

KAMS310000862019



IN THE COURT OF PRL. CIVIL JUDGE & JMFC.,
AT: HUNSUR.

DATED THIS THE 25th DAY OF MARCH, 2026

:PRESENT:

SMT.AYISHABI.P.MAJID., B.A.L.L.B.,
Prl. Civil Judge & JMFC.,
Hunsur.

O. S. No. 21/2019

Plaintiffs : 1. Marikanthamma
(Dead by her LR's)

1(a). Smt. Shanthamma
W/o Thimmannanayaka
D/o Late. Marikanthamma
Aged about 65 years
R/at : Hosuru Village
Kasaba Hobli, Hunsur Taluk.

1(b). Smt. Jayamma
W/o Manchanayka
D/o Late. Marikanthamma
Aged about 62 years
R/at : Maralaiahnakoppalu Village,
Kasaba Hobli, Hunsur Taluk.

1(c). Smt. Gowramma
W/o Chikkanayaka
D/o Late. Marikanthamma
Aged about 53 years
R/at : Nayakara Beedi
Bilikere Village, Bilikere Hobli
Hunsur Taluk.

1(d). Smt. Puttamma
W/o Karinayaka
D/o Late. Marikanthamma
Aged about 52 years
R/at : Maralaiahnakoppalu Village,
Kasaba Hobli, Hunsur Taluk.

2. Sri. Mahadevanayaka
S/o Late. Karinayaka
Aged about 39 years
R/at : Maralaiahnakoppalu Village,
Bilikere Hobli, Hunsur Taluk.

(Rep. by Sri. S.K.S.,- Adv.,)

Defendants :

1. Sri. M.D Mahadev
S/o Late. Doddathammanayaka

2. Sri. Narayananayaka
S/o Late. Chikkathammanayaka
Aged about 51 years.

3. Sri. Lakshmanayaka
S/o Late. Sannappanayaka
Aged about 52 years
All are R/at :
Marulaiahnakoppalu Village
Bilikere Hobli, Hunsur Taluk.

**(D1 & D3 Rep. by Sri. B.S.Y., -
Adv., D2 – Exparte)**

Date of Institution of the Suit :	18.01.2019		
Nature of Suit :	Suit for Declaration and Permanent Injunction		
Date of Recording of Evidence :	07.11.2019		
Date of Closing of Evidence :	23.01.2026		
Date of Judgment Pronounced :	25.03.2026		
Total Duration :	Year's 07	Month's 02	Day's 07

(Ayishabi.P.Majid.,)
Pri. Civil Judge & JMFC,
Hunsur.

: J U D G M E N T :

This is the suit filed by the plaintiffs against the defendants for the relief of Declaration of the title over the suit schedule property and permanent injunction in respect of suit schedule property.

2. The brief facts of the Plaintiffs case is that, the suit schedule property purchased by husband of plaintiff No.1 and father of plaintiff No.2 Late. Karinayaka under the registered Sale Deed dated 05.11.1969 from Doddathammanayaka S/o Kanthanayaka, Kanthanayaka S/o Kanthanayaka, Chikkathammanayaka S/o Kanthanayaka and Marikanthanayaka

S/o Lakshmananayaka. From the date of purchase Late. Karinayaka was in possession of the suit schedule property as a absolute owner. After the demise of Karinayaka the plaintiffs are in possession of the suit schedule property as a absolute owner. The defendants without any right, title and interest over the suit schedule property in collision with the revenue authorities got changed khata into their name. Further the defendants are interfering with the peaceful possession of the plaintiffs over the suit schedule property. Hence, constrained to file this suit for the aforementioned reliefs.

3. In spite of service of suit summons, the defendant No.2 has not appeared before the Court. As such he was placed ex parte. The defendant Nos.1 and 3 have appeared through their counsel and filed written statement by denying the plaint averments inter-alia contending that, The plaintiffs are not all the owners of the schedule property and also not a cultivator of the suit schedule property. They are in actual physical possession and enjoyment of the suit schedule property. From last four decade, there is no Panchayath in village at any point of time. Hence prays for dismissal of the suit with cost.

4. On the basis of pleadings of the parties my predecessor in office has framed the following issues for determination.

ISSUES

1. Whether the Plaintiffs prove that, they are the absolute owners in possession and enjoyment over the suit schedule property ?
2. Whether the Plaintiffs prove the alleged interference by the defendants ?
4. Whether the Plaintiffs are entitled for the relief of declaration as sought ?
5. Whether the plaintiffs are entitled for the relief of permanent injunction as sought ?
6. What order or decree?

5. After settlement of Issues, the plaintiff No.2 entered into the witness box deposed as P.W.1 in support of his case he got marked documents at Ex.P.1 to Ex.P.17 and closed his side evidence. On the other hand, the defendant No.1 entered into witness box deposed as D.W.1 and got marked documents at Ex.D.1 to Ex.D.8 and closed his side evidence.

6. Heard the argument advanced by the learned counsel for the Plaintiffs and Defendants. Perused the oral and documentary evidence placed on record.

7. My findings to the above said issues are as under;

Issue No.1 : In the Affirmative

Issue No.2 : In the Affirmative

Issue No.4 : In the Affirmative

Issue No.5 : In the Affirmative

Issue No.6 : As per final order,
for the following;

: R E A S O N S :

8. Issue Nos.1 and 2:- Since these issues are interconnected, with each other, these issues are taken up together for common discussion in order to avoid repetition of facts and evidence.

9. It is the specific case of the plaintiffs that, the suit schedule property purchased by husband of plaintiff No.1 and father of plaintiff No.2 Late. Karinayaka under the registered Sale Deed dated 05.11.1969 from Doddathammanayaka S/o Kanthanayaka, Kanthanayaka S/o Kanthanayaka, Chikkathammanayaka S/o Kanthanayaka and Marikanthanayaka

S/o Lakshmananayaka. From the date of purchase, Late. Karinayaka was in possession of the suit schedule property as a absolute owner. After the demise of Karinayaka, the plaintiffs are in possession of the suit schedule property as a absolute owner. The defendants without any right, title and interest over the suit schedule property in collision with the revenue authorities got changed khata into their name. Further the defendants are interfering with the peaceful possession of the plaintiffs over the suit schedule property. Hence constrained to file the suit.

10. To substantiate the case, in his examination-in-chief the Plaintiff No.2 has reiterated the averments made in the plaint, the plaintiffs have produced the documents and got marked as Ex.P.1 to Ex.P.17. Ex.P.1 is the certified copy of sale deed, Ex.P.2 is the Index of lands, Ex.P.3 is the records of rights, Ex.P.4 to Ex.P.7 are the Certified copy of RTC Extracts, Ex.P.8 to Ex.P.11 are the Mutation registers, Ex.P.12 is the RTC extract, Ex.P.13 is the Acknowledgment issued by Bilikere Police Station, Ex.P.14 is the endorsement issued by Bilikere Police Station, Ex.P.15 to 17 are the RTC Extracts.

11. As the plaintiffs are claiming the title over the suit schedule property the burden is upon them to prove that, the suit schedule property is purchased by Late. Karinayaka under the registered sale deed dated 05.11.1969. Before going through the oral evidence let us now discuss about the documentary evidence produced on record. The Ex.P.1 is the certified copy of the registered sale deed dated 05.11.1969 wherein it goes to show that, one Doddathammanayaka, Kanthanayaka, Chikkathammanayaka, Marikanthanayaka have sold the suit schedule property in favour of Karinayaka. Further as per the contents of the Sale Deed it goes to show that, the possession of the suit schedule property handed over in favour of Karinayaka. The index of lands produced at Ex.P2 in respect of suit schedule property stands in the name of Yelemuganayaka S/o Kanthanayaka. Further the record of rights produced at Ex.P.3 in respect of suit schedule property stands in the name of Kanthanayaka S/o Yelemuganayaka. The RTC extract produced at Ex.P4 for the year 1975-1976 in respect of suit schedule property goes to show that, the property stands in the name of Yelemuganayaka S/o Kanthanayaka. However, as per the

cultivators column goes to show that, Karinayaka S/o Kalanayaka cultivating the land.

12. The RTC extract produced at Ex.P5 for the year 1971-1972 to 1974-1975 in respect of suit schedule property goes to show that, the property stands in the name of Yelemuganayaka S/o Kanthanayaka. However, as per the cultivators column goes to show that, Karinayaka S/o Kalanayaka cultivating the land. The RTC extract produced at Ex.P6 for the year 1975-1976 to 1979-1980 in respect of suit schedule property goes to show that, the property stands in the name of Yelemuganayaka S/o Kanthanayaka. However, as per the cultivators column goes to show that, Karinayaka S/o Kalanayaka cultivating the land. Further as per Ex.P7 goes to show that, from the year 1985-1986 to 1989-1990 Karinaika cultivating the land. The Mutation register produced at Ex.P8 goes to show that, after demise of Doddathammanayaka the khata was got changed in the name of defendant No.1 in respect of 0.16.3/4 guntas in Sy No.72/11. The Mutation register produced at Ex.P9 goes to show that, after demise of Sannamoganayaka the khata was got changed in the

name of Lakshmananayaka and Sannamoganayaka in respect of 0.16.1/2 guntas in Sy No.72/11.

13. The Mutation register produced at Ex.P10 goes to show that, after demise of Kamma W/o Sannakarinarayaka the khata was got changed in the name of Lakshmananayaka and Sannamoganayaka in respect of 0.16.12 guntas in survey number 76/11. The RTC extract produced at Ex.P12 for the year 2017-2018 goes to show that, the land in Sy No.72/11 measuring 0.16.12 guntas each stands in the name of defendant Nos.1, 3 and Chikkathammanayaka. Further the acknowledgment produced at Ex.P13 goes to show that, Late. Marikanthamma had filed complaint against defendant No.3 and Sannamoganayaka stating that, they are picked up quarrel in respect of land. The endorsement produced at Ex.P14 goes to show that, the B.K.P.S., Hunsur has issued endorsement to approach before the civil court since the dispute is civil in nature. The record of rights produced at Ex.P15 to Ex.P17 goes to show that, the suit schedule property was standing in the name of Yelemuganayaka S/o Kanthanayaka.

14. It is worth to note that, as per the documents produced by the plaintiffs the Sale Deed at Ex.P1 goes to show that, Late. Karinayaka husband of plaintiff No.1 and father of plaintiff No.2 purchased the suit schedule property and as per contents of the Sale Deed the possession delivered in his favour. Furthermore, the RTC extracts produced at Ex.P4 to Ex.P6 clearly goes to show that, the father of plaintiff No.2 and husband of plaintiff No.1 Karinayaka S/o Kalanayaka was in possession of the suit schedule property from 1972 – 1973 to 1986 – 1987. As stated supra, the Sale Deed at Ex.P1 goes to show that, on 05.09.1969 the possession of the suit schedule property delivered in favour of husband of plaintiff No.1 and father of plaintiff No.2. It is the contention of the defendants that, they are in possession of the suit schedule property and the revenue documents are stands in the name of ancestors of defendants.

15. In order to prove their contention, the defendant No.1 entered into witness box and produced the documents at Ex.D1 to Ex.D8. Ex.D1 is the G-tree, Ex.D2 and Ex.D3 are the RTC extract, Ex.D4 is the Index of lands, Ex.D5 is the Record of rights, Ex.D6 is the Mutation register, Ex.D7 and Ex.D8 are the

record of rights. The Pedigree produced at Ex.D1 goes to show that, one Yelemuganayaka S/o Kanthanayaka and Chowdamma had two sons namely Ponnanayaka and Kanthanayaka. The said Ponnanayaka and Kanthanayaka has passed away leaving behind his legal heirs. Kanthanayaka and wife Siddamma had two sons namely Doddathammanayaka and Chikkathammanayaka. The said Doddathammanayaka passed away leaving behind defendant No.1 and Chikkathammanayaka passed away leaving behind defendant No.2. As per the pedigree the defendant No.3 is the son of Sannanayaka and Kamma. The RTC extract produced at Ex.D2 for the year 2018-2019 goes to show that, 0.16.12 guntas and 16.08 guntas in Sy No.72/11 stands in the name of defendant No.1, 3 and Chikkathammanayaka. The RTC extract produced at Ex.D3 for the year 2022 - 2023 goes to show that, 0.16.12 guntas and 0.16.08 guntas in Sy No.72/11 stands in the name of defendant Nos.1, 3 and Chikkathammanayaka. The Index of lands produced at Ex.D4 in respect of suit schedule property reveals the name of Yelemuganayaka S/o Kanthanayaka. Further the RTC extract produced at Ex.D5 in respect of suit schedule property reveals the name of Yelemuganayaka S/o Kanthanayaka. The Mutation produced at

Ex.D6 goes to show that, after the demise of Doddathammanayaka the 0.16.12 guntas in Sy No.72/1 got mutated in the name of defendant No.1. The RTC extract produced at Ex.D7 for the year 1992-1993 in respect of suit schedule property was initially stands in the name of Yelemuganayaka thereafter got changed in the name of Chikkathammanayaka, Doddathammanayaka and Kalegowda. The RTC extract produced at Ex.D8 for the year 1995-1996 in respect of suit schedule property was initially stands in the name of Yelemuganayaka thereafter got changed in the name of Chikkathammanayaka, Doddathammanayaka and Kalegowda, the said Chikkathammanayaka and Doddathammanayaka are the vendors of Late. Karinayaka.

16. As stated supra, the documents produced by the plaintiffs goes to show that, the revenue documents are standing in the name of defendants and the plaintiffs are having title deed at Ex.P1. During the course of cross examination of PW.1 a suggestion was made to the PW.1 that, the suit schedule property initially stands in the name of Yelemuganayaka and the plaintiff has admitted the said fact. Furthermore, the PW.1 has

admitted the Genealogy at Ex.D1 and he has denied the other suggestions of learned counsel for the defendant. Furthermore, the PW.1 has admitted that, the revenue documents are as per Ex.P2 to 17 stands in the name of ancestors of the defendants. It is to be noted that, the revenue documents stands in the name of ancestors of defendant however the title deed i.e., Sale Deed at Ex.P1 clearly goes to show that, the suit schedule property sold in favour of Late. Karinayaka in the year 1969 itself. Furthermore, the possession of the suit schedule property also delivered in favour of Late. Karinayaka from the date of the Sale Deed the khata was also got effected as per the RTC extracts and the name of the Karigowda has been entered in the cultivators column at Ex.P2 to Ex.P6.

17. During the course of cross examination of DW.1 he has admitted that, since 1990 the suit schedule property stands in the name of Doddathammanayaka however he denied that, before 1990 suit schedule property was standing in the name of Karinayaka. It is pertinent to note that, as per the genealogy at Ex.D1 it clearly goes to show that, the sons of Kanthanayaka ie.,

Doddathammanayaka and Chikkathammanayaka sold the suit schedule property in favour of Karinayaka as per Ex.P1.

18. The Learned counsel for plaintiffs vehemently argued that, as per the Sale Deed Late. Karinayaka was in possession of the suit schedule property purchased under the registered Sale Deed 05.11.1969 and after his demise the plaintiffs are in possession of the suit schedule property as a absolute owner. Further would argue that, the defendants without any right, title and interest over the suit schedule property got changed khata into their name in order to knock out the suit schedule property. The grand father of the plaintiffs purchased the suit schedule He would further argue that, on the basis of illegal khata the defendants have interfering with the peaceful possession of the plaintiffs over the suit schedule property hence prays to decree the suit. On the other hand, the learned counsel for the defendants vehemently argued that, the suit schedule property is the ancestral property of the defendants and they are in possession of the suit schedule property and the plaintiffs are not in possession over the suit schedule property. Hence prays for dismissal of the suit.

19. As aforesaid, the plaintiffs are established their case that, by virtue of the registered sale deed dated:05.11.1969 they become the absolute owners of the suit schedule property. The revenue documents are not title deeds. Hence, from the documents produced by the plaintiff, this court is of the opinion that the plaintiffs are the absolute owner of the suit schedule property. The normal rule which governs Civil proceedings is that a fact is said to be established if it is proved by preponderance of probabilities under Sec.3 of the Evidence Act, a fact is said to be proved when the court either believe it do exist or if conspire its existence so probable that a prudent man ought in the circumstances, to act upon the supposition that it exists. The first step in the process to fix the probabilities the second weigh then. In this case the defendants are claiming their right over the suit schedule properties on the basis of ancestral property however on careful analysis of the materials placed on record it shows that, Late. Karinayaka has purchased the suit schedule property from Doddathammanayaka, Chikkathammanayaka and Lakshmananayaka in they year 1969. Hence 'First in time is first in right'. The defendants are failed to establish that the suit

schedule property is their ancestral property and they are in possession of the same.

20. The next point for consideration is that, whether the plaintiffs prove the alleged interference caused by the defendants. It is the case of the plaintiffs that, the defendants are causing interference with their possession over suit schedule property. As stated supra as per Ex.P5 and Ex.P.6 it goes to show that, Karinayaka cultivating the land since 1972 – 1990. Furthermore, it is well settled that, title follows the possession. As per Ex.P1 the plaintiffs proved that, they are in possession of the suit schedule property. The manner in which defendants filed written statement clearly shows that there is interference from the defendants in respect of schedule property. It is to be noted that, in so far as interference of the defendants is concerned, the defendants have denied the case of the plaintiffs and contested on several grounds and it itself amounts to interference.

21. As stated supra, the Ex.P1 is the registered Sale Deed morethan 30 years old. As per Sec.90 of the Indian Evidence Act it is presumed to be genuine regarding signatures, hand writing and execution.

22. At this juncture it is rely upon the decision reported in;

1990 part 1 KLG Page 536, (Smt. Lakshamma V/s M.P.Krishnappa and Others), wherein, the Hon'ble High Court has held that, it is not necessary to prove the threat is really is in existence and mere interference or apprehension is sufficient to seek injunction.

Coming to the case on hand as stated supra the plaintiffs, have proved their ownership over the suit schedule property. As such they are entitled for relief of injunction against the defendants.

23. Furthermore, in a decision reported in ;

Hon'ble High Court reported in ILR 2008 Kar 4878, wherein, the Hon'ble High Court held that, once the court grants the relief of declaration of the rights of the plaintiff, the consequential relief of injunction will necessary have to follow as "night follows the day".

On careful observation made by the Hon'ble High Court it is very clear that if the court grants the declaration relief, it is necessary to grant the consequential relief of injunction. With these observations the **Issue Nos.1 and Issue No.2 are answered in the Affirmative.**

24. Issue No.4 and 5 :- Since these issues are interconnected, with each other, these issues are taken up together for common discussion in order to avoid repetition of facts and evidence. In view of the findings on Issue Nos.1 and 2 this court is of the opinion that, the plaintiffs have proved that, they are the absolute owners and in possession of suit schedule property. Therefore, they are entitled for the relief of declaration and permanent injunction against the defendants. Since the claim of the plaintiffs are supported by both oral and documentary evidence, they are entitled for the relief of declaration and permanent injunction. Accordingly, this **Issue No.4 and 5 are answered in the Affirmative.**

25. Issue No.6:- For the reasons discussed above, this court proceed to pass the following :-

: O R D E R:

The suit of plaintiffs is decreed with cost as under.

It is hereby ordered and decreed that the plaintiffs are the absolute owners and in possession of the suit schedule property.

It is further ordered and directed that, the defendants are hereby restrained from interfering with the peaceful possession and enjoyment of the plaintiffs over suit schedule property.

Draw decree accordingly.

(Dictated to the Stenographer Grade - III on line computer, corrected by me and pronounced in open court on this the 25th day of March, 2026)

(Ayishabi.P.Majid)
Prl. Civil Judge & JMFC.,
Hunsur.

ANNEXURE

List of witnesses examined for the Plaintiffs:

P.W.1 : Sri. Mahadevanayaka
S/o Late. Karinayaka

List of witnesses examined for the Defendants:

D.W.1 : Sri. M.D Mahadev
S/o Late. Doddathammanayaka

List of documents marked for the Plaintiffs :

Ex.P.1 : Certified copy of Sale Deed
Ex.P.2 : Index of lands
Ex.P.3 : Records of rights
Ex.P.4 to 7 : Certified copy of RTC Extracts
Ex.P.8 to 11 : Mutation registers
Ex.P.12 : RTC Extract

- Ex.P.13 : Acknowledgment issued by
Bilikere Police Station
- Ex.P.14 : Endorsement issued by
Bilikere Police Station
- Ex.P.15 to 17 : RTC Extracts

List of documents marked for the Defendants:

- Ex.D.1 : G-tree
- Ex.D.2 & 3 : RTC extract
- Ex.D.4 : Index of lands
- Ex.D.5 : Record of rights
- Ex.D.6 : Mutation register
- Ex.D.7 & 8 : Record of rights.

Prl. Civil Judge & J.M.F.C,
Hunsur.