



IN THE COURT OF THE SENIOR CIVIL JUDGE AND

J.M.F.C., AT CHIKKANAYAKANAHALLI

**Present:- Sri. SATISH S.T., B.Com., LL.B.,
Senior Civil Judge and J.M.F.C.,
Chikkanayakanahalli.**

**Dated :- This the 22nd day of June, 2026
RA.No.47/2025**

APPLICANT:-

S.Naveen S/o Late Srinivasareddy.,
Aged about 37 years,
R/o No.39/4, 1st Floor,
Opp. Bank of Baroda,
Srinivasa Redy Building,
AECS Layout road,
Kundalahalli Gate,
Bangalore-560037.

(By Sri.AM., Adv.)

// Versus //

RESPONDENTS :-

- 1.Kariyamma W/o Late Mudalagiriapp.,
Aged about 72 years,
- 2.Thimmaiah S/o Late Mudalagiriapp.,
Aged about 53 years,
- 3.Umadevi D/o Late Mudalagiriapp.,
Aged about 50 years,
- 4.Kantharaju S/o Late Mudalagiriapp.,
Aged about 47 years,
- 5.Nandisha S/o Late Mudalagiriapp.,
Aged about 43 years,
All are R/o Daggenahalli,
Handanakere Hobli, C.N.Halli Taluk,
Tumakur District.



6.Mallaiah S/o Late Siddalingaiah

@ Siddalingappa.,

Aged about 69 years,

7.Renukamma W/o Mallaiah.,

Aged about 63 years,

8.Basavaraju S/o Mallaiah.,

Aged about 38 years,

9.Thejeswari D/o Mallaiah.,

Aged about 33 years,

All are R/o Malligere Gollarahatti,

Handanakere Hobli, C.N.Halli

Taluk, Tumkur District.

(By Sri.SHC., Adv for R1 to 5,

Sri.KMR for R6, Sri.VC for R7 to 9)

Date and nature of the order	Appeal against the Judgment & decree passed in OS.163/2018 dated 18.04.2025 passed by Prl. Civil Judge & JMFC, C.N.Halli		
Date of institution of Appeal	04.07.2025		
Date of Disposal	22.06.2026		
Duration of Appeal	Year/s	Month/s	Day/s
	00	11	18

Sr.Civil Judge and J.M.F.C.,

Chikkanayakanahalli.

J U D G M E N T

This appeal is preferred by the appellant under Section 96 Rule 1 of CPC., against the Judgment and



Decree passed in OS.No.163/2018 by Prl. Civil Judge and JMFC., C.N.Halli on 28.04.2025. The plaintiffs have filed this suit for declaration and permanent injunction and the suit of the plaintiffs against the defendant was decreed.

2. In order to avoid repetition of facts and for convenience, I refer the parties to the appeal as per their ranking before Trial Court.

The case of the plaintiff's are as follows :-

3. That the plaintiffs have filed this suit for declaration that the plaintiffs are owners of suit property with consequential relief of permanent injunction. The plaintiff No.1 is the wife and plaintiff No.2 to 5 are the children of Mudalagiriyappa. During the lifetime of Mudalagiriyappa, he purchased the suit property bearing Sy.No.361/2 of Malligere village under the registered sale deed dated 24.12.1983 from one Babburaiah S/o Rangaiah. This vendor Babburaiah had purchased the suit property under registered sale deed dated 05.06.1955 from one Siddalingaiah i.e., the father of defendant No.1. The defendant No.1 is the father of defendants No.3 to 5 and husband of defendant No.2. From the date of purchase, the Mudalagiriyappa and



plaintiffs are in possession and enjoyment of the suit property. The name of Mudalagiriyappa has been entered in the mutation register extract in respect of the said property as the owner. Such being the case the defendants No.1 to 5 without right, title and interest over the suit property has sold it to the defendant No.6 on 03.11.2017, having managed to enter the names of the defendant No.1 in the RTC. The said defendant No.1 had filed the suit against plaintiff No.3 in respect of the suit property in O.S.No.63/2017 for the relief of permanent injunction. The plaintiff No.3 contested by filing the written statement and subsequently, this defendant No.1 after selling the said property to defendant No.6 withdrew the suit. It is submitted that the said sale deed is nominal sale deed and no possession is handed over to the defendant No.6 by defendants No.1 to 5 and is only a created document in order to deny the title of the plaintiffs over the suit property and hence this suit.

4. The defendants No.1 to 6 served with the suit summons. The defendants No.1 to 5 represented by one advocate and defendant No.6 is represented by another advocate. The defendant No.6 earlier was placed exparte



and got the exparte decree set aside and now has contested this suit.

5. The defendant No.1 has filed written statement denying the entire case of plaintiff. Specifically denies the title and possession of the plaintiffs over the suit property. The defendants No.1 to 5 were the owners having inherited the suit property upon the death of the father of defendant No.1 Siddalingaiah under MR No.18/97-98. The name of Siddalingaiah having continued in the RTC, now standing in the name of defendant No.1 and being in possession has sold the said property to defendant No.6 along with defendants No.2 to 5 for their family necessity. Now the defendant No.6 is said to be in possession of the suit property. Further it is stated that the suit is barred by law of limitation and hence prays to dismiss the suit.

6. The defendant No.6 in his written statement also denies plaintiffs possession and ownership over the suit property. It is submitted that the defendants No.1's name was mutated in the mutation register extract and in the RTC in the year 1997, which knowledge was with plaintiffs and having not filed suit in time, the suit is said to be barred under law of Limitation. Further since no



relief of possession is sought by the plaintiffs, the suit is also said to be barred under Section 34 of Specific Relief Act. Further submits that the market value of the property exceeds pecuniary jurisdiction of this court and hence prays to dismiss the suit. This defendant No.6 denies the title of Babburaiah by submitting that the father of defendant No.1 has not sold the suit property to Babburaiah and the sale deed dated 05.06.1955 is a bogus document. Since the plaintiffs are claiming title through Babburaiah under the sale deed dated 24.12.1983 and he having no right, title and possession, the plaintiffs cannot be declared as owners. The defendants No.1 has inherited the suit property from his father, the defendants No.1 to 5 were in possession and from them under the sale deed dated 03.11.2017, this defendant No.6 has become the owner in possession of the suit property. Further submitted that there is no RTC in the name of Mudalagiriyappa and Babburaiah. This defendant No.6 is not aware of the suit O.S.No.63/2017 at the time of purchase filed by the defendant No.1. After selling the property to him, since there was no subsisting right, the said suit was gotten dismissed. Now the revenue records are in the name of defendant No.6 and is



in possession of suit property. The property bearing old Sy.No.198/1 was renumbered in new Sy.No.361 totally measuring 5 acres 9 guntas. The western portion of this property to an extent of 2 acres 24 guntas including 4 guntas kharab was sold in favour of Siddappa S/o Late Boregowda by the father of defendant No.1 and retained the eastern portion of the remaining property which is now been inherited by defendant No.1 and is the suit property. The new Sy.No.361 upon durasth is carved into two blocks as 361/1 and 361/2. The defendant No.6 has been due diligent at the time of purchase and upon paper publication, he has purchased it. The father of the plaintiff No.2 to 5 Mudalagiriappa had challenged the MR No.18/97-98 in the year 2007 before the Assistant Commissioner, Tiptur in RA No.57/2007-08, which was dismissed for not contesting vide order dated 21.01.2011, which information is suppressed before the court and therefore the plaintiffs have not approached the court with clean hands and hence prays to dismiss the suit.

7. Upon the rival pleadings, the following issues came to be framed;



1. Whether the plaintiffs prove that they are the absolute owner of suit schedule property ?
2. Whether the plaintiffs prove that they are in possession and enjoyment of suit schedule property as on the date of filing of the suit ?
3. Whether the plaintiffs prove the alleged interference by the defendants ?
4. Whether the defendant No.1 proves that he was having right to alienate the suit schedule property in favour of defendant No.6 on 02.11.2017 ?
5. Whether the plaintiffs entitled for declaration and permanent injunction ?
6. What order or decree?

ADDITIONAL ISSUES DATED 04.01.2025

1. Whether the defendant No.6 proves that sufficient Court fee is not paid ?
2. Whether the defendant No.6 proves that Section 34 of Specific Relief Act bars plaintiff to claim reliefs sought ?

ADDITIONAL ISSUE DATED 21.01.2025

1. Whether the defendant No.1 and 6 proves that the suit with regard to relief of declaration is barred by law of limitation ?
8. The plaintiffs in order to substantiate their case, the plaintiff No.1 got examined as Pw1 and examined two witnesses one by name Mudlagiriyappa S/o Dasappa as Pw2 and Manjunatha S/o Thimmaiah as



Pw3 and marked Ex.P1 to Ex.P30. On the other hand the defendants in order to substantiate their case, the defendant No.1 got examined as Dw1 and defendant No.6 got examined as Dw2 and examined two witnesses one by name Vasudeva Murthy S/o Beeralingaiah as Dw3 and Siddaramu S.R., S/o Ramaiah as Dw4 and marked Ex.D1 and Ex.D87.

9. Having heard both learned counsels, the Trial Court has decreed the suit of the plaintiff.

10. Feeling aggrieved by said judgment and decree, the appellant/defendant has preferred this appeal with respect to dismissing of suit on following;

GROUND S

11. That the judgment and decree of the Trial Court is absolutely perverse without appreciating the written statement contentions and also without traversing to the material on record while exercising the jurisdiction for decreeing the suit and decreeing the suit in favour of the respondents No.1 to 5 is on nonest of application material facts and that there was no material document available with the respondents No.1 to 5 to show that they are in possession of the schedule property as well as



revenue documents to establish possession and title documents to prove the title in the suit for declaration and permanent injunction on the following

a. Documents evidencing lawful settled title and lawful settled possession of the plaint schedule property.

b. Documents inclusive of revenue documents to establish possession over the schedule property

c. Interference in regard to the possession on the basis of the contention raised in the plaint (interference not proved). Therefore, the very ver contentions that were raised by the court below could not have granted a decree of declaration and perpetual injunction.

12. The Trial Court has relied on the disputed title deeds of the respondents No.1 to 5 ignoring the documents of the appellant and respondent No.6. The appellant had produced voluminous revenue documents in addition to his title document to establish his lawful possession over the schedule property and the revenue documents had presumptive value and the Trial Court has brushed aside the documents produced by the appellant against a stray and unsubstantiated statements made by the respondents No.1 to 5 and their witnesses. The statement of the witness even though not



supported by any document is accepted by the Trial Court as gospel truth. The judgment of the Trial Court is based on assumptions and presumptions. Concrete evidence produced by the appellant is brushed aside on assumptions and facts which are neither the case of the parties. The judgment of the Trial Court below which based on assumptions and presumptions is liable to be set aside. The Trial Court has proceeded to decree the suit on improper and incorrect reasoning which is against the established canons of law. The reasoning is not only improper but also illogical. The Trial Court has failed to notice that the respondents No.1 to 5 are claiming the property belonging to the appellant on the basis of non-existent property sale deed, Ex.P1 and ought to have rejected the claim of the respondents No.1 to 5 and dismissed the suit instead of decreeing the suit. The Trial Court failed to notice that the title deed of the respondent No.1 to 5 and the schedule property has no nexus to each other and the survey number mentioned in the title deed of respondent No.1 to 5 is non-existent. The Trial Court failed to notice that the respondents No.1 to 5 had targeted the appellant's property. The Trial Court has failed to notice that the Ex.P1 is not corroborated by



any other documents and only on the basis of the sale deed, the respondent No.1 to 5 have failed to establish title and possession over the schedule property and the court below ought to have dismissed the suit. The Trial Court has failed to notice that the bifurcation of Sy.No.361 was in the year 2016 wherein new sub-numbers as Sy.No.361/1 and Sy.No.361/2 was assigned whereas, the fabricated title deed of the respondent No.1 to 5 had consisted fictitious division in the year 1983 wherein no division had taken place. The Trial Court has failed to notice that the property claimed by the respondents No.1 to 5 under the title deeds are non-existent and fictitious and on the basis of fabricated documents, the property in title and possession of appellant was targeted and sought to be usurped. The Trial Court ought to have dismissed the suit instead of decreeing it. The Trial Court has jumped into an erroneous conclusion that Sy.No.198/5 of Malligere village is renumbered as Sy.No.361 and the conclusion arrived is without any basis. The land belonging to the appellant was earlier numbered as Sy.No.198/1 and the same was renumbered as Sy.No.361 and Sy.No.198/5 is non-existent property. The claim made on the basis of



non-existent property ought to have been rejected. The Trial Court has not scrutinized the title documents of the appellant as well as respondent No.1 to 5 and jumped into an erroneous conclusion that both the property of the appellant and the respondent No.1 to 5 is one and the same and has proceeded to decree the suit. The conclusion drawn in on an improper and unjustifiable reasoning.

13. The Trial Court has failed to notice that the respondent No.1 to 5 have failed to produce any revenue documents to corroborate their alleged title deed and ought to have disbelieved the version of the respondent No.1 to 5 as no same person would acquire a property and keep quiet for 35 years and thereafter assert the rights. The very fact that the respondent No. 1 to 5 were asserting their rights for the first time after 35 years from the date of the alleged sale deed itself is sufficient to evidence that the respondent No.1 to 5 are asserting their rights on bogus and fabricated document and the Trial Court ought to have dismissed the suit. The Trial Court has failed to notice that case of the appellant was substantiated by cogent material evidence and the appellant had produced voluminous documents to



establish his title and possession over the schedule property and has brushed aside the revenue documents which have presumptive value as an improper reasoning and on the basis of unsubstantiated claim of the respondent No.1 to 5. The Trial Court has failed to notice that encumbrance certificate from the period 1960 to 2004 produced at Ex.D42 and Ex.43 does not reflect the alleged transaction claimed by the respondent No.1 to 5 and ought to have dismissed the suit. The Trial Court has failed to notice that the RTC pertaining to the suit schedule property was continuously standing in the name of 6th respondent's father and thereafter on his death in the name of 6th respondent. Pursuant to purchase made by the appellant, the name of the appellant was mutated in the revenue records. The Trial Court has ignored these documents and has come to an improper conclusion that appellant is not in possession of the schedule property. The Trial Court failed to notice that the relief of declaration sought for by the respondent No.1 to 5 is barred by time as the revenue entries were mutated into the name of 6th respondent as early as in 1997 and the having knowledge of the same, H.K. Mudalagiriappa had challenged the same by filing



petition invoking the provisions of Karnataka Land Revenue Act in RA.No.57/2007-08 before the Assistant Commissioner, Tiptur Sub-Division, Tiptur, Tumakuru and the same was dismissed vide order dated 21.01.2011. The respondent No.1 to 5 have suppressed this fact in order to knock off the property appellant. If the fact the respondent No.1 to 5 had knowledge of the transfer of Khatha in the name of 6th respondent in the year 1997 is taken into consideration, the relief of declaration ought to have been made within three years and the suit filed in 2018 was hopelessly barred by limitation. The Trial Court has brushed aside this fact and has erroneously decreed a time barred claim. The Trial Court has failed to take into consideration that the suit was decreed on 26.08.2023 and it was an exparte decree as against the appellant and the respondent No.1 to 5 taking advantage of the decree being granted, abused the process of the Court in abusing the judgment in order to dispossess the appellant from the suit schedule property and interfered with the property rights of the appellant and used arm twisting methods in order to dispossess the appellant. The very fact that the respondent No.1 to 5 tried to dispossess the appellant



from the suit schedule property is sufficient to establish that respondent No.1 to 5 are not in possession of suit schedule property. The Trial Court has ignored this fact and has erroneously held that respondent No.1 to 5 have proved to be in possession of suit schedule property. The Trial Court has failed to notice that the respondent No.1 to 5 and their predecessor Mudalagiriappa are claiming through Babburaiah and they have not produced any documents to show that Babburaiah was in possession of the suit schedule property. The respondent No.1 to 5 having failed to establish that Babburaiah had possession over the suit schedule property to transfer it in their favour, could not have asserted that they are in possession of the suit schedule property. The respondent No.1 to 5 have not produced the RTC or other revenue documents to establish that Babburaiah was in possession of the suit schedule property. The Trial Court has lost sight of this fact and has erroneously decreed the sought. The Trial Court has erroneously come to the conclusion that the RTC's standing in the name of appellant, tax paid receipts, crop certificate and patta book does not establish possession and has erroneously come to conclusion that those documents cannot be



relied upon unless the village account is examined. The Trial Court has failed to notice that these are public documents and documents having presumptive value and it is not necessary for the party to examine the issuing authority to prove the same. The respondent No.1 to 5 have not disputed these documents and such being the case, the suit ought to have been dismissed and the court below has erroneously decreed it. The Trial Court has erroneously and on improper reasoning accepted the unsubstantiated evidence of PW2 and PW3 in-spite of giving a finding that no documents are produced by PW2 and PW3 to assert their contentions. The Trial Court failed to notice that the evidence of PW2 and PW3 is not only unsubstantiated but also vague, unreliable and not trustworthy and yet unnecessary reliance is placed on the evidence of PW2 and PW3. The Trial Court has ignored the admissions made by the 4th respondent/4th plaintiff examined as PW1 and brushed aside the admissions to erroneously decree the suit. The Trial Court even though has extracted the evidence of PW1 wherein PW1 admits that in 2007 he had knowledge of RTC standing in the name of 6th respondent yet the Court comes to the conclusion that respondent No.1 to 5 had



no knowledge of RTC standing in the name of 6th respondent and they acquired the knowledge about the same in only 2017. It is pertinent to mention that respondent No.1 to 5 are claiming under Mudalagiriappa and Mudalagiriappa had knowledge of RTC standing in the name of 6th respondent and he had challenged the same by filing petition invoking the provisions of Karnataka Land Revenue Act in RA.No.57/2007-08 before the Assistant Commissioner, Tiptur Sub-Division, Tiptur, Tumakuru and the same was dismissed vide order dated 21.01.2011. If filing of petition before the Assistant Commissioner is taken into consideration, the cause of action arose in 2007 and this fact is evident from the earlier judgment of the Trial Court wherein Court comes to the conclusion that cause of action arose in 2007 and the suit filed in 2018 is within limitation as it is filed within 12 years. But in the impugned judgment of the Trial Court has come to different conclusion stating that plaintiffs had no knowledge and no cause of action arose in 2007 and cause of action arose in 2017 to decree the time barred claim holding that the suit is filed within 3 years from the date of cause of action.



14. The Trial Court is not sure as to what article of Limitation Act is applicable and divergent views are expressed to erroneously decree the suit, lost sight that once the limitation begins to run, there is continuous running of time and has failed to notice that what applied to Mudalagiriayappa applied to respondent No.1 to 5 as they were heir in successors of Mudalagiriayappa and they were claiming under him. The Trial Court has on an improper reasoning come to the conclusion that the appellant had knowledge of the earlier litigation in OS. No.63/2017 and has given a blatant perverse finding that appellant and 6th respondent are hand in glove. The Trial Court has failed to notice that fact that it is the respondents who are colluded with each other to knock off the property of appellant and court below has further lost sight of the fact the earlier judgment was exparte judgment as against the appellant and appellant on coming to know of passing of the judgment had filed petition seeking opportunity to contest the proceedings and upon permission granted and appellant having contested, such a finding could not have been recorded. The Trial Court has placed unnecessary reliance on the dismissal of OS.No.63/2017 as the same would not



ensure to the benefit of respondent No.1 to 5 and has placed unnecessary reliance on photographs produced by the respondent No.1 to 5 to hold that they are in possession of the schedule property while brushing aside the title and revenue documents standing in the name of appellant. The Trial Court has in its impugned judgment held that the photographs has got more evidentiary value then revenue documents having presumptive value and has failed to notice that the photographs does not pertain to the schedule property as is evident from the evidence of DW2, DW3 and DW3 and the respondent No.1 to 5 have not produced any documents to show that construction of shed is undertaken in the suit schedule property and no documents are produced to evidence that such construction is undertaken after obtaining any permission. The Trial Court has failed to notice that the respondent No.1 to 5 have falsely asserted that they are residing in the suit schedule property as the respondents No.1 to 5 are residing elsewhere as can be notice from evidence of PW1 and cause title address.

15. The Trial Court has failed to notice that the suit is not properly valued and suit ought to have been valued as on the date of filing the suit and failed to notice that



the respondent No.1 to 5 have valued the suit as per the alleged sale deed dated 1983 while the suit is filed in 2018 and ought to have rejected the plaint as the plaint was undervalued also has failed to follow the ratio of the judgment in AIR 2014 SC 937 wherein the Hon'ble Supreme Court has held that in suit for declaration of title, the onus is on plaintiffs and weakness, if any, of the defendants will not enure to the benefit of plaintiffs. The Trial Court has failed to follow the ratio of judgment in 2013 AIR SCW 3063, AIR 1993 SC 957 and AIR 2007 KAR 91 wherein it is clearly held that in a suit for declaration under Section 34 of Specific Relief Act, when the plaintiffs are capable of seeking further relief and omit to do so, the suit ought to be dismissed. In the case on hand, the plaintiffs have neither sought for possession nor for cancellation of sale deed standing in the name of appellant. The sought was barred under the provisions of Section 34 of Specific Relief Act and the court below has brushed aside this fact. The Trial Court ought to have dismissed the suit as barred by limitation as the cause of action accrued in 2007 and suit ought to have been filed within 3 years i.e., in 2010 and the suit filed in 2018 is clearly barred by limitation. The Trial Court ought to



have followed the ratio of law laid down in Khathri Hotels Private Limited case reported in AIR 2011 SC 3590 wherein the Hon'ble Supreme Court has held that in terms of Article 58, limitation starts from date of first cause of action and successive violation does not give rise to fresh cause of action. The Trial Court has failed to notice that no further relief is sought and only declaratory relief is sought and ought to have dismissed the suit following the ratio of the judgment rendered by Hon'ble Supreme Court in Thajudeen V/s Tamil Nadu Khadi and Village Industries Board reported in AIR Online 2024 SC 704 as the suit was filed beyond three years. Further the judgment of the Trial Court stands erroneous and unjustifiable reasoning and perverse and bad in law. By this submission prays to allow the appeal.

16. After receiving the TCR, I have heard arguments from both sides.

17. To decided this appeal following points are arises for my consideration;

P O I N T S

1. Whether the plaintiffs are the owners and possessors of suit property ?



2. Whether the defendants are illegally interfering in the possession and enjoyment of suit property ?
 3. Whether the suit of the plaintiffs is barred by law of limitation ?
 4. Whether call for interference by this Court with respect of Judgment and Decree warranted ?
 5. What Order ?
18. My answer to above points are here under;

Point No.1 : In the Affirmative
Point No.2 : In the Affirmative
Point No.3 : In the Negative
Point No.4 : In the Negative
Point No.5 : As per final order,
for the following;

REASONS

19. **Point No.1 and 2:-** It is the specific case of the plaintiffs that, the husband of the plaintiff No.1 and father of plaintiff No.2 to 5 the Mudalagiriappa during his life time had purchased the suit property from the lawful owner Babburaiah S/o Rangaiah his son Basavaraju under the registered sale deed dated 24.12.1983 for valuable consideration. On the date of sale deed itself the possession was delivered to Mudalagiriappa, the Babburaiah prior to selling the suit property to Mudalagiriappa had purchased the same



from Siddalingaiah under registered sale deed dated 05.06.1955. After the purchase of suit property Mudalagiriappa has spent huge money and personal labour and converted the same into fertile land after his death the plaintiffs are in lawful possession and enjoyment of suit property. The defendants without have right, title and interest over the suit property illegally interfering in the possession and enjoyment of suit property.

20. In order to prove the case of the plaintiffs, the plaintiff No.4 himself examined as PW1 in his examination-in-chief he deposed reiterating the plaint averments and produced copy of sale deed dated 05.06.1955 which is marked as Ex.P1. On perusal of this document it goes to shows that, the Babburaiah had purchased the suit property from his previous owner Siddalingaiah under the registered sale deed dated 05.06.1955. The Ex.P2 is the original sale deed dated 24.12.1983, on perusal of this document it goes to shows that Mudalagiriappa had purchased the suit property from Babburaiah and his son Basavaraju for valuable consideration through registered sale deed. The learned Advocate for defendants have vehemently argued that



there is a dispute regarding the identity of suit property. The plaintiffs have not produced any document to shows that Sy.No.198/5 was changed into Sy.No.361/2. The plaintiffs have created the sale deed dated 24.12.1983 and filed the false suit with an intention to grab the suit property. On perusal of Ex.P1 sale deed it goes to shows that the 1st defendant's father Siddalingaiah had sold the eastern portion of property in Sy.No.198/5 of Malligere village in favour of Babburaiah under the registered sale deed dated 05.06.1955. The 6th defendant who has purchased the suit property as per the Ex.D86 executed by the father of 1st defendant Siddalingaiah in favour of one Siddappa with respect of property bearing Sy.No.198/5 as per the registered sale deed dated 23.05.1955. The property has sold to 6th defendant as per the Ex.D86 is the western portion of suit property. The Ex.D87 sale deed dated 04.12.1961 the property was purchased by one Veeraiah from Siddappa, on perusal of the boundaries of this property, the property purchased by Veeraiah situated at western side. From this it goes to shows that, the property has purchased by Babburaiah as per the Ex.P1 is the eastern portion of property bearing Sy.No.198/5. The 1st defendant in his evidence



he has admitted that, sale deed executed by his father Siddalingaiah in favour of Siddappa as per the Ex.P86 being western portion of suit property. It is important to note that prior to selling this property under Ex.P86 sale deed dated 23.05.1955, the eastern portion was sold by Siddalingappa as per the Ex.P1 sale deed dated 06.05.1955. The 1st defendant has admitted that the sale deed executed by his father as per the Ex.D86 to 6th defendant. However, he disputed the Ex.P1 sale deed subsequently. The 6th defendant is not disputing the possession of Veeraiah's property as per the Ex.D87 sale deed, when he admits the boundaries of suit property it can be held that the Mudalagiriappa has purchased the suit property from Babburaiah and his son Basavaraju. Further the defendants have taken specific contention that the Sy.No.198/5 was not in existence. On carefully perusal of Ex.D82 copy of survey sketch it goes to shows that, Sy.No.198 has been renumbered as Sy.No.361. Hence, the contention taken by the defendants that there is no document to show that Sy.No.198/5 was changed to as Sy.No.361/2 is not sustainable under the law. Further the defendants in their written statement they have not at all taken any defense that there is a dispute



between them disputing the identity of suit property. Further the defendant have taken contention that the sale deeds dated 05.06.1955 and 24.02.1983 are created and fraudulent documents, as per the **Order 6 Rule 4 of CPC.**, in all cases in which party pleading relies any misrepresentation, fraud, breach of trust, lawful default or undue influence and in all other cases in which the particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with dates and items if necessary) shall be stated in the pleading. In this case neither defendant No.1 to 5 nor defendant No.6 have not stated particularly how and when the fraud and misrepresentation was taken place, in this regard the pleadings of defendant are vague and uncertain. Further the defendants have taken contention that these two documents are created and fraudulent document, as per the contention of defendants these sale deeds are created and fraudulent documents and it was executed with respect of suit property they have to sought for cancellation of sale deeds in their relief, when they have not sought for cancellation of sale deeds the said sale deeds are binding on them. Further the plaintiffs have produced copy of MR.No.216/83-84 which is marked as



Ex.P3, on perusal of this document after executing the sale deed by Babbuaiah and Basavaraju in favour of Mudalagiriyappa the mutation was effected with respect of suit property in favour of Mudalagiriyappa. The Ex.P4 is the copy of EC from 20.12.1963 to 20.12.1984 in this document also it is clearly stated about the execution of sale deed by Babburaiah and Basavaraju in favour of Mudalagiriyappa with respect of suit property. The Ex.P5 is the copy of EC from 01.04.2004 to 18.11.2017 where the defendant No.1 to 4 have mortgaged suit property in favour of State Bank of India, Huliya Branch. The Ex.P6 is the copy of EC from 01.04.1983 to 31.03.2004 which is in the name of Mudalagiriapp. The Ex.P7 is the copy of sale deed executed by defendant No.1 to 5 in favour of defendant No.6 with respect of suit property. The Ex.P8 is the RTC extract of suit property for the year 1995-96 to 2002-03 which was in the name of Veeraiah M.G. The Ex.P9 to Ex.P14 are the positive photographs showing that the plaintiffs are in possession and enjoyment of suit property. The Ex.P15 is the CD and the Ex.P16 is the certified copy of order-sheet in OS.No.63/2017, on perusal of this documents in the year 2017 the 1st defendant has filed suit for permanent injunction against



the 4th plaintiff after that he was withdrawn the said suit. From this it goes to shows that in the year 2017 it self the defendant have not executed sale deed in favour of Mudalagiriappa and they have withdrawn the suit in OS.No.63/2017 filed for permanent injunction against the plaintiff No.4. From these conduct it goes to shows that the defendant No.1 to 5 otherwise admitted the sale deed dated 24.12.1983. The plaintiffs have also examined two witnesses as PW2 and PW3 who are the residents of Malligere village, they have deposed plaintiffs are in possession and enjoyment of suit property, in the cross-examination of PW1 to PW3 the learned Advocate for defendants except denying the case of the plaintiffs nothing worth have been elicited from the moth of PW1 to PW3.

21. It is the specific case of the defendants that, the plaintiffs have created the sale deeds fraudulently dated 05.06.1955 and 24.12.1983 and trying to grab the suit schedule property illegally. In order to prove the case of the defendants, the 1st defendant himself examined as DW1, in his examination-in-chief he depose reiterating the written statement averments and produced copy of mutation extracts bearing MR.No.18/97-98 for changing



the suit property in the name of 1st defendant's family. The Ex.D2 is the copy of endorsement given by Assistant Commissioner, Tiptur in RA.No.57/2007-08. The Ex.D3 is the copy of order in RA.No.57/2007-08 wherein the appeal has filed by Mudalagiriappa was dismissed. The Ex.D4 is the RTC extracts of suit property for the year 2016-17 which was in the name of 1st defendant. The Ex.D5 is the RTC extract of suit property for the year 2023-24 which was changed in the name of 6th defendant after executing the sale deed dated 20.01.2018. The learned Advocate for defendant No.1 to 5 has vehemently argued that, these revenue documents having presumptive value, from these documents the defendant No.1 to 5 are in possession and enjoyment of suit property after that they have executed sale deed in favour of 6th defendant on 20.01.2018. Though these documents are having presumptive value but this presumption can be rebuttable presumption. The sale deeds produced by the plaintiffs dated 05.06.1955 and 24.02.1983 goes to shows that, the defendant No.1 to 5 are not the owners and possessors of suit property, when they are not the owners and possessors of suit property they have not have any right to execute sale deed in favour of 6th



defendant. Further in the cross-examination of DW1 the 1st defendant has deposed as follows;

“1955 ರಲ್ಲಿ ನಾನು ಹುಟ್ಟುವ ಮುಂಚೆಯೇ ನನ್ನ ತಂದೆ ಸಿದ್ಧಲಿಂಗಯ್ಯವರು ಬಬ್ಬುರಯ್ಯನವರಿಗೆ ಈ ದಾವಾ ಆಸ್ತಿಯನ್ನು ನೋಂದಾಯಿತ ಕ್ರಯ ಪತ್ರದ ಮೂಲಕ ಮಾರಾಟ ಮಾಡಿದ್ದರು ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ.”

22. The 1st defendant has not specifically stating that, the sale deed executed by his father dated 05.06.1955 is created document, on the other hand he has deposed he do not know these facts. From this evidence it goes to shows that the 1st defendant otherwise admitted the sale deed executed by his father in favour of Babburaiah and Basavaraju on 05.06.1955.

23. Further to prove the case of the defendant No.6, himself he examined as DW2 in his examination-in-chief he deposed reiterating the written statement averments and produced the original sale deed dated 02.11.2017 executed by defendant No.1 to 5 in his favour which is marked as Ex.D7. Though the defendant No.1 to 5 have executed this document, this document has no value in the eye of law because as per the sale deed dated 05.06.1955 and 24.02.1983 the defendant No.1 to 5 have no right, title and interest over the suit property. The Ex.D8 to Ex.D34 are the RTC extracts of suit



property, the Ex.D35 to Ex.D41 are the copy of MR's, the Ex.D42 to Ex.D46 are the copy of EC's, the Ex.D47 and Ex.D48 are the tax paid receipts and Ex.D49 and Ex.D50 are the patta book. Though the revenue documents are standing in the name of defendant No.1 to 5, but these document are maintained only for collecting of tax from the parties, these documents will not give any right, title and interest over the suit property for the defendant No.1 to 5. Further the 6th defendant has examined two witnesses have deposed supporting the case of the 6th defendant. However, these much of evidence of defendant No.2 to 4 will not helpful to the case of defendant. From these documentary and oral evidence the plaintiffs have proved that they are the owners and possessors of suit schedule property and the defendants are illegally interfering in the possession and enjoyment of suit property by the plaintiffs. **Hence, I have answered Point No.1 and 2 in the Affirmative.**

24. **Point No.3:-** The defendants in their written statement they have taken specific contention that, since from 1955 to 2017 the revenue documents of suit property are still standing in the name of Siddalingaiah and his family members. The plaintiffs have filed this suit



by creating the sale deeds with respect of suit property the defendant No.1 to 5 are in possession and enjoyment of suit property till execution of sale deed dated 02.07.2017 in favour of 6th defendant, hence the suit of the plaintiffs is barred by law of limitation. The plaintiff have filed this suit for declaration and permanent injunction earlier the 1st defendant has filed the suit for permanent injunction against the 4th plaintiff in OS.No.63/2017 on 30.07.2018 this case was withdrawn by the 1st defendant by filing memo after that plaintiff's came to know that on 02.07.2017. The defendant No.1 to 5 have executed sale deed with respect of suit property in favour of 6th defendant, the positive photographs produced by the plaintiff ie., Ex.P9 to Ex.P14 the prima-facie it goes to shows that the plaintiffs are in possession and enjoyment of suit property. The plaintiff have contended that by virtue of sale deed dated 02.11.2017 the 6th defendant has interfering in the possession and enjoyment of suit property after that on 21.08.2018 the plaintiffs have filed this suit for declaration and permanent injunction within three years, hence the suit of the plaintiffs is in time. Hence, holding that the suit of



plaintiffs is not barred by law of limitation. **Hence, have answered Point No.3 in the Negative.**

25. **Point No.4:-** After full fledged trial the Trial Court has decreed the suit of the plaintiffs held that the plaintiffs are the owners and possessor of suit property and restraining the defendants from interfering in the possession and enjoyment of suit property. The Trial Court has rightly appreciated the documentary and oral evidence produced by both the parties, the Trial Court has rightly held that on 05.06.1955 the Siddalingaiah had sold the suit property in favour of Babburaiah after that the Babburaiah and his son had sold the suit property in favour of Mudalagiriyappa on 24.02.1983, the Trial Court has rightly held that by virtue of sale deed the plaintiffs are in possession and enjoyment of suit property, the Trial Court has rightly held that the defendant No.1 to 5 have no right to execute sale deed dated 02.11.2017 in favour of 6th defendant, the Trial Court has rightly held that there is no dispute regarding the identity of suit property, the Trial Court has properly appreciated the revenue document filed by both the parties and the grounds urged in this appeal are not sustainable under the law.



26. The learned Advocate for appellant has relied on rulings reported in **2013 AIR SCW 3063 in between Venkataraja and Others V/s Vidyane Doureradjaperumal (D) Thr Lr's and Others**, where in Hon'ble Supreme Court has held that;

“Specific Relief Act (47 of 1963), S.34 Proviso-Declaratory suit without consequential relief -Tenability-Suit by plaintiff for declaration that he is owner of suit property-And sale made to defendant was null and void-Suit property in possession of tenants who were parties to suit Plaintiff could have claimed possession from tenants-Suit filed for declaration simpliciter- Not maintainable-Fact that plaintiff could file suit for eviction-No ground to hold suit as maintainable-Holding suit for declaration simpliciter as maintainable would defeat S. 34 proviso and O. 2, R. 2 of Civil P. C.”

27. The another ruling reported in **AIR 1993 Supreme Court 957 in between Vinay Krishna V/s Keshav Chandra and Another**, where in Hon'ble Supreme Court has held that;

“Specific Relief Act (47 of 1963), S.42 - Applicability - Suit for declaration of share in property -Plaintiff was not in exclusive possession of property because two other persons and also tenants were in occupation-



Failure of plaintiff to claim relief of possession-Discretion of Court in granting decree for declaration barred-Mere prayer in plaint that such other relief be granted to plaintiff without specific plea for possession-No sufficient. Specific Relief Act (47 of 1963), S.34.”

28. The principle laid down in this rulings are not applicable present case on hand, because as per the sale deed dated 05.06.1955 the possession and title of the suit property was delivered to Babburaiah from Siddalingaiah after that as per the sale deed dated 24.12.1983 the possession and title of the suit property was delivered to Mudalagiriappa from Babburaiah and his son Basavaraju, after the death of Mudalagiriappa the plaintiff has inherited the suit property and they are in possession and and enjoyment of suit property as owner.

29. The Advocate for appellant has relied on rulings as follows;

- 1.AIR 2014 Supreme Court 937 in between Union of India V/s Vasavi Co-Op Housing Society Ltd and Others.
- 2.AIR 2017 Supreme Court 1034 in between Executive Officer Arulmigu Chokkanatha Swamy Koil Trust, Virudhaunagar V/s Chandran and Others.



- 3.AIR 2007 Karnataka 91 of Kantanaka High Court, in between Aralappa and Others V/s Jagannath and Other.
- 4.2010 AIR SCW 12 Supreme Court in between Maruthi Jaiwant Nakadi V/s Eknath G.Navarekar Dead by Lr's and Others.
- 5.AIR Online 2024 SC 704 in between N.Thajudeen V/s Tamil Nadu Khadi and Village Industries Board.
- 6.AIR 2011 Supreme Court 3590 in between Khatri Hotels Private Limited and Another V/s Union of India and Another.
- 7.RSA.No.23/2021 of High Court of Karnataka, in between Somayya Belchanda V/s Santhosh and Others.
- 8.2025 Live law (SC) 428 in between Nikhila Divyang Mehta and Another V/s Hitesh P.Sanghvi and others.
- 9.AIR 2005 Supreme Court 2897, in between N.V.Srinivasa Murthy and Others V/s Mariyamma Dead by Lr's and Others.
- 10.AIR 1991 Karnataka 119 of Karnataka High Court, in between K.Venkoji Rao V/s M.Abdul Khuddur Kureshi.
- 11.RSA.No.580/2017 of High Court of Karnataka, in between Thammaiah V/s Puttaiah and Others.
- 12.ILR 2020 KAR 1449 in between Jayamma and Others V/s The State of Karnataka.

30. The principle laid down in these rulings are not applicable present case on hand, hence in view of above holding that it is not necessary to interfere in the



judgment and decreed passed by the Trial Court. **Hence, I have answered Point No.4 in the Negative.**

31. **Point No.5:-** In view of various reasons and discussions made on Point No.1 to 4, I proceed to pass the following;

ORDER

The Appeal filed by the appellant/defendant No.6 is hereby dismissed.

The Judgment and Decree passed by the Prl. Civil Judge and JMFC, C.N.Halli in OS.No.163/2018 dated 28.04.2025 is hereby confirmed.

No order as to cost.

Draw decree accordingly.

Send TCR to Trial Court with copy of this judgment.

(Dictated to the Stenographer, typed by him and after corrections, pronounced by me in the Open Court on this the 22nd day of June, 2026).

(SATISH S.T.)

Senior Civil Judge & JMFC.,
Chikkanayakanahalli.