



**IN THE COURT OF THE I ADDITIONAL DISTRICT JUDGE
AT KOLAR**

PRESENT

Smt.B.S.JAYASHREE, LL.M.,
I Additional District & Sessions Judge, Kolar.

DATED THIS THE **4th DAY OF JUNE, 2026**

REGULAR APPEAL No.19/2022

APPELLANT/s : **M.Chikka Muniyappa**
S/o.late.Munishamappa,
Aged about 77 years,
R/o.Ramasandra Village,
Byranahalli Post, Kolar Taluk.

(Plaintiff in OS No.197/2020)

(Rep. by Sri.**V.S.R**, Advocate)

-V/s-

RESPONDENTS : **1. Chikka Muniyappa**
S/o.Dodda Naseppa,
Aged about 79 years,

2. Narayanappa
S/o.Chikka Muniyappa,
Aged about 58 years,

R.1 and 2 are R/o.Vagata Village,
Jadigenahalli Hobli,
Hosakote Taluk,
Bengaluru Rural District.

3. P.Manjunatha
S/o.late.Pillappa,
Aged about 55 years
R/o.80/1, 3rd Cross,

A.Narayanapura,
Bengaluru.

(Defendants in OS No.197/2020)
(Rep. by Sri.**A.L.N**, Advocate for R.3)
(R.1 and 2 - Exparte)

Date and nature of the Decree or Order appealed against	Judgment & Decree dated 08.02.2022 passed in O.S. No.197/2020 on the file of III Addl. Sr. Civil Judge, Kolar						
Nature of the Suit	Suit for Declaration & Permanent injunction						
Rank of Appellants before the Trial Court	Plaintiff						
Date of institution of the Appeal	23.03.2022						
Date of disposal of the Appeal	04.06.2026						
Duration of the Appeal	<table><tr><td><u>Year/s</u></td><td><u>Month/s</u></td><td><u>Day/s</u></td></tr><tr><td>04</td><td>02</td><td>11</td></tr></table>	<u>Year/s</u>	<u>Month/s</u>	<u>Day/s</u>	04	02	11
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(B.S.Jayashree)
I ADDL. DISTRICT & SESSIONS JUDGE,
KOLAR.

JUDGMENT

The present appeal is under *Section 96 r/w Order XLI Rule 1 of the Code of Civil Procedure, 1908*, preferred by the plaintiff in O.S.No.197/2020 on the file of I Addl. Senior Civil

Judge, Kolar being aggrieved by the *judgment & decree dated 08.02.2022*, wherein the Suit filed by the plaintiff/appellant came to be dismissed.

2. The brief facts of the case are as hereunder;

The suit schedule property was originally a Government Gomala land. An extent measuring 2 acres in Survey No.94 with specific boundaries was granted by the Tahsildar, Kolar, to plaintiff vide grant in AC. LND.SC.ST.(KLR)70/8182 dated 29.04.1982. The saguvali chit was also issued to plaintiff on 29.04.1982. In the phodi proceedings conducted as per ADLR 130/8283 on 17.05.1983, Survey No.94 was renumbered as Survey No.188. Since then the plaintiff has been growing agriculture crops in the suit property. The katha and mutation has also been effected in the name of plaintiff as per MR. No.10/198283 and it has continued till this day. Thus the plaintiff became the absolute owner of the suit schedule property. The defendant No.1 & 2 who have absolutely no right, title, or possession over the suit property, have illegally created the registered sale agreement dated 28.09.2013 in

favour of defendant No.3 to an extent of 1 acre by furnishing the wrong boundaries alleging that they are the absolute owners of the suit schedule property, behind the back of plaintiff. Hence the said agreement of sale is not binding on plaintiff.

2.1. The plaintiff came to know about the said illegal, created agreement of sale, the plaintiff filed a complaint against the defendants in Kolar Town Police on 18.01.2014 against the defendants and the same was registered as Cr. No.10/2014 for the offences punishable under Section 120B, 419, 420, 465 of IPC. The Police have filed the charge sheet against the defendants in C.C. No.423/2017 and same is pending adjudication on the file of Prl. Senior Civil Judge and C.J.M at Kolar. In-spite of the said criminal case, taking undue advantage of the said sale agreement executed in his favour, defendant No.3 is illegally trying to interfere with the plaintiff's peaceful possession and enjoyment over the suit schedule property. Hence this suit.

3. For the sake of convenience and to avoid confusion, the parties are referred to as per their status before the Trial Court.

4. On service of summons, defendant No.1 remained absent and was placed *exparte*, defendant No.2 & 3 though appeared through their counsel but did not chose to file written statement.

5. In support of the case of plaintiff, plaintiff examined herself as P.W.1 and got marked 9 documents as per Ex.P.1 to P.9.

6. The trial court on considering the material available on record had dismissed the suit holding that the plaintiff is not the owner in possession of the suit property within the boundaries stated in the plaint. The said judgment and decree is impugned in the present appeal on the ground that the trial court has not appreciated the material properly.

7. The appeal notice was issued to the respondent No.1 to 3, in-spite of service of notice the respondent No.1 and 2

remained absent and respondent No.3 appeared through his counsel, but he has not filed any objections to the appeal.

8. The appellant had filed application U/O.XLI Rule 27 of CPC and had filed 9 documents i.e., RTC of survey No.94 to an extent of 15 guntas out of 2 acres, sale deed dated 24.06.1974 executed by Chikkamuniyappa in favour of Munitirumalappa, order of Asst. Commissioner in RA No.13/2010-11, RTC of survey No.178, mutation register extract of the same survey number, requisition given to Tahasildhar for rectification of RTC of survey No.188, registered sale deed dated 24.06.1974 executed by Chikkamuniyappa in favour of Nyanappa in respect of survey No.94 Gomala 25 guntas out of 2 acres. Further he has also produced grant certificate dated 29.04.1982, RTC extract of survey No.94 and new survey No.188/2, mutation extract in respect of survey No.94, encumbrance certificate, patta book, loan application, loan discharge certificate and rough sketch. The respondents remained exparte and have not filed objection to the I.A.

9. Heard the arguments.

10. Upon hearing, the following points arise for consideration: -

1. **Whether the trial court is justified in holding that the plaintiff had failed to establish that he is the owner in possession of the suit schedule property?**
2. **Whether the application filed by the appellant U/O.XLI Rule 27 of CPC seeking permission to produce documents deserves consideration?**
3. **Whether the appellant has established before this court that the trial court has misread the documents and there is no proper appreciation of evidence and therefore the judgment has to be interfered with?**
4. **Whether the impugned judgment and decree passed by the trial court calls for interference of this court?**
5. **To what Order?**

11. The answers to the above points are:

- Point No.1 : In the **Affirmative**
Point No.2 : In the **Affirmative**

Point No.3 : In the **Negative**
 Point No.4 : In the **Negative**
 Point No.5 : As per final Order,
 for the following: -

REASONS

12. **Point No.2**:- The appellant has produced several documents before this appellate court by filing two applications U/O.XLI Rule 27 of CPC. The documents are as hereunder:

“RTC of survey No.94 to an extent of 15 guntas out of 2 acres, sale deed dated 24.06.1974 executed by Chikkamuniyappa in favour of Munitirumalappa, order of Asst. Commissioner in RA No.13/2010-11, RTC of survey No.178, mutation register extract of the same survey number, requisition given to Tahasildhar for rectification of RTC of survey No.188, registered sale deed dated 24.06.1974 executed by Chikkamuniyappa in favour of Nyanappa in respect of survey No.94 Gomala 25 guntas out of 2 acres. Further he has also produced grant certificate dated 29.04.1982, RTC extract of survey No.94 and new survey No.188/2, mutation extract in respect of survey No.94, encumbrance certificate, patta book, loan application, loan discharge certificate and rough sketch.”

12.1. The appellant had affirmed on oath in the affidavit annexed to the I.A that he could not produce these documents in the trial court as he is an illiterate person. The

trial court had dismissed his suit as he has not produced the documents pertaining to the suit schedule property. Therefore he has furnished copy of the sale deeds of Munitirumalappa and Nyanappa, RTC extracts of the said property. He has also produced the order of Asst. Commissioner challenging the M.R No.54/2006-07 questioning the mutation. The Asst. Commissioner had issued an endorsement stating that the matter is civil in nature and the same has to be decided before civil court. Under this I.A he has produced the endorsement of Asst. Commissioner in the revenue proceedings and also the sale deeds of survey No.94 mutation extracts, RTC extracts.

12.2. The plaintiff/ appellant had sought to produce the documents to substantiate his right over the suit schedule property. Since the said documents are pertaining to the suit schedule property and the respondents who were not contesting the appeal and there is no opposition for production of documents, the documents filed by the appellant in support of his appeal claim deserves

consideration and the application consequently allowed and documents taken on record. In the result point No.2 for consideration is answered in the **Affirmative**.

13. **Point No.1, 3 & 4:-** The plaintiff had affirmed on oath that he is the owner in possession of the suit schedule property measuring 2 acres situated at survey No.94 (new survey No.188) was granted to him as per grant order dated 29.04.1982. Subsequent to the grant, mutation was effected to his name as per MR No.10/1982-83. The defendants who have no right, title and possession over the suit schedule property have created the registered sale agreement dated 28.09.2013 in favour of defendant No.3 behind the back of plaintiff and as such the sale agreement is not binding on him.

13.1. The plaintiff to demonstrate their case has placed on record the legal heir certificate as per Ex.P.1, RTC of survey No.188 measuring 2 acres as per Ex.P.2 which demonstrates that in survey No.188 1 acre 20 guntas is standing in the name of plaintiff and 15 guntas in the name

of Nagaraj, certified copy of grant order is produced as per Ex.P.3 which indicates that 2 acres of land with subsequent boundaries has been granted to plaintiff in survey No.94, Ex.P.4 is the sale agreement dated 28.09.2013 executed by defendant No.1 and 2 in favour of defendant No.3 in respect of 1 acre of land in survey No.188, Ex.P.5 is the encumbrance certificate, Ex.P.6 to 9 are the order sheet, FIR, complaint and final report in CC No.423/2017.

14. On careful scrutiny of evidence Ex.P.3 reads that a land measuring 2 acres in survey No.94 has been granted to plaintiff on 29.04.1982. Pursuant to the grant, katha was mutated in the name of plaintiff to an extent of 2 acres as per MR No.10/1982-83. The plaintiff had produced the RTC of survey No.188 measuring 2 acres as per Ex.P.2. The previous RTC extracts are not produced before the trial court but before this court he has produced the RTC extract of survey No.94 standing in the name of one C.Muniyappa for the year 1985-92 and RTC extract of survey No.188 of the year 1996-97, 1999-2000, 2003-2022. In the RTC of survey No.188 C.Muniyappa is shown to be in possession of 1 acre,

M.Nagaraju is shown to be in possession of 15 guntas, Nyanamurthy is shown to be in possession of 25 guntas for the period 2011-12. In the year 2012-22 C.Muniyappa is shown to be in possession of 1 acre, Nagaraju shown to be in possession of 15 guntas and Nyanamurthy shown to be in possession of 25 guntas. The order of Asst. Commissioner in RA No.414/2025 is produced wherein Chikkamuniyappa had filed an appeal before the Asst. Commissioner in MR No.54/2006-07 in respect of survey No.178. The Asst. Commissioner had dismissed the appeal issued an endorsement stating that the matter is civil in nature and it has to be adjudicated in civil court as per endorsement dated 29.10.2025. Another appeal has been preferred by Chikkamuniyappa in RA No.388/2025 challenging the order of Tahasildhar in MR No.8/1996-97 pertaining to survey No.94 (new survey No.188) the said appeal came to be dismissed holding that certified copy of order of Tahasildhar is not produced. He has also produced the sale deed dated 25.06.1974 executed in favour of Nyanyappa by one Chikka Muniyappa in respect of survey No.94.

14.1. It is necessary for me to note that the plaintiff in the suit had not pleaded about these documents and the sale deeds in respect of survey No.94. It is the case of the plaintiff that he is in possession of 2 acres of land in survey No.94 with the boundaries stated in the plaint and he had acquired the same by virtue of grant. The plaintiff who is seeking the relief of declaration and injunction in respect of 1 acre of land situated at Ramasandra Village and also had stated that another 1 acre of land having boundaries stated in the plaint situated in the said survey number. The RTC of the suit schedule property reads that he is in possession of 1 acre 25 guntas of land and not 2 acres of land. The plaintiff is claiming declaration in respect of 2 acres of land having common boundaries. The plaintiff had not amended the pleadings nor the boundary.

14.2. Yet another contention of the plaintiff is defendant No.1 and 2 have created registered sale agreement dated 28.09.2013 to an extent of 1 acre by furnishing wrong boundaries. When the plaintiff himself unable to

demonstrate before the court that he is the owner in possession of 2 acres of land by placing credible, cogent evidence the contention of plaintiff that defendants by giving wrong boundaries making false claim over the suit schedule property is untenable. The trial court after careful appreciation of material had rightly held that the plaintiff has failed to prove that he is the absolute owner in possession of the suit schedule property. When the plaintiff has failed to prove his possession over the suit schedule property the question of considering interference to his peaceful possession does not arise.

14.3. In the appeal the plaintiff being the appellant had placed sufficient documents i.e., the revenue records. In all the revenue records the plaintiff is shown in possession of 1 acre of land. Though he has produced several revenue records and the mutation proceedings, but without proper pleadings the said records produced by the plaintiff could not be considered. He has produced the grant certificate of survey No.94 wherein he has been granted land measuring 2 acres, but how in the revenue records 1 acre is shown to be in

possession of the plaintiff. The said differences in the extent has to be explained by the plaintiff. One Nagaraj and Nynanappa were shown to be in possession of another bit of land in the same survey number that has also to be explained by the plaintiff. Unless and until the plaintiff narrates in the pleadings about these facts in the plaint the documents produced by the plaintiff cannot be appreciated in the appeal. When there is no pleading to the effect about the entry of one Nagaraju and Nynappa in the revenue records and how they are concerned with the said property, the claim of plaintiff that the matter has to be remanded to the trial court for fresh adjudication does not arise.

14.4. The plaintiff has to clearly plead the facts and has to adduce evidence basing on his pleadings. The pleading and proof should be in consonance with one another. Pleading is the foundation of the case which has to be proved by placing convincing evidence by way of oral and documentary evidence. The Hon'ble Apex Court had categorically held that, In the case of **Shivaji Balaram Haibatti V/s. Avinash Maruthi Pawar** reported in AIR 2017

SCC 5494 held that, *“Parties to the suit cannot travel beyond the pleadings; Court cannot record any finding on issues which are not part of pleadings”*

14.5. The appellant herein without any pleading about the antecedent title of plaintiff had produced voluminous documents. The said documents would not be of any assistance to the plaintiff to prove his title over the said land. When there is no pleadings about the said documents, this court or the trial court cannot give any findings on the said documents. The appellant herein has failed to establish his specific case before this appellate court, he is not entitled for any relief in the present appeal. The trial court has appreciated the material placed on record. The additional documents produced in this appeal is also of no assistance to the appellant herein in the absence of amendment of pleadings. Though the appellant herein has produced additional documents, but in the absence of pleadings the said documents cannot be looked into. In the result I answer point No.1, 3 and 4 for consideration accordingly.

15. **Point No.5:** - In the result, this Court would pass the following:-

ORDER

The Appeal filed by the *appellant* /
plaintiff under Order XLI Rule 1 CPC r/w.
Section 96 is hereby **dismissed**.

The *impugned judgment & decree*
dated 08.02.2022 passed in **O.S.**
No.197/2020 on the file of I Addl. Senior
Civil Judge, Kolar is **confirmed**.

Draw decree accordingly.

Send back Trial Court Records
along with copy of this judgment to the
Court concerned forthwith.

*Dictated to **Stenographer** directly on the Computer,
computerized by **him**, revised & corrected by me, and then
pronounced in open Court on this the **4TH DAY OF JUNE, 2026***

(B.S.JAYASHREE)
I Addl. District & Sessions Judge, Kolar