



**IN THE COURT OF THE CIVIL JUDGE & JMFC., AT
DEVADURGA**

:: PRESENT ::

Sri. RAFEEQ AHMED., B.A., L.L.B
Civil Judge & J.M.F.C., Devadurga
Dated this 08th Day of July-2026.

O.S.No.161/2025

PLAINTIFF : Kariyappa S/o Yallamma, Age: 70 years,
Occ: Agriculturist, R/o: Honnatagi village,
In Gabburu Circle, Tq: Devadurg,
Dist: Raichur.

(By Sri. V.D.C., Adv.)

~ ~ **Versus** ~ ~

DEFENDANT : Mahadevappa S/o Haumanta, Age: 75
years, Occ: Agriculturist, R/o: Honnatagi
village, In Gabburu Circle, Tq: Devadurga,
Dist: Raichur.

(By Ex-prate)

Date of institution of suit	:	11-11-2025
Nature of the suit	:	Suit for Declaration, Injunction and rectification of ROR.
Date of recording of the evidence	:	20-06-2026
Date on which the Judgment pronounced	:	08.07.2026
Total Duration	:	Years Months Days 00 07 27

J U D G M E N T

The suit has been filed by the plaintiff for the following relief

- 1). The plaintiff be declared as the absolute owner and possessor of the suit land bearing Sy. No. (Old 146/A) present Sy. No. 146/+ /1 measuring 07 acres 19 guntas (00-01 gunta Port Kharab) 07 acres 18 guntas land revenue of Rs. 21.90 paisa, situated in the limits of Khanapura village in Gabburu circle Tq: Devadurga Dist: Raichur.
- 2). Any relief or other reliefs which the honorable court deems fit and proper under the circumstances of the case may also be awarded in the interest of justice.
- 3) Cost of the suit be awarded.

2. The brief facts of plaint are that :-

That, the subject matter of the suit is agricultural land bearing Sy.no.(Old 146/A) present Sy. No.146/* /1 total measuring 14 acres 39 guntas (00-01 gunta Port Kharab) out of suit land 07 acres 18 guntas land revenue of Rs.21.90 paisa, situated in the limits of Khanapura village, in Gabburu circle, Tq: Devadurga, Dist: Raichur, is the suit land which is more fully described in the schedule of the suit property to this plaint and said agricultural land is herein after referred to as the suit land for the sake of brevity. That, the suit land is the ancestral property of the Plaintiff grand-father Hanumant S/o Samanna and grand-mother Lachamavva W/o Chanda they are joint owner, joint possessor of the suit property, they are since long back

died, the suit property was mutated in the name of their legal heirs Daughter of Yallamma M/o Lachamavva, in the year 1986 Mutation No.57/1986-87 on dated 22-04-1986. The said Yallamma without knowledge of the her son of plaintiff she has sold the suit property in the name of defendant in the year 1986. The sale Deed registration No.87/1986-87 on dated 19-06-1986. The mutation No.71/1986-87 on dated 16-05-1986, the sale deed and mutation are not binding up on the plaintiff and purchased of the suit property the defendant have not taken the possession of the suit property the plaintiff is the possession of suit property after the death of his mother till today. Further submits that the plaintiff is the major at the time of sold the suit property of his mother he is the at the time gone to the Bombay city for livelihood purpose so the property was transfer in the name in the defendant there is no knowledge of the plaintiff. The plaintiff is the uneducated person. Hence the property was transferred in the name of defendant not known of the plaintiff.

2(a). It is further stated that, the suit property was not self acquired suit property of the mother of plaintiff by deceased Yallamma M/o Lachamavva. The suit property was ancestral property standing in the name of mother of the deceased Yallamma. The plaintiff's mother of Yallamma without intimated to the plaintiff and not take the consent to plaintiff sold the suit property in favor of defendant. The defendant is not absolute owner, owner and possessor of the suit property the plaintiff is till today actual possessor and

cultivator of the suit property. The defendant has not any legal rights of the suit property. That, the family pedigree of the plaintiff and suit schedule property boundary annexed in separate list that, the above said Plaintiff and Defendant are not related each other and the above said Defendant are no way concern to the family of the Plaintiff.

2(b). It is further stated that, the above said Defendant is the stranger to the family of the Plaintiff and they have no any rights, title, interest in and over the suit land and also he is in no way concerned to the suit land, and it is submits that, there is a reasonable apprehension in the mind of the plaintiff that, the Defendant try to dispossess the plaintiff from the suit land. The Plaintiff is the absolute owner and possessor of the suit land and the plaintiff has got rights, title and interest over the suit land. That, the plaintiff taken the suit property ROR before the Tahasil Office at Devadurga the suit property was transfer in the name of defendant and the plaintiff is verification all the privies RORs of suit property the plaintiff mother is sold the suit property to the defendant in the year of 1986 then the plaintiff is suddenly called the village elders Panchayat on dated 10-06-2025 at Honnatagi village and ask to the defendant the mother of plaintiff without knowledge of the plaintiff sold the suit property to defendant and sale deed is illegal one, so re-transfer of suit property in the name of plaintiff the Defendant out rightly denied the title of the Plaintiff over the suit land and asserted that, he is the owner of the suit property.

2(c). It is further stated that, on 10-06-2025 the Defendant came to the suit land when the Plaintiff was doing the agricultural operation in the suit land and stating that, the suit land belongs to Defendant and tried to dispossess the Plaintiff from the suit land and at that time neighbors came and rescued and advised the Plaintiff to approach the competent court of law. Therefore there is apprehension in the mind of the Plaintiff as the Defendant will come again to the suit property and obstructed the agricultural operation and there will be cause and losses and damage to the suit property. Therefore there is no any alter way to the Plaintiff except to approach this Honorable court. Hence, prays to decree the suit.

3. The defendant in-spite of service of summons did not appeared to court and he was placed exparte.

4. Based on the above pleadings, this court has framed following points:-

1. Whether the plaintiff prove that suit property is the ancestral property?
2. Whether the plaintiff prove that the defendant, without the consent of the plaintiff, got executed the registered sale deed from the mother of plaintiff through Reg. No. 87/1986/87 dated 19.06.1986 and it is not binding upon the plaintiff?
3. Whether the plaintiff prove that he is the owner and possessor of the suit property?
4. Whether the plaintiff prove that defendant has caused interference in the peaceful

possession and enjoyment of plaintiff over the suit property?

5. Whether the plaintiff's suit is barred by law of limitation?
6. Whether the plaintiff is entitled to relief sought for in the plaint ?
7. What decree or order?

5. In order to prove his case the Plaintiff examined himself as PW-1 and two witnesses as PW-2 and PW-3 got marked documents Ex.P-1 to 8.

6. Heard the arguments and perused the evidence on record.

7. My findings to the above points are as follows:

Point No.1 : **Is in the Affirmative.**

Point No.2 to 6 : **Are In the Negative.**

Point No.7 : As per final order for the following:

:: REASONS ::

8. Point No1:- As per Sec.101 and Sec.103 of Indian Evidence Act the burden of proof to prove that the suit property ancestral property and the sale deed executed by the mother of plaintiff in favour of defendant is illegal and not binding on the plaintiff. The Plaintiff got examined PW-1 and two witnesses as PW-2 and PW-3 got marked Ex.P-1 to 8 documents.

9. In his evidence it is stated that, the suit land is the ancestral property of the Plaintiff grand-father Sri. Hanumanth S/o Samanna and grand-mother Smt. Lachamavva W/o Chanda they are joint

owner, joint possessor of the suit property, since long back they have died. The suit property was mutated in the name of their legal heir Daughter Smt. Yallamma M/o Lachamavva, in the year 1986 Mutation No.57/1986-87 on dated 22-04-1986. To prove the said contention, the plaintiff has produced the following revenue documents, which are marked as Exhibit P-1 to Exhibit P-8. Exhibit P-1 to 3 are the handwritten RTC's in respect of the suit Land Survey No. 146 measuring 14 acres 38 gunta at Column No. 9. The name of Hanumantha, S/o Sayibanna Honnattagi and Lakshmava, W/o Chandasa, is entered from the year 1968 till 1983. Further as per Exhibit P-3 the name of Sri. Hanumatha and Smt. Lakshmaava is rounded of and the name of Smt. Yallamma, D/o Lakshmaava is rounded of and the name of defendant by name Mahadevappa S/o Honappa Hanali is entered on the basis of registered sale deed through M No. 71/86/87 dated 06.08.1986. Later, as per Exhibit P-4, handwritten RTC, the name of defendant is entered on the basis of registered sale deed.

10. Further, plaintiff has produced the certified copy of the handwritten Mutation Order No.57, which is entered on the basis of virasath, showing that the previous land holder by name Hanumantha S/o Saibanna and Lakshmava W/o Chanda, died and the deceased had children by name Basavaraja S/o Abram and Yallamma D/o Lakshmava are the legal heirs and on the basis of Pothivirasath there was two hissas. Basavaraja had been allotted one

hissa and second hissa suit land property was allotted in the name of Smt. Yallamma. Therefore, from the above-revenue records, Exhibit P-1 to 3 and 5, it clearly goes to show that the suit property was previously entered in the name of Hanumanta S/o Saibanna, Honnali, and Lakshmauva, W/o Chanda and later after their death their names were rounded off and the name of the mother of plaintiff by name Smt. Yallamma D/o Lakshmauva is entered in the name of Hence, the suit property is the ancestral property of the plaintiff. Hence, I answer Point No.1 is in the Affirmative.

11. Point number 2 to 6: These points are interlinked with each other. Hence, to avoid repetition of facts, they are taken up together. It is further stated that, the said Smt. Yallamma without knowledge of the her son plaintiff she has sold the suit property in favour of the defendant in the year 1986. The sale Deed registration No.87/1986-87 on dated 19-06-1986. The mutation No.71/1986-87 on dated 16-05-1986, the sale deed and mutation are not binding up on the plaintiff. After purchase of the suit property the defendant has not taken the possession of the suit property. After the death of his mother, the plaintiff is the possession of suit property till today. Further submits that the plaintiff was major at the time of sale deed of the suit property by his mother. At the time he had gone to the Bombay city for livelihood, so the property was transfer in the name in the defendant without the knowledge of the plaintiff. The plaintiff is uneducated person.

12. It is further stated that, the suit property was not self acquired suit property of the mother of plaintiff by deceased Smt. Yallamma M/o Lachamavva. The suit property was ancestral property standing in the name of mother of the deceased Smt.Yallamma. The plaintiff's mother Smt. Yallamma without intimation to the plaintiff and did not taken the consent to plaintiff sold the suit property in favor of defendant. The defendant is not absolute owner, owner and possessor of the suit property the plaintiff is till today actual possessor and cultivator of the suit property. The defendant has no any legal right over the suit property. That, the Plaintiff and Defendant are not related to each other and the above said Defendant is no way concern to the family of the Plaintiff.

13. To prove the said contention, the plaintiff has produced the certified copy of the registered sale deed which is marked as Exhibit P-7. On careful perusal of the registered sale deed it clearly goes to show that on 13.05.1986, the mother of plaintiff by name Smt. Yallamma, D/o Lakshmavva, resident of Honnattagi Village, has sold the suit property in favour of defendant by name Mahadevappa, S/o Hannappa, a resident of Hanattagi Village, purchased the suit property for consideration amount of ₹ 15,000 and the said sale deed was executed for her legal and family necessity and the possession of the suit property has been handed over to the defendant. These recitals have been clearly entered and it clearly shows that after execution of the registered sale deed the possession of the suit

property has been handed over to the defendant and later as per Exhibit P-6 the mutation Order No. 71 the Revenue entries have been changed in the name of defendant and till today as per Exhibit P-8 from the year 1986 till the year 2025-2026 the name of defendant is entered in the revenue records.

14. That, the plaintiff himself has clearly admitted that for livelihood he had gone to Mumbai city and the family. Therefore the plaintiff was not in the residing at Devadurga and to look after the family the mother of the plaintiff was the Kartha and she has for the family necessity sold the suit property in favour of defendant by receiving amount of ₹ 15,000. With respect to the right to alienate the property vested in the kartha, I rely upon the following judgment.

**THE SUPREME COURT OF INDIA CIVIL APPEAL NO(S).
5340/2017 Dastagirsab VERSUS Sharanappa @ Shivasharanappa
Police Patil (D) by LR. & Ors.**

Para No, 11. *Right of a Karta to sell joint family property is well settled. Karta enjoys wide discretion with regard to existence of legal necessity and in what way such necessity can be fulfilled. Whether legal necessity existed justifying the sale would depend on facts of each case. In Beereddy Dasaratharami Reddy vs. V. Manjunath & Anr. this Court succinctly elucidated: “6. Right of the Karta to execute agreement to sell or sale deed of a joint Hindu family property is settled and is beyond cavil vide several judgments of this Court including Sri*

Narayan Bal v. Sridhar Sutar (1996) 8 SCC 54] , wherein it has been held that a joint Hindu family is capable of acting through its Karta or adult member of the family in management of the joint Hindu family property. A coparcener who has right to claim a share in the joint Hindu family estate cannot seek injunction against the Karta restraining him from dealing with or entering into a transaction from sale of the joint Hindu family property, albeit post alienation has a right to challenge the alienation if the same is not for legal necessity or for betterment of the estate. Where a Karta has alienated a joint Hindu family property for value either for legal necessity or benefit of the estate it would bind the interest of all undivided members of the family even when they are minors or widows. There are no specific grounds that establish the existence of legal necessity and the existence of legal necessity depends upon facts of each case. The Karta enjoys wide discretion in his decision over existence of legal necessity and as to in what way such necessity can be fulfilled. The exercise of powers given the rights of the Karta on fulfilling the requirement of legal necessity or betterment of the estate is valid and binding on other coparceners.

7. Elucidating the position in Hindu law, this Court in *Kehar Singh v. Nachittar Kaur (2018) 14 SCC 445* has referred to Mulla on Hindu Law and the concept of legal necessity to observe thus: (SCC pp. 449-51, paras 20-21 & 26)

“20. Mulla in his classic work Hindu Law while dealing with the right of a father to alienate any ancestral property said in Article 254, which reads as under:

‘Article 254

254. Alienation by father.—A Hindu father as such has special powers of alienating coparcenary property, which no other coparcener has. In the exercise of these powers he may:

(1) make a gift of ancestral movable property to the extent mentioned in Article 223, and even of ancestral immovable property to the extent mentioned in Article 224;

(2) sell or mortgage ancestral property, whether movable or immovable, including the interest of his sons, grandsons and great-grandsons therein, for the payment of his own debt, provided the debt was an antecedent debt, and was not incurred for immoral or illegal purposes (Article 294).’

21. What is legal necessity was also succinctly said by Mulla in Article 241, which reads as under:

‘Article 241

241. What is legal necessity.—The following have been held to be family necessities within the meaning of Article 240:

(a) payment of government revenue and of debts which are payable out of the family property;

(b) maintenance of coparceners and of the members of their families; (c) marriage expenses of male coparceners, and of the daughters of coparceners;

(d) performance of the necessary funeral or family ceremonies;

(e) costs of necessary litigation in recovering or preserving the estate; (f) costs of defending the head of the joint family or any other member against a serious criminal charge;

(g) payment of debts incurred for family business or other necessary purpose. In the case of a manager other than a father, it is not enough to show merely that the debt is a preexisting debt;

The above are not the only indices for concluding as to whether the alienation was indeed for legal necessity, nor can the enumeration of criterion for establishing legal necessity be copious or even predictable. It must therefore depend on the facts of each case. When, therefore, property is sold in order to fulfil tax obligations incurred by a family business, such alienation can be classified as constituting legal necessity.’ (See Hindu Law by Mulla “22nd Edition”).

26. Once the factum of existence of legal necessity stood proved, then, in our view, no co-coparcener (son) has a right to challenge the sale made by the karta of his family. The plaintiff being a son was one of the co-coparceners along with his father Pritam Singh. He had no right to challenge such sale in the light of findings of legal necessity being recorded against him. It was more so when the plaintiff failed to prove

by any evidence that there was no legal necessity for sale of the suit land or that the evidence adduced by the defendants to prove the factum of existence of legal necessity was either insufficient or irrelevant or no evidence at all.”

Therefore, the mother of plaintiff by name Smt. Yallamma was the kartha of the family and the suit property was standing in her name. She has sold the suit property to the defendant by receiving ₹ 15,000 consideration amount and in the recitals of the registered sale deed it has been clearly mentioned that for the purpose of family necessity, the suit property is sold. Therefore, the said recital in the registered sale deed clearly shows that the suit property was sold to defendant for the purpose of family necessity. Hence, the mother of plaintiff had right to sell the suit property as Kartha for the family.

15. The registered sale deed is having presumption and validity under the eye of law. ***Hon'ble High Court of Karnataka in the Vimalchand Jain V/s Ramakant Jadoo reported in 2009(5) SCC 713*** it is held that registered deed of sale carries presumption that the transaction was a genuine one. If the execution of the sale deed is proved, onus is on the other side to prove that the deed was not executed and it was a sham transaction. Thus, the burden to prove that it is not genuine lies on the person who alleged that it is not so.

Therefore, the burden of proof heavily lies on the plaintiff to prove that the suit property was sold to the defendant by means of fraud and he had no knowledge.

16. Further, it is relevant to note that As per the plaint cause title, the age of plaintiff is entered as 70 years and the registered sale deed is executed in the name of defendant in the year 1986. Therefore, at the time of the execution of the registered sale deed in the year 1986, the age of plaintiff was 30 years and he was major at that time. This fact has been clearly admitted by the plaintiff in the plaint pleadings also that, at the time of execution of the registered sale deed the plaintiff was major. Therefore, the plaintiff has kept silent for more than 40 years from the year 1986 till the year 2025, and he has given no reason for the prolonged delay or his inability to condone the delay of 40 years in challenging the validity of the registered sale deed. It is only on the ground that he has not consented to the registered sale deed. Only on this ground the plaintiff is challenging the registered sale deed. But as per the law of limitation under

Article 109, By a Hindu governed by Mitakshara law to set aside his father's alienation of ancestral property. Twelve years. When the alienee takes possession of the property.

Article 58. To obtain any other declaration. Three years. When the right to sue first accrues.

Therefore to set aside the alienation made by the mother of plaintiff by name Smt. Yallamma the limitation period is only 12 years from the date of execution of the registered said deed that is the registered sale deed is executed in the year 1986 and from the date of registered sale deed the limitation period of 12 years ends in the year 1998. Therefore, the plaintiff ought to have challenged the registered sale deed before the year 1998. Admittedly, the plaintiff, after long delay of 39 years, has challenged the execution of the registered sale deed in the year 2025. Hence, the plaint suit is hit by the provisions of Article 109 and 58 of Limitation Act. The plaintiff suit is hopelessly barred by law of limitation. Hence, the plaintiff is not entitled to challenge the validity of the registered sale deed on the ground of law of limitation of more than 39 years delay in challenging the registered sale deed. Hence, the suit of the plaintiff is hit by the law of limitation under Article 109 and Article 58 of the Limitation Act. Hence, the plaint suit is barred by law of limitation.

17. Further, it is the contention of the plaintiff that after execution of the registered sale deed in favour of the defendant, he has not taken the possession and the plaintiff himself is in possession of the suit property. To prove the said contention, the plaintiff has not produced any document to show that he is in peaceful possession and enjoyment of the suit property. All the revenue entries from the year 1986 till the year 2020-26 are standing in the name of defendant and as per the registered sale deed, therefore there is presumption under

Karnataka Land Revenue Act that Revenue documents have presumption that they have been correctly entered. **Sec. 133 of Karnataka Land Revenue Act. Presumption regarding entries in the records.—An entry in the Record of Rights and a certified entry in the Register of Mutations [or in the patta book] shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.**

Hence the plaintiff has utterly failed to prove that even after execution of the registered sale deed the defendant has not taken the possession and the plaintiff is in peaceful position in enjoyment of the suit property. Hence The plaintiff has failed to prove his possession over the suit's property. Therefore, the question of interference by the defendant in the suit property does not arise at all. Hence the plaintiffs are entitled for the relief sought for in the plaint.

18. The defendant inspite of service of summons did not appeared to the court and he was placed Exparte. But the burden of proof lies on the plaintiff to prove his title and peaceful position and enjoyment over the said property and the delay for challenging the registered sale deed is not properly explained. Hence, plaintiff has failed to prove the above points. Plaintiff is not entitled for a relief sought for in the plaint. **Accordingly, I answer Point No.2 to 6 are in the Negative.**

19. Point No 7 :- In view of above discussion, I proceed to pass the following:

ORDER

Plaintiffs suit is dismissed with costs.

Draw decree accordingly.

(Dictated to the Stenographer, directly on computer typed and computerized by her and corrected, initialed and then pronounced by me, in the Open Court, on this 08th day of July- 2026).

(Sri. Rafeeq Ahmed)
Civil Judge & JMFC.,
DEVADURGA.

A N N E X U R E

LIST OF WITNESSES EXAMINED FOR THE PLAINTIFFS:

PW-1 Sri. Kriyappa.
PW.2 Sri. Gangadhara.
PW.3 Sri. Gangappa.

LIST OF DOCUMENTS EXHIBITED FOR THE PLAINTIFFS:

Ex.P-1 to 4 Four Handwritten RTC's.
Ex.P-5 & 6 Two Handwritten Mutation's.
Ex.P-7 The Register of Non-Testamentary.
Ex.P-8 The Computerized RTC.

LIST OF WITNESSES EXAMINED FOR THE DEFENDANT:

Nil

LIST OF DOCUMENTS EXHIBITED FOR THE DEFENDANT:

-NIL-

(Sri Rafeeq Ahmed)
Civil Judge & JMFC.,
Devadurga.