

KASM700003362016



Presented on : 19-03-2016
Registered on : 19-03-2016
Decided on : 02-09-2026
Duration : 10 Y. 05M. 14D.

**IN THE COURT OF THE ADDL. CIVIL JUDGE AND JMFC.,
AT SORABA**

Present: Sri.Raju K Shedbalkar,
B.Com.,LL.B.,

C/C I Addl. Civil Judge & JMFC.,
Soraba.

Dated this the 2nd day of September, 2026

O.S.No.58/2016

PLAINTIFF: Basavanthappa S/o Kotrappa,
Aged about 72 years,
R/o Vinoba Nagara, 4th Main Road,
4th cross Road, Davanagere District.

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

V/s

DEFENDANTS: 1. Eramma W/o Prabhappa Marabada,
Aged about 74 years,
2. Puttappa S/o Shivappa,
Aged about 70 years,

3. Somashekharappa S/o Veerabhadrappa,
Aged about 55 years,
All are R/o Neralagi Village,
Anavatti Hobli, Soraba Taluk,
Shivamogga District.

(By Sri. C.C.B/HBI., Advs.)

1. Date of institution of the suit :	19.03.2016
2. Nature of the suit :	Declaration & Injunction
3. Date recording of evidence :	05.02.2021
4. Date of pronouncement of judgment :	02.09.2026
5. Duration :	Year/s Month/s Day/s
	10 05 14

**C/C I Addl. Civil Judge and JMFC.,
Soraba.**

J U D G M E N T

The present suit is filed for the relief of declaration by declaring that the plaintiff is the owner of suit schedule property and also consequential relief of Permanent Injunction.

2. The description of the suit property is as follows:-

The suit property bearing Sy.No.116/1 total measuring 4 acre 12 guntas tari land out of which 02 acre 12 guntas tari land situated northern side, bounded by east:- land of Puttappa S/o Shivappa, west:- Sy.No. 114/2, North:- land of Karima Sab and south:- remaining land of Sy.No.116/1.

3. Brief facts of the plaintiffs' case are as under:-

The plaintiff is the absolute owner in possession of suit schedule property bearing Sy.No.116/1 measuring 2 acre 12 guntas of tari land. The property bearing Sy.No.116/1 total measuring 4 acre 12 guntas of tari land was originally belongs to V.S. Laxmikantappa S/o Virupakshappa resident at Anavatti, Soraba Taluk. The said property was purchased by Erappa S/o Prabhappa Marabada on 02.05.1961 under registered sale deed bearing S.R.O.No.382/1961-62. Thereafter, his name was entered in the RTC extract. the plaintiff purchased 2 acre 12 guntas of land situated at Northern side in Sy.No.116/1 from the husband of defendant No.1 by name Erappa S/o Prabhappa Marabada under registered sale deed bearing S.R.O.No.574/80-81 dated 10.12.1980. Thereafter, the plaintiff's name entered in the revenue records but his name was not entered in the revenue records and jointly entered with the plaintiff. Further it is averred that the plaintiff requested the revenue authorities

by orally submitting application, but they failed to enter the plaintiff's name in the revenue records.

4. Further it is averred that, the defendants does not have any right, title, interest over the suit schedule property and by misusing jointly entered their name in the revenue records, the defendants trying to disturb and interference plaintiff's peaceful possession and enjoyment over the suit schedule property. The defendants trying to take the illegal possession of suit schedule property as that plaintiff residing for away from the suit schedule property. The defendants trying to deny the ownership of plaintiff and entered into suit schedule property and destroy the crops on 25.12.2015. Thereafter, the plaintiff stopped the illegal acts of the plaintiff with the help of the villagers and workers. Further, the defendants are causing interference and trying to encroach over the suit schedule property. Therefore, the plaintiff constrained to file the present suit.

5. On registered the suit, the suit summons were issued to the defendants, they appeared through their counsel and defendant No.2 and 3 filed written statement and defendant No.1 adopted the written statement filed by the defendant No.2 and 3.

6. The defendants contended that the suit filed by the plaintiff is false vexatious and against the law. But the

defendants admitted that the entire Sy.No.116/1 measuring 4 acre 12 guntas of land was originally belongs to V.S. Laxmikanthappa S/o Virupakshappa. Further they admitted that, the said suit was purchased by Erappa S/o Prabhappa Marabada under registered sale deed on 02.05.1961. Further it is admitted that, as per the sale deed of Erappa S/o Prabhappa Marabada his name was entered in the revenue records. But they denied that out of 4 acre 12 guntas of land in Sy.No.116/1 2 acre 12 guntas of land towards northern side was purchased by plaintiff from the husband of defendant No.1 by name Erappa S/o Prabhappa Marabada under registered sale deed bearing S.R.O.No.574/1980-81 dated 10.12.1980.

7. Further the defendants denied that, the plaintiff approached the concern Revenue Officer to enter his name, further the defendants denied that the plaintiff is in peaceful possession and enjoyment over the suit schedule property as contended in the plaint.

8. Defendants submits that, the father of the plaintiff by name Kotrappa, father of defendant No.2 by name Shivappa, father of defendant No.3 by name Veerabhadrappa and husband of defendant No.1 by name Erappa they all are brothers and children of Rudrappa. The father of plaintiff Kotrappa was elder brother and the Erappa was adopted by the Morabada Prabhappa and he was adopted son in the family of

Morabada Prabhappa and remaining children of Rudrappa by name Kotrappa, Shivappa, Veerabhadrapa was the only family members.

9. Further it is submitted that, the husband of defendant No.1 by name Erappa S/o Prabhappa purchased entire Sy.No.116/1 measuring 4 acre 12 guntas of land their its erstwhile owner V.S.Laxmikanthappa under registered sale deed. The said Erappa and remaining children of Rudrappa by name Kotrappa, Shivappa and Veerabhadrapa was jointly in possession of Sy.No.116/1 measuring 2 acre 6 guntas of land. The said Kotrappa was in possession of 29 guntas, Shivappa was in possession of 29 guntas and Veerabhadrapa was in possession of 28 guntas of land and they all are cultivating respective their possession of property. Admittedly, their name was entered in the revenue record for the year 1963-64.

10. Further it is submitted that, the suit schedule property was purchased by jointly by father of plaintiff, father of defendant No.2 and father of defendant No.3 from the Erappa S/o Prabhappa and they are all equally paid the consideration amount. Further they are all in possession of 2 acre 6 guntas of land but it was mentioned in the deed as 2 acres 12 guntas of land.

11. Further it is submitted that, as they are all jointly in possession of Sy.No.116/1 measuring 2 acre 6 guntas of land they are all entered into ಜುಬಾನಿ ಹಿಸ್ಸಾ ಪತ್ರ on 04.12.1980 and also executed one document by name ಹಿಸ್ಸಾ ವಿವರಣಾ ಪತ್ರ. Further as per the said ಹಿಸ್ಸಾ ವಿವರಣಾ ಪತ್ರ the MR.No.12/1997-98 was certified and accordingly in the revenue records 29 guntas stands in the name of plaintiff, 29 guntas stands in the name of defendant No.2, 28 guntas stands in the name of defendant No.3.

12. Further it is submitted that, though the registered sale deed in the name of plaintiff, but defendant No.2 and father of defendant No.3 they are all joint possession of suit schedule property as per the ಜುಬಾನಿ ಹಿಸ್ಸಾ ಪತ್ರ. Further it is submitted that though the registered sale deed in the name of plaintiff, the plaintiff along with these defendants are in peaceful possession and enjoyment over the suit schedule property. Hence, the plaintiff is not in alone owner and in possession of suit schedule property. Further as per the ಜುಬಾನಿ ಹಿಸ್ಸಾ ಪತ್ರ these defendant No.2 and 3 also owner in possession of suit schedule property, the plaintiff cannot claim any relief against these defendants.

13. Further the defendant No.1 is absolute owner of 2 acre 6 guntas of land and she is not necessary party in the suit. The plaintiff made unnecessary defendant No.1 in this case. Further it is submitted that till today there was no phodi in Sy.No.116/1. Hence, the plaintiff cannot claim any right over

the said property. The defendants also furnished the separate schedule property as below:-

SCHEDULE

1. Anavatti Hobli, Soraba Taluk, Nelaragi village in Sy.No.116/1, North-South 29 guntas of tari land bounded by towards East:- land of Shivappa, West:- land of Erappa, North:- land of Karimsab, South:- land of Erappa this schedule property belongs to the plaintiff.

2. Anavatti Hobli, Soraba Taluk, Nelaragi village in Sy.No.116/1 North-South 29 guntas of tari land bounded by towards East:- Property of 3rd sharer, West:- Property of 1st sharer, North:-land of Karim Sab, South:- land of Erappa this schedule property belongs to the defendant No.2.

3. Anavatti Hobli, Soraba Taluk, Nelaragi village in Sy.No.116/1 North-South 28 guntas of tari land bounded by towards East:- Property of 2nd sharer, West:- Property of 2nd sharer, North:-land of Karimsab, South:- land of Erappa this schedule property belongs to the defendant No.3.

As mentioned above the suit schedule property divided into 3 parts, plaintiff and defendants No.2 and 3 are in

possession of these properties. Hence, this defendants prayed to dismiss the suit with cost.

14. On the basis of the above pleadings, the following issues were framed by my learned predecessor in office are as under:

ISSUES

1. Whether plaintiffs proves that they purchased the suit schedule property from the husband of the defendant No.1 and as such he became the owner of the suit schedule property?

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

3. Whether the plaintiff is entitled to declaration as prayed for?

4. Whether the plaintiff is entitled to perpetual injunction against the defendant as prayed for?

5. What order or decree?

15. In order to prove the case of the plaintiff, the plaintiff got examined himself as PW.1 in support of his case he got marked Ex.P.1 to Ex.P.14 and closed his side. On the other hand, the defendant No.2 got examined as DW.1 and in support

of his defence they got examined witness as DW.2 and got produced document marked as Ex.D.1 to Ex.D.12.

16. Heard both sides. Perused the pleadings, materials and evidence placed on records.

17. My findings to the above said issues are as under:-

Issue No.1: In the **Affirmative.**

Issue No.2: In the **Affirmative.**

Issue No.3: In the **Affirmative.**

Issue No.4: In the **Affirmative.**

Issue No.5: As per the final order for the following:-

:R E A S O N S:

18. ISSUE NO.1 and 2:- These issues are inter connected to each other, hence they are taken up together for common discussion, in order to avoid repetition of facts and circumstances. Before going to the pleadings of the parties its better to reproduce admitted facts by the parties, it is admitted by the defendant that originally the Sy.No.116/1 total measuring 4 acre 12 guntas of land originally was belongs to V.S. Laxmikanthappa S/o Virupakshappa.

19. Further it is admitted facts that, the Erappa S/o Prabhappa Marabada was purchased the said entire property from V.S. Laxmikantappa S/o Virupakshappa under registered sale deed bearing SR.No.382/1961-62 dated 02.05.1961, the defendants admitted the nature of the suit schedule property.

20. It is a specific case of the plaintiff that, the Sy.No.116/1 total measuring 4 acre 12 guntas of land out of which northern side 2 acre 12 guntas of land was purchased by the plaintiff under registered sale deed bearing SR.No.574/1980-81 dated 10.12.1980. But his name was not entered in the revenue records insisted jointly entered with the plaintiff and the defendants in the revenue records. Further he is in absolute owner in possession of suit schedule property measuring 2 acre 12 guntas of land with specific boundaries.

21. The defendants admitted that originally the entire Sy.No.116/1 measuring 4 acre 12 guntas of land was belongs to V.S. Laxmikantappa S/o Virupakshappa and the Erappa S/o Prabhappa Marabada was purchased entire 4 acre 12 guntas of land from the said V.S. Laxmikantappa S/o Virupakshappa under registered sale deed bearing SR.No.382/1961-62 dated 02.05.1961. But these defendants denied that, the plaintiff has purchased 2 acre 12 guntas of land from the husband of defendant No.1 under registered sale deed. The defendants

submits that, the plaintiff's father Kotrappa father of defendant No.2 Shivappa, father of defendant No.3 Veerabhadrappe was jointly purchased from said Erappa S/o Prabhappa Marabada purchased and paid amount to the said Erappa S/o Prabhappa Marabada. But actually all these persons are in possession of 2 acres 6 guntas of land, but it was return in the sale deed was 2 acre 12 guntas of land. Thereafter, plaintiff defendant No.2 and Veerabhadrappe entered into ಜುಬಾನಿ ಹಿಸ್ಸಾ ಪತ್ರ on 04.12.1982 and they all divided the said property into 3 parts. Accordingly, the plaintiff has 29 guntas of land, the defendant No.2 has 29 guntas of land and father of defendant No.3 has 28 guntas of land. Though the sale deed is in the name of the plaintiff but as per the ಜುಬಾನಿ ಹಿಸ್ಸಾ ಪತ್ರ plaintiff, defendant No.2 and Veerabhadrappe are absolute owner in possession of suit schedule property. The plaintiff by misusing the sale deed claiming to be the owner of the suit schedule property and filed this present suit against these defendants.

22. In order to substantiate the plaintiff's case he has got examined himself as PW.1 and reiterated the entire plaint averments in his examination-in-chief affidavit. The plaintiff placed the Ex.P.1 is the certified copy of the suit schedule property in the name of plaintiff. The Ex.P.2 is the RTC extract of Sy.No.116/* where it does discloses that, the plaintiff, defendant No.2 and 3s name appearing in the record. The

Ex.P.3 is the MR.No.39/1986-87 where it does disclose that after the purchase of property by the Erappa S/o Prabhappa Marabada from erstwhile owner V.S. Laxmikanthappa S/o Virupakshappa his name was certified in respect of 2 acre 6 guntas of land in Sy.No.116/1. The Ex.P.4 is the certificate issued by the KSDA in favour of plaintiff. The Ex.P.5 is the acknowledgment for changing the khata in the name of plaintiff. The Ex.P.6 is the letter given by the plaintiff to the Deputy Tahasildar, Anavatti, Soraba. The Ex.P.7 is the Acknowledgment given by Anavatti Police, The Ex.P.8 and Ex.P.9 are the Encumbrance certificate, Ex.P.10 is the Record of Rights certificate in respect of Sy.No.116/1. The Ex.P.11 is the certified copy of the Index of Land. The Ex.P.12 is the Original sale deed copy of plaintiff dated 10.12.1980. The Ex.P.13 is the certified copy of the order passed by Assistant Commissioner, Sagar. The Ex.P.14 is the MR.No.11/1982-83.

23. On the other hand, the defendant No.2 examined entered into witness box and examined as DW.1 and filed his affidavit U/o 18 Rule 4 of CPC containing his examination-in-chief, wherein he has reiterated the entire written statement averment. In support of his case he has produced some documents. The Ex.D.5 to Ex.D.7 are the RTC extract in respect of suit schedule property for the year 1963-64 to 1965-1966. The Ex.D.8 is handwritten RTC extract in respect of

Sy.No.116/1. The Ex.D.9 is also RTC extract in respect of Sy.No.116/1 for the year 1989-90 to 1993-1994. The Ex.D.10 is also RTC extract in respect of Sy.No.116/1 for the year 1994-95 to 1999-2000. The defendant also produced Ex.D.11 certified copy of the Judgment and Decree passed in OS.No.92/2019 by the Hon'ble Senior Civil Judge and JMFC., Soraba. The Ex.D.12 is downloaded copy of Judge bearing RA.No.10005/2023 dated:14.06.2024 passed by the Vth Additional District and Sessions, Judge.

24. Now let me analysis the evidence led by the parties it is specific case of the plaintiff that he has purchased the suit schedule property from husband of defendant No.1 measuring 2 acre 12 guntas of land under registered sale deed bearing S.R.No.574/1980-81 dated 10.12.1980 which is situated towards northern side of the remaining portion of Sy.No.116/1. In support of his contention the plaintiff relied Ex.P.1 certified copy of the sale deed executed by the husband of defendant No.1 by name Erappa S/o Prabhappa Marabada. On perusal the entire recitals of the Ex.P.1 it reveals that, the plaintiff purchased the suit schedule property from the husband of defendant No.1. Further on perusal the entire recitals of Ex.P.1 also reveals that he has not purchased the said property on behalf of his family members etc., same has been denied by the defendant and contended that before executing the Ex.P.1 registered sale deed in favour of the plaintiff there was a Jubani

Hissa Patra on 04.12.1980 in between them and same has been certified also as per MR.No.12/1997-98. It is heavy burden on the plaintiff to prove that he has purchased the suit schedule property from the husband of the defendant No.1. But the Ex.P.1 is a registered document that to executed on 10.12.1980 and as per **Sec.94 and 95 of Bhartiya Shakshy Adhinimay 2023 correspondence Sec.92 and 93 of Indian Evidence Act.** When the terms of a contract, grant or other disposition required by law to be reduced to the form of document, no evidence shall be given in proof of the terms of such contract and no oral evidence is admissible against the said documents, in turn the defendant counsel denied the due execution of said documents and contended that before executing the Ex.P.1 there was a Jubani Hissa Patra between the plaintiff, defendant No.2 and Veerabhadrappa same has been certified as per MR.No.12/1997-98 and these documents also contributed amount for purchasing the schedule property in favour of the plaintiff. Further the defendant counsel contended that with the consent of Puttappa and Veerabhadrappa the sale deed executed in the name of plaintiff but actually the schedule property was in possession of the plaintiff, defendant No.2 and Veerabhadrappa and there was a Jubhani Hissa Pratra between them on 04.12.1980.

25. Further perusal the materials during the cross-examination of PW-1 the defendant counsel confronted the

copy of ವಿಭಾಗ ಪತ್ರ and the PW-1 admitted the said document and marked as Ex.D.1 but the plaintiff counsel objected to mark the same. Accordingly, this court marked the Ex.D.1 subject to proof and relevancy. Further on perusal the Ex.D.1 was executed on 04.12.1980 between the plaintiff, defendant No.2 and Veerabhadrapa in respect of family properties including the Sy.No.116/1p ie., suit schedule property.

26. Further perusal the said documents the parties have enter the said Jubani Hissa Patra on 04.12.1980 and as per Sec. 17 of Registration Act which requires compulsorily registered the documents. When the unregistered document for which requires registration under law was is admitted by party and marked during the cross-examination that too " subject to objection as to its proof and relevancy" the burden of proving the documents and its contents resists squarely on the party who reliance upon that document to support their case. When a court marks a document " subject to prove and relevancy" during the cross-examination, it means the court has only allowed the fiscal document to be given a tentative exhibit number for identification purpose to avoid interrupting proceedings merely admitting that a document exist or that signature appears on it does not dispense with the legal requirement proving consent and execution in accordance with law especially when an objection has been raised regarding its prove and admissibility U/Sec. 104 and 106 of BSA 2023"

correspondence two Sec. 101 and 102 of the Evidence Act, the burden of proving lies on the person who desire the court to give it as to any legal right or liability depends on the application exists of facts which they asserts. If a parties seeks to relay on an unregistered document to with claim a right, title or interest (where a registration is compulsorily U/Sec.17 of Registration Act, 1908), that party must first over come the bar of Sec. 49 of the Registration Act and legally establish the document validatory admissible or its applicably for any collateral purpose permitted by law. Further, if opposite party merely admitted during the cross-examination that a document exist or bears his signature, but dispute its legality execution or binding nature if especially with the subject to proof and relevancy the admission is not absolute. The party producing the document cannot shift the burden on to the objector, the proponent must still prove that, the document was executed validity and is legally operative. Hence, merely the PW-1 admitted signature on Ex.D.1 and accordingly their names was certified as per Ex.D.2 MR.No.12/1997-98 and their names entered in the revenue records as per Ex.D.3. If we taken into the note that, the plaintiff, defendant No.2 and Veerabhadrapa entered the Jubani Hissa Patra of their family properties including the schedule property, at the time of entering into Jubani Hissa Patra non of the party are the owner of the schedule property. Further the defendants not pleaded in his

written statement that how the acquired the schedule property to enter Jubani Hissa Patra without valid title over the suit schedule property.

27. Further perusal the oral evidence of DW-1 and during cross-examination of DW-1 on 26.07.2023. He has clearly admitted that the schedule property was belonging to the Erappa that the husband of defendant No.1. Further the DW-1 clearly admitted that, in the year 1956 Kotrappa, Shivappa, Veerabhadrapa and Rudrapa was leaving separately and enjoying their property all the four persons including their lands. Further the DW-1 clearly admitted that, the partitioned 2 acres of land out of 4 acre 12 guntas of land as per Ex.D.1 and remaining 2 acre 12 guntas of land was purchased by the plaintiff from the husband of defendant No.1. Further DW.1 also clearly admitted that, after execution of Ex.D.1 there is a no undivided family members relation between the parties. On perusal this admission of DW-1 it clearly reveals that, the plaintiff has purchased suit schedule property measuring 2 acre 12 guntas of land from the husband of defendant No.1 and at the time of purchasing the said suit schedule property there was a no joint family members relation between the partition.

28. Further in support of the DW-2, the defendant examining one witnesses by name Kotreshappa S/o Honnappa who deposed before the court that he very well no the plaintiff and

defendants and they are close relatives and he has enjoyment the affairs of the plaintiff and defendants. Further the witnesses deposed before the court that there was a panchayath in village in respect of family dispute of plaintiff and defendants and they entered Jubani Hissa Patra 04.12.1980 at that time himself and Bharamagowdru, Marabada Erappa also present but this witnesses not deposed before the court that, how the plaintiff and defendant No.2 acquired the schedule property to entered Jubani Hissa Patra.

29. Further during the cross-examination dated 19.06.2024 he clearly admitted that, generally when owner of the parties entered into partition. Further he admitted that, he has not verified records of the suit schedule property while entering Jubani Hissa Patra as per Ex.D.1. Further he admitted that, at the time of execution of Ex.D.1 the plaintiff and defendants are not the owner and some one owner is the schedule property. Further he admitted that one Erappa was cultivating the schedule property on 10.12.1980 he handed over the possession to the original plaintiff. Further he clearly admitted that except Ex.P.1 Registered Sale Deed no other document in respect of schedule property was executed. Further he clearly admitted that plaintiff is having possession over the suit schedule property and defendant not in a possession of schedule property.

30. Hence, on perusal the entire pleadings and oral evidence of parties clearly discloses that at the time of entering into Ex.D.1 ವಿಭಾಗ ಪತ್ರ non of the parties i.e., plaintiff and defendant No.2 and 3 are the owner of the schedule property. Hence, the question of partition, the schedule property between the plaintiff, defendant No.2 and father of defendant No.3 Veerabhadrappa.

31. It is well settled principles of property and Civil jurisprudence in India that a registered deed hold vastly superior evidentiary and legal weight compared to mutation entries and revenue records. Further a registered sale deed is a document of title under the Registration Act, 1908 and Sec.54 of the transfer of property Act 1982. It creates, declarers and transfers ownership right interest and title in immovable property. Further mutation entrees and revenue records as per Ex.D.1 to 4 are maintained solely for fiscal purpose have collection of land revenue and do not create or extinguish title was in support of the argument of learned counsel relied a decision reported in **2017 (4) KCCR 3428, between the Veerabhadrayya and another Vs Mytra Bai, where the Hon'ble High Court of Karnataka** held that, Revenue entries are not proof of title. Hence, the decision relied by the counsel is amply applicable to the present case on hand.

32. Further the learned counsel for the plaintiff also relied a decision reported in **2019 (4) KCCR 3967, between the Gopal Vs Baburao and another, the Hon'ble High Court of Karnataka** also held that, Mere entry in revenue records does not create title or interest in favour of defendant-defendant not setting up any title in himself decision relied by the plaintiff counsel is also amply applicable to the present case on hand, as the defendant has not produced better title then the plaintiff.

33. The plaintiff counsel also relied another decision reported in **2024 (1) KCCR 589 (DB) between the Anasuya Bai Vs B.R. Raghunath Rao since deceased by his LRs the Hon'ble High Court of Karnataka** explain how the blending of self acquired property with the ancestral property, the decision relied by the counsel also clearly amply applicable to the present case on hand. Admittedly, the suit schedule property was purchased by the plaintiff under registered sale deed on 10.12.1980 but the defendant counsel contended that, before purchasing the schedule property there was a ವಿಭಾಗ ಪತ್ರ as per Ex.D.1 between the plaintiff, defendant No.2 and father of defendant No.3. Accordingly, their names enter into revenue records as per Ex.D.2 to 4 but the defendants not produced any better title, then the plaintiff. Further the defendant not pleaded in the written statement that how they acquired the suit schedule property to enter ವಿಭಾಗ ಪತ್ರ.

34. Further the plaintiff counsel relied a decision reported in **2023 (2) KCCR 1284 between the Subhadra Vs Jayanthi** the present decision also is amply applicable to the present case on hand. The counsel also relied a decision of Hon'ble Supreme Court of India in Civil Appeal No.226/2010 the Hon'ble Supreme Court of India is also clearly held that, mutation of a property in the revenue records are fiscal proceedings and does not create or extinguish title nor has it any presumptive value on title. It only enables the person in whose favour mutation has been ordered, to pay the land revenue. The decision relied by the counsel is amply applicable to the present case on hand.

35. Further the defendant counsel argued before the court that, the schedule property was cultivating by the Kotrappa, Shivappa and Veerabhadrapa jointly as per Ex.D.1 they entered ವಿಭಾಗ ಪತ್ರ and their names were certified as per Ex.D.2 and their names entered in the revenue record as per Ex.D.3 and Ex.D.4. Hence, the plaintiff is not exclusive owner and in possession of suit schedule property. Further perusal the Ex.D.1 is ವಿಭಾಗ ಪತ್ರ which is unregistered one executed on 04.12.1980 which requires compulsorily registration as per Sec. 17 of Registration Act. A document purporting to divide immovable property or partition it must be registered. If it is an unregistered document affecting immovable property, it is in admissible in evidence to prove a transaction affecting such

property U/Sec. 49 of Registration Act. Even an unregistered document can some times be looked at for a " collateral purpose" such as to show the nature of possession or severance of status, it cannot used to prove the creation or relinquishment of to the or ownership specific immovable property, especially when it direct contradictions a registered to the deed. Further a person cannot alienate or partition property that they do not own. Further the plaintiff purchased the property as per Ex.P.1 and Ex.P.12 and unregistered arrangement or entry prior to or contemporaneous with it cannot over ride the statutory title conveyed through a registered instrument. Further, the defendant confronted the Ex.D.1 to 4 which admitted by the PW-1 and he also admitted his signature same has been marked subject to object. As established by the Supreme Court is land mark ruling such as ***Bipin Shantilal Panchal Vs State of Gujarat*** and affirm made in civil contexts, marking an exhibit "subject to object is a procejurate mechanism to save time during the trial. It allows the trial to proceed without halting for a mini trial on admissibility. The mere admission of a signature on a document does not among to admission of contents, legality or binding nature on the document. Even if a interference is admitted, if the document is compulsorily registrable U/Sec. 17 of Registration Act and is unregistered, it remains in admissible in evidence to prove title or partition. The court cannot relay upon

it to defeat the registered title of the plaintiff, regardless or whether it was marked as on exhibit, because statutory bars on admissibility cannot be cured merely by marking the document. The registered sale deed Ex.P.1 and Ex.P.2 is a conclusive proof title over unless challenged and set aside in a properly framed suit within period of limitation. Mutation to entrees contradictory to the registered sale deed carry no weight regarding ownership. Further mere entrees in revenue records or absence of the plaintiff's name there in or not sufficient in law to non suit a rightful owner holding a registered sale deed. An unregistered ವಿಭಾಗ ಪತ್ರ (even can admitted signature marked subject to object) can extinguish a registered title or serve as a substantial evidence of partition of immovable property. Hence, the plaintiff successfully proved that by way of leading oral and documentary evidence and admission of DW.1 and DW.2 he has purchased the suit schedule property from the husband of defendant No.1 and such he became the owner of suit schedule property as on the date of suit.

36. Further the plaintiff contended that he is in lawful peaceful possession and enjoyment of the suit schedule property as on the date of filing of the suit. Accordingly, the document produced by the plaintiff Ex.P.1 certified copy of the registered sale deed dated 10.12.1980 and Ex.P.12 is the original sale deed dated 10.12.1980 on perusal both the documents the

vendor of the plaintiff specifically mentioned the measurement and boundaries of the schedule property. This court carefully gone through the description of the suit property described in the plaint it clearly indicates the description of suit property described in plaint vide Ex.P.1 and Ex.P.12 description of the suit property described in the plaint or one and the same.

37. It is relevant to extract the provision ***U/o VII Rule 3 of CPC.***

Order VII Rule 3 of CPC provides thus-where the subject matter of the suit is immovable property-were subject matter of the suit is immovable, the plaintiff shall contest a description of the property sufficient to identify it, and in case such property can be identify by the boundaries are numbers in a record of settlement or survey the plaint shall specifically such boundaries or numbers.

38. In the instant case the plaintiff has described the suit property in the plaint with Sy.No.116/1 total measuring 4 acre 12 guntas of Tari land out of which the suit schedule property is 2 acre 12 guntas of Tari land with specific boundaries the description of the suit property described in the plaint is corroborated under the documentary evidence produced by the plaintiff vide Ex.P.1 and Ex.P.12. The subject matter of the suit is identified by the boundaries and measurement the argument

canvased by the learned counsel appearing for the defendants does not hold any water.

39. The plaintiff has successfully established by the oral and documentary evidence and without taking weakness of the defendants that he has purchased the suit schedule property from the husband of the defendant No.1 and such he became the owner of the suit schedule property. Further at the time of filing of this present suit, he is lawful possession and enjoyment of the suit schedule property. Hence, in light of above discussion **I answer Issue Nos.1 and 2 in the Affirmative.**

40. ISSUE NO.3 AND 4:- These issues are inter connected to each other, hence they are taken up together for common discussion, in order to avoid repetition of facts and circumstances. When the plaintiff successfully proved his case by leading oral and documentary evidence and without taking weakness of the defendants certainly his entitled to declared he is purchased the suit schedule property from the husband of defendant No.1 and such he became the owner of suit schedule property. It is further case of the plaintiff that on 25.12.2015 the defendants and their supporters are trying to illegally interference his peaceful possession and enjoyment of the schedule property. During the cross-examination of DW.1 he is clearly admitted that, the suit schedule property purchased by

the plaintiff from the husband of defendant No.1 and he is also admitted the boundaries of the suit schedule property, but denied that they are interfering the plaintiff's peaceful possession and enjoyment of the schedule property.

41. It is well settled principles of law that, the interference need not be direct, even a threat is enough, for such no need for finding whether threat is real or not and the interference cannot be gathered from tune and tuners of written statement.

42. In case on hand towards the southern side of the property the remaining land of Sy.No.116/1 is situated and defendant No.1 is in possession of said property. Further on appearing the names of defendant Nos.2 and 3 in the revenue records certainly they are trying to interference plaintiff's peaceful possession and enjoyment of the schedule property. Further when the defendants have contest the case of the plaintiff's it is nothing but and interference by the defendants in the suit property. Hence, in light above discussion the plaintiff has established that the defendants are interfering in the suit schedule property by is oral and documentary evidence. Hence, in light above discussion this court ***answered the Issues Nos. 3 and 4 in the Affirmative.***

43. ISSUE No.5: In view of discussion made in detail while answering Issue Nos.1 to 4, I proceed to pass following:

ORDER

The suit of the plaintiff is hereby decreed with cost on the following terms.

i). The plaintiff is hereby declared as a absolute owner in actual possession and enjoyment over the suit schedule property.

ii). By way of granting permanent injunction in favour of the plaintiff, the defendants, their family members, agents, servants, attorneys or any others acting through or under them or permanently restrained from interfering and encroaching with the plaintiff's peaceful possession and enjoyment over the suit schedule property.

Draw decree accordingly.

(Dictated to the Stenographer, computerized by her, corrected, revised and then pronounced by me in the open court on this the 2nd day of September, 2026.)

(Raju K Shedbalkar)

C/C I Addl. Civil Judge and JMFC.,
Soraba.

ANNEXURE**I. List of witnesses examined on behalf of the plaintiff:**

PW.1 : Basavanthappa S/o Kotrappa.

II. List of documents marked on behalf of the plaintiff:

- Ex.P1 : Certified copy of the suit schedule property in the name of plaintiff.
- Ex.P2 : RTC extract of Sy.No.116/*.
- Ex.P3 : MR.No.39/1986-87
- Ex.P4 : Certificate issued by the KSDA in favour of plaintiff.
- Ex.P5 : Acknowledgment for changing the khata in the name of plaintiff.
- Ex.P6 : Letter given by the plaintiff to the Deputy Tahasildar, Anavatti, Soraba
- Ex.P7 : Acknowledgment given by Anavatti Police.
- Ex.P8 &9 : Encumbrance certificates.
- Ex.P10 : Record of Rights certificate in respect of Sy.No.116/1.
- Ex.P11 : Certified copy of the Index of Land.
- Ex.P12 : Original sale deed copy of plaintiff dated 10.12.1980.
- Ex.P13 : Certified copy of the order passed by Assistant Commissioner, Sagar.
- Ex.P14 : MR.No.11/1982-83.

III. List of witnesses examined on behalf of the defendants:

- DW.1 : Puttappa S/o Shivappa.

DW.2 : Kotreshappa S/o Honnappa.

IV. List of documents marked on behalf of the defendants:

- Ex.D1 : Copy of ವಿಭಾಗ ಪತ್ರ.
- Ex.D2 : MR.No.12/1997-98.
- Ex.D3 &4 : RTC extracts in Sy.No.116/1.
- Ex.D5 to 7 : RTC extract in respect of suit schedule property for the year 1963-64 to 1965-1966.
- Ex.D8 : Handwritten RTC extract in respect of Sy.No.116/1.
- Ex.D9 : RTC extract in respect of Sy.No.116/1 for the year 1989-90 to 1993-1994
- Ex.D10 : RTC extract in respect of Sy.No.116/1 for the year 1994-95 to 1999-2000.
- Ex.D11 : Certified copy of the Judgment and Decree passed in OS.No.92/2019 by the Hon'ble Senior Civil Judge and JMFC., Soraba.
- Ex.D12 : Downloaded copy of Judge bearing RA.No.10005/2023 dated:14.06.2024 passed by the Vth Additional District and Sessions, Judge.

(RAJU K SHEDBALKAR)
C/C I Addl.Civil Judge & JMFC.,
Soraba.