ಪ್ರತಿವಾದಿಯರ ಮನೆಗಳನ್ನು ವಿ.ಪಿ.ಸಿ ನಂಬರ್‌ಗಳನ್ನು ನನಗೆ ಹೇಳಲು
ಆಗುವುದಿಲ್ಲ. Such, being so it reveals that, plaintiffs are
not at all in possession of such property as on the date
of suit. It is further, pertinent not that PW-1 during the
course of cross examination that, has deposed that,
ದಾವಾ ಆಸ್ತಿಗು ಹಾಗೂ 1 ರಿಂದ 19 ನೇ ಪ್ರತಿವಾದಿಯರಿಗೆ ಯಾವುದೇ ಸಂಬಂಧ
ಇಲ್ಲ ಎಂದರೆ ಸರಿ ಅಲ್ಲ. Further, the examined as P.W.1 is
formal in nature and he has deposed about performance
is duty. Which reveals that, plaintiffs are not in
possession suit property as on the date of suit nor they
are the owner. Overall perusal of the documents on
record, plaintiffs have failed to established their case.
Further, the oral evidence of PW-1 itself is fatal to the
case of plaintiffs for the reasons stated supra. Hence, I



answer issues No.1 to 3 and Additional Issue No.2 in Negative.

20. **Additional Issue No.1:** The plaintiffs are taken specific contention that, the defendant No.21 to 25 are trying construct the CC road illegal in the suit property. It is pertinent note that, PW-1 in his cross examination has deposed that, ಪ್ರತಿವಾದಿ ನಂ.22 ರಿಂದ 25ರವರು ಸರ್ಕಾರದ ಆದೇಶ ಮತ್ತು ನಿಯಮದನ್ವಯ ಕೆಲಸ ಮಾಡುತ್ತಾರೆಂದು ಎಂದರೆ ಸರಿ. ಸದರಿಯವರಿಗೆ ದಾವೆಯಲ್ಲಿ ವಯಕ್ತಿಕ ಹಿತಸಕ್ತಿ ಇಲ್ಲ ಎಂದರೆ ಸರಿ. Which reveals that, the defendant No.22 to 25 being a government servant merely discharged official duties and who had no intention of suit property. It can not be ascertained that, the defendant No.21 to 25 are illegally constructed CC road in over the suit property. Hence, **I answer Additional issue No.1 Negative.**

21. **Additional Issue No.3:** The defendant No.22 has taken, specific contention that, the court fee paid by the plaintiffs is in correct. The defendant No.23 except the over contention in their written statement, has not



produced any document to show that, the court fee paid by the plaintiff is in correct. Hence, **I answer Addl Issue No.3 negative.**

22. Issue No.4: In view of reasons on issues No.1 to 3, Additional No.1 and 2, plaintiffs are failed to prove their case for which reason, plaintiffs are not entitled for any reasons as sought for. Hence, **I answer issue No.4 in Negative.**

23. Issue No.5: In view of the reasons discussed above on Issues No.1 to 4 and Addl Issue No.1 to 3, I proceed to pass the following;

:: ORDER ::

Suit of the plaintiffs is hereby dismissed with costs.

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 02th day of July 2026).

**(Basavaraj)
Civil Judge and JMFC,
Mundargi.**

**ANNEXURE****LIST OF WITNESSES FOR PLAINTIFF**

PW-1 : Basappa S/o Beerappa Hyati,

LIST OF DOCUMENTS ON BEHALF OF PLAINTIFF

Ex.P1 to 5 : Mutation Extracts

Ex.P6 to 12 : Hand written and computerized ROR

Ex.P13 : True copy of sale deed

Ex.P14 & 15: Letter to PDO, Petalur

Ex.P16 : Legal notice

Ex.P17 : Letter

Ex.P18 : Hand sketch map

Ex.P19 to 27: Khata extracts

Ex.P.28 : Notice

Ex.P29 to 32 : Postal receipts

Ex.P33 to 36 & 38 to 41 : postal acknowledgments,

Ex.P.37 : Letter.

LIST OF WITNESSES FOR OF DEFENDANT

DW-1 : Irappa S/o Mahadevappa Hugar

LIST OF DOCUMENTS ON BEHALF OF DEFENDANT

Ex.D1 : RTC Extract

Ex.D2 : VPC Extract

Ex.D3 : Mutation extraction

Ex.D4 : 2 Tax paid receipts.

LIST OF WITNESSES FOR OF COURT COMMISSIONER

CW-1 : B.S.Dhopad

LIST OF DOCUMENTS ON BEHALF OF COURT COMMISSIONER

Ex.C1 : Notice Copy

Ex.C2 : Memo instruction by plaintiff

Ex.C3 : Memo instruction by defendant

Ex.C4 : Notice copies of both parties & Counsels



- Ex.C5 : Statement of panchas
- Ex.C6 : 30 Postal receipts
- Ex.C7 : Map
- Ex.C8 : 17 postal acknowledgments
- Ex.C9 : Return of postal cover
- Ex.C9a : Copy of notice in postal cover

(BASAVARAJ)
Civil Judge and J.M.F.C,
Mundargi.