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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 1ST DAY OF JUNE, 2026

O.S.272/2022

BETWEEN

PLAINTIFF	Shri.Hemanthkumar H.R S/o Late.H.M.Ramakrishnegowda Aged: 43 years R/at: Hampapura Village, Hosaagrahara Hobli, K.R.Nagara Taluk. (By Shri.K.P.M. Advocate)
DEFENDANT	Ramesh H.R S/o Late.Ramakrishnegowda H.M Aged: 55 years, R/at: Hampapura Village, Hosaagrahara Hobli, K.R.Nagara Taluk. (By: Shri.P.D. Advocate)

Date of Institution of suit	09/06/2022
Nature of suit	Suit for Perpetual Injunction.
Date of recording of evidence	26/10/2023
Date of Judgment	01/06/2026.

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Total duration	Years/s	Month/s	Day/s
	-03-	-11-	-22-

(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 the absolute owner and possessor of the suit property and the same was acquired by him under the registered sale deed dated 31/01/2011 registered as a document No.MIR-1-02044/2010-11. It is the case of the plaintiff that originally the suit property belonged to his father, who had sold the suit property on 12/05/1983 to the vendor of the plaintiff namely Mr.H.V Padmanabhaiah. It is the case of the plaintiff that it is from said Mr.H.V Padmanabhaiah the plaintiff has purchased the suit property. It is the case of the plaintiff that ever since from the date of acquiring the suit property under the aforesaid registered sale deed, he is in peaceful possession and enjoyment of

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the suit property as its absolute owner by paying necessary tax to the Government. It is the case of the plaintiff that he is working at Bengaluru and he very oftenly visits the suit property once or twice in a week. It is the case of the plaintiff that the defendant has no manner of right over the suit property. It is the grievance of the plaintiff that without having any manner of right, title and interest over the suit property, the defendant has illegally obtained the mutation of the suit property to his name on the basis of false and fabricated documents. It is the case of the plaintiff that in furtherance of his illegal acts, on 21/05/2022 the defendant has also picked quarrel with the plaintiff by falsely proclaiming that the suit property belongs to him and the defendant has also tried to put lock to the suit property. It is the case of the plaintiff that after making illegal interference to the peaceful possession of the plaintiff over the suit property, the defendant himself has lodge a false complaint as against the plaintiff herein. It is the case of the plaintiff that upon coming to know the illegal mutation of the suit property to his name, the plaintiff has approached the revenue authorities and obtained the mutation of the suit property to his name on the basis of aforesaid sale deed. It is the case of the plaintiff that in furtherance of his illegal acts, on 05/06/2022 as well as on 07/06/2022, the defendant has again caused illegal interference to the peaceful possession of the plaintiff over the suit property. Therefore, the plaintiff has approached the jurisdictional

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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 the above suit arose from 21/05/2022 and continued till 05/06/2022, 07/06/2022 the dates on when the defendant has caused illegal interference to the peaceful possession of the

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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 the written statement wherein he has admitted his relationship with the plaintiff. The defendant has denied the possession of plaintiff over 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 the suit property was purchased in the name of the plaintiff by utilizing the joint family funds derived from the ancestral properties of the plaintiff and defendant. It is the contention of the defendant that the plaintiff is permanently residing at Bangalore. It is the contention of the defendant that the plaintiff and the defendant are living in the joint family and with the consent of the plaintiff, the suit property was mutated to the name of the defendant herein for the purpose of obtaining the loan to the joint family necessity. It is the contention of the defendant that on 12/08/2011 both plaintiff and the defendant have partitioned the suit property by way of unregistered partition deed. It is the

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contention of the defendant that the plaintiff and defendant are living jointly in the suit property as joint owners. It is the contention of the defendant that since the difference of opinion arose in between the plaintiff and the defendant, the plaintiff has brought this false suit as against him. It is the contention of the defendant that he is residing in the suit property along with his family. It is the contention of the defendant that he being the co-owner of the suit property, the present suit for bare injunction against the co-owner is not maintainable. 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 plaintiff proves that he was in peaceful possession and enjoyment of the suit schedule property on the date of the suit?

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2. Whether plaintiff further proves interference from the defendant?
3. Whether 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-16 documents. In support of his case, the plaintiff has also examined two independent witnesses as Pw.2 and Pw.3. On the other hand, in order to nullify the claim of the plaintiff and to prove the defence of the defendant, defendant has entered the witness box and examined himself as Dw.1 and got marked Exhibit D-1 to Ex.D-57 documents. In support of his defence, the defendant has also examined two independent witnesses as Dw.2 and Dw.3. Thereafter the case was heard on merits.

7. Heard arguments from both side.

8. In support of his arguments, learned counsel for the defendant has relied on the following decisions:

(a) Decision reported in 2013 (5) KCCR 3940 in the case of Vaijinath Vs Vasantarao and others.

(b) Decision reported in 2000 (1) Civil LJ 121 in the case of Sita Ram Vs Hari Krishnan.

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9. 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 Affirmative.

Issue No.3: In the Affirmative.

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

REASONS

10. 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.

11. 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.

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12. 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-16 documents. On the other hand in support of his defence, the defendant has examined himself as Dw.1 and the defendant has relied on Ex.D-1 to Ex.D-57 documents. For better appreciation of evidence, the evidence placed on record by both the parties are taken up together for simultaneous discussion.

13. In the case on hand the plaintiff has claimed that the suit property is his self-acquired property and the same was acquired by him under the registered sale deed dated 31/01/2011 registered as a document No.MIR-1-02044/2010-11 and as such the plaintiff has claimed himself to be the owner in actual possession and enjoyment of the suit property. In support of his said contention the plaintiff has relied on Ex.P-1 to Ex.P-16 documents.

14. It is the case of the plaintiff that originally the suit property belonged to his father, who had sold the suit property on 12/05/1983 to the vendor of the plaintiff namely Mr.H.V Padmanabhaiah. It is the case of the plaintiff that it is from said Mr.H.V Padmanabhaiah the plaintiff has purchased the suit property.

15. Ex.P-15 is a original registered sale deed dated 12/05/1983 registered as a document No.168/1983-84. Ex.P-15 is a registered

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as well as undisputed document and the same was marked in evidence without any objections from the defendant and his counsel. Ex.P-15 being a registered and undisputed document, the contents and the recitals of the Ex.P-15 sale deed proves and establishes that the suit property originally belonged to the father of the plaintiff and defendant namely Mr.H.M Ramakrishnegowda, who had sold the suit property to the vendor of the plaintiff namely Mr.H.V Padmanabhaiah under the Ex.P-15 sale deed.

16. Ex.P-1 is a original registered sale deed dated 31/01/2011 registered as a document No.MIR-1-02044/2010-11. Ex.P-1 is a undisputed document and the same is marked in evidence without any objections from the defendant and his counsel. Ex.P-1 being a registered as well as undisputed document, the same proves and establishes that the plaintiff has purchased the suit property from its previous vendor. Further, the Ex.P-1 being a registered as well as undisputed document, the contents and the recitals of the Ex.P-1 sale deed also proves and establishes that as on the date of execution of the Ex.P-1 sale deed itself, the possession of the suit property was handed over and delivered to the plaintiff herein. Ex.P-1 document proves and establishes that as on the date of execution of the Ex.P-1 sale deed itself, the plaintiff was put in possession of the suit property. Hence, the Ex.P-1 document proves and establishes the flow of title and possession of the suit property from the original owners unto the

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plaintiff.

17. Ex.P-14 is a certified copy of the encumbrance certificate in respect of the suit property. Even the Ex.P-14 is also a undisputed document and the same proves and establishes the factum of execution of Ex.P-1 sale deed in favour of the plaintiff by its previous owners. Combined reading of the Ex.P-1 and Ex.P-14 documents proves and establishes the factum of acquisition of the suit property by the plaintiff under the Ex.P-1 sale deed.

18. Dw.2 is none other than one of the executant of the Ex.P-1 sale deed in favour of the plaintiff. Dw.2 being one of the executant of the Ex.P-1 sale deed, at para No.1 of her cross-examination, she has categorically admitted the acquisition of the suit property by the plaintiff under the Ex.P-1 sale deed. The relevant portion of cross-examination of Dw.2 at para No.1 is extracted below:

1. ದಾವಾ ಆಸ್ತಿಯನ್ನು ನನ್ನ ತಂದೆ ನನ್ನ ಗಂಡನಿಗೆ ಮೊದಲು ಮಾರಾಟ ಮಾಡಿದ್ದರು ಎಂದರೆ ಸರಿ. ತದನಂತರದಲ್ಲಿ ನನ್ನ ಗಂಡನಾದ ಪೃಥ್ವಿನಾಭಯ್ಯರವರು ದಾವಾ ಆಸ್ತಿಯ ಮೇಲೆ ಬ್ಯಾಂಕಿನಿಂದ ಸಾಲವನ್ನು ಪಡೆದಿದ್ದರು ಎಂದರೆ ಸರಿ. ಸದರಿ ಬ್ಯಾಂಕ್ ಸಾಲವನ್ನು ತೀರಿಸಿಕೊಂಡು ವಾದಿಯು ನಮ್ಮಿಂದ ತಮ್ಮ ಹೆಸರಿಗೆ ದಾವಾ ಆಸ್ತಿಯ ಸಂಬಂಧ ಕ್ರಯ ಪತ್ರ ಬರೆಸಿಕೊಂಡಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.

19. Ex.P-4 is a certified copy of the demand register extract of the suit property for the year 2016-17. Even the Ex.P-4 is also a

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undisputed document and the mutation proceedings recorded at bottom of column No.14 to 28 of the Ex.P-4 document proves and establishes that subsequently on the basis of Ex.P-1 sale deed, the suit property was duly transferred and mutated to the name of the plaintiff herein. Ex.P-4 being the undisputed as well as public document, the same projects the name of the plaintiff herein as a owner and possessor of the suit property.

20. Ex.P-2 and Ex.P-3 are the Form No.9 and 11A in respect of the suit property and the same proves and establishes that subsequently even the E-khata of the suit property was also transferred to the name of the plaintiff herein on the basis of Ex.P-1 sale deed. Further, Ex.P-2 and Ex.P-3 being the Form No.9 and 11A in respect of the present suit property, the same depicts the name of plaintiff herein as a owner and possessor of the suit property.

21. Ex.P-9 to Ex.P-12 are the tax paid receipts in respect of the suit property and the same depicts the name of the plaintiff as a tax payer of the suit property. Ex.P-9 to Ex.P-12 are also the undisputed documents and the same proves and establishes that the plaintiff is also paying necessary tax to the concerned authority in respect of the suit property.

22. In support of his case, the plaintiff has also examined two independent witnesses as Pw.2 and Pw.3. In their evidence, the

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Pw.2 and Pw.3 have categorically deposed on oath about the possession of the plaintiff over the suit property. The Pw.2 and Pw.3 have deposed that it is the plaintiff who is in peaceful possession of the suit property. Though learned counsel for the defendant has cross-examined the Pw.2 and Pw.3 for a considerable length, nothing contrary was elicited from the mouth of the Pw.2 and Pw.3 and nor the testimony of the Pw.2 and Pw.3 were discredited. No doubt, in his cross-examination the Pw.3 has deposed that the persons appearing in the Ex.D-1 to Ex.D-4 photographs are the defendant, his wife and his son, but with that evidence of Pw.3 it cannot be said that the Pw.3 has admitted the possession of the defendant over the suit property for the reason that the evidence of the witness cannot be read in isolation and the evidence of the witness has to be read in its entirety. If the evidence of the Pw.3 is read in its entirety, the same discloses that throughout in his evidence the Pw.3 withstood in his testimony that it is the plaintiff who is in possession of the suit property. At no point of time the Pw.3 did not depose that the defendant is in possession of the suit property. Hence, the stray sentence deposed by the Pw.3 identifying the defendant and his family members in Ex.D-1 to Ex.D-4 photos will not go against the plaintiff. Thereby, the oral testimony of the Pw.1 to Pw.3 stood un-impeached. Combined reading of the documentary evidence placed on record along with the un-shaken testimony of Pw.1 to Pw.3 clearly proves

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and establishes the case of the plaintiff.

23. On the other hand, the defendant has seriously contested the suit by contending that the suit property was already partitioned in between himself and the plaintiff way back on 12/08/2011 and it is on the basis of the said partition deed, the defendant is in actual possession of the suit property by mutating the same to his name. Thereby, the defendant has contested the suit by vesting the possession of the suit property in himself. Further, the defendant has also contested the suit by contending that the suit property was purchased in the name of the plaintiff by utilizing the joint family fund, which is derived from the ancestral property. Therefore, the defendant has contended that the suit property is a joint family property of himself and the plaintiff. Thereby, the defendant has also contested the suit by vesting the co-ownership of the suit property in himself.

24. Ex.P-1 being a registered sale deed, the contents and the recitals of the Ex.P-1 document proves and establishes that it is the plaintiff who has purchased the suit property by paying the entire sale consideration to the vendors. Ex.P-1 being a sale deed in respect of the suit property, the same does not recites that the suit property was purchased in the name of the plaintiff for and on behalf of the joint family of the plaintiff and the defendant. So also the Ex.P-1 sale deed does not recites that it is from out of the income derived from the joint family fund/ancestral property the

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sale consideration was paid to the vendors. Rather, the Ex.P-1 being a registered sale deed in respect of the suit property, the contents and the recitals of the Ex.P-1 document proves and establishes that it is the plaintiff alone who has purchased the suit property by paying the entire sale consideration to the vendors. Hence, such being the case, by virtue of Sec.91 to Sec.94 of the Indian Evidence Act, the defendant is absolutely estopped from otherwise interpreting the contents of Ex.P-1 document by contending that the suit property was purchased in the name of the plaintiff by utilizing the joint family fund, which is derived from the ancestral property. Therefore, the claim of the defendant that the suit property is his joint family property and that he is a co-owner of the suit property is liable to be rejected out-rightly.

25. Further, the defendant was examined as Dw.1. At para No.2 and 3 of his cross-examination, the defendant/Dw.1 has given the following admissions:

2. ನನ್ನ ತಂದೆಯವರ ಮರಣದ ನಂತರ ನಾನು, ನನ್ನ ತಾಯಿಯಾದ ಹೆಚ್.ವಿ.ರಾಜೇಶ್ವರಿ ಮತ್ತು ನನ್ನ ಸಹೋದರರಾದ ವಾದಿ ಹಾಗೂ ಹೆಚ್.ಆರ್.ನರಸಿಂಹರಾಜುರವರು ದಿ: 29.02.1996 ರಲ್ಲಿ ಪಾಲುವಿಭಜನೆ ಮಾಡಿಕೊಂಡಿರುತ್ತೇವೆ ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ಕೇವಲ ಜಮೀನು ಗಳ ಸಂಬಂಧ ಮಾತ್ರ ನಾವು ಸದರಿ ಪಾಲುವಿಭಜನೆಯನ್ನು ಮಾಡಿಕೊಂಡಿರುತ್ತೇವೆ ಎಂದು ಸಾಕ್ಷಿಯು ನುಡಿದಿರುತ್ತಾರೆ. ದಿ: 29.02.1996 ರ ವಿಭಾಗ ಪತ್ರದ ಅಸಲು ಪ್ರತಿ ಎಲ್ಲಿ ಇರುತ್ತದೆ ಎಂದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ನನ್ನ ಬಳಿಯೂ ಸಹ ಸದರಿ ವಿಭಾಗ ಪತ್ರದ ಕೇವಲ ಜೆರಾಕ್ಸ್ ಪ್ರತಿ ಮಾತ್ರ

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ಇರುತ್ತದೆ ಎಂದು ಸಾಕ್ಷಿಯು ಸ್ವತಃ ನುಡಿದಿರುತ್ತಾರೆ.

3. ಸಾಕ್ಷಿಗೆ ಈಗ 29.02.1996 ರ ವಿಭಾಗ ಪತ್ರದ ಜೆರಾಕ್ಸ್ ಪ್ರತಿಯನ್ನು ತೋರಿಸಿದ್ದು ಸದರಿ ದಾಖಲೆಯನ್ನು ಸಾಕ್ಷಿಯು ನೋಡಿ ಒಪ್ಪಿಕೊಂಡಿರುತ್ತಾರೆ. ಸದರಿ ವಿಭಾಗಪತ್ರದ ಅಸಲು ಪ್ರತಿ ಎಲ್ಲಿ ಇದೆ ಎಂದು ಗೊತ್ತಿಲ್ಲ ಎಂದು ಸಾಕ್ಷಿಯು ಸ್ವತಃ ನುಡಿದಿದ್ದು, ಸದರಿ ವಿಭಾಗಪತ್ರದ ಪ್ರಾಥಮಿಕ ಪ್ರತಿ ಲಭ್ಯವಿರದ ಕಾರಣ ಹಾಗೂ ಸಾಕ್ಷಿದಾರರು ಸದರಿ ದಾಖಲೆಗಳಿಗೆ ಪಕ್ಷಗಾರರಾಗಿರುವ ಕಾರಣ ಮತ್ತು ಸದರಿ ದಾಖಲೆಯನ್ನು ಸಾಕ್ಷಿ ನೋಡಿ ಒಪ್ಪಿಕೊಂಡ ಕಾರಣ ಅದನ್ನು ನಿಪಿ.16 ಎಂದು ಗುರುತಿಸಲಾಯಿತು.

26. Ex.P-16 is a un-registered partition deed dated 29/02/1996 that was entered into in between the plaintiff, defendant and their siblings. Ex.P-16 is a photostat copy of the un-registered partition deed dated 29/02/1996 and the same is a secondary evidence. During the course of cross-examination of the defendant/Dw.1, he has categorically admitted that on 29/02/1996 there was a partition in between the plaintiff, defendant and their siblings as per Ex.P-16. So also the defendant/Dw.1 has categorically admitted that the original/primary evidence of Ex.P-16 document is not available and the same is misplaced. Thereby, the defendant/Dw.1 has categorically admitted about the partition that was taken place way back on 29/02/1996.

27. Dw.2 is none other than the sister of the plaintiff and the defendant herein. At para No.2 of her cross-examination, even the Dw.2 has also categorically admitted about the aforesaid partition of the year 1996. The relevant portion of cross-examination of the

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Dw.2 at para No.2 is extracted below:

2. ವಾದಿ ಮತ್ತು ಪ್ರತಿವಾದಿ ನನ್ನ ಸ್ವಂತ ಸಹೋದರರು. ನನ್ನ ತಂದೆಯವರಿಗೆ ಸೇರಿದ ಆಸ್ತಿಗಳೆಲ್ಲವೂ 1996 ರಲ್ಲಿ ವಿಭಾಗ ಮಾಡಿಕೊಂಡಿರುತ್ತೇವೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ಪಾಲು ವಿಭಜನೆಯಲ್ಲಿ ತಮ್ಮ ಹಿಸ್ಸೆಗೆ ಬಂದಿದ್ದ ಆಸ್ತಿಯನ್ನು ಪ್ರತಿವಾದಿಯು ರಾಜನಾಯಕ ಬಿನ್ ಜವರನಾಯಕ ಎನ್ನುವವರಿಗೆ ಮಾರಾಟ ಮಾಡಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.

28. The Ex.P-16 being a un-registered partition deed, no doubt this court cannot rely on the same, but the aforesaid admissions given by the Dw.1 and Dw.2 regarding the earlier partition that was taken place on 29/02/1996 proves and establishes that way back on 29/02/1996 itself the family of the plaintiff and the defendant was separated by virtue of the partition. Further, the admission given by the Dw.2 in her cross-examination referred above, the same proves and establishes that even the earlier partition dated 29/02/1996 is also acted upon by the defendant by alienating the property which had fallen to his share in the said partition. Hence, there cannot be a joint family status in between the plaintiff and the defendant after the partition.

29. Ex.P-1 being a registered sale deed in respect of the suit property, the same proves and establishes that the plaintiff had purchased the suit property in the year 2011, which is after the lapse of 18 long years from the date of earlier partition dated 29/02/1996. Hence, on combined reading of the admissions given by the Dw.1 and Dw.2 referred above coupled with the Ex.P-1

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document proves and establishes that the suit property was purchased by the plaintiff after the partition and after the severance of the joint family status. Therefore it cannot be held that the suit property is a joint family property of the defendant. Hence, even on this ground also the claim of the defendant that the suit property is his joint family property and that he is a co-owner of the suit property is liable to be rejected out-rightly.

30. Further, on the basis of the un-registereed partition dated 12/08/2011 the defendant has vested the co-ownership and possession of the suit property in himself. In support of his defence, the defendant has relied on Ex.D-53 document. Ex.D-53 is a un-registered partition deed dated 12/08/2011. I have carefully gone through the Ex.D-53 partition deed. The contents and the recitals of Ex.D-53 document discloses that under the Ex.D-53 document the parties of this suit have allegedly divided the suit property with metes and bounds. Hence, there is a alleged division of the suit property under the Ex.D-53 partition deed with metes and bounds, thereby conveying the right, title and interest over the suit property to the parties to this suit. Since there is a actual division of immovable property with metes and bounds having value of more than 100 Rupees, the Ex.D-53 partition deed requires compulsory registration as per Sec.17(1)(b) of the Registration Act. In view of the recitals found in Ex.D-53 partition deed, it is manifest that there is a allotment of specific property to

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the parties to the said document with metes and bounds and therefore, the Ex.D-53 document falls within the mischief of Sec.17(1)(b) of the Registration Act and thereby, the Ex.D-53 document needs compulsory registration. But Ex.D-53 is a unregistered document and it follows that the Ex.D-53 document can not be relied on to prove the earlier partition. No doubt the defendant has paid the deficit stamp duty and penalty on Ex.D-53 document, but that will not cure the defect of non-registration. Hence, Ex.D-53 document can not be relied on to prove the alleged earlier partition. Hence, the Ex.D-53 document is liable to be ignored.

31. Further, though learned counsel for the defendant has cross-examined the plaintiff regarding the Ex.D-53 partition deed, but no admissions could be elicited from the mouth of the plaintiff regarding the Ex.D-53 partition deed. So also no admissions could be elicited from the mouth of the plaintiff regarding the alleged earlier partition as per the Ex.D-53 partition deed. Further, the plaintiff has also seriously denied and disputed the execution of Ex.D-53 partition deed by denying and disputing his signatures appearing in the Ex.D-53 partition deed. The plaintiff has contended that there was no such partition taken place in between himself and the defendant at any point of time as per Ex.D-53 and that the plaintiff has contended that he has never executed any partition deed as per Ex.D-53 at any point of time.

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Thereby, the very execution of the Ex.D-53 partition deed as well as the signatures of the plaintiff in the Ex.D-53 partition deed was seriously denied and disputed by the plaintiff. Since the Ex.D-53 partition deed was in serious dispute, the burden was heavily on the shoulders of the defendant to prove the Ex.D-53 partition deed. At para No.4 of cross-examination of plaintiff/Pw.1, learned counsel for the defendant has made following suggestion to the plaintiff:

4. ಸಾಕ್ಷಿಗೆ ಈಗ ದಿ:12.08.2011 ರಂದು ಆದ ವಿಭಾಗ ಪತ್ರವನ್ನು ತೋರಿಸಿದ್ದು ಅದರಲ್ಲಿ ಇರುವ ಸಹಿಗಳನ್ನು ಸಾಕ್ಷಿಗೆ ತೋರಿಸಿದಾಗ ಅದು ತಮ್ಮ ಸಹಿಯಲ್ಲ ಎಂದು ಹೇಳಿದ್ದು ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ಸದರಿ ವಿಭಾಗ ಪತ್ರವು ಸುಳ್ಳು ದಾಖಲೆಯಾಗಿರುತ್ತದೆ ಎಂದು ಹೇಳಿರುತ್ತಾರೆ. ಸದರಿ ವಿಭಾಗಪತ್ರದಲ್ಲಿ ಇರುವ ಸಹಿಗಳನ್ನು ಮತ್ತು ಈ ದಾವೆಯ ವಾದಪತ್ರದಲ್ಲಿ, ನನ್ನ ವಕಾಲತ್ ನಲ್ಲಿ ಮತ್ತು ಸಾಕ್ಷಿ ವಿಚಾರಣೆಯಲ್ಲಿ ಇರುವ ಸಹಿಗಳನ್ನು ವಿಧಿ ವಿಜ್ಞಾನ ಪ್ರಯೋಗಾಲಯಕ್ಕೆ ಪರಿಶೀಲನೆ ಕಳುಹಿಸಲು ನನ್ನ ಅಭ್ಯಂತರವಿರುವುದಿಲ್ಲ.

32. Though learned counsel for the defendant has cross examined the plaintiff/Pw.1 by suggesting that if he has any objection to send the disputed signatures of the plaintiff in the Ex.D-53 document to the handwriting expert for comparison with his admitted signatures in his vakalath, pleading and evidence, the plaintiff has deposed that he has no objection for the same. In spite of it, no efforts were made by the defendant to refer the disputed signatures of the plaintiff in the Ex.D-53 document to the handwriting expert for comparison with his admitted

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signatures. In order to prove the execution of the Ex.D-53 partition deed, the defendant must prove that the signatures appearing in the Ex.D-53 partition deed is that of the plaintiff itself. But, in spite of there being specific denial on the part of the plaintiff about his signatures in the Ex.D-53 partition deed as well as in spite of there being specific denial on the part of the plaintiff about the execution of the Ex.D-53 partition deed, the defendant has not made any efforts to refer the disputed signatures of the plaintiff in the Ex.D-53 document to the handwriting expert for comparison with his admitted signatures. The signatures appearing in the Ex.D-53 partition deed is not proved to be the signatures of the plaintiff. Thereby, the very execution of the Ex.D-53 partition deed by the plaintiff is not proved by the defendant. Therefore, on this count also the Ex.D-53 partition deed is liable to be ignored.

33. Further, at para No.2 of his written statement, the defendant has pleaded that it is on the basis of consent given by the plaintiff the suit property was mutated to his name. On the other hand, at para No.4 of cross-examination of the plaintiff/Pw.1, suggestion was made stating that it is on the basis of Ex.D-53 partition deed, the suit property was mutated to the name of the defendant herein. The relevant portion of para No.2 of the written statement is extracted below:

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The suit schedule property has been purchased by the joint family profits i.e., the profits arised out of ancestral properties in the name of plaintiff, but still the plaintiff and the defendants are living in the joint family, but **with the consent of plaintiff the khata of the suit schedule property was changed to the name of defendant** in order to get loan for joint family necessity.

34. The relevant portion of para No.4 of cross-examination of the plaintiff/Pw.1 is extracted below:

4. ಸಾಕ್ಷಿಗೆ ಈಗ ದಿ:12.08.2011 ರಂದು ಆದ ವಿಭಾಗ ಪತ್ರವನ್ನು ತೋರಿಸಿದ್ದು ಅದರಲ್ಲಿ ಇರುವ ಸಹಿಗಳನ್ನು ಸಾಕ್ಷಿಗೆ ತೋರಿಸಿದಾಗ ಅದು ತಮ್ಮ ಸಹಿಯಲ್ಲ ಎಂದು ಹೇಳಿದ್ದು ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ಸದರಿ ವಿಭಾಗ ಪತ್ರವು ಸುಳ್ಳು ದಾಖಲೆಯಾಗಿರುತ್ತದೆ ಎಂದು ಹೇಳಿರುತ್ತಾರೆ. ಸದರಿ ವಿಭಾಗಪತ್ರದಲ್ಲಿ ಇರುವ ಸಹಿಗಳನ್ನು ಮತ್ತು ಈ ದಾವೆಯ ವಾದಪತ್ರದಲ್ಲಿ, ನನ್ನ ವಕಾಲತ್ ನಲ್ಲಿ ಮತ್ತು ಸಾಕ್ಷಿ ವಿಚಾರಣೆಯಲ್ಲಿ ಇರುವ ಸಹಿಗಳನ್ನು ವಿಧಿ ವಿಜ್ಞಾನ ಪ್ರಯೋಗಾಲಯಕ್ಕೆ ಪರೀಕ್ಷೆಗೆ ಕಳುಹಿಸಲು ನನ್ನ ಅಭ್ಯಂತರವಿರುವುದಿಲ್ಲ. **ಸದರಿ ವಿಭಾಗಪತ್ರದ ಆಧಾರದ ಮೇಲೆ ದಾವಾ ಆಸ್ತಿಯ ಖಾತೆಯು ಪ್ರತಿವಾದಿಯ ಹೆಸರಿಗೆ ವರ್ಗಾವಣೆಯಾಗಿತ್ತು ಎಂದರೆ ಸರಿಯಲ್ಲ.**

35. There is a total contradiction in between the defense set up in the pleadings and evidence of the defendant. In his written statement at one stretch the defendant has pleaded that it is on the basis of consent given by the plaintiff the suit property was mutated to his name and on other stretch suggestion was made to the plaintiff stating that it is on the basis of Ex.D-53 partition

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deed, the suit property was mutated to the name of the defendant. Hence, the above contradiction goes to show that the defendant himself is not aware as to how and on what basis the suit property was mutated to his name. Therefore, the mutation of the suit property to the name of the defendant if any, the same is without any basis. Hence, the mutation of the suit property to the name of the defendant if any, without any basis will neither create any cloud on the title of the plaintiff over the suit property nor will such mutation of the suit property to the name of the defendant will take away the right, title and interest of the plaintiff over the suit property.

36. It is significant to note here that, by relying on Ex.D-53 partition deed, the defendant has contested the suit by contending that the suit property is already partitioned in between himself and the plaintiff. On the other hand, at para No.2 to 4 of his written statement as well as at para No.6 and 7 of cross-examination of plaintiff/Pw.1, the defendant has contended that the suit property still is a joint family property and himself as well as the plaintiff are the co-owners in joint possession of the suit property. The relevant portion of para No.2 to 4 of the written statement is extracted below:

2. The plaintiff and the defendant are living jointly in the suit schedule property as joint owners.

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3. The pleadings of the plaintiff itself shows that, he is residing at Bengaluru city, but he is frequently visited to Hampapura village, but defendant is residing in the suit schedule property, but possession of the suit schedule property is joint in nature. The defendant never obstructed or interfere the joint possession and enjoyment of the suit schedule property, because the suit schedule property is joint Hindu family property.

4. The plaintiff itself alleged false allegations against the defendant, infact the suit schedule property and other ancestral property is in joint possession of plaintiff and defendant.

37. The relevant portion of para No.6 and 7 of cross-examination of the plaintiff/Pw.1 is extracted below:

ದಾವಾ ಆಸ್ತಿಯು ನನ್ನ ಮತ್ತು ಪ್ರತಿವಾದಿಯ ಜಂಟಿ ಕುಟುಂಬದ ಆಸ್ತಿಯಾಗಿದ್ದು ನಾನು ಮತ್ತು ಪ್ರತಿವಾದಿ ದಾವಾ ಆಸ್ತಿಯ ಜಂಟಿ ಮಾಲೀಕರಾಗಿರುತ್ತೇವೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.

ಇಂದಿನವರೆಗೂ ನನ್ನ ಮತ್ತು ನನ್ನ ಸಹೋದರರ ಮಧ್ಯೆ ದಾವಾ ಆಸ್ತಿಯ ಸಂಬಂಧ ಹಾಗೂ ನನ್ನ ತಂದೆಯ ಆಸ್ತಿಗಳ ಸಂಬಂಧ ಯಾವುದೇ ಪಾಲು ವಿಭಜನೆ ಆಗಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ.

38. After the partition, the sharers will no more remain as co-owners nor their possession over the property so partitioned will remain as joint possession. After the partition, the property so partitioned will also no more remain as joint family property. It is

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significant to note here that, by relying on Ex.D-53 partition deed, though the defendant has contested the suit by contending that the suit property is already partitioned in between himself and the plaintiff, but in his written statement at para No.2 to 4 as well as during the course of cross-examination of plaintiff, the defendant has contended that the suit property still continued to be the joint family property and himself as well as the plaintiff are the co-owners of the suit property. The above referred pleadings and the evidence of the defendant is contrary to the Ex.D-53 partition deed, as per which the plaintiff and the defendant have allegedly partitioned the suit property with metes and bounds. Therefore, the Ex.D-53 partition deed as well as the claim of the defendant about his co-ownership and joint possession over the suit property is liable to be rejected out-rightly.

39. Viewing from any angle, the defendant could not able to establish the defense set up by him in this suit. So also the defendant could not establish his possession over the suit property. Merely because the defendant has taken the photographs of himself and his family members in the suit property as per Ex.D-1 to Ex.D-4, that cannot be a proof of possession of the defendant and his family members over the suit property. The defendant has claimed that ever since from the date of Ex.D-53 partition deed in the year 2011, he is in possession of the suit property along with his family members. If that was true,

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then at least the defendant could have produced the Aadhar card and Voters Identity card of the defendant and his family members in order to prove that the defendant and his family members are residing in the suit property ever since from 2011. At least the defendant could have produced his ration card in order to prove that the defendant and his family members are residing in the suit property. But no such evidence is placed before this court by the defendant in order to prove that the defendant and his family members are residing in the suit property. The Ex.D-5 to Ex.D-7, Ex.D-52 documents establishes that the same are pertaining to the property measuring 162.21 feet. Even the Western side boundary of the property covered under the Ex.D-5 to Ex.D-7, Ex.D-52 documents does not tally with the suit property. Hence, it cannot be said that the Ex.D-5 to Ex.D-7, Ex.D-52 documents are pertaining to the suit property. Moreover, the Ex.D-5 and Ex.D-6 documents are pertaining to the year 2016, which is 6 years before filing of this suit. Hence, it cannot be said that the defendant is in possession of the suit property. Therefore, in view of the above discussions, with due respect, the decisions relied on by counsel for defendant is not applicable to the case on hand.

40. Viewing from any angle, the defendant could not able to establish his possession over the suit property. On the other hand, the oral and documentary evidence placed on record by the plaintiff, coupled with the admission of the defendant clearly

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proves and establishes the possession of the plaintiff 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.**

41. 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.

42. The plaintiff has filed the present suit alleging that the defendant has caused illegal interference to his peaceful possession over the suit property. At para No.7 of his cross-examination, the defendant/Dw.1 has categorically admitted that when he had caused interference, the plaintiff had lodged complaint as against him before the police station. The relevant portion of cross-examination of defendant/Dw.1 at para No.7 is extracted below:

7. ನಾನು ವಾದಿಗೆ ತೊಂದರೆ ಕೊಟ್ಟಾಗ ವಾದಿಯು ನನ್ನ ವಿರುದ್ಧ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ದೂರನ್ನು ನೀಡಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.

43. The above admission made by the defendant itself is sufficient to hold that the defendant has caused interference to the peaceful

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possession of the plaintiff over the suit property. Further, the defendant has contested this suit by vesting the possession of the suit property in himself. On the other hand, it is proved that the possession of the suit property vests with the plaintiff. Without having any manner of right over the suit property when the defendant has contested the suit by claiming to be in possession of the suit property, the past invasion on the part of the defendant to the peaceful possession of the plaintiff over the suit property cannot be ruled out. Accordingly, I conclude that the interference on the part of the defendant is established. **Accordingly, I answer Issue No.2 in the Affirmative.**

44. 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. As held in Issue No.2, the interference on the part of the defendant is also held to be proved. When the key ingredients for grant of perpetual injunction are made out by the plaintiff, this court does not find any reason to deny the most equitable relief of perpetual injunction to the plaintiff. 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

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of this court receives support from the decision of the Honourable 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 defendants, may be at a particular point of time the defendants 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”.

45. 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 defendants 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

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the plaintiff. If there is going to be no interference, the defendants is not prejudiced and passing such an order is not going to affect the defendants 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.”

46. In the instant case the possession of the plaintiff over the suit property is held to be proved. Apprehending that the defendants 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 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. The plaintiff being in possession of the suit property, he is entitled to own, possess and enjoy the suit property without any sorts of interference. Accordingly, I hold that the plaintiff is entitled to the most equitable relief of perpetual injunction. **Accordingly, I**

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answer Issue No.3 in the Affirmative.

47. 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 stands disposed off accordingly.

Draw decree accordingly.

(Dictated to the Stenographer, typed by her, and the transcript revised and corrected by me and then pronounced in the open court on this **1st day of June, 2026**).

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

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

PW-1: Shri.Hemanthkumar H.R S/o Late H.M Ramakrishnegowda.
PW-2: Shri.Narasimhegowda H.N S/o Nagarajegowda.
PW-3: Shri.Avinash H.R S/o Late Ramegowda.

List of Documents marked on behalf of the Plaintiff

Ex.P-1: Original Sale deed dated 31/01/2011.
Ex.P-2: Form No.9.
Ex.P-3: Form No.11A.
Ex.P-4: Certified copy of the demand register extract.
Ex.P-5 to 8: Electricity bills.
Ex.P-9 to 12: Tax paid receipts.
Ex.P-13: Tax invoice
Ex.P-14: Encumbrance certificate.
Ex.P-15: Original Sale deed dated: 12/05/1983.
Ex.P-16: Copy of un-registered Partition deed dated 29/02/1996.

List of Witnesses examined on behalf of the Defendant

DW-1: Sri.Ramesha H.R S/o Ramakrishnegowda H.M.
DW-2: Sri.H.R Hemavathi D/o Late H.M Ramakrishnegowda.
DW-3: Sri.H.N Ramegowda S/o Late Patel Narasimhegowda.

List of Documents marked on behalf of the Defendant

Ex.D-1 to Ex.D-4: Photographs
Ex.D-5: Form No.9.
Ex.D-6: Form No.11A.
Ex.D-7: Encumbrance certificate.
Ex.D-8: Certificate issued by CHESCOM.
Ex.D-9 &10: Tax paid receipts
Ex.D-11 to 13: Certified copies of the demand register extracts.
Ex.D-14 to Ex.D-51: Electricity bills.
Ex.D-52: Certified copy of memorandum of deposit of title deed.
Ex.D-53: Un-registered Partition deed dated 12/08/2011.
Ex.D-54: Complaint submitted to Zilla Panchayath.



Ex.P-55: Complaint submitted to Taluk Panchayath.
Ex.P-56: Complaint submitted to Grama Panchayath.
Ex.P-57: Complaint submitted to Grama Panchayath.

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