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**IN THE COURT OF THE HONOURABLE I ADDITIONAL CIVIL
JUDGE & JMFC, AT KRISHNARAJANAGAR.**

PRESENT: SMT.ASRINA.,B.A, LLB.
I ADDL. CIVIL JUDGE AND JMFC, KRISHNARAJANAGAR.

DATED THIS 10TH DAY OF APRIL, 2026

O.S.128/2023

BETWEEN

PLAINTIFFS	1. Shri. Ningappa S/o Late.Basavayya Aged:92 years 2. Shri.Nagesha S/o Ningappa Aged:51 years 3. Shri.Madeva S/o Ningappa Aged:47 years 4. Shri.Virupaksha S/o Ningappa Aged:43 years 5. Shri.Chandrappa S/o Ningappa Aged:43 years All R/at:Elemuddanahalli Village, Mirle Hobli, K.R.Nagara Taluk, Present Saligrama Taluk.
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	6. Smt.Kanthamma W/o Late.Basavarajappa Aged:57 years R/at:Elemuddanahalli, Mirle Hobli, Saligrama Taluk, Mysore District 7. Nethra W/o Chennappa R/at:Arjunahalli Village, Hosagrahara Hobli, K.R.Nagara Taluk. 8. Shivamma W/o Shivappa R/at:Uchanhalli Village Seelanere Hobli, K.R.Pete Taluk, Mandya District. 9. Maniyamma W/o Late.Jayappa R/at Elemuddanahalli Village Mirle Hobli Saligrama Taluk Mysore District (By Smt.G.C.S. Advocate)
DEFENDANTS	1. Smt. Sannamma W/o Late.Ramegowda Aged:70 years 2. Shri.Venkatesha S/o Late.Ramegowda Aged:70 years

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	3. Shri.Krishnegowda S/o Late.Ramegowda Aged:53 years 4. Shri.Sathisha S/o Late.Ramegowda Aged:51 years All R/at:Bachahalli Village, Mirle Hobli K.R.Nagara Taluk, Present Saligrama Taluk, Mysore District. (Defendants No.1, 3 & 4 by Shri.H.K.H. Advocate for) (Defendants No.2 is placed exparte)
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Date of Institution of suit	24/03/2023		
Nature of suit	Suit for Declaration of title and for Perpetual Injunction.		
Date of recording of evidence	03/11/2023		
Date of Judgment	10/04/2026		
Total duration	Years/s -03-	Month/s -00-	Day/s -17-

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC
KRISHNARAJANAGAR.

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J U D G M E N T

Plaintiffs have filed this suit as against the defendants seeking the relief of declaration of their title over the suit property, for a perpetual injunction to restrain the defendants from causing interference to the peaceful possession of the plaintiffs over the suit property, for costs of the suit and for such other reliefs.

2. The Brief facts of plaintiff's case is as under:

It is the case of plaintiffs that they are the owners and possessors of the suit property. It is the case of the plaintiffs that one Mr.Basavayya is a father of the plaintiff No.1 and grandfather of the remaining plaintiffs. It is the case of the plaintiffs that the suit property along with 32 guntas of land in Sy.No.51/1 and 1 acre 15 guntas of land in Sy.No.51/2 was purchased by aforesaid Mr.Basavayya under the registered sale deed dated 14/04/1954 with the consent of the father-in-law of the defendant No.1 and grandfather of the remaining defendants namely Mr.Lakkegowda. It is the case of the plaintiffs that ever since from the date of its purchase to till the date of his death, the aforesaid Mr.Basavayya was in peaceful possession and enjoyment of the suit property as its absolute owner. It is the case of the plaintiffs that after the death of Mr.Basavayya, the plaintiffs are in continued possession and enjoyment of the suit property as its absolute owners. It is the

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case of the plaintiffs that due to the illiteracy and poverty of the plaintiffs and their ancestor, the suit property was not mutated to their name. It is the case of the plaintiffs that by taking undue advantage of the same, the defendants have made phodes in Sy.No.52 as Sy.No.52/1, 52/2, 52/3 and 54/4 and thereby the defendants have illegally obtained the katha of the suit property to their name. When the plaintiffs have approached the revenue authorities seeking mutation of the suit property to their name on the basis of the aforesaid sale deed, at that point of time the plaintiffs came to know that the defendants have illegally obtained the mutation of the suit property to their name. When the plaintiffs have filed an appeal against the illegal mutation of the suit property to the names of the defendants, the revenue authorities have directed the plaintiffs to approach the court of law to prove the validity of the aforesaid sale deed dated 14/04/1954. It is the grievance of the plaintiffs that by taking undue advantage of illegal entries of their names in the revenue records of the suit property, the defendants are causing illegal interference to the peaceful possession of the plaintiffs over the suit property. It is the case of the plaintiffs that though the plaintiffs have held a nyaya panchayithge in that regard, but the defendants did not pay any heed to the advise made to them by the elders of the village. It is the case of the plaintiffs that they are in actual possession and enjoyment of the suit property as its

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absolute owners by regularly paying necessary tax to the government in respect of the suit property. It is the case of the plaintiffs that the defendants are not concerned with the suit property. It is the grievance of the plaintiffs that without having any manner of rights over the suit property the defendants are causing illegal interference to their peaceful possession and enjoyment over the suit property. Therefore the plaintiffs have contended that the acts of the defendants is highly illegal and high handed and the same is against the law. Therefore, the illegal acts of the defendants has to be checked by this court by granting the reliefs as sought for in the suit. If not the plaintiffs will suffer irreparable loss which cannot be compensated in terms of money. Therefore, having no other efficacious remedy the plaintiffs have approached this court by filing the above suit. According to the plaintiffs the cause of action to file the above suit arose on 19/07/2019 as well as on 10/02/2023. Hence, with the above plea the plaintiffs have prayed to decree the suit.

3. In pursuance to the summons issued by this court, the defendants No.1, 3 and 4 have entered their appearance before this court through their counsel and the above defendants have contested the above suit by filing their written statement. In spite of service of summons on him, the defendant No.2 did not appear before this court. Hence the defendant No.2 was placed *exparte*.

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4. The defendants No.1, 3 and 4 have filed their written statement wherein they have denied the title and possession of the plaintiffs over the suit property. The above defendants have specifically denied the allegation of alleged interference alleged to have caused by them to the peaceful possession of the suit property by the plaintiffs. By denying the rest of the plaint averments the above defendants have categorically contended that they are the owners and possessors of entire 3 acres of land in Sy.No.52 of Bachahalli village including the present suit property. It is the contention of the above defendants that entire 3 acres of land in Sy.No.52 of Bachahalli village including the present suit property belonged to the father-in-law of the defendant No.1 and grandfather of the remaining defendants namely Mr.Lakkegowda. It is the contention of the above defendants that during his lifetime, aforesaid Mr.Lakkegowda was in peaceful possession and enjoyment of the aforesaid 3 acres of land in Sy.No.52 including the present suit property as its absolute owner. It is the contention of the above defendants that after the death of Mr.Lakkegowda, the aforesaid 3 acres of land in Sy.No.52 including the present suit property was inherited by his son namely Mr.Ramegowda. It is the contention of the above defendants that aforesaid Mr.Ramegowda S/o Lakkegowda is a husband of the defendant No.1 and father of the remaining defendants. It is the contention of the above defendants that ever since then, aforesaid Mr. Ramegowda was in peaceful

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possession and enjoyment of the aforesaid 3 acres of land in Sy.No.52 including the present suit property as its absolute owner. It is the contention of the above defendants that after the death of Mr.Ramegowda, the aforesaid 3 acres of land in Sy.No.52 including the present suit property was inherited by the defendants herein. It is the contention of the above defendants that subsequently on 09/09/2015 the defendants herein have partitioned the aforesaid 3 acres of land in Sy.No.52 including the present suit property by way of registered partition deed and after the said partition, the respective sharers are in peaceful possession of their respective shares in Sy.No.52 as its absolute owners. Therefore, it is the contention of the above defendants that ever since from past more than 50 years, the defendants and their ancestors are in continued and peaceful possession and enjoyment of the entire 3 acres of land in Sy.No.52 including the present suit property. It is the contention of the above defendants that at no point of time the plaintiffs had any title or possession over the suit property. Therefore, the above defendants have contended that by suppressing all the true and material facts the plaintiffs have filed the present false suit. The above defendants have contended that there is no cause of action to file the above suit and the alleged cause of action shown by the plaintiffs is false and fictitious. The plaintiffs have not approached this court with clean hands. The above suit being the false suit the above

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defendants have prayed to dismiss the suit by awarding the compensatory costs. Hence, with the above contentions, the defendants No.1, 3 and 4 have prayed to dismiss the suit with costs.

5. On the basis above pleadings and rival contentions learned predecessor in office has framed the following issues:

1. Whether the plaintiffs prove that they are the absolute owners of the suit schedule property?
2. Whether the plaintiffs further prove that, they are in peaceful possession and enjoyment over the suit schedule property?
3. Whether the plaintiffs further prove the alleged interference from the defendants as stated in the plaint in respect of the suit schedule property?
4. Whether plaintiff is entitled for the relief of declaration and permanent injunction as prayed for?
5. What order or decree?

6. In order to establish the case of the plaintiffs, plaintiff No.4 has stepped into the witness box and examined himself as PW-1 and got marked Exhibit P-1 to Exhibit P-19 documents. After his part cross-examination, the plaintiff No.4/Pw.1 did not tender himself for further cross-examination so as to test the veracity of the

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entire evidence adduced by him. Though the evidence of Pw.1 cannot be discarded in its entirety, but no credence can be given to the documentary evidence as well as the evidence given by the Pw.1 in his chief affidavit. On the other hand, in order to nullify the claim of the plaintiffs and to prove the defense of the defendants No.1, 3 and 4, the defendant No.4 has entered the witness box and examined himself as DW-1 and got marked Ex.D-1 to Ex.D-39 documents. In spite of giving sufficient opportunities the plaintiffs have not cross examined the Dw.1 so as to test the veracity of the evidence adduced by the above defendants or to discredit the testimony of Dw.1. Thereafter the trial was concluded and the case was posted for arguments on merits.

7. Heard arguments from counsel for defendants. In spite of giving sufficient opportunities, no arguments canvassed on behalf of the plaintiffs.

8. On perusal of the pleadings, oral and documentary evidence placed before the court, my findings to the above Issues are as hereunder:

Issue No.1: In the Negative.

Issue No.2: In the Negative.

Issue No.3: In the Negative.

Issue No.4: In the Negative.

Issue No.5: As per the final orders for the following:

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REASONS

9. ISSUES NO.1 AND 2: Since the discussion on these two issues are interconnected, in order to avoid repetition, the above issues are taken up together for a common discussion.

10. Plaintiffs have filed the present suit for the relief of declaration of their title over the suit property and for perpetual injunction. In a suit for declaration of title it is incumbent on the part of the plaintiffs to prove that they have a valid title over the suit property and that their title to the suit property was denied by the defendants. Since the plaintiffs have also sought for the relief of perpetual injunction, it is also incumbent on the part of the plaintiffs to prove their possession over the suit property as on the date of the suit and to prove the alleged interference caused by the defendants to their peaceful possession and enjoyment over the suit property. Accordingly Issues No.1 and 2 were framed casting burden on the plaintiffs to prove their title and possession over the suit property.

11. In order to discharge the burden of the plaintiffs, plaintiff No.4 has examined himself as Pw.1 and the plaintiffs have relied on Ex.P-1 to Ex.P-19 documents. On the other hand, in order to nullify the claim of the plaintiffs and to prove the defense of the defendants No.1, 3 and 4, the defendant No.4 has entered the

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witness box and examined himself as DW-1 and got marked Ex.D-1 to Ex.D-39 documents. For better appreciation of evidence, the evidence placed on record by both the parties are taken up together for a simultaneous discussion.

12. It is the case of the plaintiffs that father of the plaintiff No.1 and grandfather of the remaining plaintiffs Mr.Basavayya had purchased the suit property along with 32 guntas of land in Sy.No.51/1 and 1 acre 15 guntas of land in Sy.No.51/2 under the registered sale deed dated 14/04/1954 with the consent of the father-in-law of the defendant No.1 and grandfather of the remaining defendants namely Mr.Lakkegowda. It is the case of the plaintiffs that after the death of aforesaid Mr.Basavayya, the plaintiffs herein being his legal heirs, the plaintiffs have inherited the suit property from Mr.Basavayya and as such the plaintiffs have claimed themselves to be the absolute owners and possessors of the suit property.

13. On the other hand, the defendants No.1, 3 and 4 have heavily contested this suit by contending that entire 3 acres of land in Sy.No.52 of Bachahalli village including the present suit property belonged to the father-in-law of the defendant No.1 and grandfather of the remaining defendants namely Mr.Lakke Gowda. It is the contention of the above defendants that during his

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lifetime, aforesaid Mr.Lakke Gowda was in peaceful possession and enjoyment of the aforesaid 3 acres of land in Sy.No.52 including the present suit property as its absolute owner. It is the contention of the above defendants that after the death of Mr.Lakke Gowda, the aforesaid 3 acres of land in Sy.No.52 including the present suit property was inherited by his son namely Mr.Ramegowda, who is none other than the husband of the defendant No.1 and father of the remaining defendants. It is the contention of the above defendants that ever since then, aforesaid Mr.Ramegowda was in peaceful possession and enjoyment of the aforesaid 3 acres of land in Sy.No.52 including the present suit property as its absolute owner. It is the contention of the above defendants that after the death of Mr.Ramegowda, the aforesaid 3 acres of land in Sy.No.52 including the present suit property was inherited by the defendants herein. It is the contention of the above defendants that subsequently on 09/09/2015 the defendants herein have partitioned the aforesaid 3 acres of land in Sy.No.52 including the present suit property by way of registered partition deed and after the said partition, the respective sharers are in peaceful possession of their respective shares in Sy.No.52 as its absolute owners. Thereby, the defendants No.1, 3 and 4 have contested the suit by vesting the title and possession over the suit property in themselves.

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14. Ex.P-3 and Ex.D-1 are one and the same documents and they are the Phasalu Pahanis of 3 acres of land in Sy.No.52 of Bachahalli village. Ex.P-3/Ex.D-1 are the undisputed documents. Ex.P-3/Ex.D-1 being the undisputed as well as public documents, the same proves and establishes that originally the entire 3 acres of land in Sy.No.52 of Bachahalli village belonged to one Mr.Thimmegowda S/o Doddegowda.

15. Ex.P-17/Ex.D-32 are one and the same documents and they are the index of lands in respect of 3 acres of land in Sy.No.52 of Bachahalli village. Similarly, Ex.P-18/Ex.D-31 are one and the same documents and they are the records of rights in respect of 3 acres of land in Sy.No.52 of Bachahalli village. Even the Ex.P-17/Ex.D-32 and Ex.P-18/Ex.D-31 are the undisputed documents and the same also proves and establishes that entire 3 acres of land in Sy.No.52 of Bachahalli village belonged to one Mr.Thimmegowda S/o Doddegowda.

16. Ex.P-4 and Ex.P-6 as well as Ex.D-2 and Ex.D-3 are one and the same documents and they are the RTC's of 3 acres 18 guntas of land in Sy.No.52 of Bachahalli village from the year 1971-72 upto the year 1975-76. Even the Ex.P-4, Ex.P-6, Ex.D-2 and Ex.D-3 are also the undisputed documents and the same also proves

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and establishes that 3 acres of land in Sy.No.52 of Bachahalli village belonged to one Mr.Thimmegowda S/o Doddegowda.

17. The fact that one Mr.Lakkegowda S/o Lakkegowda is father-in-law of the defendant No.1 and grandfather of the remaining defendants is not in dispute. The column No.12 of Ex.P-4, Ex.P-6, Ex.D-2 and Ex.D-3 documents projects the name of father-in-law of the defendant No.1 and grandfather of remaining defendants namely Mr.Lakkegowda as a cultivator of aforesaid 3 acres of land in Sy.No.52 of Bachahalli village.

18. As held above, Ex.P-17/Ex.D-32 are the index of lands and Ex.P-18/Ex.D-31 are the records of rights in respect of 3 acres of land in Sy.No.52 of Bachahalli village. Ex.P-17/Ex.D-32 and Ex.P-18/Ex.D-31 documents proves and establishes that subsequently the 3 acres of land in Sy.No.52 of Bachahalli village was transferred to the name of father-in-law of the defendant No.1 and grandfather of remaining defendants namely Mr.Lakkegowda.

19. The fact that Mr.Ramegowda is a son of aforesaid Mr.Lakkegowda S/o Lakkegowda is not in dispute. So also it is not in dispute that aforesaid Mr.Ramegowda S/o Lakkegowda is a husband of the defendant No.1 and father of the remaining defendants. Ex.P-17/Ex.D-32 and Ex.P-18/Ex.D-31 documents

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proves and establishes that subsequently the 3 acres of land in Sy.No.52 of Bachahalli village was transferred to the name of Mr.Ramegowda S/o Lakkegowda on the basis of inheritance.

20. Ex.P-5, Ex.P-7, Ex.P-8, Ex.D-4 and Ex.D-5 are the RTC's of the 3 acres of land in Sy.No.52 of Bachahalli village from the year 1981-82 upto the year 2000-01. Even the documents referred above are the undisputed documents and the same proves and establishes that subsequently the name of husband of the defendant No.1 and father of the remaining defendants namely Mr.Ramegowda S/o Lakkegowda was entered as a owner and possessor of the 3 acres of land in Sy.No.52 of Bachahalli village.

21. Ex.D-33 is a certified copy of the registered partition deed dated 09/09/2015 registered on 14/09/2015 registered as a document No.MIR-1-02733/2015-16. Even the Ex.D-33 is also a undisputed document and the same was marked in evidence without any objections from the plaintiffs and their counsel. Ex.D-33 being a registered as well as undisputed document, the same proves and establishes that the defendants herein being the legal heirs of aforesaid Mr.Ramegowda S/o Lakkegowda, they have subsequently partitioned the aforesaid 3 acres of land in Sy.No.52 of Bachahalli village. The Ex.D-33 document further proves and establishes that in the said partition, an extent of 24 guntas of land in Sy.No.52 was allotted to the share of the

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defendant No.1 and 32 guntas of land each in Sy.No.52 was allotted to the shares of the defendants No.2 to 4 herein.

22. Ex.P-9 to Ex.P-12 are the RTC's of Sy.No.52/1, 52/2, 52/3 and 52/4 of Bachahalli village for the year 2022-23. Even the Ex.P-9 to Ex.P-12 are also the undisputed documents. Ex.P-9 to Ex.P-12 are being the undisputed documents, the same proves and establishes that on the basis of Ex.D-33 partition deed, the 3 acres of land in Sy.No.52 was phoded as Sy.No.52/1, 52/2, 52/3 and 52/4 and the 24 guntas of land which was fallen to the share of the defendant No.1 was re-numbered as Sy.No.52/1, the 32 guntas of land which was fallen to the share of the defendant No.3 was re-numbered as Sy.No.52/2, the 32 guntas of land which was fallen to the share of the defendant No.4 was re-numbered as Sy.No.52/3, the 32 guntas of land which was fallen to the share of the defendant No.2 was re-numbered as Sy.No.52/4. The Ex.D-6 to Ex.D-30 are also being the RTC's of Sy.No.52/1, 52/2, 52/3 and 52/4 of Bachahalli village, the same proves and establishes that the 3 acres of land in the said survey numbers stands in the names of respective defendants as per the allotment of shares made to them in the Ex.D-33 partition deed.

23. Ex.P-14 and Ex.P-15 are the certified copies of hissa sketch and the same are also the undisputed documents. Ex.P-14 and Ex.P-15 being the undisputed documents, the same proves and

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establishes that as per the division made in the Ex.D-33 partition deed, the respective defendants are in possession of the respective portion of the land in Sy.No.52 which was allotted to them under the Ex.D-33 partition deed.

24. Ex.D-34 is a original registered release deed dated 03/10/2022, registered as a document No.MIR-1-02484/2022-23. Even the Ex.D-34 is also a undisputed document and the same was marked in evidence without any objections from the plaintiffs and their counsel. Ex.D-34 being a registered as well as undisputed document, the same proves and establishes that after acquiring the 24 guntas of land in Sy.No.52/1 under the Ex.D-33 partition deed, the defendant No.1 has released the said property in favour of her son namely the defendant No.3 herein.

25. The evidence placed on record by both the parties proves and establishes that after deducting the 18 guntas of karab land, the total extent of land available in Sy.No.52 is only 3 acres and the said 3 acres of land in Sy.No.52 was passed on to the defendants from Mr.Thimmegowda, Mr.Lakkegowda and Mr.Ramegowda. Hence, the evidence placed on record by both the parties proves and establishes the flow of title and possession over the entire 3 acres of land in Sy.No.52 of Bachahalli village unto the defendants from Mr.Thimmegowda, Mr.Lakkegowda and Mr.Ramegowda.

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26. Ex.P-1 is a registered sale deed dated 14/04/1954 registered as a document No.88/1954-55. It is on the strength of Ex.P-1 sale deed, the plaintiffs are claiming their title over the suit property. The contents of Ex.P-1 sale deed discloses that one Mr.Basavayya S/o Patel Linganna had allegedly purchased the 14 guntas of land in Sy.No.52 along with other non-suit properties from Mr.Dyavegowda S/o Javaregowda and Mr.Sannegowda S/o Javaregowda.

27. It is significant to note here that, though the plaintiffs have claimed that on 14/04/1954 the suit property in Sy.No.52 was sold by aforesaid Mr.Dyavegowda S/o Javaregowda and Mr.Sannegowda S/o Javaregowda in favour of Mr.Basavayya, but the plaintiffs have not placed any evidence before this court to prove that the suit property in Sy.No.52 was ever stood in the name of the executants of Ex.P-1 sale deed namely Mr.Dyavegowda and Mr.Sannegowda. So also no evidence is placed before this court by the plaintiffs to prove that the suit property in Sy.No.52 was ever stood in the name of the father of the executants of Ex.P-1 sale deed namely Mr.Javaregowda. Rather, the evidence placed on record by both the parties proves and establishes that all the revenue documents of entire 3 acres of land in Sy.No.52 including the present suit property stood in the names of Mr.Thimmegowda, Mr.Lakkegowda, Mr.Ramegowda and

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the defendants herein. All the revenue documents of entire 3 acres of land in Sy.No.52 including the present suit property from past more than 56 years continuously stands in the names of Mr.Thimmegowda, Mr.Lakkegowda, Mr.Ramegowda and the defendants herein. All the revenue documents of entire 3 acres of land in Sy.No.52 including the present suit property from past more than 56 years discloses that the suit property in Sy.No.52 was never stood either in the name of the executants of Ex.P-1 sale deed namely Mr.Dyavegowda and Mr.Sannegowda or in the name of their father Mr.Javaregowda. Hence, from the evidence placed on record by the parties, the same proves and establishes that the executants of Ex.P-1 sale deed namely Mr.Dyavegowda and Mr.Sannegowda and their father Mr.Javaregowda were not the owners of the any extent of land in Sy.No.52 of Bachahalli village including the present suit property. Therefore, when the executants of Ex.P-1 sale deed namely Mr.Dyavegowda and Mr.Sannegowda and their father Mr.Javaregowda were not the owners or possessors of the suit property at any point of time, Mr.Dyavegowda and Mr.Sannegowda absolutely had no right and title to sell the suit property in favour of Mr.Basavayya under the Ex.P-1 sale deed. Therefore, the Ex.P-1 sale deed being executed by Mr.Dyavegowda and Mr.Sannegowda without having any manner of right, title and interest over the suit property, the Ex.P-1 sale deed will be *non-est* in the eye of law. Therefore,

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no right, title and interest over the suit property gets conveyed unto Mr.Basavayya on the basis of the Ex.P-1 sale deed. When the predecessor in title of the plaintiffs namely Mr.Basavayya did not acquire any title over the suit property under the Ex.P-1 sale deed, no right, title and interest over the suit property gets conveyed unto the plaintiffs from Mr.Basavayya. Therefore, the claim of the plaintiffs that they are the owners of the suit property on the basis of Ex.P-1 sale deed needs to be rejected out rightly. Thereby I conclude that the plaintiffs have failed to prove their title over the suit property.

28. Further, though the oral as well as documentary evidence placed on record by the defendants has created cloud on the title of the plaintiffs, but the plaintiffs have not cross-examined the defendant No.4/Dw.1 so as to test the veracity of the evidence adduced by the defendants or to discredit the testimony of Dw.1. Further, though the Ex.D-33 partition deed and Ex.D-34 release deed have casted cloud on the title of the plaintiffs, but the plaintiffs have not challenged the Ex.D-33 and Ex.D-34 documents. Thereby, the plaintiffs have utterly failed to remove the clouds which was casted on their title. Hence, when the title of the plaintiffs is not clear, no decree for declaration can be granted in favour of the plaintiffs.

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29. The plaintiff No.4 was examined as Pw.1. In his cross-examination at para No.1 and 2, the plaintiff No.4/Pw.1 has deposed as under:

1. 1 ನೇ ವಾದಿಯು ನನ್ನ ತಂದೆಯಾಗಿದ್ದು, ನನ್ನ ತಂದೆಯ ತಂದೆ ಅಂದರೆ ನನ್ನ ತಾತನ ಹೆಸರು ಬಸವಯ್ಯ ಅಂತ ಇರುತ್ತದೆ. ನನ್ನ ತಾತನಾದ ಬಸವಯ್ಯರವರಿಗೆ ಒಟ್ಟು 2 ಜನ ಮಕ್ಕಳು. ಅವರ ಹೆಸರು 1 ನೇ ವಾದಿಯಾದ ನಿಂಗಪ್ಪ ಮತ್ತು 5 ನೇ ವಾದಿಯ ತಂದೆಯಾದ ಮಾದಪ್ಪ ಅಂತ ಇರುತ್ತದೆ.

2. 5 ನೇ ವಾದಿಯ ತಂದೆಯಾದ ಮತ್ತು 1 ನೇ ವಾದಿಯ ಸಹೋದರನಾದ ಮಾದಪ್ಪ ಜೀವಂತವಾಗಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ಮಾದಪ್ಪರವರನ್ನು ನಾವು ಈ ದಾವೆಯಲ್ಲಿ ಪಕ್ಷಗಾರರನ್ನಾಗಿ ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. 5 ನೇ ವಾದಿಯ ತಂದೆಯಾದ ಮಾದಪ್ಪರವರಿಗೆ ಒಟ್ಟು 4 ಜನ ಮಕ್ಕಳು ಹಾಗೂ ಅವರ ಹೆಸರು 5 ನೇ ವಾದಿಯಾದ ಚಂದ್ರಪ್ಪ, ವೀಣಾ, ವಸಂತ ಮತ್ತು ಕುಸುಮ ಅಂತ ಇರುತ್ತದೆ. ಮಾದಪ್ಪ ಬಿನ್ ಬಸವಯ್ಯರವರ 3 ಜನ ಹೆಣ್ಣುಮಕ್ಕಳನ್ನು ನಾವು ಈ ದಾವೆಯಲ್ಲಿ ನಾವು ಪಕ್ಷಗಾರರನ್ನಾಗಿ ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ.

30. The plaintiffs have filed this suit by claiming their title over the suit property through the propositous namely Mr.Basavayya. It is the case of the plaintiffs that the suit property was purchased by Mr.Basavayya under the Ex.P-1 sale deed and the plaintiffs being the only legal heirs of Mr.Basavayya, they alone have inherited the suit property and therefore the plaintiffs have claimed themselves to be the absolute owners of the suit property

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on the basis of inheritance. It is significant to note here that, though the plaintiffs have filed this suit by claiming them as the only legal heirs of Mr.Basavayya, but, in his cross-examination at para No.1 and 2, the plaintiff No.4/Pw.1 has categorically admitted that the propositus namely Mr.Basavayya also has a son namely Mr.Madappa and said Mr.Madappa is not made as a party to this suit. When the plaintiffs are claiming their title over the suit property by way of inheritance from Mr.Basavayya, the son of Mr.Basavayya namely Mr.Madappa will also become the co-owner of the estate left behind by Mr.Basavayya. Therefore, even the son of Mr.Basavayya namely Mr.Madappa was also a necessary party to this suit. Admittedly, the son of Mr.Basavayya namely Mr.Madappa is alive. Admittedly said Mr.Madappa S/o Mr.Basavayya is not made as a party to this suit. Thereby, rendering this suit bad for non-joinder of necessary parties. Accordingly I conclude that the present suit is also bad for non-joinder of necessary parties.

31. Adding further, in the suit the plaintiffs have also claimed to be in the possession of the suit property. But the plaintiffs have not placed any evidence on record to prove that they are in possession of the suit property. There is nothing available on record to show that the plaintiffs are in possession of the suit property. Therefore in the absence of any positive and cogent

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evidence in that regard, this court is not at all inclined to hold that the plaintiffs are in possession of the suit property. The evidence placed on record by the plaintiffs does not prove the title and possession of the plaintiffs over the suit property. Thereby I hold that the plaintiffs have utterly failed to prove their title and possession over the suit property. **Accordingly, I answer Issues No.1 and 2 as against the plaintiffs in the Negative.**

32. ISSUE NO.3: As held in Issues No.1 and 2, the plaintiffs have failed to prove their possession over the suit property. When the plaintiffs are not in possession of the suit property then the question of causing interference to their alleged possession by the defendants does not arise at all. Accordingly, without dwelling upon this aspect of matter for any greater length **I answer Issue No.3 in the Negative.**

33. ISSUE NO.4: In this suit, the plaintiffs have sought for the relief of declaration of their title over the suit property and for the relief of perpetual injunction as against the defendants. Since the plaintiffs have failed to prove their title and possession over the suit property, I hold that the plaintiffs are not at all entitled for any reliefs as sought for in the suit. **Accordingly, I answer Issue No.4 in the Negative.**

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34. ISSUE NO.5: In view of my foregoing discussions and findings on above Issues, I proceed to pass the following:

ORDER

The suit of the plaintiffs is hereby dismissed with costs.

Pending interim applications if any, the same are disposed off accordingly.

Draw decree accordingly.

(Dictated to the Stenographer, typed by him, and the transcript revised and corrected by me and then pronounced in the open court on this **10th day of April, 2026**)

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC
KRISHNARAJANAGAR.

**ANNEXURE****List of Witnesses examined on behalf of the plaintiffs**

PW.1: Shri.Virupaksha S/o Ningappa.

List of Documents marked on behalf of the plaintiffs

Ex.P-1: Original registered sale deed dated 14/04/1954.

Ex.P-2: Encumbrance certificate.

Ex.P-3: Certified copy of Phasalu Pahani.

Ex.P-4 to P-12: RTCs'.

Ex.P-13: Computerized Mutation order.

Ex.P-14 and P-15: Certified copies of Sketch.

Ex.P-16: Aakar Bandh.

Ex.P-17: Index of land.

Ex.P-18: Record of rights.

Ex.P-19: Certified copy of order dated 01/06/2022 passed by the Assistant Commissioner.

List of Witnesses examined on behalf of the defendants

DW.1: Shri.Sathish S/o Late.Ramegowda.

List of Documents marked on behalf of the defendants

Ex.D-1 to D-30: RTCs'.

Ex.D-31: Records of rights.

Ex.D-32: Index of lands.

Ex.D-33: Certified copy of registered partition deed dated 09/09/2015.

Ex.D-34: Original release deed dated 03/10/2022.

Ex.D-35 & D-36: Certified copies of sketch.

Ex.D-37 to D-39: Certified copies of encumbrance certificates.

(SMT.ASRINA)

I ADDL. CIVIL JUDGE & JMFC
KRISHNARAJANAGAR.