

**KARN210001152021**



**R.A./03/2021(J)**

Presented on : 22-01-2021  
Registered on : 23-01-2021  
Decided on : 13-03-2026  
Duration : 05 years, 01 months,  
23 days

**IN THE COURT OF THE ADDL.SENIOR CIVIL JUDGE  
& JMFC, CHANNAPATNA**

**:PRESENT:**

**SRI.SANDESHA.K., M.A., L.L.B.,**  
Addl. Senior Civil Judge & JMFC,  
Channapatna

**Dated, this the 13<sup>th</sup> day of March 2026**

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**APPELLANTS :**

1. Smt. S.R.Vishwa,  
Barathambika,  
W/o N.G.Swamynath,  
Aged about 65 years,
2. Smt.S.R.Umadevi,  
W/o Krishnegowda,  
Aged about 63 years,
3. Smt.S.R.Hemanthakumari,  
W/o Chandraiah,  
Aged about 61 years,
4. Smt.S.R.Pushpavalli,  
W/o Thammannagowda,  
Aged about 59 years,



5. Sri.S.R.Suresh Kumar,  
Since dead by Lrs,  
5(a) Smt.Thara.T.N,  
W/o Late S.R.Suresh Kumar,  
Aged about 40 years,  
5(b) Kum.Chandana,  
D/o Late S.R.Suresh Kumar,  
Aged about 13 years,  
Since Minor, represented by,  
Guardian mother Thara.T.N.

6. Smt.S.R.Shanthala,  
W/o Thimmegowda,  
Aged about 54 years,  
  
All are R/at,  
Shettihali Village,  
Malur Hobli,  
Channapatna Town,  
Ramanagara District.

**(By Sri. S.H., Adv.)**

**V/s**

**RESPONDENTS:**

1. Sri.S.N.Somasundra,  
S/o Narayanaswamygowda,  
Aged about 56 years,  
R/at Door No.136,  
8<sup>th</sup> Cross, 2<sup>nd</sup> Main Road,  
M.I.G House,  
Rajamahal Vilas,  
2<sup>nd</sup> Stage,  
Bangalore-560094.

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2. The Secretary,  
Mathikere Gram Panchayath,  
Mathikere,  
Channapatna Taluk,  
Ramanagara District.

**(R-1 By Sri. G.A., Adv.)  
(R-2 is Ex-parte)**

**IN O.S./27/2013 IN THE SUIT IN BETWEEN:-**

Sri.Vishwa Barathambika and others .....**Plaintiffs**

**-Vs-**

Sri.S.N.Somasundra and another .....**Defendants**

**DATE OF PRESENTATION  
OF THE REGULAR APPEAL**

**: 23.01.2021**

**NATURE OF THE APPEAL**

**: Against the Judgment  
and Decree passed by  
the learned Prl. Civil  
Judge & JMFC,  
Channapatna. in  
O.S./27/2013 dated:  
07.09.2020.**

**JUDGMENT PRONOUNCED ON**

**: 13.03.2026**

**DURATION OF THE  
REGULAR APPEAL**

**: Year/s Month/s Day/s  
-05- -01- -23-**

**(SANDESHA.K.)**

Addl. Senior Civil Judge & JMFC  
Channapatna.



**JUDGMENT**

The appellant has preferred this appeal under Section 96 of CPC against the judgment and decree passed by the learned Principal Civil Judge in JMFC., Channapatna in O.S.No.27/2013 dated 07.09.2020.

**2.** The appellant was the plaintiff. Respondent was the defendant before the trial Court.

**3.** For the sake of convenience, hereinafter the parties are referred to as their rank shown in the suit before the trial Court.

**4. The brief facts of the plaintiff case is that:**

Suit schedule property is ancestral property of the grandfather of the plaintiffs and defendants. During the lifetime of the S.Puttegowda, orally partition the suit schedule properties between the S.P.Ramachandra. As per the partition suit schedule house and vacant site, Khatha



was affected in the name of the father of the plaintiffs from the date of partition till today. Plaintiffs are in possession and enjoyment of the suit schedule property. The father of the plaintiff by name S.P.Ramachandra was dead. After death of said Ramachandra, khatha was affected in the name of the mother of the plaintiff by name M.T.Lalithamma. Thereafter, M.T.Lalithamma is in possession and enjoyment of the suit schedule property. After death of M.T.Lalithamma, her only son S.R.Suresh Kumar is in possession and enjoyment of the suit schedule property.

**5.** It is further stated that, defendant No.1 has no manner of right to title interest over the aforesaid property. In the meantime, defendant No.1 is hectic attempt to get the Khatha over the suit schedule property. The mother of the plaintiff gave a objection on 17.10.2011 in respect of not to affect the Khatha in the name of defendant No.1.

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Thereafter, objections received by defendant No.2. The matter was referred to the Executive Officer, Channapatna Taluk. Thereafter, the said Executive Officer, without pass any order, the matter was remanded to the defendant No.2. Now, defendant No.1 and 2 are attempting to proceed Khatha in the name of defendant No.1. Defendant No.1 furnishing the will before the 2<sup>nd</sup> defendant. Said will is not binding on the plaintiffs property. The alleged will be a concocted and created one. Said document is a void and ab-initio. Defendant has no way of concern to the plaint schedule property. Defendant No.2 is a formal party to the suit. Hence this suit.

**6.** Receipt of the summons issued by the learned trial Court. Defendant No.1 and 2 have entered their appearance through their advocate and Defendant No.1 has filed written statement by denying the entire plaint averments. Defendant No.2 has not filed written statement.

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Hence, written statement of defendant No.2 taken as not filed.

7. Defendant No.1 in his written statement, he stated that, father of defendant No.1 by name Narayananswami Gowda has filed suit for permanent injunction against the father of the plaintiffs by name S.P.Ramachandra and his son in the year of 1993, the above suit was decided on merits on 07.07.1997. In the said judgment, defendants are restrained regarding the schedule property. Above said judgment is not challenged by the defendants. The schedule property of the above case in the schedule No.6 in O.S.No.82/1993. In the judgment of O.S.No.82/1993, this Hon'ble Court has come to the conclusion that, after the partition dated 27.07.1954, the defendants alienated the schedule property to the plaintiffs. The plaintiff No.5 in the above case is also party in O.S.No.82/1993. Hence, he knows the entire fact of the case. After the judgment, the



father of defendant No.1 executed will for his property. In the will the schedule property fallen to the share of the defendant No.1. The father of the defendant No.1 died on 06.04.1999. After death of S.P.Narayanaswami Gowda, defendant No.1 verified the records of her suit schedule property and came to know that the mother of the plaintiff colluding with the Panchayath officer, she split up the schedule property in 84/1 and 84/2 and changed the Khatha of 84/2 to her name, without any rights of records. Hence, pray for dismiss suit with costs.

**8.** On the basis of pleadings mentioned supra, the learned trial court has framed the following issues:

**ISSUES**

1. Whether the plaintiffs prove that, they are the absolute owners in possession of suit schedule property?
2. Whether the plaintiffs further prove they are entitled for declaratory relief as sought for?



3. Whether the plaintiffs further prove that, they are entitled for permanent injunction relief as sought for?

4. What order and decree?

**9.** In order to prove the case of the plaintiffs, the plaintiff No.9 has examined herself as PW1 and got admitted 12 documents as Ex.P1 to Ex.P12. Defendant No.1 examined himself as DW1 and got marked for document as Ex.D1 to Ex.D4.

**10.** After considering the ocular and documentary evidence placed by the plaintiffs, the Learned trial Court has dismissed suit. Being agreed by the impugned judgment and decree passed by the learned trial court, the plaintiff has preferred an appeal before this court. Hence, the matter before this court through an appeal. In the appeal, plaintiff has contented that, the trial court has not properly appreciated the pleadings, the evidence both oral



and documentary, in its proper perspective, and also failed to appreciate the Khatha records at Ex.P1 to 6. The trial court has failed to note that the relationship is admitted. The trial court has failed to note that at the time of will Ex.D1, the executant has no valid title. The trial court has not appreciated the matter elicited in cross-examination of defendant witness. Hence, the appellants sought for allow the appeal and set aside the decree passed by the trial Court.

**11.** Pursuant to the notice issued by this court, the respondent No.1 appeared before the court through his advocate. In spite of service of notice, respondent No.2 failed to appear before the court. Hence, he placed an ex-parte.

**12.** Subsequently, the record of trial court has secured. I have heard the argument of erudite counsel for the appellant and respondents.



**13.** After hearing the argument and on going through the material record, the following points arise for my consideration.

**1. Whether the appellants/plaintiffs prove that, the trial court has erred in dismissal of suit?**

**2. Whether the interference of this Court is called for in the Judgment and Decree of the trial court?**

**3. What order or decree?**

**14.** My findings to the above points are as under:

Point No.1: In the **Negative**

Point No.2 : In the **Negative**

Point No.3: **As per final order**

For the following:-

**REASONS**

**15. POINT No.1 and 2 :** Since all these points are interconnected to each other, they are taken up together for common discussion in order to avoid repetition of fact and finding.



**16.** Before embarking upon the fact of the case, it is relevant to ascertain the essential elements which are required in a suit for declaration and injunction. Whereas with respect to the declaration, if the parties of the lis contended that, they are the absolute owner of the schedule property and possession over the same. They have to prove that, they are the absolute owner of the plaint property and possession over the same by producing title document.

**17.** The submission of the appellate counsel is that, the suicide property belongs to the father of the plaintiff. After death of plaintiffs father, suit schedule property mutated in the name of the plaintiffs. But trial court has failed to appreciate the oral as well as the documentary evidence placed by the plaintiffs and also not appreciate the documentary evidence in a correct manner. The trial court has also failed to appreciate plaintiffs exhibits in the



same ratio as the two of the defendant exhibits. The trial court is completely confused about the issues involved in the case, the evidence which has led to this erroneous judgment. Hence, pray for allow the appeal.

**18.** The submission of the defendant No.1 counsel is, after death of the defendants father, said property mutated in the name of the defendants. Defendant No.1 is in possession of the said property. Plaintiffs have no right over the said property and they are not in possession over the same. Hence, pray for dismiss the appeal. The trial court has correctly appreciated the oral and documentary evidence of the plaintiffs. But in order to harass the defendants, the plaintiff has preferred this appeal. Hence, preferred dismissed the appeal.

**19.** As per the contention of the defendants that, the suit schedule properties are ancestral property of the grandfather of the plaintiff and defendants. During the

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lifetime of S.Puttegowda, orally partition of the suit schedule property between S.P.Ramachandra. As per the partition, suit schedule house and vacant site, Khatha was effected in the name of the father of the plaintiffs. From the date of the partition till today, plaintiffs are in possession and enjoyment of the property. As already stated above, in a suit for declaration and consequential relief of injunction, The parties of the lis i.e. plaintiff has to prove his title and possession over the same as on the date of filing of suit. It is well settled law that, revenue documents are not title documents. Plaintiffs have to produce title document and also prove the flow of title. As per Section 101 and 103 of Indian evidence Act, it is a burden cost upon the plaintiff to prove that, they are the owner of the plaint schedule property and also they are in possession over the same. In order to prove the title of the plaintiff, plaintiff No.6 has produced demand registered extracts i.e. Ex.P1 and Ex.P2

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and tax paid receipt, death certificate of M.T.Lalithamma, complaint, Notice of Mathikari Grama Panchayathi. As already stated above, in a suit for declaration, plaintiff has to prove that, they are in owner and possession of the plaint schedule property by producing cogent and convincing document. But in the present case on hand the plaintiffs are not produce any title document with regard to the plaint schedule property. Upon going through the plaint averments, plaintiffs claiming that, they are the owner in possession over the schedule property. It is well settled law that, plaintiffs have to prove that, they are the owner of the plaint schedule property by producing title document. But in the present case on hand, except demand registered extract and tax paid receipt, the plaintiffs have failed to produce the title document. As already stated above, revenue documents are not title documents. But, in order to prove the title of the plaintiffs,

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they have failed to produced the same and also not produce any single iota document to prove that, they are the owner of the plaint schedule property.

**20.** The main contention of defendant No.1 is that, plaintiff No.6 colluded with the Panchayath and mutated the Khatha in her name without the notice of the defendants. But, As per Ex.P3 and Ex.P4, produced by the plaintiff, show that, plaint suit property stands in the name of S.P.Ramachandra. After death of Ramachandra, plaint suit property mutated in the name of plaintiff No.6. Ex.D2 and Ex.D3 produced by the defendants, it is clearly depicted that, one Narayanswami Gowda had file a suit for relief of permanent injunction with regard to the suit schedule property and other properties against the Ramachandra and plaintiff No.5 Sureshkumar. In the said suit, Ramachandra had taken defence that, suit schedule properties are joint family property of the plaintiffs and

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defendants. But trial court decreed the above said suit by holding that, father of defendant No.1 was in possession of the schedule property. Therefore, the plaintiffs have to prove that, they are in possession over the schedule property as and date of filing of suit by producing cogent and convincing document and also produce title document to prove their title. But in the instant case, except producing demand registered extract and tax paid receipt, The plaintiffs have not produced any title document to show that, they are the owner in possession of the schedule property. As already stated that, the trial court has declared that father of defendant No.1 was in possession of the schedule property. Therefore, the plaintiff has to produce sufficient document to show that, they are the owner of the property. Plaintiffs have prove that, they are the possession over the suit schedule property as on the date of filing of suit. But the plaintiffs have failed to prove

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the same. As already stated above, revenue documents have not confirmed any title. The plaintiffs have to prove the flow of title and how they acquire the suit schedule property. But in the present case in hand, plaintiffs have failed to establish that, they are the owner of the suit schedule property and also they are in possession over the same.

**21.** As per the oral evidence of PW1, the family property was divided between the brother of the S.Puttegowda and schedule property fallen in the share of the father of the plaintiffs. In order to show that, the plaintiffs are not producing any iota of documents. PW1, during the cross-examination, she deposed that, she have a document to show that, the suit schedule property allotted to the share of the plaintiffs father. But they have not produced any documents before the court. Hence, adverse inference has to be drawn against the plaintiffs. In the



cross-examination, PW1 deposed that, partition took place on 27.02.1948 between the father of the plaintiffs and defendants. But they have not produced the same before the court. Hence, the oral evidence of the plaintiffs cannot be considered.

**22.** As already stated above, in a suit for declaration and injunction, it is the duty of the plaintiffs to prove that, they are the owner of the plaint schedule property and they are in possession of the same by producing sufficient document. In the present case on hand, except producing revenue documents, the plaintiffs have not produced any title of the property. Though they are admitted that, suit schedule property allotted to the share of the plaintiffs father and said property divided between the father of the plaintiff and defendants through registered partition deed. But they have failed to produce the said document. Hence, a revenue document cannot confirm any title and trial



court has already declared that defendant No.1 is in the possession of the schedule property. Therefore, the plaintiff cannot entitle any equitable relief of injunction as well as the declaration of his property.

**23.** On careful decision of the entire oral and documentary evidence available on record, it clearly shows that, defendant No.1 is in possession of the plaint schedule property. Therefore, the plaintiffs have not got any right over the plaint schedule property.

**24.** This Court has given anxious consideration to the judgment and decree rendered by the learned trial court. The learned trial court has carefully perused the entire material record. In the course of argument, the counsel for the appellant has concluded that, the trial court has failed to consider the evidence of the plaintiff and also not properly appreciated the oral and documentary evidence placed by the plaintiffs. But on perusal of the



judgment of the trial court, it is unequivocally clear that, the trial Court has rightly appreciated the entire oral as well as the documentary evidence and rightly held that, the revenue documents are not confirming their rights and title. Hence, the judgment and decree rendered by the learned trial court judgment is in accordance with law. Hence, this court has not interfering in the Judgment and decree passed by the learned by the learned trial court. Hence, this court interfering in the judgment and decree learned by the trial court is not necessary. Therefore, for the praefatus reason, this Court is of the view that the appeal filed by the appellant is liable to be dismissed. Accordingly, this Court answered point number 1 and 2 in the **Negative**.

**25. Point No.3:** In view of my finding on the point No.1 to 3, this court pursued to pass the following.



**ORDER**

**The appeal filed by the appellants under section 96 of the C.P.C. is hereby dismissed.**

**The impugned Judgment and Decree passed by the learned Prl. Civil Judge & JMFC, Channapatna, on dated:07.09.2020 by decree the suit filed by the plaintiffs in O.S.No.27/2013 is hereby conformed.**

**Draw decree accordingly.**

**Send back the trial court record immediately along with the copy of the Judgment.**

**(Dictated to the Stenographer directly on the computer and signed by me and then pronounced in the Open Court on this 13<sup>th</sup> day of March 2026)**

**(SANDESHA.K.)**

**Addl. Senior Civil Judge & J.M.F.C.  
Channapatna.**

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***(JUDGMENT PRONOUNCED IN THE OPEN COURT  
(ON /13/03/2026)  
(VIDE SEPARATE ORDER)***

**ORDER**

**The appeal filed by the appellants under section 96 of the C.P.C. is hereby dismissed.**

**The impugned Judgment and Decree passed by the learned Prl. Civil Judge & JMFC, Channapatna, on dated:07.09.2020 by decree the suit filed by the plaintiffs in O.S.No.27/2013 is hereby conformed.**

**Draw decree accordingly.**

**Send back the trial court record immediately along with the copy of the Judgment.**

**Addl. Senior Civil Judge & J.M.F.C.  
Channapatna.**

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