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RA No.21/2025

**IN THE COURT OF THE I ADDL. DIST & SESSIONS JUDGE
AT RAICHUR**

PRESENT:

**Sri.G.D.Mahavarkar, M.A.,LL.B(Spl),
M.L. (Lab & Indstrl Rlns & Adm. Laws),
LL.M (Business Laws), M.Phil-in-Law
(Juridical Science)
I Addl.Dist & Sessions Judge, Raichur.**

Dated this the 2nd day of April, 2026

REGULAR APPEAL No.21/2025

- 1) Smt. Khajabee W/o Late Hajisab,
Age: 73 years, Occ: Household,
- 2) Bashasab S/o Late Hajisab,
DEAD by Lrs.,
- 2(a) Mumtaz W/o Late Bashasab,
Age: 43 years, Occ: Agril.,
- 2(b) Tajuddin S/o Late Bashasab,
Age: 43 years, Occ: Agril.,
- 2(c) Haji Mastan S/o Late Bashasab,
Age: 24 years, Occ: Agril.,
- 2(d) Shahid Begum D/o Late Bashasab,
Age: 22 years, Occ: Student,
- 3) Babu S/o Late Hajisab,
Age: 38 years, Occ: Agril.,
- 4) Smt Roshanbee W/o Babu
(D/o Late Hajisab), Age: 43 years,
Occ: Household,

All are R/o Ganjahalli village,
Tq. & Dist., Raichur.

Appellants/Original Plaintiffs

- Versus-

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- 1) Smt. Mehaboob Bee W/o Akramsab,
Age: 58 years, Occ: Household,
R/o Ganjihalli village,
Tq. & Dist., Raichur.
- 2) Akramsab S/o Khajasab,
Age: 63 years, Occ: Private Job,
R/o Ganjihalli village,
Tq. & Dist., Raichur.

Respondents/Original Defendants

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Appellants by Sri. S.G.K., Advocate

Respondent No's.1 & 2 by Sri. A.R.T., Advocate

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J U D G M E N T

The instant appeal is preferred by the appellants/original plaintiffs against the respondents/original defendants in RA No.21/2025, challenging the impugned Judgment & Decree in OS No.47/2022, dated 12.02.2025 & 18.02.2025 U/Sec.96 R/w Order 41 Rule 1 of the CPC., by the Senior Civil Judge & CJM, Raichur.

2. **The original plaintiffs before the trial-court having preferred the instant appeal against the original defendants, as the appellants**

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and the respondents, respectively, are hereby assigned with their original ranks before the trial-court i.e., the appellants as the original plaintiffs and the respondents as the original defendants, respectively, in the instant discussion for the purpose of brevity and convenience to avoid the confoundation and perplexity.

3. This is a suit at O.S.No.47/2022 filed by the plaintiffs against the defendants before the Senior Civil Judge & CJM Court, Raichur, seeking for the relief of Declaration & Perpetual Injunction & etc.

4. The epitomized facts projected from the plaint of the plaintiffs runs thus;

It is the specific case of the plaintiffs before the trial-court that, one Moula Sab S/o Bade Sab R/o Ganjihalli village in Raichur tq. & dist., demised about 40 years back itself leaving behind him the only son by name Haji Sab, who is the husband of the instant-plaintiff No.1 and the father of the plaintiff No's.2 to 4 and the said

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Haji Sab has also, demised about 35 years back leaving behind him the instant-plaintiffs as his LR's. The said propositus deceased Moula Sab was owning the suit property bearing Sy.No.324/1, measuring 2 acres 34 guntas, situated at Ganjihalli village, having inherited the same from his ancestors, & the said property was got mutated in the name of the plaintiff No.1 after the demise of her father-in-law deceased Moula Sab, under M.E.No.36, dated 22.05.1996, and accordingly, the plaintiffs are in actual possession & enjoyment of the suit property as the absolute owners. The defendant No.1 being the wife of the defendant No.2 who is the highly influential-person working as an agent to others for securing the loan from the banks & financial institutions, the defendants colluding-with the revenue-authorities, illegally got mutated the said suit land in the name of the defendant No.1 alone under M.R. No.23/2003-04, dated 18.06.2004, by claiming that, the defendant No.1 is the daughter of plaintiff No.1 and the said

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plaintiff No.1 has executed the relinquishment-deed in favor of the defendant No.1 but, neither the notice was issued to the plaintiffs nor enquiry was conducted to mutate the name of the defendant No.1 to the said suit land, though the plaintiffs are in peaceful possession & enjoyment of the suit property by cultivating the same. On 29.01.2022, the plaintiffs having come to know regarding the illegal entry effected in the revenue-records of the suit property in the name of defendant No.1, they have challenged the same before the Assistant Commissioner, Raichur under RTS appeal, which is still pending & now, the defendants in the guise of the false & illegal entry of the name of the defendant No.1 in the RTC extracts, are interfering in the plaintiffs' peaceful possession & enjoyment of the suit property. Hence, prayed for decreeing the suit of the plaintiffs.

5. In response to the suit-summons issued against, the original defendants, they have put-in their appearance before the trial-court through their

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learned counsel and filed the written statement denying almost all the averments of the plaint and further admitted that the said land was standing in the name of propositus deceased Moula Sab & further, contended that, the said suit land was directly got mutated in the name of the plaintiff No's.1 & 2 under M.E. No.36, dated 22.05.1996, and the plaintiff No.1 being the owner of the suit property, she settled regarding the same in favor of the defendant No.1 and mutated in the name of the defendant No.1 at M.R. No.23, dated 18.06.2024 and since then, the defendant No.1 is in peaceful possession & enjoyment of the same by way of cultivation. Even, the defendants do-not dispute that, the defendant No.1 is the legally wedded-wife of the defendant No.2 & the plaintiffs have challenged the mutation entries before the Assistant Commissioner, Raichur, which came to be allowed, & as against the same, the defendants have preferred the revision appeal before the D.C., Raichur, which is still pending. The plaintiffs

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are not in possession of the suit land ; whereas, the defendants are in possession of the suit land since 2003-04 & settled their possession; wherefore, the suit for declaration & injunction is not maintainable without seeking for the relief of possession of the suit land & moreover, the suit of the plaintiffs is barred under Article 58 of the Limitation Act & in the alternative, the defendant No.1 seeks for the relief of title by way of adverse possession over the suit property since her possession is to the knowledge of the public at large inclusive of the plaintiffs since 18.06.2004 & perfected their title. Hence, prayed for dismissing the plaintiffs' suit.

6. Basing on the rival pleadings of both the plaintiffs & defendant/s, the trial Court having framed the issues and the same as under:

I S S U E S

1. Whether the plaintiffs prove that, they are the owner & in possession over the suit schedule land as on the date of filing of suit?

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2. Whether the plaintiffs prove alleged interference by defendants?
 3. Whether the plaintiffs are entitle for the relief declaration & injunction against defendants?
 4. What order or decree?
7. To substantiate their case before the trial Court, the plaintiff No.1 herself has got examined as PW.1 by reiterating the entire averments of the plaint in her chief-examination testimonial affidavit filed U/O 18 Rule 4 of CPC & further got examined one independent witness i.e., son-in-law of the PW.1 as PW.2, who has also endeavored to reiterate the entire averments of the plaint in his chief-examination testimonial affidavit filed U/O 18 Rule 4 of CPC & thereby, the plaintiffs have placed the reliance on the documentations marked at Ex.P.1 to 31 in which, Ex.P.1 is the M.E. No.36, Ex.P.2 is the M.E. No.23/2003-04, Ex.P.3 is the Genealogical-tree & Ex.P's.4 to 31 are the RTC extracts.

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8. Per contra, to substantiate their case, the defendant No.2 himself has got examined as DW.1, by reiterating the entire contents of the written statement, in his chief-examination testimonial affidavit filed U/O 18 Rule 4 of CPC & further got examined two independent witnesses as DW's.2 & 3, respectively, who have also endeavored to reiterate the defense of the defendants in their respective chief-examinations testimonial affidavits filed U/o 18 Rule 4 of CPC and thereby, the defendants have placed their reliance on the documentations marked at Ex.D's.1 to 21 in which, Ex.D's.1 to 16 are RTC extracts, Ex.D.17 is the mutation extract, Ex.P.18 is the letter addressed by plaintiff No.1 to Tahsildar, Raichur, Ex.D.19 is the notice & Ex.D's.20 & 21 are the Tax paid receipts.
9. On hearing the arguments, the trial court has given it's findings on the Issues as under;
- Issue No.1 : In the Partly Affirmative
Issue No.2 : In the Affirmative
Issue No.3 : In the Partly Affirmative
Issue No.4 : As per final order,

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For the following:

----- and thereby, partly decreed the suit of the plaintiffs only in respect of the relief of perpetual injunction restraining the defendant No's.1 & 2 permanently from interfering into the plaintiffs peaceful possession & enjoyment of the suit schedule land.

10. Being aggrieved by the impugned Judgment & Decree passed by the trial-court, the instant appeal is being preferred by the Appellants/ Original plaintiffs against the respondents/ Original defendants challenging the impugned Judgment & Decree in OS No.47/2022, dated 12.02.2025 & 18.02.2025 passed by the trial-court, on the following:-

GROUND OF APPEAL:

- (1) The impugned Judgment & Decree passed by the trial-court in OS No.47/2022, dated 12.02.2025 & 18.02.2025, is illegal and against the mandatory provisions of Law.
- (2) The trial-court has failed to understand the pleadings of both the sides in the right perspective.

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- (3) The trial-court ought to have decreed the entire suit of the plaintiffs.
- (4) The trial-court has failed to consider that, the defendants have disputed the title of the plaintiffs over the suit property & claiming the title through the plaintiffs.
- (5) The trial-court has lost it's sight to consider that, the plaintiffs have claimed their title basing on the succession & not on the title-deeds; wherefore, the question of production of the title-deeds, does-not arise at-all.
- (6) The trial-court has failed to consider that, the defendants have taken the plea of adverse possession in the written-statement by admitting the title of the plaintiffs.
- (7) The trial-court has lost it's sight to consider the revenue entries i.e., the RTC extracts are also nothing but, title-deeds, as per the settled law.

Hence, prayed-for allowing the instant regular appeal by decreeing the suit at OS No.47/2022, dated 12.02.2025 & 18.02.2025 in it's entirety, by setting-aside the partial-dismissal of the

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said suit by the Senior Civil Judge & CJM Court,
Raichur in it's impugned Judgment & decree
dated 12.02.2025 & 18.02.2025.

11. Per-contra the learned counsel for the respondents has filed the sturdy objections to the instant-main appeal disputing & denying the trial-court Judgment & Decree contending that, the impugned Judgment is merely based on conjunctions & surmises and the trial-court has wrongly arrived at a conclusion holding that, the appellants are in possession of the suit property. It is further contended that, the plaintiffs/appellants had preferred the RTS appeal before the Assistant Commissioner at RTS Appeal No.32/2021 and the same was allowed but, it having been challenged by the defendants/respondents under Revision Appeal No.40/2022, it has been reversed & remanded back by the D.C., Raichur directing the A.C., to pass an order on IA No.I, which was filed by the plaintiffs seeking for condonation of abnormal delay of more-than 16 years and then pass the necessary orders. It is

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further contended that, the trial-court has failed to consider Ex.D.18, which is a report/letter of the plaintiff No.1/appellant No.1 addressing to the Tahsildar to mutate the name of the defendant No.1 to the suit property. Even, the tax paid receipts as per Ex.D's.20 & 21 & the RTC for the year 2003-04 as per Ex.D.4 & Ex.D.16 RTC extract for the year 2021 to 2021-22 are the prima-facie documents to show that, the defendant No.1 is in possession of the suit property but, they have been absolutely overlooked by the trial-court. The PW.1 has clearly admitted in her cross-examination dated 05.12.2024 that, she has not produced any document to show that, she is in possession of suit land since the year 2003-04. The plaintiffs have not produced any documentary evidence to show that, they were & are in possession of the suit property as on the date of the suit. The plaintiffs are not in possession of the suit property; whereas, the defendant No.1 is in possession of the same; wherefore, the impugned

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Judgment is not tenable which needs to be set-aside. On the other hand, the instant-defendants/respondents have filed the cross Appeal at RA No.51/2025, which is still pending for disposal. Hence, prayed for dismissing the instant-appeal.

12. I have heard the arguments of both the learned counsels for the appellants as well as the respondents & perused the written-arguments, also.
13. Basing on the material available on record and grounds of appeal, the points that arise for my consideration are:

:POINTS:

1. Whether the trial-court has justified in answering the Issue No's.1 & 3 partly in the affirmative holding that, the plaintiffs have proved their possession over the suit land as on the date of the suit but, failed to establish their ownership over the suit schedule property & affirming the issue No.2 in the affirmative

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regarding the alleged interference by
the defendants?

2. Whether the Judgment & Decree of
the trial-court is arbitrary, base-less
capricious, devoid of merits,
erroneous, frivolous & perverse
without being on the sound
principles of law & warrants for the
interference by the instant court?

3. To what order or decree?

14. Having heard & perused th written arguments of
the learned counsels for the appellants/plaintiffs
and the respondents/defendants in the instant
R.A., my answers to the above points raised for
consideration are as under:-

Point No.1 : In the Affirmative partly

Point No.2 : In the Affirmative partly

Point No.3 : As per the final order,
for the following;

R E A S O N S

15. The status and ranking assigned in the trial-court
to the plaintiffs & defendants are being adopted
and adhered-to in the instant discussion for the

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purpose of brevity and convenience to avoid the
confoundation and perplexity.

16. **Point No's.1 & 2:-** To avoid the reiteration of material available on hand and to appreciate the evidence adduced before the trial-court, in a better position, I hereby take-up the instant Point No's.1 & 2 together admixingly for discussion.
17. It is the specific case of the plaintiffs before the trial-court that, one Moula Sab S/o Bade Sab R/o Ganjihalli village in Raichur tq. & dist., demised about 40 years back itself leaving behind him the only son by name Haji Sab who is the husband of the instant- plaintiff No.1 and the father of the plaintiff No's.2 to 4 and the said Haji Sab has also demised about 35 years back leaving behind him the instant-plaintiffs as his LR's. The said propositus deceased Moula Sab was owning the suit property bearing Sy.No.324/1, measuring 2 acres 34 guntas, situated at Ganjihalli village, having inherited the same from his ancestors, the said property was got mutated in the name of the

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plaintiff No.1 after the demise of her father-in-law deceased Moula Sab, under M.E.No.36, dated 22.05.1996, and accordingly, the plaintiffs are in actual possession & enjoyment of the suit property as the absolute owners. The defendant No.1 being the wife of the defendant No.2 who is the highly influential person working as an agent to others for securing the loan from the banks & financial institutions, the defendants colluding with the revenue-authorities illegally got mutated the said suit land in the name of the defendant No.1 alone under M.R. No.23/2003-04, dated 18.06.2004, by claiming that, the defendant No.1 is the daughter of plaintiff No.1 and the said plaintiff No.1 has executed the relinquishment-deed in favor of the defendant No.1 but, neither the notice was issued to the plaintiffs nor enquiry was conducted to mutate the name of the defendant No.1 to the said suit land, though the plaintiffs are in peaceful possession & enjoyment of the suit property by cultivating the same. On 29.01.2022, the plaintiffs having come to know

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regarding the illegal entry effected in the revenue-records of the suit property in the name of defendant No.1, they have challenged the same before the Assistant Commissioner, Raichur under RTS appeal, which is still pending & now, the defendants in the guise of the false & illegal entry of the name of the defendant No.1 in the RTC extracts, are interfering in the plaintiffs' peaceful possession & enjoyment of the suit property.

18. To substantiate their case before the trial Court, the plaintiff No.1 herself has got examined as PW.1 by reiterating the entire averments of the plaint in her chief-examination testimonial affidavit filed U/O 18 Rule 4 of CPC & further got examined one independent witness i.e., son-in-law of the PW.1 as PW.2 who has also endeavored to reiterate the entire averments of the plaint in his chief-examination testimonial affidavit filed U/O 18 Rule 4 of CPC & thereby, the plaintiffs have placed the reliance on the documentations marked at Ex.P.1 to 31 in which, Ex.P.1 is the M.E.

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No.36, Ex.P.2 is the M.E. No.23/2003-04, Ex.P.3 is the Genealogical-tree & Ex.P's.4 to 31 are the RTC extracts.

19. Per contra, it is the specific defense of the defendants by way of the written-statement before the trial-court that, the defendants admit that the said land was standing in the name of propositus deceased Moula Sab & further, contended that, the said suit land was directly got mutated in the name of the plaintiff No's.1 & 2 under M.E. No.36, dated 22.05.1996, and the plaintiff No.1 being the owner of the suit property, she settled regarding the same in favour of the defendant No.1 and mutated in the name of the defendant No.1 at M.R. No.23, dated 18.06.2024 and since then, the defendant No.1 is in peaceful possession & enjoyment of the same by way of cultivation. Even, the defendants do not dispute that, the defendant No.1 is the legally wedded wife of the defendant No.2 & the plaintiffs have challenged the mutation entries before the Assistant Commissioner, Raichur,

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which came to be allowed, & as against the same, the defendants have preferred the revision appeal before the D.C., Raichur, which is still pending. The plaintiffs are not in possession of the suit land ; whereas, the defendants are in possession of the suit land since 2003-04 & settled their possession; wherefore, the suit for declaration & injunction is not maintainable for the relief of possession of the suit land & moreover, the suit of the plaintiffs is barred under Article 58 of the Limitation Act & in the alternative, the defendant No.1 seeks for the relief of title by way of adverse possession over the suit property since her possession is to the knowledge of the public at large inclusive of the plaintiffs since 18.06.2004 & perfected their title.

20. To substantiate their case, the defendant No.2 himself has got examined as DW.1, by reiterating the entire contents of the written statement, in his chief-examination testimonial affidavit filed U/O 18 Rule 4 of CPC & further got examined two independent witnesses as DW's.2 & 3,

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respectively, who have also endeavored to reiterate the defense of the defendants in their respective chief-examinations testimonial affidavits filed U/O 18 Rule 4 of CPC and thereby, the defendants have placed their reliance on the documentations marked at Ex.D's.1 to 21 in which, Ex.D's.1 to 16 are RTC extracts, Ex.D.17 is the mutation extract, Ex.P.18 is the letter addressed by plaintiff No.1 to Tahsildar, Raichur, Ex.D.19 is the notice & Ex.D's.20 & 21 are the Tax paid receipts.

21. On marshalling the rival pleadings of the both the sides coupled-with their respective oral evidence as-well-as the documentations relied-upon by them, at the very out-set, it is clear that, the plaintiffs have sought-for the relief of declaration of their title over the suit schedule agricultural landed property along-with the relief of perpetual-injunction against the defendants.
22. It is pertinent to note that, there is no dispute in respect of the nature of the suit schedule

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agricultural landed property and also, it was originally belonging to one deceased Moula Sab, who had inherited the same from his ancestors & the said suit landed property came to be mutated in the name of instant-plaintiffs directly under M.E. No.36, dated 22.05.1996, though the defendants dispute only in respect of the contention of the plaintiffs that, the said suit property was mutated in the name of the husband of the plaintiff No.1, by name Haji Sab and thereafter, in her name, after his demise. It is also an undisputed fact that, there is no dispute in respect of the deceased Moula Sab had a son by name Haji Sab, who demised about 35 years back and the instant-plaintiff No.1 is the legally wedded-wife of the said deceased Haji Sab and the plaintiff No's.2 to 4 are children of the deceased Haji Sab and the plaintiff No.1.

23. Though, the contention of the plaintiffs that, the said suit property was got mutated in the name of deceased Haji Sab and then, after his demise, the plaintiff No.1, has been disputed, at the very

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out-set, the said contention of the plaintiffs does-not prevail-with any forceful bearing because, it is an unfortunate thing to note that, the said suit landed property was inherited by the deceased propositus Moula Sab from his ancestors and after his demise, it has been inherited by the plaintiff No.1 & got mutated in her name and accordingly, she has become the absolute owner of the suit schedule property after getting mutated her name to the suit landed property as per M.E. No.36, dated 22.05.1996, which is produced as per Ex.P.1, on record.

24. It is quite significant to note that, the DW.1 though stated to have contended in his chief-examination testimonial affidavit para No.2 that, the suit land was earlier standing in the name of Moula Sab and thereafter, it was mutated in the name of his son Haji Sab but, the said land was earlier standing in the name of defendant No.1 and it was directly mutated from the deceased Moula Sab. The said versions of the DW.1 in his chief-examination are absolute contrary to the

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defense of the defendants. The defendants have absolutely relied on Ex.D.17, which is stated to be as M.E.No.23, dated 30.04.2004, which demonstrates & reveals that, earlier the suit scheduled agricultural landed property was standing in the name of the plaintiff No.1 and thereafter, the name of the defendant No.1 has been got mutated as per the alleged Ex.D.17. It is an unfortunate thing to note that, the recitals in the said para No.2 of the chief-examination testimonial affidavit of the DW.1 are absolutely emanating in-contravention with the averments of the written-statement of the said defendants and also, the alleged Ex.D.17 & Ex.D.18. The alleged Ex.D.18 is stated to be as the alleged certified copy of the letter given by the plaintiffs addressed to the Tahsildar, Raichur for mutating the name of the defendant No.1 to the suit property.

25. It is also an unfortunate thing to note that, the DW.1 who is none-other-than the husband of the defendant No.1 has disclosed his ignorance & no

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knowledge that, the propositus Moula Sab S/o Bade Sab R/o Ganjihalli village was the father-in-law of the plaintiff No.1 and also, the said propositus deceased Moula Sab had a son by name Haji Sab and also, the plaintiff No's.2 & 3 are the sons of the plaintiff No.1 and deceased Haji Sab; whereas, the plaintiff No.4 is the daughter of the plaintiff No.1 and deceased Haji Sab and also, originally, the said suit land belonged to the deceased Moula Sab S/o Bade Sab. In addition to the same, even the DW.1 has fatally admitted to the effect that, there is no relationship between the plaintiff No.1 & his wife/defendant No.1. Apart from the same, on the other-hand, the PW.2 has clearly stated in the cross-examination by the learned counsel for the defendants that, there is no any relation between the plaintiff No.1 & defendant No.2. Therefore, in over-all, it is clear that, if really, as per the defense of the defendants that, the defendant No.1 was the daughter of the plaintiff No.1 & deceased Haji Sab & the DW.1 being the legally

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wedded wife of the defendant No.1, he was expected to know the relationship between the plaintiffs & their ascendants lineage along-with their family details & etc., but, unfortunately, the DW.1 was went-on disclosing his ignorance & pleaded no knowledge.

26. In addition to the same, the DW's.2 & 3 though endeavored to depose in favour of the defense of the defendants in their respective chief-examinations, the DW.2 has disclosed his no knowledge regarding the plaintiff No.1 and even, the DW.3 has disclosed his no knowledge with regard to the plaintiffs.
27. In addition to the same, the DW.2 has stated in the cross-examination that, he does-not know as to whether the defendant No.1 is the daughter of the plaintiff No.1.
28. On over-all consideration of the entire discussion made herein before supra, it is clear that, the said suit property was originally belonging to the propositus deceased Moula Sab S/o Bade Sab

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having inherited from his ancestors and thereafter, after the demise of his only son Haji Sab, his wife plaintiff No.1 got mutated her name to the suit property along-with other inherited properties and the plaintiff No.1 being the mother of the plaintiff No's.2 to 4, the defendant No.1 is not proved to be as the daughter of the plaintiff No.1.

29. It is also trite to note that, the defendants have clearly admitted that, the plaintiff No.1 is the owner of the suit landed property by getting mutated her name at M.E. No.36, dated 22.05.1996, as per Ex.P.1, by inheriting the same from the deceased propositus Moula Sab.
30. Therefore, it is clear that, the plaintiff No.1 is the absolute owner of the said suit landed property.
31. It is no-doubt, the learned trial-Judge has observed that, there is no any title-deed produced from the plaintiffs' side to establish regarding the plaintiff No.1 as the owner of the suit property. But, it is unfortunate thing to note

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that, the learned trial-Judge appears to have lost his sight to take note-of the crucial aspect that, the defendants themselves have admitted that, the plaintiff No.1 is the owner of the suit landed property. According to the provisions of Sec.58 of the Indian Evidence Act of 1872 (Sec.53 of BSA-2023 - New Law) the principle laid-down, there-in is “admitted fact need not be proved”.

32. Therefore, within the scope of the said provisions of Sec.58 of the Indian Evidence Act of 1872 (Sec.53 of BSA-2023- New Law), when the defendants have admitted regarding the ownership of the suit landed property in their written-statement para No.6, itself, it would suffice to hold that, the plaintiff No.1 is the absolute owner of the suit property in respect of which, no title-deed is essentially required to be produced before the court. In addition to the same, when the property is inherited from the ancestors, the question of expecting the production of the title-deed of the suit property by the plaintiffs, does-not arise at-all; whereas,

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regarding the incidents of the tenure, the khasara pahani or RTC extract would suffice which reflects regarding recording of the incidents of the tenure in the revenue-records.

33. In-connection-with the same, the learned counsel for the plaintiffs/ appellants has placed his reliance on the Judgment of Hon'ble High Court of Karnataka, Kalburgi Bench, in RSA No.200090/2015 (PAR), decided on 25.11.2024 in a case of Channabassappa Vs. Halkateppa & Ors.
34. In the light of the said Judgment, in the instant-case on hand, the RTC extracts pertaining to the suit property have been produced as per Ex.P's.4 to 11, which reveal the name of the deceased Moula Sab S/o Bade Sab from 1963 to 1996 and thereafter, the name of the instant-plaintiff to the suit property.
35. Now, the very crux of the dispute involved in the instant-case is with regard to the ownership & possession of the suit property thereafter from 2003-04 after Ex.D.17 which is stated to be as

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the M.E. No.23, dated 30.04.2004, needs to be delved-into & determined.

36. In-connection-with the same, it is specific case of the plaintiffs' that, they are the owners in possession of the suit schedule property, hitherto. But, on the contrary, it is the defense of the defendants that, the said suit property has been got mutated in the name of the defendant No.1 by virtue of the settlement made by the plaintiff No.1 in the year 2003-04 and gave the application to the Tahsildar concerned, by the plaintiff No.1 herself and since then, the defendants are in possession of the suit property.
37. The claim of the defendants is absolutely based on Ex.D.18, which is stated to be as a letter/report given by the plaintiff No.1. But, it is denied by the plaintiffs contending that, by mere taking the thumb-impression on the said mutation as per Ex.D.17 at M.R. No.23, dated 30.04.2004, has been got created in the name of the defendant No.1 by the defendants colluding

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with the revenue-officials ; whereby, neither there was a notice issued to the plaintiff No.1 nor any opportunity was provided to her.

38. At the very out-set, on plain perusal of the recitals in Ex.D.18, in the subject, it is specifically mentioned as “regarding the change of rights according to the relinquishment-deed”. But, on perusal of the trunk of the said Ex.D.18, it is simply requested by the plaintiff No.1 to mutate the name of the defendant No.1 stating her to be as the daughter, in-connection-with the said suit landed property.

39. The said Ex.D.18 is addressed to the Tahsildar, Raichur. Admittedly, as stated herein before supra nothing has been made-out from the defendants' side to show that, the defendant No.1 is the daughter of the plaintiff No.1. Apart from the same, if the instant-Ex.D.18 is considered from two different views namely, from the recitals in respect of the subject and the very trunk of the said Ex.D.18, it is clear that, the said

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requisition/report as per Ex.D.18 is based on the relinquishment-deed; whereas, as per the recitals in the trunk of Ex.D.18, it is a mere requisition to mutate the name of the defendant No.1 as the daughter of the plaintiff No.1, in respect of the suit schedule property.

40. At the cost of reiteration, nothing is produced & established on record regarding the defendant No.1 as the daughter of the plaintiff No.1.
41. Apart-from the same, there is no iota of documentary evidence to establish that, there is any relinquishment-deed taken place between the plaintiff No.1 and defendant No.1 in-connection-with the suit schedule property.
42. From both the views, there is no substantiality & substrata to the said contents of Ex.D.18, at-all.
43. But, it is pertinent to note that, the DW.1 has stated in his cross-examination by the learned counsel for the defendants that, he does-not know whether the plaintiff No.1 signs or not. Therefore, it is clear that, the DW.1 does-not

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know as to whether the PW.1 has signed or put her thumb-impression on the alleged Ex.D.18.

44. In addition to the same, the DW.1 has stated in the cross-examination that, the plaintiff No.1 has not got written any letter for the transfer of the suit land & he does-not know in whose handwriting the said Ex.D.18 is & even, they have not given the relinquishment-deed to the Tahsildar, Raichur as shown as stated in Ex.D.19. On consideration of these versions of the DW.1 consolidatingly, it is further clear that, he does-not know anything regarding the alleged defense taken by him in the written-statement. In addition to the same, even he has clearly stated that, he has given the instructions to his counsel to file the written-statement but, he does-not know the contents of his own written-statement. These versions of the DW.1 in the cross-examination sturdify & fortify the submission made by the learned counsel for the plaintiffs that, the pleadings of the defendants by way of written-statement and the proof by way of

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evidence of DW.1 are absolutely emanating in the nature of deferring each-other in the sense of variance between the pleading & proof of the defendants. Apart from the same, in another angle, it clearly goes to indicate that, the DW.1 is unaware of contents of his own chief-examination testimonial affidavit filed U/O 18 Rule 4 of CPC; whereas, it appears that, it is prepared not at his instance, else he would have had the knowledge of the contents of his chief-examination testimonial affidavit.

45. In addenda of the same, as per the very versions of DW.1 in his cross-examination that, the plaintiff No.1 has not given any letter to transfer the suit land, it creates further suspicion regarding the very genuinity of Ex.D.18 as it is shrouded-with the suspicious circumstances ; wherefore, the said Ex.D.18, itself is absolutely unbelievable & unreliable, unless the said Ex.D.18 is cleared from the defendants' side with regard to the suspicious circumstances shrouded around it.

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46. It is no-doubt, the said Ex.D.17 M.R. No.23, dated 30.04.2004, based on the alleged Ex.D.18 itself, as discussed at much length herein before supra, the very genuinity of Ex.D.18 & also it's contents with regard to their correctness being under the suspicious circumstances as the defendants' side has failed to establish, the said Ex.D.17 being as a result of Ex.D.18, does-not hold any legal sanctity. Consequent-upon the said Ex.D.17, the said Ex.D's.2 to 16, which are the RTC extracts for the year 2003-04 to 2021-22 having been crepted, they do-not stand firmly in favor of the defendant No.1 to hold that, the said suit property has been duly & lawfully mutated in the name of the defendant No.1 as per Ex.D.17.
47. It is no-doubt, the DW.2 being the independent witness, who has endeavored to depose in favor of the defense of the defendants in his chief-examination testimonial affidavit but, in the cross-examination by the learned counsel for the plaintiffs that, he has stated that he was

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cultivating the said suit land from the date of purchase of the suit property by the defendant No.2. But, unfortunately, though he has made-out the new tale, he has further disclosed & pleaded ignorance to the effect that, he cannot say from which year & date, he has cultivated the said suit land on the lease basis & also from whom the defendant No.2 has purchased the said suit land and also, he does-not know who has told him that, the defendant No.2 has purchased the suit land but however, he has clearly admitted to the effect that, he does-not know with respect to the suit land, at-all.

48. On meticulous consideration of these versions of DW.2, it clearly goes to indicate that, he has ventured-in to set-up a new tale with regard to the suit property as purchased by the defendant No.2 but, in respect of the same, there is no iota of documentary evidence and even, it is not the specific defense of the defendants that, their claim of the suit landed property is based on the sale-deed by way of purchasing the said land.

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Therefore, the said versions of DW.2 are absolutely foreign to the very specific defense of the defendants.

49. In addenda of the same, even, the DW.2 has clearly stated that, the defendant No.2 facilitates to take loan from the bank and also, the defendant No.2 wanders to the court & office. Though the similar versions have been suggested to the DW.3, who is also one of the independent witnesses, he has disclosed his ignorance & pleaded his no knowledge. But, the admissions given by the DW.2 certainly lean in favor of the plaintiffs' contention that, the defendant No.2/DW.1 is an influential-person by visiting the offices & also makes the facilities to others to avail the loan from the banks.

50. Even-otherwise, notwithstanding the said version & counter-versions, they do-not absolutely do-away the very case of the plaintiffs for the various reasons discussed at much length herein before supra.

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51. Apart-from the same, the DW.2 has disclosed his ignorance & pleaded no knowledge to the effect that, the suit land has been mutated in the name of the defendant No.1 stating that, the defendant No.1 is the daughter of the plaintiff No.1 & the suit land is the property belonging to the husband of the plaintiff No.1 and the plaintiff No.1 is the owner of the suit land and the defendant No.1 has illegally got mutated the suit land in the name of the defendant No.1 from the plaintiff No.1 stating that, the defendant No.1 is the daughter of the plaintiff No.1 & the children of the plaintiff No.1 are cultivating the suit land. It is significant to note that, if really, the DW.2 was well aware & conversant with all the family-affairs of the plaintiffs and also, the subject matter pertaining to the suit property as-well-as the instant-suit, then he was expected to deny palpably, the said suggestions made by the learned counsel for the plaintiffs to him instead of disclosing his ignorance & pleading no knowledge. Therefore, it clearly goes to indicate

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that, the very deposition of the DW.2 is of no consequence in favor of the defense of the defendants.

52. Even, the DW.2 has instead of denying the suggestion that, the defendant No.2 wanders to the bank, he has disclosed his mere ignorance. Further, he has disclosed his ignorance that, it is specifically mentioned in his chief-examination testimonial affidavit that, he knows the plaintiffs & defendants and also, further stated that, he does-not know as to who has filed the instant/present case against whom and the defendant No.2 get transferred the lands of illiterate persons in the name of his wife & sons or his own name and also, he takes the bank loans, there-on such properties and also, he does-not know who has told him the name of the plaintiff No.1 and even, he does-not know the contents of his chief-examination testimonial affidavit in respect of said plaintiff No.1 and also, he is unaware of the contents of his chief-examination testimonial affidavit and also, he

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does-not know that, the plaintiffs are in possession of the suit property. But considering all these suggestions made to the DW.3 by the learned counsel for the plaintiffs, it is clear that, instead of denying the same, the DW.3 has disclosed his ignorance which clearly goes to indicate that, he is not aware of anything regarding the entire case of the plaintiffs and also, the defense of the defendants, inclusive of the contents in his chief-examination testimonial affidavit; Wherefore, as a result of the same, his entire deposition is of no consequence in favor of the defense of the defendants.

53. It is also significant to note that, the DW.1 himself has fatally admitted in the cross-examination by the learned counsel for the plaintiffs that, in view of the illegal mutation in the name of the defendant No.1, the defendant No.1 has preferred an appeal before the Assistant Commissioner, Raichur. On meticulous consideration of this particular admission given by the DW.1, it is crystal clear that, the mutation

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effected as per the alleged Ex.D.17 basing on the alleged Ex.D.18, itself is illegal & this particular aspect is admitted by the DW.1 in his cross-examination, accordingly.

54. It is no-doubt, it is admitted fact that, the plaintiffs have preferred the RTS appeal before the Assistant Commissioner, Raichur, as against the said Ex.D.17 and it was allowed earlier, as against which, revision appeal was preferred by the instant- defendants before the D.C., Raichur, which is ultimately remanded-back to the Assistant Commissioner, Raichur with a direction to pass the orders on the IA No.I, there-in in respect of condonation of delay and then pass the necessary orders on the merits of the said RTS appeal, as submitted by both the sides.
55. But however, in-view of the admission given by the DW.1 and also, for the reasons discussed at much length herein before supra, the said Ex.D's.17 & 18 having been remained unestablished regarding their genuinity &

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correctness, consequent-upon the same, the said Ex.D's.2 to 16 RTC extracts pertaining to the suit property in which, the name of the instant-defendant No.1 is effected/mutated, certainly tantamount to be based on the illegal mutation as per Ex.D.17, which is in-turn based on the baseless & unestablished & illegal Ex.D.18.

56. It is no-doubt, the defendants have produced the tax-paid receipts dated 02.06.2022, & 05.11.2024, in the name of the instant-defendant No.1. It is pertinent to note that, they are for the years 2021-22 & 2024-25 but except these two tax-paid receipts regarding the suit property, no tax-paid receipts in respect of the said alleged period from 2003-04 are produced before the court by the defendants for the reasons best known to them. If really, they were to be in the possession of the said suit landed property by enjoying & cultivating the same, physically, there was no bar to produce the same.

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57. In addition to the same, it is to be noted that, any person can pay the tax in his name in respect of the property standing in the name of the other person. Therefore, the tax-paid receipts are not the documents of either ownership or the possession of such property.
58. Therefore, the said Ex.D's.20 & 21 are of no aid in favor of the defense of the defendants to make-out their alleged possession over the suit property, in addition to the aid Ex.D's.2 to 19.
59. Therefore, over-looking these particular aspects discussed at much-length in-connection-with the ownership of the plaintiff No.1 regarding the suit schedule property, all the while, the trial-court appears to have misconcieved to consider the admitted fact of the ownership of the plaintiff No.1 over the suit property.
60. Even, the trial-court has lost it's sight to consider that, by virtue of the illegal entry of the name of the defendant No.1 to the suit landed property

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based on the illegal Ex.D.17 & Ex.D.18, resulting into the Ex.D's.2 to 16, the defendants are claiming their right & possession over the suit property; whereas, on the contrary, in the lack of the appearance of the name of the plaintiff No.1 in the RTC extracts from the year 2003-04 by virtue of illegal Ex.D's.17 & 18, it does-not mean that, the plaintiffs are not in possession of the suit landed property because, the PW.1 has clearly stated in the cross-examination that, since last two years she is growing the cotton-crop, there-in in the said suit landed property.

61. Even, it is the specific contention of the plaintiffs that, on 29.01.2022, they came to know regarding the alleged illegal entries of the name of the defendant No.1 to the revenue-records pertaining to the suit property. When that is so, the question of no possession with the plaintiffs, does-not arise at-all ; whereas, on the contrary, when the Ex.D's.2 to 18 are being crepted in the nature of the unlawfulness, the question of

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passing the possession of the suit land in favor of the defendant No.1, also does-not arise at-all. To over-ride this particular aspect, I do-not find any sturdy material from the defendants' side for the reasons discussed at much length herein before supra.

62. It is no-doubt that, the defendants have claimed in the alternatively that the defendant No.1 has perfected her title over the suit scheduled property by way of adverse possession. But, in respect of the same, at the very out-set, the defendants are bound to admit the absolute ownership of the plaintiff No.1. Accordingly, the defendants, though admitted the ownership of the plaintiff No.1 over the suit property, by virtue of the recitals in Ex.D's.17 & 18, they have urged regarding the relinquishment of the suit property by the plaintiff No.1 in favor of defendant No.1; & thereby endeavored to blow the trumpet hot & cold at a time.

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63. Even, there is no substantial material by way of either documentary or oral evidence from the defendants side to establish regarding their perfection of title over the suit property by way of adverse possession.
64. Therefore, the said alternative defence of the defendants that, the defendant No.1 has perfected her title over the suit land by way of adverse possession hold no water, as they have utterly failed to prove their possession over the suit property, whereas, on the contrary, as discussed at much length herein before supra, the plaintiffs have succeeded in establishing their possession over the suit property all the while & the mutation & entry of the name of the defendant No.1 in Ex.D's.2 to 19 as illegal.
65. Consequent-upon the same, the question of the settled possession over the suit property with the defendants', also does-not arise at-all.
66. In other-words, in respect of all these particular aspects though the trial-court has discussed at

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much-length in it's Judgment, it has wrongly arrived at a conclusion that, the plaintiff No.1 has not established her title & ownership over the suit schedule property in-view of having not produced the title-deeds.

67. This is a case in which, peculiar circumstances are prevailing-with regard to the ownership of the suit property and the possession over it. When the ownership of the plaintiff No.1 is a result of inheritance over the suit property from the deceased propositus Moula Sab S/o Bade Sab and also, as admitted by the defendants' side regarding the plaintiff No.1's title over the suit schedule property, the question of expecting or demanding for production of any title-deeds, does-not arise at-all.
68. Consequent-upon the same, the principle i.e., "the possession follows the title", is aptly applicable to the instant-case on hand.
69. Therefore, considering all these circumstances coupled-with the available material by-way of

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oral as-well-as the documentary evidence, it is clear that, the plaintiffs have proved the absolute ownership of the plaintiff No.1 over the suit schedule property and also possession of the same.

70. Therefore, in view of the same, the trial-court warrants the interference by this court with regard to the aspect of the ownership of the suit property with the plaintiff No.1, for the reasons stated at much-length herein before supra; Wherefore, the trial-court impugned Judgment & Decree being arbitrary, partly, I am inclined to answer the Point No.1 in the 'Affirmative partly only in respect of the possession over the suit schedule property' and Point No.2 in the 'Affirmative partly.'

71. **Point No.3:-** For the reasons discussed at much-length, while answering the Point No.1 in the Affirmative partly and Point No.2 in the Affirmative partly, I am inclined to proceed to pass the following:-

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: O R D E R :

The instant Regular Appeal at RA No.21/2025 preferred by the appellants/original plaintiffs against the respondents/ original defendants challenging the impugned partly decreetal Judgment & Decree passed in favor of the instant appellants/original plaintiffs by the Senior Civil Judge & CJM Court, Raichur in O.S. No.47/2022, dated 12.02.2025 & 18.02.2025, is hereby allowed.

It is hereby declared that, the plaintiff No.1 is the absolute owner in possession of the suit schedule property.

Consequent upon the same, the suit of the plaintiffs/appellants at OS No.47/2022, seeking for the relief of declaration declaring that, they are the absolute owners in possession of the suit scheduled agricultural landed property hereby stands decreed.

No order as to costs.

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Draw the decree in the matter,
accordingly.

Send the entire L.C.Rs/T.C.Rs to the
to the trial-court along-with the copies
of the Judgment & Decree of the instant
regular-appeal, immediately, without
causing any delay.

*(Dictated to the Steno Grade-III, transcribed and typed by him
and after corrections, printout taken and then pronounced and
signed by me, on this the 2nd day of April, 2026.)*

(G.D.Mahavarkar)
I Addl.Dist & Sessions Judge,
Raichur.