



**IN THE COURT OF THE SENIOR CIVIL JUDGE
AT HIREKRUR.**

: PRESENT : Parashuram F. Doddamani,
M.A.,L.L.M.,

Senior Civil Judge & J.M.F.C., Hirekerur.

DATED THIS THE 06TH DAY OF JULY 2026

REGULAR APPEAL No.9/2022

[OS.No.221/2017 before Civil Judge and JMFC., Hirekerur]

Appellants/ defendants:-	1	Anusuyamma W/o Tirukappa Badalingappanavar, Age: 68 years, Occ: Household work, R/o. Dudihalli, Tq: Hirekerur, Dist: Haveri.
	2	Smt. Bhagya W/o Basanagouda Marikoppa Age: 39 years, Occ: Household work, R/o. Kanivemani, Tq: Shikaripur, Dist: Shivamogga.
	3	Smt. Nirmala W/o Kenchappagouda Marikoppa, Age: 37 years, Occ: Household work, R/o. Kanivemani, Tq: Shikaripur, Dist: Shivamogga.
	4	Gadigeppa S/o Tirakappa Badalingappanavar, Age: 62 years, Occ: Agriculture, R/o. Dudihalli, Tq: Hirekerur, Dist: Haveri.
	5	Gangadhar S/o Tirakappa Badalingappanavar,



		Age: 56 years, Occ: Agriculture, R/o Dudihalli, Tq: Hirekerur, Dist: Haveri.
	6	Mallikarjun S/o Shivanandappa Badalingappanavar, Age: 42 years, Occ: Agriculture, R/o Dudihalli, Tq: Hirekerur, Dist: Haveri.
	7	Lokesh S/o Shivanandappa Badalingappanavar, Age: 36 years, Occ: Agriculture, R/o Dudihalli, Tq: Hirekerur, Dist: Haveri.
	8	Malleshappa S/o Kalaveerappa Badalingappanavar, Age: 56 years, Occ: Agriculture, R/o. Siddapur, Tq: Shikaripur, Dist: Shivamogga.
	9	Budeppa S/o Kalaveerappa Badalingappanavar, Age: 52 years, Occ: Agriculture, R/o. Siddapur, Tq: Shikaripur, Dist: Shivamogga.
By Sri. P.F.Jadar. Advocate		
Vs.		
Respondent/ plaintiff	1	Basavaraja Adopted father Veerappa Badalingappanavar (Dead)
	1A)	Anasuyamma W/o Basavarajappa Badalingappanavar , Age: 57 years, Occ: Household work, R/o. Dudihalli, Tq: Hirekerur, Dist: Haveri.



	1B)	Kumara S/o Basavarajappa Badalingappanavar, Age: 36 years, Occ: Agriculture, R/o. Dudihalli, Tq: Hirekerur, Dist: Haveri.
	1C)	Mallikarjun S/o Basavarajappa Badalingappanavar, Age: 34 years, Occ: Agriculture, R/o. Dudihalli, Tq: Hirekerur, Dist: Haveri.
	1D)	Lata W/o Erappa Angadi Age: 38 years, Household work, R/o. Billalli, Tq: Ranebennur, Dist: Haveri.
(By Sri. V.R.Droupakkanavar Advocate)		

Date of filing of appeal	21-01-2022
Natural of the decree or order appealed against	Judgment & Decree passed by Ld. Civil Judge and JMFC, Hirekerur, in OS.No.221/2017, dated: 13-12-2021
Date of judgment pronounced on	06-07-2026
Total equation	Year/s Month/s Day/s 04 05 16

(Parashuram F. Doddamani)
Senior Civil Judge & JMFC,
Hirekeur.



J U D G M E N T

This is an appeal filed by the appellants/defendants Under Order XLI Rule 1 and 2 of CPC, being aggrieved by the Judgment & Decree passed in OS.No.221/2017 dated 13-12-2021 on the file of Civil Judge and JMFC, Hirekerur.

2. For the sake of brevity and convenience the parties to the appeal are referred as per their ranking before the Trial Court.

3. The briefly stated facts which leads the plaintiffs to file the present suit before the Trial Court is as under;

The plaintiff has filed the suit against the defendants for the relief of permanent injunction.

4. The plaintiff pleaded that, he is an adoptive son of one Sri. Erabasappa @ Veerabasappa S/o Bharmappa Badalingannanavar and Smt. Neelavva. The suit schedule property is the ancestral property of said Sri. Erabasappa. The said Sri. Erabasappa was died issueless on 08.08.1948 leaving behind his wife



Smt. Neelavva. Therefore, she has succeeded the suit property. Smt. Neelavva was died on 30.06.1969 leaving behind the plaintiff as the only heir. As such, the plaintiff has succeeded to suit property and he has been in possession and enjoyment of the same for more than 40 years.

5. It is alleged that, the defendants though not having any right or interest in the suit schedule property, under the institution of some persons in the village and the political conspiracy trying to interfere with the possession and enjoyment of the suit schedule property by the plaintiff, claiming that they are having right in the said property. Though the defendants were advised through elders of the village, they have not heeded to their words. Hence, the plaintiff constrained to file the suit.

6. In pursuant to suit summons, the defendants have appeared through a council. The defendants No.1 and 6 have filed their written statement and thereafter, all the defendants have filed counter claim against the plaintiff.



7. It is the case of the defendants that the suit schedule property originally belongs to one Sri. Shivalingappa, who had three sons namely Sri. Adivappa, Sri. Gangappa and Sri. Mallappa. Said Shivalingappa died on 12.06.1943, thereafter, the suit property has been mutated in the name of his eldest son Sri. Adivappa as per mutation bearing No.696 along with his two brothers and they were cultivating the suit land. Sri. Adivappa also died on 16.05.1951 and his two sons namely Sri. Thirukappa and Sri. Kalaveerappa have succeeded the suit property and their name got mutated as per mutation bearing No.1028 as legal heirs of Adivappa. Since, then the defendants No.1 to 5 are the children of Sri. Thirukappa and defendants No.6 and 7 are the children of Sri. Kalaveerappa have been in joint possession and enjoyment of the said property. In the family partition the suit property has come to the share of defendants No.1 to 5.

8. It is specifically contended that, the plaintiff or his adoptive father or mother are not related to family or defendants. As such, the plaintiff is not



having any right or interest in the suit property. In spite of it, the plaintiff by creating false and fake documents got entered his name in the revenue records by colluding with the revenue officials in respect of the suit schedule property. It is specifically contended that, the plaintiff was neither in possession nor enjoying the schedule property at any point of time. Under the guise of such false and fake documents and the revenue records, he is claiming the title of the suit schedule property and interfering with the possession and enjoyment of the suit property by the defendants and also filed this false suit. In view of these grounds, the defendants requested to dismiss the suit of the plaintiff and decree the counter claim against the plaintiff.

9. In view of the above pleadings of both the parties, the trial court has framed the following issues;

1. Whether the plaintiff proves that he is in lawful possession and enjoyment over the suit schedule property as on the date of the suit?



2. Whether the plaintiff proves that the alleged interference of the defendants over the schedule property as alleged in the plaint?

3. Whether the plaintiff is entitled for the relief of permanent injunction as sought in the plaint?

4. What order or decree?

Additional Issues

1. Whether the defendants No.1 to 7 prove that they are the absolute owners in possession of the suit schedule property?

2. Whether the defendants No.1 to 7 prove that the alleged interference of the plaintiff as alleged in the counter claim?

3. Whether the defendants No.1 to 7 are entitled for the relief of declaration and injunction as sought in the counter claim?



10. In order to prove his case, the plaintiff himself got examined as PW-1 and got marked 21 documents at Ex.P-1 to Ex.P-21. To resist the claim of the plaintiff, the defendant No.1 got examined himself as DW-1 and also examined two independent witnesses as DW-2 and DW-3 and got marked 6 documents as Ex.D-1 to Ex.D-6.

11. After the conclusion of the trial and upon hearing the parties the Trial Court has decreed the suit of the plaintiff and dismiss the counter claim of the defendants.

12. Being aggrieved by the impugned judgment and decree the defendants preferred the present appeal by reiterating the plaint as well as counter claim averments along with following grounds.

Grounds:

1. The Judgment and Decree passed by the Trial Court is against facts, oral and documentary evidence and against law.
2. The Trial Court has ought to have dismissed the suit and decreed the



counter claim of the defendants on the basis of pleadings and evidence.

3. The Trial Court ought to have discussed the facts of the case as per law, but it has discussed only on imaginary grounds.
4. The plaintiff has filed this suit only for the relief of permanent injunction, but unless and until he proved his lawful ownership and possession in the suit property, the suit is not maintainable and the trial court has not taken these points while discussing in the judgment.
5. The defendants have produced Ex.D-3 and proved that, the ancestors of defendants' name entered in the records with respect to suit property as legal heirs in the year 1943 and similarly as per Ex.D-6 in the year 1951 and proved additional issue No.1. But, the trial court has not discussed on these points. In fact, in the cross examination the plaintiff pleaded his ignorance about the source of title of the suit property along with land bearing Sy.No.97/8 and the trial court has not given specific reasons and wrongly answered issue No.1 in the affirmative and additional issue No.1 in the negative.
6. The trial court has not discussed Ex.D-3, Ex.D-4 and Ex.D-6 with proper reasons.



7. The trial court has not considered and discussed the deposition of D.W-2 and D.W-3 as they deposed that, the suit schedule property is the ancestral property of defendants.
8. The trial court has not considered the ancestors of defendants namely Adivappa, Nagendrappa and Mallappa have partitioned the suit property along with family property mentioned in Ex.D-4.
9. The trial court has not discussed about how suit property come to plaintiff family and not considered 'ಪ' No.696 and Ex.D-3.
10. The trial court has not discussed the ownership of the suit property on the basis of evidence.
11. The trial court has not considered the deposition of the D.W-2 about the possession of defendant over the suit property.

13. On these grounds, the defendants No. 1(a) to 1(d) sought to allow the appeal and set- aside the impugned judgment and decree dated 13.12.2021 passed in OS No. 221/2017.



14. In pursuance of the notice of appeal memo, the plaintiff has appeared through his counsels.

15. Secured the records of the Trial Court.

16. Heard the arguments addressed by both the Ln.counsels and perused the records.

17. The points that arise for my consideration are:

1. Whether defendants/appellants established that the Trial Court fell in error in appreciating the oral and documentary evidence placed by him?
2. Whether the interference of this Court is warrant?
3. What order or decree?

18. My findings to the above points are as follows:

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: As per final order for the following:



REASONS

19. Points No.1 and 2: These points are inter related to each other, hence I have taken up together for common discussion to avoid the repetition of facts and evidence.

20. During the argument the learned counsel for the appellants has reiterated case of the defendants.

21. Per contra, the counsel for the plaintiff also reiterated the case of the plaintiff and relied the citations mentioned is as under:

*The Hon'ble High Court of Karnataka, Dharwad Bench has passed judgment in the case of **Vasudev and others vs. Tukaram Bhimappa Naik and others** decided in **RSA.No.820/2004** dated 17.03.2014 reported in **ILR 2014 KAR 4716**. Wherein it is held that, **Column No.9 or 12 of RTC in a suit for injunction, revenue entries play major role more particularly in the light of***



***presumption available under Section 133
of the Karnataka Land Revenue Act***

*The Hon'ble High Court of Karnataka, Bengaluru Bench has passed judgment in the case of **Basaveshwara Kumar and others vs. Mahadevaiah in RSA. No.1974/2018 dated 09.03.2023.** Wherein it is held that, **While considering the relief of injunction, the court has to see two important aspects i.e., one with regard to possession and another with regard to interference.***

22. Considering the rival plea, I have perused the entire materials available on record.

23. In the examination-in-chief PW-1 has reiterated the plaint averments. It is the specific case of the plaintiff that, he is an adoptive son of Neelawwa. To substantiate his plea, he has produced certified copy of registered adoption deed dated 28.05.1969 and got marked as Ex.P21. This document reflects that, Neelawwa is the widow of Irabasappa Badalingappanavar. Irappa died leaving behind his



wife Neelawwa and 3 daughters. Shantawwa was the eldest daughter of Irabasappa and Neelawwa. Neelawwa adopted Basavaraj who was the son of Shantawwa. In the adoption deed it is mentioned that the natural parents have given their son Basavaraj and Neelawwa received him as an adopted son. In cross examination DW-1 has admitted that, the plaintiff is an adopted son of Irabasappa and Neelawwa. As per **Section 16 of Hindu Adoption and maintenance Act**, there is a presumption regarding registered adoption deed. The said provision reads thus;

Section 16. Presumption as to registered documents relating to adoption.—Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved.



24. It is the specific case of the plaintiff that, the suit property is an ancestral property of Erabasappa @ Veerabasappa Badalingappanavar. Irabasappa died on 08.08.1948. Thereafter, his wife Neelawwa succeeded the suit property. To substantiate the same the plaintiff has produced the certified copy of 'Rights Form-6' (ಹಕ್ಕುಗಳ ಪತ್ರಿಕೆ- ಗ್ರಾ. ನ. ನಂ-6) bearing No.949 dated 12.11.1948 and got marked as Ex.P-1, wherein it is mentioned that, Irabasappa Bharamappa Badalingappanavar died on 08.08.1948 without male issues leaving behind his wife Neelawwa. So, Neelawwa succeeded the suit land bearing Sy.No.97/9 and non suit properties as legal heir. The copy of the same has been produced by the defendants and got marked Ex.D-5. Accordingly, the name of Neelawwa came to be entered in the revenue records and it can be seen from Ex.P-8 village Form No.7 for the year 1940-41 to 1949-50. The copy of the same has been marked on behalf of defendant as Ex.D-1.

25. On the contrary, the defendants contended that, the suit property is the family property of their great grand father Shivalingappa. Shivalingappa died



on 12.06.1943, the Khatha of suit land was entered in the name of his eldest son Adivappa as per MR.No.696/1943. Adivappa died on 16.05.1951, the Khatha of suit land was mutated jointly in the names of his two sons namely Thirukappa and Kalaveerappa under MR.No.1028/1951. Ex.D-3 is certified copy of ಹಕ್ಕುಗಳ ಪತ್ರಿಕೆ ಗ್ರಾ.ನ. ನಂ.6 bearing 696 dated 25.08.1943, wherein it is mentioned that, Shivalingappa Gangappa Badalingappanavar died on 12.06.1943, the name of Adivappa ordered to be entered in the revenue records as eldest son in respect of suit land and non suit lands. Accordingly, their names appeared in the revenue records as per Ex.D-1 the copy of the same is marked as Ex.P-8. Ex.D-6 the certified copy of Form No.6 bearing No.1028 dated 15.07.1951 shows that, Adivappa Shivalingappa Badalingappanavar died on 16.05.1951 the names of the his two sons namely Thirukappa and Kalaveerappa entered in the revenue records in respect of suit land and non suit lands. Accordingly, their name appeared in the Form No.7, which can be seen from Ex.D-2. Except, these records the defendants did not produce any documents to substantiate their claim in the suit land.



26. It is the specific case of the defendants that, the plaintiff or his adoptive parents are neither joint owners of suit land nor the relatives of the family of the defendants. If it is so, why the suit land was standing jointly in the names of adoptive parents of the plaintiff and great grand father of defendants during the said period. There is no explanations for the same by the defendants.

27. On the contrary, the plaintiff specifically stated that, the name of great grand father of the defendants was entered in the revenue records of the suit land only as the ordinary tenement (ಸಾಧಾರಣ). In this regard, the plaintiff submitted that, the plaintiff's parents were not having male issues, so the name of great grand father of defendants was cultivating the that land and as such his name was entered in the revenue records. When it was suggested to DW-1 in the cross examination that his grand father Adivappa was cultivating the suit land as the ordinary tenement (ಸಾಧಾರಣ), he has neither admitted nor denied the same, rather pleaded his ignorance. For better appreciation of answer given by DW-1 and to decide the issues



involved in the suit, it has been reproduced is as under;

“ವೀರಬಸಪ್ಪನಿಗೆ ಗಂಡು ಮಕ್ಕಳು ಇಲ್ಲವಾದ್ದರಿಂದ ನನ್ನ ತಾತ
ಅಡಿವೆಪ್ಪ ಸಾದಾಕುಳ ಎಂದು ದಾವಾ ಆಸ್ತಿಗಳನ್ನು ಸಾಗು
ಮಾಡುತ್ತಿದ್ದರು ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ.”

28. The answer given by DW-1 clearly shows that, he is not ready to give proper reply. In support of his case, the plaintiff has produced the certified copy of (ಹಕ್ಕುಗಳ ಪತ್ರಿಕೆ-ಗ್ರಾ.ನ.ನಂ-6) village From No.6 bearing No.1084 dated 08.07.1954 and got marked as Ex.P-4. This document clearly established that the entry of the name of defendants' father Thirukappa was cultivating the suit land as an ordinary tenement (ಸಾದಾಕುಳ) under the column meant for other rights and encumbrances. Thus, it might be probable that, in view of the said mutation order the name of father of the defendants No.1 to 5 was reflecting in the Grama Namune i.e., Ex.D-1 and 2 along with name of adoptive parents of the plaintiff. Further, in Ex.D-2 it is clearly mentioned under the other rights or encumbrances the name of the father of the defendants No.1 to 5 as fragment.



29. It is further case of the plaintiff that, subsequently, as the great grand father of defendants has failed to cultivate the suit land for more than 2 years during the year 1956 his name was removed from the revenue records as the ordinary tenements (ಸಾದಾಕುಳ). To substantiate the same the plaintiff has produced the certified copy of Form No.6 (ಹಕ್ಕುಗಳ ಪತ್ರಿಕೆ-ಗ್ರಾ.ನ.ನಂ-6) bearing No.1340 dated 05.04.1956 and got marked Ex.P-5. This document clearly established that, the father of defendants No.1 to 5 Thirukappa Adiveppa Badalingappanavar was not cultivating the suit land bearing Sy.No.97/9 more than two years from 1950-51, so his name was removed as ordinary tenements (ಸಾದಾಕುಳ) from the other rights or encumbrances in respect of suit land. In the cross examination of DW-1 the same has been suggested, but he pleads his ignorance, the answer given by DW-1 reads thus;

"ನನ್ನ ತಂದೆ ತಿರುಕಪ್ಪನವರು ದಾವಾ ಆಸ್ತಿಯನ್ನು
ವಹಿವಾಟು ಮಾಡದೇ ಇರುವ ಕಾರಣದಿಂದ **1956** ರಲ್ಲಿ
ಸಾದಾಕುಳವನ್ನು ರದ್ದುಪಡಿಸಿದ್ದರು ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ"

30. Therefore, it appears very clear that, the grand father of defendants as well as father of



defendants No.1 to 5 was cultivating the suit land only an ordinary tenement (ಸಾದಾಕುಳ) under an adoptive parents of the plaintiff in respect of suit land and their tenancy was terminated and canceled by operating of law as per Ex.P-5 in the year 1956. As such, it is evident that the great grand father of the defendants and father of defendants No.1 to 5 were neither owners nor in possession of suit land from 1956.

31. According to the defendants, the suit land was fallen to the share of defendants No.1 to 5 in the family partition, which is the real question in controversy between parties to the suit. Apart from the above, the defendants themselves got produced the certified copy of MR.No.810/1947 and got marked as Ex.D-4 with regard to partition of the family properties among their grand father Sri. Adivappa and his two brothers Sri. Mallappa and Sri. Nagendrappa. On careful scrutiny of the said document, it is revealed that the suit land was not included in the said partition and the suit land was not allotted to the share of anyone among all three brothers much less to the share of the grand father of defendants. If it all as contended by the defendants. The suit land was the ancestral property of the great



grand father Sri. Shivalingappa in the family partition among his three sons Sri. Adivappa, Sri. Mallappa and Sri. Nagendrappa the suit land should have been included. There is no explanations by the defendants as to how in the said partition the suit land was not included. Therefore, it is evident that, as discussed above, the great grand father of defendants and father of defendants No.1 to 5 were having only the rights of ordinary tenancy in the suit land under an adoptive parents of the plaintiff because of the same the suit land was not partitioned among three sons of Shivalingappa.

32. From all the above discussed facts and circumstances and documentary evidences as well as oral evidences, it can be concluded that, the defendants have failed to prove that, they are the absolute owners in possession of suit land.

33. It is the specific case of the plaintiff that, his adoptive mother Smt. Neelawwa died on 30.06.1969 leaving behind the plaintiff as her legal heir. As such, the plaintiff has succeeded the suit land and he has been in possession and enjoyment of the same for more



than 40 years. Ex.P-1 the certified copy of Form No.6(ಹಕ್ಕುಗಳ ಪತ್ರಿಕೆ-ಗ್ರಾ.ನ.ನಂ-6) bearing No. 949 dated 12.11.1948 shows that the suit lands bearing Sy.No.97/9 and other lands were standing in the name of Irabasappa Bharamappa Badalingappanavar, he died on 08.08.1948. So, his wife Neelawwa succeeded the properties accordingly, her name was entered in the revenue records. In Exs.P-8 and 9 From No.7 for the years 1940-41 to 1949-50 and 1950-51 to 1963-64 respectively shows that, the name of Neelawwa was mentioned as the widow of Irabasappa and she was owner in possession of the suit land. Further, Exs.P-10 to 14 i.e., RTCs in respect of suit land clearly reveal that, from 1966 to 2001-02 the suit land was standing in the name of adoptive mother of plaintiff.

34. Ex.P-2 the certified copy of MR.No.H54 dated 20.02.2013 shows that, Smt. Neelawwa died on 30.06.1969, the name of plaintiff was ordered to mutate in the revenue records in respect of suit land. Accordingly, the name of the plaintiff has appeared in the revenue records as legal heir of the Neelawwa and the same can be seen from Exs.P-6 and 7 the RTC from 2017-18. Therefore, it is crystal clear that, from 1948



Neelawwa was in possession of suit land till her death and after death the plaintiff being her adoptive son is in possession of suit land.

35. From the above discussed oral and documentary evidence, it can be concluded that, the defendants have failed to prove that, they are absolute owners and in possession of the suit land, whereas the plaintiff has proved that, he is in lawful possession and enjoyment of the suit land as on the date of filing of the suit.

36. It is alleged in the plaint that, the defendants joined together and came near the suit land claiming that, they too have rights in suit land, picked up quarrel and assaulted plaintiff, his wife Anusuyamma and son Shivakumar and also they have destroyed cotton plants grown in the suit land. In that regard the plaintiff has lodged the complaint against the defendants before the Hirekerur Police and a case has been registered as Criminal No.161/2017. In support of the same, the plaintiff has produced the certified copy of FIR and complaint got marked as Exs.P-16 and 17 respectively. Though, the defendants have denied the



same by way of general denial, then have not specifically denied and alleged interference with the possession of plaintiff over the suit land. Even in the absence of such documentary evidences as to alleged interference, the very fact that, the defendants are claiming the title over the suit land and its possession against the plaintiff as discussed above itself amounts to a sort of constructive interference. Therefore, the plaintiff has successfully proved his possession and enjoyment over the suit land and the defendants are trying to dispossess the plaintiff from the suit land. The defendants in their counter claim alleged interference of the plaintiff with their possession and enjoyment of suit land, which was denied by the plaintiff, the defendants have failed to prove their alleged possession and enjoyment in the suit land, so the alleged interference by the plaintiff is imaginary. The citations relied on behalf of plaintiff are aptly applicable to his case.

37. I have gone the findings of the trial court. The trial court has elaborately discussed the facts, oral and documentary evidence and rightly decreed the suit of the plaintiff and dismiss the counter claim of the



defendants. The trial court has rightly appreciated the case of the plaintiff with sound reasons on well established principle of law. Therefore, I have no reasons to interference of the findings of the trial court. Thus, the above points are answered in the **negative**.

38. Point No.3:- As per the final order:-

O R D E R

**Appeal by the appellants U/o XLI
Rules 1 and 2 is dismissed with costs.**

**Accordingly, the Judgment &
Decree passed in OS No.221/2017 on
the file of Civil Judge, Hirekerur is
hereby confirmed.**

Draw decree accordingly.

**Send trial court records along with
copy of judgment and decree.**

(Dictated to the stenographer, typed by his, corrected by
me and then pronounced in the open court on
06th day of July 2026)

(Parashuram F. Doddamani)
Senior Civil Judge & JMFC,
Hirekerur.