



Presented on	10-07-2023
Registered on	14-07-2023
Decided on	16-04-2026
Duration	02 Years, 09 Months, 06 Days.

IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C.,
AFZALPUR

Present: Shri. Vinayak Mayannavar,
B.A.,LL.B.
Senior Civil Judge & J.M.F.C., Afzalpur.

Dated this the 16th Day of April – 2026.

Original Suit No-70/2023.

Plaintiff : Aurangajeb S/o Moulasab Mujawar,
Age : 46 years, Occ : Business,
R/o : Usmanla Colony, Afzalpur,
Tq : Afzalpur, Dist : Kalaburagi.

[By Shri S.G.H. Advocate]



V/s

Defendants :

- 1] Moulasab S/o Mehaboobsab Mujawar,
Since dead by his Lrs,

- 1[a] Mamataj Begum W/o Moulasab Mujawar,
Age : 65 years, Occ : Household work,
R/o : B.B. Ingalagi village,
Tq : Devara Hipparagi, Dist : Vijayapur.

- 1[b] Mohammad Rafi S/o Moulasab Mujawar,
Age : 40 years, Occ : Govt. Servant,
R/o : Near S.B.I Bank and Dr. Shabana
Begum Hospital, Devar Hipparagi,
Tq : Devara Hipparagi, Dist : Vijayapur.

- 1[c] Rizwana Begum D/o Moulasab Mujawar,
W/o Kashimsab Ansari,
Age : 38 years, Occ : Household work,
R/o : M.G. Nagar Afzalpur,
Tq : Afzalpur, Dist : Kalaburagi.



- 1[d] Nazma Begum
D/o Moulasab Mujawar,
W/o Mehaboob Patel,
Age : 36 years, Occ : Household work,
R/o : Usmaniya Colony, Afzalpur,
Tq : Afzalpur, Dist : Kalaburagi.
- 2] Jahangirsab
S/o Moulasab Mujawar,
Age : 44 years, Occ : Medical Practitioner,
R/o : Usmania Colony, Afzalpur,
Tq : Afzalpur, Dist : Kalaburagi.
- 3] Shehajan S/o Moulasab Mujawar,
Age : 42 years, Occ : Govt. Servant,
R/o : Zilla Forest Officer,
Yaramaras, Raichur,
Tq : and, Dist : Raichur.

[D-1 [a] to [d] & 3 Ex-Parte]

[D-2 By Shri K.G.P. Advocate]



J U D G M E N T

The plaintiff has filed the present suit for the relief of declaration of his ownership and permanent injunction against the defendants.

2. The brief facts of the plaintiff's case are as under :

The plaintiff is the absolute owner and in possession of the suit property bearing house No-5-1-902 measuring East – West 40 feet and North – South 30 feet situated at Usmania Colony Afzalpur. The plaintiff and the defendant No-2 and 3 are the sons of the defendant No-1. The oral partition has taken place between the plaintiff and the defendant No-1 to 3 about 20 years back.

3. It is further case of the plaintiff that, the plaintiff has purchased open plot bearing No-5-1-502 through a registered



sale deed in the year 2006-2007. The plaintiff has constructed the house over the plot purchased by him. The said house is the suit property in the present suit. The plaintiff is the owner and in possession the suit property. The defendant No-1 to 3 are trying to dispossess the plaintiff from the suit property. The defendant No-1 to 3 on 01-07-2023 have denied the rights of the plaintiff over the suit property. On the said material grounds the plaintiff has prayed for passing a decree in his favour.

4. In pursuance of the suit summons the defendant No-1 and 2 have appeared through their counsel. The defendant No-3 has remained ex-parte.

5. The defendant No-1 reported to be died on 21-05-2025 during the pendency of the present suit. The other legal representatives of the defendant No-1 are brought on the record in the form of the defendant No-1 [a] to [d]. The



defendant No-1 [a] to [d] on issuance of suit summons have not appeared and remained ex-parte.

6. The defendant No-1 during his life time has filed his written statement by denying the case of the plaintiff. The defendant No-2 has filed a memo adopting the written statement of the defendant No-1 as his written statement.

7. The defendant No-1 and 2 have contended that, the plaintiff has no any source of income. The plaintiff is depending upon the defendant No-1. The defendant No-1 on 11-06-2004 has entered the agreement of sale for purchase of the suit plot with the earlier owner by name Meharaj Afzal. The defendant No-1 has paid an advance amount of Rs.20,000/- for purchase of the suit plot. The defendant No-1 has purchased the suit plot in the name of the plaintiff. The defendant No-1 is retired teacher. The defendant No-1 with his agriculture income and teaching income has purchased



the suit plot in the name of the plaintiff. The plaintiff has no any right over the suit property. On the said material grounds the defendant No-1 and 2 have prayed for dismissal of the suit of the plaintiff.

8. On the basis of contentions of the parties following issues were framed by this court : -

ISSUES

- 1] Whether the plaintiff proves that, he is the absolute owner of the suit property ?
- 2] Whether the plaintiff proves that, he is in possession of the suit property ?
- 3] Whether the plaintiff proves the interference of the defendants ?



- 4] Whether the defendant No-1 and 2 prove that, the suit property was purchased by the defendant No-1 out of his income nominally in the name of the plaintiff ?
- 5] Whether the plaintiff is entitled for the reliefs claimed by him ?
- 6] What order or decree ?

9. The plaintiff in order to prove his case got examined himself as PW-1. The plaintiff got examined 2 witnesses by name Gurappa and Rajshekhar as PW-2 and 3. The plaintiff got marked in all 12 documents as per Ex.P-1 to P-12.

10. The defendant No-1 and 2 in order to prove their case got examined the defendant No-1 as DW-1. They got examined one witness by the Saifansab as PW-2. The



defendant No-1 and 2 got marked in all 3 documents as per Ex.D-1 to D-3.

11. Heard the arguments.

12. On consideration of the materials placed before me on record, my findings to the above issues are as under : -

Issue No-1 :- In the affirmative.

Issue No-2 :- In the affirmative.

Issue No-3 :- In the affirmative.

Issue No-4 :- In the negative.

Issue No-5 :- In the affirmative.

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

REASONS



13. Issue No: -1 to 5 :- These issues are interlinked together and required to be answered on the basis of same materials. Hence in order to avoid repetition, these issues are taken together for consideration.

14. The parties to the suit are Mohammadan. Hence in order to decide the present suit the principles of Mohammadan law are required to be kept in mind. The plaintiff and the defendant No-2 and 3 are the sons of the defendant No-1. It is not in dispute between the parties that, the sale deed of the suit property and the suit property is standing in the name of the plaintiff. The plaintiff has come up with a case that, he has purchased the suit plot and constructed a house over the same.

15. The defendant No-1 and 2 have come up with a case that, the defendant No-1 has purchased the suit plot in the



name of the plaintiff nominally. The plaintiff has no any income. The defendant No-1 is the owner of the suit property.

16. The plaintiff/PW-1 has filed his chief examination in support of his case. The PW-1 in his cross examination has deposed that, he has studied T.C.H. He has worked as attender in Sanjeevini School from the year 2004 to 2006. He has worked as head master from the year 2006 to 2008 in Rayal public school. His father i.e., the defendant No-1 has worked as a teacher in government school. He has denied the purchase of the suit plot by the defendant No-1 in his name. He has deposed that, he has purchased the suit plot. He has denied the case of the defendant No-1 and 2.

17. The PW-1 further deposed that, the defendant No-1 has got 2 wives. The plaintiff and the defendant No- 2 and 3 are



the children of the first wife. The defendant No-1 [a] to [d] are the second wife and her children.

18. The PW-2 i.e., Gurappa has filed his chief examination in support of the case of the plaintiff. The PW-2 in his cross examination admitted to the suggestion that the defendant No-1 has purchased the house property at Usmania Colony and made the same in the name of his son i.e., the plaintiff. The PW-3 i.e. Rajeshekhar has filed his chief examination in support of the case of the plaintiff. He has denied the case of the defendant No-1 and 2 in his cross examination.

19. The DW-1/ defendant No-1 has filed his chief examination in support of his case. The DW-1 in his cross examination has admitted that, he has got 2 wife and 6 children. He has admitted that, the plaintiff is residing in the suit house and the defendant No-2 is residing in a rented



house and the defendant No-3 is residing at Kalaburagi. He has deposed that, he is residing in B.B. Ingalagi village. He has admitted that, the plaintiff has studied T.C.H. and completed his SSLC in the year 1992.

20. The DW-2 has filed his examination in chief in support of the case of the defendant No-1 and 2. The DW-2 has not appeared for his further cross examination.

21. The plaintiff in support of his case has produced the registered sale deed dated 09-05-2006. From the said document it appears that, the plaintiff has purchased the suit plot from one Meharaj Afzal. The plaintiff was appears to be aged about 28 years at the time of purchase of the suit plot. The Ex.P-2 is the mutation extract. The Ex.P-3 is the tax demand register extract. The said documents have recorded the name of the plaintiff to the suit plot as per the sale deed.



22. The Ex.P-4 is the construction permission obtained in the year 2007. The said permission is in the name of the plaintiff to the suit plot. The Ex.P-5 is the encumbrance certificate and the same has recorded the sale transaction of the plaintiff.

23. The Ex.P-6 is the SSLC marks card of the plaintiff. From the said document it appears that, the plaintiff has passed his SSLC in the year 1994. The Ex.P-7 to P-10 are the PUC and TCH marks cards and certificate of the plaintiff. From the said documents it appears that, the plaintiff has completed his TCH in the year 1999.

24. The Ex.P-11 and 12 are the certificates issued by the Sanjeevini School and Sahazan Afzal School. From the said documents it appears that, the plaintiff has worked as



attender from the year 2004 to 2006 and as a head master from the 2006 to 2008.

25. The Ex.D-1 is the details of the distribution of the property made on a white paper on 17-07-2022. The Ex.D-2 and D-3 are the signatures of the vender of the plaintiff and the defendant No-1 on a white paper showing it to be an agreement of sale document.

26. On perusal of the materials on record it appears that, the registered sale deed and other documents produced by the plaintiff are in support of the case of the plaintiff. The defendant No-1 even though claimed his ownership over the suit property has not produced any acceptable material in support of his case.

27. The plaintiff has denied the case of the defendant No-1 and 2 and produced the materials against the case of the



defendant No-1 and 2. The DW-1 has also admitted the possession of the plaintiff over the suit property. Hence, on considering the materials on record it appears that the materials on record showing the ownership and possession of the plaintiff over the suit property. Hence I am of the opinion that, the plaintiff has proved his ownership and possession over the suit property. Hence, I answered issue No-1 and 2 in the affirmative.

28. On considering the case of the plaintiff and on considering the claim of the defendant No-1 and 2 it appears that, the plaintiff has made out a case of interference in the present suit. The claim made by the defendant no-1 and 2 shows that they are claiming their rights over the suit property and denying the rights of the plaintiff over the suit property. The other defendants have not denied the case of the plaintiff. Hence on considering the materials on record I



am of the opinion that the plaintiff has made out a probable case of interference in his favour. Hence, I answered issue No-3 in the affirmative.

29. The defendant No-1 and 2 have claimed that, the defendant No-1 has nominally purchased the suit plot in the name of the plaintiff. The defendant No-1 and 2 have not produced any materials in support of their case. The signature of the vendor of the plaintiff and the signature of the defendant No-1 marked as per Ex.D-2 and D-3 will not prove the case of the defendant No-1 and 2. The said document is also written on a white paper. The said document will not help the defendant No-1 and 2 to prove their case.

30. The Ex.D-1 is the white paper on which the details of the property allotment made is shown. The said unregistered



and unstamped document will not take away the rights of the plaintiff which are acquired by the plaintiff under a registered sale deed. Hence, the Ex.D-1 is also not helpful for the defendant No-1 and 2 to prove their case in the present suit. Hence, on considering the materials on record I am of the opinion that, the defendant No-1 and 2 have failed to prove their case. Hence, I answered issue No-4 in the negative.

31. The plaintiff by producing the materials in support of his case has proved his case. The defendant No-1 [a] to [d] and the defendant No-3 have not denied the case of the plaintiff. The defendant No-1 and 2 have failed to prove their case. Hence, on considering the materials on record I am of the opinion that, the plaintiff has proved his ownership and possession over the suit property and interference of the defendants. Hence, the plaintiff is entitled for the reliefs



claimed by him in the present suit. Hence, I answered issue No-5 in the affirmative.

32. Issue No- 6 : - In view of my findings to the above issues and discussions. I proceed to pass the following: -

ORDER

The suit of the plaintiff is hereby decreed.

The plaintiff is declared as the absolute owner of the suit property.

The defendants are hereby restrained by way of permanent injunction from interfering with the possession of the plaintiff over the suit property.



In the facts and circumstance of case there
is no any order as to costs.

Office is hereby directed to draw decree
accordingly.

Senior Civil Judge and JMFC.,
Afzalpur.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF PLAINTIFF.

- PW-1 : Aurangjeb S/o Moulasab Mujawar.
PW-2 : Gurappa S/o Erappa Patil,
PW-3 : Rajashekhar S/o Hanamantaraya.

LIST OF DOCUMENTS EXHIBITED FOR PLAINTIFF.

- Ex.P-1 : Registered original Sale deed
dated 09-05-2006.



- Ex.P-2 : Mutation extract.
- Ex.P-3 : Tax demand register extract.
- Ex.P-4 : Construction permission.
- Ex.P-5 : Encumbrance certificate.
- Ex.P-6 to 9: Marks Cards.
- Ex.P-10 : Training certificate.
- Ex.P-11 : Service certificate.
- Ex.P-12 : Certificate.

LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANTS.

DW-1: Moulasab S/o Mehaboobsab Mujawar.

DW-2: Saifansab S/o Galibsab Mujawar.

LIST OF DOCUMENTS EXHIBITED FOR DEFENDANTS

Ex.D-1 : Property allotment details document.



Ex.D-2 : Signature of the Defendant No-1.

Ex.D-3 : Signature of the vender of the plaintiff.

Senior Civil Judge and JMFC.,
Afzalpur.