

KAKB610016472024



Presented on : 09-08-2024
Registered on : 09-08-2024
Decided on : 06-03-2026
Duration : 1 year, 6 months, 28 days.

IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,
AT Jewargi.

PRESENT:- **Smt. Tayyaba Sultana, B.A., LL.B.,**
Senior Civil Judge & JMFC.,
Jewargi.

Dated this the 6th day of March -2026

ORIGINAL SUIT No.125/2024

PLAINTIFF:

Shantayya S/o Late Karabasayya Hiremath,
Age: 62 years, Occ: Agriculture,
R/o Bilawar, Taluk Yadrami,
District Kalaburagi.
Now at: Plot No.27 Giri layout,
Jagajyoti Nagar, Behind V.L. Patil,
Kalyan Mantap Sai Mandir Road,
Kalaburagi,
Taluk and District Kalaburagi.

(By Sri J. V. H., Adv)

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DEFENDANTS:

1. Somanathayya S/o Late Karabasayya,
Age: 80 years, Occ: Agriculture,
R/o Bilawar,
Taluk Yadrami, District Kalaburagi.



2. Karabasayya S/o Somanathayya Hiremath,
Age: 42 years, Occ: Agriculture,
R/o Yadrami, Taluk Yadrami,
District Kalaburagi.
3. Gangadhar S/o Somanathayya Hiremanth,
Age: 38 years, Occ: Agriculture,
R/o Bilawar, Taluk Yadrami,
District Kalaburagi.
Now at Plot No.47 Giri layout, Jagajyoti
Nagar, Behind V.L. Patil,
Kalyan Mantap Sai Mandir Road, Kalaburagi,
Taluk and District Kalaburagi.

(By Sri S. A. P., Adv., for defendant No.1 to 3)

Date of registered of the suit	09-08-2024
Nature of the suit	Declaration and injunction.
Date of commencement of evidence	09-10-2025
Date on which the judgment was pronounced	06-03-2026
Duration	1 year, 6 months, 28 days.

(Smt. Tayyaba Sultana)
Senior Civil Judge & JMFC,
Jewargi.



::J U D G M E N T::

1. The plaintiff has filed this suit against the defendants for the declaration and injunction in respect of suit schedule property.

2. **The brief facts of the plaintiff case is as under:**

The suit property is an agricultural land bearing Sy.No.3 (old Sy.No.3/4), measuring 4 acres, 31 guntas, including photo Kharab of 02 guntas. The plaintiff is the absolute owner and in possession of the suit property. The name of plaintiff is entered in the ROR as of its owner and possessor and the plaintiff is paying land revenue to the Government regularly. The defendant No.1 is the elder brother of plaintiff and the defendant No.2 and 3 sons of defendant No.1 in relation. But they are not at all concerned to the suit property.

3. It is further case of the plaintiff that, the plaintiff has got 5 brother's i.e., 1) Vishwanathayya (Dead), 2) Somanathayya (Defendant No.1), 3) Gurulingayya, 4) Bassayy and 5 brothers including plaintiff have got orally partitioned their family property



in the year 1997 in that partition the suit property is fallen to the share of plaintiff and his name entered in the ROR earlier i.e., in the year 1981 by mutation No.2 dated 31-01-1981 was confirmed and the non suited property were allotted to the share of other family members including defendant No.1 and their names are entered in the ROR. The plaintiff and his family members i.e., Karabasayya S/o Somanathayya, Shantabai W/o Somanathayya and their sons by name Gangadhar S/o Somanathayya, Chandrakala W/o Korisiddha, Somanthayya S/o Karabasappa have filed a civil suit in OS No.200/2011 in respect of Sy.No.3 measuring 19 acres 3 guntas were in the suit property to the extent of 1 acre 7 guntas was integral part against the Sidramappa and others. In that suit in OS No.200/2011 on the file of civil judge at Jewargi and issue in respect of ownership of plaintiff on the suit property was framed and tried and held as affirmative. The present defendant No.1 was plaintiff No.4 in the said suit in OS No.200/2011. Hence, the judgment and decree in the said suit is binding on defendant Nos.1 to 3 because the defendant No.2 and 3 are claiming through defendant No.1.



4. It is further case of the plaintiff that, the plaintiff is owner and in possession of suit property and he is personally cultivating the same. The defendant Nos.1 to 3 are not concerned to the suit property in any manner what so ever, as they had got share in the non-suit property i.e., Sy.No.3 of the extent of 4 acres 28 guntas and other non suit properties despite of that the defendants are not only trying to interfere in to the possession and enjoyment of plaintiff over the suit property and also they are denying the ownership of plaintiff. The plaintiff has given written complaint to the police station Yadrami for taking necessary action on 29-07-2024 but they are not ready to take any action and given endorsement to approach Civil Court. Further the defendants are again and again trying to interfere into possession and enjoyment of plaintiff. Hence, the plaintiff has constrained to file this for declaration and injunction.

5. It is further case of plaintiff that, stated fact constitute the cause of action and immediate cause of action arose to the plaintiff on 29-



07-2024 when the defendants denied the ownership of plaintiff and try to interfere into possession and enjoying of plaintiff over the suit property and on the complaint of plaintiff Yadrami P.S. given endorsement. The suit of the plaintiff is valued on the basis of land revenue. The land revenue of the suit property is at Rs.29-96 Ps and 12 and ½ times of it would be less than fixed valuation of Rs.1000/- as per Section 792)(b) and Section 24(B) KCF and S.V. act, at Rs.1000/- and Court fee of Rs.25/- is paid. With these pleadings the plaintiff prayed for decree the suit.

6. After institution of the suit, the summons were served on defendants. The defendants appeared through their counsel. The defendants filed written statement.

7. **The written statement of defendants is to the following effect:**

It is false and baseless to state that, the plaintiff is the absolute owner of suit property, but it is nominally transferred in the name of plaintiff as he is elder of the family. The relation



between the plaintiff and defendant not disputed one, but it is false to state that, the defendants are not concerned with the suit property. It is totally false, baseless and ridiculous to state that, the plaintiff along with his brother got oral partition in the year 1997 and thus the suit property is fallen to the share of plaintiff. The suit property shown in this suit and the suit property mentioned in OS No.200/2011 are totally different one. The plaintiff in the present suit was the plaintiff No.1 in OS No.200/2011 and succeeded by getting the order in his favour. Now, through this suit, the plaintiff once again is trying to get the suit property in his favour.

8. It is the case of the defendants that, as the plaintiff is also plaintiff No.1 in OS No.200/2011, the judgment is not only binding on defendants, but also on the plaintiff in the present suit. The plaintiff has given written complaint to Yadrami Police Station on 29-07-2024 only for the sake of showing a cause of action to file this suit. No cause of action arose to plaintiff either on 29-07-



2024 or on any other date, but only a created one only to file the suit in the present form.

9. It is further case of the defendants that, the plaintiff herein had filed a suit in OS No.200/2011 before this Court along with the defendant No.3 (Plaintiff No.4 in OS No.200/2011) and got decreed the suit property in his favour by hiding the true facts before this Hon'ble Court, thus the plaintiff has already got his share in OS No.200/2011. As the plaintiff is the elder person in the family, his name was mutated in Revenue records that too for nominal purpose only, the plaintiff and defendants are jointly enjoying the suit properties, but the plaintiff only with an ill intention has filed the suit in the present form and thus again the plaintiff has come up before this Court that the plaintiffs are the absolutely owners and are in possession of the suit property.
10. It is further case of the defendants that, the suit properties are the ancestral and joint family properties and the plaintiff and defendant has got equal and legitimate right over their respective



share in the ancestral properties, the plaintiff by taking the undue advantage of his name in the Revenue Records is trying to usurp the entire ancestral properties. Hence prayed for dismissal of the suit.

11. On the basis of the rival pleadings of the parties this Court has framed the following issues:

ISSUES

- 1) Whether plaintiff proves that he is the absolute owner and in possession of the suit schedule property?
- 2) Whether plaintiff further proves the alleged interference by the defendants?
- 3) Whether the defendants prove that, there is no cause of action arose the plaintiff to file this suit?
- 4) Whether the defendants prove that, this Court has no territorial and pecuniary jurisdiction to try the same?
- 5) Whether plaintiff is entitle for the reliefs are sought for in the plaint?
- 6) What order or decree?



12. In order to prove his case, the plaintiff stepped into the witness box, examined as P.W.1 and he got marked documents at Ex.P.1 to 11 and closed his side.

13. On the contrary, the defendant No.1 to 3 despite providing sufficient opportunities have neither lead their oral evidence nor produced any documentary evidence on their behalf.

14. Heard arguments and perused the records.

15. My answers to the above issues are as under:

Issue No.1:	In affirmative.
Issue No.2:	In affirmative.
Issue No.3:	In negative.
Issue No.4:	In negative.
Issue No.5:	In affirmative.
Issue No.6:	As per final order for the following;



::REASONS::

16. **Point Nos.1 to 5** : Since these issues are interlinked they are taken up together for discussion in order to avoid repetition of facts and evidence.

17. According to the plaintiff, the plaintiff is the absolute owner and in possession of the suit property. The name of plaintiff is entered in the ROR as of its owner and possessor and the plaintiff is paying land revenue to the Government regularly. The defendant No.1 is the elder brother of plaintiff and the defendant No.2 and 3 sons of defendant No.1 in relation. But they are not at all concerned to the suit property.

18. It is further claim of the plaintiff that, the plaintiff has got 5 brother's i.e., 1) Vishwanathayya (Dead), 2) Somanathayya (Defendant No.1), 3) Gurulingayya, 4) Bassayy and 5 brothers including plaintiff have got orally partitioned their family property in the year 1997 in that partition the suit property is fallen to the share of plaintiff and his name entered in the ROR earlier i.e., in



the year 1981 by mutation No.2 dated 31-01-1981 was confirmed and the non suited property were allotted to the share of other family members including defendant No.1 and their names are entered in the ROR. The plaintiff and his family members i.e., Karabasayya S/o Somanathayya, Shantabai W/o Somanathayya and their sons by name Gangadhar S/o Somanathayya, Chandrakala W/o Korisiddha, Somanthayya S/o Karabasappa have filed a civil suit in OS No.200/2011 in respect of Sy.No.3 measuring 19 acres 3 guntas were in the suit property to the extent of 1 acre 7 guntas was integral part against the Sidramappa and others. In that suit in OS No.200/2011 on the file of civil judge at Jewargi and issue in respect of ownership of plaintiff on the suit property was framed and tried and held as affirmative. The present defendant No.1 was plaintiff No.4 in the said suit in OS No.200/2011. Hence, the judgment and decree in the said suit is binding on defendant Nos.1 to 3 because the defendant No.2 and 3 are claiming through defendant No.1.



19. It is further claim of the plaintiff that, the plaintiff is owner and in possession of suit property and he is personally cultivating the same. The defendant Nos.1 to 3 are not concerned to the suit property in any manner what so ever, as they had got share in the non-suit property i.e., Sy.No.3 to the extent of 4 acres 28 guntas and other non suit properties despite of that the defendants are not only trying to interfere in to the possession and enjoyment of plaintiff over the suit property and also they are denying the ownership of plaintiff. The plaintiff has given written complaint to the police station Yadrami for taking necessary action on 29-07-2024 but they are not ready to take any action and given endorsement to approach Civil Court. Further the defendants are again and again trying to interfere into possession and enjoyment of plaintiff.
20. In order to prove his case the plaintiff got examined himself as P.W.1 and relied on the oral evidence and the documents. The P.W.1 repeated the plaint averments and produced the documents as per Ex.P.1 to P.11. Among them Ex.P.1 to Ex.P.3



are the RTC extracts pertaining to the land Sy.No.3/4, for the year 1988-89 to 1998-99, total measuring 4 acres, 31 guntas, stands in the name of plaintiff. Ex.P.4 is Mutation Register. Ex.P.5 is Record of Rights pertaining to the land Sy.No.3/*, for the year 2024-2025, total measuring 19 acres, 03 guntas, stands in the name of Somanathayya S/o Karabasayya, Shantamma W/o Somanathayya, Karabasayya S/o Somanathayya, Shantayya S/o Karabasayya. Ex.P.6 is Endorsement issued by the Yadrami Police. Ex.P.7 is certified copy of Judgment in OS No.200/2011 dated 25-01-2018, passed by the Civil Judge and JMFC, Jewargi. Ex.P.8 is RTC extracts pertaining to the land Sy.No.3*/2, for the year 2025-26, stands in the name of plaintiff. Ex.P.9 is Sketch map. Ex.P.10 is form No.10 pertaining to the land Sy.No.3*/*. Ex.P.11 is Akaraband.

21. The defendants in their written statement contended that ,the plaintiff is the elder person in the family, his name was mutated in Revenue records that too for nominal purpose only, the plaintiff and defendants are jointly enjoying the suit



properties, but the plaintiff only with an ill intention has filed the suit in the present form and thus again the plaintiff has come up before this Court that the plaintiffs are the absolutely owners and are in possession of the suit property. The suit properties are the ancestral and joint family properties and the plaintiff and defendant has got equal and legitimate right over their respective share in the ancestral properties, the plaintiff by taking the undue advantage of his name in the Revenue Records is trying to usurp the entire ancestral properties. However to prove the same the defendants have not lead any evidence .

22. The very fact of non entering to the witness box by the defendants itself goes to show that the defendants have falsely claiming their right over the suit property stating that the plaintiff is the elder person in the family, his name was mutated in Revenue records that too for nominal purpose only, the plaintiff and defendant are jointly enjoying the suit



properties. Further adverse inference can be drawn about non-entering in the witness box.

23. Except pleading in the written statement, the defendants have not taken any pain to prove their contention. None of the records the defendants are shown to be either the joint owners or the possessors of the suit property. Therefore their claim that they have got equal and legitimate right over their respective share in the ancestral property has not been established by any cogent evidence. Except the vague pleading in the written statement nothing has been brought on record by the defendants to prove their claim over the suit property.

24. Further more, the plaintiff has sworn on oath before the Court as P.W.1 and produced the documents before the Court. The evidence produced before the Court corroborates and substantiates with the evidence of P.W.1. It is further important that the counsel for the defendants has not cross-



examined the PW-1. Therefore, the evidence of P.W.1 appears to be natural, probable and reliable. There is no inherent infirmity or inconsistency in the evidence of P.W.1. The oral evidence of PW.1 is supported with documentary evidence. Therefore, this court is of the opinion that plaintiff is the owner of suit property, he is in possession of the suit property and defendants are interfering in to the peaceful possession and enjoyment of the suit property of the plaintiff. Further, this court is of the considered opinion that the defendants have failed to prove their claim over the suit property and plea taken in their written statement . Hence, I proceed to answer **Issue Nos.1, 2 and 5 in Affirmative and Issue Nos.3 and 4 in the Negative.**

25. **Issue No.6**:-In view of reasons on above issues, I proceed to pass the following:

ORDER

The suit of the Plaintiff is hereby decreed
with costs.



The plaintiff is hereby declared that, he is the absolute owner and in possession of suit schedule property land Sy.No.3 (older Sy.No.3/4), measuring 4 acres, 31 guntas including phot Kharab of 2 guntas, situated Bilawar, Taluk Yadrami, District Kalaburagi.

Further, the defendants are hereby restrained from interfering into the peaceful possession of the plaintiff over the suit property by way of perpetual injunction.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer, corrected by me and then pronounced by me in open court on this the 6th day of March-2026)

(Smt. Tayyaba Sultana)
Senior Civil Judge & JMFC,
Jewargi.

::ANNEXURE::

List of witnesses examined on behalf of the Plaintiff:

PW.1	:	Shantayya S/o Late Karabasayya Hiremath.
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List of exhibits marked on behalf of the Plaintiff:

Ex.P.1 to Ex.P.3	:	Records of Rights.
Ex.P.4	:	Mutation Register.
Ex.P.5	:	Record of Rights.
Ex.P.6	:	Endorsement.
Ex.P.7	:	Certified copy of judgment in OS.No.200/2011.
Ex.P.8	:	Record of Rights.
Ex.P.9	:	Sketch map.
Ex.P.10	:	Form No.10.
Ex.P.11	:	Akaraband.

List of witnesses examined on behalf of the defendants:

- NIL -

List of exhibits marked on behalf of the defendants:

- NIL -

Senior Civil Judge &
JMFC, Jewargi.