



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

Present :- SRI. LAKSHMIKANTH JANAKIRAM MISKIN, M.A., LL.M
Senior Civil Judge & J.M.F.C.
Sindhanur.

O. S. No. 122/2019

Dated: 02nd day of June 2026

PLAINTIFFS: - 1. Shivashankarreddy S/o Peddavenkatareddy
Age: 69 years, Occ: Agri.,
R/o Raithanagar camp, tq. Sindhanur
Dist. Raichur.

(Represented by: Sri. VBR., Advocate)

- Vs -

DEFENDANTS:-1. Dr. Mudagal Shnkarappa S/o Muthappa
Age: 60 years,
C/o Navodaya Medical college, Mantralaya road
Raichur.

(Represented by: Sri.SSK., Advocate)

Date of Institution of the suit	:	23.07.2019
Nature of the suit	:	Declaration & Permanent injunction
Date of the commencement of recording of evidence	:	29.07.2021

Date on which the Judgment is pronounced	:	02.02.2026
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Total duration	:	Year/s	Month/s	Day/s
		06	10	10



J U D G M E N T

This suit is filed by the plaintiff, for the relief of declaration of title, permanent injunction and mandatory injunction.

2. **The plaint in brief:-** It is the case of the plaintiffs that plaintiff is the absolute owner and possession of the suit property The plaintiff was purchased the suit property from one "Basusab s/o Raja Hussain through registered sale deed 1051/98-99 dt 25-6-98. The said Bosusah s/o Rajahussain was purchased the suit property from one Syed Basumiya s/o Mahamadasab through registered sale deed no 654/81-82dt 4-6-1981. Previously the land bearing sy no. 28 extent of 2 acres belongs to the Mohamadsab s/o Rajasab later the said land converted non agricultural purpose by complying the provisions of the Land revenue act and got N A order from Assistant commissioner of Lingasugur on 14-10-1968 The said Mohamadsab made plots in the said N A land. After demise of the said Mohamadsab his son Syed Basumiya s/o Mohamadsab sold the plot no.16 in the said N A land through registered sale deed no. 654/81-82 dt 4-6-1981 to the Basusab s/o Raja Hussain. The plaintiff was purchased the suit property from one Basusab s/o Rajahussain through registered sale deed 1051/98-99 dt 25-6-98. The said "Basusab s/o Raja Hussain



was in possession from the date purchase te 4-6-1981 to till date 25-6-98 Further the plaintiff is in possession from the date of purchase ie 25-6-98 to till today The plaintiff got mutation entries in the municipal records and paying tax till current year regularly. The defendant was tried to dispossess the plaintiff from peaceful possession over the suit property on 10-5-2019 along with his servants. The plaintiff was prevented the illegal act of the defendant. The plaintiff is having apprehension regarding illegal act of the defendant and preferred this suit. The cause of action arose on 10-5-2019 when the defendant tried to dispossess the peaceful possession of plaintiff over the suit property. Therefore, the plaintiff is constrained to file the suit.

3. In pursuance of notice the defendant has appeared through his counsel and filed written statement.

4. **The brief facts to written statements filed by the**

Defendant:- The defendant in the written statement submitted that the allegations of the plaint except that are expressly admitted herein are false and misleading and as such they are denied. It is submitted that the plaintiff has filed this suit in respect of Plot No.16 in the N.A. land



Sy.No.28 of Konganatti village of Sindhanur taluka under N.A. Order No. ALN/328/68-69. The said Plot's Municipal number is mentioned as T.M.C No. 3-4-122/16(N) in the description of the 'suit property' in the plaint. But its correct Municipal number is C.M.C. No. 3-4-4/16. The allegation in para No.2 of the plaint that the plaintiff is the absolute owner and in possession of the suit property is false and as such it is denied. Further allegations that the plaintiff has purchased the suit property from one Bashusab S/o Raja Hussain through registered sale deed No.1051/1998-99 dated: 25-6-1998 and the said Bashusab S/o Raja Hussain had purchased the suit property from One Syed Bashumiya S/o Mohammadsab through the registered sale deed No.654/1981-82 dated: 4-6-1981 are false and as such they are denied. The averments in para 3 of the plaint are admitted. The allegations in para 4 of the plaint that after the demise of the said Mohammadsab, his son Syed Bashumiya S/o Mohammadsab sold the Plot No.16 in the said N.A. land through registered sale deed No.654/1981-82 dated: 4-6-1981 to Bashusab S/o Raja Hussain and the plaintiff has purchased the suit property from said Hussain through the registered sale deed No. 1051/1998-99 1998 are false and as such they are denied. The allegations in para 5 of the plaint that the



said Bashumiya was in possession from the date of purchase ie. 4-6-1981 to till 25-6-1998 and further the plaintiff is in possession from the date of purchase i.e. 25-6-1998 to till today are false and such they are denied. The allegation that the plaintiff got mutation entries in the Municipal records and paying tax till current year regularly is false and as such it is denied. The allegations in para 6 of the plaint that the defendant has tried to dispossess the plaintiff from the peaceful possession over the suit property on 10-5-2019 along with his servants and the plaintiff has prevented the illegal act of the defendant etc., are false and as such they are denied. No cause of action arose to the plaintiff either on 10-05-2019 or on any other day for filing the suit. The plaintiff has filed the suit by suppressing the true facts. The true facts are as under:-

The defendant has purchased Plot No.16 in the N.A. land Sy.No.28 of Konganatti village of Sindhanur taluka under N.A. Order No. ALN/328/68-69 dated: 14-10-1968, which was in the limits of the Mandal Panchayat, Javalagera bearing Panchayat No.1-90, measuring 80 ft. East-West and 40 ft. North-South. He purchased the said Plot from one Nagaraj S/o Tamma Pujari under the registered sale deed bearing No. 1638/1995-96 dated: 4-8-1995. The said vendor of the defendant had



purchased the said Plot from its previous owner Hussainbee W/o Bhasumiya under the registered sale deed bearing No.914/1990-91 dated: 19-7-1990. The vendor of the defendant was in possession of the said Plot from the date of its purchase. The defendant has been in possession of the said plot from the date of purchase by him. Now the said plot situated within the Municipal limits of Sindhanur and its C.M.C No. is 3-4-4/16. The said Plot is bounded by: to East: Raichur Road, to West: Road, to North: Plot No. 17 (Plot of Hussainbee W/o Bashumiya), to South: Plot No. 15 (Plot of the plaintiff). The Plot of plaintiff is situated towards south of the Plot of the defendant. The Plot of the plaintiff is bounded by: to East: Raichur Road, to West: Road, to North Plot No. 16 (Plot of the defendant), to South: Plot No. 14 (Plot of Guruswamy, wherein his son Jawahar is residing). The plaintiff has been in possession of the said Plot from the date of purchase by him. He has leased the said Plot to one Tammineni Vinil W/o Ramanjaneyalu, Proprietor: Jai Kisan Engineering about one and half years ago. The said Jai Kisan Engineering is carrying on its business in the shed erected over the said Plot. The said Jai Kisan Engineering is authorizedly carrying on its business having GST No. and electricity connection R.R.No. The plaintiff is regularly collecting the



rent from the said Jai Kisan Engineering. The plaintiff has purchased the said Plot and was in possession of the said Plot till its lease in favour of the said Jai Kisan Engineering. Presently, the said Jai Kisan Engineering is in possession of the said Plot. The said Plot is Plot No.15. The plaintiff has filed the above suit in respect of the Plot of the defendant. The plaintiff is concerned only to Plot No.15 and he is totally unconcerned to Plot No.16. The defendant is the absolute owner in possession of the Plot No.16, for which the plaintiff has filed the above suit. The plaintiff has filed the above suit with an ulterior motive to grab the property i.e. Plot No.16 of the defendant by taking advantage of the wrong description of his Plot as Plot No.16 in the sale deeds. On this score also the suit filed by the plaintiff is fit to be dismissed.

5. On the basis of above pleadings this court framed the following issues:-

ISSUES

1. Whether the plaintiff proves that he is the owner of the suit schedule property?
2. Whether the plaintiff proves that he is in the possession and enjoyment of the suit schedule property?



3. Whether the plaintiff proves that the defendant is interfering with his possession and enjoyment of the suit schedule property?
 4. Whether the plaintiff proves that he is entitled for the relief claimed in the suit?
 5. What Order or Decree?
6. To substantiate his claim the plaintiff himself examined as Pw-1 and examined two witnesses as Pw-2 to Pw-3 and all documents produced by the plaintiff marked as Ex.P1 to Ex.P4. The defendant himself examined as DW-1 and examined one witness as Dw-2 and all documents produced by the defendants marked as Ex.D1 to Ex.D24 and closed their evidence and case posted for arguments.
7. Heard arguments on both sides. My answer to the above issues is as follows:
- | | |
|--------------|---------------------------------------|
| Issue No.1 : | In the Affirmative |
| Issue No.2 : | In the Affirmative |
| Issue No.3 : | In the Affirmative |
| Issue No.4 : | In the Affirmative |
| Issue No.5 : | As per final Order for the following: |



REASONS.

8. **ISSUE No.1 TO 3** :- These issues taken together for common discussion to avoid the repetition.

It is the specific case of the plaintiff that plaintiff is the absolute owner and possession of the suit property The plaintiff was purchased the suit property from one "Basusab s/o Raja Hussain through registered sale deed 1051/98-99 dt 25-6-98. The said Bosusah s/o Rajahussain was purchased the suit property from one Syed Basumiya s/o Mahamadasab through registered sale deed no 654/81-82dt 4-6-1981. Previously the land bearing sy no. 28 extent of 2 acres belongs to the Mohamadsab s/o Rajasab later the said land converted non agricultural purpose by complying the provisions of the Land revenue act and got N A order from Assistant commissioner of Lingasugur on 14-10-1968 The said Mohamadsab made plots in the said N A land. After demise of the said Mohamadsab his son Syed Basumiya s/o Mohamadsab sold the plot no.16 in the said N A land through registered sale deed no. 654/81-82 dt 4-6-1981 to the Basusab s/o Raja Hussain. The plaintiff was purchased the suit property from one Basusab s/o Rajahussain through registered sale deed 1051/98-99 dt 25-6-98. The said "Basusab s/o Raja Hussain



was in possession from the date purchase te 4-6-1981 to till date 25-6-98
Further the plaintiff is in possession from the date of purchase ie 25-6-98
to till today The plaintiff got mutation entries in the municipal records
and paying tax till current year regularly.

9. On the contrary it is the specific defense of the defendant that The defendant has purchased Plot No.16 in the N.A. land Sy.No.28 of Konganatti village of Sindhanur taluka under N.A. Order No. ALN/328/68-69 dated: 14-10-1968, which was in the limits of the Mandal Panchayat, Javalagera bearing Panchayat No.1-90, measuring 80 ft. East-West and 40 ft. North-South. He purchased the said Plot from one Nagaraj S/o Tamma Pujari under the registered sale deed bearing No. 1638/1995-96 dated: 4-8-1995. The said vendor of the defendant had purchased the said Plot from its previous owner Hussainbee W/o Bhasumiya under the registered sale deed bearing No.914/1990-91 dated: 19-7-1990. The vendor of the defendant was in possession of the said Plot from the date of its purchase. The defendant has been in possession of the said plot from the date of purchase by him. Now the said plot situated within the Municipal limits of Sindhanur and its C.M.C No. is 3-4-4/16.



The said Plot is bounded by: to East: Raichur Road, to West: Road, to North: Plot No. 17 (Plot of Hussainbee W/o Bashumiya), to South: Plot No. 15 (Plot of the plaintiff). The plaintiff has purchased the said Plot and was in possession of the said Plot till its lease in favour of the said Jai Kisan Engineering. Presently, the said Jai Kisan Engineering is in possession of the said Plot. The said Plot is Plot No.15. The plaintiff has filed the above suit in respect of the Plot of the defendant. The plaintiff is concerned only to Plot No.15 and he is totally unconcerned to Plot No.16. The defendant is the absolute owner in possession of the Plot No.16.

10. Keeping in view of rival contentions of the parties, this court perused the material available on record. A perusal of the material available on record it is clear that the suit property owned by one deceased Mohammadsab. After demise of deceased Mohammadsab his son Syed Bashu Miya s/o Mohd Sab succeeded to his estate. The the material available on record make it clear that Said deceased Mohammadsab got converted his land and formed lay-out in land Sy.No.28 of village Sindhanoor. The material available on record make it clear that after demise of deceased Mohammadsab, original owner, his son Syed Bashu



Miya s/o Mohd Sab developed formed lay-out and sold the suit property in favour of Basha sab s/o Hussain Sab through registered sale deed dated-04-06-1981 marked at exhibit P-1. Thus it is established that original owner of the suit property Syed Bashu Miya s/o Mohd Sab has got converted the suit property into NA land formed lay-out and sold it to the vendor of the plaintiff Syed Bashu Miya s/o Mohd Sab through registered sale deed dated-04-06-1981 marked at exhibit P-1.

11. Thereafter vendor of the plaintiff Syed Bashu Miya s/o Mohd Sab sold the suit property through registered sale deed dated-25-06-1998 marked at exhibit P-2 in his favor. Thus it is clear that the the title of the the plaintiff flows from original owner Syed Bashu Miya s/o Mohd Sab. These facts are not narrated by the defendant in his written statement.

12. On the contrary the defendant has set up his defense that one Smt.Husain Bee w/o Bashu Miya was the original owner of the suit property and she sold the suit property to his vendor Nagaraj, Tammu Pujari through the registered sale deed dated- 19-07-1990 marked at exhibit-D-10 and delivered the possession of it. It is the specific



defence of the defendant that Nagaraj, Tammu Pujari in turn sold the suit property in his favor through the registered sale deed dated-04-8-1995 marked at exhibit-D-9. It is the specific defence of the defendant therefore he is the owner and possessor of the suit property.

13. As discussed above, the defendant has set up his defense that one Smt.Husain Bee w/o Bashu Miya was the original owner of the suit property and she sold the suit property to his vendor Nagaraj, Tammu Pujari through the registered sale deed dated- 19-07-1990 marked at exhibit-D-10. But a perusal of the encumbrance certificate from 01-04-1968 to 17-05-2019 marked at suit property issuing dated-17-05-2019 marked at exhibit D-20 establish that how the vendor of the defendant Smt.Husain Bee w/o Bashu Miya became the owner and possessor of the suit property is not clear by him.

14. A perusal of the encumbrance certificate from 01-04-1968 to 17-05-2019 marked at suit property issuing dated-17-05-2019 marked at exhibit D-20 it establishes that there is no reference as to how title passed on the Smt.Husain Bee w/o Bashu Miya. No attempt is made by the



defendant to establish flow of title of the vendor 's vendor of defendant by name the Smt.Husain Bee w/o Bashu Miya who has alienated the suit property in favour of the vendor of the defendant through the registered sale deed dated- 19-07-1990 marked at exhibit-D-10. This fact assumes significance in the wake of the fact that the plaintiff has denied title of the defendant and his vendor.

15. It is made clear by this court that said vendor is vendor of the defendant Smt.Husain Bee w/o Bashu Miya is none other than the wife of original owner Syed Bashu Miya s/o Mohd Sab. Said Syed Bashu Miya s/o Mohd Sab who already sold the suit property in favour of vendor of the the plaintiff through registered sale deed dated-04-06-1981 marked at exhibit P-1. Once the suit property is already alienated by Syed Bashu Miya s/o Mohd Sab, his wife Smt.Husain Bee w/o Bashu Miya could not have again sold it in favour of vendor 's vendor of the defendant by name Nagaraj, Tammu Pujari, through a registered sale deed dated 22.08.1990 marked at Ex.D10.



16. It is made clear by this court that registered sale deed dated-04-06-1981 marked at exhibit P-1 in respect of suit property executed by Syed Bashu Miya s/o Mohd Sab in favour of vendor of the the plaintiff by name Basha sab s/o Hussain Sab is earlier than that of the the registered sale deed dated- 19-07-1990 marked at exhibit-D-10 of the vendor of the defendant. As discussed above, the suit property is situated in land survey number 28 of village Sindhanoor was converted into NA land and formed lay-out in it by the deceased Mohammadsab, original owner and after his death his son Syed Bashu Miya s/o Mohd Sab as per plaint averments.

17. One Mohammed Sab was original owner of the layout of the suit property. His son Basumiya succeeded his estate. Thereafter, said Syed Bashu Miya s/o Mohd Sab sold the suit property in favour of one Basha sab s/o Hussain Sab through registered sale deed dated 04.06.1981 marked at exhibit P-1. There after said Basha sab s/o Hussain Sab sold the suit property to the the plaintiff through registered sale deed dated-25-06-1998 marked at exhibit P-2. This is a clear flow of title of the the plaintiff. Further registered sale deed dated-04-06-1981 marked at



exhibit P-1 executed by original owner of the suit property is earlier one than that of the registered sale deed dated- 19-07-1990 marked at exhibit-D-10 executed by Smt.Husain Bee w/o Bashu Miya in favour of vendor of the vendor of the the plaintiff by name Nagaraj Tamma Pujari. How said Smt. Hussain Bee acquired title over suit property not made clear by the defendant.

18. Therefore subsequent registered sale deed dated-04-8-1995 marked at exhibit-D-9 in respect of suit property executed by Nagaraj, Tammu Pujari in favour of the plaintiff does not convey any right title in his favor. It is made clear by this court that that property as shown at registered sale deed dated-04-06-1981 marked at exhibit P-1 executed by Syed Bashu Miya s/o Mohd Sab in favour of the vendor of the the plaintiff is one and the same as that of the property shown at the registered sale deed dated- 19-07-1990 marked at exhibit-D-10 executed by Smt.Husain Bee w/o Bashu Miya in the name of the vendor of the the plaintiff. Further, boundaries and description of plots of the both sale deeds are similar to each other.



19. Both plots as shown at registered sale deeds referred to above shown to be situated in land survey number 28 of the village Sindhanoor. Similarly boundaries of both plots are shown shown at registered sale deeds referred to above shown to be situated in land survey number 28 of the village Sindhanoor are similar to each other. Therefore, it is established that properties as shown in both the registered sale deeds are one and the same.

20. It is made clear by this court that when there are two registered sale deeds as are executed in respect of the same property, subsequent sale deed will not be valid in law. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in 2003 ILR KAR 3042 [DB] = [2002 (5) KLJ 55 [DB] in between Veerabadrappa and Another *Versus* Jagadishgouda and Others the para No.11 and 12 read as under.

Writ Appeal Nos. 415
and 416 of 2000.

Dated-17.04.2002

11]. The learned Single Judge also fell into an error in holding that as the sale deeds in favour



of the appellants 1 and 2 though executed in 1982, were registered subsequent to the execution and registration of sale deeds in favour of the respondents 1 and 2 in the year 1990, the earlier sale deeds of 1982 in favour of appellant were not valid. When registration of a document is ordered to be kept pending, or when registration of a document is refused, and subsequently such document is ordered to be registered, such registration takes effect as if the document had been registered when it was first duly presented for registration. That would mean that the registration relates back to the date of execution. **The well-settled principle is that if there is a competition between registered documents relating to the same property, the document first in order of time has priority over the other, though the former document may not have been registered until after the latter.**

We may refer to the decision of this Court in Azeezulla Sheriffs case, supra, and the decisions of other Courts in Sadei Sahu v. Chandramani Dei and Anr., AIR 1948 Pat. 60 Duraisami Reddi v. Angappa Reddi and Anr.,



AIR 1946 Mad. 140 Ramaswami Pillai v. Ramasami Naicker and Ors.1960 AIR MADRAS 396 , and Kuldip Singh v. Balwanth Kaur, 1991 AIR P & H 291 wherein it is held that in view of Section 47 of the Registration Act, and Section 48 of the Transfer of Property Act, a sale deed executed on an earlier date though registered later, will operate from the date of its execution if it is duly registered and shall take precedence over the sale effected later but registered earlier.

12]. The finding of the learned Single Judge that sale deed dated 7-6-1990 in favour of respondents 1 and 2, which were executed long after execution of sale deeds in favour of appellants 1 and 2, but which were registered prior to the registration of the sale deeds dated 20-10-1982 and 4-3-1982, will prevail, and that the sale deeds dated 4-3-1982 and 20-10-1982 are invalid, is contrary to the provisions of Registration Act, 1908 and Transfer of Property Act, 1882 and the settled legal position accepted by all High Courts before which this question arose. **The sale deeds dated 20-10-1982 and 4-3-1982 having been duly**



registered (irrespective of date of registration), relate back to the date of this execution and any subsequent sale deeds executed by the same vendors in regard to the same lands on 7-6-1990 will not convey any title to the subsequent purchasers.

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka reported in 2003 ILR KAR 3042 [DB] =[2002 (5) KLJ 55 [DB] in between Veerabadhrappa and Another Vs Jagadishgouda and Others is that when there are two registered sale deeds as are executed in respect of the same property, subsequent sale deed will not be valid in law.

21. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in 2016 (2) KCCR 1655 in between Smt Siddamma Vs.Bhavani Housing Cooperative By its Secretary PH Dayanand the paras No. 8 and 9, read as under.

Writ Petition No. 49491 of 2015 (CS-RES)
Connected with
Writ Petition No. 38532 of 2015 (CS-RES).
Dated . 29.03.2016.



8]. The following sequence of events, that are plainly demonstrated by the petitioner, would indicate the gross mischief apparent in the facts and circumstances of the case. The property in question is seen to have been allotted to K.S.Sowmya by the respondent - Society and **conveyed to her under a registered sale deed dated 22.6.1999. The said Sowmya is said to have died on 17.4.2004. Her husband had then executed a registered sale deed in respect of the property in favour of the petitioner as on 23.9.2005.** Inexplicably, the very site bearing no.14 has been conveyed by the respondent - Society through its Secretary, P.H.Dayananda, under a purported registered sale deed dated 14.8.2012, in favour of one Bhagyalakshmi, who is said to be the sister-in-law of the said P.H. Dayananda. There is no reference in that deed to the earlier transactions whereby the petitioner was holding the said property as absolute owner.

The respondent - Society appears to have effected amendments to its Bye-laws, prescribing that a member is ineligible to be allotted a site by the Society if any of his family



members already holds a site in the city of Bangalore. This amendment was brought into force with effect from 3.12.2013. A dispute under Section 70 of the KCS Act, naming the deceased Sowmya, her deceased brother, Amarnath, her mother and her sister-in-law as the respondents, apart from the Society, is raised by one Chandrappa, the fourth respondent in the first of these petitions as on 9.12.2013. It is seen to have been contended that the above named persons constituted a single family and each of them had been conveyed a house site by the Society, under four sale deeds - all dated 22.6.2009, which was in violation of the bye-laws (as amended in the year 2013, immediately prior to the filing of the dispute) . The Society has entered appearance through its Secretary, P.H. Dayananda, and a statement is filed categorically admitting that there was indeed a violation of the bye-laws of the Society in such allotment and sale of sites in favour of Sowmya and her family members, as per Statement dated 15.3.2014. Significantly, there is no reference to the Sale deed dated 14.8.2012, in respect of site no. 14



by the very Secretary, in favour of Bhagyalakshmi, in the said statement of objections.

9]. In the face of the admitted violation, the Additional Registrar of Co-operative Societies has passed the impugned order dated 11.4.2014, allowing the petition filed by Chandrappa and cancelling the allotment made in favour of Sowmya of site no.14. The Society was thereby directed to execute a registered sale deed in respect of the site in favor of the petitioner therein.

Significantly, the sale deed of the petitioner herein has never been questioned or cancelled. It is seen that even the sale deed in favor of Sowmya is not cancelled. What the Assistant Registrar of Co-operative Societies has sought to cancel is the allotment made in her favor, which was ineffective as the registered title deed has remained unaffected. Chandrappa who had raised the dispute has not chosen to enforce the impugned order. Nor had the Society taken any steps. For it is noticed that Bhagyalakshmi who had purchased the site even as early as in the year 2012, **when the petitioner's sale deed**



was in force, has subsequently sold the same under a purported registered sale deed dated 18.3.2015, in favour of the second respondent in the first of these petitions. It would thus appear that without the sale deed in favour of Sowmya being cancelled by a competent court of law, the petitioner who claims under her would continue to have a valid and enforceable title to the subject property. The sale deed dated 14.8.2012 in favour of respondent no.3 and the sale deed dated 18.3.2015 in favour of respondent no.2 are therefore held to be void ab initio. In Binny Mill Labour Welfare House Building Co-operative Society Limited vs. D.R.Mruthyunjaya Aradhya, 2008(3) KCCR 1692, the first principles of law as to how such sale deeds executed in the face of a subsisting sale deed would be void ab initio are succinctly and comprehensively discussed. The said decision would apply on all fours to the present case in so far as the invalidity of the sale deeds set up by respondents no.2 and 3 are concerned.



The petitioner should however, have the same cancelled by recourse to an appropriate suit in terms of Section 31 of the Specific Relief Act, 1963 and seek consequential reliefs of recovery of possession, if such reliefs are not already prayed for in the pending suit aforementioned.

The ratio (underline emphasized by me) laid down by the 2016 (2) KCCR 1655 in between Smt Siddamma Vs. Bhavani Housing Cooperative By its Secretary PH Dayanand is that without canceling earlier registered sale deed subsequent registered sale deed cannot be executed by the vendors.

22. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in (2010) 6 SCC 666 in between Atla Sidda Reddy vs Busi Subba Reddy & Others the para No.10 to 11 read as under.

S.L.P. (Civil) No. 4549 Of 2008.

Dated-06.05.2010

10]. As indicated hereinbefore, the High Court accepted the evidence of DW.4 Lakshamma and came to a finding that by virtue of Ex.B2 she had transferred all her rights, title and



interest in the suit properties in favour of Thondolu Mahaboob Basha and having divested her of the title to the suit properties, she was no longer competent to execute a further sale deed in respect of the same property in favour of Syed Ghouse Bi on 16.3.1974 (Ex.A1). The High Court having accepted the sale deed dated 22.5.1968 in favour of Thondolu Mahaboob Basha as being genuine, **it came to the conclusion that since the said document was prior in point of time in relation to the subsequent document executed in favour of Syed Ghouse Bi, the plaintiff/petitioner, who had acquired his title through Syed Ghouse Bi alias Chand Begum, did not acquire any title to the suit properties.** On such finding, the High Court reversed the judgment and decree of the first Appellate Court..

11]. The factual aspect having been dealt with in detail by the Courts below, ending in the findings of the High Court, we are not inclined to delve into the facts any further. As indicated by the trial Court, Ext.B2 is a **crucial document and was admittedly anterior in point of time to Ext.A1 subsequently**



executed by DW.4 in favor of Syed Ghouse Bi when she had already divested herself of title to the suit properties. The petitioner did not, therefore, acquire any title to the suit property and the suit was rightly dismissed.

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in (2010) 6 SCC 666 in between Atla Sidda Reddy vs Busi Subba Reddy & Others is that if two registered sale deeds are executed in respect of same property, earlier sale deed would prevail over.

23. In view of law laid down by the laid down by the 2016 (2) KCCR 1655 in between Smt Siddamma Vs. Bhavani Housing Cooperative By its Secretary PH Dayanand and also the the Hon'ble Supreme Court of India reported in ((2010) 6 SCC 666 in between Atla Sidda Reddy vs Busi Subba Reddy & Others the contention of the defendant that he is the bonafide purchasers of the suit-plot and he is the owner and possessor of it. On the basis of registered sale deed dated 04.08.1995 marked at Ex.D9 cannot be accepted.



24. It is made clear by this court that that property as shown at registered sale deed dated-04-06-1981 marked at exhibit P-1 executed by Syed Bashu Miya s/o Mohd Sab in favour of the vendor of the the plaintiff is one and the same as that of the property shown at the registered sale deed dated- 19-07-1990 marked at exhibit-D-10 executed by Smt.Husain Bee w/o Bashu Miya in the name of the vendor of the the plaintiff as boundaries of the both sale deeds are similar to each other. Therefore subsequent registered sale deed dated-04-8-1995 marked at exhibit-D-9 in respect of suit property executed by Nagaraj, Tammu Pujari in favour of the plaintiff in respect of ssame suit property does not convey any right title in his favor.

25. It is made clear that title in respect of suit property never ever passed upon Smt.Husain Bee w/o Bashu Miya at any point of time as her husband already sold suit property in favour of vendor of the the plaintiff by name Bashasab Raja Hussaini through registered sale deed dated-04-06-1981 marked at exhibit P-1. Said registered sale deed dated-04-06-1981 marked at exhibit P-1 is earlier than that of the registered sale deed



dated- 19-07-1990 marked at exhibit-D-10 executed by Smt.Husain Bee w/o Bashu Miya.

26. By virtue of the Section 48 of the Transfer of Property Act, 1882 subsequent the registered sale deed dated- 19-07-1990 marked at exhibit-D-10 does not convey any right or title on the defendant. Thus any subsequent transactions made by the Smt.Husain Bee w/o Bashu Miya after alienation is already made by her husband does not bind on the plaintiff.

27. It is made clear by this court that if the vendor had no title, he has no right title to execute the registered sale deeds. If the vendor of the defendant ' had no valid title over the disputed property, and thus, the subsequent sale deed executed in favor of the defendant does not confer any title to them. Further, In this regard it is beneficial to refer to an unreported decision of the Hon'ble High Court of Karnataka (DHARWAD BENCH), in Regular Second Appeal No. 5449 of 2010 in between Basavarajappa vs U.Siddesh, Dated-16.01.2024 the para No.12 to para No.14 and para No.18 read as under. .



Basavarajappa vs U.Siddesh,
Regular Second Appeal No. 5449 of 2010.
Dated-16.01.2024.

12. The oral testimony of PWs.1 and 2 would go to show that plaintiff is tracing the title by virtue of registered sale deed dated 30.04.1986 Ex.P.2. The husband of Jakkamma and father of Basappa has raised loan for Rs. 300/- and executed registered mortgage deed dated 10.04.1963 vide Ex.P.3 by mortgaging entire extent of land measuring 7.13 acres in survey No.218-D. In pursuance of the registered sale deed dated 30.04.1986 Ex.P.2 the name of plaintiff came to be recorded in the records of the suit property. The plaintiff has produced the RTC Ex.P.4 from 1979-80 to 1984-85 and Ex.P.5 RTC 1985-86 to 1989-90. In the said records Exs.P.4 and 5 the name of plaintiff vendors was recorded and from the year 1986-87 as per the entries found in RTC Ex.P.5 pursuant to the registered sale deed in favour of plaintiff dated 30.04.1986 Ex.P.2, the name of plaintiff came to be recorded. The name of plaintiff continue to be appearing in RTC Ex.P.6



to Ex.P.11 related to survey No.218-D to the entire extent of land measuring 7.13 acres. The mutation entry 35/86-87 Ex.P.12 would go to show that on receipt of J-Form pursuant to the registered sale deed dated 30.04.1986 Ex.P.2 and after notice to the vendors of plaintiff, the aforementioned ME came to be certified Ex.P.12 to the entire extent of land measuring 7.13 acres. The registered mortgage deed Ex.P.3 would go to show that Basappa s/o Kengappa Kammar executed the registered mortgage deed for taking loan of Rs. 300/- in favour of Bassappa @ Addippan s/o Karibasappa under registered mortgage deed dated 10.04.1963 by mortgaging the land bearing survey No.218-D measuring 7.13 acres. It means that as on the date of execution of the registered mortgage deed dated 10.04.1963 Bassappa s/o Kengappa Kammar was the owner of the land bearing survey No.218-D measuring 7.13 acres. The document Ex.P.3 registered mortgage deed is much prior to the registered sale deed in favour of Naganagowda dated 26.05.1982 Ex.D.2. The defendants have not challenged the title deed of Bassappa s/o Kengappa Kammar under the



registered mortgage deed dated 10.04.1963 Ex.P.3. Thus, the plaintiff by virtue of registered mortgage deed Ex.P.3 has proved the title of his vendor and the plaintiff having acquired the title over land bearing survey No.218- D measuring 7.13 acres by virtue of registered sale deed dated 30.03.1981 Ex.P.2. The defendants admitted the possession of plaintiff in survey No.218-D to the extent of 2.60 acres. It means that the defendants are admitting the title of vendors of plaintiff Bassappa s/o Kengappa Kammar at least to the extent of 2.60 acres in survey No.218-D. Therefore, it is now up to the defendants to demonstrate by evidence on record that the vendor of Naganagowda was having valid title over 4.53 acres in survey No.218-D which they have conveyed in favour of Naganagowda under the registered sale deed dated 10.06.1974 Ex.D.1.

13. The defendants apart from the oral testimony of DW.1 to prove title of defendants over 4.53 acres in survey No.218-D relied on the registered sale deed dated 10.06.1973 executed in favour of Naganagowda Ex.D.1. The said Naganagowda executed registered gift deed



dated 26.05.1982 in favour of defendants Ex.D.2. Therefore, from the oral evidence of DW.1 and the aforementioned documents Exs.D.1 and D.2, it is evident that the defendants are tracing their title over 4.53 acres of land in survey No.218-D from the vendor of Naganagowda. The vendor of Naganagowda is one Mallappa s/o Basappa who has executed the registered sale deed dated 10.06.1973 Ex.D.1 in favour of Naganagowda. The defendants have not produced any documents to show that how the vendor of Naganagowda i.e., Mallappa s/o Basappa acquired right over survey No.218-D to the extent of 4.53 acres in survey No.218-D. The plaintiff have produced the registered partition deed dated 15.07.1969 where under the son of Bharmappa i.e., Mallappa and his three sons Basappa, Bharmappa and Mallappa have partitioned the family properties. On perusal of the recitals of registered partition deed dated 15.07.1963 Ex.P.13, it would go to show that survey No.218-D is not involved in the said partition. It means that the land bearing survey No.218-D was never the family properties of Mallappa. If at all the vendor of Naganagowda,



Mallappa s/o Burmappa or his last son Mallappa was to be the owner of survey No.218-D then the said property would have been certainly included in the registered partition deed Ex.P.13, so also to hold that either Mallappa s/o Burmappa or the last son of Mallappa i.e., again Mallappa having acquired any title over the land bearing survey No.218-D. Therefore, from the said evidence on record and non producing of any title deeds of the vendor of Naganagowda would only demonstrate the fact that **the vendor of Naganagowda was having no any valid title over the land bearing survey No.218-D. If that is so, how come he execute the registered sale deed dated 10.06.1973 Ex.D.1 in favour of Naganagowda by conveying title to the extent of 4.53 acres in the land bearing survey No.218-D. Therefore, the execution of registered gift deed dated 26.05.1982 Ex.D.2 by Naganagowda in favour of defendants is without any right title or interest over land bearing survey No.218-D to the extent of 4.53 acres.**

14. The defendants have not produced any documents of mutation entries and RTC relating



to the land bearing survey No.218-D standing in the name of either Naganagowda nor his vendor Mallappa. It is true that in Ex.D.8 the nil encumbrance certificate issued by the sub registrar, Kudligi. On going through the same, the transactions covered under Exs.D.1 and 2 and Ex.P.2 have all been recorded. This nil encumbrance certificate Ex.D.8 produced by the defendants must be supported by the title deed of vendor of Naganagowda. However, the defendant have not produced single document to show the title deed of vendor of Naganagowda relating to land bearing survey No.218-D to the extent of 4.53 acres. It appears from Ex.D.8 that survey No.219-C to the extent of 1 acre 20 guntas has also purchased by Naganagowda. The said survey number can evidence placed under the registered partition deed dated 15.07.1969 Ex.P.13. The plaintiff is not disputing the title of Naganagowda over survey No.219-C. The said Naganagowda has gifted both the properties i.e., survey No.218-D measuring 4.53 acres and survey No.219-C measuring 1 acre and 20 guntas. However, the fact remains that survey No.218-D was not the



property involved in the partition deed Ex.P.13 and the defendants have not produced any documents to show as to how the vendor of Naganagowda acquired title over the land bearing survey No.218-D to the extent of 4.53 acres. **Therefore, the vendor of Naganagowda had no any title to convey the same in favour of Naganagowda under the registered sale deed dated 10.06.1973 Ex.D.1 and as a consequent result Naganagowda had no any title to convey the same in favour of defendants under registered gift deed dated 26.05.1982 Ex.D.2.**

18. The Courts below have rightly appreciated the relevant documents produced by both the parties to the suit, particularly the title deeds of the plaintiff vendor and recorded valid reason in negating the claim of defendants and justified in holding **that the vendor of Naganagowda had no title over the property conveyed to him under the registered sale deed Ex.D.1 consequently gift deed executed by Naganagowda in favour of the defendants cannot convey valid title to defendants. The said findings recorded by both the Courts**



below are based on legal evidence placed on record and the same does not call for any interference by this Court. Accordingly substantial question of law are answered in negative. Consequently, proceed to pass the following:

ORDER

Appeal filed by appellants/defendants is hereby dismissed as devoid of merits.

The judgment and decree of the First Appellate Court on the file of Fast track Court III, Hospet in R.A.No.38/2008, dated 03.03.2010 in confirming the judgment of Trial Court on the file of Civil Judge (Sr.Dn.) Kudligi in O.S.No.70/2004 dated 22.12.2007 stands confirmed.

Registry to send back the records to Trial Court with a copy of this order.

. The ratio [underline emphasized by me] laid down the un-reported decision of the Hon'ble High Court of Karnataka (DHARWAD BENCH), in Regular Second Appeal No. 5449 of 2010 in between Basavarajappa vs U.Siddesh, Dated-16.01.2024 is that if the vendor of the defendant 's donor had no valid title over the disputed property, and thus, the subsequent



sale deed and gift deed executed in favor of the defendants do not confer any title to them.

28. In the present case exact same facts existed. In the present case also as discussed above vendor 's vendor of the defendant by name Hussain Bee did not have valid title so as to execute the registered sale deed dated 22-08-1990 in respect of the suit property in favor of his vendor by name Nagaraj Tamma Pujari marked at exhibit D-10. Her title over suit property is defective one. Thus subsequent the registered sale deed-dated- 04-08-1995 executed by vendor of the defendant by name Nagaraj Tamma Pujari in his favor in respect of the suit marked at exhibit D-9 does not convey right title over it. Defective title of the vendor of the defendant by name Hussain Bee and Nagaraj Tamma Pujari does not convey title upon the defendant . In view of law laid down in the un-reported decision of the Hon'ble High Court of Karnataka (DHARWAD BENCH), in Regular Second Appeal No. 5449 of 2010 in between Basavarajappa vs U.Siddesh, Dated-16.01.2024 the present suit is not maintainable.



29. In view of law laid down by the laid down by the 2016 (2) KCCR 1655 in between Smt Siddamma Vs. Bhavani Housing Cooperative By its Secretary PH Dayanand and also the the Hon'ble Supreme Court of India reported in ((2010) 6 SCC 666 in between Atla Sidda Reddy vs Busi Subba Reddy & Others the contention of the defendant that he is the bonafide purchasers of the suit-plot and he is the owner and possessor of it cannot be accepted.

30. The parties in the present suit to prove the source of title” means that the legal burden rests on the parties to establish and demonstrate how they acquired ownership or legal rights over the property or subject matter in dispute. In civil litigation, especially in property suits, the plaintiffs cannot merely assert that they are the owners; they must affirmatively prove the origin, nature, and continuity of their title through legally admissible evidence. This court expects from the parties in the present suit to clearly trace the chain of ownership and possession and show that their claim is lawful, valid, and superior to that of the others. In the present suit this fact assumes significance in the wake of the fact that



both the parties are litigating for same title through two registered sale deeds from two different vendors.

31. In suits relating to declaration of ownership, possession, partition, injunction, or recovery of property, the plaintiffs succeed only on the strength of their own case and not on the weakness of the defendant's case. Therefore, when a court observes that it was "incumbent upon the plaintiffs to prove the source of title," it emphasizes that the plaintiffs carried the primary responsibility to produce documentary and oral evidence establishing the foundation of their ownership rights. This burden arises under the principles of evidence law, according to which the party asserting a fact must prove it.

32. The "source of title" refers to the legal basis through which ownership was acquired. Such sources may include a registered sale deed, gift deed, partition deed, inheritance, will, grant, patta, revenue records, or long-standing lawful possession recognized by law. The plaintiffs must not only produce these documents but also prove their authenticity, execution, and legal effect. For example, if the parties claim ownership through inheritance, they must establish the title of their predecessor and



show their lawful succession. Similarly, if title is claimed through purchase, they must prove the validity of the sale transaction and the ownership rights of the seller and their predecessor-in-title. In the present suit this fact assumes significance in the wake of the fact that both the parties are litigating for same title through two registered sale deeds from two different vendors .

33. Merely producing revenue records, tax receipts, or entries in municipal registers even the registered sale deeds of their respective claim is generally insufficient to establish title unless supported by substantive title documents. This court distinguishes between documents showing possession and documents conferring ownership. Therefore, parties in the present suit are expected to provide clear and convincing evidence demonstrating an unbroken chain of title from the original owner to themselves. Any gap, inconsistency, or ambiguity in this chain may weaken their claim. In the present suit this fact assumes significance in the wake of the fact that both the parties are litigating for same title through two registered sale deeds from two different vendors.



34. If the parties fail to establish the source of title satisfactorily, the suit may be dismissed even if the defendants' claim also appears weak. The rationale behind this principle is that a person seeking relief from the court must first prove his or her own legal entitlement before questioning the rights of others. The principle also reflects the broader doctrine under the law of evidence that "he who asserts must prove." Thus, where parties allege ownership, possession, or entitlement, in respect of same the suit property the initial onus lies upon them. In the present suit this fact assumes significance in the wake of the fact that both the parties are litigating for same title through two registered sale deeds from two different vendors

35. Courts frequently apply this principle in land and property litigation because disputes often involve competing claims, forged documents, or uncertain records. Consequently, judges require plaintiffs to provide reliable evidence such as registered deeds, survey records, mutation entries, genealogical records, or testimony of witnesses acquainted with the history of the property. The credibility and



consistency of these materials are essential in determining whether the plaintiffs have successfully proved their source of title.

36. In conclusion, the statement signifies that the plaintiffs bore the legal obligation to establish the origin and validity of their ownership rights through satisfactory evidence. Without proving the source of title, a mere claim of ownership cannot be accepted by the court. Therefore, proving title is a foundational requirement in civil property disputes and forms the basis upon which judicial relief may be granted.

37. The plaintiff has traced his title through In order to prove the source of title the defendant has to prove his title over the the suit property. the registered sale deed dated-04-06-1981 marked at exhibit P-1 executed by Syed Bashu Miya s/o Mohd Sab in favour of the vendor of the the plaintiff On the contrary, the defendant traced his title through the registered sale deed dated- 19-07-1990 marked at exhibit-D-10 executed by Smt.Husain Bee w/o Bashu Miya. But how said Smt.Husain Bee w/o Bashu Miya acquired title is not made clear by the defendant. It is made clear by this court that the defendant must establish his source



of title and shall furnish particulars for having acquired original title. In order to prove his title the source of title of the party must be established. In this regard it is beneficial to refer to the decision of the decision of the Hon 'ble High Court of Karnataka reported in 2009 KLJ (2) 385 = [2009(1 KCCR 670) = [2009 (2) AIR KARNATAKA REPORTER 552] in between Boramma Vs. Srinivasa the para No.10 reads as under.

Regular Second Appeal No. 381 of 2002

Decided on 09-01-2009

10].. Of course, the documents placed on record clearly discloses that suit properties fell to the share of defendant 1 in the partition suit as per the compromise entered into between the parties *i.e.*, defendants 1 and 2 herein. However the revenue documents placed on record by the parties, discloses that plaintiffs are in possession of suit properties since the year 1981-1982. Of course, defendants have not challenged the said entries at any time. However, it is contended by the plaintiffs that there was a case pending before the Assistant



Commissioner in this regard, but no document has been placed on record to that effect. Further, on the other hand, the plaintiffs have also not challenged the judgment and decree passed in the maintenance suit and partition suit filed by defendant 1. Of course, the revenue documents disclose that since from 1981-1982 the name of plaintiff 2 and plaintiff 1 appear in revenue records as possessor of suit lands. But these revenue records cannot be termed as title deeds to confer on them the right of ownership over suit properties. **The plaintiffs have not placed on record any other deed or document to prove the source of title. Further, they have not disclosed any particulars for change of khata in the name of plaintiffs. No iota of evidence is placed on record to show why her name is entered in the revenue records and how she become owner of the suit property** and whether there was any consideration passed therein or the same



was by way of any family arrangement. Such things has not been pleaded nor proved before Court. Mere entry in the revenue records will not confer any title to the plaintiffs and on the basis of the said entries, the plaintiffs cannot be termed as owners of suit properties. In this regard, in case of *State of Himachal Pradesh v. Keshav Ram*¹, 1997 AIR SC 2181 = [1996 (11) SCC 257] = [1998 I L R KAR 1 SC] it is held as under:

“Entry in a revenue record or papers by no stretch of imagination can form the basis for declaration of title”.

Further, in case of *Smt. Sawarni v. Smt. Inder Kaur*², 1996 AIR SC 2823 = [1996 (6) SCC 223 wherein it is held thus:

“Mutation of name in revenue records, effect, held, does not create or extinguish the title nor has any presumptive value on title, it only entities the person concerned to pay land revenue”.



However, in the instant case, both the Courts below by wrongly relying on the revenue entries have given an erroneous finding that plaintiffs are the absolute owners of suit properties which is illegal, incorrect and the same is liable to be set aside.

The ratio laid down by the Hon'ble High Court of Karnataka reported in 2009 KLJ (2) 385 = [2009(1 KCCR 670) = [2009 (2) AIR KARNATAKA REPORTER 552] in between Boramma Vs. Srinivasa is that the plaintiff must establish his source of title and shall furnish particulars for change in khata in the name of the plaintiff in order to prove his title.

38. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in ILR 2014 KAR 1311 =[2013 SCC ONLINE KAR 9886] =[(2014) 1 KCCR 850] in between Smt. Sumitra Bai VS P. Siddesh and Another the para No.11 to Para 13 and para No.18 read as under.

R.S.A. No. 2681/2006
Decided on 20-12-2013



11. Before adverting to the pleadings and the evidence adduced by the parties in this regard, the Court has to remind itself that, **when the plaintiff has claimed the declaration of his title and for permanent injunction against the defendants, in view of the issues framed by the Trial Court, the burden lies on the plaintiff to prove his case. The plaintiff has to prove his case to the satisfaction of the Court by means of convincing and cogent evidence** not necessarily beyond reasonable doubt. If this burden is discharged, then only onus shifts on to the defendant to establish the plaintiff's case as false and on the other hand, the defendants' case is probabalized on the basis of the materials on record. The Courts cannot on the basis of distorted admission or on the basis of the disputed/not proved documents draw an inference in order to grant any remedy to any of the parties to the suit

12. In the above backdrop, now let me see what the Trial Court has done, on what grounds the Trial Court has dismissed the suit of the plaintiff, and how the first Appellate Court has taken different view to decree the suit.

13. The Trial Court in so far as the ownership of the property is concerned, discussed the materials on record and gave finding at paragraph 14 of its judgment. The Trial Court has said that the plaintiff having claimed the



ownership over the property on the basis of Ex. P-1 Hakkupatra issued by the Manakaturu Mandal Panchayath has to prove that the said property originally belonged to the Manakaturu Mandal Panchayath and it was the owner in possession of the suit schedule site. The Trial Court held that except producing Ex. P-1, no other documents have been placed before the Court. It also discussed that according to the plaintiff, Site No. 56/1 is divided into 56/1A to C and also formed Site Nos. 56/1 to 56/7. **But no materials have been placed to show that the said property originally belonged to Manakaturu Mandal Panchayath and actually where the property is situated and how the Mandal Panchayath got the ownership of the property.** Further, Trial Court observed that, no materials are placed to show that the said Site No. 56/1 is divided into 56/1A to 1C. The Trial Court also discussed the evidence of the defendants, which revealed that one Smt. Sharadamma is the owner of land bearing Survey No. 75/1 measuring 4 acres 13 guntas succeeded by her after the death of her mother Smt. Lakshamma which is situated at Bagilugatta Grama. The said Smt. Sharadamma converted the said land into sites and sold one site measuring 30 × 40 feet as per Ex. D-4, in favour of the first defendant by virtue of a registered sale deed. Ex. D-5 and D-6 are the record of rights produced by the defendant, shows that the said land



bearing Survey No. 75/1 originally belonged to Smt. Lakshamma and later succeeded by Smt. Sharadamma. Subsequently, Katha was also transferred in the name of Smt. Sharadamma. Ex. D-14 relied upon by the Trial Court also discloses that totally 64 sites have been formed in Survey No. 75/1 including Site No. 56 in the said land. The first defendant has purchased a site in No. 56/1C vide registered sale deed which is marked at Ex. D-4. The Trial Court has concluded that the evidence of the plaintiff does not establish where actually the said site is situated and whether it belongs to Mandal Panchayath earlier. The plaintiff has not summoned any person or any document by way of evidence, from the Mandal Panchayath to establish this particular aspect. On the other hand, the Trial Court believed the documents i.e., record of rights and index of land, sale deed of the defendant and also the Layout plan marked at Ex. D-14 coupled with the Commissioner's report concluded that the plaintiff has not proved the existence of this site in the boundaries mentioned in the plaint. Therefore, it dismissed the suit of the plaintiff. The Trial Court in fact also gave its opinion with regard to the possession of the land. The Commissioner's report relied upon by the Trial Court reveals that there is no site as such is situated as explained by the plaintiff. Therefore, on these grounds, the Trial Court had dismissed the suit of the plaintiff.



18. On perusal of the above said documents, one cannot definitely come to the conclusion where exactly this Site No. 56/1-B claimed by the plaintiff is situated. Whether it is situated in the sites carved out in Survey No. 75/1 or it is a separate site belonging to the Manakaturu Mandal Panchayath situated some where else. No document is produced before the Court either by the plaintiff or by the defendants to show that Site No. 56 is subsequently divided into Site Nos. 56/1-A, 1-B and 1-C. Even Ex. P-6 sketch produced by the plaintiff does not establish this particular fact. Even defendants document does not disclose that in what manner, under which document, Site No. 56 is divided into or modified as Site numbers 56/1-A, 1-B and 1-C. The measurements of these sites are also very important, but that has lost sight of by both the Courts below. As per the measurements in Ex. D-14 Layout plan produced by the defendant, the measurement of Site No. 56 is shown as 40 × 30 feet. It is seen from Ex. D-4, the sale deed executed in favour of defendant No. 1 in respect of Site No. 56/1-C by the previous vendor also measures East to west 40' and North to South 30'. The Site No. 56/1-B as claimed by the plaintiff granted by the Mandal Panchayath also measures East to West 40' and North to South 30'. No measurement available so far as Site No. 56/1-A is concerned. When Site No. 56 under Ex. D-14 measures only 40' × 30',



how it can be divided into 3 parts measuring to the same extent of 40' × 30' and that can be sold in favour of first defendant by its vendor or Site No. 56/1-B could be granted by the Mandal Panchayath in favour of the plaintiff. The above said discrepancies have not been clarified either by the plaintiff or by the defendants before the Courts below. The Hakkupatra Ex. P1 does not disclose the survey number in which the site has been carved out. Though the plaintiff is not specific about his site is situated in Survey No. 75/1, but ambiguously claims that the said property belongs to him only on the basis of the Hakkupatra. The boundaries mentioned in Hakkupatra, actually similar with Site No. 56/1-B carved out in Survey No. 75/1. According to the defendant, this property has been sold by the vendor of the defendant No. 1 in favour of one Smt Jayamma and she is in possession of the said site. **Unless, the plaintiff satisfactorily by means of convincing evidence shows to the Court that this particular Site No. 56/1-B is carved out of Survey No. 75/1 and the same either earlier belonged to or has been acquired by the Mandal Panchayath and thereafter, the said site has been allotted to the plaintiff. In the absence of such proof the Court cannot draw any inference that the plaintiff has proved his title and possession over the said suit schedule property.** The identity of the property with specific



boundaries and the place where this particular site is situated itself is not satisfactorily established by the plaintiff. Therefore, the decree ought not to have been granted by the first Appellate Court. Neither the first Appellate Court nor the Trial Court have in fact meticulously gone into the fact that the plaintiff or the defendant have not shown how this Site No. 56/1 had been divided into 56/1-A, 1-B and 1-C with specific measurements.

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka reported in ILR 2014 KAR 1311 =[2013 SCC ONLINE KAR 9886] =[(2014) 1 KCCR 850] in between Smt. Sumitra Bai Vs P. Siddesh and another is that in a suit for declaration and injunction the plaintiff has to prove how his predecessor – in – title became owner of the suit – property

39. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in 2004 AIR SC 137 =[2003(10) SCC 352] in between Dalip Singh vs. Sikh Gurdwara Prabhandak Committee, the para No.2, para No.11 to para No.13 read as under.

Civil Appeal No. 7418 of 1993.
Dated-15.10.2003



2]. The case was contested by the first respondent SGPC. **First respondent raised the following contentions : Jeeta Singh did not have any title over this property and consequently Bhola Singh also did not acquire any right from him.** There was an earlier litigation as suit No. 859 before the Sub-Judge, Moga and Jeeta Singh was party to that suit and by Judgment dated 15.6.1943, it was held that the first respondent was the owner of the land. Bhola Singh was an office holder under the Managing Committee of Gurdwara Jeeta Singh Wala, Lohara, and he was managing the land in that capacity. As he began to misuse his powers, an application was filed against him under Section 142 of Sikh Gurdwara Act before the Judicial Commission and the same was allowed. As Bhola Singh had no right, title or interest on the land; the gift, if any, executed in favour of the respondent Nos. 2 and 3 was invalid and void.

11]. The learned Senior Counsel for the appellants further contended that under Section 28 of the Sikh Gurdwara Act, 1925, the first respondent could have filed a suit to settle the disputes if any, in respect of any property notified as the property of Sikh Gurdwara. It was argued that in the absence of such a suit, the claim of the first respondent is to be negated. The first respondent herein filed an application under Section 142 of the Act calling upon Bhola Singh to



surrender the possession of the properties. The Commission rendered its Judgment on 20.12.1958 and in that proceeding, it was mentioned that the first respondent had entered into a compromise on 5.4.1943. According to the appellants Counsel, Bhola Singh had transferred the property to his wife and son on 6.6.1957 but when a decree had been passed against Bhola Singh, he had no right over the property and, therefore, the transfer deed executed by him is not binding on respondent Nos. 2 and 3 and consequently the appellants herein are also not bound by the said decree. **It is important to note that there is no document to show that Bhola Singh acquired any title over this property.** The proceedings before the Judicial Commission also would only show that he was an office-holder of the Gurdwara and he was removed from office in 1951 and consequently, he was directed to vacate the office and hand over the properties including the suit lands.

12]. The appellants lastly contended that there are series of revenue records to show that the suit property was being cultivated by Bhola Singh and all the entries in these records show that the first respondent had no right to possession of property. Reference was made to series of documents produced by the appellants. It is true that in some of the documents produced by the appellants, Bhola Singh is shown as the cultivator of these properties. This is not



sufficient to prove that the occupancy right or the title of the suit property vested in Bhola Singh. These revenue records are quite consistent with the fact that Bhola Singh must have been in possession of this property as an employee or manager of the Gurdwara. **The entries in the revenue records by itself cannot prove the title to the property unless it is supported by other evidence.**

13]. In the instant case, it is proved by satisfactory evidence that the property belonged to the Sikh Gurdwara and **the appellants failed to prove that their predecessors-in-interest namely, respondent Nos. 2 and 3 acquired any title from Bhola Singh.** Consequently, the sale deed in favour of the appellants did not confer any title on them in respect of the suit properties. The appeal is without any merits and it is liable to be dismissed.

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in the Hon'ble Supreme Court of India reported in 2004 AIR SC 137 =[2003(10) SCC 352] in between Dalip Singh vs. Sikh Gurdwara Prabhandak Committee is that it is necessary for the plaintiffs to prove title of their predecessors – in – interest and their source of title. Further it is held that revenue documents are not the documents of title.



40. As discussed above, how said Smt.Husain Bee w/o Bashu Miya acquired title is not made clear by the defendant. It is made clear by this court that the defendant must establish his source of title and shall furnish particulars for having acquired original title. Thus the defence of the defendant that his vendor 'S vendor Smt.Husain Bee w/o Bashu Miya was the original owner and possessor of the the suit property cannot be accepted. Thus any subsequent transactions made by the Smt.Husain Bee w/o Bashu Miya after alienation is already made by her husband does not bind on the plaintiff.

41. In the present suit the plaintiff did not seek relief of the registered sale deed dated 22-08-1990 executed by Hussain Bee in favor of Nagaraj marked at exhibit D-10 and of the registered sale deed dated 04-08-1995 executed by Nagaraj in favour of the defendant are not questioned by the plaintiff. Whether such act of the plaintiff would result in dismissal of the suit. It is made clear by this court that when a document is valid, no question arises of its cancellation however when a document is void ab initio, a decree for setting aside the same would not be necessary as the same is non est in the eye of law, as it would be a



nullity. Thus registered sale deeds referred to above even if they are not questioned not fatal to the case of the plaintiff. When a document is void ab initio, a decree for setting aside the same would not be necessary as the same is non est in the eye of law, as it would be a nullity. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in 2022 SCC ONLINE KAR 1476 in between Khirasa and Others Vs Shanta and Others the para No.8 reads as under.

Civil Revision Petition No. 100095/2021[±]

Decided on July 21-07-2022

8. It would be relevant to notice that it is a settled position of law that when a document is valid, no question arises of its cancellation. However, when a document is void ab initio, a decree for setting aside the same would not be necessary as the same is non est in the eye of law, as it would be a nullity. This position has been reiterated in *Prem Singh & Ors. v. Birbal & Ors. (2006) 5 SCC 353* and it was further held that section 31 of the Specific Relief Act, 1963 refers to both void and voidable documents. It provides for a discretionary relief. It was further held that Article 59 of the Limitation Act applies



especially when a relief is claimed on the ground of fraud or mistake. It only encompasses within its fold fraudulent transactions which are voidable transaction. Article 59 would be attracted when coercion, undue influence, misappropriation or fraud which the plaintiff asserts is required to be proved. Article 59 would apply to the case of such instruments. It would, therefore, apply where a document is prima facie valid. It would not apply only to instruments which are presumptively invalid.

The ratio [underline emphasized by me] laid down the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in 2022 SCC ONLINE KAR 1476 in between Khirasa and Others Vs Shanta and Others when a document is valid, no question arises of its cancellation however when a document is void ab initio, a decree for setting aside the same would not be necessary as the same is non est in the eye of law, as it would be a nullity. In view of law laid down the the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in 2022 SCC ONLINE KAR 1476 in between Khirasa and Others Vs Shanta and Others in the present case the the registered sale deeds referred to above even if they are not questioned same is not fatal to the case of the plaintiff. Thus the



plaintiff has proved his title possession over the suit property. Hence issue No.1 to Issue No.3 is answered in affirmative.

42. **ISSUE NO.4:-** This court already held that plaintiff is entitled for relief of declaration and injunction. Hence issue No.4 answered in affirmative

43. **ISSUE No.5:-** Foregoing reasons and answering above issues I proceed to pass the following;-

ORDER

Suit of the plaintiff is decreed with costs.

It is declared that the plaintiff is the owner and possessor of the suit schedule property.

The defendant or anybody claiming under him are restrained from interfering into the possession of the plaintiff over the suit property perpetually by a decree of perpetual injunction

Draw preliminary decree.

(Dictated to the Stenographer directly on computer, computerized by him and corrected and then pronounced by me in open court on 02nd day of June 2026)

(Lakshmikanth J Miskin)
Senior Civil Judge & JMFC.,
Sindhanur



ANNEXURE

1. List of witnesses examined on behalf of plaintiff.

PW-1 : Shivashankarreddy
PW-2 : Guram Satyanarayana
PW-3 : G.Pullareddy

2. List of documents marked on behalf of plaintiffs.

Ex.P1 : Sale deed dated 04.06.1981
Ex.P2 : Sale deed dated 05.06.1998
Ex.P3 : Order dated 05.02.2024
Ex.P4 : Tax paid receipt

3. List of witnesses examined on behalf of defendants:

DW.1 : Dr.Shankarappa
DW.2 : Nagaraj

4. List of documents marked on behalf of defendants:

Ex.D1 & 2 : Photographs
Ex.D3 & 4 : Tax paid receipts
Ex.D5 & 6 : SAS forms
Ex.D7 & 8 : Onliine copies of form No.3
Ex.D9 : Sale deed dated 04.08.1995
Ex.D10 : Sale deed dated 19.07.1990
Ex.D11 : Certified copy of Tax paid register
Ex.D12 : Online copies of form No.3
Ex.D13 to 16 : Tax paid receipts
Ex.D17 to 19 : SAS Forms
Ex.D20 : Encumbrance certificate
Ex.D21 : Patta book
Ex.D22 : CD
Ex.D23 : Photo receipt
Ex.D24 : Sec.65(b) certificate

(Lakshmikanth J Miskin)
Senior Civil Judge & JMFC.,
Sindhanur