



**IN THE COURT OF III ADDL. CIVIL JUDGE AND JMFC,
KANAKAPURA, AT: KANAKAPURA.**

**PRESENT: SHRI. RAVIPRAKASH T. AVIN,
B.B.A., LL.M.**

**III ADDL. CIVIL JUDGE AND JMFC,
KANAKAPURA.**

ORIGINAL SUIT No.477/2008

DATED ON THIS THE 4th DAY OF APRIL, 2026.

PLAINTIFFS:

Sri. Madaiah
S/o. Late Madegowda,
Aged about 70 years,
R/at: Horalagallu Village,
Kasaba Hobli,
Kanakapura Taluk,
Since dead by his LR's

- 1(a). Smt. Siddamma,
W/o Late Madaiah,
Aged about 85 years,
- 1(b). Smt. Mahadevamma,
D/o Late Madaiah,
Aged about 65 years,
- 1(c). Smt. Kempamma
W/o Late Nagaraju,
Aged about 50 years,
- 1(d). Lalitha,
W/o Late Mahalingaiah,
Aged about 50 years,



- 1(e). Pradeep. M,
S/o Late Mahalingaiah,
Aged about 28 years,
- 1(f). Pramodha. M,
S/o Late Mahalingaiah,
Aged about 26 years,
- 1(g). Smt. Mangala,
D/o Late Madaiah,
Aged about 50 years,
- 1(h). Sri. Shivaraju,
D/o Late Madaiah,
Aged about 48 years,

All are residing at
Horalagallu Village,
Kasaba Hobli,
Kanakapura Taluk,
Ramanagara District.

[By Sri. K.M.G, Advocate]

Vs

DEFENDANT:

- 1. Sri. Byregowda
S/o Late Madegowda,
Aged about 75 years,
R/at: Horalagallu Village,
Kasaba Hobli,
Kanakapura Taluk,
Ramanagara District.



**[By Smt. D. S. Advocate for
Defendant]**

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Date of Institution of the Suit : 04.11.2008

Nature of the suit : For Declaration and
injunction

Date of the commencement of
recording of the evidence : 23.01.2017

Date on which the Judgment
pronounced : 04.04.2026

Total Duration : Year/s Month/s Day/s
17 05 00

PRESIDING OFFICER

J U D G M E N T

The Plaintiff has filed a suit for declaration to declare him as absolute owner in lawful possession and enjoyment of suit schedule property and for consequential relief of permanent injunction restraining the Defendant from interfering with Plaintiff's peaceful possession and enjoyment of suit schedule property.



2. Description of suit property is as under;

All the part and parcel of land bearing Sy. No.226/1A, measuring 1 Acre 38 guntas situated at Horalagallu Village, Kasaba Hobli, Kanakapura Taluk and Ramanagara District and is bounded as under;

To The East : Sarkari Halla

To The West : Land of Defendant

To The North : Government Land

To The South : Land of Defendant in the Same
Survey number.

3. The necessary facts of the case of the Plaintiff are as under;

It is the case of the Plaintiff that the Defendant is his brother and that suit schedule property bearing Survey No. 226/ 1A measuring 1 Acre 38 Guntas situated at Horalagallu Village, Kasba hobli of Kanakpura Taluk is the ancestral property of the Plaintiff and the Defendant. The Plaintiff and other members of the family sold land to the extent measuring 30½ guntas in the suit schedule property and 1 Acre 11 Guntas in land bearing Survey No. 226/1B, in total sold 2 Acres 1½ Guntas as per registered sale deed dated 24.02.1987. The Plaintiff along with his children is in exclusive possession and



enjoyment of suit schedule property. The Defendant being stranger to suit schedule property instead of getting khata for the said 30½ guntas, in collusion with revenue officials has got the khata of entire land in Sy. No. 226/1A in his name and on 04.10.2008, as the Defendant and his followers interfered with Plaintiff's peaceful possession and enjoyment of the property, the Plaintiff has filed this suit.

4. After service of summons. The Defendant has appeared through his counsel and has filed written-statement.

5. Shorn of the unnecessary details the facts in brief of the case the Defendant are as under:

The case of Defendant on the other hand is that, originally land bearing Survey No. 226 was measuring 7 Acres 11 Guntas. The said land was subdivided into Survey No. 226/1 measuring 3 Acres 39½ Guntas and Survey No. 226/2 measuring 3 Acres 11½ Guntas. Land bearing Survey No. 226/1 was further divided into Land bearing Survey No. 226/1A measuring 2 Acres 28½ Guntas and land bearing Survey No. 226/1B measuring 1 Acre 11 Guntas. In the oral partition between the Plaintiff and the Defendant in the year 1957, in land



bearing Survey No. 226/1A measuring 2 Acres 28½ guntas, land to the extent measuring 1 Acre 38 Guntas fell to the share of the Defendant and land to the extent measuring 30½ guntas fell to the share of the Plaintiff. It is stated that the Plaintiff sold the said 30½ guntas land to the Defendant vide sale deed dated 24.02.1987, where by the Defendant became absolute owner of the entire Land to the extent measuring 2 Acre 28½ Guntas in land bearing Sy. No. 226/1A including the suit schedule property. In the said sale deed the Plaintiff along with his family members, also sold entire extent of land in land bearing Sy. No. 226/1B measuring 1 Acre 11 Guntas. Therefore the Defendant claiming that the Plaintiff has not right over the suit schedule property or its possession, has prayed to dismiss the suit.

6. On the basis of pleadings and material available on record, my learned predecessor has framed following issues;

ISSUES

1. Whether the Plaintiff proves that he is the absolute owner and in possession of suit schedule property as on the date of suit?



2. Whether the Plaintiff proves alleged interference by the Defendant over the suit schedule property?
3. Whether the Defendant proves that out of 1 acre 38 guntas of the suit schedule property 30 ½ gunta is fallen to his share in the family partition which was taken place in year 1957?
4. Whether the Plaintiff is entitled for the relief sought for?
5. What order or decree?

7. Issue No. 3 was recast as under, vide order dated 12.06.2025.

Recast Issue No. 3: Whether the Defendant proves that out of 2 Acres 28.08 guntas in land bearing Sy. No. 226/1A of Horalagallu Village, Kasaba Hobli, Kanakapura Taluk, Ramanagar District he got 1 Acres 32½ guntas in the partition between him and the Plaintiff in the year 1957?

8. After arguments were concluded and after the case was posted for judgment this court noticed that there is mistake



in the extent of land stated in the recast issue No. 3. As the said mistake is only typographical error and recasting Recast of issue No. 3 to correct the typographical error will not affect the parties or prejudice their case as the correction is only with respect the extent of land from 32 ½ guntas to 38 guntas and stating 2 Acres 28.08 Guntas as 2 Acres 28½ to be consistent with the extent of expressed in the documents to avoid confusion. Hence this court is of the opinion that there is no need to hear the parties again on recast Issue No. 3. Recast Issue No. 3 is recast as under;

Recast Issue No. 3: Whether the Defendant proves that out of 2 Acres 28½ guntas in land bearing Sy. No. 226/1A of Horalagallu Village, Kasaba Hobli, Kanakapura Taluk, Ramanagar District he got 1 Acres 38 guntas in the partition between him and the Plaintiff in the year 1957?

9. The Plaintiff in support of his case got examined himself of PW1 and got marked Ex.P1 to 3. However before he could be cross examined he died and his legal representatives Plaintiff No.1(a) to (h) were brought on record. Plaintiff No. 1(e) got examined himself as PW2. He adopted Ex.P1 to 3 as part of his evidence. Thereafter the Plaintiff side evidence was closed. The Defendant got examined himself as DW1



and two witnesses as DW2 and 3. In total the Defendant got marked Ex.D1 to D.22.

11. Heard learned counsel for both parties. Learned Counsel for the Defendant has filed written arguments.

12. Perused the entire material available on record, in the facts and circumstances of the case, the issues framed in the suit are answered as under;

Issue No.1 : In the Negative

Issue No.2 : In the Negative

Recast Issue No.3 : In the Affirmative

Issue No.4 : As per the final order for the following;

R E A S O N S

13. Issue No.1: Whether the Plaintiff proves that he is the absolute owner and in possession of the suit schedule property as on the date of suit?

14. The burden of proving this issue squarely rests upon the Plaintiff. Since the Plaintiff has sought the relief of declaration of title and consequential injunction, he has to succeed on the strength of his own title and possession and not on the weakness, if any, in the case



put forward by the Defendant. Therefore, the evidence placed by the Plaintiff has to be independently scrutinized to ascertain whether he has discharged the burden cast upon him.

15. At the outset, certain facts are not in dispute. It is an admitted fact that the Plaintiff and the Defendant are brothers. It is also not in dispute that there was an oral partition between them in the year 1957. In fact, PW2, during the course of his cross-examination, has unequivocally admitted that such partition had taken place and that thereafter both parties were enjoying their respective properties. Therefore, the existence of partition is no longer a matter in controversy. Likewise, there is no dispute regarding the total extent of land bearing Sy.No.226/1A being 2 Acres 28½ Guntas. It is also not in dispute that under the registered sale deed dated 24.02.1987, the Plaintiff and his family members sold land measuring 30½ Guntas in Sy.No.226/1A together with the entire extent of 1 Acre 11 Guntas in Sy.No.226/1B in favour of the Defendant. The Plaintiff has neither challenged the execution nor the validity of the said sale deed nor has he sought cancellation of the same. Therefore, the sale transaction evidenced under Ex.D2 has attained finality between the parties.



16. The real dispute between the parties is much narrower. According to the Plaintiff, under the oral partition, an extent of 1 Acre 38 Guntas out of 2 Acres 28 ½ Guntas in Sy.No.226/1A had fallen to his share and under Ex.D2 he conveyed only 30½ Guntas out of the said extent. According to the Defendant, however, under the very same partition, only 30½ Guntas had fallen to the share of the Plaintiff and the remaining extent of 1 Acre 38 Guntas had already fallen to the share of the Defendant. Thus, the entire controversy centres around the question as to whose share the extent of 1 Acre 38 Guntas in Sy.No.226/1A had fallen in the partition of the year 1957.

17. The original Plaintiff entered the witness box as PW1 and filed his affidavit evidence reiterating the plaint averments. However, admittedly, before the Defendant could cross-examine him, PW1 expired. Thereafter his legal representatives were brought on record and his grandson was examined as PW2. Since PW1 was never subjected to cross-examination, the Defendant was deprived of the valuable right of testing the veracity of the statements made by him. It is a settled principle of appreciation of evidence that where examination-in-chief remains untested by cross-examination due to the death



of the witness, such testimony cannot ordinarily be treated as substantive evidence for deciding disputed questions of fact. Therefore, this Court cannot safely place reliance upon the affidavit evidence of PW1 while adjudicating the disputed question of title involved in the present suit. Consequently, the Plaintiff's case substantially rests upon the evidence of PW2 and the documentary evidence produced on record.

18. PW2 is admittedly the grandson of the original Plaintiff. Naturally, he was not even born when the oral partition of the year 1957 took place. Therefore, he has no personal knowledge regarding the allotment of shares under the said partition. His evidence, to that extent, cannot be treated as direct evidence but is only derivative in nature.

19. The cross-examination of PW2 assumes considerable significance. He has admitted that the Plaintiff and Defendant are brothers and that there was a partition in the year 1957. He has further admitted that after partition the parties were in possession of their respective properties. At the same time, he has pleaded ignorance regarding the actual extent of land comprised in Sy.No.226/1A. He has further pleaded ignorance regarding mutation entries RR Nos.3342 and 3343. He



has admitted that the Plaintiffs have never questioned the mutation by which the Defendant's name came to be entered in respect of the entire extent of Sy.No.226/1A. He has also pleaded ignorance regarding the recital contained in the registered sale deed Ex.D2 that the Plaintiff was conveying his entire share in the property. These admissions clearly demonstrate that PW2 is not in a position to depose regarding the actual allotment of land under the partition or the subsequent revenue proceedings on the basis of his own knowledge. His evidence, therefore, does not materially advance the case of the Plaintiff on the principal issue involved in the suit.

20. The Plaintiff has relied upon Ex.P1 to Ex.P3. Ex.P1 is the RTC for the year 2007-08 of land bearing Sy. No. 226/1A measuring 2 Acres 28 ½ Guntas. Significantly, even this document stands in the name of the Defendant. Ex.P2 is the mutation extract reflecting the transfer effected pursuant to the registered sale deed dated 24.02.1987. Neither Ex.P1 nor Ex.P2 supports the plea that the Plaintiff continued to be the owner or cultivator of 1 Acre 38 Guntas after the sale transaction.

21. Among the documents produced by the Plaintiff, Ex.P3 RTC for the years 1986-87 till 1990-91 pertaining to land bearing Sy. No. 226/1A measuring 2 Acres 28 ½



Guntas, assumes greater significance because it pertains to the revenue entries existing immediately before the execution of the sale deed. A careful reading of Ex.P3 discloses that out of the total extent of 2 Acres 28½ Guntas in Sy.No.226/1A, only an extent of 30½ Guntas stood in the name of the Plaintiff under mutation RR No.3342, whereas the remaining extent of 1 Acre 38 Guntas stood in the name of the Defendant under mutation RR No.3343, both entries being shown as arising out of partition. Ex.P3 further discloses that subsequently the said extent of 30½ Guntas standing in the Plaintiff's name also came to be transferred in favour of the Defendant under Mutation No.38/1986-87 pursuant to the registered sale deed. Therefore, Ex.P3, far from supporting the Plaintiff's contention, prima facie indicates that even before the sale transaction, the Plaintiff's recorded share in Sy.No.226/1A was only 30½ Guntas and the remaining extent of 1 Acre 38 Guntas already stood recorded in the name of the Defendant as his share under partition. Since Ex.P3 is the Plaintiff's own document, its evidentiary value assumes considerable importance and the Plaintiff cannot be permitted to ignore the recitals contained therein merely because they do not support his case



22. The Defendant, in order to substantiate his defence, has examined himself as DW1 and has also examined two neighbouring landowners as DW2 and DW3. The documentary evidence produced by the Defendant consists mainly of revenue records, mutation extracts, RTCs, the registered sale deed dated 24.02.1987 and certain earlier documents pertaining to the family properties. Though the Defendant has produced a large number of documents, the Court is conscious that title to an immovable property cannot be decided merely on the basis of mutation entries or revenue records. Revenue records are primarily maintained for fiscal purposes. Nevertheless, where such entries are longstanding, remain unchallenged for decades and are corroborated by other documentary evidence and the conduct of the parties, they certainly constitute an important circumstance while appreciating the probabilities of the respective cases.

23. Ex.D2 is the registered sale deed dated 24.02.1987, the execution of which is not disputed by the Plaintiff. Under the said document, the Plaintiff and his family members conveyed 30½ Guntas in Sy.No.226/1A and the entire extent of 1 Acre 11 Guntas in Sy.No.226/1B in favour of the Defendant. The Plaintiff does not dispute



either the execution or the contents of the document. His case is only that he retained ownership over the remaining extent of 1 Acre 38 Guntas in Sy.No.226/1A. Therefore, Ex.D2 has to be read in the light of the surrounding circumstances and the contemporaneous revenue records to ascertain what exactly constituted the Plaintiff's share on the date of sale.

24. In this regard, Ex.P3 assumes considerable significance. As already noticed, it shows that even before the execution of Ex.D2, only 30½ Guntas in Sy.No.226/1A stood in the Plaintiff's name under Mutation RR No.3342 and the remaining extent of 1 Acre 38 Guntas stood in the name of the Defendant under Mutation RR No.3343, both mutations being shown as having arisen pursuant to partition. Immediately thereafter, Mutation No.38/1986-87 reflects transfer of the said 30½ Guntas in favour of the Defendant on the basis of the registered sale deed. Thus, the contemporaneous revenue entries completely fit into the defence version that after partition the Plaintiff was holding only 30½ Guntas in Sy.No.226/1A and that the said extent alone was conveyed under Ex.D2. Had the Plaintiff really retained 1 Acre 38 Guntas after the sale, there is no satisfactory explanation as to why the revenue



records even prior to the sale reflected the Defendant's name in respect of the said extent. The Plaintiff has not challenged either RR No.3342 or RR No.3343 at any point of time. Even PW2 has admitted that those mutation entries were never questioned. This conduct assumes significance while appreciating the rival claims.

25. The Defendant has further relied upon Ex.D9, namely the RTCs pertaining to Sy.No.226/1A from the year 1986-87 onwards. These RTCs disclose that during the year 1986-87, 30½ Guntas stood in the name and possession of the Plaintiff under RR No.3342, whereas 1 Acre 38 Guntas stood in the name and possession of the Defendant under RR No.3343. They further disclose that after the sale transaction, the entire extent of 2 Acres 28½ Guntas stood in the name and possession of the Defendant. These entries have continued uninterrupted for several decades. Though revenue entries by themselves do not confer title, continuous and unchallenged entries maintained in the ordinary course of official business certainly lend assurance to the defence version, particularly when the Plaintiff has failed to produce any contemporary revenue record showing that 1 Acre 38 Guntas remained in his name after the partition.



26. The Plaintiff has not initiated any proceedings before the competent revenue authorities seeking cancellation or correction of RR No.3342, RR No.3343 or Mutation No.38/1986-87. Even after the Defendant's name came to be continued in the RTCs for several years, no action was taken questioning the same. Though mere failure to challenge mutation entries does not extinguish title, prolonged inaction is undoubtedly a relevant circumstance while appreciating whether the Plaintiff's present claim is probable. If really 1 Acre 38 Guntas continued to belong to the Plaintiff, it is difficult to accept that he would have remained silent for years together despite the entire extent standing in the Defendant's name in the revenue records. The silence on the part of the Plaintiff is therefore a circumstance which probabalises the defence case.

27. Though the revenue records cannot prevail over title, in the present case, the Defendant is not resting his case solely upon revenue entries. The revenue records are only one link in the chain of circumstances. Those entries are supported by the Plaintiff's own documents, the admitted sale transaction, the admitted partition, the conduct of the parties and the oral evidence regarding possession. Therefore, the revenue records cannot be



brushed aside merely on the ground that they are fiscal documents.

28. Much emphasis was laid by the Defendant upon Ex.D11, namely the affidavit stated to have been filed by the Plaintiff before this Court in the year 1986. In the said affidavit, reference is made to the earlier partition between the parties and the separate enjoyment of their respective shares. It is true that certain recitals contained in Ex.D11 do not fully tally with the present case pleaded by the Defendant regarding the exact extent that had fallen to his share. At the same time, Ex.D11 unmistakably acknowledges the existence of the partition and recognises that substantial portions of the family properties had fallen to the share of the Defendant. It is pertinent to note that Ex.D11 has been admitted in evidence without objection and nothing substantial has been elicited in the cross-examination of DW1 disputing its execution or contents. The Plaintiff also did not lead any rebuttal evidence explaining the circumstances under which the said affidavit came into existence. Therefore, while this Court is not inclined to treat Ex.D11 as conclusive proof regarding the exact measurement of the share allotted to the Defendant, it can certainly be looked into as a relevant circumstance corroborating the



admitted fact of partition and separate enjoyment of properties by the parties.

29. The Court is equally conscious that there are certain inconsistencies in the evidence of DW1 regarding the exact extent that had fallen to his share under the partition. At some places, reference is made to 1 Acre 38 Guntas, while at other places, 1 Acre 32½ Guntas is referred to. Similar variation is also found in Ex.D11. However, in the considered opinion of this Court, these discrepancies are not sufficient to discredit the defence in its entirety. The dispute between the parties relates to an oral partition which admittedly took place nearly five decades before the institution of the suit. During the intervening period, the lands have undergone subdivision, reclassification and repeated revenue mutations. Minor inconsistencies regarding the precise measurement cannot outweigh the overwhelming documentary evidence consistently showing that before the execution of Ex.D2, only 30½ Guntas stood in the Plaintiff's name and the remaining extent stood recorded in the name of the Defendant. Therefore, these discrepancies do not go to the root of the defence case.

30. Apart from his own evidence, the Defendant has examined DW2 and DW3, who are neighbouring



agriculturists owning lands adjoining the suit schedule property as per Ex.D18 and Ex.D19 RTCs, respectively. DW2 has deposed that he has been acquainted with the Defendant for several decades and that ever since he attained majority, he has seen the Defendant cultivating the suit schedule property by raising mulberry crop after drawing water from the borewell situated in land bearing Sy.No.225/1. He has further stated that he himself had taken about 10 guntas of the suit land on lease from the Defendant and was rearing silkworms therein. Likewise, DW3, who owns land situated towards the eastern side of the suit schedule property, has also deposed that ever since he attained majority, the Defendant has been in possession and cultivation of the suit schedule property and has been raising mulberry crop therein. Both these witnesses have identified the suit property with reference to the adjoining lands and have consistently spoken about the possession of the Defendant.

31. No doubt, both DW2 and DW3 have pleaded ignorance regarding the exact details of the partition that took place between the Plaintiff and the Defendant. However, that by itself does not render their evidence unreliable. They have not been examined to prove the terms of the partition but only to establish the factum of



possession. Possession is essentially a matter of fact, and neighbouring landholders are competent witnesses to speak about the person who has been cultivating the land. Except eliciting that they were not aware of the details of the partition or the exact contents of the sale deed, nothing substantial has been brought out in their cross-examination to discredit their testimony regarding the Defendant's possession. There is also no material to show that these witnesses are interested in the Defendant or that they have any reason to falsely depose against the Plaintiff. Their evidence, therefore, inspires confidence insofar as it relates to the actual possession and cultivation of the suit schedule property by the Defendant.

32. The evidence of DW2 and DW3 also finds corroboration from the revenue records produced by the Defendant. Ex.D9 shows that after the sale transaction, the Defendant has continuously been shown in possession of the entire extent of Sy.No.226/1A. Ex.D20, being the subsequent RTCs from the year 2001-02 till the year 2025-26, also reflects the Defendant's continuous possession and cultivation. Though, as already observed, RTC entries by themselves are not documents of title, they certainly corroborate the oral evidence regarding



possession when such entries have remained continuous and unchallenged for a considerable period.

33. On the other hand, the Plaintiff has not produced any independent witness from the village to establish that after the partition or even after the execution of Ex.D2, he continued to cultivate or remain in possession of the alleged remaining extent of 1 Acre 38 Guntas. Even according to PW2, none of the legal representatives of the Plaintiff are residing in Horalagallu village. PW2 himself admitted that the suit property had been leased to one of his acquaintances, but he was unable to state the name of the alleged lessee, the period of lease or the amount of lease consideration. He further stated that his mother alone knew those particulars. Such an evasive answer does not inspire confidence. Had the Plaintiff or his legal representatives actually been in possession of the suit property, particulars regarding cultivation or lease would have been within the special knowledge of PW2. His inability to furnish even the basic details considerably weakens the Plaintiff's plea regarding possession.

34. Another important circumstance which cannot be overlooked is that the Plaintiff has approached the Court seeking a declaration that he is the absolute owner of the suit schedule property. Such a declaration cannot be



granted merely because some inconsistency is noticed in the defence evidence. The Plaintiff has to affirmatively establish his own title. Except making a bald assertion that 1 Acre 38 Guntas remained with him after the sale transaction, no convincing documentary evidence has been placed on record to substantiate such assertion. On the contrary, the Plaintiff's own document, namely Ex.P3, indicates that before the execution of the sale deed itself, only 30½ Guntas stood in his name and the remaining extent stood in the name of the Defendant pursuant to partition. Thus, the documentary evidence produced by the Plaintiff itself probabalises the defence case instead of supporting the Plaintiff's case.

35. The contention of the learned counsel for the Plaintiff that the inconsistencies in the evidence of DW1 are sufficient to discard the entire defence also does not merit acceptance. It is true that in certain portions of the oral and documentary evidence produced by the Defendant, there is variation regarding the exact extent of land that had fallen to his share under the partition. However, those inconsistencies relate only to the exact measurement and not to the substratum of the defence. The consistent case of the Defendant throughout has been that under the partition the Plaintiff retained only



30½ Guntas in Sy.No.226/1A and that the remaining extent had fallen to his share. This core defence finds substantial corroboration from the Plaintiff's own document namely Ex.P3, the subsequent RTCs, the mutation entries and the admitted sale transaction under Ex.D2. Therefore, the minor discrepancies regarding the exact extent cannot outweigh the overwhelming documentary evidence available on record.

36. It is also a settled principle that in a suit for declaration of title, the Court is not expected to compare the relative strength of the rival cases in the first instance. The Plaintiff must succeed on the strength of his own title. Unless the Plaintiff discharges the burden cast upon him under Sections 101 to 103 of the Indian Evidence Act, the weakness, if any, in the defence would not entitle him to a decree.

37. In the present case, except the bare assertion that after execution of Ex.D2 the Plaintiff continued to be the owner of 1 Acre 38 Guntas in Sy.No.226/1A, no acceptable evidence has been placed before the Court to establish the said assertion. On the contrary, the Plaintiff's own documentary evidence, particularly Ex.P3, shows that immediately prior to the execution of Ex.D2, only an extent of 30½ Guntas stood in his name under



Mutation RR No.3342, whereas the remaining extent of 1 Acre 38 Guntas stood in the name of the Defendant under Mutation RR No.3343 pursuant to partition. The said entries were never challenged before any competent authority. The Plaintiff has also not produced any contemporaneous revenue record, mutation extract or any independent evidence to demonstrate that he continued to be the owner or person in possession of the said 1 Acre 38 Guntas after the partition or after the execution of Ex.D2.

38. Further, the evidence of PW2 does not improve the Plaintiff's case. PW2 admittedly has no personal knowledge regarding the oral partition of the year 1957. His admissions that there was a partition, that the parties were enjoying their respective shares, that he was unaware of Mutation RR Nos.3342 and 3343, that the mutation entries were never challenged and that he was ignorant of the recital contained in Ex.D2, considerably weaken the Plaintiff's case rather than strengthen it. Equally, the affidavit evidence of PW1 cannot be safely relied upon since the same remained untested by cross-examination due to his unfortunate demise. Consequently, there is no substantive oral evidence available on record establishing the Plaintiff's plea that



the suit schedule property continued to belong to him after the execution of the sale deed.

39. On the contrary, the oral evidence of DW2 and DW3 regarding the Defendant's long-standing possession finds due corroboration from the continuous RTC entries standing in the Defendant's name for several decades. Though revenue records by themselves do not confer title, when such entries remain uninterrupted for a long period, remain unchallenged and are supported by other contemporaneous documents and the conduct of the parties, they certainly become relevant circumstances while appreciating the probabilities of the rival cases. In the present case, those circumstances lend assurance to the defence put forth by the Defendant and simultaneously render the Plaintiff's version highly improbable.

40. Upon an overall appreciation of the pleadings, oral evidence, documentary evidence and the conduct of the parties, this Court is of the considered opinion that the Plaintiff has failed to establish, on the touchstone of preponderance of probabilities, that the suit schedule property measuring 1 Acre 38 Guntas in Sy.No.226/1A continued to belong to him after the partition of the year 1957 and the subsequent execution of the registered sale



deed dated 24.02.1987. The Plaintiff has also failed to establish that he was in lawful possession of the suit schedule property as on the date of institution of the suit. The evidence adduced by the Defendant further reinforces the conclusion that the Plaintiff has failed to discharge the burden cast upon him by law. Accordingly, **Issue No.1 is answered in the Negative.**

41. Recast Issue No. 3: Whether the Defendant proves that out of 2 Acres 28½ guntas in land bearing Sy. No. 226/1A of Horalagallu Village, Kasaba Hobli, Kanakapura Taluk, Ramanagar District he got 1 Acres 38 guntas in the partition between him and the Plaintiff in the year 1957?

42. The burden of proving this issue rests upon the Defendant, since it relates to the specific plea of partition set up by him. However, while appreciating this issue, the Court cannot lose sight of the discussion already made while answering Issue No.1. The oral and documentary evidence relating to the partition, the subsequent revenue entries and the registered sale deed dated 24.02.1987 have already been examined in detail. Therefore, the same need not be repeated.

43. As already held while answering Issue No.1, Ex.P3, which is the Plaintiff's own document, assumes considerable significance. It discloses that even prior to



the execution of the registered sale deed dated 24.02.1987, only an extent of 30½ Guntas in Sy.No.226/1A stood in the name of the Plaintiff under Mutation RR No.3342, whereas the remaining extent stood in the name of the Defendant under Mutation RR No.3343, both entries being shown as arising pursuant to partition. The Plaintiff has neither challenged these mutation entries before the competent authority nor produced any material to show that they were wrongly made.

44. The defence version further receives support from Ex.D2, the registered sale deed dated 24.02.1987. Under the said document, the Plaintiff and his family members conveyed 30½ Guntas in Sy.No.226/1A together with the entire extent of Sy.No.226/1B in favour of the Defendant. The contemporaneous revenue records immediately preceding and succeeding the said transaction consistently show that only 30½ Guntas stood in the Plaintiff's name and that thereafter the Defendant came to be recorded as the holder of the entire extent. These circumstances probabalise the Defendant's plea that the Plaintiff was allotted only 30½ Guntas under the earlier partition.



45. The Defendant has also relied upon the oral evidence of DW2 and DW3, who are neighbouring landholders. Though they are not witnesses to the partition of the year 1957, they have consistently deposed regarding the Defendant's long-standing possession and cultivation of the suit property. Their evidence finds due corroboration from the continuous RTC entries standing in the Defendant's name for several decades. Nothing substantial has been elicited in their cross-examination to discredit their testimony.

46. It is true that certain inconsistencies exist in the evidence of DW1 and in Ex.D11 regarding the exact measurement of the land allotted under the partition. However, the partition admittedly took place in the year 1957, nearly five decades before the institution of the suit. Minor discrepancies regarding measurements, viewed in the backdrop of subsequent subdivisions and revenue changes, do not go to the root of the defence. The core defence of the Defendant has remained consistent throughout, namely, that the Plaintiff was allotted only 30½ Guntas in Sy.No.226/1A and that the remaining extent had fallen to the Defendant's share. That version stands substantially corroborated by the contemporaneous documentary evidence.



47. This Court is conscious that title cannot be determined merely on the basis of revenue entries. Nevertheless, in the present case, the Defendant does not rest his case solely upon such entries. The revenue records are corroborated by the admitted partition, the registered sale deed, the conduct of the parties in not questioning the mutation entries for decades, and the oral evidence regarding possession. Considered cumulatively, these circumstances probabilise the defence set up by the Defendant.

48. Thus, for the reasons already assigned while answering Issue No.1 and for the additional reasons recorded herein, this Court is satisfied that the Defendant has established, on the touchstone of preponderance of probabilities, his plea regarding the allotment made in the oral partition of the year 1957. Accordingly, **Recast Issue No.3 is answered in the Affirmative.**

49. Issue No.2: Whether the Plaintiff proves the alleged interference by the Defendant over the suit schedule property?

50. The burden of proving this issue also rests upon the Plaintiff.



51. The Plaintiff has pleaded that on 04.10.2008 the Defendant along with his followers attempted to interfere with his peaceful possession and enjoyment of the suit schedule property, thereby necessitating the institution of the present suit. Except the oral assertion made in the plaint and the affidavit evidence of PW1, there is no independent evidence placed before the Court regarding the alleged act of interference.

52. As already discussed while answering Issue No.1, the affidavit evidence of PW1 cannot be safely relied upon as the same remained untested by cross-examination due to his unfortunate demise before the Defendant could exercise his valuable right of cross-examination. Consequently, the Court is left only with the evidence of PW2 regarding the alleged interference.

53. PW2 admittedly had no personal knowledge regarding the events which transpired on 04.10.2008. During his cross-examination he has not stated any specific overt act committed by the Defendant constituting interference with the Plaintiff's possession. No independent witness from the village has been examined to corroborate the alleged interference. Likewise, no complaint lodged before the Police or Revenue Authorities immediately after the alleged



incident has been produced. Thus, except the interested version of PW2, there is no convincing evidence to establish the alleged interference.

54. More importantly, while answering Issue No.1, this Court has already held that the Plaintiff has failed to establish either his title or his lawful possession over the suit schedule property as on the date of institution of the suit. On the contrary, the evidence available on record probabalises that the Defendant has been in possession and enjoyment of the property for several years prior to the institution of the suit. Once the Plaintiff has failed to establish his possession, the question of unlawful interference with such possession by the Defendant does not arise.

55. It is a settled principle of law that in a suit seeking permanent injunction based upon possession, the Plaintiff must first establish his lawful possession as on the date of the suit. Mere allegation of interference, in the absence of proof of possession, is not sufficient to grant the equitable relief of injunction. In the present case, the Plaintiff having failed to establish the foundational fact of possession, the consequential plea regarding interference also necessarily fails.



56. The oral evidence of DW2 and DW3 further indicates that the Defendant himself has been cultivating the suit schedule property for several years. Their evidence receives corroboration from the continuous RTC entries standing in the name of the Defendant. Therefore, even on the touchstone of preponderance of probabilities, this Court finds no acceptable material to hold that the Defendant interfered with the Plaintiff's possession. Rather, the evidence indicates that the Defendant was exercising possession over the property in his own right. Accordingly, this Court holds that the Plaintiff has failed to prove the alleged interference by the Defendant over the suit schedule property. **Accordingly, Issue No.2 is answered in the Negative.**

57. Issue No.4: Whether the Plaintiff is entitled to the reliefs sought?

58. In view of the findings recorded on Issue Nos.1 and 2 and Recast Issue No.3, this Court is of the considered opinion that the Plaintiff has failed to establish his title as well as lawful possession over the suit schedule property. Consequently, the Plaintiff is not entitled to the relief of declaration. Once the principal relief of declaration fails, the consequential relief of permanent



injunction also cannot be granted. Accordingly, **Issue No.4 is answered in the Negative.**

59. By virtue of this judgment any interlocutory applications, if pending stand disposed of.

60. Issue No.5: What order or decree?

61. In view of the above discussions and foregoing reasons, this court proceeds to pass the following;

ORDER

The suit of the Plaintiff is hereby
dismissed with costs.

Draw decree accordingly.

(Typed and corrected by me and then pronounced the judgment in the open court on **4th day of April-2026**)

(Raviprakash T. Avin)
III Addl. Civil Judge and JMFC,
Kanakapura.

1. WITNESSES EXAMINED IN FAVOUR OF THE PLAINTIFF:

PW-1 : Madaiah S/o Madegowda
PW-2 : Pradeep M S/o Mahalingaiah



2. DOCUMENTS MARKED IN FAVOUR OF THE PLAINTIFF:

Ex.P1 and 3 : RTC extract of Sy.No.226/1A
Ex.P2 : Mutation Register Extract

3. WITNESSES EXAMINED IN FAVOUR OF THE DEFENDANTS:

DW-1 : Byregowda S/o Late Madegowda
DW-2 : Dasegowda S/o Chanigegowda
DW-3 : Shivashankar S/o Hucchirappa

4. DOCUMENTS MARKED IN FAVOUR OF THE DEFENDANT:

Ex.D1 : End Reclassification Prati Book
Ex.D2 : Sale deed dated 24.02.1987
Ex.D3 to 6 : Index of Land Records
Ex.D 7 : Hissa Survey of Sy. No.226/1
Ex.D8 to 10 : Hand written RTC extract
Ex.D11 : Affidavit
Ex.D12 : Mortgage deed
Ex.D13 : Sale deed
Ex.D14 : Mutation Register Extract
Ex.D15 : Aakar band
Ex.D16 &17 : Encumbrance Certificate
Ex.D18 to 21 : RTC Extract
Ex.D22 : Un-registered Mortgage deed

(Raviprakash T. Avin)
III Addl. Civil Judge and JMFC,
Kanakapura.