



**O.S.NO.48/2016(J.)**

C.R.P.67

Govt.of Karnataka

Form  
No.9(Civil)  
Title Sheet  
for  
Judgments in  
Suits  
(R.P.91)

**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE AND  
J.M.F.C., AT MAGADI.**

**Present:** Sri Shivakumar R., B.A.L., LL.B.,  
Addl. Senior Civil Judge & JMFC, Magadi.

**Dated: 15<sup>th</sup> Day of April 2026**

**ORIGINAL SUIT NO.48/2016**

**Plaintiff**

:

Sri. Srinivasamurthy,  
S/o. Late. G. Ramachandraiah,  
Aged about 61 years,  
R/at: Ganapathyhalli Village,  
Tavarekere Hobli,  
Bangalore South Taluk.

**(By Sri. N.K.K. Advocate)**

V/s

**Defendants**

:

1. Sri. Siddalingaiah,  
S/o. Late. Nagashetty,  
Since dead by his L.Rs.,

(a) Sridhara,



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S/o. Late. Siddalingaiah,  
Aged about 45 years,

(b) Shivakumar,  
S/o. Late. Siddalingaiah,  
Aged about 43 years,

(c) Krishna Murthy,  
S/o. Late. Siddalingaiah,  
Aged about 41 years,

(d) Mruthunjaya,  
S/o. Late. Siddalingaiah,  
Aged about 38 years,

(e) Dinesh,  
S/o. Late. Siddalingaiah,  
Aged about 36 years,

All are R/at.  
Ganapathyhalli Village,  
Tavarekere Hobli,  
Bangalore South Taluk.

**(By Sri. G.P. Advocate)**

Date of institution of Suit	03.02.2016
Nature of the suit	Declaration & PI
Date of commencement of recording of evidence	02.02.2024



Date on which Judgment was Pronounced	15.04.2026		
Total duration	Year/s	Month/s	Day/s
	10	02	12

### **J U D G M E N T**

The plaintiff has filed this suit against the defendants for the relief of declaration, recovery of possession and mandatory and also other such reliefs in respect of suit schedule property.

#### **2. The brief facts of the plaintiff's case is that;**

(a) It is the case of the plaintiff that, he is the absolute owner and in peaceful possession and enjoyment of the suit schedule property. The suit schedule property was originally Shanbhog Service Inam land of Ganapathyhalli Village, the same was re-granted by the government of Karnataka Order passed by Assistant Commissioner Ramanagara Sub-Division dated: 26.11.1975 vide Order No.HOA.M-44-2/69-70 in

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favour of Rangaswamaiah. The said Rangaswamaiah transferred the suit schedule property to G. Ramachandraiah by executing the Release Deed on 01/02/1985. The said Ramachandraiah is the father of the plaintiff. The said Ramachandraiah was the cousin brother of Rangaswamaiah. The suit schedule property has been transferred and the mutation has been entered in favour of G. Ramachandraiah as M.R. No. 09/1991-92, thereafter the katha of the suit schedule property has been transferred to the father of the plaintiff. From the date of acquisition of the suit schedule property G. Ramachandraiah was in peaceful possession and enjoyment of the suit schedule property. After demise of G. Ramachandraiah, the legal heirs, his three sons were in the peaceful possession and enjoyment of the suit schedule property. On 30/08/1998 the property has been partitioned between the plaintiff and his other two brothers. Thereafter,

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the revenue records were transferred in favour of the plaintiff as per the mutation No.14/2007-08.

(b) It is further submitted that, the defendant has no manner of right, title and interest over the suit schedule property, made an encroachment on the eastern portion of the suit schedule property and constructed a shed (small house) in schedule property. When the plaintiff questioned the same, the defendant has stated that he got the schedule property through a sale deed dated 27.06.1973 vide document No.963/73, which was to have been purchased from Rangaswamaiah. On perusal of the sale deed, it is found that, the sale deed was made in respect of Sy.No.36/6, measuring to an extent of 0-35 guntas of Ganapathyhalli Village, Tavarekere Hobli, Bangalore South Taluk, even the defendant has been transferred the revenue records in his favour. The defendant has filed an original suit before the Civil Judge at Magadi. The alleged sale deed is illegal, null

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and void and same is not binding on the plaintiff. The said fact was came to the knowledge of this plaintiff after the receipt of summons from this Court in the above said case on 20.08.2009.

(c) It is further submitted that, on the verification of the Revenue records, the plaintiff is the absolute owner of the land in Sy.No.36/9 of Ganapathyhalli Village. The plaintiff has requested the defendant to vacate house from the suit schedule property. In spite of vacating the schedule property, he has filed an original suit No.229/2014. That, on 12/01/2015 the defendant has tried to drill bore well in the schedule property. Immediately the plaintiff rushed to the suit schedule property and tried to stop to drill the bore well but the children of the defendant tried to assault the plaintiff and abused in filthy language by using the unparliamentary words. The plaintiff is belong to Brahmin community, it is not possible to him to stop the illegal act of the defendant. With



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no other options left to the plaintiff to stop the illegal acts of the defendant.

(d) It is further submitted that, the defendant has filed a suit against the plaintiff in O.S.No.229/2014 pending before the Addl. Senior Civil Judge & JMFC., Magadi seeking the relief of rectification of the sale deed dated: 27.06.1973 after the due course of trial the said Court was pleased to dismissed the suit on 24.03.2018.

(e) It is further submitted that, after the dismissal of the suit filed by the defendant Siddalingaiah, the defendant herein was preferred an appeal before the Hon'ble I Addl. District & Sessions Judge at Ramanagara in R.A.No.37/2018. Appellate Court after gone through the entire pleading and written statement and Judgment passed by the Trial Court, rightly dismissed the appeal on 16.01.2020. Hence, this suit.

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3. In pursuance of the suit summons, the defendant has appeared through his counsel and has filed the detailed written statement and resisted the suit of the plaintiff. The defendant in his written statement he has totally denied the plaintiff's case and interalia contended that, the plaintiff is not entitled for the prayers of declaration and another prayer of declaration declaring the sale deed dated 27-06-1973 is not binding etc., and prayer for vacation from the suit property and to receive the possession of the suit property and also for mandatory injunction to demolish and to remove the structure and also injunction. So the plaintiff is not entitle for the relief prayed for. There are two declaration prayers and there is one prayer for possession and another prayer is for mandatory injunction and also permanent injunction further there is a prayer for eviction also. So the court fee paid is not correct unless the court fee paid this court cannot entertain this suit.



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4. It is further contended that, as per the Registered Sale deed dated 27-06-1973 from Munihutchappa. The said Munihutchappa also taken the land as per Registered Sale deed from Shivaramaiah, Rangaswamaiah on 16-05-1973. While executing the Sale deed by Shivaramaiah and Rangaswamaiah they mentioned Sy. No. as 36/6 measuring 39 guntas and they ought to have mentioned Sy. No. 36/9, measuring 0.28 guntas, but in both the Sale deeds the boundary is mentioned as follows:

East: Property of Poojari Thimmaiah,

West: Properties of Nanjundappa and property of plaintiff in Sy. No. 37. Now Nanjundappa's property and it has been purchased by the plaintiff.

North: Property of Chikkamalleshaiah,

South: Property of G. Srinivasa Murthy,

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But while writing the Sale deed the Sy. No. 36/6 is mentioned instead of Sy. No. 36/9. And also extent instead of 0.28 guntas it is mentioned as 0.35 & 0.39 guntas.

5. It is further contended that, after purchase by Munihutchappa under the Registered Sale deed 16-05-1973 he was in possession of Sy.No.36/9 measuring 28 guntas. Though Sy.No.36/6 is mentioned. As per the boundary mentioned in the sale deed he was in possession and enjoyment as they were not known exact phode number. Thereafter the said Munihutchappa had sold for valuable consideration under the Registered Sale deed dated: 27-06-1973 in this document also the same number is mentioned as they were not knowing, but the property given possession as per the boundary. Though the phode number and extent mistakenly mentioned.

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6. It is further contended that, after purchase by this defendant he has been in possession and enjoyment of the property as per the boundary and also the possession has been obtained as per the boundary there after this defendant has fenced and planted coconut, Mango and other trees and also in the year 1993 itself and the name is given as Sri. Siddalingeshwara, this defendant has constructed residential house in the suit schedule property and the defendant and his family members are residing, in fact this defendant has drilled bore well and using that water for the land as well as to the house. further this defendant is paying the tax to the Panchayathi also and enjoying the house as well as the land. The house and the trees and bore well are existing in Sy. No. 36/9 measuring 28 guntas. This boundary property has been re-granted. This defendant submits that the re-grant of this boundary property ensures to the benefit of this defendant. At no point of time plaintiff has been in possession of the suit

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schedule property since they sold Munihutchappa. From Munihutchappa this defendant had purchased and he is in continuous and lawful possession and enjoyment. It is true to say that the suit property mentioned in the boundary is re-granted. It is false to say that the defendant has no right title over the suit schedule property and made encroachment and constructed a shed (small house) and the plaintiff questioned and the defendant has stated that he has purchased etc., are made only to file this suit. This defendant has challenged decree in O.S.229/14 before the Hon'ble District and Sessions Court and it is pending. So, the plaintiff is not entitle for the relief claimed in the suit. For all these grounds, the defendant has prayed to dismiss the suit of the plaintiffs.

7. It is to be noted that, during the pendency of the above suit, the defendant was dead, his L.Rs., are brought on record as defendant No.1(a to e).



8. On the basis of the pleadings and other materials placed on record, my learned Predecessor has framed the following;

**ISSUES**

1. Whether the suit is barred by limitation?
2. Whether the plaintiff proves that he is the owner of suit schedule property?
3. Whether the plaintiff proves that defendant is illegally in possession of suit schedule property?
4. Whether the plaintiff is entitled for declaration that sale deed dated 27.06.1973 is not binding on him as prayed for?
5. Whether the plaintiff is entitled for declaration of his title for suit schedule property as prayed for?
6. Whether the plaintiff is entitled for possession of suit schedule property as prayed for?



7. Whether the plaintiff is entitled for mandatory injunction to demolish or remove building in the suit schedule property as prayed for ?
8. Whether the plaintiff is entitled for permanent injunction as prayed for?
9. What order or decree ?

**Additional Issue framed on 21.10.2021**

1. Whether the plaintiff proves that, the defendant has made illegal construction over the suit schedule property as alleged?

9. In order to prove the case of the plaintiff, the plaintiff himself is examined as PW-1 and got marked Ex.P1 to P36 and closed his side.

10. In order to falsify the case of the plaintiff, after providing sufficient opportunities, the L.Rs., of defendant have not chosen to lead any oral or documentary evidence. Hence, evidence of defendant's side is taken as nil.



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11. Heard the arguments of plaintiff and defendant's side. The learned counsel for the plaintiff in addition to his oral arguments, he has submitted the written arguments.

12. My findings to the above Issues are as follows:

Issue No.1: In the Affirmative.

Issue No.2: In the Negative.

Issue No.3: In the Negative.

Issue No.4: In the Negative.

Issue No.5: In the Negative.

Issue No.6: In the Negative.

Issue No.7: In the Negative.

Issue No.8: Does not arise for  
consideration.

Addl. Issue No.1:- In the Negative.

Issue No.9: As per the final order,

for the following:

**REASONS**

13. **Issue No.2 to 7 & Addl. Issue No.1:-** Since these issues are interconnected with each other, taken up together

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for common discussion to avoid repetition of facts. On perusal of the materials placed on record, admittedly the plaintiff has filed this suit against the defendant for the relief of declaration, recovery of possession and mandatory injunction in respect of suit schedule property. I have already narrated in brief what is the case of the plaintiff is and what is the defense of the defendant is. The burden of proving the issue No.2 to 7 and Additional Issue No.1 is casted upon the plaintiff.

14. In order to prove the case of the plaintiff, the plaintiff has examined as PW-1. The PW-1 in his chief-examination he has reiterated the plaint pleadings. In order to substantiate the case of the plaintiff, the plaintiff has produced as many as 36 documents, which are came to be marked as Ex.P1 to P36.



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15. In order to disprove the case of the plaintiff, after providing sufficient opportunities, the defendant has not adduced any oral evidence and not produced any documentary evidence on his behalf.

16. On meticulous reading of the oral and documentary evidence adduced by the plaintiff and other materials placed on record, undisputedly and undoubtedly, the present suit is for the relief of declaration of title, recovery of possession and also mandatory injunction in respect of the suit schedule property. It is well settled legal proposition of law that, in a suit for declaration of title and injunction, the burden of proving the title and possession in respect of the suit schedule property undoubtedly lies upon the plaintiff. The weakness of the defendant cannot strengthen the case of the plaintiff. Hence, the burden of proving title heavily lies upon the plaintiff in respect of the suit schedule property.

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17. As per Section 61 of the Indian Evidence Act mandates that the contents of documents may be proved either by primary or by secondary evidence. The primary evidence means it includes documents which itself produced for inspection of the court.

18. At the outset it is the case of the plaintiff that, he is the owner of the suit schedule property. The khata of the suit schedule property is stands in the name of plaintiff. The defendant has no manner of right, title, interest over the suit schedule property, made an encroachment on the eastern portion of the suit schedule property and constructed a shed in the schedule property. When the plaintiff had questioned the same, the defendant stated that, he has purchased the schedule property by virtue of the registered sale deed dated: 27.06.1973 from Rangaswamaiah.

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19. On the other hand, the defendant has contended that, he has purchased the suit schedule property from Munihutchappa by virtue of the registered Sale Deed dated: 27.06.1973. In the said sale deed he has purchased to an extent of 39 guntas in land bearing Sy.No.36/6, but he is in possession of the to an extent of 28 guntas in land bearing Sy.No.36/9 and he is in possession and enjoyment of the same by doing agriculture. At no point of time the plaintiff is in possession of the suit schedule property and denied the case of the plaintiff.

20. In the instant suit the plaintiff is claiming he is the owner of the suit schedule property. In order to prove the same, apart from oral testimony of the PW-1, the plaintiff has produced the documentary evidence Ex.P1 to P36. So far as flow of title in respect of suit schedule property is concerned, the plaintiff in his plaint he categorically pleaded that, he is

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the owner of the suit schedule property. Originally the suit schedule property is a Shanabhog service inam land, the same was granted by the Government of Karnataka in favour of Rangaswamaiah by virtue of the order passed by the Assistant Commissioner, Ramanagara Sub-Division vide Order dated: 26.11.1975 vide Order No.AM.44-2/69-70. Thereafter the said Rangaswamaiah has transferred the suit schedule property to G. Ramachandraiah by executing the Release Deed dated: 01.02.1985. The said Ramachandraiah was the cousin brother of Rangaswamaiah. As per the Release Deed, the khata of the suit schedule property was mutated in the name of G. Ramachandraiah as per M.R.No.9/91-92. After demise of G. Ramachandraiah his legal heirs wherein peaceful possession and enjoyment of the suit schedule property. On 30.08.1998 the property has been partitioned between him and his two brothers. Thereafter, the revenue records in respect of suit schedule property were transferred

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in favour of plaintiff as per M.R.No.14/2007-08. When such being the case, the defendant has no manner of right, title and interest over the suit schedule property, he has encroached the eastern portion of the suit schedule property and constructed the shed (small house) in the suit schedule property. When the plaintiff has questioned the same to the defendant, but the defendant has stated that, he has got the schedule property by virtue of the registered sale deed dated: 27.06.1973 from Rangaswamaiah and denied the case of the plaintiff.

21. It is to be noted that, in order to substantiate the case of the plaintiff, the plaintiff has not produced any title documents in respect of suit schedule property. In the absence of the same, the title of the suit schedule property cannot be passed in favour of plaintiff. But, the plaintiff has produced the revenue documents, which are marked as Ex.P5



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to 10 are the RTC Extracts for the year 2008 to 2015. In the absence of the registered title documents, a title of immovable property cannot generally be granted through informal arrangements. It is well settled Law that, mere pleadings of the plaintiff itself is not sufficient to prove the case of the plaintiff as pleaded in the plaint. But the plaintiff has to prove his case by adducing cogent and credible evidence. In the absence of the same its hold no water in the eye of Law.

22. At this juncture I would like to refer the decision reported in **ILR 2014 KAR 1311** in the case of **Smt. Sumithra Bai V/s. P. Siddesh & Anr.**, wherein, it is held that,

The burden of proof heavily rest on the plaintiff to prove his title, need to produce convincing and cogent evidence to the satisfaction of the Court to establish the title to the property in dispute and made further

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observation that, the weakness of the defendant's case would not strengthen plaintiff's case.

23. In the instant suit, the plaintiff has produced the RTC Extract and mutation extract instead of title documents to prove his title over the suit schedule property. Ex.P1 to P10 are the RTC Extracts for the year 2007 to 2014. On perusal of the same it disclose that, the khata to an extent of 26 guntas in land bearing Sy.No.36/9 situated at Ganapathihalli, Tavarekere Hobli, Bangalore South Taluk is stands in the name of plaintiff herein. Ex.P28 is the RTC Extract for the year 2000-01. It disclose that, the khata to an extent of 26 guntas in land bearing Sy.No.36/9 of Ganapathihalli Village is stands in the name of G. Ramachandraiah, who is none other than the plaintiff herein. It is well settled Law that, the revenue documents are not the title deeds, it can be used for the collection of



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revenue. At this juncture I would like to refer the decision rendered by the Hon'ble Apex Court of India in the case of **P. Kishore Kumar V/s. Vittal K. Patkar**, the same is reported in 2023 Live Law (SC) 999. In the aforesaid decision, the Hon'ble Apex Court categorically held that, the revenue records are not the title documents. At this juncture, I would like to refer the decision of the Hon'ble Apex Court of India in the case of **Union of India and others Vs. Vasavi Co-operative Housing Society Limited** and others, the same is reported in **(2014) SCCR Page 91**, wherein the Hon'ble Apex Court that :

“Specific Relief Act 1963 – Section 34 – Title suit – In a suit for declaration of title, the burden always lies on the plaintiff to make out and establish clear case for granting such a declaration – Weakness of the case set up by the defendant would not be a ground to grant relief to the plaintiff – The plaintiff could succeed only on the strength of his own title

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and that could be done only by adducing evidence to discharge the onus on it, irrespective of the question whether the defendants have proved their case or not – Revenue records does not offer title – Even if entries in records of rights carry evidentiary value that itself would not offer any title on the suit land.”

24. The ratio laid down in the aforesaid decision is aptly applicable to the present case on hand. In the instant case, except revenue record the plaintiff has not produced any iota of title documents to prove his title over the suit schedule property. In the absence of the same, it cannot be held that, the plaintiff is the title holder of the suit schedule property. Looking into the evidence and other materials placed on record, this Court safely come to conclusion that, the plaintiff has failed to prove his title over the suit schedule property.

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25. The plaintiff in his plaint pleadings he has categorically pleaded that, the sale deed dated: 27.06.1973 is not binding upon the plaintiff. It is to be noted that, as per my findings as stated supra the plaintiff has failed to prove his title over the suit schedule property. Under these facts and circumstances, it cannot be held that, the sale deed is not binding upon the plaintiff.

26. So far as recovery of possession is concerned, the plaintiff in his plaint pleadings he has categorically pleaded that, the defendant has no manner of right, title or interest over the suit schedule property. The defendant has encroached the eastern portion of the suit schedule property and constructed the shed (small house) in the suit schedule property. When the plaintiff questioned the same, at the time the defendant has stated that, he has purchased the suit schedule property from one Rangaswamaiah through the

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registered Sale Deed dated: 27.06.1973. It is relevant to note that, as per my findings as stated supra, this Court held that, the plaintiff has failed to prove his title over the suit schedule property. Under these circumstances, this Court considered view that, the plaintiff is not entitled for recovery of possession and also mandatory injunction as sought in the plaint. It is to be noted that, as per plaint pleadings it disclose that, the defendant has encroached some portion of the suit schedule property. It is very relevant to note that, in this regard except oral say of plaintiff, the plaintiff has not surveyed the suit schedule property to show that, what extent and whereabouts in the suit schedule property the defendant has encroached some portion. Assumptions and presumptions of the plaintiff itself is not sufficient to prove his contention. In the absence of the same, it is not tenable in the eye of Law. Hence, the possession of the defendant over the suit schedule property has not been considered as an



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illegal possession and also cannot be considered as illegal construction over the suit schedule property as alleged by the plaintiff. Therefore, the plaintiff is not entitled for recovery of possession and mandatory injunction in respect of suit schedule property as prayed in the plaint. For considering all these reasons, the plaintiff is not entitled for any reliefs as sought in the plaint. Hence, I answer the Issue No.2 to 7 and Additional Issue No.1 in the Negative.

27. **Issue No.1:-** The defendant in his written statement he has taken a contention that, the suit of the plaintiff is hopelessly barred by the Limitation. In order to substantiate the said contention the L.Rs., of the deceased defendant have not entered into witness box to depose their case. The plaintiff in his plaint pleadings at para No.10 clearly pleaded that, the cause of action arose to file the suit on 12.01.2015, when the defendant had tried to drill the



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bore-well in the plaintiff's property and the defendant has created alleged Sale deed dated: 26.07.1973. As per Article 58 of Limitation Act, to obtain any other declaration the period of limitation is three years, when the right to sue first accrues. The alleged sale deed was executed on 26.07.1973. The plaintiff has filed the present suit on 27.06.2016. Hence, the suit of the plaintiff has filed the suit behind the period of three years from the date of alleged sale deed as stated supra. Hence, the suit of plaintiff is barred by Limitation. Accordingly, I answer the Issue No.1 in the Affirmative.

28. **Issue No.8:-** It is to be noted that, in plaintiff pleadings the plaintiff has not sought for the prayer of permanent injunction in respect of suit schedule property. Hence, Issue No.8 does not survive for consideration.

29. **Issue No.9:** For the foregoing discussion and reasons assigned by this court and answer given to the issue



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No.1 to 8 and Additional Issue No.1, this court proceed to pass the following :

**ORDER**

The suit of the plaintiff is dismissed with cost.

Draw decree accordingly.

(Dictated to the Typist on computer, typed by her, corrected by me and then pronounced in the open Court on this the **15<sup>th</sup> day of April, 2026.**)

**(SHIVAKUMAR.R)**  
**ADDL. Sr. CIVIL JUDGE AND**  
**J.M.F.C, MAGADI.**

**ANNEXURE**

**List of witness examined for the plaintiff:**

PW.1 : Sri. Srinivasamurthy

**List of documents exhibited for the plaintiff:**

Ex.P1, 4 to 14, 15 to 31: RTC Extracts  
Ex.P2&3,32 : M.R. Extracts  
Ex.P33 : C.C. of the Legal Notice  
dtd: 6.6.2009



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Ex.P34 : Postal Receipt  
Ex.P35 : C.C. of the Judgment & Decree  
in OS.229/14  
Ex.P36 : C.C. of the Judgment & Decree in  
RA.37/18

**List of witnesses examined for the defendant:**

- NIL -

**List of documents exhibited for the defendant:**

- NIL -

**(SHIVAKUMAR R.,)  
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J.M.F.C., MAGADI.**