

// 1// :O.S.No.78/2021:

KAHS810006782021



Presented on : 23-04-2021

Registered on : 23-04-2021

Decided on : 07-07-2026

Duration: 01 year, 11 months, 27 days.

**IN THE COURT OF I ADDL. CIVIL JUDGE AND JMFC,
SAKALESHPURA.**

:PRESENT :

Smt. Shruthi K.S.,B.A.,LL.B.

I Addl. Civil Judge & JMFC,

Sakaleshpura

Dated this the 07th day of July, 2026

O. S.No.78/2021

PLAINTIFF :

Varuna S/o Nagaraja, Aged about 35
years, R/o Kamenahally Village, Kasaba
Hobli, Alur Taluk.

(Reptd.by Sri.**S.K.**,Adv.)

/ Vs./

DEFENDANT :

R.N. Parvathi D/o Ramanathan,

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Aged about 60 years, R/o
Kamenahally Village, Kasaba hobli,
Sakaleshpur Taluk, Hassan
District.

:JUDGMENT:

This is a suit filed by the plaintiff against the defendant for the relief of declaration, adverse possession and permanent injunction.

2. The factual matrix of the plaintiffs case is as follows,

The suit schedule property is ancestral property of the plaintiff. His grandfather has sold the suit property to one Jayaram 70 years ago. The said Jayaram has sold the suit property to the defendant during the year 1977-78. At the time of sale of property by the grandfather of the plaintiff, they were cultivating the property by planting coffee, silver oak trees and black pepper. When the defendant purchased the property from Jayaram the plaintiff was cultivating the property. The

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possession of the property was with plaintiff's family only. Since more than 70 years, they are cultivating the property and they are fenced the borders of the property. The defendant was fully aware that plaintiff was in actual possession of the land and cultivating the coffee plants since more than 40 years. The defendant visited suit property occasionally, but never interfered and caused any disturbance to the plaintiff's peaceful possession. Since the plaintiff purchased the property, on 10-04-2021, defendant allegedly approached the property and posed threat to the plaintiff not to cut trees grown by them. He is utilizing the trees for selling. These trees are essential to cover their personal expenses. Due to sudden interference by the defendant, plaintiff seeking permanent injunction against the defendant to protect their continuous possession and prevent the defendant from causing any further obstruction or interference. Hence, this suit.

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3. In pursuance to service of summons, defendant appeared before the Court through his Counsel. Even after rendering sufficient opportunity, he failed to file his written statement.

4. In order to substantiate the case, the plaintiff has examined himself as P.W.1 and he has filed his Chief Examination Affidavit in lieu of his oral chief examination and produced 6 documents, which have got marked as Exs.P.1 to 6 and closed his side.

5. Heard arguments and perused the materials available on record.

6. On the basis of the above pleadings, the points that would arise for my consideration are:

- 1. Whether the plaintiff proves that he is in possession, enjoyment of and the owner of the suit schedule property by way of adverse possession as alleged?**

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2. Whether the plaintiff further proves the alleged interference by the defendant?

3. Whether the plaintiff is entitled for the relief as prayed for?

4. What Order ?

7. My finding to the above points are as under:

POINTS NO.1 to 3 : In the Negative

POINT NO.4: As per final order

for the following:

:REASONS:

POINTS NO.1 to 3:- *Since these points are interlinked with one another they are taken up together for common discussion in order to avoid repetition of facts and evidence available on record:-*

8. This Court on careful perusal of the documents available on record it is seen that this is a suit filed by the plaintiff for the relief of declaration and adverse possession. The burden entirely lies on the plaintiff to prove as to when and from what date the possession of plaintiff become hostile and adverse. It is the case of the plaintiff that the suit schedule

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property is his ancestral property. His grandfather has sold the said property to one Jayaram. The said Jayaram has sold the same property to the defendant in the year 1977-78, but possession was not handed over to defendant. Since more than 70 years, plaintiff and his family members are in cultivation of the suit schedule property. The possession of the plaintiff is in the knowledge of defendant. Since the purchase of the property, the defendant neither disputed and nor caused any disturbance or interfered with the possession of the plaintiff. Hence, the possession of the plaintiff become hostile. Now, he is seeking declaration of his title under adverse possession and consequential relief of permanent injunction.

9. In order to substantiate the case of plaintiff he has filed his affidavit in lieu of his Chief-Examination by reiterating the plaint averments. He further produced 6 documents which are got marked as Exs.P.1 to 6.

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10. Exs.P.1 and 2 are RTC extracts, Ex.P.3 is the certified copy of pakka book, Ex.P.4 is the certified copy of Akaarbandh, Ex.P.5 is the mutation register, Ex.P.6 is the Sale deed.

11. In the present case, plaintiff is claiming his title over the property by way of adverse possession. The burden to prove his adverse possession of the property is upon plaintiff. Mere non filing of written statement by the defendant *ipsofacto* does not prove the case of the plaintiff. Plaintiff cannot rely on the weakness of the defendant case. He has to prove his case by producing cogent oral and documentary evidence. The adverse possession is a fact intensive hostile claim that seeks to defeat the right of true lawful owner, because, the law disfavours acquisition by strength. The plaintiff must prove his case by clear and unequivocal evidence. The plaintiff must explicitly prove that their possession become hostile to the actual owner. The possession of the plaintiff must be open that real owner exercising reasonable diligence.

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12. By keeping these principles in mind, now this Court can appreciate evidenced on record. On perusal of Ex.P.6 Sale deed, it appears that as per the recital of Ex.P.6, the possession of the suit schedule property is delivered to the defendant on the same date of execution of sale deed. There is a strict legal presumption regarding the authenticity and execution of the registered document. Under the law when once the document is duly registered by public officer it carries a presumption of correctness meaning that the fact recorded within it. The registered document are presumed to be true and validly proved. As per Ex.P.6 it is a registered document and under the said registered document, the possession of the property is already delivered to defendant. As per Exs.P.1 to 5 RTC's and all the revenue documents are standing in the name of the defendant. In Ex.P.1 in column No.12(2) defendant name is mentioned as possessor and cultivator of the property. There is no single document showing that plaintiff is in possession of the suit property. Not even a photograph is produced by the plaintiff

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to show that he is in possession of the property. Moreover, plaintiff has not made any endeavour to examine any independent witness or adjacent land owners in support of his case. In his pleading, he also not explained or particularly stated as to when exactly the possession become hostile. When such being the case, merely on the sole ground of defendant not filed his written statement cannot be a good ground to decree the suit filed by the plaintiff. Therefore, plaintiff is not entitled for the relief as claimed in his suit. Accordingly, Points No.1 to 3 are answered in the **‘Negative’**.

POINT NO.4:-

13. In the result, and in view of my findings on the above point, this Court proceed to pass the following:

:ORDER:

The suit filed by the plaintiff is hereby dismissed.

No order as to costs.

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(Dictated to the stenographer,transcribed by him, corrected by me and then pronounced in the open Court on this the 7th day of July, 2026)

(Shruthi.K.S.)
I Addl.Civil Judge and JMFC
Sakaleshpura

:ANNEXURES:

I LIST OF WITNESSES EXAMINED FOR THE PLAINTIFF:-

P.W.1 : Varun K.S.

II LIST OF EXHIBITS MARKED FOR THE PLAINTIFF:-

Ex.P.1 : RTC for the land bearing Sy.No.1/4

Ex.P.2 : RTC for the land bearing Sy.No.1/4

Ex.P.3 : Pakka book

Ex.P.4 : Akaar Bandh

Ex.P.5 : Mutation Register Extract
10/82-83

Ex.P.6 : Sale deed

II LIST OF WITNESSES EXAMINED AND DOCUMENTS MARKED FOR THE DEFENDANTS:

- NIL-

(Shruthi.K.S.)
I Addl.Civil Judge and JMFC
Sakaleshpura

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