

**IN THE COURT OF THE II ADDL. CIVIL JUDGE
AND JMFC, CHANNARAYAPATNA**

:PRESENT:

Sri. Jinnappa Chougala,
B.A., L.L.B.,
II Addl. Civil Judge and JMFC,
Channarayapatna.

Dated 19th day of November 2019

**Common Judgement in O.S No. 694/2013 clubbed with
O.S No.696/2013, O.S No. 698/2013, O.S No. 700/2013,
O.S No. 702/2013 and O.S No. 704/2013**

Parties in O.S 694/2013

Plaintiff : Venkatappa Shetty,
S/o Venkatashtetty,
Aged 57 years,
R/at: Masakanahalli village,
Hirisave hobli,
Channarayapatna Taluk,
Hassan District.

(By Sri. C.S.D., Advocate)

-V/s-

Defendants : 1. Srikanta S/o late Nanjegowda,
Aged about 50 year.
Kerebidi, Channarayapatna Town.

2. Puttamma W/o late Nagaraju
Aged about 60 years.
3. Raghu S/o late Nagaraju,
Aged about 40 years,
4. Prasanna S/o late Nagaraju
Aged about 38 years.
5. Sunanda W/o late Lokesh
Aged 30 years.

D-2 to 5 are R/at:
Jai Maruthi Nagar,
Channarayapatna Town,
Hassan District.

6. Manjula W/o Dharmegowda,
Aged 55 years,
R/at: Kuvempu Nagar,
Channarayapatna Town,
Hassan District.
7. Kanaka W/o Sombanna,
Major,
R/at: Guranahalli,
Channarayapatna Town,
Hassan District.

(D-1 to 5 by Sri. G.V.V., Advocate,
D-6 and D-7 are dismissed)

Parties in O.S 696/2013

Plaintiff : G.G. Shivanna S/o Late Ganeshashetty,
Aged about 50 years,
R/at: Gundegowdana Koppalu Village,
Sathyamangala Dakhale,
Kasaba hobli,
Hassan Taluk and District.

(By Sri.C.S.D., Advocate)

-V/s-

- Defendants :**
1. Srikanta S/o late Nanjegowda,
Aged about 50 year.
Kerebidi, Channarayapatna Town.
 2. Puttamma W/o late Nagaraju
Aged about 60 years.
 3. Raghu S/o late Nagaraju,
Aged about 40 years,
 4. Prasanna S/o late Nagaraju
Aged about 38 years.
 5. Sunanda W/o late Lokesh
Aged 30 years.

D-2 to 5 are R/at:
Jai Maruthi Nagar,
Channarayapatna Town,
Hassan District.

6. Manjula W/o Dharmegowda,
Aged 55 years,
R/at: Kuvempu Nagar,
Channarayapatna Town,
Hassan District.
7. Kanaka W/o Sombanna,
Major,
R/at: Guranahalli,
Channarayapatna Town,
Hassan District.

(D-1 to 5 by Sri. G.V.V., Advocate,
D-6 and D-7 are dismissed)

Parties in O.S 698/2013

Plaintiff : Srinivasashetty S/o late Venkatappa
Aged about 55 years,
R/at: Masakanahalli Village,
Hirisave hobli,
Channarayapatna Taluk,
Hassan District .

(By Sri.C.S.D., Advocate)

-V/s-

Defendants : 1. Srikanta S/o late Nanjegowda,
Aged about 50 year.
Kerebidi, Channarayapatna Town.

2. Puttamma W/o late Nagaraju
Aged about 60 years.
3. Raghu S/o late Nagaraju,
Aged about 40 years,
4. Prasanna S/o late Nagaraju
Aged about 38 years.
5. Sunanda W/o late Lokesh
Aged 30 years.

D-2 to 5 are R/at:
Jai Maruthi Nagar,
Channarayapatna Town,
Hassan District.

6. Manjula W/o Dharmegowda,
Aged 55 years,
R/at: Kuvempu Nagar,
Channarayapatna Town,
Hassan District.
7. Kanaka W/o Sombanna,
Major,
R/at: Guranahalli,
Channarayapatna Town,
Hassan District.

**(D-1 to 5 by Sri. G.V.V., Advocate,
D-6 and D-7 are dismissed)**

Parties in O.S 700/2013

Plaintiff : M.V.Devaraju,
S/o Venkatashtetty,
Aged 49 years,
R/at: Masakanahalli Village,
Hirisave hobli,
Channarayapatna Taluk,
Hassan District .

(By Sri.C.S.D., Advocate)

-V/s-

- Defendants :**
1. Srikanta S/o late Nanjegowda,
Aged about 50 year.
Kerebidi, Channarayapatna Town.
 2. Puttamma W/o late Nagaraju
Aged about 60 years.
 3. Raghu S/o late Nagaraju,
Aged about 40 years,
 4. Prasanna S/o late Nagaraju
Aged about 38 years.
 5. Sunanda W/o late Lokesh
Aged 30 years.

D-2 to 5 are R/at:
Jai Maruthi Nagar,
Channarayapatna Town,
Hassan District.

6. Manjula W/o Dharmegowda,
Aged 55 years,
R/at: Kuvempu Nagar,
Channarayapatna Town,
Hassan District.
7. Kanaka W/o Sombanna,
Major,
R/at: Guranahalli,
Channarayapatna Town,
Hassan District.

**(D-1 to 5 by Sri. G.V.V., Advocate,
D-6 and D-7 are dismissed)**

Parties in O.S 702/2013

Plaintiff : G.Anantha S/o late Govindashetty M.T.
Aged about 40 years,
R/at: Kerebidi, Kikkeri,
Kikkeri hobli,
K.R.Pete Taluk,
Mandya District .

(By Sri.C.S.D., Advocate)

-V/s-

Defendants : 1. Srikanta S/o late Nanjegowda,
Aged about 50 year.
Kerebidi, Channarayapatna Town.

2. Puttamma W/o late Nagaraju
Aged about 60 years.
3. Raghu S/o late Nagaraju,
Aged about 40 years,
4. Prasanna S/o late Nagaraju
Aged about 38 years.
5. Sunanda W/o late Lokesh
Aged 30 years.

D-2 to 5 are R/at:
Jai Maruthi Nagar,
Channarayapatna Town,
Hassan District.

6. Manjula W/o Dharmegowda,
Aged 55 years,
R/at: Kuvempu Nagar,
Channarayapatna Town,
Hassan District.
7. Kanaka W/o Sombanna,
Major,
R/at: Guranahalli,
Channarayapatna Town,
Hassan District.

**(D-1 to 5 by Sri. G.V.V., Advocate,
D-6 and D-7 are dismissed)**

Parties in O.S 704/2013

Plaintiff : C.G.Dhananjaya,
S/o late Gangappashetty,
Aged 37 years,
R/at: Megalakeri,
Ramamandira Road,
Channarayapatna Town,
Hassan District.

(By Sri. C.S.D., Advocate)

-V/s-

- Defendants :**
1. Srikanta S/o late Nanjegowda,
Aged about 50 year.
Kerebidi, Channarayapatna Town.
 2. Puttamma W/o late Nagaraju
Aged about 60 years.
 3. Raghu S/o late Nagaraju,
Aged about 40 years,
 4. Prasanna S/o late Nagaraju
Aged about 38 years.
 5. Sunanda W/o late Lokesh
Aged 30 years.

D-2 to 5 are R/at:
Jai Maruthi Nagar,
Channarayapatna Town,

Hassan District.

6. Manjula W/o Dharmegowda,
Aged 55 years,
R/at: Kuvempu Nagar,
Channarayapatna Town,
Hassan District.
7. Kanaka W/o Sombanna,
Major,
R/at: Guranahalli,
Channarayapatna Town,
Hassan District.

(D-1 to 5 by Sri. G.V.V., Advocate,
D-6 and D- 7 are dismissed)

O.S No. 694/2013

Date of institution of suit	:	18.11.2013		
Nature of suit	:	Declaration and permanent injunction		
Date of recording evidence	:	29.07.2015		
Date of pronouncement of judgment	:	19.11.2019		
Total duration	:	Year/s	Month/s	Day/s
		06	00	01

O.S No. 696/2013

Date of institution of suit	:	18.11.2013		
Nature of suit	:	Declaration and permanent injunction		
Date of recording evidence	:	29.07.2015		
Date of pronouncement of judgment	:	19.11.2019		
Total duration	:	Year/s	Month/s	Day/s
		06	00	01

O.S No. 698/2013

Date of institution of suit	:	21.11.2013		
Nature of suit	:	Declaration and permanent injunction		
Date of recording evidence	:	29.07.2015		
Date of pronouncement of judgment	:	19.11.2019		
Total duration	:	Year/s	Month/s	Day/s
		05	11	29

O.S No. 700/2013

Date of institution of suit	:	21.11.2013		
Nature of suit	:	Declaration and permanent injunction		
Date of recording evidence	:	29.07.2015		
Date of pronouncement of judgment	:	19.11.2019		
Total duration	:	Year/s	Month/s	Day/s
		05	11	29

O.S No. 702/2013

Date of institution of suit	:	21.11.2013		
Nature of suit	:	Declaration and permanent injunction		
Date of recording evidence	:	29.07.2015		
Date of pronouncement of judgment	:	19.11.2019		
Total duration	:	Year/s	Month/s	Day/s
		05	11	29

O.S No. 704/2013

Date of institution of suit	:	21.11.2013		
Nature of suit	:	Declaration and permanent injunction		
Date of recording evidence	:	29.07.2015		
Date of pronouncement of judgment	:	19.11.2019		
Total duration	:	Year/s	Month/s	Day/s
		05	11	29

(Jinnappa Chougala)
II Addl., Civil Judge & J.M.F.C.,
Channarayapatna.

--: COMMON JUDGEMENT :-

Suits O.S No. 694/2013 , O.S No.696/2013, O.S No. 698/2013, O.S No. 700/2013, O.S No. 702/2013 and O.S No. 704/2013 are filed by respective plaintiff for the the relief of declaration of title and also for permanent injunction against defendants in respect of suit properties.

2. Brief facts of OS No.694/2013 are as follows:-

Plaintiff has purchased the suit property from original owner C.S Puttaswamygowda on 8/12/2003 through registered sale deed. On the basis of sale deed, the name of plaintiff is entered to the revenue records of suit property and he is in possession and enjoyment of said property as absolute owner. Suit property comes under Sy no.81/2A. After durasth proceedings it was renumbered as Sy No.81/2A5 and on the basis of sale deed, plaintiff is in possession and enjoyment of suit property. Originally Sy No. 81/2A totally measures 02 Ac 25 Gs is a ancestral property of vendor C.S Puttaswamy Gowda and it was earlier owned by father of vendor Shivananje Gowda. In the partition, eastern side 01 Ac of land is left for the marriage expenses of C.S Puttaswamy Gowda and his another brother Channegowda and western side 13 Gs is allotted to the father for maintenance. Remaining land is divided between all 4 children of Shivananje Gowda equally measuring 13 Gs each. Northern side 13 Gs is allotted to the share of

Narashimhe Gowda and its southern side 13 Gs each are allotted to Puttaswamy Gowda, Channegowda and Nanjegowda respectively. Accordingly they were in possession and enjoyment of their respective properties. Later on Narashimhe Gowda @ Nagaraju has sold his 13 Gs to his brother on 19/08/1963 and transferred the title. Later on said Narashimhe Gowda has re-purchased the same on 19/10/1970 and on same day he resold the same to vendor of plaintiff C.S Puttaswamy Gowda through registered sale deed. Accordingly he was in possession and enjoyment of said property. Suit property is the portion of said 13 Gs of land. plaintiff and other 5 persons have purchased 1.04 Gs each in said land. On the basis of said sale deeds plaintiff and other 5 persons are in possession and enjoyment of their properties as absolute owners. Defendants are the children and relatives of brother of C.S Puttaswamy Gowda by name Nanjegowda. Defendants have no any right, title and possession over suit properties. But from last 6 months prior to filing of suit defendants are causing interference by one or other way and obstructing for the alienation of suit property and also denying the title of plaintiff over suit property. Hence plaintiff has filed this suits and prayed to decree the suit.

3. After service of summons defendant no.1 to 5 appeared through counsel and filed written statement by denying the case of plaintiffs. Said defendants further stated that the ancestor Shivananje

Gowda had 4 sons by name Nanjegowda, ChanneGowda, C.S Puttaswamy Gowda and Narashimhe Gowda @ Nagaraju. Ancestor had 4 daughters by name Puttamma, Sannananjamma, Radamma @ Lakshmiddevamma and Sharadamma. As there was no co-ordination between family members, hence share is allotted to elder son Nanjegowda in some family properties in 1955 and remaining properties are retained by father. Out of said retained properties, some properties are kept with him for maintenance and decided that after the marriage of all children, remaining properties will be divided between all children. Accordingly mother of defendant no.1 Mariyamma has filed suit OS No.512/1998 for partition and during pendency of suit she added all the present plaintiff and other purchasers as parties in said suit. The said suit is decreed in favor of present defendant no.1 to 5. Even though the appeal preferred by C.S Puttaswamy Gowda is remanded but he not conducted the proceedings and relinquished his rights. Hence present suit is barred by limitation. Further defendant no.1 to 5 have denied all the allegations of plaintiff. Hence prayed to dismiss the suit. During pendency of suit plaintiff has filed memo and got dismissed the suit against defendant no.6 and 7. Hence suit against defendant no.6 and 7is dismissed.

4. Brief facts of OS No.696/2013 are as follows:-

Plaintiff has purchased the suit property from original owner C.S Puttaswamygowda on 8/12/2003 through registered sale deed. On the basis of sale deed, the name of plaintiff is entered to the revenue records of sui property and he is in possession and enjoyment of said property as absolute owner. Suit property comes under Sy no.81/2A. After durasth proceedings it was renumbered as Sy No.81/2A9 and on the basis of sale deed, plaintiff is in possession and enjoyment of suit property. Originally Sy No. 81/2A totally measures 02 Ac 25 Gs is a ancestral property of vendor C.S Puttaswamy Gowda and it was earlier owned by father of vendor Shivananje Gowda. In the partition, eastern side 01 Ac of land is left for the marriage expenses of C.S Puttaswamy Gowda and his another brother Channegowda and western side 13 Gs is allotted to the father for maintenance. Remaining land is divided between all 4 children of Shivananje Gowda equally measuring 13 Gs each. Northern side 13 Gs is allotted to the share of Narashimhe Gowda and its southern side 13 Gs each are allotted to Puttaswamy Gowda, Channegowda and Nanjegowda respectively. Accordingly they were in possession and enjoyment of their respective properties. Later on Narashimhe Gowda @ Nagaraju has sold his 13 Gs to his brother on 19/08/1963 and transferred the title. Later on said Narashimhe Gowda has re-purchased the same on 19/10/1970 and on same day he resold the same to vendor of plaintiff C.S Puttaswamy Gowda through registered sale deed. Accordingly he

was in possession and enjoyment of said property. Suit property is the portion of said 13 Gs of land. plaintiff and other 5 persons have purchased 1.04 Gs each in said land. On the basis of said sale deeds plaintiff and other 5 persons are in possession and enjoyment of their properties as absolute owners. Defendants are the children and relatives of brother of C.S Puttaswamy Gowda by name Nanjegowda. Defendants have no any right, tile and possession over suit properties. But from last 6 months prior to filing of suit defendants are causing interference by one or other way and obstructing for the alienation of suit property and also denying the title of plaintiff over suit property. Hence plaintiff has filed this suits and prayed to decree the suit.

5. After service of summons defendant no.1 to 5 appeared through counsel and filed written statement by denying the case of plaintiffs. Said defendants further stated that the ancestor Shivananje Gowda had 4 sons by name Nanjegowda, ChanneGowda, C.S Puttaswamy Gowda and Narashimhe Gowda @ Nagaraju. Ancestor had 4 daughters by name Puttamma, Sannananjamma, Radamma @ Lakshmiddevamma and Sharadamma. As there was no co-ordination between family members, hence share is allotted to elder son Nanjegowda in some family properties in 1955 and remaining properties are retained by father. Out of said retained properties, some properties are kept with him for maintenance and decided that after

the marriage of all children, remaining properties will be divided between all children. Accordingly mother of defendant no.1 Mariyamma has filed suit OS No.512/1998 for partition and during pendency of suit she added all the present plaintiff and other purchasers as parties in said suit. The said suit is decreed in favor of present defendant no.1 to 5. Even though the appeal preferred by C.S Puttaswamy Gowda is remanded but he not conducted the proceedings and relinquished his rights. Hence present suit is barred by limitation. Further defendant no.1 to 5 have denied all the allegations of plaintiff. Hence prayed to dismiss the suit. During pendency of suit plaintiff has filed memo and got dismissed the suit against defendant no.6 and 7. Hence suit against defendant no.6 and 7 is dismissed.

6. Brief facts of OS No.698/2013 are as follows:-

Plaintiff has purchased the suit property from original owner C.S Puttaswamygowda on 8/12/2003 through registered sale deed. On the basis of sale deed, the name of plaintiff is entered to the revenue records of sui property and he is in possession and enjoyment of said property as absolute owner. Suit property comes under Sy no.81/2A. After durasth proceedings it was renumbered as Sy No.81/2A6 and on the basis of sale deed, plaintiff is in possession and enjoyment of suit property. Originally Sy No. 81/2A totally measures 02 Ac 25 Gs is a ancestral property of vendor C.S Puttaswamy Gowda and it was

earlier owned by father of vendor Shivananje Gowda. In the partition, eastern side 01 Ac of land is left for the marriage expenses of C.S Puttaswamy Gowda and his another brother Channegowda and western side 13 Gs is allotted to the father for maintenance. Remaining land is divided between all 4 children of Shivananje Gowda equally measuring 13 Gs each. Northern side 13 Gs is allotted to the share of Narashimhe Gowda and its southern side 13 Gs each are allotted to Puttaswamy Gowda, Channegowda and Nanjegowda respectively. Accordingly they were in possession and enjoyment of their respective properties. Later on Narashimhe Gowda @ Nagaraju has sold his 13 Gs to his brother on 19/08/1963 and transferred the title. Later on said Narashimhe Gowda has re-purchased the same on 19/10/1970 and on same day he resold the same to vendor of plaintiff C.S Puttaswamy Gowda through registered sale deed. Accordingly he was in possession and enjoyment of said property. Suit property is the portion of said 13 Gs of land. plaintiff and other 5 persons have purchased 1.04 Gs each in said land. On the basis of said sale deeds plaintiff and other 5 persons are in possession and enjoyment of their properties as absolute owners. Defendants are the children and relatives of brother of C.S Puttaswamy Gowda by name Nanjegowda. Defendants have no any right, title and possession over suit properties. But from last 6 months prior to filing of suit defendants are causing interference by one or other way and obstructing for the alienation of

suit property and also denying the title of plaintiff over suit property. Hence plaintiff has filed this suits and prayed to decree the suit.

7. After service of summons defendant no.1 to 5 appeared through counsel and filed written statement by denying the case of plaintiffs. Said defendants further stated that the ancestor Shivananje Gowda had 4 sons by name Nanjegowda, Channe Gowda, C.S Puttaswamy Gowda and Narashimhe Gowda @ Nagaraju. Ancestor had 4 daughters by name Puttamma, Sannananjamma, Radamma @ Lakshmiddevamma and Sharadamma. As there was no co-ordination between family members, hence share is allotted to elder son Nanjegowda in some family properties in 1955 and remaining properties are retained by father. Out of said retained properties, some properties are kept with him for maintenance and decided that after the marriage of all children, remaining properties will be divided between all children. Accordingly mother of defendant no.1 Mariyamma has filed suit OS No.512/1998 for partition and during pendency of suit she added all the present plaintiff and other purchasers as parties in said suit. The said suit is decreed in favor of present defendant no.1 to 5. Even though the appeal preferred by C.S Puttaswamy Gowda is remanded but he not conducted the proceedings and relinquished his rights. Hence present suit is barred by limitation. Further defendant no.1 to 5 have denied all the allegations of plaintiff.

Hence prayed to dismiss the suit. During pendency of suit plaintiff has filed memo and got dismissed the suit against defendant no.6 and 7. Hence suit against defendant no.6 and 7 is dismissed.

8. Brief facts of OS No.700/2013 are as follows:-

Plaintiff has purchased the suit property from original owner C.S Puttaswamygowda on 8/12/2003 through registered sale deed. On the basis of sale deed, the name of plaintiff is entered to the revenue records of sui property and he is in possession and enjoyment of said property as absolute owner. Suit property comes under Sy no.81/2A. After durasth proceedings it was renumbered as Sy No.81/2A4 and on the basis of sale deed, plaintiff is in possession and enjoyment of suit property. Originally Sy No. 81/2A totally measures 02 Ac 25 Gs is a ancestral property of vendor C.S Puttaswamy Gowda and it was earlier owned by father of vendor Shivananje Gowda. In the partition, eastern side 01 Ac of land is left for the marriage expenses of C.S Puttaswamy Gowda and his another brother Channegowda and western side 13 Gs is allotted to the father for maintenance. Remaining land is divided between all 4 children of Shivananje Gowda equally measuring 13 Gs each. Northern side 13 Gs is allotted to the share of Narashimhe Gowda and its southern side 13 Gs each are allotted to Puttaswamy Gowda, Channegowda and Nanjegowda respectively. Accordingly they were in possession and enjoyment of their

respective properties. Later on Narashimhe Gowda @ Nagaraju has sold his 13 Gs to his brother on 19/08/1963 and transferred the title. Later on said Narashimhe Gowda has re-purchased the same on 19/10/1970 and on same day he resold the same to vendor of plaintiff C.S Puttaswamy Gowda through registered sale deed. Accordingly he was in possession and enjoyment of said property. Suit property is the portion of said 13 Gs of land. plaintiff and other 5 persons have purchased 1.04 Gs each in said land. On the basis of said sale deeds plaintiff and other 5 persons are in possession and enjoyment of their properties as absolute owners. Defendants are the children and relatives of brother of C.S Puttaswamy Gowda by name Nanjegowda. Defendants have no any right, title and possession over suit properties. But from last 6 months prior to filing of suit defendants are causing interference by one or other way and obstructing for the alienation of suit property and also denying the title of plaintiff over suit property. Hence plaintiff has filed this suits and prayed to decree the suit.

9. After service of summons defendant no.1 to 5 appeared through counsel and filed written statement by denying the case of plaintiffs. Said defendants further stated that the ancestor Shivananje Gowda had 4 sons by name Nanjegowda, Channe Gowda, C.S Puttaswamy Gowda and Narashimhe Gowda @ Nagaraju. Ancestor had 4 daughters by name Puttamma, Sannananjamma, Radamma @

Lakshmiddevamma and Sharadamma. As there was no co-ordination between family members, hence share is allotted to elder son Nanjegowda in some family properties in 1955 and remaining properties are retained by father. Out of said retained properties, some properties are kept with him for maintenance and decided that after the marriage of all children, remaining properties will be divided between all children. Accordingly mother of defendant no.1 Mariyamma has filed suit OS No.512/1998 for partition and during pendency of suit she added all the present plaintiff and other purchasers as parties in said suit. The said suit is decreed in favor of present defendant no.1 to 5. Even though the appeal preferred by C.S Puttaswamy Gowda is remanded but he not conducted the proceedings and relinquished his rights. Hence present suit is barred by limitation. Further defendant no.1 to 5 have denied all the allegations of plaintiff. Hence prayed to dismiss the suit. During pendency of suit plaintiff has filed memo and got dismissed the suit against defendant no.6 and 7. Hence suit against defendant no.6 and 7 is dismissed.

10. Brief facts of OS No.702/2013 are as follows:-

Plaintiff has purchased the suit property from original owner C.S Puttaswamygowda on 8/12/2003 through registered sale deed. On the basis of sale deed, the name of plaintiff is entered to the revenue records of sui property and he is in possession and enjoyment of said

property as absolute owner. Suit property comes under Sy no.81/2A. After durasth proceedings it was renumbered as Sy No.81/2A7 and on the basis of sale deed, plaintiff is in possession and enjoyment of suit property. Originally Sy No. 81/2A totally measures 02 Ac 25 Gs is a ancestral property of vendor C.S Puttaswamy Gowda and it was earlier owned by father of vendor Shivananje Gowda. In the partition, eastern side 01 Ac of land is left for the marriage expenses of C.S Puttaswamy Gowda and his another brother Channegowda and western side 13 Gs is allotted to the father for maintenance. Remaining land is divided between all 4 children of Shivananje Gowda equally measuring 13 Gs each. Northern side 13 Gs is allotted to the share of Narashimhe Gowda and its southern side 13 Gs each are allotted to Puttaswamy Gowda, Channegowda and Nanjegowda respectively. Accordingly they were in possession and enjoyment of their respective properties. Later on Narashimhe Gowda @ Nagaraju has sold his 13 Gs to his brother on 19/08/1963 and transferred the title. Later on said Narashimhe Gowda has re-purchased the same on 19/10/1970 and on same day he resold the same to vendor of plaintiff C.S Puttaswamy Gowda through registered sale deed. Accordingly he was in possession and enjoyment of said property. Suit property is the portion of said 13 Gs of land. plaintiff and other 5 persons have purchased 1.04 Gs each in said land. On the basis of said sale deeds plaintiff and other 5 persons are in possession and enjoyment of their

properties as absolute owners. Defendants are the children and relatives of brother of C.S Puttaswamy Gowda by name Nanjegowda. Defendants have no any right, tile and possession over suit properties. But from last 6 months prior to filing of suit defendants are causing interference by one or other way and obstructing for the alienation of suit property and also denying the title of plaintiff over suit property. Hence plaintiff has filed this suits and prayed to decree the suit.

11. After service of summons defendant no.1 to 5 appeared through counsel and filed written statement by denying the case of plaintiffs. Said defendants further stated that the ancestor Shivananje Gowda had 4 sons by name Nanjegowda, ChanneGowda, C.S Puttaswamy Gowda and Narashimhe Gowda @ Nagaraju. Ancestor had 4 daughters by name Puttamma, Sannananjamma, Radamma @ Lakshmiddevamma and Sharadamma. As there was no co-ordination between family members, hence share is allotted to elder son Nanjegowda in some family properties in 1955 and remaining properties are retained by father. Out of said retained properties, some properties are kept with him for maintenance and decided that after the marriage of all children, remaining properties will be divided between all children. Accordingly mother of defendant no.1 Mariyamma has filed suit OS No.512/1998 for partition and during pendency of suit she added all the present plaintiff and other

purchasers as parties in said suit. The said suit is decreed in favor of present defendant no.1 to 5. Even though the appeal preferred by C.S Puttaswamy Gowda is remanded but he not conducted the proceedings and relinquished his rights. Hence present suit is barred by limitation. Further defendant no.1 to 5 have denied all the allegations of plaintiff. Hence prayed to dismiss the suit. During pendency of suit plaintiff has filed memo and got dismissed the suit against defendant no.6 and 7. Hence suit against defendant no.6 and 7 is dismissed.

12. Brief facts of OS No.704/2013 are as follows:-

Plaintiff has purchased the suit property from original owner C.S Puttaswamygowda on 8/12/2003 through registered sale deed. On the basis of sale deed, the name of plaintiff is entered to the revenue records of sui property and he is in possession and enjoyment of said property as absolute owner. Suit property comes under Sy no.81/2A. After durasth proceedings it was renumbered as Sy No.81/2A8 and on the basis of sale deed, plaintiff is in possession and enjoyment of suit property. Originally Sy No. 81/2A totally measures 02 Ac 25 Gs is a ancestral property of vendor C.S Puttaswamy Gowda and it was earlier owned by father of vendor Shivananje Gowda. In the partition, eastern side 01 Ac of land is left for the marriage expenses of C.S Puttaswamy Gowda and his another brother Channegowda and western side 13 Gs is allotted to the father for maintenance. Remaining

land is divided between all 4 children of Shivananje Gowda equally measuring 13 Gs each. Northern side 13 Gs is allotted to the share of Narashimhe Gowda and its southern side 13 Gs each are allotted to Puttaswamy Gowda, Channegowda and Nanjegowda respectively. Accordingly they were in possession and enjoyment of their respective properties. Later on Narashimhe Gowda @ Nagaraju has sold his 13 Gs to his brother on 19/08/1963 and transferred the title. Later on said Narashimhe Gowda has re-purchased the same on 19/10/1970 and on same day he resold the same to vendor of plaintiff C.S Puttaswamy Gowda through registered sale deed. Accordingly he was in possession and enjoyment of said property. Suit property is the portion of said 13 Gs of land. plaintiff and other 5 persons have purchased 1.04 Gs each in said land. On the basis of said sale deeds plaintiff and other 5 persons are in possession and enjoyment of their properties as absolute owners. Defendants are the children and relatives of brother of C.S Puttaswamy Gowda by name Nanjegowda. Defendants have no any right, title and possession over suit properties. But from last 6 months prior to filing of suit defendants are causing interference by one or other way and obstructing for the alienation of suit property and also denying the title of plaintiff over suit property. Hence plaintiff has filed this suits and prayed to decree the suit.

13. After service of summons defendant no.1 to 5 appeared through counsel and filed written statement by denying the case of plaintiffs. Said defendants further stated that the ancestor Shivananje Gowda had 4 sons by name Nanjegowda, Channe Gowda, C.S Puttaswamy Gowda and Narashimhe Gowda @ Nagaraju. Ancestor had 4 daughters by name Puttamma, Sannananjamma, Radamma @ Lakshmiddevamma and Sharadamma. As there was no co-ordination between family members, hence share is allotted to elder son Nanjegowda in some family properties in 1955 and remaining properties are retained by father. Out of said retained properties, some properties are kept with him for maintenance and decided that after the marriage of all children, remaining properties will be divided between all children. Accordingly mother of defendant no.1 Mariyamma has filed suit OS No.512/1998 for partition and during pendency of suit she added all the present plaintiff and other purchasers as parties in said suit. The said suit is decreed in favor of present defendant no.1 to 5. Even though the appeal preferred by C.S Puttaswamy Gowda is remanded but he not conducted the proceedings and relinquished his rights. Hence present suit is barred by limitation. Further defendant no.1 to 5 have denied all the allegations of plaintiff. Hence prayed to dismiss the suit. During pendency of suit plaintiff has filed memo and got dismissed the suit against defendant no.6 and 7. Hence suit against defendant no.6 and 7 is dismissed.

14. On the basis of the above pleadings, my predecessor-in-office have framed following :-

ISSUES IN O.S No. 694/2013,

- 1) Whether the plaintiff proves that, he is lawful owner over the suit property?***
- 2) Whether the plaintiff proves that, he is lawful possession over the suit property as on the date of suit?***
- 3) Whether the plaintiff proves that the alleged interference?***
- 4) Whether the plaintiff , he is entitled for relief as sought for?***
- 5) What order or decree?***

PRELIMINARY ISSUES

- 1. Is there cause of action?***
- 2. Whether suit is barred by limitation?***

ISSUES IN O.S No. 696/2013,

- 1) Whether the plaintiff proves that, he is lawful owner over the suit property?***

- 2) *Whether the plaintiff proves that, he is lawful possession over the suit property as on the date of suit?*
- 3) *Whether the plaintiff proves that the alleged interference?*
- 4) *Whether the plaintiff , he is entitled for relief as sought for?*
- 5) *What order or decree?*

PRELIMINARY ISSUES

1. *Is there cause of action?*
2. *Whether suit is barred by limitation?*

ISSUES IN O.S No. 698/2013,

- 1) *Whether the plaintiff proves that, he is lawful owner over the suit property?*
- 2) *Whether the plaintiff proves that, he is lawful possession over the suit property as on the date of suit?*
- 3) *Whether the plaintiff proves that the alleged interference?*
- 4) *Whether the plaintiff , he is entitled for relief as sought for?*

5) What order or decree?

PRELIMINARY ISSUES

1. Is there cause of action?

2. Whether suit is barred by limitation?

ISSUES IN O.S No. 700/2013,

1) Whether the plaintiff proves that, he is lawful owner over the suit property?

2) Whether the plaintiff proves that, he is lawful possession over the suit property as on the date of suit?

3) Whether the plaintiff proves that the alleged interference?

4) Whether the plaintiff, he is entitled for relief as sought for?

5) What order or decree?

PRELIMINARY ISSUES

1. Is there cause of action?

2. Whether suit is barred by limitation?

ISSUES IN O.S No. 702/2013,

- 1) Whether the plaintiff proves that, he is lawful owner over the suit property?***
- 2) Whether the plaintiff proves that, he is lawful possession over the suit property as on the date of suit?***
- 3) Whether the plaintiff proves that the alleged interference?***
- 4) Whether the plaintiff , he is entitled for relief as sought for?***
- 5) What order or decree?***

PRELIMINARY ISSUES

- 1. Is there cause of action?***
- 2. Whether suit is barred by limitation?***

ISSUES IN O.S No. 704/2013,

- 1) Whether the plaintiff proves that, he is lawful owner over the suit property?***
- 2) Whether the plaintiff proves that, he is lawful possession over the suit property as on the date of suit?***
- 3) Whether the plaintiff proves that the alleged interference?***

4) Whether the plaintiff , he is entitled for relief as sought for?

5) What order or decree?

PRELIMINARY ISSUES

1. Is there cause of action?

2. Whether suit is barred by limitation?

Note: O.S No. 696/2013, 698/2013, 700/2013, 702/2013 and 702/2013 are clubbed with O.S No.694/2013. The common evidence recorded in O.S No.694/2013.

15. To prove the case, plaintiff of all suits has deposed as PW-1 in their respective cases. Plaintiff of OS No.696/2013 has produced 8 documents and the same are marked as Ex.P1 to P8. Plaintiff of OS No.698/2013 has produced 8 documents and the same are marked as Ex.P1 to P8. Plaintiff of OS No.700/2013 has produced 8 documents and the same are marked as Ex.P1 to P8. Plaintiff of OS No.702/2013 has produced 8 documents and the same are marked as Ex.P1 to P8. Plaintiff of OS No.704/2013 has produced 8 documents and the same are marked as Ex.P1 to P8. Plaintiff of OS No.694/2013 has produced 8 documents and the same are marked as Ex.P1 to P8. After clubbing the cases, common evidence led in OS No.694/2013. Plaintiffs have

examined 2 independent witness as PW-2 and 3 and closed their side. On the other hand, to prove the defense, defendant no.1 has deposed as Dw-1 and got marked 52 documents as Ex.D1 to D.52 and closed their side. Hence case is posted for arguments.

16. Heard arguments from both side. Perused the materials available on record.

17. My answer to the above Issues of OS No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013_are:

<i>Preliminary issue No.1</i>	<i>:-In the Negative</i>
<i>Preliminary issue No.2</i>	<i>:-In the Negative</i>
<i>Issue No.1</i>	<i>:-In the Affirmative</i>
<i>Issue No.2</i>	<i>:-In the Affirmative</i>
<i>Issue No. 3</i>	<i>:-In the Affirmative</i>
<i>Issue No.4</i>	<i>:-In the Affirmative</i>
<i>Issue No.5</i>	<i>:-As per final order for the following :-</i>

-:: REASONS ::-

(For the sake of convenience and in order to avoid confusion here in after, the rank of the parties will be referred as per their rank in O.S 694/2013.)

18. Preliminary Issue No.1 and 2 of all suits :-

My predecessor-in-office have framed 2 issues as preliminary issue. But no order is passed on said issues. Not even posted the cases to decide the said issues. Directly posted the cases to plaintiff evidence. But as issues are framed, therefore, it is necessary to discuss on said issues and to give findings . It is settled Law that to decide cause of action court has to look into the whole contents of plaint. In all plaints, plaintiffs have clearly mentioned about acts of defendants and the cause of action arise for filing suits. On the basis of contents of plaint, court is of the opinion that there is a cause of action for filing these suits.

19. Further in written statement, defendants merely pleaded that suit is barred by limitation. But no reasons and grounds are furnished. According to Law, there must be specific denial and allegations with supportive reasons. But in this case no such reasons or grounds from defendants. Hence the defence of defendants about limitation is baseless and not sustainable. Further present plaintiffs were not party to OS No.512/1998. Hence the question of limitation will not arise.

For all these reasons, Preliminary Issue No.1 is answered in **Affirmative** and Preliminary Issue No.2 is answered in **Negative**.

20. **Issues No.1 in all the cases:-** According to plaintiffs, they have purchased the suit properties through different sale deeds on 8.12.2003 from one C.S.Puttaswamygowda and on the basis of said sale deed, they are in possession and enjoyment of suit property as absolute owners. Earlier all the plaintiffs have filed chief examination by way of affidavit and got examined as PW-1 in all suits. At the same time, they have also got marked 8 documents separately in each suits. But after clubbing of cases, cross-examination has been dispensed and only the evidence of PW-1 of OS No. 694/2013 is subjected for cross-examination .

21. Plaintiffs have produced 8 documents in support of their case and the same are marked as Ex.P-1 to Ex.P-8. Ex.P-1 of all suits are the sale deed, executed by C.S.Puttaswamygowda and his son C.P. Manjunath in favor of each plaintiff of all suits on 08.12.2003. The description mentioned in schedule of the sale deed tallies with schedule of respective plaint , therefore it is clear that by virtue of Ex.P-1 sale deeds each plaintiff has acquired valid

title over respective suit property. Hence the said documents supports the case of plaintiffs .

22. Ex.P-2 of all suits are the certified copy of same sale deeds dtd.19.10.1970 executed by Narasimhegowda @ Nagaraju in favor of vendor of plaintiff C.S. Puttaswamygowda in respect of land measuring 13 guntas in survey No. 81. Ex.P-2 sale deed shows about original title of vendor of plaintiff over suit properties. Ex.P-3 of all suits are the certified copy of same sale deed dtd. 19.10.1970 executed by father of defendant No.1 in favor of his brother Narasimhegowda @ Nagaraju, who is vendor of C.S. Puttaswamygowda. Ex.P-3 also supports the case of plaintiff and shows that after purchasing 13 guntas from father of defendant No.1, Narasimhegowda @ Nagaraju has sold the same to vendor of plaintiff C.S.Puttaswamygowda, on 19.10.1970. This document supports the case of plaintiffs . Ex.P-4 of all suits is the mutation entry MR No. 8/2005-06 and it shows that on the basis of sale deeds, the names of plaintiffs are entered to the RTC of respective suit properties as owner. Ex.P-5 and 6 are the continuation of said mutation entry. Ex.P-7 of all suits are the RTC extract of suit properties and this documents show the names of plaintiffs as khata holder of their respective properties. Ex.P-8 of all suits are tax paid receipt standing in the name of plaintiff of each suit and said

documents shows about payment of revenue to the Government by the plaintiff . All documents of plaintiffs clearly supports the their case and proves that plaintiffs are absolute owner and in possession and enjoyment of suit properties.

23. On the other hand after clubbing the cases, defendants have led common evidence in main suit OS No. 694/2013. Defendant No.1 got examined as DW-1 and filed affidavit in lieu of his examination in chief by reiterating and reaffirmed the contents of written statement . According to defendants, as there was no any co-ordination between family members, hence the ancestor Shivananjegowda has allotted to the share of father of defendant No.1 Nanjegowda in some properties and some other properties retained by ancestor for maintenance and decided that members have to get divided remaining properties after marriage of all members. In support of said contention, defendants have produced Ex.D-1 partition deed executed on 30.05.1955 by ancestor Shivananjegowda in favor of father of defendant No.1 Nanjegowda and in the said partition 13 guntas in suit property survey No. 81/2 is allotted to the share of father of defendant No.1 . But it is not the case of defendants that suit properties come with in said 13 guntas allotted to the share of father of defendant No.1. On the other hand in the written statement , defendants have no were

contended that suit properties are ancestral joint family properties and they have a share. Ex.D-1 partition deed itself shows that the father of defendant No.1 and the relative of defendant No.2 to 4 by name Nanjegowda has got his share in the year 1955 itself and got separated from family. Hence neither Nanjegowda nor his dependants have any right to claim share in remaining properties, situated in survey No. 81/2. Ex.D-1 is not sufficient to deny the case of plaintiff .

24. Ex.D-2 is also sale deed executed by Narasimhegowda @ Nagaraju in favor of defendant No.1 in respect of 13 guntas in suit survey No. 81/2. Ex.D-3 is also certified copy of sale deed dtd.29.04.1963 executed by said Narasimhegowda @ Nagaraju, in favor of father of defendant No.1 Nanjegowda in respect of land survey No. 81/2, measuring 10 guntas. But the said 10 guntas is not in dispute. Property involved in Ex.D-2 sale deed is the suit property of this cases. Hence Ex.D-3 is not relevant of this suit.

25. Ex.D-4 is the record of rights of suit property survey No. 81/2 measuring 2 acre 25 guntas of the year 1965-66 and it shows the name of ancestor Shivananjegowda as khata holder . Ex.D-5 is record of rights of said property for the year 1966-67 and it shows that ancestor Shivananjegowda has retained 2 acre 6 guntas with

him out of 2 acre 25 guntas and remaining 16 guntas is allotted to Narasimhegowda @ Nagaraju and remaining 10 guntas is to the father of defendant No.1 Nanjegowda. There is no dispute with respect to the original ownership of ancestor over survey No. 81/2. Hence Ex.D- 4 and 5 are not relevant to this suit. Ex.D-6 is the sketch of survey No. 81/2A1 prepared in the year 2015. But there is no mention about names of parties. Hence Ex.D-6 is not clear about applicability to this case. Ex.D-7 is the house list, but in the document neither name of parties nor about suit property is mentioned. Hence Ex.D-7 is not relevant to this case.

26. Ex.D-8 is the old RTC of survey No. 81/2A and it shows the name of ancestor Shivenanjegowda as khata holder of 2 acre 6 guntas from 1975-76 to 1979-80 . Ex.D-9 is the RTC of survey No. 81/2B and it shows the name of Channegowda S/o Shivananjegowda as khata holder of 9 guntas and it also shows the name of vendor of plaintiff as cultivator. Ex.D-10 is the RTC of survey No. 81/2C measuring 10 guntas and it shows the name of defendant No.1 and 2 as joint khata holder. But the said property is not involved in this case. Ex.D-10 is not relevant to this case. Ex.D-11 is final notice issued by Tahasildar to defendant No.1 about pending RRT cases in Tahasildar Court. Ex.D-12 is the order passed by Tahasildar Court in RRT (V) 23/2004-05 and it shows that present plaintiffs

have filed application to get enter their names to the RTC of their respective properties and present defendant No.1 has objected for the same. Therefore Tahasildar court has conducted proceedings and after hearing court has allowed the application of plaintiff and directed to enter the names of plaintiffs to the RTC of their respective suit properties. Ex.D-12 denies the case of defendants and supports the case of plaintiff . Ex.D-13 is the index of land of survey No. 81/2, 2A, 2B and 2C and it shows the name of ancestor Shivananjegowda as khata holder of 2 acre 6 guntas , father of defendant No.1 Nanjegowda as khata holder of 37 guntas and 10 guntas and also shows the name of Channegowda as khata holder of 9 guntas. The suit properties situate in survey No. 81/2A. Ex.D-14 shows that earlier suit property was standing in the name of ancestor Shivananjegowda. Hence **Ex.D-14** supports the case of plaintiff .

27. Ex.D-15 is the order passed by Tahasildar court in RRT No.104/1991-92 and it shows that the vendor of plaintiff by name C.S.Puttaswamygowda has filed application to enter his name to the RTC of survey No. 81/2A, 81/2B on the basis of palupatti and father of present defendant No.1 and others have objected for the same, hence Tahasildar court has closed the case by directing to approach the civil court for proper relief. The said document neither

supports the case of plaintiff nor the case of defendants. Ex.D-16 is notice issued by Tahasildar to defendant No.1 in RRT case. The said document is also not clear about its applicability in this case.

28. Ex.D-17 is the RTC of survey No. 81/2A20, measuring 13 guntas and it shows the name of defendant No.1 and 2 as joint khata holder. But present plaintiffs have filed this suit with respect to land survey No. 81/2A8, 81/2A1, hence Ex.D-17 RTC is not relevant to this case. Ex.D-18 is the RTC of survey No. 81/2C and it shows the name of father of defendant No.1 as khata holder of 10 guntas. But the said property is not suit property to this case. Hence Ex.D-18 is also not relevant to this case. Ex.D-19 is the RTC of survey No. 89/2. But it neither shows the names of parties nor about suit properties, hence Ex.D-19 is not relevant to this case. Ex.D-20 to 35 are the photos, Ex.D-36 is the C.D. and Ex.D-37 is receipt issued by photo studio about obtaining photos. But the said photos are not sufficient to prove that they are belong to suit properties and they will also not prove the possession and title of defendants over suit properties. Hence the said photos and CD are also not relevant to considerable one.

29. Ex.D-44 is the certified copy of plaint of OS No. 605/1992. Ex.D-45 is the written statement of said suit, Ex.D-46 is the issues.

All these documents shows that the vendor of plaintiffs has filed said suit against present defendant No.1, his brother and wife of his brother Channegowda. for declaration of title and permanent injunction with respect of lands survey No. 81/2a and 81/2b. The said defendants have filed written statement by denying the title and possession of vendor of plaintiffs over said properties. Accordingly court has framed issues. Meanwhile said plaintiff has filed memo to dismiss the suit against defendant No.3 to 5 and later on they have compromised the case as per Ex.D-48 document and filed compromise petition. Ex.D43 is the certified copy of order sheet of OS No.605/1992 and it shows about acceptance of compromise petition. Accordingly court has drawn compromise petition as per Ex.D-49. All these documents shows that vendor of plaintiff had a title over suit properties, which are portion of survey No. 81/2a. Hence this document supports the case of plaintiffs and not the case of defendants.

30. Ex.D-39 is the certified copy of sale deed executed by Narashimhegowda @ Nagaraj in favor of father of defendant no.1 Nanjegowda in respect of land Sy. No. 81 measuring 10 Gs. But the said property is not the suit property of this case. Hence the said document is not relevant to this suit. Ex.D40 is the sale deed executed between same parties in respect of land Sy No.81 measuring 13 Gs,

which is suit property of this case. But as per Ex.P3 sale deed the said Nanjegowda has resold the suit property to Narashimhegowda @ Nagaraj and on same day purchaser has sold the same to vendor of plaintiffs, therefore neither defendants nor the father of defendant have right, title over said suit property. Hence Ex.D40 sale deed will not support the case of defendants.

31. Ex.D41 is the judgment and Ex.D42 is the decree passed in OS No.512/1998. The said documents show that present defendant no.1, his brother and mother Mariyamma have filed said suit against vendor of plaintiffs C.S Puttaswamy Gowda and his family members for partition and the said suit is decreed and 1/4 share in Sy no.81/2 is allotted to said Mariyamma. But Suit property Sy No.81/2 totally measures 02 Ac 25 Gs and out of that 1/4 share is allotted in 01 Ac 12 .08 Gs only. Further Ex.D38 certified copy of Judgment of RA No.42/2015 shows that being aggrieved by the judgment of OS No.512/1998, vendor of plaintiffs has preferred said appeal and in the said appeal Judgment of OS No.512/1998 is set-aside with respect to Sy No.81/2. Thereby the share allotted to defendant no.1 in OS No.512/1998 is canceled. Hence defendants have no any right over suit property. In the written statement, defendants have pleaded that OS 512/1998 is remanded but C.S Puttaswamy Gowda has not claimed any right and present plaintiffs were party to said suit, hence

suit is not maintainable. But Ex.D38 shows that appeal is allowed and not remanded. Further present plaintiffs were not party to said proceedings. Hence the said proceedings will not bind present plaintiffs and the question of limitation will not arise. Ex.D38 is contrary to the case of defendants, thereby denies their case.

32. Ex.D-50 is the sketch of land Sy No.81/2A in the name of defendant no.1. But the said document not includes the names of other khata holders of said property. Hence the said document is not clear about applicability to this case. Ex.D51 is the RTC of Sy No. 81/2A1 and Ex.D52 is the old RTC of Sy No.81/2A. But these documents neither shows the name of parties nor about suit properties. Hence these documents are also not clear about applicability to this case. The documentary evidence of defendants are not sufficient to deny the title and possession of all plaintiffs over their respective suit proeprties.

33. Earlier plaintiff of all suits got examined as PW-1 respectively in each suit. But after clubbing of suits, only PW-1 of OS No.694/2013 is subjected for cross examination. During arguments, advocate for defendants has submitted that plaintiffs of all suits have not got examined, hence they have not proved their case. But in our opinion the said submission is not sustainable. Because the purpose of clubbing the cases is to avoid unnecessary delay and repetition of

similar evidence. PW-1 of OS No.694/2013 has deposed on behalf of plaintiff of all suits. Further plaintiff of each suit as produced documentary evidence in support of his case. The said evidence is sufficient to decide the case. In the absence of oral evidence, documentary evidence is sustainable.

34. Further in the cross examination, PW-1 has reiterated the title and possession of their vendor over 13 GS in Sy No.81/2A, which is suit property of these cases. Further PW-1 is admitted about relation of their vendor with defendants. But in the plant itself they pleaded about relation. Hence the said admission will not effect on their case. Except that in the cross examination also PW-1 has reaffirmed their pleadings and proved their case.

35. Plaintiffs have also examined one independent witness as PW-2 in support of their case. PW-2 is non- other than cousin of defendant no.1 and relative of defendant no.2 to 5. In the chief examination PW-2 has deposed about purchase of suit properties in total 13 Gs by vendor of plaintiffs from his brother Narashimhe Gowda about 45 years back and reselling the same in favor of all plaintiffs and also deposed about title and possession of plaintiffs over their respective properties. Even though PW-2 has shown ignorance about extent of possession of each suit property, but he

deposed about allotment of 13 Gs each to vendor of plaintiffs and his brothers. Thereby PW-2 also supported the case of plaintiffs.

36. On the other hand, to prove their defense, defendant no.1 has deposed as DW-1 and in chief examination he reiterated and reaffirmed the contents of written statement. He further deposed about purchasing of 13 Gs and 10 Gs by his father and their possession over said 23 Gs . But DW-1 has not deposed about reselling of said 13 Gs by their father in favor of Narashimhegowda. It shows that defendants are trying to suppress the real facts from the court. In the cross examination also DW-1 has deposed about purchasing of 13 Gs by his father but shown ignorance about reselling the same to Narashimhegowda and also about purchasing of said property by vendor of plaintiffs C.S Puttaswamy Gowda. If his father has not sold the same, then defendant no.1 could have challenged the said sale deed and sought a relief for cancellation. But no such effort from defendants. It shows that they not denied the said transaction. Hence the said ignorance will goes against their case.

37. Further DW-1 admitted about purchasing of suit properties by the plaintiffs and admitted about their possession and enjoyment over their respective properties. In the written statement as well as chief examination, defendants have contended about preferring the

appeal before Hon'ble High Court of Karnataka against the judgment of RA No.40/2015, but in the cross examination he admitted that there is no stay order in said appeal. Hence it will not effect to decide this case. Thereby DW-1 has failed to prove their defense and supported the case of plaintiffs.

38. Defendants have also examined 2 independent witness as DW-2 and 3 in support of their case. In the chief examination DW-2 has deposed about possession of defendants over land Sy No.81/2A. But DW-2 has not deposed anything about title of defendants over said property. In the absence of title, possession becomes illegal and it is contrary to the case of defendants. Further in the cross examination DW-2 has shown ignorance about the facts of this case itself. Hence the evidence of DW-2 is not supportive to the case of defendants.

39. Further in the chief examination, DW-3 has deposed that suit property measuring 13 Gs in total is the self acquired property of defendant no.1 and he is in possession and enjoyment of the same. But according to defendants suit property is the purchased property of father of defendant no.1. The chief examination of DW-3 itself is contrary to the case of defendants. But in the cross examination, DW-3 shown ignorance about Sy number, extent and boundaries of said 13

Gs and also shown ignorance about title of defendant no.1 over said property. Thereby DW-3 also failed to prove the case of defendants.

40. On perusal of oral and documentary evidence from both side court finds that in the partition, father of defendant no.1 has received 13 Gs in Sy No.81/2 and got separated. As father himself came away from joint family, hence defendant no.1 will not get any right to claim share in remaining family properties. Further Ex.P2, P3, Ex.D39, D40 sale deeds clearly proves about partition in the family. Further it is not a defense of defendants that suit property is joint family property and they have share. Hence defendants have no right to claim title over suit property.

41. Further defendants are claiming title over 10 Gs on the basis Ex.D3 sale deed and 13 Gs on the basis of Ex.D2 sale deed and also over 13 Gs on the basis of Ex.D1 partition deed. But Ex.D10 shows the name of defendant no.1 and 2 as khata holder of 10 Gs and Ex.D17 shows the name of defendant no. 1 and 2 as khata holder of 13 Gs. The remaining 13 Gs has been sold by father of defendant no.1 in the year 1970 as per Ex.P3 sale deed. Thereby these documents denies the title of defendants over said property. Hence it is clear that vendor of plaintiffs has acquired valid title over suit properties on the basis of Ex.P2 sale deed and he validly transfered the same in favor of

all plaintiffs through Ex.P1 respective sale deeds of all suits. Therefore it is clear that plaintiffs are in possession and enjoyment of respective suit properties on the basis of sale deeds. **Hence, Issue No.1 and 2 of OS No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013 are answered in the affirmative.**

42. **Issue No.3 of OS No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013:-** According to plaintiffs, when they tried to alienate the suit properties for non-residential purpose, defendants have objected for the same. Thereby defendants are causing interference. But plaintiffs have not produced any documents to prove the said fact. But in the cross examination DW-1 has admitted about filing of application by plaintiffs for alienation of suit properties and also admitted about filing objections to said application. The said admission itself is sufficient to decide the interference of defendants over suit property. **Hence Issue No.3 of OS No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013 are answered in Affirmative.**

43. **Issues No.4 of OS No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013:-** Plaintiff of each suit has proved his title and possession over his respective suit property. On the other

hand defendants have failed to prove their possession and enjoyment over suit properties. As plaintiff of each suit has proved his case independently therefore he will entitle for the reliefs sought in his plaint. **Hence, Issue No.4 of OS No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013 are also answered in the Affirmative.**

44. **Issue No.5 of OS No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013:** In view of my findings on the above Issues, I proceed to pass the following:

-:: ORDER ::-

The suit of the plaintiff bearing O.S No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013 are hereby decreed.

It is hereby declared that plaintiff of O.S No.694/2013 is the absolute owner and in possession, enjoyment of said suit property.

It is hereby declared that plaintiff of O.S No.696/2013 is the absolute owner and in possession, enjoyment of said suit property.

It is hereby declared that plaintiff of O.S No.698/2013 is the absolute owner and in possession, enjoyment of said suit property.

It is hereby declared that plaintiff of O.S No.700/2013 is the absolute owner and in possession, enjoyment of said suit property.

It is hereby declared that plaintiff of O.S No.702/2013 is the absolute owner and in possession, enjoyment of said suit property.

It is hereby declared that plaintiff of O.S No.704/2013 is the absolute owner and in possession, enjoyment of said suit property.

Further by way of permanent injunction, defendants are hereby restrained from interfering with peaceful possession and enjoyment of plaintiff over suit property of OS No.694/2013, 696/2013, 698/2013, 700/2013, 702/2013 and 704/2013.

No order as to cost.

Draw decree accordingly.

Keep original judgment in O.S No.694/2013 and a copy of judgment in O.S No.696/2013, 698/2013, 700/2013, 702/2013 and 704/2013.

(Dictated to stenographer, transcribed by her, transcript revised, corrected, print-out signed and then pronounced by me in the open court on this 19th day of November 2019)

(JINNAPPA CHOUGALA)
II Addl., Civil Judge & J.M.F.C.,
Channarayapatna.

-:: ANNEXURE IN O.S 694/2013 ::-

1. List of witnesses examined for plaintiff-

PW-1 : Venkatappashetty
PW-2 : C.C.Chandregowda

2. List of documents marked for plaintiff-

Ex.P-1 : Original sale deed
Ex.P-2 : Copy of sale deed
Ex.P-3 : Copy of sale deed
Ex.P-4 to 6 : Mutation Entry
Ex.P-7 : RTC Extract
Ex.P-8 : Receipt

-:: ANNEXURE IN O.S 696/2013 ::-

1. List of witnesses examined for plaintiff-

PW-1 : G.G.Shivanna

2. List of documents marked for plaintiff-

Ex.P-1 : Original sale deed
Ex.P-2 : Copy of sale deed
Ex.P-3 : Copy of sale deed
Ex.P-4 to 6 : Mutation Entry
Ex.P-7 : RTC Extract
Ex.P-8 : Receipt

-:: ANNEXURE IN O.S 698/2013 ::-

1. List of witnesses examined for plaintiff-

PW-1 : Shrinivasashetty

2. List of documents marked for plaintiff-

Ex.P-1	:	Original sale deed
Ex.P-2	:	Copy of sale deed
Ex.P-3	:	Copy of sale deed
Ex.P-4 to 6	:	Mutation Entry
Ex.P-7	:	RTC Extract
Ex.P-8	:	Receipt

-:: ANNEXURE IN O.S 700/2013 ::-

1. List of witnesses examined for plaintiff-

PW-1 : M.V. Devaraju

2. List of documents marked for plaintiff-

Ex.P-1	:	Original sale deed
Ex.P-2	:	Copy of sale deed
Ex.P-3	:	Copy of sale deed
Ex.P-4 to 6	:	Mutation Entry
Ex.P-7	:	RTC Extract

-:: ANNEXURE IN O.S 702/2013 ::-

1. List of witnesses examined for plaintiff-

PW-1 : G. Anantha

2. List of documents marked for plaintiff-

Ex.P-1	:	Original sale deed
Ex.P-2	:	Copy of sale deed
Ex.P-3	:	Copy of sale deed
Ex.P-4 to 6	:	Mutation Entry
Ex.P-7	:	RTC Extract

-:: ANNEXURE IN O.S 704/2013 ::-

1. List of witnesses examined for plaintiff-

PW-1 : C.G. Dhananjaya

2. List of documents marked for plaintiff-

Ex.P-1 : Original sale deed
Ex.P-2 : Copy of sale deed
Ex.P-3 : Copy of sale deed
Ex.P-4 to 6 : Mutation Entry
Ex.P-7 : RTC Extract
Ex.P-8 : Receipt

3. List of witnesses examined for Defendants in all suits: -

DW-1 : Srikanta
DW-2 : Dharanesh
DW-3 : Prakash

4. List of documents marked for Defendants in all suits: -

Ex.D-1 : Copy of Palupatti
Ex.D-2 & 3 : Copy of sale deeds
Ex.D-4 & 5 : Copy of RTC extracts
Ex.D-6 : Copy of sketch
Ex.D-7 : Copy of house list
Ex.D-8 to 10 : RTC Extracts
Ex.D-11 : Original Final Notice
Ex.D-12 : Copy of Tahashildar Order
Ex.D-13 & 14 : Index of Lands
Ex.D-15 : Copy of Order
Ex.D-16 : Intimation Letter
Ex.D-17 to 19 : RTC extract
Ex.D-20 to 35 : Photos

Ex.D-36	:	C.D
Ex.D-37	:	Photo Studio Bill
Ex.D-38	:	Copy of Judgment in RA No. 40/2015
Ex.D-39 & 40	:	Copy of sale deed
Ex.D-41	:	Copy of Judgment in OS 512/1998
Ex.D-42	:	Copy of Decree in OS No. 512/1998
Ex.D-43	:	Copy of Order
Ex.D-44	:	Copy of plaint in OS No. 605/1992
Ex.D-45	:	Copy of WS in OS No. 605/1992
Ex.D-46	:	Copy of Issues in OS No. 605/1992
Ex.D-47	:	Copy of memo in OS No. 605/1992
Ex.D-48	:	Copy of compromise petition
Ex.D-49	:	Copy of decree in OS No. 605/1992
Ex.D-50	:	Copy of sketch
Ex.D-51 & 52	:	Copy of RTC extracts

(JINNAPPA CHOUGALA)
II Addl., Civil Judge & J.M.F.C.,
Channarayapatna.