

KAMS010057092025



**IN THE COURT OF THE III ADDL. DISTRICT JUDGE,  
MYSURU**

**:PRESENT:**

Sri. **Gururaj Somakkalavar**, M.A.,LL.B.,  
III ADDL. DISTRICT JUDGE: MYSURU.

**R.A./134/2025**

**Dated this the 16<sup>th</sup> day of April, 2026**

**Appellant:** Smt.Chaluvamma,  
W/o Late Chaluvaiah,  
Aged about 70 years,  
R/at Srirampura, Ward No.20,  
Nanjangud Town.

[By Sri.M.Mahesh, Adv.,]

**V/s**

**Respondents:** 1. Siddaraju,  
S/o Late C.Madaiah,  
aged about 45 years,  
R/at Thoremavu Village,  
Chikkaiahnachathra Hobli,  
Nanjangud Taluk.

2. P.Kamalesh,  
S/o Puttamadaiah,  
Aged about 51 years,

R/at House No.3986,  
2<sup>nd</sup> Main, 2<sup>nd</sup> Cross,  
Srirampura, Nanjangud Town.

[R-1 - Exparte  
R-2 By Sri.K.C.R, Adv.,]

Date of institution  
of appeal: 19.07.2025

Nature of appeal: To set aside the judgment and  
decree passed in OS No.214/2021  
dated 02.05.2025 on the file of  
Senior Civil Judge & JMFC,  
Nanjangud.

Date on which the  
judgment was  
pronounced: 16.04.2026

Total Duration:	Days	Month	Year
	28	08	00

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

The plaintiff/appellant before the Trial Court has preferred this appeal challenging the Judgment and decree dated 02.05.2025 passed in OS.No.214/2021 on the file of Senior Civil Judge & JMFC, Nanjangud and prays to set-aside the judgment by allowing this appeal.

2. The rank of the parties is being referred to as referred in the Trial Court for the sake of convenience and brevity.

3. The appellant is the plaintiff and respondent is the defendant before the Trial Court. The appellant herein has filed the above suit in OS No.214/2021 for the relief of declaration and permanent injunction.

4. The Trial Court, upon perusal of the oral and documentary evidence and the material available on record has dismissed the suit of the plaintiff/appellant. It is against the said Judgment and decree the present appeal is preferred by the appellant.

5. The case of the plaintiff in brief is that:

The suit schedule property is originally belongs to one Basavaiah S/o Chaluvaiah. He mortgaged the said property on 10.03.1971 in favour of one Krishnaiah S/o Chamundaiah through registered Mortgage Deed. Krishnaiah and Basavaiah are no more. The plaintiff is the sole sister of deceased Basavaiah. Mahadevamma is the wife of Krishnaiah. Mahadevamma also died long back. Krishnaiah and Mahadevamma had no legal heirs. The Mortgage Deed executed by Basavaiah in favour of Krishnaiah for amount of Rs.200/- was not redeemed. But Krishnaiah handed over the possession of the mortgaged property in favour of the brother of the plaintiff i.e., Basavaiah. The mortgagee was in possession of the

mortgaged property during his lifetime. Since Basavaiah had no legal issues, the plaintiff is in possession of the suit schedule property as on the date of filing of suit.

Further, the defendant No.1 is not relative of the family of the plaintiff. However, the defendant No.1 without having any legal right, illegally transferred the Khatha of the suit schedule property, thereafter constructed the building in it. So, the defendant No.1 filed O.S.48/2019 against the plaintiff for the relief of permanent injunction in the court of Prl. Civil Judge and J.M.F.C., Nanjangud and it is still pending for disposal. Such being the case, the defendant No.1 without having any sort of right recently on 20.03.2021 sold the suit schedule property in favour of the defendant No.2 through registered sale deed by utilizing the political influence, because the wife of defendant No.2 is ex-President of Town Municipality of Nanjangud.

Further, at any point of time the defendant No.1 was not in possession and residing in the suit schedule property. However, the defendant No.1 unnecessarily interfered into the peaceful possession of the suit schedule property. The defendant No.1 after creating the false document in respect of the suit schedule property started to disturb the peaceful possession. After purchase of the suit schedule property, the defendant No.2 illegally

interfered into the suit schedule property made attempt to destroy the Mangaluru tiled house, on the strength of false documents. The defendant No.1 had no valid right to sell the suit schedule property in favour of the defendant No.2. Therefore, the plaintiff says that the sale deed dated 20.03.2021 is to be declared as null and void to the property right of the plaintiff and not binding on her and permanent injunction is to be issued against the defendant No.2 to prevent her future interference. Hence, she has filed the suit and prays to decree the suit.

6. Defendant No.2 contested the suit of the plaintiff and filed his written statement and contended that, Mahadevamma D/o Singraiah was the original owner of the suit schedule property. Mahadevamma got the suit schedule property by virtue of the Will deed executed by her mother by name Nanjamma on 03.04.1996. Apart from that Nanjamma had no other legal heirs except Mahadevamma. Therefore, Mahadevamma is the only legal heir of the deceased Nanjamma. Mahadevamma had also no issues. Therefore, after the death of Mahadevamma the Khatha of the schedule property was transferred into the name of the son of her brother-in-law i.e., Siddaraju. Therefore, on the basis of consent, khatha of the suit schedule property was got changed in the name of Siddaraju. Siddaraju being the

absolute owner of the suit schedule property sold the said property in favour of the defendant No.2. Therefore, the plaintiff cannot ask to nullify the sale deed executed by Siddaraju in favour of the defendant No.2. After purchase of the suit schedule property, the defendant No.2 is its absolute owner. The plaintiff never in possession of the suit schedule property at any point of time. The said facts are known to the knowledge of the plaintiff. However, only to give trouble to the defendants, the present suit is filed. Hence, he prays to dismiss the suit.

7. Upon the rival pleadings of the parties and on perusal of the material available on record, the trial Court has framed the following issues.

1. Whether the plaintiff proves that she is the absolute owner of the suit schedule property ?
2. Whether the plaintiff proves that the sale deed dated 20.03.2021 is not binding on her?
3. Whether the plaintiff is entitled for declaration as sought for ?
4. Whether the plaintiff is entitled for permanent injunction as sought for ?
5. What order or decree ?

### **Addl. Issues**

1. Whether the defendant proves that the sale deed dated 20.03.2021 in favour of defendant No.2 is valid and the vendor had valid title to pass on to the defendant No.2 ?

8. To prove the plaint averments, G.P.A. holder of the plaintiff is examined himself as P.W.1 and one witness by name Shambhulingaiah examined as P.W.2 and got marked 24 documents as Ex.P.1 to 24 and plaintiff's evidence stage was closed. Further, defendant No.2 is himself examined as D.W.1 and got marked 06 documents as Ex.D.1 to 6 and closed their side.

9. The Trial Court on appreciation of the evidence available on record dismissed the suit of the plaintiff. It is against the said judgment and decree, the present appeal is filed by plaintiff/appellant.

10. The appellant urged the following grounds in support of his appeal.

The judgment and decree of the trial court is opposed to the principals of natural justice, equity and good conscious and opposed to the probabilities of the case.

The trial court has not considered the documents produced by the appellant.

The trial court has not considered the oral and documentary evidence of the appellant.

The judgment and decree of the trial court is contrary to the law, evidence on record and therefore the judgment and decree passed by the trial court is liable to be set aside.

The judgment and decree passed by the learned Senior Civil judge is perverse capricious and bad in law.

The Appeal is well within time.

Accordingly, the appellant prays to set aside the Judgment and decree passed on 02.05.2025 on the file of Senior Civil Judge & JMFC, Nanjangud in OS No.214/2021 by allowing this appeal.

11. Having heard the arguments of both sides and upon perusal of the Trial Court records, the points that arise for consideration of this court is:-

1. Whether the Trial Court is justified in holding that, the plaintiff fails to prove the title and possession of the suit schedule property, which is said to be inherited by Basavaiah ?

2. Whether the Trial Court is justified in holding that, the plaintiff is not entitle for declaratory relief and also the permanent injunction ?
3. Whether the Judgment and decree dated 02.05.2025 on the file of Senior Civil Judge & JMFC, Nanjangud in OS No.214/2021, do call for interference of this court?
4. What order?

12. The findings of this court to the aforesaid points is:

- Point No.1 : In the Affirmative**  
**Point No.2 : In the Affirmative**  
**Point No.3 : In the Negative**  
**Point No.4 : As per final order for the following:**

### **REASONS**

#### **POINT No.1 to 3:**

13. The plaintiff/appellant herein has assailed the judgment and decree dated 02.05.2025 in O.S.No.214/2021 on the file of Senior Civil Judge & JMFC, Nanjangud. The appellant herein is the plaintiff and respondents are the defendants before the Trial Court.

14. The plaintiff/appellant herein has filed suit for declaration and permanent injunction. The trial court has

dismissed the suit of the plaintiff. Aggrieved by the said judgment and decree present appeal is preferred.

15. Before adverting into the merits of the appeal, it is necessary to look into the cases of both the sides. As per the plaintiff, the suit schedule property is originally belongs to one Basavaiah S/o Chaluvaiah. He mortgaged the said property in favour of one Krishnaiah S/o Chamundaiah on 10.03.1971 through registered Mortgage Deed. Both Krishnaiah and Basavaiah are no more. The plaintiff is the sole sister of deceased Basavaiah. The Krishnaiah had wife by name Mahadevamma and she also no more. Krishnaiah and Mahadevamma had no issues. During the life time of Basavaiah he has repaid the mortgage amount of Rs.200/- to Krishnaiah. But, the mortgage was not redeemed. After that, Krishnaiah has handed over the possession to the said Basavaiah. The said Basavaiah is in possession during his life time. After him plaintiff being the sister of Basavaiah was in possession of the said property and paying revenue. The defendant No.1 is not related to the plaintiff or suit schedule property. But, he got relinquished the suit schedule property from his sister and got entered his name in the Khatha. He has even filed suit for permanent injunction in O.S.48/2019. After change of Khatha without there being any right, interest over the suit

schedule property, he has alienated the same in favour of the defendant No.2 on 20.03.2021 by using the influence as he is the husband of the Gram Panchayath Chairman. Both defendant No.1 & 2 colluding with each other got the Khatha transferred and created Sale Deed. The plaintiff also alleged about the interference with the peaceful possession of the suit schedule property. As per the plaintiff earlier the suit schedule property is numbered as Assessment No.2480/3710 and new Assessment No.5423/5195.

16. Countering the version of the plaintiff, the defendant No.2 has filed written statement and contended that, daughter of Singraiah by name Mahadevamma was the owner of the suit schedule property. The said property was inherited by Mahadevamma by execution of the Will dated 03.04.1996 by her mother Nanjamma. The said Nanjamma had no other issues than Mahadevamma. The said Mahadevamma has also no issues. As such, after her death, son of brother of husband of the Mahadevamma, the defendant No.1 got Khatha entered in his name and since then he is enjoying the property as owner. On 20.03.2021 he has executed Sale Deed alienating the suit schedule property in favour of the defendant No.2. Since, then defendant No.2 is in possession as absolute owner of the

said suit schedule property. The plaintiff is not the owner or in possession of the suit schedule property.

17. After appreciating rival contentions, it is relevant to note here that, since, the plaintiff has filed suit for declaration and permanent injunction, it is upon the plaintiff to substantiate the acquiring of the right over the suit schedule property as absolute owner. It is her specific case that, the suit schedule property is originally belongs to her brother Basavaiah. The said Basavaiah had mortgaged the property with one Krishnaiah on 10.03.1971. After that, the said Basavaiah has repaid the mortgage amount and the Krishnaiah has handed over the possession of the suit schedule property to Basavaiah. The said Basavaiah had no issues. As such, the present plaintiff being the sister of Basavaiah was enjoying the suit schedule property as owner.

18. Now, it is upon the plaintiff to substantiate the fact that, the said suit schedule property was originally belongs to Basavaiah. The plaintiff has produced Ex.P-2 to 29 documents. None of the documents reveals that, the said suit schedule property was originally standing in the name of Basavaiah. If, the documentary evidence placed before this court are carefully looked into, the Assessment No.5423/5195 was standing in the name of Mahadevamma

W/o Krishnaiah. It can be ascertained from the Ex.P-2 to 6. If, the Ex.P-6 looked into, initially the property was standing in the name of Singraiah S/o Kalyanaiah and after him the Khatha was entered in the name of Mahadevamma W/o Krishnaiah. In this regard if, the evidence mainly cross-examination of PW-1 is looked into, where the PW-1 has admitted that, the said Kalyanaiah had two children by name Cheluvaiah and Singraiah and this Mahadevamma is the daughter of Singraiah and the said Mahadevamma had no children. This fact is admitted by the PW-1 during the cross-examination dated 26.06.2024 at Page No.9.

19. It is categorically admitted by the PW-1 that, Mahadevamma is the daughter of Singraiah. If, the Ex.P-6 is carefully appreciated, the property was standing in the name of Singraiah S/o Kalyanaiah and after him the property was standing in the name of Mahadevamma W/o Krishnaiah and the Ex.P-1 to 5 discloses that, the property was standing in the name of Mahadevamma. The Ex.P-6 also discloses that, the name of Mahadevamma was entered in the Khatha by virtue of registered Will dated 04.04.1996 and report by R.I. Wherein, Nanjamma W/o Singraiah has executed Will in favour of Mahadevamma. This clearly

discloses that, the property was standing in the name of Mahadevamma.

20. The plaintiff has produced Ex.P-7 to 19 to substantiate the fact regarding payment of tax, out of which Ex.P-12 to 19 discloses, the payment of tax is in respect of Assessment No.5422/5194. Whereas, the Ex.P-11 discloses, the Assessment No.17048. Further, the Ex.P-7 discloses, the Assessment No.5194/4864 and Ex.P-10 discloses, the Assessment No.5422/5194. These documents are not pertaining to the suit schedule property, which as per the plaintiff is the Assessment old No.2480/3710 and New Assessment No.5423/5195. None of these documents discloses the Assessment number mentioned in the schedule. This clear that, these documents are not pertaining to the suit schedule property. There is absolutely no document to substantiate the fact that, the said suit schedule property was initially owned by Basavaiah and after him the said property was standing in the name of plaintiff herein and she is enjoying the suit schedule property. No piece of evidence is placed to substantiate the said fact that, the property is owned by Basavaiah and after him by the plaintiff herein. The documents placed by the plaintiff do not substantiate the case of the plaintiff.

21. That apart, during the cross-examination of PW-1 has pleaded ignorance to all the suggestions. It discloses that, the PW-1 has no information about the said suit schedule property, who is the G.P.A holder of the plaintiff herein. The testimony of PW-2 does not help the case of the plaintiff as there is no documentary evidence to substantiate the fact that, the Basavaiah was the owner of the suit schedule property. As rightly pointed out by the trial court, the appellant has not produced the original Mortgage Deed, said to have been executed by the Basavaiah in favour of the Krishnaiah on 10.03.1971.

22. It is the allegations of the plaintiff that, the defendant No.1 has got entered the Khatha of the suit schedule property in his name illegally. But, to substantiate the said fact, there is absolutely no material placed before this court. On the other hand, the documents produced at Ex.P-6 and the documents produced at Ex.D-1 to 3, they clearly discloses that, the Nanjamma executed Will in favour of Mahadevamma. The said Mahadevamma is the daughter of Singraiah. On the basis of the Will executed by the Nanjamma, the property was inherited by the Mahadevamma and her name is entered in the Khatha. There was registered Will dated 03.03.1996 executed by Nanjamma, where the Mahadevamma is the beneficiary.

23. It is relevant to note that, after Mahadevamma the name of defendant No.1 was entered at Ex.D-3. If, the cross-examination of PW-1 is looked into, the PW-1 has admitted that, the Mahadevamma had no children and this defendant No.1 Siddaraju is the son of brother of husband of Mahadevamma. Since, the Mahadevamma has no children, after her death the Khatha of the said property was entered in the name of defendant No.1 Siddaraju.

24. It discloses from the record that, the said Siddaraju alienated the suit schedule property in favour of defendant No.2 by executing Sale Deed dated 20.03.2021. If, the documents are carefully analyzed, the Nanjamma executed Will in favour of Mahadevamma and by virtue of the said Will Mahadevamma become owner of the suit schedule property bearing Assessment No.5423/5195. After her, the defendant No.1 got Khatha in his name and he alienated the suit schedule property in favour of defendant No.2. This clearly shows that, the defendant No.2 has purchased the suit schedule property from the defendant No.1. The plaintiff has failed to substantiate that, the said suit schedule property was owned by her, which is succeeded through Basavaiah. If, the probabilities in the suit are carefully weighed between the case of the plaintiff and case of the defendants. The case of the defendants is

more probable and same is supported with the documentary evidence. Hence, it can be held that, the plaintiff fails to substantiate her version.

25. Moreover, it is also to be noted here that, the plaintiff has not clearly described the suit schedule property. As per her claim the suit schedule property is East to West 30 feet and North to South 60 feet. Whereas, she is claiming right over the suit schedule property is East to West 30 feet and North to South 25 feet. She is not properly explained description of the property, why she has only claiming East to West 30 feet and North to South 25 feet. She has put up explanation that, the remaining property was owned and Khatha is changed in the name of Tulasi, the daughter of her sister. But, to that effect there is no material. Hence, the version of the plaintiff can not be acceptable. The plaintiff has sought for declaration. However, she has not demonstrated that, the possession of the suit schedule property is with her. She ought to have been claim possession and the suit only for the prayer of declaration without possession is not sustainable.

26. In view of the above discussion the plaintiff has fails to substantiate the title in her favour and also ownership. The trial court after appreciating the evidence on record has properly come to the conclusion and

dismissed the suit of the plaintiff. There is no reasons or grounds to interfere with the judgment and decree of the Trial Court. The appellant has not made out grounds to set aside the impugned judgment. Hence, this court is of the view that, the present appeal deserves to be dismissed. **Accordingly, point No.1 & 2 are held in Affirmative and point No.3 is held in Negative.**

**Point No.4**

27. In the result, I proceed to pass the following:

**ORDER**

The appeal filed under Order 41 Rule 1 of C.P.C is hereby **Dismissed**.

The judgment and decree dated 02.05.2025 in O.S.No.214/2021 on the file of Senior Civil Judge & JMFC, Nanjangud is hereby **confirmed**.

Send back the trial court records with the copy of this judgment forthwith.

(Dictated to the Stenographer on computer, corrected and then pronounced by me in the open Court on this the **16<sup>th</sup> day of April, 2026**)

**[Gururaj Somakkalavar]**  
**III Addl. District Judge,**  
**Mysuru**