

KAMD410051142021



Presented on : 24-09-2021

Registered on : 25-09-2021

**IN THE COURT OF THE PRL CIVIL JUDGE & JMFC,  
AT MALAVALLI**

PRESENT: Smt. Nazia Kouser,  
B.E., LL.B.,  
Prl. Civil Judge & JMFC.,  
Malavalli.

**Dated this the 29<sup>th</sup> day of April 2026**

**O.S.No.355/2021**

**Plaintiff:** Sri. Thibbegowda,  
S/o Late Thibbegowda,  
Aged about 78 years,  
R/at Ankanahalli Village,  
Kasaba Hobli,  
Malavalli Taluk, Mandya District.

**(By Sri.P.S.M.K.,Advocate)**

V/s.

**Defendants:** **1.** Sri. Siddegowda  
S/o Thibbegowda  
Aged about 68 years,  
R/at Ankanahalli Village,  
Kasaba Hobli,  
Malavalli Taluk, Mandya District.

**2.** Panchayath Development officer  
Kandegala Grama Panchayath office  
Kandegala, Malavalli Taluk,  
Mandya District.

**(D1 By Sri.S.V.S, Advocate)**

**(D2-Exparte)**

|                                                       |                                      |        |      |
|-------------------------------------------------------|--------------------------------------|--------|------|
| Date of institution of the suit                       | 24-09-2021                           |        |      |
| Nature of Suit                                        | Declaration and Permanent injunction |        |      |
| Date of the commencement of recording of the evidence | 06-07-2023                           |        |      |
| Date on which judgment pronounced----                 | 29-04-2026                           |        |      |
| Total Duration                                        | Years                                | Months | Days |
|                                                       | 04                                   | 07     | 05   |

**Prl. Civil Judge & JMFC.,  
Malavalli.**

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

The suit is for the relief of declaration and Permanent injunction along with such other reliefs.

**The suit schedule property is:**

The property bearing Survey No.109/69/16 measuring East-west 16.96 mts, North-south 6.06 mts (Old Sy.No.69/16 measuring 0.3.08.00 guntas) as per Grama panchayath E-swathu No.152100301900520059 situated at Ankanahalli village, Kasaba Hobli, Malavalli Taluk, Mandya District, bounded on :-

East :- Land of Nagegowda S/o Gundegowda

West :- Road

North :- Lands of Javarayi S/o Chikkavotana  
Thibbegowda

South :- Lands of Anukumar S/o Late Nagegowda

**2. The case of the plaintiff in brief is as follows:-**

The suit schedule property originally belonged to the father of the plaintiff and defendant No.1, namely Thibbegowda, and that the same constitutes joint family property of the plaintiff and defendant No.1. They have been in joint possession and enjoyment of the suit property since the lifetime of their father and that the suit property is not the self-acquired property of defendant No.1. After the death of their father, defendant No.1, in collusion with defendant No.2, is alleged to have created false and fabricated documents, including Form No.11B, in respect of the suit property with an intention to deprive the plaintiff of his lawful share and possession. The plaintiff asserts that such documents are not binding on him or the joint family. The plaintiff has lodged complaints before the Taluk Panchayat Office on 30.07.2021 and 09.08.2021 regarding the said illegal acts. Hence, the present suit.

**3.** The defendant No.1 filed the written statement by denying the plaint averments as false, frivolous and vexatious one. It is specifically contented that the father of the plaintiff and defendant No.1, late Thibbegowda S/o late Chikkaputte Gowda @ Chikka Motegowda @ Bette Gowda, had three sons, namely Hanume Gowda, the plaintiff Thibbegowda, and the first defendant Siddegowda. During his lifetime, he effected a partition among his sons, and in the said partition, the suit schedule property bearing Survey No.69/16 measuring 0.03.08.00 guntas, alongwith

the old residential house and adjacent vacant site, fell to the share of defendant No.1. Since then, defendant No.1 and his children have been in exclusive possession and enjoyment of the suit property and has obtained necessary connections, is paying revenue, and is enjoying the property peacefully. The plaintiff and his brother Late Hanumegowda were allotted house properties in Survey No.66 of Ankanahalli village, and that they are in possession of the same. The plaintiff has never been in possession of the suit schedule property at any point of time, either prior to or at the time of filing of the suit. Hence prays to dismiss the suit.

**4.** Though summons were duly served, the defendant No.2 failed to appear before the Court and was, accordingly, placed ex parte.

**5 .** On the basis of the rival pleadings, my learned predecessor has framed the following:

### **ISSUES**

**1.** Whether the plaintiff proves that, suit schedule property is in peaceful possession and enjoyment of the plaintiff and defendants as alleged in the plaint ?

**2.** Whether the plaintiff proves that, defendants are interfering the joint possession of plaintiff and defendants over the suit schedule property ?

**3.** Whether the plaintiff proves that, the revenue document dated :28.02.2019 in the

name of defendant No.1 is not binding on the joint property right of plaintiff ?

**4.** Whether the defendant No.1 proves that, he is in possession of the suit schedule property as alleged in the written statement ?

**5.** Whether the plaintiff proves that, suit for bare injunction is maintainable when he has alternative efficacious remedy under Law ?

**6.** Whether the suit is barred under Law with respect to the declaratory relief ?

**7.** Whether plaintiff is entitled for the relief as sought in the prayer?

**8.** What order or decree?

**6.** In order to prove the case of the plaintiff, the plaintiff examined himself as PW1 and got marked documents as Ex.P1 to Ex.P7. A witness by name J. Ramesh has been examined as PW2. In order to disprove the case of the plaintiff, the GPA holder of defendant No.1 has been examined as DW1 and got marked documents as Ex.D1 to Ex.D20.

**7.** Heard arguments and perused the records.

**8.** My findings on the above Issues are as under:

Issue No.1: In the Negative

Issue No.2: In the Negative

Issue No.3: In the Negative

Issue No.4: In the Affirmative

Issue No.5: In the Negative

Issue No.6: In the Affirmative

Issue No.7: In the Negative

Issue No.8: As per the final order below  
for the following:

### **REASONS**

**9. Issue No.1 to 4 :-** These issues are taken up together for consideration, as they involve a common set of facts and evidence, in order to avoid repetition.

**10.** It is the case of the plaintiff that the suit schedule property originally belonged to his father, late Thibbegowda, and that it is joint family property of the plaintiff and defendant No.1, who were in joint possession and enjoyment of the same. After the death of their father, defendant No.1, in collusion with defendant No.2, created false and fabricated documents. The plaintiff has also lodged complaints before the Taluk Panchayat Office on 30.07.2021 and 09.08.2021 regarding these alleged illegal acts.

**11.** Per contra, defendant No.1 has contended that late Thibbegowda had three sons, and during his lifetime effected a partition, under which the suit schedule property fell to the share of defendant No.1, who has since been in exclusive possession and enjoyment of the same. It is further contended that the plaintiff and his brother were allotted separate properties in Survey No.66 and are in

possession thereof, and that the plaintiff has never been in possession of the suit property.

**12.** To substantiate his case the plaintiff examined as PW.1 by filing affidavit in lieu of examination in chief wherein he has reiterated the plaint averments and got marked documents as per Ex.P1 to P17.

**13.** Ex.P1 is the endorsement. Ex.P2 and Ex.P3 are the letters pertaining to the RTI application. Ex.P4 is the E-swathu. Ex.P5 is the RTC extract. Ex.P6 is the genealogical tree. Ex.P7 is the letter addressed to the Executive Officer, Taluk Panchayat. Ex.P8 is the letter addressed to the concerned authority. Ex.P9 is the RTC extract. Ex.P10 is the tax paid receipt. Ex.P11 is the death certificate. Ex.P12 is the genealogical tree. Ex.P13 is the RTC extract. Ex.P14 is the document (description not specified). Ex.P15 is the assessment extract. Ex.P16 is the notarized copy of the Aadhaar card. Ex.P17 is the order passed by the Tahsildar.

**14.** Witness by name J. Ramesh has been examined as PW2 by filing his chief-examination affidavit, wherein he has stated that he knows the plaintiff, the defendants, and the suit schedule property. He has deposed that the plaintiff is in possession and enjoyment of the suit property and that the khata of the same stood in the name of the plaintiff's father, namely Thibbegowda. The plaintiff and his family members have been utilizing the suit schedule property for tethering cattle and storing fodder.

According to him, the defendants have no manner of right, title, or interest over the suit schedule property. He has also deposed that the defendants interfered with the plaintiff's possession and attempted to dispossess him, but the plaintiff resisted the same with the help of his family members and the witness. It is further stated that the defendants have threatened to dispossess the plaintiff from the suit property, and hence, the plaintiff has filed the present suit.

**15.** To disprove the case of plaintiff the GPA holder of defendant No.1 examined as DW.1 by filing affidavit in lieu of examination in chief wherein she has reiterated the plaint averments and got marked documents as per Ex.D1 to D20.

**16.** Ex.D1 and Ex.D2 are the photographs. Ex.D3 is the general power of attorney. Ex.D4 to Ex.D13 are the photographs. Ex.D14 and Ex.D15 are the tax paid receipts. Ex.D16 and Ex.D17 are the CDs. Ex.D18 is the electricity bill. Ex.D19 is the tax paid receipt. Ex.D20 is the E-swathu.

**17.** Witness by name Abhishek has been examined as DW2 by filing his chief-examination affidavit, wherein he has stated that the plaintiff and defendant No.1 are his paternal uncles. He has deposed that his grandfather, Thibbegowda S/o late Chikkaputte Gowda @ Chikka Motegowda @ Bette Gowda, had three sons, namely

Hanume Gowda (his father), the plaintiff, and defendant No.1, and that during his grandfather's lifetime, all the joint family properties were partitioned. In the said partition, the suit schedule property, consisting of a house and a vacant site, fell to the share of defendant No.1, who is in possession and enjoyment of the same along with his family. In Survey No.66, his father and the plaintiff were allotted their respective shares and are in possession thereof. The E-swathu in respect of the suit schedule property stands in the name of defendant No.1, who is also paying the electricity charges. The plaintiff nor his father has any manner of right, title, or interest over the suit schedule property.

**18.** However, a careful perusal of the documentary evidence produced by the plaintiff does not establish his possession over the suit schedule property. On the contrary, Ex.P1, Ex.P2, and Ex.P3 clearly disclose that the khata of the suit property stands in the name of defendant No.1. Further, Ex.P4 and Ex.D20, which are the E-swathu documents, and Ex.P14, the assessment extract, also reveal that the khata stands in the name of defendant No.1. The RTC extracts at Ex.P5 and Ex.P13 do not conclusively establish possession of the plaintiff over the suit property.

**19.** PW1 has categorically admitted that the house shown in Ex.D2 is in the possession of defendant No.1

along with his family. He has also admitted that they have been residing separately for the past 2 to 3 years and cultivating separately. Further, PW1 has admitted that there was a partition among the brothers and the partition deed is in his possession. He has also admitted that he does not know the boundaries of the suit property. These admissions clearly show that the plea of joint possession is untenable.

**20.** PW2 has admitted that defendant No.1 has been residing in the house shown in Ex.D2 along with his family since the time of his father. He has also admitted that in the year 1984–1985, there was a partition among the brothers and the partition deed is in possession of plaintiff. after partition, they have been residing in their respective shares. These admissions clearly corroborate the case of defendant No.1 regarding partition and exclusive possession. The admissions elicited in the cross-examination of PW1 and PW2 clearly establish that defendant No.1 is in possession of the suit property.

**21.** The evidence of DW2 clearly establishes that the suit schedule property fell to the share of defendant No.1 in the family partition and that he is in possession and enjoyment of the same. The documents such as tax paid receipts, electricity bills, and E-swathu records marked as Ex.D14 and Ex.D15, Ex.D18, Ex.D19 and Ex.D20 is the E-swathu further support the possession of defendant No.1.

**22.** When the plaintiff has failed to prove possession, the question of interference does not arise. Further, in the absence of proof of joint family possession, the challenge to the revenue entry dated 28.02.2019 also cannot be sustained, particularly when the revenue records consistently stand in the name of defendant No.1.

**23.** Therefore, this Court is of the opinion that the plaintiff has failed to prove that the suit schedule property is in joint possession and enjoyment of the plaintiff and defendants. Consequently, the plaintiff has also failed to prove the alleged interference by the defendants. Further, the plaintiff has not established that the revenue document dated 28.02.2019 standing in the name of defendant No.1 is not binding on him. Accordingly, issue No.1 to 3 are answered in the **Negative** and **issue No.4 in the affirmative.**

**24. Issue No.5 to 7 :-** These issues are taken up together for consideration, as they involve a common set of facts and evidence, in order to avoid repetition.

**25.** It is the case of the plaintiff that the suit schedule property is joint family property and that the revenue entries standing in the name of defendant No.1 are not binding on him. In substance, the plaintiff has questioned the khata and other revenue entries standing in the name of defendant No.1.

**26.** At the outset, it is to be noted that entries relating to khata, E-swathu, and other revenue records are maintained by the competent revenue authorities for fiscal and administrative purposes. Any correction, cancellation, or mutation of such entries falls within the jurisdiction of the concerned revenue authorities. When the grievance of the plaintiff substantially relates to entries in revenue records, the proper course open to him is to approach the competent revenue authority seeking appropriate relief.

**27.** In the present case, though the plaintiff has questioned the revenue entry dated 28.02.2019 and the khata standing in the name of defendant No.1, he has not placed any material to show that he has effectively pursued the remedy before the competent revenue authorities in accordance with law. Therefore, the plaintiff has an alternative and efficacious remedy available under the relevant revenue laws, which he has not properly exhausted. At the same time, it is well settled that civil courts have jurisdiction to adjudicate the rights, title, and interest of parties over immovable property. However, in the present case, the plaintiff has not sought a comprehensive declaration of his title, but has indirectly questioned the revenue entries. In the absence of seeking appropriate declaratory relief regarding revenue entries and in the present form it cannot be effectively adjudicated.

**28.** Further, as already discussed, the plaintiff has failed to establish his possession over the suit schedule property. When the plaintiff has failed to prove possession and he is not entitled to the discretionary relief of injunction. Therefore, this Court is of the opinion that the suit in the present form, is not maintainable, particularly when the plaintiff has an alternative remedy before the revenue authorities in respect of khata entries. Consequently, the plaintiff is not entitled to the relief sought. Accordingly, Issue No.5 and 7 are answered in Negative and Issue No.6 is answered in the Affirmative.

**29. Issue No.8:-** In the light of the above discussions on issue Nos.1 to 7, I proceed to pass the following:

**ORDER**

The suit of the plaintiff is  
hereby dismissed.

Under the circumstances of the  
case no order as to costs.

Draw decree accordingly.

(Dictated to the Stenographer, transcribed by her, corrected and then pronounced by me in open Court on this the 29th day of April 2026)

**(NAZIA KOUSER)**  
**Prl. Civil Judge & JMFC.,**  
**Malavalli.**

**ANNEXURE**

**List of witnesses examined in favour of plaintiffs**

PW1 : Thibbegowda

PW2 : J. Ramesh

**List of witnesses examined in favour of defendants**

DW1 : Geetha  
DW2 : Abhishek

**Documents exhibited on behalf of plaintiff**

Ex.P.1 : Endorsement  
Ex.P.2&3 : Letters pertaining to the RTI application  
Ex.P.4 : E-swathu  
Ex.P.5 : RTC extract  
Ex.P.6 : Genealogical tree  
Ex.P.7&8 : Letters  
Ex.P.9 : RTC Extract  
Ex.P.10 : Tax paid receipt  
Ex.P.11 : Death certificate  
Ex.P.12 : Genealogical tree.  
Ex.P.13 : RTC extract  
Ex.P.14 : Document  
Ex.P.15 : Assessment extract  
Ex.P.16 : Notarized copy of the Aadhaar card  
Ex.P.17 : Order passed by the Tahsildar.

**Documents exhibited on behalf of defendants**

Ex.D.1&2 : Photographs  
Ex.D.3 : General power of attorney  
Ex.D.4 to 13: Photographs  
Ex.D.14 &15: Tax paid receipts  
Ex.D16 &17: CDs.  
Ex.D18 : Electricity bill.  
Ex.D19 : Tax paid receipt.  
Ex.D20 : E-swathu.

**Prl. Civil Judge & JMFC.,  
Malavalli.**