

KAMS410021202019



Form No. 9 (Civil)  
Title Sheet for  
Judgment in suits  
(R P 91)

GOVERNMENT OF KARNATAKA  
TITLE SHEET FOR JUDGMENT IN SUITS

**IN THE COURT OF THE PRL. CIVIL JUDGE AND  
JMFC., AT K.R.NAGARA**

Dated this the 17<sup>th</sup> day of August 2021

**PRESENT :- SMT. PAVITHRA R., B.A., L.L.B.,**  
Prl. Civil Judge and JMFC.,  
K.R.Nagara

**O.S./197/2019**

**PLAINTIFF/S:** Sudarshan H.T.,  
S/o. Late. Theerthe Gowda,  
Aged about 65 years,  
Resident of Hosuru Village,  
Karimsabi Galli, B.H.Road,  
Chunchanakatte Hobli,  
K.R.Nagara Taluk.

**(Rep.by Sri.L.V.Ravi Shankar Advocate)**

-VS-

**DEFENDANT/S:** **1.** C.Kamamma,  
W/o Late Ninge Gowda,  
Aged about 53 years,  
**2.** Chetan Kumar,  
D/o Late Ninge Gowda,  
Aged about 34 years,

**3.** Chandrakala,  
D/o Late Ninge Gowda,  
Aged about 32 years,  
Working as cook at Government  
Higher Primary School,  
Chikkanayakanahalli,  
Saligrama Hobli, K.R.Nagara Taluk.

**4.** Vijayakala,  
D/o Late Ninge Gowda,  
Aged about 30 years,  
R/at Hannalu Village,  
Ramnathpura Hobli,  
Arakalagudu Taluk,  
Hassan District.

**5.** Shashikala,  
D/o Late Ninge Gowda,  
Aged about 30 years,

**6.** Sarojamma,  
W/o Subbe Gowda,  
Aged abpit 50 years,

Defendant No.1, 2, 5 and 6 are  
R/at Hosuru,  
Chunchanakatte Hobli,  
K.R.Nagara Taluk.

**(D1 & 2 Rep. By Sri. H.S.C. Advocate  
D4 is Rep. by Sri. C.L.M. Advocate  
Defendant No.3, 5 and 6– Exparte)**

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**2. The brief facts of the plaint are as follows:**

That the plaintiff submits that one Ninge Gowda S/o Hanumegowda @ Kulla Hanume Gowda was the absolute owner of the agricultural land bearing Sy.No.16/10 measuring to an extent 05 guntas excluding 06 guntas of kharab situated at Hosuru Village, Chunchanakatte Hobli, K.R.Nagara Taluk (Suit schedule property). His son Hanumegowda for his family's legal necessity sold the suit schedule property in favour of the plaintiff under registered sale deed dated 14.08.1972 followed by delivery of possession, since then the plaintiff is the absolute owner and in possession and enjoyment over the suit schedule property. That the plaintiff during the year 1972 owned and possessed land bearing Sy.No.17/8 along with his father H.T.Theerthe Gowda which is situated to the northern side of the plaint schedule property to have free ingress and egress to the plaint schedule property. After the purchase of the plaint schedule property due to his prolonged absence the

revenue documents were not transferred and mutated in his name. His father died on 01.06.2006 who was managing the plaintiff's entire family property and under such circumstances the plaintiff remained ignorant of the revenue records. The plaintiff recently on 23.06.2017 secured revenue records in respect of plaintiff schedule property and got to know that the mutation entries stood in the name of 1<sup>st</sup> defendant. That the 1<sup>st</sup> defendant is none other than the daughter-in-law of his vendor Hanumegowda i.e., W/o Ningegowda who died 25 years back. The 1<sup>st</sup> defendant having knowledge about the sale deed got mutated her name in the revenue records taking undue advantage of the entries stood in the name of plaintiff's vendor. The defendant No.2 to 5 are the children of 1<sup>st</sup> defendant and 6<sup>th</sup> defendant is the daughter of Hanumegowda. The plaintiff approached the 1<sup>st</sup> defendant for an amicable settlement requesting 1<sup>st</sup> defendant to give consent for mutation entries. But, the same failed. The plaintiff came to know that the 1<sup>st</sup>

defendant has taken crop loan from various bank by providing revenue records the plaintiff schedule property to make wrongful gain. That the plaintiff has got absolute right, title and interest over the plaintiff schedule property. The cause of action arose and from 23.06.2018 when plaintiff came to know about the illegal entries made in revenue records. Hence, this suit.

3. On service of suit summons to the defendants, the defendant No.1, 2 and 4 have appeared before the Court through their counsels. But in spite of giving sufficient opportunity to them, they have not filed their written statement, hence written statement of those defendants is taken as not filed. The defendant No.3, 5 and 6 did not choose to appear in the matter. Hence, they have placed *exparte*.

4. In order to prove the case of the plaintiff, plaintiff got examined himself as PW.1 and produced 7

documents marked as Ex.P.1 to P.7. On the other hand, the evidence of the defendants taken as nil.

5. Heard both sides and perused the documents available on record.

6. The following points would arise for consideration of the Court:

1. Whether the plaintiff proves that, he is an absolute owner and in peaceful possession and enjoyment over the suit schedule property as on the date of the suit?
2. Whether the plaintiff proves that, the defendants are interfering with his peaceful possession and enjoyment over the suit schedule property?
3. Whether the plaintiff is entitled for the relief as sought for?
4. What Order or Decree?

7. Findings to the above points are as under:

- |             |   |
|-------------|---|
| Point No.1: | In the affirmative                        |
| Point No.2: | In the affirmative                        |
| Point No.3: | In the affirmative                        |
| Point No.4: | As per the final order for the following: |

## **REASONS**

**8. Point No.1 to 3:-** Since these points are interlinked to each other, they are taken up together for common discussion in order to avoid repetition of facts.

9. In order to substantiate the case of the plaintiff and to prove the contention taken in the plaint, plaintiff himself examined as PW.1 and he has filed chief examination affidavit and reiterated the entire plaint averments. In support of plaintiff's case, got produced 7 documents marked as as follows.....

(i) Ex.P.1 is the sale deed dated 14.08.1972 executed by Hanumegowda in favour of the plaintiff with respect to suit schedule property.

(ii) Ex.P.1(a) is the certified copy of sale deed dated 14.08.1972.

(iii) Ex.P.2 and 3 are the hand written RTCs standing in the name of Ningegowda S/o Hanumegowda.

(iv) Ex.P.4 and 5 are the computerized RTCs standing in the name of Kamalamma defendant No.1 wife of Ningegowda.

(v) Ex.P.6 is the certified copy of M.R showing entries of Ningegowda with respect to suit schedule property.

(vi) Ex.P.7 is the encumbrance certificate showing the alienation vide sale deed dated 14.08.1972 executed by Hanumegowda in favour of the plaintiff with respect to suit schedule property.

10. On looking into the evidence of PW.1 and contents of Ex.P.1 to P.7 it clearly goes to show that, the averments made in the evidence of PW.1 are clearly substantiated by contents of the documents. Ex.P.1 and 1(a) are the title document styled as sale deed registered as per section 17 of the Registration Act, which establishes that the plaintiff is an absolute owner and in possession over the suit schedule property from the date of purchase of the same. The revenue documents Ex.P2 to 6 are still forthcoming in the names of plaintiff's vendors' family members for the reasons best stated by the plaintiff in his plaint.

11. The title of the plaintiff is based on registered sale deed which is utmost important in a suit for declaration of title since it is a documentary evidence. The ownership and possession of the plaintiff is established and proved by the plaintiff by producing Ex.P1 and getting admitted in his evidence. Thus, the plaintiff has proved his title and

possession over the suit schedule property as on date of filing of the suit.

12. In this suit though, in spite of giving sufficient opportunity to the defendants, they have failed to file their written statement, which clearly discloses that, defendants have not challenged the contention of the plaintiff and contents of the documents by adducing any contra evidence or by producing any documents on their behalf. There is no contra evidence or documents to disbelieve the contention taken by the plaintiff. Therefore, it clearly shows that, plaintiff is in absolute possession and enjoyment over the suit schedule property. Since the defendants have not contested the suit, there is no ground to disbelieve the contention of the plaintiff with regard to interference made by the defendants to the plaintiff's possession and enjoyment over the suit schedule property. Hence, plaintiff has rightly filed this suit for declaration and permanent injunction and he is entitled to the relief sought. In the above facts and circumstances of the case, the court is of the opinion that, plaintiff has proved the point No.1 to 3 to the satisfaction of this court. Hence, the

court answers the point No.1 to 3 in the affirmative.

**13. Point No.4:-** For the foregoing reasons, discussion and findings to the above points, the court proceeds to pass the following:-

**ORDER**

The suit of the plaintiff is hereby decreed with costs.

Accordingly, it is hereby declared that, the plaintiff is the absolute owner.

The defendants and anybody on their behalf are hereby restrained from interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property by way of permanent injunction.

Draw decree accordingly.

(Dictated to Stenographer, transcribed by her on computer, revised, corrected, signed and then pronounced by me in the open court on this the 17<sup>th</sup> day of August 2021)

**(PAVITHRA R)**  
Prl. Civil Judge & JMFC  
K.R.Nagara

**ANNEXURE**

**1. List of witnesses examined for the plaintiff/s:**

P.W.1 : Sudarshan

**2. List of witnesses examined for the defendant/s**

-Nil-

**3. List of documents exhibited for the plaintiff/s:-**

Ex.P.1 : Sale deed dated 14.08.1972  
Ex.P.1(a) : Certified copy of sale deed  
Ex.P.2 & 3 : Hand written RTC extracts  
Ex.P.4 & 5 : Computerized RTC extracts  
Ex.P.6 : Certified copy of MR  
Ex.P.7 : Encumbrance Certificate

**4. List of documents exhibited for the defendant/s:-**

-Nil-

**(PAVITHRA R)**

Prl. Civil Judge & JMFC,  
K.R.Nagara