



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC  
AT K.R.NAGARA**

**PRESENT: Sri. Aravindra B.C., B.A., L.L.B.,  
Senior Civil Judge & JMFC,  
K.R.Nagara.**

Dated this the 01<sup>st</sup> day of July, 2026

**O.S. No.42/2019**

**1. Sri. Rajegowda,**  
S/o Late Dasegowda,  
Aged about 47 years.

**2. Sri. Ramegowda,**  
S/o Late Dasegowda,  
Aged about 40 years.

Both are R/at:  
Doddakoppalu village,  
Munduru Dhakhale,  
Saligrama Hobli,  
K.R.Nagar Taluk.

**..... Plaintiffs**

(By Sri. S.H.L., Advocate)

**-Versus-**

**1. Sri. Chikkegowda,**  
S/o Late Kullegowda,  
Aged about 57 years.

**2. Sri. Subbegowda,**  
S/o Late Kullegowda,  
Aged about 55 years.

**3. Sri. D.K.Ramegowda,**  
S/o Late Kullegowda,  
Aged about 51 years.



**4. Smt. Shivamma,**  
D/o Late Kullegowda,  
Aged about 59 years.

All are R/at:  
Doddakoppalu village,  
Munduru Dhakhale,  
Saligrama Hobli,  
K.R.Nagar Taluk.

**.....Defendants**

(By Sri. T.G., Adv.)

|                                                                                                       |                                                   |
|-------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| Date of Institution of the suit                                                                       | 09.08.2019                                        |
| Nature of the suit (Suit on pronote, suit for declaration and possession, suit for injunction, etc.,) | Declaration and Permanent Injunction              |
| Date of commencement of recording of evidence                                                         | 10.11.2021                                        |
| Date on which judgment is pronounced                                                                  | 01.07.2026                                        |
| Total Duration                                                                                        | Years    Months    Days<br>06        10        23 |

**(ARAVINDRA B.C.)**  
SENIOR CIVIL JUDGE & JMFC.,  
K.R.NAGAR.

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

This suit for declaration, declaring that the plaintiffs are the absolute owners and consequential relief of permanent injunction restraining the defendants from



interfering with peaceful possession and enjoyment of the plaintiff's over the suit schedule properties and also prayed to grant such other reliefs for which the plaintiffs are found entitle to.

2. The plaintiffs have described the suit schedule properties appeared to the plaint. It reads as under;

**1. Land bearing Sy.No.229/1, measuring 2 acres situated at Munduru village, Saligrama Hobli, K.R.Nagar Taluk, which is bounded on:**

**East by : Property of the vendor  
West by : Property of the plaintiffs  
South by: Property of the plaintiffs  
North by : Land of Kempakone Javara**

**2. Land bearing Sy.No.229/1, measuring 3 acres 35 guntas situated at Munduru village, Saligrama Hobli, K.R.Nagar Taluk, which is bounded on:**

**East by : Property of the plaintiffs  
West by : Land of Kuluvadi Kariya & others  
South by: Land of Thammanna  
North by : Property of the plaintiffs**



Hereinafter referred to as “suit schedule properties” for the purpose of brevity and convenience.

**3. The brief case of the plaintiffs are as follows:**

According to the plaintiffs, their father by name Dasegowda S/o Hucchegowda has purchased the land bearing Sy.No.229/1 measuring to an extent of 2 acres situated Munduru village, Saligrama Hobli, K.R.Nagar Taluk under a registered sale deed dated 16.01.1966 from one Sannappa S/o Sannegowda.

4. Further, it is alleged that the father of plaintiffs has also purchased another piece of land in Sy.No.229/1 measuring to an extent of 3 acres 35 guntas from one Thimmamma W/o Basavegowda under registered sale deed dated 25.05.1975. From the date of above cited sale deeds, the father of plaintiffs was in possession and enjoyment of the total extent of 5 acres 35 guntas in Sy.No.229/1.



5. Further it is the case of plaintiffs is that, as per revenue records, the 3 acres 9½ guntas of land was stands in the name of plaintiff No.1 and the 2 acres 25½ guntas of land stands in the name of plaintiff No.2 in vide mutation No.52/2005-06. The plaintiffs are the children of Dasegowda and they have inherited and succeeded the suit schedule properties and they become the absolute owners of the schedule properties.

6. Further, the case of the plaintiffs is that Thimmamma W/o Basavegowda had property in Sy.No.229/3 measuring to an extent of 1 acre 30 guntas and she was sold the said property in favour of Karigowda S/o Chikkegowda under registered sale deed dated 30.04.1987. After sold the said property, Thimmamma was not retained any properties in Sy.No.229/1 or 229/3. Such being the case, the defendants and Thimmamma colluded with each other and created the documents after lapse of 20 years and the father of defendants by name,



Kullegowda get the rectification deed from Thimmamma in Sy.No.229/1 measuring to an extent of 1 acre 30 guntas. On the basis of the said documents, the father of the defendants filed objection before the Tahsildar, K.R.Nagar Taluk and the Tahsildar has verified the documents and dismissed the application filed by the father of defendants vide order dated 24.02.2006 in RRT appeal No.1/2005-06.

7. Further, the case of the plaintiffs is that the defendant's father has got the rectification deed in respect of Sy.No.229/3 measuring to an extent of 2 acres without any basis and Thimmamma has no right to execute the rectification deed in favour of father of defendants.

8. Further, the case of the plaintiffs is that the defendants having land bearing Sy.No.229/3 measuring to an extent of 1 acre 28 guntas which is their ancestral property and they have raised the objection and trying to



cancel the katha standing in the name of plaintiffs. On the basis of said objection, the Tahsildar of K.R.Nagar Taluk has dismissed the appeal and the defendants have filed RRT appeal before the learned Assistant Commissioner, Hunsur in RA No.21/2006-07. On contest, the said appeal was dismissed. Thereafter, the defendants have filed a suit before this court in OS No.7/2013 which is pending for adjudication. The defendants have no manner of right over the schedule properties and they have trying to interfere with the peaceful possession and enjoyment of the schedule properties. Hence, the cause of action for this suit has arisen for filing of this suit on 01.01.2013, when the defendants have interfering with the possession of the plaintiffs over the schedule properties and denied the title of the plaintiffs. Hence, this suit for aforesaid reliefs.

9. After institution of the suit as contemplated under law, the suit summons issued to the defendants. In



response to the suit summons, the defendants have appeared before this Court through their counsel and filed written statement.

**10. The brief defence of the defendants as per written statement which reads as under;**

The defendants have stated that, the suit of the plaintiffs is false, frivolous and untenable in law or on facts of the case. They denied the entire allegation of the plaint averments made by the plaintiffs. It is definite case of the defendants is that, the description of the plaint schedule properties is incorrect and imaginary. The plaint averments in OS No.7/2013 may read as part and parcel of the written statement. Further, contended that the defendants are the owners and in possession of the property bearing Sy.No.229/1 to an extent of 2 acres of land. The plaintiffs have included the said properties in the present suit and the suit filed by the defendants in OS No.7/2013 was decreed. Therefore, the



plaintiffs are not entitled any relief as claimed in the plaint. Accordingly, they pray for dismissal of the suit with cost.

11. On the basis of the above pleadings the learned predecessor of this court has framed the following issues;

- 1. Whether plaintiff proves that they are the absolute owners and in possession of suit schedule properties ?**
- 2. Whether the plaintiff proves the alleged interference by the defendants over the suit schedule properties ?**
- 3. Whether the plaintiffs are entitled for the reliefs as prayed in the plaint ?**
- 4. What order or decree ?**

12. The plaintiffs in order to substantiate their case, the plaintiff No.1 has entered into the witness box and filed his affidavit under order 18 Rule 4 of Code of Civil Procedure and got marked as 9 documents as per Ex.P1 to P-9 and closed their side evidence.



13. To rebut the evidence, so placed on record by the plaintiffs, the GPA holder of defendant No.3 entered into the witness box and examined before this Court as DW-1 and got marked as many as 22 documents as per Ex.D1 to D22 and closed their side evidence.

14. Heard the arguments on the side of plaintiffs and defendants and perused the materials placed on record.

15. On the basis of the materials placed on record and evidence both oral and documentary the findings of this court on the above said 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**

16. **Issues No.1 and 2:-** These issues require common discussion as they are inextricably mixed up with each other. The finding given on one issue has got a direct



bearing on another. Therefore, this Court would like to discuss them together so as to avoid repetition of facts.

17. It is the specific case of the plaintiffs is that, the land bearing Sy.No.229/1 measuring to an extent of total 5 acres 35 guntas out of which measuring 2 acres of property purchased by the father of plaintiffs by name, Dasegowda from one Sannappa on 16.01.1996. From the date of sale deed, he was in possession and enjoyment of the schedule properties.

18. Further, it is the case of the plaintiffs is that, in the same survey number the remaining 3 acres 35 guntas of land has been purchased by the father of plaintiffs from one Smt.Thimmamma under the registered sale deed dated 25.05.1975. In total 5 acres 35 guntas of land in Sy.No.229/1 got changed the katha in his name. As per the revenue records, 3 acres 9½ guntas of land stands in the name of plaintiff No.1 and 2 acres 25½ guntas of land



stands in the name of 2<sup>nd</sup> plaintiff in vide mutation register No.52/2005-06.

19. Further, it is the case of the plaintiffs is that the plaintiff No.1 and 2 are the children of Dasegowda, they are inherited the properties. Such being the case, the defendants and Thimmamma colluded with each other and created documents in favour of the father of defendants. Such being the case, the defendants have trying to interfere with the peaceful and enjoyment of the plaint schedule properties. Further, contended that without having any right over the schedule properties, the defendants were filed a suit for declaration before this court in OS No.7/2013 which is pending for adjudication.

20. In order to substantiate the plaint averments, the plaintiff No.1 examined himself as PW-1 by filing affidavit of his oral evidence in chief. In the affidavit the PW-1 has reiterated the plaint averments in verbatim, hence this Court need not to recapitulate the same once again at this



junction. In order to strengthen the oral testimony of PW-1, he has produced as many as 9 documents, which have been marked at Ex.P1 to P9.

21. Per contra, the specific defence of the defendants is that, the plaintiffs are not entitled any relief over the item No.1 of the schedule property and they are the owners and in possession of the properties measuring 2 acres in Sy.No.229/1. The defendants were filed suit in OS No.7/2013 before this court for the relief of declaration and injunction. In the said suit, the defendants averred that the defendants are children of Sri.Kullegowda. He was purchased land bearing Sy.No.229/1 measuring 2 acres of Munduru village under sale deed dated 16.01.1996. Infact, in the said sale deed, the survey number of property is wrongly mentioned as Sy.No.229/3 by mistake and oversight. However, the boundaries mentioned in the said sale deed was pertains to Sy.No.229/1. Thereafter, the vendor of defendant's



father had executed rectification deed on 11.02.2002. In the said sale deed the survey number was rectified as Sy.No.229/1 instead of 229/3.

22. In order to substantiate the contentions of the written statement, the GPA holder of defendant No.3 has examined himself as DW-1 by filing affidavit. In the affidavit the DW-1 has reiterated the written statement over much in verbatim, hence this Court need not recapitulate the same once again at this juncture. In addition to oral testimony of DW-1, he has produced as many as 22 documents, which have been marked as Ex.D1 to D22.

23. Before going to discuss the issues it is relevant to state that, the object of the declaratory decree. The object of declaratory decrees is that, where a persons status or legal character has been denied or could has been cast upon the plaintiff and the plaintiff can sue to get the declaration. The plaintiff must established that, (1)



the plaintiff was at the time of the suit entitled to any legal character or any right to any property, (2) the defendant had denied or was interested in denying the character or the title of the plaintiff, (3) the declaration asked for was a declaration that the plaintiff was entitled to a legal character or to a right to property. If the plaintiffs fulfilled the above ingredients, the court has still to grant or not to grant declaratory relief depending upon the circumstances of the each case.

24. It is a settled law that, in a suit for declaration of title the burden is heavily lies on the plaintiffs, the plaintiffs are not suppose to depend upon the weakness in the case set up by defendants. At this stage, it is relevant to refer the decision in the case of ***A.Ponjurangam dead by LRs and Others Vs. Darshanala Swamy dead by LRs and Others*** are reported in ***2011 Law suit (AP) 643*** wherein, the Hon'ble High Court held that, in a suit for declaration, heavy burden rests upon the plaintiff to prove



the title particularly when it is in respect of an item of immovable property. There are certain known sources of acquisition of title, such as by way of succession, purchase, assignment from the government or even by perfecting the title by adverse possession. Therefore, it is settled position of law that, the plaintiffs have to prove their case without depending on any weakness of other side.

25. It is pertinent to note that the plaintiffs claimed declaratory relief with respect to the schedule properties stating that, the father of plaintiffs was purchased the schedule properties under registered sale deed stated supra. Further, important aspect is to be noted that there was dispute arises between the plaintiffs and defendants herein in OS No.7/2013. Admittedly, the defendants herein was filed suit for the relief of declaration with respect to land bearing survey number 229/1 measuring 2 acres bounded on, East by: Water tank, West by: Land of



Dasegowda and plaintiffs, North by: Land of Chikkegowda and South by: Lands of Dasegowda herein against the defendants for the relief of declaration and permanent injunction.

26. Further, undisputed fact is that, the plaintiffs have taken a defence in OS No.7/2013 that their father was purchased the suit schedule properties under different sale deeds as stated supra. Further, aware that after executing the sale deed in favour of their father Thimmamma has not retained any property with her. Hence, the sale deed executed by Thimmamma in favour of Kullegowda is void document.

27. Further, undisputed fact is that the subject matter of the land bearing Sy.No.229/1 measuring 2 acres situated at Munduru village, Saligrama Hobli, K.R.Nagar Taluk bounded on, East by: Water Tank, West by: Lands of Dasegowda and plaintiffs, North by: Lands of Chikkegowda and South by; Lands of Dasegowda is subject matter



of in OS No.7/2013. As per Ex.D20 which is certified copies of the judgment and decree reveals that the suit filed by the plaintiffs/defendants herein was decreed declaring that the defendants herein are the absolute owners of the above said property and further ordered that the defendants/plaintiffs herein permanently restrained from interfering with the possession of the plaintiffs/defendants herein over the enjoyment of the above said properties.

28. Further, important aspect is to be noted that this court already given opinion that the defendants herein are the owners of the schedule mentioned in OS No.7/2013. The plaintiffs have claiming ownership with respect to the land bearing Sy.No.229/1 measuring 2 acres bounded on East by: Property of the vendor of the plaintiff, West by: Property of plaintiff, North by: Land of Kempakone Javara, South by: Property of the plaintiffs. In the said case, the plaintiffs herein were the defendants and contended that



the entire property bearing Sy.No.221/1 totally measuring 5 acres 35 guntas is belongs to them and their father has purchased the same from his previous owner Smt.Thimmamma. The plaintiffs herein were pleaded their case as a defence in OS No.7/2013. The Hon'ble Court was given findings about the facts of the case. On contest, the said suit was decreed. The parties of the both suit are one and the same and the subject matter of the same is also one and the same. Hence, it is relevant to refer the Section 11 of the CPC which reads as under;

***11. Res-Judicata:- No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.***

***Explanation I.-- The expression former suit shall denote a suit which has been***



***decided prior to a suit in question whether or not it was instituted prior thereto.***

***Explanation II.-- For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.***

***Explanation III.--The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.***

***Explanation IV.-- Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.***

***Explanation V.-- Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.***

***Explanation VI.-- Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.***



***<sup>1</sup>[Explanation VII.-- The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.***

***Explanation VIII.-- An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.***

29. Therefore, the question of deciding the ownership of the plaintiffs again does not arise and the principles of *resjudicata* is applicable to the property bearing survey number 229/1 measuring 2 acres bounded on, East by: Water Tank, West by: Lands of Dasegowda and plaintiffs, North by: Lands of Chikkegowda and South by; Lands of Dasegowa.



30. Further, important aspect is to be noted that the plaintiffs have claims ownership and consequential relief of permanent injunction with respect to suit schedule properties. According to plaintiffs, their father Dasegowda was purchased the property bearing survey number 229/1 measuring 2 acres of land under Registered sale deed dated 16.01.1996 from one Sannappa S/o Hucchegowda and the land bearing survey number 229/1 measuring 3 acres 35 guntas purchased under registered sale deed dated 25.05.1975 from one Thimmamma W/o Basavegowda.

31. In order to prove the same, the PW-1 has produced the certified copy of the sale deed dated 25.05.1975 at Ex.P2. This court perused the Ex.P2 it reveals that the father of plaintiffs was purchased the property bearing Sy.No.229/1 to an extent of 3 acres 35 guntas bounded on East by: plaintiff's property, West by: Kuluvadi Kariya's property, South by: property of



Thammanna and North by: plaintiff's property. In pursuance of said sale deed, the katha of the property stands in the name of plaintiffs.

32. Further, important aspect is to be noted that in OS No.7/2013, the commissioner was appointed and the said commissioner was submitted report to the court. The Hon'ble Court perused the report and in the said report, the court commissioner mentioned that the defendants herein are in possession of the property bearing Sy.No.229/1 measuring 1 acre 27 guntas and further reported that the defendants were plaintiffs herein are in possession of the property in Sy.No.229/3 and to an extent of 13 guntas in Sy.No.229/1 and the plaintiffs in OS No.7/2013 are in possession of 2 acres in Sy.No.229/1. The documents produced by the plaintiffs shows that the plaintiffs/Rajegowda and Ramegowda are in possession and enjoyment of the land bearing Sy.No.229/3 measuring 1 acre 28 guntas. The plaintiffs have not stated in the



plaint that the plaintiffs are in possession and enjoyment of the land bearing Sy.No.229/3.

33. Further, even though the plaintiffs have not claimed any relief with respect to the land bearing Sy.No.229/3. The plaintiffs have not explained about the to change the Sy.No.229/1 to 229/3. The plaintiffs have not produced any document to show that they are in possession and enjoyment of the land bearing Sy.No.229/3 measuring 5 acres 35 guntas. Further, the defendants have taken contention that the plaintiffs have produced wrong boundaries to the schedule. In this regard, the plaintiffs have not furnished correct boundaries to the schedule properties.

34. Further, the record shows that, as per Ex.P4 the katha of the property bearing survey number 220/1 measuring 3 acres 9½ guntas was stands in the name of Rajegowda but, he claimed the property to extent of 3 acres 25 guntas. The survey number has been phodded



and given re-survey number as 229/3. Therefore, this court is of the opinion that the plaintiffs have failed to prove that they are the owners and in possession and enjoyment of the schedule properties. **With these observations, this court answered to the issue No.1 and 2 are in the Negative.**

35. **Issue No.3:-** The plaintiffs have failed to prove that, they are the absolute owners and in possession of the schedule properties. Hence, they have not entitled any relief with respect to the suit schedule properties. **Accordingly, this court answered to the issue No.3 is in the Negative.**

36. **Issue No.4:-** In view of the discussion and reasons as stated above and this court answered to the above issues, proceed to pass the following:

### **ORDER**

The suit of the plaintiffs for Declaration and permanent injunction is dismissed with cost.



Draw decree accordingly.

*[Dictated to the stenographer on computer, corrected and then pronounced by me in the Open Court on this the **01<sup>st</sup> day of July, 2026**]*

**(ARAVINDRA B.C.)**  
**SENIOR CIVIL JUDGE & JMFC.,**  
**K.R.NAGARA.**

## **APPENDIX**

### **List of witnesses examined on behalf of the plaintiffs:-**

PW.1 : Sri. Rajegowda

### **List of documents exhibited on behalf of the plaintiffs:-**

Ex.P1 : Certified copy of sale deed Dtd. 16.01.1996  
Ex.P2 : Certified copy of sale deed Dtd. 25.05.1975  
Ex.P3 & 4 : RTC extracts in Sy.No.229/1  
Ex.P5 : Copy of order of Tahsildar, K.R.Nagar Taluk  
Ex.P6 : Copy of order of Sub division officer, Hunsur sub division, Hunsur  
Ex.P7 : Copy of order of Deputy Commissioner, Mysuru  
Ex.P8 : Record of right in Sy.No.229/1  
Ex.P9 : Record of right in Sy.No.229/3

### **List of witnesses examined on behalf of defendants:-**

DW.1 : Sri. D.K.Ramegowda

### **List of documents exhibited on behalf of the defendants:-**

Ex.D1 to D6 : Certified copies of order sheet & appeal memo in RA No.90/2018 and certified copies of plaint, written statement and deposition in OS No.7/2013



- Ex.D7 to D18 : Certified copies of Ex.P1 to P12 in OS No.7/2013
- Ex.D19 to D21 : Certified copies of deposition of 1<sup>st</sup> defendant, judgment and decree in OS No.7/2013
- Ex.D22 : Computerized RTC in Sy.No.229/1

**SENIOR CIVIL JUDGE & JMFC.,  
K.R.NAGARA.**