

KAMS610041372019



**IN THE COURT OF THE PRL.CIVIL JUDGE AND JMFC.,
AT PERIYAPATNA.**

-: P R E S E N T :-

Sri.YOGESHA M.R.,_{BA.LLB.},
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

*Dated this the **02nd day of APRIL, 2026.***

OS.No.323/2019

PLAINTIFF/S : 1. Ramesha,
S/o late Chikkegowda,

2. Jagadeesha, 58 yrs,
S/o late Chikkegowda,

3. Jayanna, 45 yrs,
S/o late chikkegowda,

The plaintiffs are R/at
Harave Mallarajapattana Village,
Kasaba Hobli,
Periyapatna Taluk,
Mysuru District.

*(Represented by Sri. **GCG.**, Adv)*

V/s

DEFENDANT/S : 1. P.R.Shivananda, 70 yrs,
S/o late P.N.Rudrappa,
R/at Gonikoppa Road,
Besides Junior College,
Periyapatna Town and Taluk,

- Mysuru District.
- 2.** Prema, 55 yrs,
W/o Rajegowda,
D/o late Chikkegowda,
R/at Doddabelalu Village,
Ravanduru Hobli,
Periyapatna Taluk,
Mysuru District.
- 3.** Shoba, 46 yrs,
W/o Chandrashekhara,
D/o late Chikkegowda,
R/at Chapparadahalli Village,
Haranahalli Village,
Periyapatna Taluk,
Mysuru District.

(Dft-1 Represented by Sri.**NK.**, Adv)

(Dft-2 & 3 Represented by Sri.**KS.**, Adv)

Date of Institution of Suit : **16.11.2019**

Nature of Suit : **DECLARATION AND
RECOVERY OF POSSESSION**

Date of commencement of trial : **21.08.2023**

Date on which the Judgment : **02.04.2026**

was pronounced

Duration of Suit : **YEAR/S MONTH/S DAY/S**
06 04 18

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

-: J U D G M E N T :-

The plaintiffs have filed the present suit against the defendants for the relief of Declaration and Recovery of Possession in respect of the suit schedule property.

2. The brief facts of the plaintiff's case is as under;

(a). The plaintiffs are the absolute owners in possession and enjoyment of the suit schedule property and the same was standing in the name of the grandmother of the plaintiffs i.e., Hombalamma. The said Hombalamma is having only son by name Chikkegowda. The said Chikkegowda also died on 22.11.2014. The plaintiffs are the children of the said Chikkegowda and the absolute owners of the suit schedule property. The plaintiffs given permission to defendants to carryout the agricultural activities in the suit schedule property and in return give the half share in respect of the earnings from the suit schedule property.

(b). In the said manner, the defendants are in permissive possession of the suit schedule property. The

defendants have no manner of right and title over the suit schedule property at any point of time. However, the defendants by colluding with revenue officials got the katha in their favour and the same came to the knowledge of the plaintiffs on 28.10.2019. Thereafter, the plaintiffs demanded the defendants to vacate and handover the vacant possession of the suit schedule property. However, the defendants refused to vacate the suit schedule property. *Hence, this suit.*

3. After institution of the suit, the summons was issued to the defendants. The defendants appeared through their counsel and defendant No.1 filed the written statement from his side by denying the plaint averments and prayed to dismiss the suit with exemplary cost. The defendant No.2 and 3 not filed written statement from their side.

4. The sum and substance of written statement of defendant No.1 as under ;

(a). The brother of the defendant by name P.R.Sadashivappa purchased the suit schedule property and land bearing Sy.No.27 from its previous owner by name Kalegowda S/o Ninegowda, Dasharatha S/o Kalegowda,

Chikkegowda S/o Ningegowda and Jagadisha S/o Chikkegowda under a Registered Sale Deed Dated 22.02.1989. From the date of purchase, the said P.R.Sadashivappa was in possession of the suit schedule property and the katha was also mutated in his name.

(b). Thereafter, the Registered Partition Deed Dated 11.10.1999 was effected among the P.R.Sadashivappa, defendant No.1 and other family members in respect of the suit schedule property and other properties. Accordingly, the suit schedule property was fell to the share of the defendant No.1 and the katha of the same was mutated in the name of the defendant No.1. In the said manner, the defendant No.1 is in possession of the suit schedule property as its absolute owner. The plaintiffs are not having any right and title over the suit schedule property. *Hence, prayed to dismiss the suit with exemplary cost.*

5. On the basis of the above pleadings, this court has framed the following issues ;

∴ I S S U E S ∴

1. *Whether the plaintiffs prove that, they are the absolute owners of the suit schedule property ?*
2. *Whether the plaintiffs prove that, they are entitled for recovery of possession of the suit schedule property ?*
3. *Whether the defendant No.1 proves that, his brother by name P.R.Sadasivappa purchased the suit schedule property along with other properties through a Registered Sale Deed Dated 22.02.1989 ?*
4. *Whether the defendant No.1 proves that, through a Registered Partition Deed Dated 11.10.1999, the suit schedule property fell to the share of the defendant No.1 ?*
5. *Whether the plaintiffs are entitled for the reliefs as claimed in the plaint ?*
6. *What order or decree ?*

6. To substantiate the case, the plaintiff No.1 examined himself as PW.1 and adduced as many as 3 documents as per Ex.P1 to Ex.P3. Thereafter, the plaintiff

No.2 examined himself as PW.2 and adduced as many as 20 documents as per Ex.P4 to 23. On the other hand, defendant No.1 examined himself as DW.1 and adduced as many as 10 documents as per Ex.D1 to D10.

7. Heard the arguments from both sides and perused the material available on record.

8. On the basis of oral and documentary evidence put forth by the parties to the suit and arguments advanced by both the counsels, this court findings to the above issues are as under;

ISSUE NO.1	:	NEGATIVE
ISSUE NO.2	:	NEGATIVE
ISSUE NO.3	:	AFFIRMATIVE
ISSUE NO.4	:	AFFIRMATIVE
ISSUE NO.5	:	NEGATIVE
ISSUE NO.6	:	As per the final order

for the following;

:- R E A S O N S :-**ISSUE No.1 TO 4:-**

9. As these issues are interrelated to each other, they are taken up together in order to avoid the repetition of facts and for better appreciation of the evidence.

10. The case of the plaintiffs is that, the plaintiffs are the absolute owners in possession and enjoyment of the suit schedule property and the same was standing in the name of the grandmother of the plaintiffs i.e., Hombalamma. The said Hombalamma is having only son by name Chikkegowda. The said Chikkegowda also died on 22.11.2014. The plaintiffs are the children of the said Chikkegowda and the absolute owners of the suit schedule property. The plaintiffs given permission to defendants to carryout the agricultural activities in the suit schedule property and in return give the half share in respect of the earnings from the suit schedule property. In the said manner, the defendants are in permissive possession of the suit schedule property. The defendants have no manner of right and title over the suit

schedule property at any point of time. However, the defendants by colluding with revenue officials got the katha in their favour and the same came to the knowledge of the plaintiffs on 28.10.2019. Thereafter, the plaintiffs demanded the defendants to vacate and handover the vacant possession of the suit schedule property. However, the defendants refused to vacate the suit schedule property.

11. In order to prove the case, the plaintiffs adduced as many as 23 documents as per Ex.P1 to P23. Ex.P1 RTC Extract in respect of Sy.No.19/1; Ex.P2 Certified copy of MR.No.8/88-89; Ex.P3 School Admission Certificate; Ex.P4 RR5 & RR6; Ex.P5 to 8 Certified copy of Four RTC Extract in respect of Sy.No.19; Ex.P9 to 13 Certified copy of Five RTC Extract in respect of Sy.No.19; Ex.P14 to 19 Certified copy of Six RTC Extracts in respect of Sy.No.19/1; Ex.P20 Certified copy of MR.NO.8/1988-89; Ex.P21 Certified copy of MR.No.27/1988-89; Ex.P22 RTC Extract in respect of Sy.No.27; Ex.P23 RTC Extract in respect of Sy.No.19/1.

12. On the other hand, the defendant No.1 contended that, the brother of the defendant by name P.R.Sadashivappa purchased the suit schedule property and land bearing Sy.No.27 from its previous owner by name Kalegowda S/o Ninegowda, Dasharatha S/o Kalegowda, Chikkegowda S/o Ningegowda and Jagadisha S/o Chikkegowda under a Registered Sale Deed Dated 22.02.1989. From the date of purchase, the said P.R.Sadashivappa was in possession of the suit schedule property and the katha was also mutated in his name. Thereafter, the Registered Partition Deed Dated 11.10.1999 was effected among the P.R.Sadashivappa, defendant No.1 and other family members in respect of the suit schedule property and other properties. Accordingly, the suit schedule property was fell to the share of the defendant No.1 and the katha of the same was mutated in the name of the defendant No.1. In the said manner, the defendant No.1 is in possession of the suit schedule property as its absolute owner. The plaintiffs are not having any right and title over the suit schedule property.

13. The defendant No.1 in support of his contentions adduced as many as 10 documents as per Ex.D1 to D10. Ex.D1 Registered Sale Deed Dated 22.02.1989; Ex.D2 Certified copy of the Partition Deed Dated 11.10.1999; Ex.D3 Certified copy of the MR.No.6/1999-2000; Ex.D4 RTC Extract in respect of Sy.No.19/1; Ex.D5 RTC Extract in respect of Sy.No.27; Ex.D6 Certified copy of RTC Extract in respect Sy.No.19/1; Ex.D7 Certified copy of RTC Extract in respect of Sy.No.27; Ex.D8 & 9 Two photos; Ex.D10 CD.

14. The burden of proving the Issue No.1 & 2 is on the plaintiffs. The burden of proving the Issue No.3 & 4 is the on the defendant No.1. The plaintiffs instituted this suit against the defendants for the relief of Declaration and Recovery of possession in respect of the suit schedule property. Therefore, the plaintiffs have to prove their title over the suit schedule property as on the date of filing of the suit.

15. So, in this background it would be proper to discuss the issues for consideration. As per the plaintiffs case,

the suit schedule property was originally standing in the name of the grandmother of the plaintiffs by name Hombalamma and the said Hombalamma is having only one son by name Chikkegowda. The plaintiffs are the children of the said Chikkegowda and the defendants are in permissive possession of the suit schedule property.

16. It is worth to note that, the suit was filed in respect of the land bearing Sy.No.19/1 measuring 0-21 guntas. As per the Ex.P4 i.e., RR5 & 6, the suit schedule property was standing in the name of one Bhavani Bayamma W/o Ramakrishna. The Ex.P5 to 14 are the Certified copy of the RTC Extracts in respect of the suit schedule property, which was standing in the name of the said Bhavani Bayamma W/o Ramakrishna.

17. The Ex.P15 and 16 are the RTC Extracts in respect of the suit schedule property from 1975 to 1985, which is standing in the name of the Ningegowda S/o Siddegowda. The Ex.P20 is the MR.No.8/1988-99 Dated

26.11.1988, as per the mutation order, the land bearing Sy.No.19/1 measuring 0-21 guntas, Sy.No.21 measuring 3 acre 15 guntas, Sy.No.23 measuring 0-05 guntas and Sy.No.25 measuring 1 acre 35 guntas was mutated in the name of the Kalegowda S/o Ningegowda and Chikkegowda S/o Ningegowda. The same reflects in the Ex.P18.

18. The plaintiffs in their plaint averred that, the Hombalamma is having only one son by name Chikkegowda. At this stage, the it is necessary to extract some portion of the cross of the PW.1 and PW.2. The PW.1 in his cross examination deposed that;

“ನಮ್ಮ ತಂದೆ ಚಿಕ್ಕೇಗೌಡರ ತಂದೆಯ ಹೆಸರು ನಿಂಗೇಗೌಡ. ನಿಂಗೇಗೌಡರಿಗೆ ಕಾಳೇಗೌಡ ಹಾಗೂ ಚಿಕ್ಕೇಗೌಡ ಎಂಬ ಇಬ್ಬರು ಮಕ್ಕಳೂ ಎಂದರೆ ಸರಿ. ಸದರಿ ಕಾಳೇಗೌಡರಿಗೆ ದಶರಥ ಎಂಬ ಮಗ ಇದ್ದಾರೆ ಎಂದರೆ ಸರಿ”.

19. The PW.2 in his cross examination deposed that;

“ನಿಂಗೇಗೌಡರ ಮಗ ಕಾಳೇಗೌಡ ನನ್ನ ದೊಡ್ಡಪ್ಪ ಆಗ ಬೇಕು. ಕಾಳೇಗೌಡರ ಮಗ ದಶರಥ. ನನಗೆ ದೊಡ್ಡಪ್ಪನ ಮಗ

ಆಗಬೇಕು. ನಿಂಗೇಗೌಡರ ಮಗ ಚಿಕ್ಕೇಗೌಡ ನನ್ನ ತಂದೆ.

ಚಿಕ್ಕೇಗೌಡರ ಮಗ ಜಗದೀಶ ಎಂದರೆ ನಾನು."

20. As per the cross of the PW.1 and PW.2, it is clear that, the said Hombalamma is the wife of the Ninegowda and the said Ningegowda is having two children namely Kalegowda and Chikkegowda and the plaintiffs are the children of the said Chikkegowda.

21. The PW.2 in his cross examination deposed that;

"ಸಾಕ್ಷಿಗೆ ದಿಃ 22.02.1989ರ ಒಂದು ನೊಂದಾಯಿತ ಕ್ರಯಪತ್ರವನ್ನು ತೋರಿಸಿ, ಅದರಲ್ಲಿ ನಿಮ್ಮ ಹಾಗೂ ನಿಮ್ಮ ತಂದೆಯ ಸಹಿ ಇದೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ದಾಖಲೆಯನ್ನು ನಿಡಿ-1 ಎಂದು ಗುರುತಿಸಲಾಗಿದೆ."

22. The plaintiff No.2/PW.2 admitted the execution of the Ex.D1 i.e., Registered Sale Deed Dated 22.02.1989. As per the Ex.D1, the Kalegowda and his son by name Dasharatha and Chikkegowda and his son by name Jagadeesha(plaintiff No.2) sold the suit schedule property and land bearing Sy.No.27 measuring 0-16 guntas in favour of one P.R.Sadashiva i.e., brother of the defendant No.1. The Ex.D1

was duly registered before the office of the Sub-Registrar, Periyapatna.

23. Thereafter, as per MR.No.27/1988-89, the Katha of the suit schedule property was mutated in the name of the said P.R.Sadashiva S/o P.N.Rudrappa. The Ex.D6 & 7 are the Manual RTC Extracts in respect of the suit schedule property which was standing in the name of the said P.R.Sadashiva S/o P.N.Rudrappa.

24. The Ex.D2 is the Registered Partition Deed Dated 11.10.1999. As per the Ex.D2, the P.R.Sadashiva, defendant No.1 and other family members executed partition Deed Dated 11.10.1999 in respect of the suit schedule property and other properties. Accordingly, the suit schedule property was fell to the share of the defendant No.1 and the same reflects in the Ex.D3 i.e., MR.No.6/1999-2000.

25. The Ex.D4 is the RTC Extract for the year 2024-2025 in respect of the suit schedule property, which is standing in the name of the defendant No.1. At present, the

suit schedule property is standing in the name of the defendant No.1 and defendant No.1 also adduced the photos and CD as per Ex.D8 to 10.

26. The PW.2/plaintiff No.2 himself admitted the execution of the Ex.D1, which itself shows that, the father of the plaintiffs by name Chikkegowda and plaintiff No.2 and one Kalegowda and his son by name Dasharatha sold the suit schedule property in favour of the brother of the defendant No.1 by name P.R.Sadashiva S/o P.N.Rudrappa.

27. The plaintiffs averred that, the suit schedule property was originally standing in the name of the Hombalamma. However as per RR5 & 6, the same was standing in the name of one Bhavani Bayamma W/o Ramakrishna and later the same was standing in the name of the Ningegowda. Thereafter, the children of the Ningegowda i.e., Chikkegowda and Kalegowda sold the suit schedule property in favour of the brother of the defendant No.1.

28. Therefore, there is nothing on record to show that, the suit schedule property was standing in the name of the Hombalamma. Even if it is believed that, the said Hombalamma is absolute owner of the suit schedule property and after her death, the suit schedule property becomes self acquired property of the Chikkegowda and Kalegowda, for the reasons that, the inheritance is treated as self acquired property in the hands of the heirs.

29. Further, there is nothing on record to show that, the said Ningegowda i.e., grandfather of the plaintiffs derived the suit schedule property from their ancestors. The property only qualifies as ancestral, if it has remained undivided and passed down through four generation of male lineage. The Ex.D1 and D2 are the Registered documents and during the life time of the Ningegowda and Kalegowda, neither them nor the plaintiff No.2 or Dasharatha challenged the execution of the Ex.D1.

30. The Hon'ble Supreme court of India in Hemlatha(D) by LR's V/s Tukaram(D) by LR's held that;

“It is a settled position of law that a registered Sale Deed carries with it a formidable presumption of validity and genuineness. Registration is not a mere procedural formality but a solemn act that imparts high degree of sanctity to the document.”

31. It is quite essential to note that, the plaintiffs have filed the suit for the relief of Declaration and Recovery of possession. As per the admission by the PW.2, it is clear that, the defendant No.1 is in possession of the suit schedule property as per the Ex.D1 & 2 and the brother of the defendant No.1 has purchased the suit schedule property and after partition, the same was fell to the defendant No.1. The same is evident from the public records.

32. The plaintiffs averred that, the defendant No.1 is in permissive possession of the suit schedule property, but the Ex.D1 itself indicates the execution of the sale deed by the

father of the plaintiffs by name Chikkegowda in favour of brother of the defendant No.1.

33. The plaintiffs through oral and documentary evidence failed to prove their title over the suit schedule property. The defendant No.1 through oral and documentary evidence proved that, the suit schedule property was purchased by the brother of the defendant No.1 as per the Ex.D1 and accordingly, as per partition(Ex.D2), the defendant No.1 got title and possession of the suit schedule property. Therefore, the plaintiffs have failed to prove their title and also failed to prove the permissive possession of the defendant No.1 over the suit schedule property. *Hence, this court answered the Issue No.1 & 2 in the **Negative** and Issue No.3 & 4 in the **Affirmative**.*

ISSUE NO.5:-

34. As discussed in the Issue No.1 to 4, the plaintiffs have failed to prove their title and also failed to prove the permissive possession of the defendant No.1 over the suit schedule property. Therefore, the plaintiffs are not entitle for

the reliefs as sought in the plaint. *Hence, this court answered the Issue No.5 in the **Negative**.*

ISSUE NO.6 :-

35. For the reasons discussed on Issue No.1 to 5, this court proceed to pass following;

ORDER

The suit of the plaintiffs is hereby
dismissed with cost.

Draw decree accordingly.

*(Dictated to the Stenographer directly in computer, revised, corrected by me and then pronounced in the open court on this the **02nd day of APRIL, 2026.**)*

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

-. ANNEXURES :-

List Of Witnesses Examined On Behalf Of Plaintiffs:

PW.1 : RAMESHA
PW.2 : JAGADEESHA

List Of Documents Marked On Behalf Of Plaintiffs:

- Ex.P1 : RTC Extract in respect of Sy.No.19/1
- Ex.P2 : Certified copy of MR.No.8/88-89
- Ex.P3 : School Admission Certificate
- Ex.P4 : RR5 & RR6
- Ex.P5 to 8 : Certified copy of Four RTC Extract in respect of Sy.No.19
- Ex.P9 to13: Certified copy of Five RTC Extract in respect of Sy.No.19
- Ex.P14to19: Certified copy of Six RTC Extracts in respect of Sy.No.19/1
- Ex.P20 : Certified copy of MR.NO.8/1988-89
- Ex.P21 : Certified copy of MR.No.27/1988-89
- Ex.P22 : RTC Extract in respect of Sy.No.27
- Ex.P23 : RTC Extract in respect of Sy.No.19/1

List Of Witnesses Examined On Behalf Of Defendants:

- DW.1 : P.R.SHIVANANDA

List Of Documents Marked On Behalf Of Defendants:

- Ex.D1 : Registered Sale Deed Dated 22.02.1989
- Ex.D2 : Certified copy of the Partition Deed Dated 11.10.1999
- Ex.D3 : Certified copy of the MR.No.6/1999-2000
- Ex.D4 : RTC Extract in respect of Sy.No.19/1
- Ex.D5 : RTC Extract in respect of Sy.No.27

- Ex.D6 : Certified copy of RTC Extract in respect
Sy.No.19/1
- Ex.D7 : Certified copy of RTC Extract in respect of
Sy.No.27
- Ex.D8 & 9 : Two photos
- Ex.D10 : CD

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.