



**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE
AND JMFC, GUBBI**

PRESENT:

**SMT. POORNIMA K. YADAV, B.A. LL.B., LL.M.,
Addl. Sr. Civil Judge & JMFC, Gubbi.**

Dated this the 3rd day of June 2026

O.S.No.300/2024

Plaintiff:

Gangamma
W/o Late S.C. Rajanna,
Aged about 65 years,
R/at Singonahalli,
Kasaba Hobli,
Gubbi Taluk.

(By Sri. T.G.M., Adv.,)

-Vs-

Defendants: 1.

Gangadhara
S/o S.C. Gundaiah,
Aged about 53 years,

2.

Geetha
W/o Gangadhara
Aged about 50 years,

Both are R/at Singonahalli,
Kasaba Hobli,
Gubbi Taluk

(By Sri R.R. Adv.,)



Date of institution of Suit	20.09.2024
Nature of Suit	Declaration and Permanent injunction
Date on which the judgment is pronounced	03.06.2026
Total Duration	Years Months Days 01 08 15

Sd/-

(POORNIMA K. YADAV)
Addl. Senior Civil Judge &
JMFC, Gubbi.

JUDGMENT

This suit is filed by the plaintiff seeking declaration of his title over suit schedule 'A' Properties and delivery of possession of suit schedule 'B' properties. i.e.,

SUIT SCHEDULE PROPERTIES

SCHEDULE A

1. Garden land bearing Sy. No. 66/1 measuring 1-03 acres, situated at Mudigere, Kasaba Hobli Gubbi Taluk.
2. Garden land bearing Sy. No. 65/6 measuring 0-16 Guntas, situated at Mudigere, Kasaba Hobli Gubbi Taluk.



SCHEDULE B

1. 0-06.08 guntas of encroached portion by the defendant in S.No. 66/1 situated at Mudigere, Kasaba Hobli Gubbi Taluk.
2. 0-02 guntas of encroached portion by the defendant in S.No. 65/6 situated at Mudigere, Kasaba Hobli Gubbi Taluk.

2. The averments of the plaint in brief is as under:

The plaintiff is the absolute owner, in possession and enjoyment of the suit schedule 'A' properties. The plaintiff's husband by name S.C. Rajanna acquired suit schedule A properties in partition held between his brothers in the year 1969. The original partition deed is with defendant No. 1. On the basis of the partition, Katha and Pahani of Suit Schedule 'A' properties were made out in the name of plaintiff's husband as per MR No. 7-1994/95. Since the date of partition, the husband of plaintiff was in possession and enjoyment of Suit



Schedule 'A' properties as absolute owner. The plaintiff's husband died leaving behind the plaintiff and children by name Manjula, Girish who succeeded to suit Schedule 'A' properties. The plaintiff and her children are in joint family. This suit is filed by the plaintiff for and on behalf of the joint family. After the death of the said S.C Rajanna, the plaintiff and her children succeeded to the suit schedule property by way of inheritance and Khatha and Pahani are made out in the name of the plaintiff vide No. T13/2016/2017. The plaintiff is in peaceful possession and enjoyment of Suit Schedule 'A' properties as absolute owner. Suit Schedule 'A' properties consists of coconut garden and farm house. The defendant is adjacent land owner towards south of the suit schedule properties. He is in possession and enjoyment of his property situated towards south of the suit schedule properties. The defendants illegally encroached 0.06.08 guntas of land in Item No. 1 of Suit Schedule 'A' property



and 0.02 guntas in Item No. 2 of Suit Schedule 'A' property. The plaintiff got measured Suit Schedule 'A' properties through Survey Authorities during October 2023 and came to know that the defendants have illegally encroached in the suit schedule 'A' properties on the southern side and same are described as Suit Schedule 'B' properties. The defendants are not having any right, title, interest or possession over the suit schedule properties, yet they are attempting to encroach upon Suit Schedule 'A' properties and they have illegally encroached in Suit Schedule 'B' properties and now they are refusing to deliver the possession of the same to the plaintiff. Hence this suit.

- 3.** In response to service of suit summons, defendant No. 1 and defendant No. 2 appeared through their counsel and filed written statement.



4. The defendants in the written statement denied the plaint averments and contended that the defendant No. 1 is the absolute owner, in possession and enjoyment of land bearing Survey No. 65/4 measuring 1.03 acres and land bearing Survey No. 65/5 measuring 16 guntas situated at Mudigere, Kasaba Hobli, Gubbi Taluk. The said properties fell to the share of father of defendant No. 1 by name Gundaiah in the partition held between the said Gundaiah and his brothers about 50 years back. The father of the defendant No. 1 was in possession and enjoyment of the said properties fallen to his share till his death and after the death of father of defendant No. 1, he has succeeded to the suit schedule properties and he is in peaceful possession of the said properties. The said properties are adjacent to the southern side of the suit schedule properties. The defendants never encroached over Suit Schedule 'A' properties. The plaintiff by creating survey sketch and report and in collusion with survey



officials has filed this suit against the defendants. Hence sought to dismiss the suit.

- 5.** Based on the above pleadings, the following issues were framed ;

ISSUES

1. Whether the plaintiff proves that, she is the absolute owner and in possession of the suit schedule “A” property by way of succession through her husband S C Rajanna on the basis of Partition of the year 1969?
2. Whether the plaintiff proves that the defendants have illegally encroached over portion of suit schedule “A” property on the southern side which is described as suit schedule “B” property?
3. Whether the plaintiff is entitled for the reliefs as sought for?
4. What order or decree?



6. The plaintiff to prove her case got examined her SPA holder as PW1 and got marked documents at Exhibit P1 to P18. On the other hand the defendants to prove their contention got examined the defendant No. 1 as DW1 and got marked documents at Exhibit D1 to D4.
7. Heard both the counsel.
8. Upon hearing and based upon the materials available on record, my findings to the above 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: As per the final order,
for the following;

REASONS

9. **Issue No. 1 and 2:** These issues are taken together for common discussion as they are inter linked with each other and also to avoid repetition of facts.



- 10.** The plaintiff is before the court claiming her absolute rights over the suit schedule 'A' properties by way of succession through her husband Late S.C. Rajanna. The plaintiff alleged that the defendants being the adjacent land owners of suit schedule 'A' properties encroached the said properties on the southern side of suit schedule 'A' properties i.e., the suit schedule 'B' properties.
- 11.** The defendants denied the claim of the plaintiff and contended that the defendant No.1 is the owner, in possession and enjoyment of land bearing Sy. No. 65/4 measuring 1-03 acres and land bearing Sy. No. 65/5 measuring 16 guntas and the said properties fell to the share of his father Gundaiah in the partition effected among his brothers about 50 years back. The defendants admitted that the said properties are adjacent to the suit schedule properties on the southern side.



- 12.** The said pleadings discloses the fact that there is clear admission by the defendants regarding the land of the defendants being situated on the southern side of suit schedule 'A' properties.
- 13.** PW1 in his affidavit evidence reiterated the plaint averments as such, I do not want to repeat the same. Ex P1 is the original SPA Executed by the plaintiff in favour of PW1. Ex P2 and P10 are Mutation Orders No. 12/2001-02 as per which suit schedule 'A' properties are mutated in the name of the plaintiff on pouthi varasu. Ex P4 is the Mutation Order No. 7/1994-95 as per which suit schedule 'A' properties were mutated in the name of the plaintiff's husband. Ex P3 is the RTC Extract of the suit schedule 'A' properties standing in the name of the plaintiff. Ex P5 and P6 are the Aakar Bandh and re-survey Tippani of land bearing Sy. No. 66 which shows Item No. 1 of the suit schedule 'A' property is in the



name of the plaintiff. Ex P12 to P14 are the Aakar Bandh and re-survey Tippani of land bearing Sy. No. 65 which shows Item No. 2 of the suit schedule 'A' property is in the name of the plaintiff. Ex P7 to P9 are the Hadbasth and report of the survey officials pertaining to Item No. 1 of the suit schedule 'A' property which shows that the cultivators of land bearing Sy. No. 66/4 has encroached 0-06 ½ guntas in the said land. Ex P15 to P17 are the Hadbasth and report of the survey officials pertaining to Item No. 2 of the suit schedule 'A' property which shows that the cultivators of land bearing Sy. No. 65/5 has encroached 0-02 guntas in the said land. Ex P5 discloses that the defendant No.1 and 2 are the cultivators of land bearing Sy. No. 66 /4 and Ex P13 discloses that the defendant No.1 and 2 are the cultivators of land bearing Sy. No. 65 /5.



- 14.** PW1 in his cross-examination admitted that during 1968 his father and siblings got divided the properties and as the properties did not tally with each other, once against they got divided the properties in the year 1969. He admitted that on the southern side of the suit schedule properties, there are properties of the defendants which fell to the share of Gundaiah. He admitted that at the time of partition, survey was not conducted. PW1 deposed that they got surveyed the properties in the year 2023 and they came to know about the encroachment. He deposed that the defendants have encroached in their property.
- 15.** DW1 in his affidavit evidence reiterated the contents of written statement as such, I do not want to repeat the same. DW1 produced RTC Extracts at Ex D1 which shows land bearing Sy. No. 66/4 measuring 1 acre 3 guntas is standing the name of the defendant No. 1 and 2



on the basis of MR No. H-14/2020-21 dated 28.12.2020 as per Ex D2. Ex D3 to D4 are the documents pertaining to fixation of boundaries of Sy. No. 66/4.

- 16.** DW1 in his cross-examination admitted that the children of Chikkegowda got divided the properties in 1969. He pleaded ignorance about the entire extent of land bearing Sy. No. 66. He admitted that his father Gundaiah was allotted 1 acre 3 guntas of land in Sy. No. 66 which was assigned Sy. No. 66/4 after phody. He deposed that his father was allotted 16 guntas of land in Sy. No. 65. He admitted about allotment of 1 acre 3 guntas of land to the husband of plaintiff Rajanna in Sy. No. 66. He pleaded ignorance about allotment of 16 guntas of land to the husband of plaintiff Rajanna in Sy. No. 65 and he pleaded ignorance that the land allotted to the plaintiff's husband is land bearing Sy. No. 66/1 measuring 1 acre 3 guntas and land bearing Sy. No. 65/6 measuring 16



guntas. He pleaded ignorance about change of katha in the name of the plaintiff's husband vide MR No. 7/1994-95. He admitted that his father Gundaiah and the husband of plaintiff Rajanna are dead. He admitted that change of katha of land bearing Sy. No. 66/4 measuring 1 acre 3 guntas and land bearing Sy. No. 65/5 measuring 16 guntas in the name of defendant No. 1 and 2. He pleaded ignorance about change of katha of Item No. 1 and 2 of suit schedule 'A' properties in the name of the plaintiff after the death of her husband Rajanna. He admitted that the properties were not measured at the time of change of katha. He admitted that there are Coconut Trees and Farm House in the property of the plaintiff. He admitted that his lands are situated on the southern side of Item No. 1 and 2 of suit schedule 'A' properties. PW1 in his cross-examination admitted his signature in the notice issued by the survey officials at Ex P9. He pleaded ignorance about submission of survey



report stating encroachment by the defendants to an extent of 06.08 guntas in Item No. 1 and 2 guntas in Item No. 2 of suit schedule 'A' properties. He deposed that he is not aware of survey work conducted by the officials. He admitted that he and his wife have not released the encroached portion to the plaintiffs.

- 17.** On perusal of the above discussed oral and documentary evidence, it is clear that the plaintiff acquired rights over suit schedule 'A' properties after the death of her husband S.C. Rajanna which establishes her absolute rights over the said properties along with her children named Manjula and Girish. The survey records at Ex P7 to P9 and P15 to P17 read with Hissa survey records at Ex P5 and P13 clearly discloses that the defendants have encroached over portion of suit schedule 'A' properties i.e. suit schedule 'B' properties. The admission by the defendants that their properties are situated on the southern side of the suit schedule properties



corroborates the fact of situation of the properties of the defendants as mentioned the Ex P5 and P13. As the defendants have encroached over suit schedule 'B' properties belonging to the plaintiff, the defendants shall handover the possession of suit schedule 'B' properties to the plaintiff. The oral and documentary evidence on record shows that the case of the plaintiff is found more probable than the contention taken by the defendants.

Accordingly, Issue No. 1 and 2 are answered in the Affirmative.

- 18. ISSUE NO. 3:** By answering Issue No. 1 and 2 in the Affirmative it is held that the plaintiff along with her children named Manjula and Girish is the absolute owner and in possession of the suit schedule A properties and the defendants have encroached over portion of suit schedule 'A' property on the southern side described as suit schedule 'B' properties. In the said circumstances,



the plaintiff is entitled for the reliefs as sought for.

Accordingly, Issue No. 3 is answered in the Affirmative.

- 19. ISSUE NO. 4:** In view of the above discussions, I proceed to pass the following;

ORDER

The suit of the plaintiff is hereby decreed with costs.

The plaintiff along with her children named Manjula and Girish is hereby declared as the absolute owner of the suit schedule properties.

Consequently, the defendants are hereby directed to handover possession of suit schedule 'B' properties to the plaintiff within two months from



the date of decree. Failing which, the plaintiff is at liberty to proceed against the defendants as per law.

Draw decree accordingly.

Dictated to the stenographer, directly on computer, typed and print out taken by her and then corrected, signed and then pronounced by me in the open court on this the **3rd day of June 2026**).

**Sd/-
(POORNIMA K. YADAV)
Addl. Senior Civil Judge
& JMFC, Gubbi.**

ANNEXURE

List of witnesses examined on behalf of the plaintiffs:

P.W.1 - S.R. Girish

List of Documents marked on behalf of the plaintiffs:

Ex.P.1 - Original SPA dated 20.02.2025

Ex.P2 - C/c of MR No. 12/2001-02
dated 21.04.2002

Ex.P.3 - RTC Extracts of Land bearing Sy.
No. 66/1

Ex.P.4 - C/c of MR No. 07/1994-95



- Ex.P.5 - C/c of Aakar Basnd Survey Sketch of Sy. No. 66/1 at Page No. 1 and 2
- Ex.P.6 - C/c of Re-Survey Tippani of Sy. No. 66 at Page No. 1 and 2
- Ex.P.7-9 - C/c of Haddubast of Re-Survey No. 66/1 along with Notice and report
- Ex.P.10 - C/c of MR No. T13/2016-17
- Ex.P.11 - Tax paid receipts
- Ex.P.12 - C/c of Aakar Band of Hissa Survey of Sy. No. 65
- Ex.P.13 - C/c of Aakar Band of Hissa Survey of Sy. No. 65/1
- Ex.P.14 - C/c of Re- Survey Tippani of Sy. No. 65 at Page No. 1 and 2
- Ex.P.15-17- C/c of Haddubast, Notice and report of Sy. No. 65/6
- Ex.P.18 - RTC Extracts of land beraing Sy. No. 65/5
- Ex.P.19 -
- 19(a) Signature of Defendant

List of Witnesses examined on behalf of the defendants:

- D.W.1 - Gangadhar

List of Documents marked on behalf of the defendants:

- Ex.D.1 - RTC Extracts of Land bearing Sy.No. 66/4
- Ex.D.2 - C/c of MR No. H14/2020-21
- Ex.D.3 - C/c of Survey Notice



Ex.D.4,4(a) - C/c of Haddabast and its
report

Sd/-
(POORNIMA K. YADAV)
Addl. Senior Civil Judge &
JMFC, Gubbi.