

IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE AND
C.J.M. AT: RAICHUR

PRESENT: **Sri. P.G. CHALUVA MURTHY, M.A. LL.M**
Prl. Senior Civil Judge & C.J.M., Raichur.

Dated: This the 29th day of April, 2014.

O.S. 158/2005

PLAINTIFFS: 1) Dodda Tayappa S/o Devappa Dalwai, age: major,
occ: agriculture, R/o Kalmala, Tq. Raichur.

2) Sanna Tayappa S/o Devappa Dalwai, age: major,
occ: agriculture, R/o Kalmala, Tq. Raichur.

(By Sri. V.S. Advocate)

//Versus//

DEFENDANTS: 1) State of Karnataka, represented by its Chief
Secretary, Vidhana Soudha, Bangalore-1.

2) The Deputy Commissioner, Raichur.

3) The Executive Engineer, No-5 Canal Division,
Yermarus, Tq. Raichur.

4) The Asst. Executive Engineer, No-1 Canal Sub-
Division, Kallur, Tq. Manvi.

(By Dist. Government Pleader for D-1 to D-4)

Date of Institution of the suit. 25-06-2005.

Nature of the suit. Suit for declaration and
injunction.

Date of the commencement of
recording of the evidence. 11-12-2006.

Date on which the Judgment was pronounced. 29-04-2014.

Total Duration	Year/s	Month/s	Day/s
	08	10	04

(P.G. Chaluva Murthy)
Prl. Senior Civil Judge
Raichur.

JUDGMENT

The plaintiffs have filed the suit for the relief of declaration and consequential relief of permanent injunction against the defendants and for other reliefs.

2. Expose of facts:

The plaintiffs are the absolute owners in possession and enjoyment of the landed property bearing survey No-79/1/3, measuring: 3 acre 18 guntas situated at Kalmala village of Raichur Tq., which has been acquired by the plaintiffs through their father Devappa. Originally Sy.No-79/1 was totally measuring 6 acres 32 guntas and same was in the name of original propositus i.e. Mallayya Dalwai. He had two sons namely Lachamanna Dalwai and Tippanna Dalwai. Both Lachamanna Dalwai and Tippanna Dalwai got divided the property equally at 3 acre 16 guntas each. Father of the plaintiffs

by name Devappa is the son of Tippanna Dalwai and one Lachamanna Dalwai died issueless. Therefore the plaintiffs also inherited the property of Lachamanna Dalwai and their father Devappa. According to plaintiffs they are the joint owners and in possession and enjoyment of the property in question.

3. It is further contended that subsequently said Survey No: 79/1 was divided into three portions i.e. 79/1/1 measuring: 2-00 acres, 79/1/2 measuring: 1 acre 14 guntas and Sy.No-79/1/3 measuring: 3 acres 18 guntas and said phodi is illegal. According to plaintiffs any portion of the said property has not been acquired by the Government of Karnataka or any other authorities and no acquisition proceedings are pending. The suit land belongs to the plaintiffs. However the defendants No-3 & 4 encroached a portion of the land towards south eastern portion by constructing two quarters which is illegal and without any right or interest over the same. However in the record of rights in respect of the property bearing Sy.No-79/1/3 measuring 3 acres 18 guntas it has been shown as Grama which is not correct. Therefore, the plaintiffs approached the Tahasildar Raichur, who is turn submitted a report to Asst. Commissioner stating that there is no justification for mentioning as “Grama” in respect of the suit property.

However the Asst. Commissioner directed the plaintiffs to approach the Civil Court for redressal of their grievances. Now the defendants by taking undue advantage of illegal entries, unnecessarily causing interference with peaceful possession and enjoyment of the suit land by the plaintiffs. Therefore, plaintiffs issued notice to the defendants U/s 80 of CPC. Since no action taken by the defendants they approached the court for the relief of declaration and consequential relief of injunction.

4. Pursuant to summons, all the defendants entered appearance before the court through their respective counsels and fourth defendant has filed written statement and other defendants adopted the same. The defendants contended that the Government has acquired the lands in Sy.No.79/1/A to an extent of 3 acres 16 guntas, 79/1/AA to an extent of 3 acres 16 guntas and Sy.No-79/2 to an extent of 37 guntas and in total 3 acres 12 guntas has been acquired for the purpose of Public Works Department (Inspection Bungalow and Tungabhadra Project), Irrigation Department long back about 50 years back. Since 1954-55, PWD and Irrigation Department are in possession and enjoyment of the above lands and constructed inspection bungalow in the said place about 50 years back.

Therefore, the suit of the plaintiffs is liable to be dismissed. It is contended that the plaintiffs are not at all owners of the suit property bearing Sy.No-79/1/A, Sy.No-79/1/AA and Sy.No-79/2 to an extent of 3 acres 16 guntas which is already been acquired by the Government. The defendants denied the other plaint averments in toto and sought for dismissal of the suit.

5. On the basis of the above pleadings of the parties, my predecessor has framed following issues:

- 1) Whether the plaintiffs prove that, they are the owners and joint possession of the suit schedule lands as and date of the suit or earlier?
- 2) Whether the plaintiffs prove that, the defendants have caused alleged interference as stated in the plaint?
- 3) Whether the plaintiffs were entitled for direction to the defendants for rectification of records in respect of suit schedule properties?
- 4) What order or decree?

6. The second plaintiff got examined himself as PW-1 and examined two more witnesses as PWs-2 & 3 and got marked Exs.P-1 to 19 and closed their side. The defendants have examined Asst.

Commissioner as DW-1 and got marked Exs.D-1 & 2 documents and closed their side.

7. This court after hearing both the parties decreed the suit of the plaintiffs vide judgment dated: 2-7-2008. Being aggrieved by the judgment and decree of this court, the defendants preferred an appeal before the Hon'ble Prl. District Judge Court Raichur in RA No: 84/2012. The Hon'ble Prl. District Judge vide judgment dated 2-4-2013 was pleased to allow the appeal and set aside the judgment and decree of this court and remanded the matter back to this court for disposal of the case afresh.

8. Pursuant to remand Surveyor was appointed and he submitted his report alongwith sketch. Again second plaintiff further examined-in-chief and got marked Ex.P-20. The plaintiff also examined one Basavaraj as PW-4 and closed their side. The defendants not chosen to lead any evidence subsequent to remand.

9. Heard the counsel for both the parties, perused the evidence and documents on record.

10. My answer to the above issues are as follows:

Issue No-1: In the negative
Issue No-2: In the negative
Issue No-3: In the negative
Issue No-4: As per final order, for the following:

REASONS

11. Issue No-1: The definite case of the plaintiffs is that they are the absolute owners of the property bearing Sy.No-79/1/3 measuring: 3 acres 18 guntas, situated at Kalmala village of Raichur Tq. having inherited the same from their ancestors. It is their further case that the original Sy.No-79/1 was totally measuring 6 acres 32 guntas there was a partition between their grand fathers Lachamanna Dalwai and Tippanna Dalwai equally at 3 acres 16 guntas each. After the death of their grand fathers, both the plaintiffs inherited the entire property measuring 6 acres 32 guntas which includes share of the Lachamanna Dalwai, who according to plaintiffs died issueless. It is their case in the pleadings that no portion of the property was acquired by the Government and no proceedings are pending. However, there was division of the property into three portions as Sy.Nos-79/1/1, 79/1/2 and 79/1/3 which was illegal. According to plaintiffs they inherited the entire property from their ancestors and boundaries furnished to the suit land is North by: Land Sy.No-78 and

79/2, South: main road and quarters, East: Land in Sy.No.79/1/2, and West: road.

12. The defendants specifically disputed title, ownership and possession of the suit property by the plaintiffs. It is the case of the defendants that the property measuring 3 acres 12 guntas was acquired by the Government and couple of buildings were erected about 50 years back itself and it is the defendants No-3 & 4 who are in possession and enjoyment of the property in question.

13. The learned counsel for the plaintiffs Sri. V.S. vehemently submitted that as per Ex.P-19 reply notice issued by the defendants it is crystal clear that the defendants acquired only 3 acres 12 guntas and remaining property has not been acquired by the Government. Therefore, the plaintiffs are in possession and enjoyment of remaining 3 acres 18 guntas in the said survey number. It is submitted that it is not the case of the defendants that they acquired the entire property in Sy.No.79/1 and therefore the defendants cannot claim right over the remaining property which is in possession and enjoyment of the plaintiffs. On the contrary the learned Government Pleader submitted that record of rights produced by the plaintiffs

indicate that the suit property bearing Sy.No-79/1/3 measuring 3 acres 18 guntas is standing in the name of village which is mentioned as “ Grama “ in all the revenue records and not in the names of plaintiffs. The plaintiffs not chosen to produce any material worth its name to establish their title and possession over the disputed property. The suit property belonged to the village and not to the plaintiffs. The plaintiffs suppressing several facts approached the court seeking declaration which cannot be decreed in the absence of concrete and reliable evidence on record. Therefore, the learned D.G.P sought for dismissal of the suit.

14. Bearing in mind the rival contentions of the parties, let me examine the evidence and documents on record. As per genealogy furnished by the plaintiffs one Mallayya was the original propositus of the family and he had two sons by name Lachamanna Dalwai and Thippanna Dalwai. Said Tippanna Dalwai had a son by name Devappa and plaintiffs are claiming to be the children of said Devappa. According to plaintiffs Lachamanna Dalwai their grand father died issueless and therefore they inherited the property of Lachamanna Dalwai also. It is the definite case of the plaintiffs that a total extent in Sy.No.79/1 6 acres 32 guntas and Lachamanna Dalwai

and Tippanna Dalwai got divided the said property equally at 3 acres 16 guntas each. Therefore, the plaintiffs claiming that they inherited the entire property of their grand fathers. It is pertinent to note that the suit property is only 3 acres 18 guntas in Sy.No-79/1/3. According to plaintiffs no portion of the property has been acquired by the Government and no proceedings are pending. That being the case, the plaintiffs ought to have sought for declaration in respect of entire extent of property i.e. 6 acres 32 guntas. But the plaintiffs are claiming only 3 acres 18 guntas for the reasons best known to them.

15. That apart, in order to establish their relationship with original propositus Mallayya except Ex.P-20 which is produced and marked subsequent to remand, no other documents have been produced before the court. Ex.P-20 is a legal heir ship certificate said to have been issued by the Village Account of Kalmala. On perusal of the same it could be seen that said genealogy has not been issued on the basis of any register maintained in the panchayath office. Admittedly, it is issued only on the say of the applicants i.e. plaintiffs herein and on the basis of statement of witnesses. The Village Accountant who issued said certificate has not been examined before

the court. Therefore, no evidentiary value could be attached to the said document.

16. Be that as it may. It is the definite case of the plaintiffs that they are the children of one Devappa S/o Thippanna. According to plaintiffs after the death of their grand father Thippanna, father of the plaintiffs Devappa should have inherited the property of his father in addition to the property of Lachamanna Dalwai, the brother of Thippanna. None of the documents produced by the plaintiffs at Exs.P-1 to 20 reflect the name of Devappa father of the plaintiffs at any point of time. Absolutely there is no reference to Devappa in any of the documents produced by the plaintiffs.

17. Coming to the documents produced by the plaintiffs at Ex.P-1 is a record of rights in respect of the property bearing Sy.No-79/AA, measuring 3 acres 16 guntas which is standing in the name of Lachamanna Dalwai in the year 1961-62. Similarly Ex.P-2 is another RTC in respect of Sy.No-79/A, measuring 3 acres 16 guntas which is standing in the name of Tippanna for the year 1961-62. In Ex.P-1 at cultivator's column one Yellappa Dalwai's name is mentioned and similarly in Ex.P-2 name of one Basanna S/o Maranna Dalwai is

mentioned. How the names of Yellappa Dalwai and Maranna Dalwai are entered in the cultivators column has not been explained by the plaintiffs. Ex.P-3 is the ROR in respect of Sy.No-79/1/1 measuring 2 acres which is standing in the name of Thippanna S/o Mallayya for the year 1965 to 1967-68. Ex.P-4 is another ROR in respect of the property bearing Sy.No-79/1/2 measuring 1 acre 14 guntas which is standing in the name of one Lachamanna Dalwai for the year 1965 to 1967-68. As per Ex.P-5, Sy.No-79/1/3 measuring 3 acres 18 guntas is standing in the name of Village. Even in the cultivator's column, the property is standing in the name of Village.

18. Ex.P-6 which is also a ROR in respect of the property bearing Sy.No-79/1/1 measuring 2 acres standing in the name of plaintiffs at 1-00 acre each. Mode of acquisition is mentioned at column No-10 as through M.R.No:13/2003-04, ancestors, dated: 29-11-2003. At liability column it is mentioned that 1 acre 2 guntas of property has given to T.D.P. Canal. There is no explanation by the plaintiffs as to this endorsement in RTC. Ex.P-7 is another ROR in respect of property bearing Sy.No.79/1/2 measuring 1 acre 06 guntas which is standing in the name of Rangagangappa S/o Eashwarappa for the year 2002-03. At column No-11 it is mentioned that as per the order of the

Tahasildar Raichur, for the year 1988 said property was converted for N.A. purpose. This document also not been explained by the plaintiffs. In the very same Sy.No-79/1/2, measuring 1 acre 06 guntas of property is standing in the name of Rangagangappa and same is converted for N.A. purpose. How this Rangagangappa acquired the said extent of property when it is the case of the plaintiffs that entire property is belonged to their original propositus Mallayya. As aforesaid no explanation is offered by the plaintiffs. Ex.P-8 is ROR in respect of the property bearing Sy.No-79/1/3 measuring 3 acres 18 guntas which is standing in the name of "Village" for the year 2002-03 and at column No-10 it is mentioned as Government.

19. Of-course the plaintiffs appears to have approached the Tahasildar Raichur wherein the Tahasildar observed that there is no basis for the " Village" mentioned in the record of rights of the property bearing Sy.No-79/1/3 and it appears that it is a wrong entry in mentioning as village. However the Asst. Commissioner in his endorsement at Ex.P10 dated 23-8-2004 observed that since 1964-65, there are buildings belonged to Irrigation Department in the said properties and it is the Irrigation Department which is in possession of

the property since last 38 years. Since said observation goes to very genesis of the case, same is reproduced below:

“ಮೇಲ್ಕಾಣಿಸಿದ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ದಾಖಲೆಗಳು ಪರಿಶೀಲಿಸಲಾಗಿ ಸನ 1964-65 ರಿಂದಲೂ ನೀರಾವರಿ ಇಲಾಖೆಯ ಕಟ್ಟಡಗಳು ಇದ್ದಿರುವುದು ಕಂದಾಯ ಇಲಾಖೆಯ ದಾಖಲೆಗಳಿಂದ ತಿಳಿದು ಬರುತ್ತದೆ. ಅಂದರೆ ಸುಮಾರು 38 ವರ್ಷಗಳ ಹಿಂದೆ ನೀರಾವರಿ ಇಲಾಖೆಯ ಕಟ್ಟಡದಲ್ಲಿ ಇರುವುದು ಖಚಿತವಾಗುತ್ತದೆ. ನಿಮ್ಮ ಪೂರ್ವಜರು ಇದಕ್ಕೆ ಸಮ್ಮತಿ ಕೊಟ್ಟಿದ್ದಾರೆಂದು ಕಾಣುತ್ತದೆ ಒಂದು ವೇಳೆ ಸಮ್ಮತಿ ಇರದಿದ್ದರೆ ತಕ್ಷಣವೇ ಸದ್ರಿ ಇಲಾಖೆ ಜಮೀನು ಕಬ್ಬಾ ಆಕ್ರಮಿಸಿದ ಬಗ್ಗೆ ಆಕ್ಷೇಪಣೆ ಮಾಡಬಹುದಾಗಿತ್ತು. ಸುಮಾರು 38 ವರ್ಷಗಳಿಂದ ಸದ್ರಿ ಸರ್ವೆ ನಂಬರದಲ್ಲಿ ನೀರಾವರಿ ಇಲಾಖೆಯ ಕಟ್ಟಡಗಳಿದ್ದು ಎಕಾ-ಎಕಿ ನೀವು ಕೋರಿದ ಪ್ರಕಾರ ಕಾಲಂ ನಂ-9 ರಲ್ಲಿ ಪಟ್ಟೀದಾರರ ಹೆಸರು ಸೇರಿಸಲು ಬರುವುದಿಲ್ಲ. ಈ ಸಂಬಂಧ ಸಕ್ಷಮ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪರಿಹಾರ ಕಂಡುಕೊಳ್ಳಬಹುದಾಗಿದೆ ಎಂದು ಈ ಮೂಲಕ ತಿಳಿಸಲಾಗಿದೆ. ಇದರ ಒಂದು ಪ್ರತಿಯನ್ನು ಪಡೆದುಕೊಂಡು ಎರಡನೇ ಪ್ರತಿಯ ಮೇಲೆ ರುಜು ಹಾಕಿ ಕಳುಹಿಸತಕ್ಕದ್ದು.”

20. Ex.P-11 is the letter of the Secretary, Grama Panchayath Kalmala addressed to plaintiffs stating that there are no documents in the panchayath to ascertain that the disputed property belonged to the village. Ex.P-12 is the notice issued by the plaintiffs to the defendants prior to filing of the above suit. Exs.P-13 to 16 are the postal receipts and postal acknowledgements. Exs.P-17 & 18 are the letters of Irrigation Department and Ex.P-19 is the reply notice.

21. As stated supra, the learned counsel for the plaintiffs much relied on Ex.P-19 wherein the defendants in their reply notice have stated that the Government has acquired the property to an extent of 1 acre 7 guntas in Sy.No.79/1/A, 1 acre 8 guntas in Sy.No.79/1/AA and 37 guntas in Sy.No-79/2, totally measuring 3 acres 12 guntas was acquired by the Government. In the said notice itself it is contended by the defendants that in an extent of 1 are 7 guntas in Sy.No.79/1/A there are T.D.P Camp quarters. Similarly, in an extent of 1 acre 8 guntas in Sy.No-79/1/AA also there are T.D.P camp quarters and in Sy.No-79/2 Inspection Bungalow. Meaning thereby the Government has acquired the properties in all the three survey numbers. The plaintiffs in their plaint itself contended that the alleged phodi bearing Sy.No.79/1/1, measuring: 2 acres, Sy.No.79/1/2 measuring: 1 acre 14 guntas and Sy.No-79/1/3 measuring 3 acres 18 guntas is illegal. That could be seen at Para No-3 of the plaint. According to plaintiffs said phodi itself is illegal. However they are claiming to be the owners and in possession of the property bearing Sy.No-79/1/3 measuring 3 acres 18 guntas. Absolutely plaintiffs not produced any material worth its name to establish phodi of the property in Sy.No-79/1. It is the specific case of the plaintiffs that

defendants No-3 & 4 encroached the other portion of the land towards south-eastern portion by constructing two quarters. But the plaintiffs not chosen to seek possession of the encroached property for the reasons best known to them and not sought for mandatory injunction seeking demolition of the construction admittedly put up by the defendants. The plaintiffs have also not produced any material to establish that their father Devappa had inherited the property of one Lachamanna Dalwai who died issueless. The plaintiffs failed to produce any material to establish the extent of property alleged to have been encroached by the defendants and survey number thereof. The plaintiffs vaguely contended that the defendants No-3 & 4 have encroached the other portion of the land towards south-eastern portion by constructing two quarters. The dimension alleged to have been encroached by the defendants not mentioned and no relief is sought over the said property.

22. At this stage it is necessary to refer the evidence of the parties. Of-course the evidence of PW-1 in his examination-in-chief is only reproduction of plaint averments. In the cross-examination he maintained the evidence given in examination-in-chief. But the fact admitted by PW-1 is that there are Government buildings in the said

survey number and when it was suggested to the witness that said buildings are in existence since 50 years back, witness denied the same. Even the witness goes to the extent of denying acquisition of the property by the Government about 50 years back and construction of building over the same. This is contrary to the pleadings of the plaintiffs. As aforesaid during the course of argument the plaintiffs much relied on reply notice issued by the defendants wherein they have stated that 3 acres 12 guntas of property was acquired by the Government. Whereas in the plaint, they denied any acquisition by the Government in the said property. Even in the cross-examination also PW-1 denied acquisition of the property by the defendants but he admits existence of buildings in a portion of survey number. Therefore, the plaintiffs are blowing hot and cold at the same time. When it was further suggested to the witness that at the time of acquisition neither the plaintiffs nor their ancestors submitted objection to acquisition proceedings, witness denied the same. But no material worth its name is produced before the court to establish at any point of time either the plaintiffs or their ancestors opposed the acquisition proceedings.

23. Coming to the evidence of PW-2, indeed he had given different boundary of the suit schedule property in his cross-examination. The boundary furnished by this witness in his cross-examination is totally contrary to the boundary furnished by the plaintiffs in their plaint. According to this witness, disputed property was standing in the name of father of the first plaintiff in the record of rights. As stated above, none of the documents produced by the plaintiffs would indicate that the name of Devappa was entered in any other records at any point of time. Further witness stated that about 5 to 6 years back the properties were standing in the name of Devappa. As stated supra, the plaintiffs not produced any material to establish that the property in question was standing in the name of their father at any point of time. PW-2 indeed let the cat out of the bag by saying that it is the defendants who constructed the building in the said area since from the time of Nizam, since about 50 years. It is his categorical admission that the property was acquired by the Government for construction of said buildings during Nizam period itself. He categorically admitted the acquisition of property by the Nizam Government and payment of compensation to the respective

owners. Evidence of this witness is virtually support the contention of the defendants.

24. PW-3 though supported the case of the plaintiffs in his examination-in-chief, in the cross-examination this witness also admits that the buildings belonging to the Canal is in existence in the suit property for more than about 40 years. He categorically admits that canal and building was in existence in the suit property since long period and plaintiffs have not made any efforts to remove the said building. The evidence of one of PW-4 is the witnesses to Ex.P20 genealogy issued by the Village Accountant is not material for the simple reason that the author of the said document has not been examined before the court. As mentioned in Ex.P-20 itself it was not issued on the basis of any register maintained in the panchayath, but only on the say of the plaintiffs. On perusal of the evidence of PWs-1 to 4 it is crystal clear that buildings are in existence since from 40 years and plaintiffs not moved their little finger since 40 years. The plaintiffs have slept over their right for more than 40 years.

25. Coming to the evidence of DW-1 who is Asst. Executive Engineer, of-course DW-1 reiterated the written statement averments

in his examination-in-chief. But in the cross-examination he admitted several suggestions put to the witness by the learned counsel for the plaintiffs. The plaintiffs specifically disputed the phodi of the property in Sy.No-79/1 into three portions. Whereas in the cross-examination it is suggested to DW-1 that phodi was denies the said property into three portions. Said suggestion was admitted by the witness. The said suggestion by the plaintiffs is contrary to their own pleadings. It is also suggested to the witness that property bearing Sy.No-79/1/3 was not in existence previously. Said suggestion is answered in the affirmative. It is further suggested to the witness that Sy.No-79/1/A, Sy.No-79/1/AA and Sy.No-79/2 are the survey numbers given long back during the period of Nizam Government and thereafter it is suggested that the witness was deposing falsely said survey number were in existence during the period of Nizam, the witness denied the same. Remaining cross-examination is only stock suggestions which have been denied by the witness. Of-course the defendants have not produced any material to establish acquisition of the property by the Government. But the fact remains that burden is heavy on the plaintiffs to prove their title and possession over the same as on the date of the suit.

26. On careful scrutiny of the entire evidence on record, the plaintiffs in one breath claiming that there is no acquisition of the properties and total extent of 6 acres 32 guntas was inherited by them from their ancestors. It is also their case that a portion has been encroached by the defendants No-3 & 4 and constructed the buildings. As stated above, no relief of possession or mandatory injunction is sought by the plaintiffs and claim of the plaintiffs is restricted only to an extent of 3 acres 18 guntas. The plaintiffs while disputing phodi in Sy.No-79/3 into three portions claiming 3 acres 18 guntas. In order to establish their possession, absolutely there is no material on record not even a single tax paid receipt is produced by the plaintiffs at least to establish prima facie, their possession over the property in question. The plaintiffs failed to prove the inheritance of the property from their father and absolutely there is no material for having inherited any property. The documents produced by the plaintiffs would go against the case of the plaintiffs. Couple of survey number, properties are standing in the name of the plaintiffs measuring 1 acre each and 1 acre 2 guntas appears to have been given to Tungabhadra Canal. As stated above, there is no explanation offered by the plaintiffs to the said documents. No

documents are produced by the plaintiffs to establish division of properties between Lachamanna Dalwai and Tippanna Dalwai and subsequent to their death inheritance of the property by their father Devappa. Thus looking from any angle the plaintiffs miserably failed to establish their title and possession over the suit schedule property. As stated above the defendants not produced any material to establish acquisition of the property. But the plaintiffs have to fall or stand on the strength of their own case and not on the weakness of other side. There are no materials on record to establish the title and possession of the plaintiffs over the suit schedule property. The claim of the plaintiffs is only an arithmetical calculation, without any basis for the same. In which portion the Government has acquired the property and which portion of the property is in possession of the plaintiffs has not been proved by the plaintiffs by producing cogent and acceptable evidence before the court. Therefore issue No-1 answered in the negative.

27. Issue No-2: Since the plaintiffs failed to prove their possession and enjoyment of the suit schedule property as on the date of suit and admittedly the buildings are constructed by the defendants are in existence since more than 40 years and as such the defendants

interfering with possession and enjoyment of the suit schedule property of the land does not arise. The plaintiffs failed to prove alleged interference by the defendants with their possession. Hence in view of finding on Issue No-1, Issue No-2 is answered in the negative.

28. Issue No-3: The plaintiffs sought for rectifications of the record of rights in respect of the suit schedule property. But as aforesaid the plaintiffs failed to prove their title and possession over the suit land by producing any concrete and reliable evidence before the court and as such the plaintiffs are not entitled for the reliefs claimed in the above suit. Accordingly, Issue No-3 is answered in the negative.

29. Issue No-4: In view of the findings on the above issues, the suit of the plaintiffs deserves to be dismissed. Accordingly, I proceed to pass the following:

ORDER

The suit of the plaintiffs is hereby dismissed with costs.

Draw a decree accordingly.

(Dictated to the Stenographer, transcript by him, corrected, initialed and pronounced by me in the open court on this the 29th day of April, 2014)

(P.G. Chaluva Murthy)
Prl. Senior Civil Judge & C.J.M.,
Raichur.

ANNEXURE**WITNESSES EXAMINED FOR THE PLAINTIFFS:**

- PW-1: Sanna Tayappa S/o Devappa Dalwai,
45 years, agriculture, R/o Kalmala village,
Tq. Raichur.
- PW-2: Basanna S/o Ayyanna Bhogavathi, 70 years,
agriculture, R/o Kalmala village, Tq. Raichur.
- PW-3: Shankarappa S/o Nagappa, 65 years,
agriculture, R/o Kalmala, Tq. Raichur.
- PW-4: Basavaraj S/o Ayyappa, 45 years, agriculture,
R/o Kalmala village, Tq. Raichur.

WITNESSES EXAMINED FOR THE DEFENDANTS:

- DW-1: Sunder Babu S/o P. Hanumantha, 42 years,
Asst. Executive Engineer, R/o Raichur.

DOCUMENTS MARKED FOR THE PLAINTIFFS:

- Exs.P-1 to 8: RORs.
- Ex.P-9: Report of Tahasildar.
- Ex.P-10: Endorsement issued by A.C.
- Ex.P-11: Letter issued by Panchayath.
- Ex.P-12: Copy of legal notice.
- Ex.P-13: Postal receipts.
- Exs.P-14 to 16: Postal acknowledgment.
- Ex.P-17 & 18: Letters addressed to AEE.
- Ex.P-19: Reply notice.
- Ex.P-20: Family genealogy.

DOCUMENTS MARKED FOR THE DEFENDANTS:

- Ex.D-1: Sketch.
- Ex.D-2: ROR.

Prl., Senior Civil Judge
& C.J.M., Raichur.