

KAHS600007172019



Presented on : 22-07-2019

Registered on : 23-07-2019

Decided on : 18-08-2026

Duration : 07 years, 00 months, 26 days

**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE
& JMFC, CHANNARAYAPATNA**

PRESENT: H.K.NAVEEN

L.L.B., L.L.M.,

**PRINCIPAL SENIOR CIVIL JUDGE
CHANNARAYAPATNA**

DATED ON THIS 18th DAY OF AUGUST 2026

O.S.No.73/2019

PLAINTIFF/s : 1. Smt.Sannamma,
W/o late Govindgowda,
Aged about 80 years,

2. Sri.Vishwanatha,
S/o late Govindgowda,
Aged about 46 years,

3. Sri.Umesh,
S/o late Govindgowda,
Aged about 44 years,

4. Sri.Prabhakar,
S/o late Govindgowda,
Aged about 42 years,

5. Sri.Purushotham,
S/o late Govindgowda,
Aged about 40 years,

6. Smt.Jayamma,
D/o late Govindgowda,
W/o Rangegowda, 50 years,
7. Smt.Lakshamma,
D/o late Govindgowda,
W/o Shivananjegowda, 48 years,
8. Smt.Kamamma,
W/o late Venkatesgowda, 40 years,

All are R/o Gollarahosahalli Village,
Kasaba Hobli,
Channarayapatna Taluk,
Hassan District.

(By Sri.C.S.D., - Adv.,)

V/s

- DEFENDANT/s : 1. Sri.Manjegowda,
S/o Nanjegowda, 58 years,
2. Sri.Suresh,
S/o Manjegowda,
Aged about 26 years,

Both are R/o Gollarahosahalli Village,
Kasaba Hobli
Channarayapatna Taluk,
Hassan District.

(By Sri.D.R.N/N.S.S., - Adv.,)

Date of institution of suit : 22.07.2019

Nature of suit : Declaration and Injunction

Date of commencement of : 09.02.2021
recording evidence

Date of pronouncement of judgment : 18.08.2026

Total duration : Year/s Month/s Day/s
07 00 26

(H.K.NAVEEN)

Prl.Senior Civil Judge and JMFC
Channarayapatna

JUDGMENT

The plaintiffs have filed the suit against the defendants for the relief of declaration of the ownership and injunction and alternative relief of possession.

2) The brief facts of the plaintiff's case as follows:-

The suit schedule property originally belongs to ancestor of the plaintiff by name Byregowda S/o Chunchegowda, The said Byregowda has sold the suit property through the registered sale deed dated 09.10.1985 to the husband of the plaintiff No.1 by name Govindgowda. The said Govindgowda had died 6 years back. Thereafter the plaintiffs are succeeded the suit schedule property and they become the absolute owner in possession. The defendant No.1 is brother's son of Govindgowda. From the date of purchase Khatha is not changed in the name of Govindgowda, but it is continued in the name of Byregowda. The plaintiffs have filed the application before revenue authority to change the Khatha. The defendants have filed objection to change the Khatha, the

revenue proceedings is pending before the Assistant Commissioner. The defendant No.2 is son of Byregowda and his claiming the property on the basis of alleged Will and tried to obstructing the suit property. The defendant No.2 is not legal heir of Byregowda and said Byregowda has not executed any Will during his lifetime. The defendants are obstructing the possession of the suit schedule property. Therefore, the plaintiff has filed the suit for declaration and injunction. In case it finds that the defendants are in possession of the suit property and it is prayed to pass suitable order for delivery of the possession.

3) The defendants appeared through their Advocate and filed written statement. The suit schedule property originally belongs to Byregowda S/o Chunchegowda. During the lifetime of Byregowda, he has filed a suit for partition and separate possession in O.S.No.13/1986 filed on the Munciff Court at Channarayapatna. The court has decreed the suit on 27.07.1993 and said Byregowda was entitled 1/4th share in the joint family properties. Thereafter the said Byregowda has filed a Final Decree Proceedings in FDP.2/2001. During the pendency of the case on 28.05.2003 the said Byregowda has died. Before passing final decree on 09.02.1999, the said Byregowda has executed a Will in favour of 2nd defendant who is foster son and bequeathed the property which are acquired under FDP.2/2001. From the date of death of Byregowda the defendant No.2 is in possession and enjoyment of the suit

schedule property. The civil proceedings and execution of Will by Byregowda is very well aware to the Govindegowda. After attaining the majority, the defendant No.2 has filed a final decree proceedings in FDP.11/2015 filed on Civil Judge (Jr.Dn.), Channarayapatna. He also filed a suit for declaration of ownership on the basis of Will in O.S.No.119/2026. In that suit this suit property is also one of the item No.3 property. This suit property is also subject matter of FDP proceedings. The defendants are continued in possession of the period of 35 years in the suit schedule property and he has perfected his title by way of adverse possession. The plaintiff has not filed any suit for cancellation of Will. The plaintiffs have no right, title, interest over the suit schedule property. The other contents and averments of the plaint is specifically denied. By these reasons, it is prayed to dismiss the suit.

4) Based on the rival pleadings, this court has framed the following issues :

ISSUES

- 1. Whether the plaintiffs prove that they are the absolute owner of the suit schedule property ?*
- 2. Whether the plaintiffs prove that they are in possession and enjoyment of the suit schedule property as contended in their plaint ?*
- 3. Whether the defendants prove that they have perfected their title over the suit property by way of adverse possession as contended in their written statement ?*

4. *Whether the defendants prove that they have acquired the suit property under the registered Will dated 09.02.1999 ?*
5. *Whether the plaintiffs are entitle for the relief sought for ?*
6. *What order or decree ?*

ADDITIONAL ISSUES

1. Whether plaintiffs are entitled for possession as sought for ?
2. Whether the suit is barred by limitation ?

5) In order to prove the case of plaintiffs, the plaintiff No.5 examined himself as PW1 and got marked 11 documents as ExP.1 to ExP.11 and got marked ExD.1 to ExD.4 during his cross examination. Per contra the defendants to prove their defence got examined defendant No.2 as DW-1 and got marked 26 documents as ExD.5 to ExD.30 and examined two other witnesses as DW-2 and DW-3.

6) Heard the arguments from both sides and perused the records in detail.

7) My 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 : In the Negative

Additional Issue No.1 : In the Negative

Additional Issue No.2 : In the Negative

Issue No.6 : As per final order,
for the following:

-.REASONS:-

8) **Issue No.1 and 2:** Both the issues are inter connected with each other. In order to avoid repetition of the facts, both the issues are taken together for common discussion.

9) The plaintiffs have filed the suit against the defendants for declaration and injunction. The plaintiffs specifically pleaded that, the husband of plaintiff No.1 by name Govindgowda has purchased the suit schedule property from Byregowda S/o Chunchegowda through the registered sale deed dated 09.10.1985. On the other hand, the defendants have taken specific contention that the original owner Byregowda had filed a suit in O.S.No.13/1986 and he was entitled 1/4th share in the suit schedule property and during the pendency of the FDP proceedings, he has executed a Will in favour of defendant No.2 and bequeathed his share. On perusal of the pleadings of both side, the plaintiffs are claiming the suit schedule property on the basis of sale deed dated 09.10.1985 and defendants are claiming through the Will dated 09.02.1999. In such circumstances, the burden of proof lies on the plaintiffs to prove the title and ownership over the suit schedule property.

10) In support of the plaintiffs contention, the plaintiff has produced 12 documents which are marked as ExP.1 to ExP.12. ExP.1 is certified copy of the sale deed dated 09.10.1985, ExP.2 is notice issued by the Tahsildar. ExP.3 is certified copy of the order in R.A.15/2004-05. ExP.4 is letter of Assistant Commissioner. ExP.5 is order of Tahsildar. ExP.6 is endorsement issued by the Assistant Commissioner. ExP.7 is notice issued by the Tahsildar. ExP.8 is notice issued by the Deputy Commissioner. ExP.9 is endorsement. ExP.10 is certified copy of the mutation register and ExP.11 is Form No.21.

11) The defendants specifically taken the contention that the original owner of the suit schedule property Byregowda was filed the suit in O.S.No.508/1989 before the Munciff Court, Channarayapatna for partition and separate possession. The suit schedule property of this case is one of the suit schedule property in O.S.No.508/89. The defendant has produced certified copy of the judgment and decree in O.S.No.508/1989. In that suit there were 5 suit schedule property for partition. The suit schedule property bearing Sy.No.8 measuring 6 acre 25 guntas was subject matter of the suit in O.S.No.508/1989. As per the judgment and decree dated 27.07.1993, the suit was decreed. Now the question arise that whether Byregowda had absolute title to sell the property on 09.10.1985. It is clear that before filing the suit he has executed registered sale deed in favour of

Govindgowda in respect of part of Sy.No.8 without proper title and ownership.

12) The suit schedule property bearing Sy.No.8 was originally measuring 6 acre 25 guntas. That property was one of the suit property in O.S.No.508/1989. Byregowda has filed the suit against his family members for partition and separate possession. The said suit was decreed on 27.07.1993. In the said suit the Byregowda sought the relief of 1/4th share in all the suit schedule properties. As per the judgment and decree dated 27.07.1993 the deceased Byregowda was entitled 1/4th share in all the suit schedule properties including Sy.No.8 measuring 6 acres 25 guntas. After preliminary decree, the said Byregowda has filed a final decree proceedings for dividing the shares and the said proceeding was not completed before his death. Admittedly unsuccessful defendants in O.S.No.508/1989 have not preferred any appeal against the judgment and decree in O.S.No.508/1989. Therefore, the judgment and decree in O.S.No.508/1989 is attained the finality. In view of the judgment and decree in O.S.No.508/1989, the deceased Byregowda was only suppose to entitle 1/4th share in the properties shown in the plaint including the Sy.No.8.

13) The plaintiffs claiming the ownership over the suit schedule property bearing Sy.No.8 measuring 2 acres 7 guntas. The plaintiff has produced certified copy of the sale

deed which is marked as ExP.1. Admittedly the sale deed was executed by Byregowda on 09.10.1985 after the judgment and decree in O.S.No.508/1989 dated 27.07.1993. There is no specific averments or recital in the sale deed about his share. As on the date of execution of the sale deed dated 09.10.1985, the said Byregowda was not having exclusive title and ownership over the property bearing Sy.No.8. The Byregowda was entitled 1/4th share in Sy.No.8 is only and he had right to execute sale deed upto his share only, but he has executed sale deed to the extent of 2 acres 7 guntas and it is not properly mentioned about his share and how he has acquired the title over Sy.No.8 measuring 2 acre 7 guntas. As on the date of 09.10.1985 the property bearing Sy.No.8 was not properly divided by metes and bounds as per the judgment and decree.

14) It is well settled principle that mere execution of the sale deed and registration before competent authority is not sufficient, the seller must have valid salable title over the said property. As on the date of the sale deed, Byregowda was not having absolute title and ownership over the property measuring 2.7 acres in Sy.No.8. Therefore, sale deed executed without valid title and ownership is not valid in the eye of law. The said sale deed is not confirmed any title and ownership on the basis of invalid sale deed, ownership, right, title and interest is not transferred to Govindegowda. More over still the FDP proceedings on O.S.No.508/1989 is not concluded.

There is no specific evidence from both side to prove that court commissioner was appointed in FDP proceedings either filed by the Byregowda or defendant No.2 to divide the shares as per the preliminary decree in O.S.No.508/1989. The def No.2 has filed petition for Final Decree proceedings on the basis of the Will and same is not completed. Unless and until Final Decree was drawn and shares was properly allotted on the basis of court commissioner report, it will not confirm the ownership and title to the sharer. Therefore, the original title, ownership was not legally transferred to Byregowda and Byregowda was not having valid right, title and interest to transfer the suit schedule property to Govindegowda through the invalid sale deed. On the basis of invalid sale deed, the legal heirs of Govidegowda are not become the absolute owners of the suit schedule property.

15) In support of the documentary evidence, the plaintiff No.5 examined himself as PW-1 and reiterated the plaint averments. He has identified all the documents produced before the court. In order to prove the title of the suit property, the oral evidence of PW-1 is not much helpful. In the cross examination the PW-1 admits the application filed before the revenue authority. That document is marked as ExP.4. On perusal of the ExP.4, it is very clear that the PW-1 has given the application before the revenue authority and request to change the Khatha in his name on the basis of sale deed and also requested to deliver the possession. The

plaintiff has preferred an appeal before the Assistant Commissioner, Hassan against the order of Tahsildar. The Assistant Commissioner has issued notice to both side and also issued notice to Tahsildar to submit the report about possession of the property. The Tahsildar has submitted the report stating that the family members of late Byregowda are in possession of the suit schedule property. This fact is clearly revealed from ExD.10 to ExD.16. All these documents and oral evidence of the parties clearly reveals that the possession of the suit schedule property was not delivered to the late Govindgowda without complete the FDP proceedings. Therefore, the plaintiff has failed to prove that they are in peaceful possession and enjoyment of the suit schedule property as on the date of filing the suit.

16) The plaintiffs also examined one Jayaramu as PW-2 and deposed in support of plaintiff contention. The Advocate for the defendants also denied the possession over the suit schedule property in his cross examination. The oral evidence of the PW-2 is not helpful to plaintiff to prove the title, ownership and possession.

17) In support of the defendants contention, defendant No.2 examined himself as DW-1 and reiterated the written statement averments. He has identified all the documents as ExD.1 to ExD.22. In the cross examination it is specifically denied the execution of the Will by Byregowda and plaintiffs

are continued in possession over the suit schedule property. He has denied all the suggestions.

18) The defendants examined adjoining land holders of the suit schedule property as DW-2 and DW-3. They have deposed that defendants are in peaceful possession and enjoyment of the suit schedule property. The defendants also produced photographs.

19) On considering the entire oral and documentary evidence it is clear that the plaintiffs are not in possession over the suit schedule property on the basis of alleged sale deed. There is no specific evidence or materials to prove that Byregowda has delivered the possession of the suit schedule property to the late Govindgowda. More over the plaintiffs are not examined any adjoining land holders to prove the possession. The Byregowda was alone not absolute owner to execute the registered sale deed in favour of Govindgowda in respect of property bearing Sy.No.8 measuring 2 acres 7 guntas. On the basis of invalid sale deed, ownership and title is not transferred in the name of Govindgowda. Therefore, Govidegowda has not acquired any valid title over the suit schedule property. On the basis of invalid sale deed, the legal heirs of Govindgowda also not having any title and ownership over the suit schedule property. Therefore, the plaintiffs have utterly failed to prove the title and ownership over the suit schedule property on the basis of sale deed

dated 09.10.1985. Therefore, my answer to **Issue No.1 and 2 in the Negative.**

20) **Issue No.4:-** The defendants taken the contention that the Byregowda had filed a suit against his brother for partition and separate possession in O.S.No.13/1986 which was renumbered as O.S.No.508/1989. The said suit was decreed on 27.07.1993 and said Byregowda was entitled 1/4th share by metes and bounds. The said Byregowda has filed FDP proceedings in FDP.2/2001. During the pendency of the proceedings, the said Byregowda has executed a Will dated 09.02.1999 in favour of 2nd defendant who is the Foster son and bequeathed his share to him with the consent of his wife. On the basis of the Will, the defendant No.2 has filed petition in FDP.11/2015 and 19/2016 filed on Senior Civil Judge, Channarayapatna.

21) In support of the defendants contention, the defendants have produced 30 documents which are marked as ExD.1 to ExD.30. ExD.5 and ExD.6 are judgment and decree in O.S.No.508/1989 and ExD.7 is certified copy of the Will dated 09.02.1999.

22) The defendants have produced certified copy of the Will dated 09.02.1999. The defendant No.2 is claiming the ownership and possession through the Will executed by Byregowda on the basis of judgment and decree in

O.S.No.119/2016. Mere production of the Will is not sufficient to prove the execution. He has to prove in accordance with law as per Sec.67 of Bharathiya Sakshya Adhiniyam. In this regard it is necessary to refer the judgment reported in **ILR 2018 KAR 2115 (S.T.Surappa and another V/s Sri Satchidhanandendra Saraswathi Swamiji Public Charitable Trust and others)** wherein the Hon'ble High Court of Karnataka has held that,

INDIAN SUCCESSION ACT, 1925 — SECTION 2(h) — Will — Proof of — Legal requirements — Duty of the Court — Five steps to be considered — HELD, Under the Act, the Will to be valid, should be reduced into writing, signed by the testator and shall be attested by two or more witnesses and at least one attesting witnesses shall be examined. If these legal requirements are not found, in the eye of law there is no Will at all. Therefore, the first step is that if the documents produced before the Court prima facie do not satisfy these legal requirements, the Court need not make any further enquiry, in so far as its due execution is concerned and can negative a claim based on the said document — FURTHER HELD, The second step is that when the legal heirs are disinherited, the Court has to scrutinize the evidence with greater degree of care than usual — The third step would be to find out whether the testator was in a sound state of mind at the terms of executing the Will — The fourth step would be to find out whether there exists any suspicious circumstances surrounding the execution of the Will — The fifth step is to consider whether the Will that is executing is in accordance with Section 63 of the Act read with Section 68 of the Evidence Act.

23) The principle of the above case is aptly applicable to this case. As per the principle laid down in the above judgment, the Will to be valid, should be reduced into writing, signed by the testator and shall be attested by two or more witnesses and at least one attesting witness shall be examined. If these legal requirements are not found in the eye of law, there will be no Will at all. In this case, the defendants have produced certified copy of the Will which is marked as ExD.7. The defendants have not examined anyone of the attesting witnesses of the Will. Therefore, the defendant No.2 has failed to prove the basic concept of the Will. Therefore, the court need not make any further enquiry in so far as its execution and suspicious surrounding the execution of Will. Therefore, the defendants have failed to prove the execution of the Will in accordance with Sec.63 of Indian Succession Act R/w Sec.67 of Bharathiya Sakshya Adhiniyama. Therefore, the defendant No.2 has failed to prove that he the absolute owner in possession over the suit schedule property on the basis of the Will. Hence, my answer to **Issue No.4 in the Negative.**

24) **Issue No.3:-** The defendant has taken specific contention that, they are in continued possession over the suit schedule property since 35 years and their possession is perfected by way of adverse possession. It is well settled principle that, if the defendant claiming the adverse possession against the person, he must admit the title of the

opposite party. In this case the defendant is claiming the ownership over the suit schedule property on the basis of Will. On the other hand the plaintiffs are claiming over the suit schedule property on the basis of the sale deed. Plaintiffs failed to prove the ownership and title over the suit schedule property on the basis of the sale deed dated 09.10.1985. At the same time the defendants also failed to establish the proof of the Will dated 09.02.1999. In such circumstances, the discussion on adverse possession does not arise. More over the defendants cannot take hot and cold in the same time. He has to stick on his own pleadings. Therefore, the defendants have failed to prove the adverse possession against the plaintiff. Hence, my answer to **Issue No.3 in the Negative.**

25) **Issue No.5 and Additional Issue No.1:-** The plaintiffs have filed the suit against the defendants for declaration of ownership and injunction. Alternatively he also sought the relief of possession in case court find that he is not in possession. The plaintiffs have failed to prove the title, ownership and possession over the suit schedule property. At the same time the defendants also failed to prove the Issue No.3 and 4. The plaintiffs are seeking alternative relief of possession. It is well settled principle that, the plaintiff has to prove the title and ownership over the suit schedule property, then he can entitle the possession if he is not in possession. In this case the plaintiffs have failed to establish title and ownership over the suit schedule property. On the other

hand, the defendant also failed to prove the title and possession over the suit schedule property on the basis of Will. The Final Decree Proceedings on the basis of O.S.No.508/1989 is not completed and delivered the possession as per the preliminary decree to the sharer. Unless and until the clear demarcation of the suit properties in O.S.No.508/1989, the defendant No.2 or any sharer cannot claim ownership and possession over the suit schedule property. In such circumstances, the plaintiffs are not entitled relief of injunction or relief of possession. Therefore, my answer to **Issue No.5 and Additional Issue No.1 is in Negative.**

26) **Additional Issue No.2 :-** The defendants have taken the contention that the suit is barred by limitation. The plaintiffs have filed the suit against the defendants for declaration of ownership and permanent injunction. They have sought the relief on the basis of the registered sale deed. The plaintiffs have specifically pleaded in the plaint that when the defendants have denied the title and interfering with the possession, then plaintiffs have filed the suit for declaration and ownership and injunction. Admittedly, the plaintiffs are not parties in O.S.No.508/1989 and FDP.No.11/2015. Therefore, the contention of the defendants is not acceptable.

27) The Advocate for the plaintiffs has relied upon following judgments;

i) **AIR 1984 Karnataka 153 (H.K.Dasappa Setty and others, V/s K.N.Tammanna Gowda and another), *Limitation Act (36 of 1963), Article 113 – Limitation for suit for declaration of title – Plaintiff can file suit when he feels that title is jeopardized and his title subsists.***

ii) **2025 (3) KCCR 2276 (M.V.Manjunatha and another V/s M.Muniswamy and others), *Right to Sue – When does it accrue – Limitation Act – Discussed with reference to case law.***

iii) **AIR 2018 SC 4857 (Ghewarchand and others V/s M/s. Mahendra Singh and others), *Limitation Act (36 of 1963), Art.65 – Limitation – Suit for declaration, permanent injunction and possession – Suit filed within 12 years from date of accrual of cause of action regarding adverse possession – Suit would be governed by Art.65 – Order of High Court dismissing suit on ground that suit was filed for declaration and injunction only, therefore governed by period of 3 years limitation, erroneous and set aside.***

iv) **AIR 2019 SC 3113 (Sopanrao and another V/s Syed Mehmood and others), *Limitation Act (36 of 1963), Arts.65, 58 – Specific Relief Act (47 of 1963), S.34 – Suit for declaration of title and possession – Limitation – For filing suit for possession on basis of title is twelve years***

– Main relief in suit is possession – Though limitation period for filing suit for declaration is three years – Merely because one of the reliefs being declaration would not mean that outer limit of twelve years is lost – Possession of defendants over suit property became adverse to plaintiffs in year 1978- suit file in year 1987, not barred by limitation.

v) 2016(2) KCCR 1341 (Adbulla Siddiq and another V/s U.F.M. Uday), Limitation Act, 1963 – Article 65 – Suit for declaration and possession – Limitation is twelve years – Article 58 not applicable.

vi) AIR 2019 SC 3827 (Ravinder Kaur Grewal and others V/s Manjit Kaur and others), Limitation Act (36 of 1963), Arts. 64, 65, 27 – Adverse possession – Suit for declaration of title and for restoration of possession – Person perfecting title by virtue of adverse possession can maintain suit u/Art.65.

vii) AIR 2023 SC 3637 (Yogendra Prasad Singh (Dead) Through LRs V/s Ram Bachan Devi and others), Declaration of title and possession – Suit for – Recitals in sale deed showed that entire right, title nad interest of defendant in suit property was transferred to plaintiff – unilateral cancellation deed was not binding on plaintiff as he was not a consenting party – Since first defendant would not transferable title, second defendant

would not get any right by virtue of gift deed – there was no counter claim made by first or second defendant for alleged unpaid consideration – Ownership of plaintiff was proved – Suit was required to be decreed in favour of plaintiff.

viii) 2010(2) KCCR 1207 (Smt.Nagarathnamma and another V/s Smt.Halamma alias Sanna Halamma), *Evidence Act, 1872 – Section 41 – Relevancy of judgments – Proof of earlier decision in late proceeding – Held, a judgment in Personam not inter parties are not at all admissible in evidence.*

ix) AIR 2020 SC 3310 (Dahiben V/s Arvindbhai Kalyanji Bhanusali (Gajra)(D) Thr LRs and other, Civil P.C. (5 of 1908), O.7, R.11(a),(d) – Limitation Act (36 of 1963), Arts. 58, 59 – Transfer of Property Act (4 of 1882), S.54 – Rejection of plaint – Limitation – Suit for cancellation of sale deed on ground of alleged non-payment of part of sale consideration – Recitals in sale deed regarding receiving entire payment of consideration – Non-payment of sale consideration cannot be ground for cancellation of sale deed because of availability of other remedies for recovery of balance consideration – Plaintiff remaining silent for period of over 5 and ½ years without even issuing legal notice for payment of unpaid sale consideration, or instituting any proceeding for recovery of amount.

x) **AIR 2025 KAR 111 (Maruti Siddappa Kalal V/s Manjunath Mailarappa Mali), *Transfer of Property Act (4 of 1882), S.54 – Sale deed – Title to property – In event, sale consideration is not paid, recourse open to vendor is to sue for recovery of sale price – Title of property conveyed under sale deed is in no manner impaired or affected – Vendee would be absolute owner of suit property.***

xi) **2018(3) KCCR 2175 (Shri Bharatesh Balasaheb Kuppanatte and another V/s Shri Noorbabasab Peeraso Mantoorkar since dead by LRs), *Specific Relief Act, 1963 – Sections 34 and 38 – When admitted by the defendant is in possession of property, a suit for declaration and mandatory injunction without seeking relief of possession is not maintainable.***

xii) **2009(1) KCCR 670 (Boramma V/s Srinivasa and others), *Specific Relief Act, 1963 – Section 34 – Karnataka Land Revenue Act, 1964 – Section 126 – Limitation Act, 1963 – Article 65 – Declaration of title – Revenue Entries – Relevant of – Held, entries in revenue record of papers cannot form basis for declaration of title, mutation of name in the revenue records does not create or extinguish the title or has any presumptive value on title. It only entitles the person concerned to pay the land revenue.***

28) The Advocate for the defendants has relied upon following judgments;

i) **2025 SCC online SC 1961 (Shanti Devi V/s Jagan Devi and others)**

ii) **2025 SCC online SC762 (R.Nagaraj (Dead) through LRs and another V/s Rajmani and others)**

29) The principles laid down in the above judgments is respectfully admitted. The plaintiffs have filed the suit against the defendants for declaration of ownership, permanent injunction and possession. The plaintiffs have filed the suit well within time and suit is maintainable. The defendants have failed to prove their contention. In view of the principles laid down in the above judgments, the suit is not barred by limitation. Hence, my answer to **Additional Issue No.2 in the Negative.**

30) **Issue No.6:-** In view of the above discussion, I proceed to pass the following order;

ORDER

The suit filed by the plaintiffs against the defendants is dismissed.

The parties shall bear their own cost.

Draw decree accordingly.

(Dictated to the stenographer, transcribed and typed by her, corrected and then pronounced by me in the open court on this 18th day of August 2026)

(H.K.NAVEEN)

Prl.Senior Civil Judge and JMFC
Channarayapatna

ANNEXURE**1. Witnesses examined on behalf of Plaintiff:**

- PW-1 : Sri.Purushotham S/o Govindgowda
PW-2 : Sri.Jayaramu G.B S/o G.B.Boregowda

2. Documents marked on behalf of Plaintiff:

- ExP.1 : Copy of Sale Deed dated 09.10.1985
ExP.2 : Notice dated 15.12.2004
ExP.3 : Copy of Order in R.A.15/2004-05
ExP.4 : Letter of Assistant Commissioner
ExP.5 : Order of Tahsildar
ExP.6 : Endorsement issued by the AC, Hassan
ExP.7 : Endorsement issued by Tahsildar
ExP.8 : Notice issued by DC, Hassan
ExP.9 : Endorsement
ExP.10 : Copy of Mutation Register
ExP.11 : Form No.21

3. Witnesses examined on behalf of Defendant :

- DW-1 : Sri.Suresh G.M S/o Manjegowda
DW-2 : Sri.Dhananjaya S/o Nanjappa
DW-3 : Sri.Shivaswamy S/o Shivalingegowda

4. Documents marked on behalf of Defendant:

- ExD.1-3 : Photographs
ExD.4 : Requisition to Revenue Inspector
ExD.5-6 : Copy of judgment and decree
in OS.508/1989

ExD.7	:	Copy of Will dated 09.02.1999
ExD.8	:	Copy of Death Certificate
ExD.9	:	Copy of Order in FDP.11/2015
ExD.10	:	Copy of Notice dated 25.10.2019
ExD.11-13	:	Copy of Memorandum
ExD.14	:	Copy of Statement
ExD.15	:	Copy of report of Revenue Inspector
ExD.16	:	Copy of report of Village Accountant
ExD.17-18	:	Tax Paid Challans
ExD.19	:	Copy of Sale deed dated 02.01.1995
ExD.20	:	Certificate regarding Borewell
ExD.21-22	:	Handwritten RTC Extracts
ExD.23-24	:	Tax Paid Receipts
ExD.25-26	:	RTC Extracts
ExD.27	:	Patta Book
ExD.28-29	:	Index of Land
ExD.30	:	Record of Rights

(H.K.NAVEEN)

Prl.Senior Civil Judge and JMFC
Channarayapatna