

KABC0A0020582022



C.R.P.67

Govt. of Karnataka

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

TITLE SHEET FOR JUDGMENTS IN SUITS

**IN THE COURT OF THE LXXIII ADDL. CITY CIVIL &
SESSIONS JUDGE AT MAYO HALL, BENGALURU.**

(CCH-74)

P r e s e n t:

Smt. Anitha N.P., B.A.L., L.L.M.,
LXXIII Addl.City Civil & Sessions Judge, Bengaluru

Dated this the 13th day of July 2026.

O.S. No.25913/2022

Plaintiff:-

Pavithra K.,
D/o: late B.G.Kishnamurthy,
Aged about 27 years,
R/at: No.18, 9th Cross,
Chowdeshwarinagar, Behind Sai
Temple, Laggere, Bangalore-560058.

(Rep by Siji Malayil,-Adv.)

-Vs-

Defendants:-

- 1. The Karnataka State 'D' Group
Employees Central Association,**

At Multi Storied Building,
Dr.Ambedkar Veedi,
Bangalore-560001.
Represented by its president

2. B.M. Nataraj,
President of The Karnataka State 'D'
Group Employees Central
Association,
At Multi Storied Building,
Dr.Ambedkar Veedi,
Bangalore-560001.

3. T.R.Subramanya,
S/o: Late T.R.Ramaiah,
Aged about 43 years,
R/at:No.695/1, 15th Cross,
J.P.Nagar 2nd Phase,
Bangalore-560078.

[For D3, H.T.J.- Adv.
D1 & 2 exparte]

Date of institution of the suit	:	21.04.2022
Nature of the suit (Suit for pro-note, suit for declaration and injunction,suit for injunction, etc)	:	Declaration & Injunction Suit
Date of commencement of recording of evidence	:	09.08.2023
Date on which the Judgment was pronounced	:	13.07.2026

Total duration	Year/s	Month/s	Days
	04	02	22

(Anitha N.P.)

LXXIII Addl. CC & SJ, M.H.Unit,
Bengaluru. (CCH-74).

J U D G M E N T

The Plaintiff has filed this suit as against Defendant No.1 to 3 seeking the relief of permanent injunction to restrain the Defendant and their men from interfering with the plaintiff's peaceful possession and enjoyment of suit schedule property, for declaration that the sale deed dated 30th January 2013 executed by defendant No.1 through its president in favour of defendant No.3 is null and void and not binding on plaintiff, for cancellation of sale deed dated 30.01.2013 and for such other further reliefs.

2. Brief facts of the plaint averments are as under:-

The plaintiff is the absolute owner in possession and enjoyment of the suit schedule property. The suit property is a site in the layout formed by the defendant No.1 under the name Karnataka State "D" Group Employees Central Association Layout. The father of plaintiff late B.G.Krishnamurthy was member of

defendant No.1 association and he was allotted with suit schedule property by the defendant No.1. Thereafter the defendant No.1 represented by its president and its general secretary issued possession certificate dated 28.10.2002 in respect of plaint schedule property in favour of father of plaintiff. In pursuance of said possession certificate dated 28.10.2002 and also by receiving entire sale consideration the defendant No.1 association through its president executed registered sale deed dated 16.11.2002 in respect of suit schedule property in favour of father of plaintiff. The defendant No.1 through its president has also issued no objection certificate dated 14.12.2006 in favour of father of plaintiff confirming the allotment of schedule property and execution of sale deed and stating that they have no objection to sell, mortgage whatsoever in respect of suit schedule property. In pursuance of the said sale deed dated 16.11.2002 the khata and other relevant documents were transferred in the name of father of plaintiff. Thereafter the said B.G.Krishnamurthy constructed a shed in the suit schedule property with built up area of about 200 sq.ft., and got the electricity connection in his name. Subsequently, the father of plaintiff being absolute owner in possession executed registered gift deed in favour of his daughter i.e., plaintiff

vide registered gift deed dated 02.02.2019. The plaintiff thereafter got the khata and other relevant documents in her name. She is paying tax to the suit schedule property.

3. It is the further case of the plaintiff that the father of plaintiff by name B.G.Krishnamurthy was in possession and enjoyment of the suit schedule property without any interruption for more than 19 years and now the plaintiff is in possession and enjoyment of the suit schedule property. When that being the case on 17.04.2022 some unknown persons came to suit property and tried to dispossess the plaintiff using criminal force and by stating that the said property belongs to defendant No.3 and they have purchased the same from defendant No.1 & 2. In spite of requests they refused to give any other further details and threatened plaintiff to not to enter the schedule premises. However the plaintiff resisted the illegal acts of the said persons with the help her well wishers and then they left the spot threatening that they will come once again and they will dispossess the plaintiff from the suit schedule property and they also abused the plaintiff with dire consequences. Thereafter the plaintiff approached the jurisdictional police but the police have refused to take

any action and stated that the matter is civil dispute and directed the plaintiff to approach civil court.

4. It is the further case of the plaintiff that on enquiry and on perusing EC for the period 01.04.2004 to 20.04.2022 the plaintiff came to know that the sale deed dated 30.01.2013 has been fraudulently executed by defendant No.1 through its president defendant No.2 in favour of defendant No.3. The defendants are aware of the fact that defendants No.1 & 2 had already executed sale deed dated 16.11.2002. The defendant NO.1 & 2 colluding with defendant No.3 have fraudulently created concocted sale deed in respect of suit schedule property and they are trying to knock of the suit property. The said sale deed dated 30.01.2013 is fraudulent and concocted document. The defendants are trying to interfere with plaintiff's possession over the suit schedule property.

5. It is the further case of the plaintiff that defendant No.1 & 2 had no right, title or interest to execute the sale deed dated 30.01.2013 in favour defendant No.3 in view of the execution of sale deed in favour her father. Hence, the sale deed dated 30.01.2013 is null and void. The plaintiff learnt from reliable sources that defendants colluding together are trying to

dispossess the plaintiff from the suit schedule property and they are also trying to alienate the suit schedule property so as to make wrongful gain. Accordingly the plaintiff has filed this suit and prays to decree the suit as prayed for.

6. In pursuance of the suit summons, the Defendant No.1 & 2 not appeared before the Court and hence they were placed exparte. The defendant No.3 appeared before the court through his Counsel and filed his detailed written statement. Wherein, he denied the entire case of the plaintiff. This defendant went to the extent of denying the execution of sale deed in favour of father of plaintiff and also denied the possession of plaintiff over the suit schedule property and so also the alleged interference.

7. According to this defendant he is absolute owner in possession and enjoyment of the property bearing site No.1035 formed in Sy.No.25/3 in Karnataka State "D" Group Employees Central Association Layout, Srigandadakaval Village, Yashwanthpura Hobli, Bangalore North Taluk measuring East to West 40 + 45/2 North to south 27+5/2 in all measuring totally 680 sq.ft., having acquired the said property under registered sale deed dated 30.01.2013. The sale deed is executed by

defendant No.1 & 2 in favour of defendant No.3. In respect of said property the plaintiff has no right, title or interest. From the date of execution of sale deed in his favour the plaintiff as well as her father have got knowledge of said sale deed. Without seeking the relief of declaration in respect of the sale deed the bare suit for injunction is not maintainable. The suit of the plaintiff is barred by law of limitation. To grab his valuable property the plaintiff and her father have created sham and fabricated gift deed dated 02.02.2019. The society has not executed any document in favour of plaintiff's father as pleaded in the plaint. Accordingly the defendant No.3 prays to dismiss the suit with costs.

8. Based on the pleadings, my Predecessor-in-office has framed following issues:-

I S S U E S

- 1) Whether Plaintiff proves her possession over the suit schedule property as on the date of suit?
- 2) Whether Plaintiff proves sale deed dated 30.01.2013 executed by defendant No.1 through its president in favour of defendant No.3 is null and void and not binding on her?

- 3) Whether suit is hopelessly barred by law of limitation?
- 4) Whether the Plaintiff is entitled for the relief sought in the suit?
- 5) What order or decree?

9. That to prove the case of plaintiff, herself got examined as PW.1 and got marked 16 documents as per Ex.P.1 to P.16.

10. Heard arguments of plaintiff's Advocate. Advocate for defendant not addressed arguments. Perused the pleadings, evidence, documents and available materials on record.

11. My answer to the above issues are as under:-

- Issue No.1:- In the negative;
- Issue No.2:- In the negative;
- Issue No.3:- In the negative;
- Issue No.4:- In the negative;
- Issue No.5:- As per final Order for the following:

REASONS

12. **ISSUE No:-1 & 2:-**

As these issues are inter-related to each other and involves common appreciation of facts and evidence on

record, findings on one issue are bearing on other issues, in order to avoid repetition of facts and for convenience sake, both issues are taken together for common discussion.

13. The plaintiff has approached this court with specific case that the suit schedule property is site property and the same is in the layout formed by the defendant No.1 in the name of Karnataka State "D" Group Employees Central Association Layout. The plaintiff's father B.G.Krishnamurthy was also member of the defendant No.1 association and he was allotted with suit schedule property by the defendant No.1 association. The defendant No.1 association issued possession certificate dated 28.10.2002 to the father of plaintiff thereafter by receiving entire sale consideration the defendant No.1 association through its president that is defendant No.2 and also general secretary by name C.Govindaraju executed registered sale deed dated 16.11.2002 in respect of schedule property in favour of father of this plaintiff. The defendant No.1 also issued no objection certificate to the father of plaintiff. In pursuance of the sale deed the khata and relevant documents were entered in the name of father of plaintiff. Thereafter her father constructed a shed in the suit

schedule property and got the electricity connection in his name. Subsequently, her father conveyed the said property to this plaintiff under gift deed dated 02.02.2019 hence, the plaintiff is the absolute owner in lawful possession of the suit schedule property. In spite of that some unknown persons came to suit property and tried to dispossess the plaintiff by using criminal force stating that the property belongs to defendant No.3 as he purchased from defendant No.1 & 2. The plaintiff resisted their illegal acts. The plaintiff approached the jurisdictional police but they have stated, the dispute is civil in nature. On enquiry on 21.04.2022 the plaintiff came to know that as per EC a fraudulent sale deed has been executed by defendant No.1 & 2 in favour of defendant No.3 in respect of suit schedule property.

14. On the contrary it is the specific case of the defendant No.3 that he is the absolute owner in possession of property bearing site No.1035 formed in Sy.No.25/3 in the Karnataka State "D" Group Employees Central Association Layout, Srigandadakaval Village, Yashwanthpura Hobli, Bangalore North Taluk, under sale deed dated 30.01.2013. Since the date of sale deed the plaintiff and her father have knowledge of said sale deed. In spite of that the suit for bare injunction without

seeking the relief of declaration is filed and hence, the same is not maintainable. The suit is barred by law of limitation.

15. The plaintiff in order to prove her case herself got examined as PW.1 and this PW1 during the course of evidence has filed her chief-examination affidavit reiterating the plaint averments on oath. She has produced and got marked 16 documents as per Ex.P.1 to Ex.P.16. Ex.P1 is the no objection certificate dated 14.12.2006 issued by Karnataka State "D" Group Employees Central Association, Ex.P2 is the khata certificate issued by BBMP in the name of B.G.Kirshnamurthy, Ex.P3 is the Form-B house and vacant register extract in respect of site No.1035, Ex.P4 is electricity bill in the name of B.G.Kirshnamurthy in respect of property No.1035, Ex.P5 is the certificate issued by BBMP in respect of khata and the same shows the name Kumari Pavithra K. Ex.P6 is also house and vacant site register extract issued by BBMP and the same is also in respect of site No.1035 and the same shows the name of the plaintiff, Ex.P7 is the tax paid receipt, Ex.P8 is death certificate of Krishnamurthy B.G. Ex.P9 is the copy of complaint given by this plaintiff before the station house officer Annapurneshwarinagar Police station.

Ex.P10 is certified copy of sale deed dated 30.01.2013 executed by defendant No.1 society through its general secretary and president in favour of defendant No.3, Ex.P11 & 12 are 2 encumbrance certificates and the same shows that they are for the period from 01.04.2000 to 31.03.2004 and 01.04.2004 to 21.04.2022, Ex.P13 is the possession certificate issued in the name of B.G.Krishnamurthy, Ex.P14 is the original sale deed dated 16.11.2002 by executed by defendant No.1 society through its president Sri. B.M.Nataraj and General Secretary C.Govindaraj in favour of B.G.Krishnamurthy, Ex.P15 is the Uttara pathra dated 16.02.2022 issued by BBMP and it is mentioned that on the basis of gift deed the khata is made out in the name of Kumari Pavithra K. i.e., plaintiff, Ex.P16 is original gift deed dated 02.02.2019 executed by B.G.Krishnamurthy in favour this plaintiff.

16. On perusal of the cross-examination of PW1 it is necessary to note that this witness is only cross-examined in part and inspite of sufficient opportunities defendant not chosen to cross-examine PW1 in full. On perusal of the cross-examination of PW1 she deposed that at the time of death, her father was PSI in Subramanyapura Police Station. His father is having 2

children and presently they are residing at Laggere. The suit property situated in Nagarabhavi. The suit property is 15 kilometer away from their house. There is a shed in the suit schedule property. The same is constructed by her father. When it is suggested that neither plaintiff nor her father have constructed the same was denied by this PW1.

17. In the case on hand on careful perusal of the Ex.P14 the Karnataka State "D" Group Employees Central Association represented by its president B.M.Nataraj and general secretary C.Govindaraj have executed said sale deed in favour of B.G.Krishnamurthy on 16.11.2002. Ex.P13 shows that possession certificate was issued to said B.G.Krishnamurthy on 28.10.2002. Ex.P1 shows that no objection certificate was issued in favour of said B.G.Krishnamurthy on 14.12.2006 stating that the said society has no objection to sell or mortgage property. On careful perusal of the schedule of property sold under Ex.P14 sale deed is site No.1035 (corner) formed in Sy.No.25/3 in the Karnataka State "D" Group Employees Central Association Layout, Srigandhadhakaval Village, Yeshwanthapura Hobli, Bangalore North Taluk, measuring East 40 ft. West 46 ft. North 29 ft. South 4 ft. total area 709.5 sq.feet together with all rights appurtenances whatsoever whether

underneath or above, the surface and bounded as follows:

On East by: Site No.1034

On the West by: Road

On the North by:Road

ON the South by: Site No.995

18. On perusal of the plaint schedule in respect of the very same property the plaintiff has filed this suit on the ground that her father late B.G.Krishnamurthy being absolute owner conveyed the suit schedule property in her favour through registered gift deed dated 02.02.2019. In this regard the plaintiff got marked original gift deed dated 02.02.2019 at Ex.P16. Subsequently, BBMP has issued Ex.P15 Uttara Patra stating that the name of this plaintiff is entered in the khata register on the basis of said registered gift deed. At this stage it is necessary to note that the encumbrance certificate marked at Ex.P12 shows that there is sale deed in favour of defendant No.3 by the defendant No.1 represented by defendant No.2 who is its president on 30.06.2013. On perusal of the death certificate marked at Ex.P3 shows that B.G.Krishnamurthy died on 29.04.2021 and the gift deed stated to be executed in favour of this plaintiff is on 02.02.2019, whereas the sale deed marked Ex.P10 shows

that on 30.01.2013 itself another sale deed is executed by the defendant No.1 through its president defendant No.2 in favour of defendant No.3. The plaintiff who got the subsequent gift deed from her father subsequent to this sale deed in favour of defendant No.3 is now seeking to declare the said sale deed dated 30.01.2013 as null and void and not binding on plaintiff and also for cancellation of said sale deed.

19. At this stage it is necessary to note that the very contention of defendant No.3 in his written statement as he is the absolute owner in possession of the suit schedule property having acquired the same under registered sale deed dated 30.01.2013 and plaintiff has no right title or interest or possession over the suit schedule property. Accordingly, from the careful consideration of the contention of defendant he has categorically denied the very title of this plaintiff over the suit schedule property and also the title of the father of this plaintiff and also contended that he acquired the suit schedule property under sale deed dated 30.01.2013.

20. Admittedly the sale deed of this defendant No.3 has executed much prior to the execution of gift deed in favour of this plaintiff by her father. In spite of that the

plaintiff has sought only the relief of permanent injunction and to declare the sale deed dated 30.01.2013 as null and void and for cancellation of the said sale deed and there is already sale deed executed in favour of this defendant No.3 much prior to the execution of gift deed.

21. The counsel for the defendant No.3 no doubt not addressed his arguments. That apart the defendants No.1 & 2 remained exparte in the suit. The defendant No.3 not lead any evidence. Inspite of that its the plaintiff who approached the court with specific case. Under circumstances burden lies on the plaintiff to establish her case. As discussed supra prior to execution of gift deed in favour of this plaintiff already there was sale deed in favour of defendant No.3. At this stage it is necessary to go through the decision of the Hon'ble Apex Court reported in **(2008) 4 SCC 594 between Anathula Sudhakar Vs. P.Buchi Reddy (Dead) by Lrs. and others.** In the said decision the Hon'ble Apex Court has held as follows:

11. The general principles as to when a mere suit for permanent injunction will lie, and when it is necessary to file a suit for declaration and/or possession with injunction as a consequential relief, are well settled. We may refer to them briefly.

11.1) Where a plaintiff is in lawful or peaceful possession of a property and such possession is interfered or threatened by the defendant, a suit for an injunction simpliciter will lie. A person has a right to protect his possession against any person who does not prove a better title by seeking a prohibitory injunction. But a person in wrongful possession is not entitled to an injunction against the rightful owner.

11.2) Where the title of the plaintiff is not disputed, but he is not in possession, his remedy is to file a suit for possession and seek in addition, if necessary, an injunction. A person out of possession, cannot seek the relief of injunction simpliciter, without claiming the relief of possession.

11.3) Where the plaintiff is in possession, but his title to the property is in dispute, or under a cloud, or where the defendant asserts title thereto and there is also a threat of dispossession from defendant, the plaintiff will have to sue for declaration of title and the consequential relief of injunction. Where the title of plaintiff is under a cloud or in dispute and he is not in possession or not able to establish possession, necessarily the plaintiff will have to file a suit for declaration, possession and injunction.

12. We may however clarify that a prayer for declaration will be necessary only if the denial of title by the defendant or challenge to plaintiff's title raises a cloud on the title of plaintiff to the property. A cloud is said to raise over a person's title, when some apparent defect in his title to a property, or when some prima facie right of a third party over it, is made out or shown. An action for declaration, is the remedy to remove the cloud on the title to the property. On the other hand, where the plaintiff has clear title supported by documents, if a

trespasser without any claim to title or an interloper without any apparent title, merely denies the plaintiff's title, it does not amount to raising a cloud over the title of the plaintiff and it will not be necessary for the plaintiff to sue for declaration and a suit for injunction may be sufficient. Where the plaintiff, believing that defendant is only a trespasser or a wrongful claimant without title, files a mere suit for injunction, and in such a suit, the defendant discloses in his defence the details of the right or title claimed by him, which raises a serious dispute or cloud over plaintiff's title, then there is a need for the plaintiff, to amend the plaint and convert the suit into one for declaration. Alternatively, he may withdraw the suit for bare injunction, with permission of the court to file a comprehensive suit for declaration and injunction. He may file the suit for declaration with consequential relief, even after the suit for injunction is dismissed, where the suit raised only the issue of possession and not any issue of title.

22. In the case on hand first and foremost the defendant No.3 has categorically denied the title of this plaintiff over the suit schedule property and taken specific contention that he is the absolute owner of the suit schedule property by virtue of registered sale deed dated 30.01.2013. The defendant also contended that the suit of the plaintiff for bare injunction is not maintainable. Much prior to the execution of the gift deed in favour of this plaintiff there was already sale deed in favour of defendant No.3.

23. It is pertinent to note that the father of this plaintiff has not challenged the said sale deed during his life time and on the contrary he gifted the suit schedule property in favour of this plaintiff on 02.02.2019. If the principles laid down in **Anathula Sudhakar** case by the Hon'ble Supreme Court is considered the same is squarely applicable to the facts and circumstances of this case.

24. The counsel for the plaintiff in support of his case has relied upon decision of Hon'ble High Court of Karnataka reported in 2020 SCC OnLine Kar 5525 between **G.S.Narayana Vs. G.S.Manjunatha & another** wherein the Hon'ble High Court has held as follows:

The oral evidence of the witnesses cannot take away the recitals in Ex.P1 and also does not have the effect of rebutting the cumulative effect of all the revenue records which point out possession of the defendants. It is also to be noted that possession would follow title in case of vacant land. As title is affirmed in respect of the defendants by the trial Court, the possession would also be deemed to follow the title.

I have carefully gone through the principles laid down in the above decision. There is no dispute in respect of the principles laid down in the above decisions.

There is no dispute that possession always follows title. It is also well settled that revenue records is not a document of title.

25. The counsel for plaintiff vehemently argued that when the defendant No.1 & 2 already conveyed suit property they had no right over the site property to convey the same. He also contended that defendant No.3 cannot acquire better title than that of father of plaintiff. In support of his arguments plaintiff has also relied upon decision in **(2010) 6 SCC 666 between Atla Sidda Reddy Vs. Busi Subba Reddy and others** wherein the Hon'ble Apex Court has held as follows:

A. Property Law – Ownership and Titel – Nemo dat quod on habet – Petitioner-plaintiff buying property from DW 4 (when DW 4 had already sold it to respondents) – Plaintiff, held, did not acquire any title – Specific Relief Act, 1963 – Ss. 5 and 34 – Maxims.

26. The counsel for the plaintiff has also relied upon decision in (2022) 7 SCC 90 between Umadevi Nambiar Vs. Thamarasseri Roma Catholic Diocese has held as follows:

19. It is a fundamental principle of the law of transfer of property that “no one can confer a better title than what he himself has” (Nemo dat quod non habet). The appellant's sister did not have the

power to sell the property to the vendors of the respondent. Therefore, the vendors of the respondent could not have derived any valid title to the property. If the vendors of the respondent themselves did not have any title, they had nothing to convey to the respondent, except perhaps the litigation.

27. In respect of the principles laid down in the above decision there is no dispute. However the same is not helpful to the plaintiff. It is worth to note that the plaintiff in the suit has sought only declaration in respect of sale deed dated 30.01.2013. Whereas the defendant No.3 has categorically denied the title of plaintiff and stated that he is the absolute owner by virtue of registered sale deed dated 30.01.2013. The defendant has not vaguely denied the title of the plaintiff on the contrary he has set up specific defence of his title in respect of suit schedule property. Under the circumstances the plaintiff has to seek necessary relief for declaration of her title and suit for bare injunction and cancellation of sale deed of defendant No.3 alone is not maintainable. Accordingly, the plaintiff ought to have filed suit for declaration of her title and it can be safely held that mere suit for permanent injunction and for cancellation of sale deed of defendant NO.3 is not maintainable.

28. Under the sale deed relied on by the plaintiff herself which is marked at Ex.P10 there is a specific recital that possession of the suit schedule property is handed over to the defendant No.3. In Ex.P13 it is mentioned that the possession is handed over to the father of plaintiff on 28.10.2002. Whereas the Ex.P10 shows that possession is handed over to the defendant No.3 on 30.01.2013. Under the circumstances the mere documents like houses and vacant sites register extract, khata certificate are absolutely not sufficient to conclude that the plaintiff is in lawful possession of the suit schedule property.

29. Though the plaintiff contended that the sale deed in favour of defendant No.3 is null and void and not binding on her as discussed supra the plaintiff not sought for any relief for declaration of her title though there is specific denial of her title by the defendant No.3 and hence there is a cloud on the title of the plaintiff and hence it is to be held that the contention of the plaintiff that the sale deed dated 30.01.2013 by the defendant No.1 and 2 in favour of defendant No.2 is to be cancelled on the ground that the same is not binding on plaintiff has no force. Hence, **I answered issue No.1 & 2 in the Negative.**

30. Issue No.3:

The defendant No.3 in his written statement contended that the suit is barred by law of limitation. The defendant No.3 has not lead any evidence in this regard. On careful perusal of the plaint averments the plaintiff contended that on 17.04.2022 some unknown persons came to suit schedule property and tried to dispossess her by using criminal force and contended that they purchased schedule property from defendant No.1 & 2. It is thereafter she approached jurisdictional police and they directed her to approach civil court. It is on enquiry and after obtaining encumbrance certificate for the period 01.01.2004 till 20.04.2022 the plaintiff came to know about the sale deed dated 30.01.2013. The plaint schedule shows that the suit schedule property is site property and there is no such building or structure therein. The counsel for plaintiff relied on decision reported in: **(2006) 5 SCC 353 between Prem Singh & others Vs. Birbal and others.**

Wherein the Hon'ble Apex Court held as follows:

B. Limitation Act, 1963- Art.59 - Applicability - Held, is applicable only to voidable transactions and not to void transactions - It therefore applies where a document is prima facie valid and would not apply to instruments which are presumptively invalid - Hence Art. 59 would be attracted in case of coercion, undue

influence, misappropriation or fraud when the transaction is a voidable one – Specific Relief Act, 1963 – S.31 – Deeds and Documents.

31. In the case on hand plaintiff is seeking relief of cancellation of sale deed executed in favour of defendant No.3 on the ground that she came to know about the said sale deed only when she verified the encumbrance certificate on 21.04.2022. Thereafter the present suit is filed. Since the plaintiff is not party to the said sale deed of defendant No.3 the contention of the defendant No.3 that suit is barred by law of limitation cannot be accepted. Under the facts and circumstances it is Article 59 of the Limitation Act is applicable and the same is extracted below:

59.	To cancel or set aside an instrument or decree or for the rescission of a contract.	Three years.	When the facts entitling the plaintiff to have the instrument or decree cancelled or set aside or the contract rescinded first become known to him.
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32. In the case on hand it is within 3 years from the date of knowledge of sale deed of defendant No.3 suit is filed by plaintiff and hence the suit is to be held as filed

within the period of limitation. **Accordingly, I answered Issue No.3 in the negative.**

33. Issue No.4:-

In view of my findings given on issue No.1 & 2 in the negative plaintiff is not entitled for suit relief as prayed in plaint. Hence, I answer **Issue No.4 in the negative.**

34. Issue No.5:-

In view of the reasoning given above, I proceed to pass the following:-

O R D E R

The suit filed by the plaintiff as
against the defendants **is hereby**
dismissed with costs.

Draw decree accordingly.

* * * * *

(Dictated to the Stenographer, transcribed and computerized by her and after corrections pronounced by me in the open court on this the **13th day of July 2026**)

(Anitha N.P.)

LXXIII Addl. CC & SJ, M.H.Unit,
Bengaluru. (CCH-74)

SCHEDULE

All that piece and parcel of the property bearing site No.1035, formed in Sy.No.25/3 in the Karnataka State “D” Group Employees Central Association Layout, Srigandhadhakaval Village, Yeshwanthapura Hobli, Bangalore North Taluk, measuring East 40 ft. West 46 ft. North 29 ft. South 4 ft. total area 709.5 sq.feet, presently in the limits of BBMP together with all rights appurtenances, whatsoever underneath or above the surface and bounded as follows:

East by: Site No.1034

West by: Road

North by: Road

South by: Site No.995.

ANNEXURE

1. List of witnesses examined for the Plaintiff's side:-

P.W.1	:	Pavithra K.
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2. List of documents exhibited for the Plaintiff's side:-

Ex.P1	No objection certificate dated 14.12.2006 issued by Karnataka State “D” Group Employees Central Association,
Ex.P2	khata certificate issued by BBMP in the name of B.G.Kirshnamurthy,

Ex.P3	Form-B house nad vacant register extract in respect of site No.1035
Ex.P4	Electricity bill in the name of B.G.Kirshnamurthy in respect of property No.1035,
Ex.P5	Certificate issued by BBMP in respect of khata and the same shows the name Kumari Pavithra K.
Ex.P6	House and vacant site register extract issued by BBMP
Ex.P7	Tax paid receipt,
Ex.P8	Death certificate of Krishnamurthy B.G.
Ex.P9	Copy of complaint given by this plaintiff before the station house officer Annapurneshwarinagar Police station.,
Ex.P10	Certified copy of sale deed dated 30.01.2013
Ex.P11-12	Encumbrance certificate
Ex.P13	Possession certificate issued in the name of B.G.Krishnamurthy,
Ex.P14	Original sale deed dated 16.11.2002
Ex.P15	Uttara pathra dated 16.02.2022

Ex.P16	Original gift deed dated 02.02.2019 executed by B.G.Krishnamurthy in favour this plaintiff.
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3. List of witness examined for the Defendants side:-

---Nil---

4. List of documents exhibited for Defendants side:-

---Nil---

(Anitha N.P.)

LXXIII Addl. CC & SJ, M.H.Unit,
Bengaluru. (CCH-74)