



IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT
RANEENNUR.

Dated on this the 01st day of June 2026

Present: Sri. ADITHYAKUMAR H.R, B.A.LL.B.

Prl. Civil Judge & JMFC. Ranebennur.

ORIGINAL SUIT NO. 136/2016

- Plaintiffs:**
1. Siddappa S/o Channabasappa Soppin,
Age: 41 Years, Occ: Business,
R/o: Kurubageri Soppinapete,
Ranebennur, Tq: Ranebennur,
Dist: Haveri.
 2. Yallappa S/o Pandappa Hulihalli,
Age: 51 Years, Occ: Hotel Business,
R/o: Ranebennur, Opp. Rural Police
Station, P.B. Road, Ranebennur,
Tq: Ranebennur, Dist: Haveri.

(Rep. by Sri. P.R.K., Adv.,)

V/s

Defendants:

1. Rudrappa S/o Mallappa Karur,
Age: 54 years, Occ: Agril. & Business,
R/o: Siddeshwara Nagar, Near Water
Tank Road P.B. Road, Ranebennur,
Tq: Ranebennur, Dist: Haveri.
2. Maradeppa S/o Ramappa Karur,
Age: 52 years, Occ: Milk Business,
R/o: Siddeshwara Nagar, Near Water
Tank Road P.B. Road, Ranebennur,
Tq: Ranebennur, Dist: Haveri.

3. Bharamalingappa S/o Ramappa Karur,
Age: 40 years, Occ: Milk & Hotel Business,
R/o: Siddeshwara Nagar, Near Water
Tank Road P.B. Road, Ranebennur,
Tq: Ranebennur, Dist: Haveri.
4. Siddavva W/o Ramappa Karur,
Age: 70 years, Occ: Housewife,
R/o: Siddeshwara Nagar, Near Water
Tank Road P.B. Road, Ranebennur,
Tq: Ranebennur, Dist: Haveri.

(Rep. by Sri. P.R.H., Adv.,)

EVENTS

Date of Institution of the Suit	:-	07.05.2016
Nature of the Suit	:-	Suit for Permanent injunction.
Date of commencement of Recording of Evidence	:-	12.07.2017
Date on which the judgment Was pronounced	:-	01.06.2026
Total Duration	<u>Year/s Month/s Day/s</u>	
	10	00 25

**(Adithyakumar H.R)
Prl. Civil Judge & JMFC.,
Ranebennur.**

JUDGMENT

This suit for injunction simplicitor is filed by the plaintiffs seeking to restrain the defendants from encroaching upon, or putting up any construction on, the suit property described as **'ABCD'** in the hand sketch appended to the plaint.

2. The Description of the suit properties are as under;

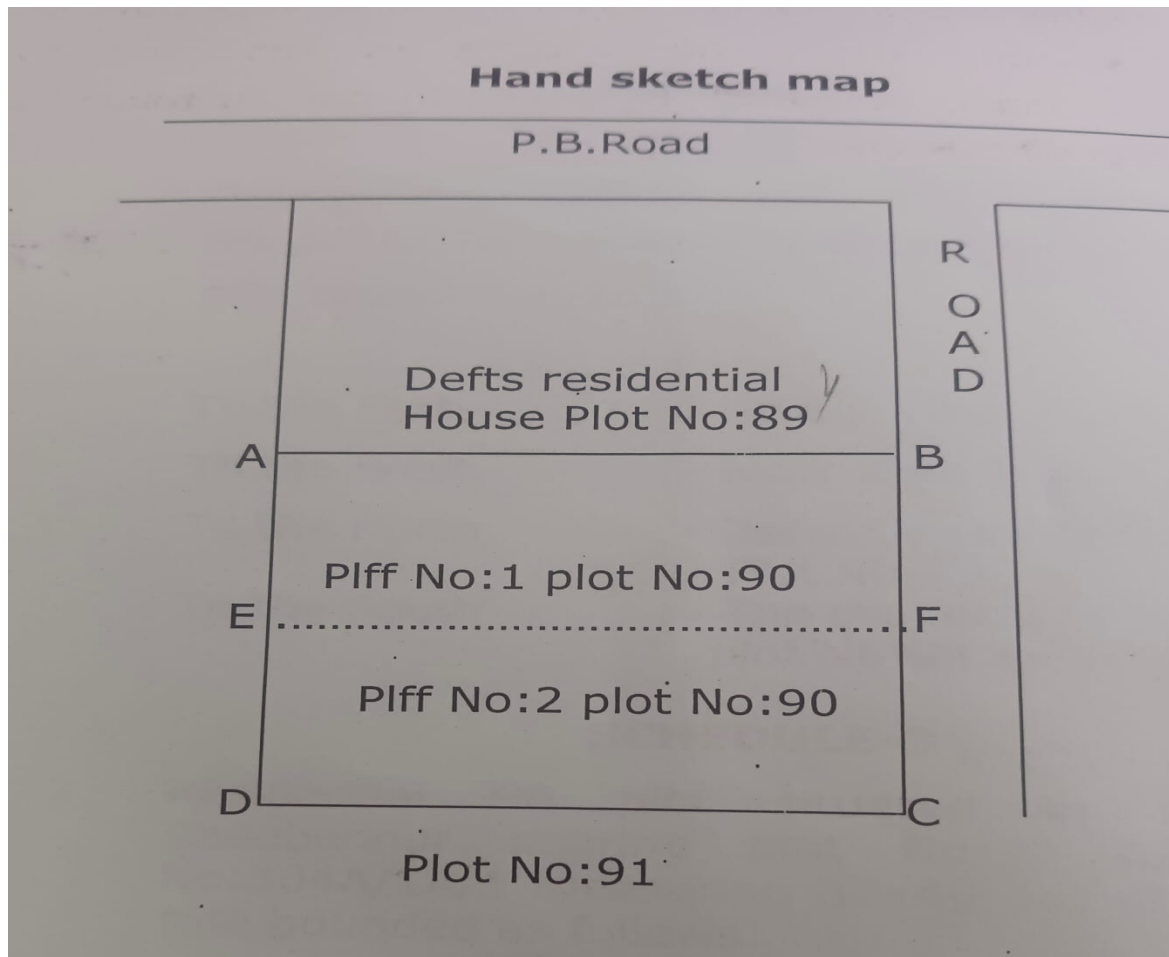
1. Residential NA plot situated in Siddeshwar Nagar Ranebennur bearing plot No.90 formed out of Sy. No.304A/1A/1 measuring 30X40 out of 60X40 of northern side bounded as follows;

To the East	: Water Tank Road
To the West	: Work shed area
To the North	: Defendants residential house bearing plot No.89
To the South	: The property of Plaintiff No.2 out of plot No.90 measuring 30 X 40.

2. Residential NA plot situated in Siddeshwar Nagar Ranebennur bearing plot No.90 formed out of Sy. No.304A/1A/1 measuring 30X40 out of 60X40 of Southern side bounded as follows;

To the East	: Water Tank Road
To the West	: Work shed area
To the North	: Defendants residential house bearing plot No.89
To the South	: Plot No.91

2.1. The Hand Sketch produced along with the plaint is described as hereunder;



3. The factual matrix of the plaintiffs' case unfolds as under;

Plaintiff No.1 purchased the suit schedule 'A' property from its erstwhile owner under a registered sale deed dated 04.05.2009, and Plaintiff No.2 purchased the suit schedule 'B' property under a registered sale deed dated 12.10.2009.

3.1. Since then, the plaintiffs have been in possession and enjoyment of their respective properties. Their names have been entered in the municipal records, and they intended to construct houses thereon. The defendants are stated to be the owners in

possession of Plot No.89 situated to the north of the suit properties.

3.2. It is contended that the defendants filed a suit for bare injunction against the present plaintiffs in O.S. No.120/2016 on the file of this Court and, taking advantage of the temporary injunction granted therein, encroached upon the 'ABCD' suit property, excavated the soil, laid a foundation, and covered the same with zinc sheets. Despite repeated requests by the plaintiffs and intervention by local elders, the defendants continued their illegal acts, thereby compelling the plaintiffs to institute the present suit.

4. The suit summons were duly served on the Defendants, who appeared through the counsel and filed common written statement denying the Plaintiffs' claim.

5. Gist of common written statement of defendants:

The defendants have denied all the material allegations made in the plaint, including the existence of any cause of action for the present suit. They have specifically denied the plaintiffs' title to and possession over the suit properties.

5.1. It is contended that the defendants are the absolute owners in possession of Plot No.89, formed pursuant to a resolution dated 30.11.1972. The said plot originally belonged to "Kurubara Unneya Oudyogika Belavanigeya Sahakari Sangha Ltd., Ranebennur" and was subsequently allotted to Mallappa, the father of Defendant No.1, under a registered sale deed dated 20.10.1973. The CMC

records were also mutated in his name.

5.2. It is further contended that, under a registered family partition effected in the year 2010 by metes and bounds, the eastern portion of Plot No.89 measuring 17 × 40 feet fell to the joint share of Defendants No.2 to 4, and the western portion measuring 33 × 40 feet fell to the share of Defendant No.1. It is also contended that the defendants obtained the necessary permission from the CMC, Ranebennur, to construct a commercial building on the said property.

5.3. The defendants assert that the plaintiffs have no manner of right, title, or interest over Plot No.89. It is further alleged that the plaintiffs attempted to interfere with the defendants' possession and obstruct the construction work, thereby compelling the defendants to file O.S. No.120/2016 and obtain an order of temporary injunction. Despite the said order, the plaintiffs have instituted the present suit only to harass the defendants; hence, the suit is liable to be dismissed with costs.

6. On 16.07.2017, this court has framed the following;

ISSUES

- I.** Whether the plaintiffs prove that, they are the absolute owners and they are in joint possession and enjoyment of the suit schedule properties as on the date of the suit as alleged in the plaint.?
- II.** Whether the plaintiffs prove that, alleged interference by the defendants as alleged in the plaint.?

III. Whether the plaintiffs are entitled for the relief sought for.?

IV. What order or decree.?

7. In support of their case, Plaintiff No. 2 was examined as PW1 and produced 38 documents as Ex.P1 to Ex.P38 and subjected to cross-examination.

Ex.P1 is the certified copy of RTC in respect of suit property. Ex.P2 is the original sale deed dated 04.05.2009. Ex.P3 is the RTC. Ex.P4 is the original sale deed dated 12.10.2009. Ex.P5 is the rectification of sale deed dated 04.02.2016. Ex.P6 is the copy of the plaint of OS No.120/2016. Ex.P7 to 16 photographs and CD. Ex.P17 is the building construction permission. Ex.P18 to 34 are the tax paid receipt and Ex.P35 to 38 are the photographs and CD.

8. Per contra, the defendants have not adduced any oral or documentary evidence in support of their case.

During the cross-examination of PW1, 5 photographs were confronted and got marked as Ex.D1 to 5.

9. Both counsel failed to address the arguments.

10. After carefully perusing the pleadings of both parties, examining the evidence on record, and considering the arguments of both sides, this Court proceeds to answer the aforementioned points for consideration as follows;

Issue No.1;-	In the Negative.
Issue No.2;-	In the Negative.
Issue No.3;-	In the Negative.

Issue No.4;- As per the final order for the following;

REASONS

11. Issues No.1 to 3;-

Since these issues are interlinked, and to avoid repetition of facts and evidence, they are taken up for common discussion and consideration as follows;

11.1. At the outset, it is clarified that although the plaintiffs have sought a bare injunction, Issue No. 1 was originally framed with respect to title and possession. In a suit for bare injunction based on alleged interference, title becomes relevant only insofar as it affects possession. Therefore, in exercise of powers under **Order XIV Rule 5** of the Code of Civil Procedure, this Court deems it appropriate to reframe Issue No. 1 as follows:

“Whether the plaintiffs prove that they are in lawful possession and enjoyment of suit ‘ABCD’ properties as on the date of filing of the suit.?”

Since such reframing causes no prejudice to either party, and as the plaintiffs have already led evidence treating the suit as one for bare injunction, the Court proceeds to decide the matter without reopening the case.

10.2. The Plaintiffs have filed this suit seeking perpetual injunction against the Defendants based on their lawful possession and ownership. To successfully maintain a suit for injunction

simplicitor, the Plaintiffs must prove that they have been enjoying the suit property and continue to do so.

11.3. Since the plaintiffs claim possession based on registered sale deeds, mere proof of possession is not sufficient. What this Court is required to determine is whether the plaintiffs' possession and enjoyment of the property are lawful and exclusive. Therefore, in addition to establishing possession and enjoyment, the plaintiffs are required to prove that they were in lawful possession and enjoyment of the suit property and are entitled to the relief of permanent injunction as sought for.

11.4. It is necessary to reiterate that the right to claim perpetual injunction is provided under **Section 37(2)** of the Specific Relief Act, while Section 38 of the Act specifies the circumstances under which such injunctions may be granted. A common element in both sections is proof of possession, whether ***de jure* or *de facto***. It is with these legal principles in mind that the evidence adduced by both parties must be considered by this Court.

11.5. *In brief,* the plaintiffs assert that they are the absolute owners in possession of the suit schedule 'A' and 'B' properties by virtue of registered sale deeds. They allege that the defendants, taking advantage of an interim order passed in O.S. No.120/2016, encroached upon a portion of the suit property and

interfered with their possession. The defendants have denied these allegations and contend that they are the owners in possession of their property situated to the north of the suit properties.

11.6. On perusal of Ex.P2, it is evident that Plaintiff No.1 purchased the suit schedule 'A' property. Similarly, Ex.P4 establishes that Plaintiff No.2 purchased the suit schedule 'B' property. However, it is pertinent to note that Ex.P2 does not clearly refer to the defendants' property situated on the northern side, as pleaded in the plaint.

11.7. However, the plaintiffs have produced a rectification deed dated 04.02.2016, marked as Ex.P5. On perusal of the same, it is revealed that, due to a typographical error, the northern boundary of the suit schedule 'A' property had been incorrectly mentioned earlier and was subsequently corrected. Apart from this, the defendants have admitted that they are the adjacent landowners on the northern side of the suit schedule 'A' property. However, such admission by itself does not conclusively establish the plaintiffs' possession over the disputed 'ABCD' portion.

11.8. It is pertinent to note that, as per the plaintiffs' own case, Plaintiff No.1 purchased the suit schedule 'A' property and Plaintiff No.2 purchased the suit schedule 'B' property. On careful perusal of Ex.P4, the northern boundary of Plaintiff No.2's property is shown as the property of Plaintiff No.1.

11.9. However, in the plaint schedule, the plaintiffs have described the northern boundary of the suit schedule 'B' property as the property of the defendants. This inconsistency raises serious doubt regarding the correctness of the boundaries and the identity of the suit schedule 'B' property.

11.10. Thus, the boundaries described in the plaint schedule 'B' property are clearly contrary to the boundaries mentioned in the sale deed at Ex.P4, on which Plaintiff No.2 relies to establish his lawful possession.

11.11. Despite prosecuting the suit for a considerable period, the plaintiffs have not made any attempt to rectify this discrepancy either by way of amendment of the plaint or by producing additional evidence. Hence, without entering into any further discussion, this Court is of the considered opinion that the plaintiffs have failed to establish the correct identity and boundaries of the suit schedule 'B' property.

11.12. Ex.P6 is the copy of the plaint in O.S. No.120/2016 filed by the defendants herein. On perusal of the same, it indicates that prior to filing of the present suit, the defendants had instituted the said suit seeking the relief of permanent injunction in respect of their Plot No.89 situated on the northern side of the present suit properties. The plaintiffs have also pleaded about the said suit and the alleged interim order passed therein.

11.13. However, it is pertinent to note that, though the plaintiffs have asserted that an order of temporary injunction was granted in the said suit, no such interim order has been produced before this Court. Further, the plaintiffs have also failed to place on record the present status or outcome of the said suit. In the absence of such material particulars and supporting documents, an adverse inference is liable to be drawn against the plaintiffs regarding the truthfulness of their assertions relating to the alleged interim order.

11.14. It is alleged by the plaintiffs that, taking advantage of the order passed in the previous O.S. No.120/2016, the defendants started interfering with the plaintiffs' possession and also encroached upon a portion of the suit properties by excavating soil and laying a foundation.

11.15. From the perusal of these admitted facts, it is clear that prior to filing of this suit, the plaintiffs were very much aware of the earlier suit filed in O.S. No.120/2016 and the alleged encroachment by the defendants. Despite such knowledge, the plaintiffs have not made any attempt to appear in the said suit or to seek appropriate relief by way of counterclaim.

11.16. From the cause of action pleaded in the plaint, it is stated that the cause of action arose on 05.05.2016 when the defendants allegedly attempted to lay a foundation and excavate

soil in the suit properties. However, during the course of cross-examination, PW1 has admitted that the defendants have encroached upon the suit property to an extent of 35 feet.

11.17. This admission further strengthens the conclusion that the plaintiffs were aware of the alleged encroachment even prior to filing of the suit, yet they have not sought appropriate reliefs. Further, it also indicates that the plaintiffs were not in possession of the encroached portion as on the date of filing of the suit. In such circumstances, a suit for bare injunction simplicitor is not maintainable in law.

11.18. When the plaintiffs themselves have specifically pleaded and admitted that the defendants have already encroached upon the suit 'ABCD' property, excavated the soil, and laid a foundation, the proper remedy available to the plaintiffs was to seek recovery of possession along with the consequential relief of injunction.

11.19. Moreover, the plaintiffs were already aware of the pendency of O.S. No.120/2016 filed by the defendants and the alleged interim order granted therein. Despite having such knowledge, they have not chosen to file any counterclaim or seek appropriate relief in the said suit, nor have they taken steps to effectively contest the same in accordance with law.

11.20. In such circumstances, the filing of the present

independent suit, without seeking comprehensive and appropriate relief, clearly indicates that there is no bona fide or independent cause of action to maintain the present suit. On the contrary, the material on record gives rise to a reasonable inference that the present suit has been instituted only as a counterblast to the earlier suit filed by the defendants, and not on the basis of any valid and genuine cause of action recognized in law.

11.21. Further, the evidence placed on record discloses that there exists a serious cloud over the title of the plaintiffs, particularly in respect of the boundaries of the suit schedule 'B' property. As already discussed, the boundaries mentioned in the plaint schedule are inconsistent and contrary to the sale deed at Ex.P4.

11.22. The plaintiffs have failed to rectify the same or establish the correct identity and boundaries of the suit property. In the absence of clear identification of the property, the relief of injunction cannot be granted.

11.23. Apart from the above, the plaintiffs have not examined any independent witnesses to corroborate their version regarding possession or the alleged interference. The entire case rests upon the sole testimony of PW1 and documentary evidence, which is not sufficient to establish lawful and exclusive possession over the suit 'ABCD' property.

11.24. It is also relevant to note that, during the course of cross-examination, PW1 has categorically admitted that he has alienated the suit schedule 'B' property in favour of third parties during the pendency of this suit. In such circumstances, the possession of Plaintiff No.2 over the suit schedule 'B' property cannot be said to be subsisting as on the date of consideration of the suit.

11.25. It is a settled principle of law that in a suit for bare injunction, the plaintiff must establish lawful and continuous possession, not only as on the date of the suit but also till the date of decree. Once the plaintiff himself admits alienation of the property, he ceases to have possession and consequently loses the right to seek the relief of injunction.

11.26. Further, though the doctrine of *lis pendens* under Section 52 of the Transfer of Property Act binds the transferee to the result of the litigation, such transfer does not enure to the benefit of the plaintiff to maintain a suit for injunction in the absence of possession. Hence, on this ground also, Plaintiff No.2 is not entitled to the discretionary relief of permanent injunction in respect of the suit schedule 'B' property.

11.27. Apart from the above, it is also pertinent to note from the records that a Court Commissioner was appointed during the course of the proceedings for the purpose of local inspection

and to assist the Court in ascertaining the factual position on the ground.

11.28. However, the material on record discloses that the plaintiffs have not extended necessary cooperation to the Court Commissioner. In particular, they have failed to furnish relevant documents and records, which were stated to be in their exclusive possession and were essential for effective execution of the commission warrant.

11.29. The conduct of the Plaintiffs in not assisting the Court Commissioner and in withholding material documents, which could have thrown light on the actual state of affairs, compels this Court to draw an adverse inference against them under **Section 114(g)** of the Indian Evidence Act, that had such material been produced, it would not have supported the case of the Plaintiffs.

11.30. Further, during the course of cross-examination, PW1 has categorically admitted the existence of survey records, on the basis of which he claims to have ascertained the alleged encroachment by the Defendants over the suit property. However, despite such admission, the Plaintiffs have not produced any such survey records before the Court.

11.31. More importantly, it is admitted by PW1 in his cross-examination that, at the time of alienation of the suit schedule 'B' property, the property was surveyed and relevant records were

created. Despite such admission, the plaintiffs have not produced the said survey records before this Court nor have they sought to examine the Surveyor who prepared the same.

11.32. The non-production of such primary and crucial documents, which were admittedly in existence and directly relevant to ascertain the status of the property at the time of alienation, further reinforces the inference that the plaintiffs have deliberately withheld the best available evidence. This omission seriously undermines the credibility of the plaintiffs' claim regarding lawful and exclusive possession of the suit schedule 'B' property and, consequently, their entitlement to the relief of permanent injunction.

11.33. Moreover, the plaintiffs have also failed to examine the concerned Surveyor or any competent authority to substantiate the alleged encroachment. In the absence of such primary and best evidence, an adverse inference is liable to be drawn against the plaintiffs that the alleged encroachment has not been established in the manner known to law. This omission further weakens the plaintiffs' case with regard to the existence and extent of the alleged encroachment.

11.34. It is also relevant to note that, though Plaintiff No.1's property is situated adjacent to the defendants' property and he has alleged encroachment by the defendants over the suit 'ABCD'

properties, Plaintiff No.1 has not been examined as a witness before this Court. On the other hand, Plaintiff No.2, whose property in Schedule 'B' has already been alienated during the pendency of the suit, has been examined and has adduced evidence.

11.35. Such selective examination amounts to incomplete and piecemeal evidence, which does not provide a full and reliable picture of the actual possession and enjoyment of the suit properties. This deliberate omission indicates that the plaintiffs have avoided leading the best and most appropriate evidence available to substantiate their claims, which seriously undermines their case for permanent injunction.

11.36. No doubt, the defendants have not led any evidence in support of their defence. However, the mere fact that the defendants have not adduced any evidence in the matter cannot, by itself, be a ground to decree the suit in favour of the plaintiffs. The non-examination of the defendants does not amount to an admission of the plaintiffs' claims.

11.37. Their failure to lead evidence is not fatal to their case, nor does it create any presumption in favour of the plaintiffs. The plaintiffs' case must stand on its own merits, based on their ability to prove lawful and continuous possession as well as entitlement to the relief of permanent injunction. In the present matter, even in the absence of evidence from the defendants, the

plaintiffs have failed to discharge the onus cast upon them, and therefore, there is no scope to accept their claims.

11.38. Considering all the foregoing discussion, it is evident that the plaintiffs have failed to duly prove their possession over the suit 'ABCD' properties. The plaintiffs themselves have admitted the factum of alleged encroachment by the defendants even prior to the filing of this suit, and despite such knowledge, they have not sought the appropriate relief of recovery of possession nor led clear and corroborative evidence to substantiate their claims.

11.39. In the absence of lawful and continuous possession, and without producing the best available evidence, the plaintiffs have failed to discharge the burden cast upon them under the law to maintain a suit for permanent injunction. Accordingly, this Court proceeds to answer Issues Nos.1 to 3 in the **negative**.

Costs;- It is relevant to observe that the conduct and manner in which the plaintiffs have prosecuted this suit over a decade demonstrate a lack of bona fide approach and a deliberate avoidance of leading the case in an effective and comprehensive manner. The plaintiffs have dragged this litigation unnecessarily without producing the best evidence, cooperating with the Court Commissioner, or rectifying the mistakes in the plaint and sale deeds. Such conduct would, under ordinary circumstances, justify the imposition of costs for unnecessarily prolonging the litigation and

causing avoidable burden on the Court. However, considering that the court fee as prescribed under the Code of Civil Procedure for this suit is relatively meagre, this Court, in exercise of its discretion, directs that each party shall bear its own costs.

12. Issue No. 4;-

In view of the finding of this court on Issues No.1 to 3, this court proceeds to pass the final order passed as under;

ORDER

“The suit of the Plaintiffs is hereby dismissed.

The parties shall bear their own costs.

Draw decree accordingly.”

(Dictated to Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 01st day of June 2026).

**(ADITHYAKUMAR. H.R.)
Prl. Civil Judge & JMFC.,
Ranebennur.**

::ANNEXURE::

Witnesses examined on behalf of Plaintiffs;

PW-1 ;- Sri. Yallappa Pandappa Hulihalli

Documents marked for Plaintiffs;

Ex.P.1	Certified copy of RTC
Ex.P.2	Original Sale deed
Ex.P.3	RTC
Ex.P.4	Original sale deed dated 12.10.200
Ex.P.5	Rectification of sale deed
Ex.P.6	Copy of the plaint of OS No.120/2016
Ex.P7 to 16	Photographs
Ex.P17	Building construction permission
Ex.P18 to 34	Tax paid receipts
Ex.P35 to 38	Photographs & CD

Witnesses examined on behalf of defendant;

---Nil---

Documents marked on behalf of defendant:-

Ex.D.1 to 5	Photographs
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**(ADITHYAKUMAR. H.R.)
Prl. Civil Judge & JMFC.,
Ranebennur.**

