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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 16TH DAY OF APRIL, 2026

O.S.140/2020

BETWEEN

PLAINTIFF	Shri.Swamigowda S/o Late.Hucchegowda Aged:48 years, R/at:Thandrekoppalu Village, Saligrama Hobli, K.R.Nagar Taluk. (By Shri.B.K.P. Advocate)
DEFENDANT	Shri.Mahadevanayaka S/o Late.Janaranayaka, Aged:50 years, R/at:Mahadeshwara Extension, Saligrama, K.R.Nagar Taluk, Mysuru District. (By: Shri.P.D Advocate)

Date of Institution of suit	09/07/2020
Nature of suit	Suit for Perpetual Injunction.
Date of recording of evidence	12/08/2024

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Date of Judgment	16/04/2026		
Total duration	Years/s -05-	Month/s -09-	Day/s -07-

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

J U D G M E N T

Plaintiff has filed the present suit for the relief of perpetual injunction to restrain the defendant or anybody claiming through or under him from interfering in the peaceful possession of the plaintiff 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 plaintiff that he is a absolute owner and possessor of the suit property. It is the case of the plaintiff that he has acquired the suit property from his ancestors. It is the case of the plaintiff that the grand parents of the plaintiff namely Mr.Thathayya @ Heggadi Thimmegowda and Smt.Chikka had four children namely Mr.Thimmegowda, Mr.Karigowda, Mr.Sannappa and father of the plaintiff Mr.Hucchegowda. It is the case of the plaintiff that the aforesaid four children of Mr.Thathayya @

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Heggadi Thimmegowda have partitioned the properties and as per the partition, the respective sharers are in peaceful possession of the respective portion of the land which had fallen to their respective shares. It is the case of the plaintiff that similarly the father of the plaintiff namely Mr.Hucchegowda has obtained the mutation of the suit property and he was in peaceful possession of the suit property as its absolute owner. It is the case of the plaintiff that all the aforesaid four children of Mr.Thathayya @ Heggadi Thimmegowda including the father of the plaintiff are dead. It is the case of the plaintiff that ever since from the date of the death of his father, the plaintiff is in peaceful possession and enjoyment of the suit property as its absolute owner by paying necessary tax to the government. It is the case of the plaintiff that even the plaintiff has also obtained the loan from the Karnataka bank, Saligrama branch by mortgaging the suit property. As such, the plaintiff has claimed himself to be in actual possession and enjoyment of the suit property as its absolute owner. It is the case of the plaintiff that when he applied for index of lands and records of rights in respect of the suit property, the revenue authorities have issued an endorsement dated 21/06/2019 stating that the aforesaid documents pertaining to the suit property are not available. It is the case of the plaintiff that the defendant has no manner of rights over the suit property. It is the grievance of the plaintiff that without having any right, title and interest over the

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suit property, the defendant is causing illegal interference to the peaceful possession and enjoyment of the plaintiff over the suit property. Therefore the plaintiff has approached the jurisdictional police and submitted a complaint as against the illegal acts of the defendant. But the police did not take any action as against the defendant and the police has informed the plaintiff that since the dispute involved is a civil in nature, the police has advised the plaintiff to approach the court of law to work out his remedy. It is the case of the plaintiff that he is in actual possession and enjoyment of the suit property as its absolute owner by regularly paying necessary tax to the government in respect of the suit property. It is the case of the plaintiff that the defendant is not concerned with the suit property. It is the grievance of the plaintiff that without having any manner of rights over the suit property the defendant is causing illegal interference to his peaceful possession and enjoyment over the suit property. Therefore the plaintiff has contended that the acts of the defendant is highly illegal and high handed and the same is against the law. Therefore, the illegal acts of the defendant has to be checked by this court by granting the reliefs as sought for in the suit. If not the plaintiff will suffer irreparable loss which cannot be compensated in terms of money. Therefore, having no other efficacious remedy the plaintiff has approached this court by filing the above suit. According to the plaintiff the cause of action to file

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the above suit arose on 30/04/2020 the date on when the defendant has caused illegal interference to the peaceful possession of the plaintiff over the suit property. Hence, with the above plea the plaintiff has prayed to decree the suit.

3. In pursuance to the summons issued by this court, the defendant has entered his appearance before this court through his counsel and the defendant has contested the above suit by filing his detailed written statement.

4. The defendant has filed his written statement wherein he has denied the possession of the plaintiff over the suit property. The defendant has denied and disputed the boundaries of the suit property. The defendant has specifically denied the allegation of alleged interference alleged to have caused by him to the peaceful possession of the plaintiff over the suit property. By denying rest of the plaint averments, the defendant has categorically contended that at any direction of the suit property the property of the defendant is not situated. It is the contention of the defendant that though his property is not situated in and around the suit property, but the plaintiff has falsely brought this false suit as against him only as a counter blast to the suit filed by the brother of the defendant namely Mr.Ramanayaka in O.S.No.108/2020. It is the contention of the defendant that his 18 guntas of land is situated in Sy.No.23/10. It is the contention of the defendant that

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there are 16 phodes in Sy.No.23 and the respective land holders are in peaceful possession of their respective property. It is the contention of the defendant that the property of the plaintiff has no specific boundaries. Therefore, by showing the false boundaries to the suit property, the plaintiff has filed this false suit. It is the contention of the defendant that with an intention to grab his property, the plaintiff has filed this false suit. Therefore the defendant has contended that by suppressing all the true and material facts the plaintiff has filed the present false suit. The defendant has contended that there is no cause of action to file the above suit and the alleged cause of action shown by the plaintiff is false and fictitious. The plaintiff has not approached this court with clean hands. The above suit being the false suit the defendant has prayed to dismiss the suit by awarding the compensatory costs. Hence, with the above contentions, the defendant has 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 plaintiff proves that he was in actual possession of the suit schedule property on the date of the suit?
2. Whether plaintiff further proves interference caused by the defendant?

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3. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for?
4. What order or decree?

6. In order to establish the case of the plaintiff, plaintiff has stepped into the witness box and examined himself as Pw.1 and got marked Exhibit P-1 to Ex.P-17 documents. In support of his case the plaintiff has also examined one independent witness as Pw.2. On the other hand, in order to nullify the claim of the plaintiff and to prove his defence, defendant has entered the witness box and examined himself as Dw.1 and got marked Exhibit D-1 to Ex.D-11 documents and closed his side of evidence. Thereafter the case was heard on merits.

7. Heard arguments. Counsel for plaintiff has filed written arguments.

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 Affirmative.

Issue No.2: In the Negative.

Issue No.3: In the Affirmative.

Issue No.4: As per the final orders for the following:

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REASONS

9. ISSUE NO.1: Plaintiff has filed the present suit for the relief of perpetual injunction. It is the case of the plaintiff that he is a owner and possessor of the suit property. The defendant who is not at all concerned with the suit property, without having any right, title and interest over the suit property, the defendant has illegally tried to interfere in the peaceful possession and enjoyment of the plaintiff over the suit property. Therefore, being aggrieved by the said illegal acts of the defendant, the plaintiff has filed this suit as against the defendant to restrain the defendant from interfering in the peaceful possession and enjoyment of the plaintiff over the suit property.

10. In a suit for bare injunction it is incumbent on the part of the plaintiff to prove his possession over the suit property as on the date of the filing of the suit. Accordingly Issue No.1 was framed casting burden on the plaintiff to prove his possession over the suit property.

11. In order to discharge the burden casted on him, the plaintiff has examined himself as Pw.1 and got marked Exhibit P-1 to Ex.P-17 documents. In support of his case the plaintiff has also examined one independent witness as Pw.2. On the other hand in support of his defence, the defendant has examined himself as

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Dw.1 and the defendant have relied on Ex.D-1 to Ex.D-11 documents.

12. It is the case of the plaintiff that the suit property is his ancestral property and the same was allotted to the share of his father Mr.Hucchegowda. It is the case of the plaintiff that after the death of Mr.Hucchegowda, the plaintiff is in continued possession of the suit property by mutating the same to his name.

13. The fact that one Mr.Hucchegowda is a father of the plaintiff is not in dispute. Ex.P-2 to Ex.P-5 are the RTC's of the suit property from the year 1971-72 upto the year 1985-86. Ex.P-2 to Ex.P-5 are the undisputed documents and the same proves and establishes that the suit property originally stood in the joint names of father of the plaintiff Mr.Hucchegowda and one Mr.Sannegowda. It is not in dispute that Mr.Hucchegowda, whose name is appearing in the Ex.P-2 to Ex.P-5 documents is a father of the plaintiff.

14. Ex.P-7 and Ex.P-8 are one and the same documents and they are the mutation order No.MR8/2002-03. Even the Ex.P-7 and Ex.P-8 are also the undisputed documents and the same proves and establishes that subsequently the mutation of the suit property was sanctioned to the name of the plaintiff on the basis of inheritance (ಪೌತ್ರಿ ವಾತ್) from his father Mr.Hucchegowda.

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15. Ex.P-6 is a RTC of the suit property for the year 2019-20. Even the Ex.P-6 is also a undisputed document and the same proves and establishes that on the basis of Ex.P-7 and Ex.P-8 mutation orders, the suit property was duly transferred and mutated to the name of the plaintiff herein. Ex.P-6 being undisputed document, the same projects the name of the plaintiff as a possessor of the suit property.

16. Ex.P-1 is a patta book. Ex.P-9 and Ex.P-10 are the tax paid receipts in respect of the suit property. Ex.P-1, Ex.P-9 and Ex.P-10 documents proves and establishes that the plaintiff is also paying necessary tax to the government in respect of the suit property.

17. Hence, on combined reading of the evidence placed on record by the plaintiff the same proves and establishes the possession of the plaintiff over the suit property. Ex.P-17 is a certified copy of the plaint in O.S.No.257/2020. Filing of suit in O.S.No.257/2020 is not in dispute. The Ex.P-17 document proves and establishes that the legal heirs of Mr.Sannegowda whose name is appearing in the Ex.P-2 to Ex.P-5 RTC's, they have filed a suit for partition in respect of the present suit property as against the present plaintiff and his siblings. The Ex.P-17 document proves and establishes that the plaintiff herein was arrayed as the defendant No.1 in the

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said suit. The contents of Ex.P-17 document proves and establishes that in the suit in O.S.No.257/2020 it is stated that the present plaintiff is also a co-owner in joint possession of the suit property and that the present plaintiff also has his undivided half share in the present suit property. The contents of Ex.P-17 document further establishes that the very same advocate who is appearing for the defendant in this case, he is also appearing for the plaintiffs of O.S.No.257/2020.

18. Further, during the course of cross-examination of plaintiff/Pw.1 at para No.16 and 17, learned counsel for the defendant has made following suggestions:

16. ಅಸಲು ದಾವೆ ಸಂಖ್ಯೆ 257/2020 ರ ವಾದಿಯಾದ ತಿಮ್ಮೇಗೌಡ ನನ್ನ ಚಿಕ್ಕಪ್ಪನ ಮಗ. ತಮಗೂ ಸಹ ಈ ದಾವೆಯ ಆಸ್ತಿಯ ಅರ್ಧ ಭಾಗ ಆಸ್ತಿ ಕೊಡಬೇಕು ಎಂದು ಹೇಳಿ ಸದರಿ ತಿಮ್ಮೇಗೌಡರು ಕೇಳಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ದಾವಾ ಆಸ್ತಿಯು ನನ್ನ ತಂದೆ ಮತ್ತು ಸದರಿ ತಿಮ್ಮೇಗೌಡರ ತಂದೆಯ ಜಂಟಿ ಹೆಸರಿನಲ್ಲಿತ್ತು ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಾನು ಮೇಸರಿಂದ ದಾವಾ ಆಸ್ತಿಯನ್ನು ಕೇವಲ ನನ್ನ ಒಬ್ಬನ ಹೆಸರಿಗೆ ಮಾಡಿಸಿಕೊಂಡಿರುತ್ತೇನೆ ಎಂದು ಸದರಿ ತಿಮ್ಮೇಗೌಡರು ಅಸಲು ದಾವೆ ಸಂಖ್ಯೆ 257/2020 ರ ದಾವೆಯಲ್ಲಿ ಹೇಳಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಇಂದಿಗೂ ಸಹ ನಾನು ಮತ್ತು ಸದರಿ ತಿಮ್ಮೇಗೌಡರು ದಾವಾ ಆಸ್ತಿಯ ಜಂಟಿ ಸ್ವಾಧೀನದಲ್ಲಿದ್ದೇವೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.

17. ನಿಪಿ.17 ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ದಾವಾ ಆಸ್ತಿಯ ಚಿಕ್ಕಬಂಧಿಗೂ ಮತ್ತು ಈ ದಾವೆಯ ವಾದ ಪತ್ರದಲ್ಲಿ ನಮೂದಿಸಿರುವ ಚಿಕ್ಕಬಂಧಿಗೂ ವ್ಯತ್ಯಾಸವಿದೆ ಎಂದರೆ

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ಸರಿಯಲ್ಲ. ದಾವಾ ಆಸ್ತಿಯು ನನ್ನ ಮತ್ತು ಸದರಿ ತಿಮ್ಮೇಗೌಡರ ಜಂಟಿ ಸ್ವಾಧೀನದಲ್ಲಿದ್ದರು ಸಹ ನಾನು ಕೇವಲ ಪಹಣಿಗಳ ಆಧಾರದ ಮೇಲೆ ಈ ಸುಳ್ಳು ದಾವೆಯನ್ನು ಹೂಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಾನು ಈ ಸುಳ್ಳು ದಾವೆಯನ್ನು ಹೂಡಿ ಸುಳ್ಳು ಸಾಕ್ಷಿ ನುಡಿಯುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.

19. It is a settled law that suggestion is a case of adversary. In the cross-examination of plaintiff/Pw.1 referred above, learned counsel for the defendant has cross-examined the plaintiff by suggesting that initially the suit property was in the joint names of the father of the plaintiff and one Mr.Thimmegowda and that now the suit property is in joint possession of the present plaintiff and one Mr.Thimmegowda, who is a plaintiff in O.S.No.257/2020. Thereby, the defendant has acknowledged that the suit property is in joint possession of the present plaintiff. Hence, on combined reading of the evidence placed on record, the same proves and establishes the factum of possession of the suit property by the plaintiff.

20. Plaintiff has filed this suit by asserting that the suit property is situated within the boundaries as mentioned in the plaint. On the other hand, the defendant has contested this suit by contending that the boundaries of the suit property as shown by the plaintiff are false boundaries. Therefore, since it is the defendant who had asserted that the boundaries of the suit

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property are false boundaries, the burden was on the defendant to prove the same. But the defendant has not placed any contrary evidence before this court to prove that the boundaries of the suit property are false boundaries. Therefore, in the absence of any positive and cogent evidence in that regard, this court is not inclined to accept the bald contention taken by the defendant regarding the correctness of the boundaries of the suit property.

21. Further, the independent witnesses examined by the plaintiff namely the Pw.2 has also categorically deposed on oath about the possession of the plaintiff over the suit property. Though learned counsel for the defendant has cross-examined the Pw.2 for a considerable length, but the oral testimony of the Pw.2 regarding the possession of the plaintiff over the suit property could not be discredited. Hence, the oral and documentary evidence placed on record by the plaintiff, coupled with the admission of the defendant and un-shaken testimony of the Pw.1 and Pw.2 clearly proves and establishes his possession over the suit property. The plaintiff has successfully discharged his burden and thereby the plaintiff has successfully established his possession over the suit property. Accordingly I hold that the plaintiff has successfully proved his possession over the suit property. Accordingly **I answer Issue No.1 in favour of the plaintiff in the Affirmative.**

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22. ISSUE NO.2: In order to grant the relief of perpetual injunction another facet to be proved by the plaintiff is about the interference made by the defendant to his peaceful possession and enjoyment over the suit property.

23. The plaintiff has filed the present suit alleging that the defendant has caused illegal interference to his peaceful possession over the suit property. But the pleadings of the plaintiff as well as his evidence is totally silent as to how and in what mode and in what manner the defendant has caused illegal interference to his peaceful possession over the suit property. The mode of interference on the part of the defendant is not explained by the plaintiff. Rather, the plaintiff has only made bald allegation of alleged interference against the defendant. Though the plaintiff has alleged that the defendant has tried to interfere in his possession over the suit property, but the plaintiff has not placed any evidence on record to prove the alleged interference alleged to have caused by the defendant. Except the allegation made in the plaint, there is nothing available on record to show that the defendant has interfered with the peaceful possession of the plaintiff over the suit property. Moreover in his cross-examination at para No.6 and 11 the plaintiff has categorically admitted that the property of the defendant is not situated in and around the suit property. Hence, such being the case it cannot be held that

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the defendant has caused illegal interference to the peaceful possession of the plaintiff over the suit property. Therefore, I hold that the plaintiff has failed to prove the alleged interference on the part of the defendant. **Accordingly, I answer Issue No.2 in the Negative.**

24. ISSUE NO.3: In a suit for perpetual injunction, the plaintiff must prove his possession over the suit property and the alleged interference caused by the defendant to his peaceful possession and enjoyment over the suit property. As held in issue No.1, the plaintiff has successfully proved his possession over the suit property. But on the other hand the plaintiff has failed to prove the alleged interference alleged to have caused by the defendant to his peaceful possession and enjoyment over the suit property. In the case on hand no doubt except the plea of interference made by the plaintiff in the plaint, there is no other materials placed before the court by the plaintiff to establish the alleged interference made by the defendant, just because the plaintiff has not proved the interference made by the defendant, it is not a ground to refuse the order of injunction. When the plaintiff has successfully established his possession over the suit property, then mere apprehension of interference in the mind of the plaintiff itself is suffice to grant the relief of Perpetual injunction. This view of this court receives support from the decision of the Honourable

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High court of Karnataka reported in **1991(1) KLJ 536 in the case of SMT.LAXMAMMA VS M.P KRISHNAPPA & OTHERS** wherein at Para 3 it is held that:

“Once the court finds that the plaintiff is in possession, there should not be any hesitation on the part of the court to grant injunction. An aggrieved person comes to the court complaining of the interference of the defendant, may be at a particular point of time the defendant has not caused interference, but once the fear stands heavily in the mind of the aggrieved person, there shall be no difficulty for the court to grant injunction, especially when it found that, that particular aggrieved person is in possession. The fact that the plaintiff is in possession of the property has not been disputed. Hence it is the fit case to grant the injunction”.

25. Further, in a decision reported in **(1998) 5 KLJ Page 168 in the case of Romeo M.F Aquinas Vs Florina Mothias** wherein at para 5 it is held that:

“For a man to live in peace he resorts to court and seeks an order of injunction. When the defendant admits the claim of the plaintiff nobody will be prejudiced by granting the decree for injunction. After all at the best may be the security that is granted by the court to the plaintiff. If there is going to be no interference, the defendant is not

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prejudiced and passing such an order is not going to affect the defendant at all. Once the matter has been seized by the court, it is for the court to grant the relief, the parties desire to get and when the relief is available on the basis of averments made in the plaint and grantable on the basis of the written statement, there can be no impediment for granting such relief at all.”

26. In the instant case the possession of the plaintiff over the suit property is held to be proved. Apprehending that the defendant may cause interference in future, the plaintiff has filed the present suit. When the plaintiff has established his possession over the suit property, then mere apprehension of future invasion in the mind of the plaintiff is sufficient to grant the relief of perpetual injunction. Further, admittedly the suit property and the property of the defendant, both are two different properties. Admittedly the defendant has no manner rights over the suit property. Admittedly the suit property belongs to the plaintiff. Since the defendant has no manner of rights over the suit property, preventing the defendant from causing interference to the peaceful possession of the plaintiff over the suit property will not cause any hardship to the defendant. **Though the defendant has contended that the plaintiff is not a absolute owner of the suit property and rather the plaintiff is only a co-owner of the suit property, even then also the present suit for bare injunction is**

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maintainable. As the law is settled that any one co-owner can maintain a suit for bare injunction. Accordingly, I hold that the plaintiff is entitled to the most equitable relief of perpetual injunction. Accordingly, I answer **Issue No.3 in the Affirmative.**

27. ISSUE NO.4: In view of my above discussions and findings on Issues No.1 to 3, I proceed to pass the following:

ORDER

The suit of the plaintiff is hereby decreed.

By an order of permanent prohibitory injunction, the defendant or anybody claiming through or under him are hereby restrained from interfering in the peaceful possession and enjoyment of the plaintiff over the suit property.

Considering the facts and circumstances of the case there is no order as to 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 **16th day of April, 2026**)

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

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

PW-1: Shri.Swamygowda S/o Late.Hucchegowda.
PW-2: Shri.Ravi S/o Late.Subbegowda.

List of Documents marked on behalf of the Plaintiff

Ex.P-1: Patta book.
Ex.P-2 to P-6: RTC's.
Ex.P-7 & P-8: Computerized mutation orders.
Ex.P-9 & P-10: Tax paid receipts.
Ex.P-11: Endorsement issued by Deputy Tahsildar.
Ex.P-12: Certified copy of sketch.
Ex.P-13: Acknowledgment issued by the Police.
Ex.P-14: Endorsement issued by the Police.
Ex.P-15: Certified copy of the appeal memorandum.
Ex.P-16: Certified copy of the order sheet in appeal
No.138/2020-21.
Ex.P-17: Certified copy of plaint in O.S.No.257/2020.

List of Witnesses examined on behalf of the defendant

DW-1: Shri.Madanayaka S/o Late.Javaranayaka

List of Documents marked on behalf of the defendant

Ex.D-1: Certified copy of Partition Deed dated 27/06/2019.
Ex.D-2 to D-5: RTC's.
Ex.D-6 to D-8: Certified copies of mutation orders.
Ex.D-9: Computerized mutation order.
Ex.D-10 & D-11: Encumbrance certificates.

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