

KAMS200003392023



**THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C., H.D.KOTE**

Present: Mahesh.B.T., B.Com., LL.M.,
Senior Civil Judge & J.M.F.C.,
H.D.Kote.

O.S.No.90/2023

Dated : On this the 27th April, 2026

- Plaintiff/s:
1. Singegowda
S/o. Late. Siddegowda
Aged about 68 years,
 2. Smt. Javaramma
W/o. Ramegowda
Aged about 64 years
R/at. Boppanahalli Village
Kasaba Hobli
H.D.Kote, Mysuru District.
 3. Nagarajegowda
S/o. Late Siddegowda
Aged about 60 years

The plaintiff Nos.1 to 3 are
residing in the house in
Sy.No.33 of Manuganahalli
Village, Kasaba Hobli
H.D.Kote, Mysuru District.

(By Sri.G.N.N., Advocate)

-V/s-

- Defendant/s :
1. Smt. Puttamma
2nd W/o. Late. Siddegowda
Aged about 70 years,
 2. Smt. Neelamma
W/o. Karigowda
D/o. Puttamma
Aged about 45 years

Both are residing at Kadusoge
Village, H.D.Kote,
Mysuru District.

3. Smt. Chamamma
W/o. Thammaiah
Aged about 42 years
R/at. Halagere Village
Maddur Taluk,
Mandya District.
4. Smt. Premamma
D/o. Puttamma
W/o. Srinivasa
Aged about 36 years
R/at. # 2514/1, CH-41,
New Kantharaja Urs Road
K.G.Koppal, Mysuru District.

(Defendant No.2 By Sri.J.C.K, Advo.,)

(Defendant Nos.1, 3 & 4 By Sri.M.N.R., Advo.,)

Date of institution of the Suit	05.07.2023
Nature of the Suit	Declaration & Injunction
Date of commencement of recording of evidence	13.09.2025
Date on which the Judgment was pronounced	27.04.2026
Total duration	Years /s Month/s day/s 02 11 20

Sd/-

(Mahesh.B.T)

Senior Civil Judge & J.M.F.C
H.D.Kote

J U D G M E N T

This is the suit filed by the plaintiffs against the defendants for the reliefs of declaration and injunction.

2. The case of the plaintiff in nutshell is as follows:

It is the case of the plaintiffs are that, the suit schedule properties originally belongs to one Javaregowda S/o. Devamma of Boppanahalli Village, Kasaba Hobli, H.D.Kote Taluk. He purchased the schedule land under Registered Sale Deed dated 19.05.1959 from its owner Sri. Kanthanayaka and his brother Ramanayaka for valuable consideration. In pursuance of the registered sale deed Sri. Javaregowda was possessing and enjoying the schedule land. The

above said Javaregowda was not married and he got only sister by name Sannamma, he died about 50 years back leaving behind his only legal heir i.e., his sister by name Sannamma and thereby Smt. Sannamma inherited and succeeded to the schedule property, she was possessing and enjoying the suit schedule land as its owner thereof. Smt. Sannamma married one Nanjegowda due to marriage she gave birth to one Sannathayamma @ Javaramma is none other than mother of the plaintiffs. She died about 45 years back leaving behind the plaintiffs as her legal heirs.

3. Further, it is stated that Sannathayamma @ Javaramma married one Siddegowda, the marriage of Sannathayamma @ Javaramma performed by her mother Smt. Sannamma. Due to the said wedlock she gave birth to plaintiffs, and daughter of the said Sannathayamma are residing with their respective husband. The plaintiffs along with Sannamma and their mother Sannathayamma @ Javaramma cultivating the schedule land and eking out their livelihood. When the plaintiffs were minor, the father of plaintiffs by name Siddegowda looking after the schedule land on behalf of the plaintiffs. On account of that the Khatha of the schedule land recorded in the name of the father of the plaintiffs. The above said Sannathayamma @ Javaramma also died 45 years

back leaving behind as her legal heirs thereby the plaintiffs continued to be in possession and enjoyment of the schedule land.

4. Further it is stated that, the father of the plaintiffs by name Siddegowda after the death of Smt. Sannathayamma @ Javaramma i.e., mother of the plaintiffs developed an illegally intimacy with the defendant No.1 and due to said illegal contact, got the defendant No.2 to 4. On account of that he started to live separately from the plaintiffs and started to residing with the defendants and accordingly the plaintiffs also residing separately with their family members by cultivating the schedule land and eking of their livelihood from the income deriving the schedule land. However the relationship of the plaintiffs with their father was cordial till his death. On account of that, the khatha of the schedule land continue in the name of Siddegowda except that either Siddegowda or defendants have no manner of right and title over the suit schedule land in any manner.

5. Further it is stated that, the father of the plaintiffs by name Siddegowda died 06.01.2010. The plaintiffs being a sons Siddegowda did all the obsequies in connection with death of their father. Such being the circumstances the defendants without manner of right

and title over the schedule land. On the instigation of some persons who are not in good terms with the plaintiffs, started claim fictitious right over the schedule land and started to obstruct the plaintiffs to cultivate the schedule land. In spite of several request of the plaintiffs, the defendants did not stop their interference and also started to claim right over the schedule land. In these connection the plaintiffs filed a suit before the Hon'ble Vacation Court at Mysuru in the year 2010, thereafter the matter has been transferred to this Hon'ble Court and numbered as O.S.No.33/2010. During the pendency of the suit the defendants stopped their illegal interference on the advice of elders of the village. On account of that, the plaintiffs not prosecuted the suit, on account of that the said suit dismissed for non prosecution on 27.08.2012.

6. Further it is stated that, the defendants simply keep quiet and again started to obstruct the plaintiffs to cultivate the schedule land by proclaiming and declaring openly in the month of April, 2023 then the plaintiffs came to know that the above said Siddegowda i.e., the defendant No.1 said to have bequeathed the portion of the schedule land to the defendant No.3 on the basis the alleged WILL dated 13.09.2007 and said Siddegowda died on 06.01.2010 and thereby the

defendants got the Khatha illegally under MRH4/2021 on the basis of alleged WILL. But the Revenue authorities have no right to record the name of any defendants on the basis of alleged WILL, since the WILL said to have executed by Siddegowda is not at all enforceable documents as Siddegowda himself has no right in the schedule land, on account of that he has no right to bequeath the schedule property in favour of any of the defendants or defendant No.3. Hence the Khatha obtained by the defendant No.3 itself not binding the plaintiffs in any manner. Apart from that, the plaintiffs also came to know that, the defendant No.4 said to have claiming to right over the another portion of the schedule land on the basis of alleged Gift Deed said to have executed by the defendant No.3, but the said Gift Deed does not bind on the plaintiffs in any manner.

7. Further it is stated that, the plaintiffs came to know the Khatha and illegal entries made by the revenue authorities in name of the defendants in the month of April 2023. Immediately the plaintiffs filed an appeal in R.A. No.129/2023 before the Assistant Commissioner at Hunsur and questioned the illegal entry made in the Revenue records. But the Assistant Commissioner issued an endorsement on 12.06.2023 stated that the matter is Civil in nature. On account of

that they have no jurisdiction to entertain the revenue appeal. In addition to that defendant No.4 has filed an application before the Tahsildar H.D,Kote Taluk, in the month of March 2023 to the change khatha into her name on the basis of invalid Gift Deed. That apart the defendants on the basis of illegal khatha and other documents still claiming fictitious right and title over the schedule land and also interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule land by casting the cloud on the right and title of the plaintiffs over the schedule land. Hence this suit for declaration with consequential relief of permanent injunction.

8. In pursuance of the suit summons, the defendants appeared before the court through their counsel and defendant No.4 has filed her written statement. In the written statement it is contended that, the plaintiffs have filed the suit against the defendants seeking for the relief of declaration and consequential relief of permanent injunction of the suit schedule property. That her grand father Late Javaregowda did not marry and adopted her father Siddegowda as his Son and left the suit property for the welfare of his son Late Siddegowda and his children including this defendants which he purchased on his own. That her father Siddegowda married Sannathayamma and that the

plaintiffs and Devamma W/o Nagarajegowda of Roppanahalli Village, Kasaba Hobali, H.D.Kote Taluk are their children. But the plaintiffs have not made said Devamma as party to the suit intentionally. That her father after the death of Sannathayamma married defendant No.1 and out of their wedlock they got three children defendant No. 2 to 4. That, her father late Siddegowda got the suit property left by her grandfather Javaregowda and her father Late Siddegowda also purchased properties during his life time.

9. Further it is stated that, the father of this defendant left the suit property to his daughter defendant No.3 for her welfare 2.08 acres out of 3.08 acres in Sy.No.34/2 and left 1.00 acre to the plaintiffs and the plaintiff No.1 has been in possession and enjoyment of the suit property Sy.No.34/2. But these facts have not been revealed by the plaintiffs. That the plaintiffs have been in possession and enjoyment of land Sy.No.33/1 to an extent of 3.37 acres of her father exclusively over which the defendants have not raised their claim.

10. Further it is stated that, the plaintiffs and the defendants were in continuous possession and enjoyment of the suit schedule property along with Sy.

No.33/1, measuring 3.21 acres. That during the time of her father the plaintiffs got Sy.No.33/1 for their use and have been in possession including the houses for their residence and also they demanded and got another 1.00 acre in the suit schedule property and only after he had apportioned sufficient land of 4.21 acres to the plaintiff for their comfortable living he bequeathed 2.08 acres of land in the suit property to defendant No.3 who was not married then through Will and after his death defendant No. 3 took 2.08 acres of suit schedule land to her possession and she left 1.00 acre to this defendant for her welfare. The Plaintiffs who acknowledges Late Siddegowda as their father and who admit that the khatha of the land stood in the name of him, he being the lawful owner also say that he had no manner of right or title but claim their right through him paradoxically.

11. Further it is stated that, it is utterly false that the plaintiffs took care of Late Siddegowda. They kept the defendants away as he married defendant No.1 after the death of mother of the plaintiffs. They developed animosity and were very cruel to him and they kept him out of his own lands and only after intervention of village elders they took 4.21 acres and left 2.08 acres to the defendants for their livelihood. That the defendants only took care of Late Siddegowda and his needs and

care at his evening of his life. That the plaintiffs being sons harassed him abused him and defamed him till his last breath. That interference and their possession of suit land are all false and created for the purpose of filing this suit. They have been in possession of 1.00 acre of suit land and as well of Sy. No.33/1 measuring 3.21 acres. That it is false that they are the absolute owners and in possession of suit schedule land. That they are in possession only to an extent of 1.00 acre of suit schedule land while rest of 2.08 acres have been under ownership and possession of defendants. Hence, prays to dismiss the suit filed by the plaintiffs.

12. The defendant No.2 has filed his written statement and contended that, one Devamma a resident of Boppanahalli village, Kasaba Hobli, H.D.Kote Taluk had a son named Javare Gowda and a daughter named Sannamma, who are deceased. Devamma's son Javare Gowda is unmarried. Devamma's daughter Sannamma is married to Nanje Gowda and a daughter named Sannathayamma is born, Sannathayamma and her father Nanje Gowda and mother Sannamma are also deceased. Sannathayamma was married to Siddegowda and the plaintiffs are their children. The father of the plaintiffs Late Siddegowda, married the defendant No.1 and defendant No. 2 to 4 are their children.

13. Further it is contended that, the suit schedule property is the self-acquired property of the plaintiffs and the defendants' grandfather Late Javare Gowda. After the death of Late Javare Gowda, the plaintiffs and the defendant No.2 will have joint possession of the said property. After the death of Late Javare Gowda, the grandfather of the plaintiffs and the defendant No.2, the Katha of the suit schedule property was transferred to the name of Late Siddegowda, the father of the plaintiff and the defendants, vide M. R. No.28/2004-05.

14. Further it is contended that, the plaintiffs and the defendant's No.2 father, Late Siddegowda, transferred 3-08 guntas of land in old Sy.No.34 and new Sy.No. 34/2 to his name. After the transfer of the Katha, 2-08 guntas of land out of the 3-08 guntas of land was bequethed through will to the defendant No.3. After the death of Late Siddegowda, the defendant No.3 was transferred her name as per M.R.T.No.13/2022-23, under the will, after the katha change to the defendant No.3, the remaining 1-00 acres in the Sy.No.34/11, was in the name of Late Siddegowda. The defendant No.3 after transferring 2-08 guntas of land to her name with the new Sy.No.34/11, out of the 2-08 guntas of land, she transferred 1-00 acres of land to the

defendant No.4 on date 02.02.2023, through the registered gift deed.

15. Further it is contended that, the suit schedule property is the self-acquired property of the grandfather of plaintiffs and defendant No.2, the will bequeathed by their father Late Siddegowda to the defendant No.3 is not binding on the defendant No.2. Similarly, the gift deed made by the defendant No.3 to the defendant No.4 on 02.02.2023 is not binding on the defendant No.2. Since the suit property is an ancestral property of the plaintiffs and the defendants, plaintiffs are not entitled to ask for a declaration of ownership. The plaintiffs' father and the father of the defendant No.2, Late Siddegowda, has 4-00 acres of land in Sy.No.53 of H.D.Kote Taluk, Kasaba Hobli, Savva Village, which is a self-acquired property. Out of the said 4-00 acres of land 3-00 acres of land has been purchased and the remaining 1-00 acres of land is in the name of Late Siddegowda. Therefore, the land measuring 3-37 guntas in Sy.No.33/1 of Manuganahalli village, Kasaba Hobli, is the ancestral property of Late Siddegowda and the accounts etc., are registered in his name. The above two properties, including the suit schedule property are the ancestral property of the defendant No.2 and are the property of

his father, and are not further divided but are in joint possession.

16. Further it is contended that, he has filed a suit seeking division and separate possession in the Hon'ble Addl., Civil Court, in O.S.No.360/2023. The plaintiffs alone do not have the right and obligation in the suit property. Just as the plaintiffs and the defendants No.2, 3 and 4 have an equal right in the suit property, the defendant No.2 also has the right and equal share. Even though the plaintiffs were aware of the above matters, they have brought this false suit to this court. Hence, prays to dismiss the suit filed by the plaintiffs.

17. Based on the rival pleadings of the parties, this office has framed the following issues:

ISSUES

1. Whether the plaintiffs prove that they are absolute owners and in possession of suit schedule property?
2. Whether the plaintiffs further proves the interference caused by the defendant as alleged in the plaint?
3. Whether the plaintiffs are entitled for the relief of declaration and permanent injunction as claimed by them?
4. What order or decree?

18. The plaintiffs in order to prove their case, plaintiff No.3 got examined as PW1 and produced documentary evidence as per the Ex.P1 to Ex.P40. To prove the case of the defendant No.4, herself examined as DW1 and marked Ex.D1 to D19 documents.

19. Heard the arguments of counsel for defendants and perused the written argument of the plaintiffs.

20. The findings of this court on aforesaid 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	As per final order for the following:

REASONS

21. ISSUE No.1 and 2: These issues are interlinked with each other, hence they are taken together for common discussion to avoid the repetition. This is the suit filed by the plaintiff for the relief of the declaration and injunction.

22. To prove the plaintiff's case, plaintiff No.3 examined as PW1 and filed his affidavit evidence in lieu of his examination-in-chief. In the affidavit PW.1

reiterated the plaint averments and in support of his case PW.1 has produced Ex.P1 to Ex.P40 documents, which are Ex.P1 to 18 are the RTC Extracts, Ex.P19 is the computerized RTC Extract, Ex.P20 to 23 are the mutation register Extracts, Ex.P24 is the endorsement issued by the Tahasildar, Ex.P25 is the certified copy of the Will dated 13.09.2007, Ex.P26 to 29 are the certified copy of the hand-writing RTC, Ex.P30 and 31 are the certified copy of the Mutation register Extracts, Ex.P32 and 33 are the certified copy of the index of land, Ex.P34 is the certified copy of the mutation register extract, Ex.P36 and 37 are the certified copy of the record of rights, Ex.P38 is the certified copy of the sale deed dated 19.05.1959, Ex.P39 and 40 are the computerized copy of the RTC.

23. The defendant No.4 to substantiate her contention she herself got examined as DW1 and produced documentary evidence as per Ex.D1 to Ex.D19 documents, which are Ex.D1 is the copy of the original Gift deed dated 02.02.2023, Ex.D2 is the Sketch, Ex.D3 is the voter list of Late Siddegowda issued by Tahasildar, H.D.Kote, Ex.D4 to 8 are the tax paid receipts, Ex.D9 is the certified copy of the A.C. Court, Hunsur order dated 16.12.2024, Ex.D10 to 12 are the RTC Extracts, Ex.D13 is the M.R. bearing Sy.No.13/2022-23, Ex.D14 is the MR. bearing

Sy.No.1/2023-24, Ex.D15 to 17 are the patta books, Ex.D18 is the Encumbrance Certificate and Ex.D19 is the Death certificate of Siddegowda.

24. Before advertng into the case it is to be noted here that, on what circumstances instant suit came to be registered. The plaintiffs have filed the instant suit for the relief of the declaration and injunction. It is stated that, they are the owners and in possession of the suit schedule property. Further it is stated that, suit schedule property originally belongs to the one Javaregowda and he died without marriage. Hence his only sister Sannamma inherited the suit schedule property. Since she was only the legal heir of said Javaregowda. Thereafter, she was married to one Nanjegowda out of their wedlock Sannathayamma @ Javaramma was born who is the mother of the plaintiff. Thereafter, the mother of the plaintiff died living plaintiff has her only legal heirs. Meantime, the father of the plaintiff Siddegowda married defendant No.1 and out of their wedlock defendant Nos.2 to 4 born. During the life time of the Siddegowda he mutated his name in the suit schedule property and bequeathed 2.08 guntas of land to the defendant No.3. Thereafter, the said defendant No.3 gifted 1 acre land to the defendant No.4. Further it is stated that, their father Siddegowda had no right to bequeathed the suit schedule property.

Now, defendants are interfering with the possession and enjoyment of the property. Hence, they come before this court. The contesting defendant No.4 has filed the written statement and admitted the relationship of the plaintiff. But she contended that, the father of plaintiff and her defendant No.2 and 3 Siddegowda was the adopted son of one Javaregowda and suit schedule property was belong to the said Javaregowda. After the death of said Javaregowda they were enjoying the suit schedule property jointly. Meantime, her father bequeathed the Will in her favour to the extent of 2.08 acres in the suit schedule property. Thereafter, defendant No.3 gifted 1 acre out of the 2.08 acres to the her. The defendant No.2 also filed his written statement admitting the relationship of the plaintiffs, but he has not stated about the adoption of his father by the one Javaregowda. Further he admitted the suit schedule property is the ancestral joint family property and he is having equal share as plaintiffs and defendant No.3 and 4. Further he also filed suit for partition in O.S.No.360/2023 before the Addl., Civil Judge & JMFC., H.D.Kote.

25. It is to be noted here that, there is no dispute with respect to the relationship of the plaintiffs and defendant as contended by the plaintiffs. Further it is also not in dispute that originally suit property was

purchased by one Javaregowda S/o. Devamma. Further it is also not in dispute that, the said Javaregowda died without marriage. The main crux of the case is that, as per the plaintiffs their grand mother who was the only sister of the Javaregowda inherited his property. Since she was the only legal heir of Javaregowda, thereafter she enjoyed the suit schedule property after her death property came to the name of the plaintiffs mother. During the life time of her mother plaintiffs along with her mother and father enjoying the suit schedule property. Meantime, their mother expired and their father got married to defendant No.1 and also their father bequeathed the portion of the land to the defendant No.3 inspite of having no right. But, the defendant No.4 taken the contention that, her father i.e., father of the plaintiffs Siddegowda was taken adoption by the said Javaregowda. Hence, her father had right over the suit schedule property to bequeathed. Further the defendant No.2 who is the brother of the defendant No.4 never stated about the adoption of his father by the Javaregowda. Hence, it has to be decided whether the maternal grand mother of the plaintiff inherited the suit schedule property or father of the plaintiff was adopted by the Javaregowda.

26. Now, coming to the case on hand plaintiff No.3 examined himself as PW1 and marked Ex.P1 to P40 and no witnesses were examined on behalf of them. The defendant No.4 examined herself as DW1 and marked Ex.D1 to 19. To show that, the maternal grand mother of the plaintiffs had inherited the suit schedule property plaintiff produced Ex.P1 to 19 and Ex.P26 to 29 hand wirtten and computerized RTC with respect to the suit schedule property from the year 1980-81 and 2023-24. On going through the said documents it can be seen that, initially suit schedule property was standing in the name of the Subbanayaka S/o. Karinayaka. Thereafter, name of the Dasanayaka was mutated. As on the date of the filing 1 acre 8 guntas standing in the name of the defendant No.3, 1 acre standing in the name of the Siddegowda S/o. Javaregowda. It is to be noted here that, the plaintiffs have not produced single RTC which was standing in the name of the Javaregowda, but they have produced Ex.P38 is the sale deed dated 19.05.1959 wherein said Javaregowda S/o. Devamma purchased the suit property from one Kantanayaka and his brother Ramanayaka, but the name of the Javaregowda was not found in the RTC's produced by the plaintiffs, but both plaintiffs and defendants admitted the suit schedule property was purchased by the Javaregowda.

Further it is to be noted here that, as per MR.No.28/2004-05 the name of the Siddegowda S/o Javaregowda who is the said to be father of plaintiffs and defendant No.2 to 4 was mutated. Further on careful perusal of the MR.No.28/2004-05 which was marked at Ex.P22 it can be seen that, the name of the Siddegowda S/o Javaregowda was mutated as per the (ಅದಲು-ಬದಲು ಸರ್ವೆ ನಂ.ಖಾತೆ ಕ್ರಮ) exchange of the lands, earlier Sy.No.34/2, measuring 3 acre was standing in the name of Siddanayaka S/o. Karinayaka as per the Ex.P22 said property mutated in the name of Siddegowda S/o. Javaregowda. Further on perusal of the entire documents produced by the plaintiffs no document are seen that, suit schedule property standing in the name of Javaregowda nor in the name of plaintiffs maternal grand mother Sannamma. But suit property directly came to the name of Siddegowda as per Ex.P22.

27. Further it is to be noted here that, since, there is no dispute with respect to the suit schedule property initially purchased by the one Javaregowda no need to look into the documents produced by the plaintiffs. Except Ex.P38 sale deed no documents produced by the plaintiffs to show that, the suit schedule property was the property of Javaregowda. Further it is

pertinent to note here that, it is the plaintiffs to show that, the property of the Javaregowda was inherited by the plaintiffs maternal grand mother. Since said Javaregowda died without marriage. Further it is the plaintiffs to show that, her grand mother was a sister of Javaregowda. Further it is to be noted here that, even the name of the maternal grand mother of the plaintiffs i.e., Sannamma was not appeared in the revenue documents and also no documents were produced by the plaintiffs to show that during the life time of the Sannamma she was in the possession and enjoyment of the suit schedule property.

28. Further it is to be noted here that, plaintiffs herein have come before this court praying for the decree of declaration and injunction. Hence, the heavy burden lies on the shoulder of the plaintiffs. Further plaintiffs has to prove their case with cogent evidence and documents, mere admission by the other side will not give the title of the suit schedule property to the plaintiffs. It is the plaintiffs to stand on his own leg and to prove the case. Even during the course of cross-examination of PW1 the counsel for the defendants suggested that, the husband of the defendant No.1 is his father for that he has admitted the same. Further in his cross-examination he has stated that, he has

produced the documents to show that, he is the son of Sannatayama @ Javaramma, but no document has been produced by the plaintiffs to show that he is the son of the Sannatayamma @ Javaramma. Further during the course of the cross-examination he admits that, the said Javaregowda was his grand father, but when counsel for defendants questioned PW1 that how he was grand father to him for that, he has stated that, Sannamma was the sister of the Javaregowda. Hence Javaregowda was also grand father to him. But no documents were produced to show the relationship.

29. It is to be noted here that, defendant No.4 also examined herself as DW1. The counsel for the plaintiffs cross-examined this witness during the course of the cross-examination she admits the ownership of the Javaregowda with respect to the suit schedule property. Further she also admit the relationship of the plaintiff with Javaregowda. Mere admission with respect to the relationship with Javaregowda does not give rights to the plaintiffs. It is the plaintiffs to establish their right with respect to the suit schedule property and prove their case. Further it is to be noted here that, during the course of the cross-examination plaintiffs admitted the relationship of the defendants. But failed to show that, they are the owners and in

possession of the suit schedule property. Further it is to be noted here that, defendant No.2 already filed suit for the partition including the suit schedule property of this suit and plaintiffs have all the chance to prove their case. Further it is to be noted here that, the defendant No.4 also taken the contention that, her father Siddegowda was adopted by the Javaregowda. Thereafter her father was looking after the suit schedule property and these defendants and plaintiffs were in the possession of suit schedule property along with other property. Thereafter, her father bequeathed the 2.08 acres to her. But defendant No.4 also failed to show that, her father Siddegowda was adopted by the Javaregowda and her father had all the right to bequeathed the property to her. Moreover, the defendant No.2 also filed in his written statement in the line of the defendant No.4, but taken the contention that, suit schedule property was the ancestral property hence he also having the right over the suit schedule property along with plaintiffs and other defendants. But he has not adduced his evidence nor cross-examined the PW1. Further it is also averred in his written statement that, he already filed partition suit before the Addl., Civil Judge & JMFC., H.D.Kote. where plaintiffs and defendants can prove their share and get partition since they admitted the relationship. It is to

be noted here that, since this is the suit for declaration and injunction it is the plaintiffs prove his case with cogent evidence, but failed to do so. Hence for the above reasons, I answer Issue No. 1 and 2 in the negative.

30. Issue No.3:- The plaintiffs have filed the instant suit for the relief of the declaration and injunction. It is stated that, they are the owners and in possession of the suit schedule property. Further it is stated that, suit schedule property originally belongs to the one Javaregowda and he died without marriage. Hence his only sister Sannamma inherited the suit schedule property. Since she was only the legal heir of said Javaregowda. Thereafter, she was married to one Nanjegowda out of their wedlock Sannathayamma @ Javamma was born who is the mother of the plaintiffs. Thereafter, the mother of the plaintiff died living plaintiff has a legal heirs. Meantime, the father of the plaintiff Siddegowda married defendant No.1 and out of their wedlock defendant Nos.2 to 4 born. During the life time of the Siddegowda he mutated his name in the suit schedule property and bequeathed 2.08 guntas of land to the defendant No.3. Thereafter, the said defendant No.3 gifted 1 acre land to the defendant No.4. Further it is stated that, their father Siddegowda

had no right to bequeathed the suit schedule property. Now, defendants are interfering with the possession and enjoyment of the property. Hence, they come before this court. The contesting defendant No.4 has filed the written statement and admitted the relationship of the plaintiff. But she contended that, the father of plaintiff and her defendant No.2 and 3 Siddegowda was the adopted son of one Javaregowda and suit schedule property was belong to the said Javaregowda. After the death of said Javaregowda they were enjoying the suit schedule property jointly. Meantime, her father bequeathed the Will in her favour for the extent of 2.08 acres in the suit schedule property. Thereafter, defendant No.3 gifted 1 acre out of the 2.08 acres to the her. But plaintiffs have failed to prove their relationship with the one Javaregowda who purchased the suit schedule property in the year 1959. Further plaintiffs have not produced singal documents to show that, suit schedule properties were standing in the name of the mother Sannatayamma @ Javaramma. Defendant No.4 taken the contention that, her father was adopted by the above said Javaregowda, but she also failed to prove the same. Since, this is the suit for the relief of declaration and injunction plaintiffs has to prove their case by producing the cogent evidence. Hence, I answered Issue No.3 in the negative.

31. ISSUE No.4: For the reasons discussed above this court proceeds to pass the following:

ORDER

The suit of the plaintiffs for the relief of declaration and permanent injunction is hereby dismissed with cost.

Draw Decree Accordingly.

(Dictated to the Stenographer in part and dictated directly on the computer and computerized by her, corrected, signed and then pronounced by me in the Open Court on this the 27th day of April, 2026).

Sd/-

(Mahesh.B.T)

Senior Civil Judge & J.M.F.C
H.D.Kote.

ANNEXURE

List of witnesses examined by the plaintiff/s:

PW.1 : Nagarajegowda

List of documents marked by the plaintiff/s:

Ex.P1 to 18 : RTC Extracts

Ex.P19 : Computerized RTC Extract

Ex.P20 to 23 : Mtation register Extracts

Ex.P24 : Endorsement

Ex.P25 : C/c of the Will

Ex.P26 to 29 : C/c of the hand-writing RTC

Ex.P30 & 31 : C/c of the MR Extracts

- Ex.P32 & 33 : C/c of the Index of land
Ex.P34 : C/c of the MR Extract
Ex.P36 & 37 : C/c of the Record of Rights
Ex.P38 : C/c of the sale deed
Ex.P39 & 40 : Computerized copy of the RTC.

List of witnesses examined by the defendants:

- DW.1 : Smt. Prema

List of documents marked by the defendant/s:

- Ex.D1 : Original Gift deed
Ex.D2 : Sketch
Ex.D3 : Voter list of Late Siddegowda
Ex.D4 to 8 : Tax paid receipts
Ex.D9 : C/c of the A.C. Court, Hunsur order
Ex.D10 to 12 : RTC Extracts
Ex.D13 : M.R.bearing Sy.No.13/2022-23
Ex.D14 : MR.bearing Sy.No.1/2023-24
Ex.D15 to 17 : Patta books
Ex.D18 : Encumbrance Certificate
Ex.D19 : Death certificate of Siddegowda.

Sd/-

(Mahesh.B.T)
Senior Civil Judge & J.M.F.C
H.D.Kote