



**IN THE COURT OF THE II ADDITIONAL
DISTRICT AND SESSIONS JUDGE, MYSURU**

Dated this the 11th day of March, 2026

:: PRESENT ::

Sri Mallanagouda, B.Com., LL.M.,
II Addl. District & Sessions Judge,
Mysuru.

R.A.283/2019

APPELLANT

- ::** 1. Tahasildar,
Mysuru Taluk,
Mysuru.
2. Deputy Commissioner,
Mysuru District,
Mysuru.
3. Panchayath Development
Officer,
Yelwala Grama Panchayath,
Yelwala,
Mysuru Taluk.
4. Chief Executive Officer,
Zilia Panchayath,
Mysuru District,
Mysuru.

5. The Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bengaluru.

[By : A.D.G.P.,]

V/s

RESPONDENTS

- :: 1. Sri.Mudigowda (**Dead**)
S/o. Late Devara Guddaiahna
Chikkegowda,
Aged about 85 years,
2. Sri.Mayigowda,
S/o. Late Mudigowda,
Aged about 40 years,
3. Sri. Prakash,
S/o. Mudigowda,
Aged about 41 years,

All are R/at Karakanahalli
village, Yelwala Hobli,
Mysuru Taluk

[Respondent No.1 - Dead

Respondent No.2 & 3 By : Sri. H.P.S., Advocate]

Date and nature of : Judgment and Decree in
decree or order OS.No.22/2006, dated 02.02.2013
appealed against on the file of the learned II Civil
Judge and JMFC., Mysuru.

Date of the institution of the appeal : 27.11.2018

Date of Pronouncing of judgment : 11.03.2026

Total duration of appeal : Year/s 07 Month/s 03 Day/s 14

[MALLANAGOUDA]
II Addl. District & Sessions Judge,
Mysuru.

:: JUDGMENT ::

This appeal is filed by the Appellants challenging the judgment in O.S.No.22/2006 on the file of II Civil Judge and JMFC., dated 02.02.2013.

2. The Appellants are the Defendants before the Trial Court, Respondents are the Plaintiffs before the Trial Court.

3. For the sake of convenience the parties are herein after referred as per their status before the Trial Court.

4. The Plaintiffs have filed the suit before the Trial Court seeking declaration of ownership and Permanent Injunction against the Defendants in respect of the suit schedule property bearing Sy.No.141 measuring 1 acre 10 guntas of Karkanahalli village, Yelawala Hobli, Mysuru Taluk.

5. The brief facts of the Plaintiff's case before the Trial Court are as under :

The land bearing Sy.No.141 measuring 1 acre 10 guntas of Karkanahalli village belongs to Defendant No.5, but out of 1 acre 10 guntas more than 25 guntas of land is in possession of the Plaintiffs continuously without any interruption from any body including the Defendants. About 35 years back itself 25 coconut trees, 6 Mango tress, one Jack fruit tree and other tress were planted by the Plaintiffs and now they are giving yield. The said 25 guntas is the suit schedule property, the Plaintiffs are getting income from the suit property from last 55 years, suit property is the only

source of Plaintiffs for their livelihood. By their hard labour and money Plaintiffs converted the suit property into fertile land and they fenced it. Further, Plaintiff No.1 has filed application to Defendant No.1 in the year 1958 for grant of the suit land. On 19.09.1958 Defendant No.1 has issued notice to Plaintiff No.1 to vacate the suit property, again Plaintiff No.1 approached the Tahasildar, Mysuru and informed him about his family members problem, poverty etc., and again requested to grant the suit property. But the Defendant No.1 has directed the Plaintiff No.1 to pay the T.T amount. Accordingly, on 25.04.1969 and 25.01.1978 Plaintiff No.1 had pay the T.T amount, to the concerned Defendant No.1 and obtained receipts. Thereafter, also he filed application before Sakrama Committee but same was not considered.

6. On the other hand, due to political pressure and instigation of the persons who are not in good terms with the Plaintiff, Sakrama Committee has

rejected the said application of the Plaintiff. Further by considering the long possession and poverty of the Plaintiffs several elders of the village, Gramapanchayath President and others have recommended the Defendants, particularly the Defendant No.1 to grant the suit property to Plaintiff No.1 and villagers have stated that they have no objection for grant of the land to Plaintiff No.1. Infact, there is no any Thopu, Well or Tank in the suit property, before Plaintiffs cultivation it was waste and unfertile land. Therefore, RTC of entire 1 acre 10 guntas discloses as Government Thopu. After converted into agricultural land the suit property is not a waste land and in the remaining 25 guntas there is a Well towards the eastern side. Further, suit schedule property is not at all required for any purpose to Defendants and also villagers of Karakanahalli.

7. This being the facts in year 1990 Defendant No.3 on the influence of the Then Panchayath

President of the Gramapanchanayath Sri. K.N.Nagappa started unnecessary interference in the Plaintiffs possession over the suit property and said persons influenced Forest officials to dispossess the Plaintiffs from the suit schedule property. Hence, without any alternative the Plaintiff No.1 has filed suit in O.S.No.408/1990 for Permanent Injunction. As declaratory relief was not claimed and for some other grounds the suit was dismissed on 19.09.1994. The said suit was filed against the present Defendants and Defendants are ware of the findings in the said suit. There is sufficient materials to show that the Plaintiffs and their family members are in possession of the suit property for more than 55 years. The Defendants have not at all taken possession of the suit property from the Plaintiffs. Hence, in view of the possession for more than 30 years continuously Plaintiffs have perfected their title. Hence, Defendants have no right to dispossess the Plaintiffs. The Plaintiffs have got issued

notice dated 08.01.2005 to the Defendants requesting the Defendants to grant the suit land, inspite of service of notice the Defendants have not complied the demands made in the said notice. Before 10 days from the notice Defendant No.3 and their Sub-ordinate officials have forced the Plaintiffs to vacate the suit property. At that time Plaintiffs again informed about true facts, their poverty and requested the Defendants to grant the suit property, the said request went in vain. Accordingly, Plaintiffs have got issued notice and without any alternative they filed the present suit seeking declaration and Permanent Injunction.

8. After service of summons Defendant No.2 to 5 have appeared before the Trial Court through ADGP and Defendant No.1 has been placed Exparte. The Defendant No.2 to 5 have filed written statement as under ;

9. The previous suit filed by Plaintiff No.1 Mudigowda in O.S.No.408/2019 has been dismissed

on 19.10.2019, as against the said judgment no appeal is filed. Hence, principles of resjudicata is applicable and suit is liable to be dismissed. Since the Chief Secretary or Deputy Commissioner are not made as parties suit is not maintainable. Even the suit is not maintainable for not issuing notice under Section 80 of C.P.C, hence on that ground also suit is liable to be dismissed. Infact, revenue Inspector of Yelawala has reported for reserving Sy.No.141 measuring 1 acre 10 gutnas of Karakanahalli village for graveyard, there is Coconut, Mango tress and Well and Tank in the said land, said land is situated by the side of Yelawala and Gungaralchatra road. Infact one Mudigowda of Karakanahalli village is cultivating the said land, when Yelawala Mandala Panchayath tried to evict the said Mudhigowda there was civil dispute in the Mysuru Court and application of the cultivator came to be rejected. The Plaintiffs have filed the present suit by creating the cause of action. Therefore, suit is liable to

be dismissed. Further, Plaintiff has not paid proper Court Fee.

10. On the basis of the pleadings, the Trial Court has framed the following Issues;

ISSUES

1. Whether the Plaintiffs prove that the Plaintiffs are the absolute owners in possession of the suit schedule property ?
2. Whether the Plaintiffs prove the alleged interference of Defendants ?
3. Whether the Defendant No.3 proves that the suit is barred by the principles of res-judicata ?
4. Whether the suit is bad for non-joinder of necessary parties ?
5. Whether the suit is not maintainable for want of statutory notice to Defendants under Section 80 of C.P.C. ?
6. Whether Plaintiffs are entitled for the relief/s declaration of title and Permanent Injunction ?
7. What Order or Decree ?

11. In support of their case Plaintiffs examined Plaintiff No.3 and 2 witnesses as PW.1 to 3 and got

marked documents at Ex.P.1 to Ex.P.31 on their behalf. On the other hand Defendants have not produced any evidence on their behalf.

12. After hearing the arguments the Trial Court has decreed the suit of the Plaintiffs declaring that Plaintiffs are the owners of the suit schedule property and issued Permanent Injunction against the Defendants.

13. Being aggrieved by the judgment of the Trial Court the Defendants/Appellants have filed the present appeal on the following grounds;

The judgment of the Trial Court is perverse, capricious in nature. Judgment of the Trial Court is once sided, it is against the principles of natural justice and also Land Revenue Act and Land Reforms Act. The Trial Court has passed the impugned judgment without ascertaining the documents and written statement filed by ADGP. Therefore, judgment of the Trial Court is

liable to be set-aside and suit of the Plaintiff needs to be dismissed.

14. Heard arguments.

15. Perused the entire record.

16. The points that arises for my consideration are as here under :

POINTS

1. Whether the Appellants have produced sufficient evidence to show that they have perfected title over the suit property by adverse possession ?
2. Whether the judgment of the Trial Court calls for interference by this Court ?
3. What Order or decree ?

17. My findings on the above points are as under:

**Point No.1 : Does not survive
for consideration,**

Point No.2 : In the Affirmative,

**Point No.3 : As per final order, for the
following ;**

:: REASONS ::

18. **POINT NO.1 AND 2:-** Since these points are inter-related the same are taken up together for discussion to avoid repetition of discussion.

19. Admittedly suit schedule property is belonging to the Government and Plaintiffs are claiming that they are in possession of the suit property from last 55 years, hence they perfected the title over suit property by way of adverse possession.

20. On the other hand Defendants have contended that they reserved the suit property for graveyard, hence the Plaintiff have no right over the suit schedule property.

21. During the arguments learned additional Government pleader for Appellants has argued stating that there is no any material available on record to show that the Plaintiffs are in possession of suit schedule property and even to show that they perfected the title over the suit schedule property, inspite of it

the Trial Court has decreed the suit of the Plaintiff. Hence Trial Court judgment needs to be interfered with.

22. On the other hand learned counsel for the Respondent has filed written arguments in detail in which he once again narrated the facts of the case and contended that there is evidence to show that Plaintiffs are in possession of the suit property from last 25 years, hence as they are in possession of suit property for more than statutory period of 30 years they perfected title over suit schedule property by way of adverse possession. Hence by considering all the material available on record the Trial Court has rightly decreed the suit and there is no necessity to interfere with judgment of the Trial Court.

23. On perusal of pleadings and evidence produced by Trial Court and arguments of both the counsels it appears to me that as rightly pointed out by

Respondent counsel there is some material to show that Plaintiff ie., Respondent in the appeal are in possession of the suit schedule property. However as per the Plaintiff only earlier on occasion Plaintiff had filed OS No.408/1990 seeking permanent injunction and from copy of plaint in the said suit which is marked at Ex.P13 it appears that in plaint para - 4 of OS No.408/1990 it is contended that in 1958 the Tahsildar of Mysuru Taluk has issued notice seeking to vacate the suit property and there after in the year 1990 also the Defendant No.1 directed the Plaintiff to surrender the suit schedule property which goes to show that though Plaintiffs are in possession of suit schedule property Defendants are all along requesting the Plaintiffs to vacate the suit schedule property. As per the doctrine of adverse possession, to acquire title to the property belonging to another person it requires continuous hostile and open possession without owners permission and interruption. But here in the

present case by looking to the plaint averments of the present suit and OS No.408/1990 prima facie it appears that there was interruption by the Defendant in the Plaintiff's possession over the suit property. Therefore as per para – 3 of the plaint the Plaintiff have contended that in 1969- 70 Plaintiff No.1 paid Chiti amount to the Defendant No.1 by obtaining the receipt and later on he has submitted application before Sakrama committee which prima facie shows that the Plaintiffs possession if any is permissive possession but not the adverse possession. However by looking to Trial Court records it appears that though Defendants have filed written statement they have not cross examined the PW.1 to 3, therefore instead of deciding the appeal on merits it appears it is proper to set-aside the judgment of the Trial Court and remand the matter to Trial Court to give another opportunity to Defendants to cross examine PW1 to 3 and to produce Defendants evidence if any and decide the matter afresh. Hence it

is decided to set-aside the judgment of Trial Court and remand the matter. ***Accordingly point No.1 and 2 are answered as above.***

24. **POINT NO.3:-** In view of my findings on the above point, I proceed to pass the following :

ORDER

The appeal filed by the Appellants is ***allowed.***

The judgment and decree passed in OS No.22/2006 dated 02.02.2013 on the file of II Civil Judge and JMFC, Mysuru is set-aside.

The matter is remanded back to the Trial Court to give another opportunity to Defendants to cross examine PW.1 to 3 and to produce their evidence and dispose the suit afresh.

Even the Plaintiffs are at liberty to produce additional evidence if they want to do so.

Both parties to the suit are directed to appear before the Trial Court on 01.04.2026 and proceed with the matter without expecting any notice.

As the matter is of the year 2006 the Trial Court is directed to dispose the matter expeditiously.

Send back the Trial Court Record along with the copy of judgment in this Appeal.

[Dictated to the Stenographer, transcribed & computerized by her, transcript revised, corrected and then pronounced by me in the open Court on this the **11th day of March 2026**]

[MALLANAGOUDA]

II Addl. District & Sessions Judge,
Mysuru.