

KAKL200014362018



**IN THE COURT OF THE I ADDL CIVIL JUDGE & JUDICIAL
MAGISTRATE FIRST CLASS AT BANGARPET.**

:PRESENT:

SRI.CHANDRASHEKHAR ALABUR,

B.A., LL.B.,

I ADDL., CIVIL JUDGE & JMFC., BANGARPET.

O.S. NO.200/2018

DATED THIS 01st DAY OF JULY 2026

PLAINTIFF/S:-

1. **Sri. R. Janardhanachari,**
S/o Late Sri Ramachari,
Aged about 58 years,
Residing at No.13-60/2,
Lingayath Street,
Newpet, Palamanar,
Chittoor District,
Andhra Pradesh – 517408.
2. **Sri. R. Chandrashekar,**
*(Since deceased, represented by his Legal
Representatives):*
 - (a). **Smt. Bhagyalakshmi,**
W/o Late Sri Chandrashekar,
Aged about 59 years.
 - (b). **Smt. Padmavathi C.,**
D/o Late Sri Chandrashekar,
Aged about 24 years.

Both are residing at No.4,
4th Main, 7th Cross,
Beerashwara Nagar,
Yelechanahalli,
Bengaluru – 560062.

- 3. Sri. R. Anandachari,**
S/o Late Sri Ramachari,
Aged about 56 years.
- 4. Sri. R. Rathanachari,**
S/o Late Sri Ramachari,
Aged about 52 years.
- 5. Sri. R. Chandrachari,**
S/o Late Sri Ramachari,
Aged about 50 years.

Plaintiffs Nos. 3 to 5 are residing
Near Mariamma Temple,
Bowarilaipet, Robertsonpet,
K.G.F., Kolar Gold Fields - 563122.

(Rep. by **Sri. P.R.**, Advocate)

-V/S-

DEFENDANT/S:-

- 1. Sri. M. Rathnachari,**
S/o Late Sri Muthachari,
Aged about 52 years.
- 2. Sri. M. Dankanachari,**
S/o Late Sri Muthachari,
Aged about 50 years.
- 3. Sri. M. Rajendrachari,**
S/o Late Sri Muthachari,
Aged about 48 years.

4. **Sri M. Anandachari,**
S/o Late Sri Muthachari,
Aged about 46 years.
5. **Sri. M. Chandershekar,**
S/o Late Sri Muthachari,
aged about 44 years.

All are residing at
Kadhrinahalli Village,
Budikote Hobli and Post,
Bangarapet Taluk.

(Rep. by **Sri. J.P.**, Advocate)

1	Date of institution of the suit	01.08.2018
2	Nature of the suit	Declaration and Permanent Injunction
3	Date of recording of evidence	07.08.2019
4	Date on which Judgment was pronounced	01.07.2026
5	Total duration	<u>Year/s Month/s Day/s</u> 07 11 00

(CHANDRASHEKHAR ALABUR)
I Addl. Civil Judge and J.M.F.C.,
Bangarpet

J U D G M E N T

The plaintiffs have instituted this regular civil suit against the defendants praying for the relief of Declaration of Title, declaring that the plaintiffs are the absolute owners of the suit schedule property, and for a consequential decree of Permanent Injunction restraining the defendants, their agents, or any persons claiming under them from interfering with the plaintiffs peaceful possession and enjoyment of the suit schedule property, along with costs.

2. BRIEF FACTS OF THE PLAINT:

The capsule of the plaintiffs case is that the suit schedule property, bearing Survey No. 69, measuring 1 acre 10 guntas situated at Kotaramagulla Village, Budikote Hobli, Bangarapet Taluk, originally belonged to their father, late Sri Ramachari. It is averred that Sri Ramachari purchased the said land under a registered Sale Deed (No. 3810/1976-77) dated 17.03.1977 from his own brother, Sri Muthachari (the predecessor-in-title of the defendants). The plaintiffs contend that the vendor of Sri

Ramachari had priorly acquired the property from one Kempe Gowda through a registered Sale Deed dated 22.04.1974.

3. The plaintiffs assert that Sri Ramachari remained in lawful, exclusive, and peaceful possession of the property from the date of his purchase. Upon his demise on 21.05.1995, and the subsequent death of his wife Smt. Lakshamma on 28.12.2003, the plaintiffs succeeded to the suit property as legal heirs and co-sharers. It is further pleaded that by mutual consent, the revenue entries and khatha were transferred into the name of the second plaintiff (Sri R. Chandrashekar), who was maintaining the land and paying taxes regularly on behalf of the joint family.

4. The plaintiffs explicitly mention that in the sale deed dated 17.03.1977, due to the fraternal relationship between the brothers, Sri Ramachari had orally agreed to re-transfer or resell the property to Sri Muthachari if the sale consideration of ₹2,000/- was repaid within one year. However, the plaintiffs state that according to the elders of the family, Muthachari

never repaid the sum during Ramachari's lifetime. Hence, the conditional stipulation became redundant, making Ramachari's title absolute.

5. The cause of action for the suit is stated to have arisen on 17.03.1977 (date of the sale deed) and dynamically on 01.07.2018, when the defendants, allegedly backed by local political muscle and real estate interests, made hectic attempts to encroach upon the suit land and dispossess the plaintiffs. Hence prays to decree the suit.

6. Upon the institution of the suit, this Court issued suit summons to the defendants 1 to 5 through due process of law. The summonses were duly served upon all the defendants. The defendants entered their appearance through their learned counsel, Sri J.P., and filed a detailed, joint written statement resisting the prayers of the plaintiffs.

7. BRIEF FACTS OF THE WRITTEN STATEMENT:

The defendants, in their common written statement, denied the plaint assertions *in toto*, labelling the suit as legally

unmaintainable and factually baseless. The defendants specifically denied that the suit schedule property ever belonged to Sri Ramachari, that the plaintiffs ever inherited or possessed it, or that the revenue entries held by the plaintiffs carry any legal sanctity.

8. The positive case of the defendants is that the suit schedule property originally belonged to their late father, Sri Muthachari, who purchased it under a registered Sale Deed dated 19.04.1974 from Patel Kempe Gowda. The defendants emphatically challenged the genuineness of the plaintiffs 1977 Sale Deed, pleading that it was a concocted, fabricated, and fraudulent document brought into existence via impersonation. They pointed out that while **1977** sale deed recites that the original title documents were delivered to the buyer, the original 1974 title deeds remained securely in the custody of Sri Muthachari and were later handed down to the defendants.

9. The defendants further stated that Sri Muthachari was in continuous, exclusive possession and enjoyed the

property until his death on 09.07.2010, after which they have been cultivating the land. To demonstrate active possessory title, the defendants asserted that Sri Muthachari secured an agricultural loan by mortgaging the suit property to the PLD Bank, Bangarapet in 1992, which was subsequently discharged by the family in 2005. Sri Muthachari sank an irrigation borewell in the land during 1994-95 and obtained a formal electricity service connection under Meter No. BKLP-1061.

10. The defendants contended that the plaintiffs father secretly manipulated the revenue entries in collusion with lower revenue officials without Muthachari's knowledge. Finally, the defendants took a foundational legal objection: they asserted that since they are in actual, physical possession of the land, a bare suit for Declaration and Permanent Injunction without seeking the consequential relief of Recovery of Possession is directly barred under the proviso to Section 34 of the Specific Relief Act, 1963. They also stated that the suit is hopelessly barred by limitation. Hence prays to dismiss the suit.

SCHEDULE

Agricultural land bearing Survey No. 69, measuring 1 acre 10 guntas, assessed at ₹2.50 paise, situated at Kotaramagulla Village, Budikote Hobli, Bangarapet Taluk, bounded on the:

East by	:	Land of Kewdharanahalli Doddamuneappa
West by	:	Oni (Lane) of Katramagulla Village
North by	:	Land of Kenchappa
South by	:	Land of Mune Gowda

11. From the adversarial assertions and rival stands taken by the parties in their respective pleadings, this Court, on 25.04.2019, framed the following legal issues for determination:

ISSUES

1. Whether the plaintiffs prove their title over the suit schedule property?
2. Whether the plaintiffs prove their possession over the suit schedule property as on the date of the suit?
3. Whether the plaintiffs prove the alleged interference caused by the defendants?
4. Whether the plaintiffs are entitled to the relief of declaration?

5. Whether the plaintiffs are entitled to the relief of permanent injunction?
6. What order or decree?

12. In order to prove the case of the plaintiff, Sri. R. Chandrashekar (Second Plaintiff) was examined as **PW-1**. (Upon his demise, his LRs were brought on record). Exhibits **Ex.P-1** to **Ex.P-10** were admitted through PW-1, including the landmark Sale Deed dated 17.03.1977 marked as **Ex.P-2**, alongside multiple RTC Pahanis and tax receipts.

13. In order to prove the case of the defendants, Sri.M. Rajendrachari (Defendant No. 3) was examined as **DW-1** on behalf of all defendants. Exhibits **Ex.D-1** to **Ex.D-17** were admitted through DW-1, highlighting the original 1974 Mother Deed (**Ex.D-1**), Bank loan discharge records (**Ex.D-9 to D-11**), and electricity consumption receipts (**Ex.D-12 to D-15**).

14. After patiently hearing the comprehensive arguments addressed by the learned counsels for both sides, and upon careful, meticulous scrutinization of the oral and documentary evidence on record, this Court records its findings as follows:

15. FINDINGS:

Issue No. 1	:	In the Affirmative
Issue No. 2	:	In the Negative
Issue No. 3	:	In the Negative
Issue No. 4	:	In the Negative
Issue No. 5	:	In the Negative
Issue No. 6	:	As per the final operative portion, for the following:

R E A S O N I N G

16. ISSUE NO. 1: The burden of proving ownership over the suit property rests squarely on the plaintiffs. To discharge this burden, the plaintiffs have relied upon **Ex.P-2**, which is the original registered Sale Deed dated 17.03.1977 executed by the defendants father, late Sri Muthachari, in favor of the plaintiffs father, late Sri Ramachari.

17. The defendants, in their written statement, vehemently contested this document, explicitly labelling it a forged and concocted instrument brought into existence through impersonation. However, this defence collapsed during the cross-examination of the defendants own witness, DW-1

(Sri M. Rajendrachari). During the course of cross-examination when confronted with the signature on **Ex.P-2**, DW-1 unequivocally admitted:

"The witness is shown the document Ex.P-2, and upon seeing it, the witness stated that the signature therein belongs to his father. The signature identified by the witness is marked as Ex.P-2(a). The document Ex.P-2 is a sale deed, and according to the said sale deed, it was executed to one Ramachari by my father."

18. Under Section 58 of the Indian Evidence Act, 1872, facts admitted need not be proved. The explicit, judicial admission by the defendants authorized witness validating both his father's signature (**Ex.P-2(a)**) and the nature of the transaction effectively extinguishes the defence of fraud and impersonation. A registered document carries a legal presumption of validity under Section 114(e) of the Indian Evidence Act.

19. Although the defendants produced the original 1974 mother deed (**Ex.D-1**), possession of a past title deed cannot

override the legal execution of a subsequent registered sale deed (**Ex.P-2**) by which Sri Muthachari legally divested his ownership in favour of Sri Ramachari. Therefore, this Court holds that the plaintiffs have successfully established their historical, legal title to the property through intestate succession from Sri Ramachari. Accordingly, Issue No. 1 is answered in the **Affirmative**.

20. ISSUE NO. 2: While the plaintiffs succeeded on the question of title, they have suffered a complete breakdown of proof regarding actual physical possession. In a declaratory suit, the plaintiffs must conclusively establish that they were in actual, physical possession of the agricultural property as on the date of the institution of the suit in 2018.

21. The evidence on record reveals a fatal admission by the second plaintiff, PW-1, during his cross-examination:

"I have been residing in Bengaluru since 1986. The 1st plaintiff has been residing in Andhra Pradesh for the last four years... It is true that when I saw the suit property, the defendants were doing

cultivation in the said property. It is true that from 1974 onwards, the father of the defendants and the defendants have been coming along doing cultivation."

22. This admission by the plaintiff himself completely uproots the plaintiff's claim of exclusive or joint physical possession. A party cannot claim to be in peaceful possessory enjoyment of an agricultural piece of land while simultaneously admitting under oath that their adversaries have been continuously cultivating it for decades.

23. Furthermore, this admission is heavily supported by the defendants documentary evidence. The defendants have produced clear, corroborative evidence showing an active agricultural infrastructure on the property. **Ex.D-12 to Ex.D-15** are electricity consumption receipts registered under Meter No. BKLP-1061. **Ex.D-9, D-10, and D-16** prove that Sri Muthachari treated the property as his own by mortgaging it to the Land Development Bank in 1992 and clearing the loan liabilities in 2005.

24. PW-1 explicitly confirmed this reality during cross examination as:

"It is true that the defendants have sunk a borewell in the suit property, obtained electricity connection, and are practicing agriculture."

25. Revenue records (RTC Pahanis) like **Ex.P-3 to P-5** carry a rebuttable presumption under the Karnataka Land Revenue Act. In this case, any presumption in favor of the plaintiffs is completely rebutted by their own spoken admissions of non-possession and the defendants' concrete proof of physical occupation. The plaintiffs have failed to show they were in physical possession of the property in 2018. Therefore, Issue No. 2 is answered in the **Negative**.

26. ISSUE NO. 3: The question of proving physical interference by an adversary arises only if the plaintiffs first establish their own actual physical possession. Since this Court has already concluded under Issue No. 2 that the plaintiffs are not in possession of the suit land, and that the defendants are

the ones actively occupying and cultivating it, the allegation of "interference" on 01.07.2018 loses all basis in reality.

27. One cannot legally interfere with the possession of a party who is already out of possession. The defendants are exercising possessory control over the property, and their resistance to the plaintiffs' entry cannot be termed "unlawful interference" within the scope of a permanent injunction suit. Consequently, the plaintiffs have failed to prove the alleged cause of action regarding interference. Issue No. 3 is answered in the **Negative**.

28. ISSUE NO. 4 & 5: Both these issues are interconnected and dictate the final outcome of the suit under substantive law. They are taken up together for concise legal analysis.

The plaintiffs have sought a bare declaration of ownership and a permanent injunction without adding a prayer for the **Recovery of Possession**. Having established title under Issue No. 1, but having admitted that the defendants hold

physical possession under Issue No. 2, the plaintiffs suit runs directly into a statutory bar.

29. The definitive legal authority governing this matrix is the proviso to **Section 34 of the Specific Relief Act, 1963**, which dictates:

"Provided that no court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so."

30. This statutory principle was clarified by the Hon'ble Supreme Court of India in the landmark judgment of **Anathula Sudhakar V/s P. Buchi Reddy**¹, where it was laid down:

*"Where a plaintiff is in possession, but his title to the property is in dispute, or under a cloud, he has to sue for declaration and injunction relating to possession. **Where the plaintiff is not in possession of the suit property, he has to sue for declaration and recovery of possession.** A suit for mere declaration or mere injunction will not be maintainable."*

31. The same view was reaffirmed by the Apex Court in **Ram Saran v. Ganga Devi**², establishing that a suit for a bare declaration of title without seeking possession, when the

¹ (2008) 4 SCC 594

² (1973) 2 SCC 60

plaintiff is out of possession, is not maintainable under law and must be dismissed.

32. In this case, the plaintiffs were fully capable of seeking the consequential relief of recovery of possession but omitted to do so. This Court cannot grant a decree of declaration due to the clear statutory prohibition of Section 34.

33. Similarly, the relief of a Permanent Injunction under Section 38 of the Specific Relief Act is an equitable, discretionary remedy. Since the plaintiffs are out of possession, granting an injunction would be legally unworkable, as a permanent injunction cannot be issued to restrain actual, cultivating possessors from entering the land in favour of an owner who is out of possession. The plaintiffs did not take steps to amend their plaint under Order VI Rule 17 of the CPC to convert the suit into one for possession. Therefore, the plaintiffs are not entitled to either relief. Accordingly, Issue Nos. 4 and 5 are answered in the **Negative**.

34. ISSUE NO. 6: In view of the detailed findings recorded on issue nos. 1 to 5, the plaintiffs' suit fails on crucial legal and statutory grounds despite the admission regarding historical title. The suit is bound to be dismissed. Hence, this Court proceeds to pass the following:

ORDER

The Suit of the plaintiffs is hereby dismissed.

Under the facts and circumstances of this case, parties are directed to bear their own costs.

Draw decree accordingly.

*(Dictated to the stenographer directly in the computer, transcribed by her, corrected and then pronounced by me in the Open Court on this the **01st day of July 2026**).*

(CHANDRASHEKHAR ALABUR)

I Addl. Civil Judge and J.M.F.C.,
Bangarpet

ANNEXURES

I. List of Witnesses Examined on behalf of the Plaintiffs:

PW-1: Sri. R. Chandrashekar

II. List of Documents Marked on behalf of the Plaintiffs:

- Ex.P-1 : Certified copy of the Sale Deed dated 19.04.1974 (Kempe Gowda to Muthachari).
- Ex.P-2 : Original Registered Sale Deed dated 17.03.1977 executed by Muthachari in favor of Ramachari.
- Ex.P-2(a) : Admitted signature of Sri Muthachari on page 1 of Ex.P-2.
- Ex.P-3 to 5: Three revenue Pahani copies (RTC) relating to the suit property.
- Ex.P-6: Original Patta passbook relating to the suit property.
- Ex.P-7 & 8: Two land revenue tax paid receipts.
- Ex.P-9 : Additional Pahani copy.
- Ex.P-10 : Additional land revenue tax receipt.

III. List of Witnesses Examined on behalf of the Defendants:

- DW-1 : Sri. M. Rajendrachari (Defendant No. 3)

IV. List of Documents Marked on behalf of the Defendants:

- Ex.D-1 : Original Registered Sale Deed dated 19.04.1974 executed by Patel Kempe Gowda in favor of Munichari/Muthachari.
- Ex.D-1(a) : Signature of Munichari identified on page 1 of Ex.D-1.
- Ex.D-2 : One Pahani record of the suit land.
- Ex.D-3 & 4: Two original Patta Books.
- Ex.D-5 : Certified copy of the Mutation Register (MR) extract.
- Ex.D-6 to 8: Three tax paid receipts.
- Ex.D-9 & 10: Two original loan repayment receipts issued by the Cooperative Agricultural and Rural Development Bank.
- Ex.D-11 : Loan demand notice issued by the PLD Bank.
- Ex.D-12 to 15: Four original electricity consumption charge receipts (Meter No. BKLP-1061).
- Ex.D-16 : Bank loan clearance and discharge certificate.
- Ex.D-17 : Unregistered sale agreement.

(CHANDRASHEKHAR ALABUR)

I Addl. Civil Judge and J.M.F.C.,
Bangarpet