



**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 07th day of August 2026

O.S.No.228/2023

- Plaintiffs:**
1. Sri Govindaraju
S/o Late Venkate Gowda,
Aged about 70 years,
 2. Sri. Annayappa,
S/o Venkategowda G,
Aged about 67 years,
 3. Smt. Lakshmidevi
W/o Late Thirumale Gowda,
Aged about 48 years,
 4. Sri. Venkatesh Murthy
S/o Late Narasimhmaiah,
Aged about 48 years,
 5. Sri. Chandra
S/o Late Narasimhaiah,
Aged about 48 years,

Plaintiff No. 1 to 5 are
R/at Cheelanahalli Village,
C.S. Pura Hobli,
Gubbi Taluk.

(By Sri. H.G.P. Adv.,)

-Vs-



Defendant: Sri C. Srinivasa,
S/o Late Chikkahanumaiah,
Aged about 40 years,
R/at Cheelanahalli Village,
C.S. Pura Hobli,
Gubbi Taluk
Tumkur District.

(By Sri G.S.P., Adv.,)

Date of institution of Suit	27.09.2023
Nature of Suit	Declaration & Injunction
Date on which the judgment is pronounced	07.08.2026
Total Duration	Years Months Days 02 10 12

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

JUDGMENT

This suit is filed seeking relief of declaration of title of the plaintiffs over the suit schedule property on the basis of registered sale deed dated 28.05.1952 and consequential relief of permanent injunction in respect of suit schedule property i.e.,



SUIT SCHEDULE PROPERTY

All that piece and parcel of the Agricultural Property bearing Old Sy. No. 24, New Re-Sy. No. 224, measuring 4 acres 31 guntas with arecanut and coconut trees, situated at Naranahalli Village, C.S. Pura Hobli, Gubbi Taluk, Tumkur District.

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

Originally property bearing Sy. No. 24 totally measuring 15 acres belonged to government. One Huccha Hanuma S/o Chinniah, Venkata Hanuma S/o A.K. Huchahanumaaiah and Karihanumaiah S/o Chinnaiah residents of Cheeranahalli Village, C.S. Pura Hobli filed separate application for grant of the said land before the Land Grant Authority. The Thasildhar, Gubbi Taluk granted land measuring 5 acres each in the name of the above said 3 persons and issued grant certificates dated 09.07.1940. The said Hucchahanumaiah, his sister-in-law by name



Thirumalamma W/o Late Venkatahanumaiah and his sons by name Sannahanumaiah and Chikkahanumaiah jointly sold 3 acres and 5 acres in Sy. No. 24 under registered Sale deed dated 28.05.1952 in favour of Gowdegowda S/o Venkategowda for valuable consideration and handed over possession in favour of Gowdegowda. The said Karehanumaiah S/o Chinnaiah also sold 3 acres of land in Sy. No. 24 under registered sale deed dated 18.03.1956 in favour of Gowdegowda and the remaining extent of 2 acres of Sy. No. 223 under registered sale deed dated 17.04.1960 in favour of the said Gowdegowda and delivered its possession. As such, the said Gowdegowda acquired land bearing Sy. No. 24 measuring 3 acres, 5 acres and 5 acres in old Sy. No. 24, Re-Sy. No. 223 under registered sale deeds dated 28.05.1952, 18.03.1956 and 17.04.1960 respectively. The said Gowdegowda was in possession of the said properties during his lifetime. After his death his sons by name Venkategowda, Narasimhaiah, Rangaiah, Ganganna



and Shivanna are in possession of the said property. The said Gowdegowda and his sons jointly cultivated the said lands and they have grown Coconut and Arecanut trees in the said lands. The said Gowdegowda and his sons without having knowledge did not get the revenue documents into their names as such, the katha of the said lands continued in the name of the original grantees in spite of execution of sale deed in favour of the said Gowdegowda in the year 1952, 1956 and 1960. The property bearing Old Sy. No. 24 is re numbered as Sy. No. 223 measuring 5 acres and Sy. No. 224 measuring 5 acres and remaining 5 acres is retained in the original Sy. No. 24 of Narenahalli Village. The said Narasimhaiah S/o Gowdegowda filed application before the Assistant Commissioner for change of katha on the basis of registered sale deed executed by Hucchahanumaiah with respect to land bearing Sy. No. 24 measuring 3 acres situated at Narenahalli Village. The Assistant Commissioner registered case in RRT CR No. 143/2022 and passed the



order directing the Thasildhar to change katha in the name of the plaintiff No.1 Govindaraju. As such, the katha is standing in the name of the plaintiff No.1. Likewise, on the basis of the order of Assistant Commissioner, Tumakuru Sub Division the katha of land bearing Sy. No. 24, Re-Sy. No. 223 is also changed in the name of the plaintiff No.1 Govindaraju. The said Narasimhaiah S/o Gowdegowda had also filed application for change of katha with respect to land bearing Sy. No. 24, New Sy. No. 224 into his name from the name of Venkatahanuma on the basis of registered sale deed dated 28.05.1952. But the Thasildhar, Gubbi by mistake transferred the katha in the name of Narasimahaiah on pouthivarasu. The grandsons of Gowdegowda were in joint possession of their joint family properties till 2019. Thereafter suit was filed in OS No. 189/2019 on the file of Prl. Senior Civil Judge and JMFC, Gubbi by the present plaintiff 1 and 2 against plaintiff 3 to 5 seeking relief of partition and separate possession of their



joint family properties and the said suit came to be compromised and same was decreed on 28.02.2020. The plaintiff No. 1 has acquired an extent of 1 acre 10 guntas in land bearing Sy. No. 24, New Sy. No. 224 and the plaintiff No. 2 to 5 acquired 38 gutnas each in the said land, in total 4 acres 31 guntas and remaining 5 guntas of land is acquired by the Government for Kaveri Neeravari Nigama. The plaintiff No. 1 is the absolute owner of 1 acre 10 guntas and plaintiff No. 2 to 5 are the absolute owners of 38 guntas each, in total 4 acres 31 guntas i.e., the suit schedule property on the basis of compromise decree. The defendant is the son of Chikkahanumaiah who had sold the property in favour of Gowdegowda along with his brother Sannahanumaiah and father Hucchahanumaiah. The defendant and his family members have not retained any property in old Sy. No. 24, New Sy. No. 224 of Narenahalli Village as registered sale deeds were executed. The defendant was not born at the time of execution of



registered sale deed by his grandfather and father in favour of Gowdegowda. But the defendant with malafide intention and to cause loss to the plaintiffs filed application before the SC/ST Commissioner to cancel katha and handover possession of the suit schedule property and the said application was filed against the dead person i.e. Narasimahaiah. As such, SC/ST Commissioner issued notice to the dead person and ordered for cancellation of katha by directing the Thasildhar to hand over the possession of the suit schedule property to the defendant as the katha was changed in the name of Narasimhaiah on pouthi varasu. The Thashildar visited the suit schedule property as per the direction of SC/ST commission and the plaintiffs requested the Tahsildar to grant some time for production of documents before the said commission. The Tahsildar conducted mahazar stating that the plaintiffs and their family members are in possession of the land in dispute for the past 70-80 years. The defendant is



threatening the plaintiffs to take possession of the suit schedule property. The defendant denied the title of the plaintiffs over the suit schedule property and he caused interference to the plaintiffs peaceful possession and enjoyment over the suit schedule property. Hence the suit.

- 3.** In response to service of suit summons, the defendant appeared through his counsel and filed written statement.
- 4.** The defendant in the written statement denied the plaintiff's averments and contended that he is the son of one Chikkahanumaiah and he belongs to schedule caste as such, the provisions of PTCL Act is applicable to the present case. The defendant is the legal heir of Chikkahanumaiah and their elders are ancestors. Land bearing old Sy. No. 24 of Narenahalli Village, C.S. Pura Hobli, Gubbi Taluk totally measuring 15 acres 33 guntas was Government Gomala Land wherein an extent of 5



acres each was granted to one Hucchahanumaiah S/o Chinnaiah, Karehanumaiah S/o Chinnaiah and Venkatahanuma S/o Huccha as such, total extent of 15 acres of land was granted to the family of the said 3 persons. Remaining extent of 33 guntas of Karab land was equally distributed to the said 3 persons. Saguvali chit was issued on 09.07.1940/41 and the said 3 persons family members and their ancestors were cultivating the said lands. Land bearing Sy. No. 24 came to be renumbered as Sy. No. 223 and 224 under RMC No. 45/48-49 dated 14.06.1949 and Darkasth was made by the Government. The grant of 5 acres made in favour of Huccahanuma S/o Chinnaiah wherein Saguvali Chit was changed into his name vide RR No. 72. Likewise, after Durasth 5 acres of land granted to Karehanumaiah was assigned Sy. No. 223, Katha No. 578 and 5 acres of land granted to Venkatahanuma was assigned Sy. No. 224, Katha No. 206. The said Hucchaiah @ Huccha S/o



Late Chinnaiah died on 02.09.1950 and the said Karehanumaiah @ Karehanuma S/o Late Chinnaiah died on 03.06.1955 and the said Venkatahanuamaiah @ Venkatahanuma S/o Late Hucchaiah died on 25.02.1951 and after their death, the family members have succeeded to the suit schedule property. The granted extent of 5 Acres of land to Huccha S/o Hanumaiah came to be transferred in his name till 2020-21 and documents of Sy. No. 24 to an extent of 4 acres 22 guntas stood in the name of Hucchahanuma. In Sy. No. 24 an extent of 0.18 guntas of land was acquired for Kaveri Neeravari Limited. The said extent of 4 acre 22 guntas in Sy. No. 24 is standing in the name of Huccha S/o Hanuma till 2020-21. The plaintiff filed appeal before the Assistant Commissioner, Tumakuru stating that 3 acres of land in Sy. No. 24 was sold by Huccha S/o Hanumaiah under registered sale deed dated 29.09.1952 and the Assistant Commissioner by considering the said sale deed of 70



years old and being registered document allowed the appeal in RRT (A) CR No. 143/2022 dated 03.06.2022 and Order was passed in favour of Gowdegowda @ Gowdaiah. The defendant challenged the said Order before the Deputy Commissioner in RP No. 270/2022, Wherein the order of the Assistant Commissioner was stayed. The documents of Sy. No. 223 is stood in the name of Karehanumaiah S/o Chinnaiah till 1968-69 to 2023-24. The said Karehanumaiah died issue-less on 03.06.1955 as such, the said property is still standing in the name of Karehanumaiah. The plaintiffs filed this suit even though the suit schedule property is SC/ST Land falling within the provisions of PTCL Act. The plaintiffs against statutory law purchased properties to an extent of 3 acres and 2 acres on 18.03.1956 and 17.04.1960 and filed this suit after lapse of 60 years. In Sy. No. 225 an extent of 5 guntas is acquired by Kaveri Neeravari Nigam and the revenue documents of the remaining



extent of 4 acre 36 guntas is standing in the name of Venkatahanuma. Even though the documents of Sy. No. 224 of stood in the name of defendant's ancestors, the said Narasimhaiah S/o Late Gowdegowda in collusion with revenue authorities got created revenue records of Sy. No. 24 to an extent of 3 acres. The plaintiffs illegally got changed revenue records in-spite of the documents of Sy. No. 224 measuring 4 acres 31 guntas standing in the name of Venkatahanuma. The defendant filed appeal before the SC/ST State Commission on 01.03.2018 wherein notice was issued to the Thasildhar, Gubbi Taluk and revenue inspector, C.S. Pura Hobli, and notice was served on Narasimhaiah S/o Gowdegowda. On 27.05.2022 the revenue Inspector, C.S. Pura Hobli appeared before the said Commission and pleaded that revenue documents are changed by oversight and agreed to modify the revenue documents within 30 days. On the basis of the undertaking of the the Thasildhar before the



said commission in petition No. 279/2018 on 25.05.2022 and 07.06.2022, the Assistant Commissioner registered Suomoto proceedings in RRT CR No. 57/2022-23 dated 27.06.2022 by canceling the earlier order and restored the revenue document in the name of Venkatahanuma. The said Commission is the final authority to restore the land and possession in favour of original grantees as such, the claim of the plaintiffs is opposed to statutory loss. Hence, sought to dismiss the suit.

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

ISSUES

1. Whether the plaintiffs prove that, they are the absolute owners and in possession of suit schedule property on the basis of compromise decree in OS No.189/2019 dated 28.02.2020 on the file of Prl. Senior Civil Judge & JMFC., Gubbi?



2. Whether the plaintiffs prove the alleged interference from the defendants?
3. Whether the defendant proves that in land bearing old Sy No.24, 5 acres each to an extent of 15 acres was granted to one Hucchahanumaiah, Karehanumaiah sons of Chinnaiah and Venkatahanuma S/o Huccha governed under PTCL Act?
4. Whether the defendant proves that he succeeded to the suit schedule property through the family members of Hucchahanumaiah, Karehanumaiah sons of Chinnaiah and Venkatahanuma S/o Huccha by inheritance?
5. Whether the defendant proves that suit is not maintainable under the provisions of PTCL Act?
6. Whether the plaintiffs are entitled for the reliefs as sought for?



7. What order or decree?

6. The plaintiffs to prove their case got examined the plaintiff No. 1 as PW1, witnesses as PW2 and PW3 and got marked documents at Exhibit P1 to Exhibit P45. On the other hand the defendant to prove his contention got examined himself as DW1 and got marked documents at Exhibit D1 to D33.
7. Heard both the counsel.
8. Counsel for the plaintiff relied on the judgments of Hon'ble Supreme Court of India and Hon'ble High Court of Karnataka as under:

1. **(SLP (C) NO. 34332 OF 2010 BETWEEN SHARDHAMMA AND ANR. V/S THE DY. COMMISSIONER AND ORS.,** wherein it is held that,

“8. In the light of the ratio laid down in the aforesaid judgments, it can be safely gathered that as the application under Section 5 of the PTCL Act was preferred after expiry of more than 10 years period, the same should have



been dismissed on the ground of delay and latches.

9. There is one another important aspect with regard to Saguvalli Chit which was confirmed on 12.05.1954. The vernacular version and the English translation which are on record reveal that there is a non-alienation clause which provides that the land in question shall not be transferred before expiry of period of 10 years and, therefore, in the light of this categoric recital in the Saguvalli Chit, the sale deed executed in the matter could not have been declared as null and void as has been done by the authorities and affirmed by the learned Courts below."

2. CIVIL APPEAL NO. 1390 OF 2009 between NEKKANTI RAMA LAKSHMI V/S STATE OF KARNATAKA AND ANR., Wherein it is held that,

"This relief was granted to the farmers due to flood in the Kosi River which make agricultural operations impossible. An application for restoration was made after 24 years and was allowed. It is in that background that this Court upheld that it was unreasonable to do so. We have no hesitation in upholding that the present application for restoration of land made by respondent-Rajappa



*was made after an unreasonably long period and was liable to be dismissed on that ground. Accordingly, the judgments of the Karnataka High Court, namely, R. Rudrappa vs. Deputy Commissioner, 2000 (1) Karnataka Law Journal, 523, Maddurappa vs. State of Karnataka, 2006 (4) Karnataka Law Journal, 303 and G. Maregouda vs. The Deputy Commissioner, Chitradurga District, Chitradurga and Ors, 2000(2) Kr.L.J.Sh.N.4B holding that there is no limitation provided by Section 5 of the Act and, therefore, an application can be made at any time, are overruled. Order accordingly.
9. The appeal is allowed accordingly.”*

**3. Writ Petition No. 46279/2013 (SC – ST)
between Sri Ganganna V/s The State of
Karnataka represented by its Principal
Secretary and Others, Wherein it is held that,**

“17. It is clear from the afore extracted provisions that the commission is enjoined with functions to investigate and examine the working of various safeguards provided under Constitution of India or any other law intended for the welfare and protection of the scheduled castes and scheduled tribes and to enquire into specific complaints with respect to deprivation of their rights



and safeguards under the Constitution. Section 10 of the Act empowers the Commission to carry out investigation for the purposes of investigating any matter under Section 8 for which, the Commission has the powers of a Civil Court.

18. A reading of the provisions would lead to an unmistakable interpretation that the functions entrusted to the Commission are in the nature of investigation and examination of various safeguards provided to the Scheduled castes and Scheduled Tribes. The provisions of the Act do not clothe the Commission with such powers to entertain the petition that is filed by a grantee seeking restoration of land and investigate into the matter.”

4. 2025(3) KCCR 2581 (DB), between Muniyamma since dead by LRs v/s State of Karnataka and Others, wherein it is held that,

“5.2 Though the principles governing overlap, the delay and laches has the facet in equity. Delay is the genus to which the laches and acquiescence are species. The jurisprudential concepts of delay, laches and acquiescence have their own colour and connotation and conceptually often different from crossing the period of limitation prescribed in the



statutory provision. Limitation binds the litigant in terms of initiating a legal action or filing any proceedings. Laches concedes an element of culpability in allowing time to pass by in commencing the action in law.

6. In light of the above discussion and the position of law that would emerge, in the facts of the case, the restoration of the land cannot be permitted after 42 years. The question of laches would come into play. 42 years having been passed, it would be highly unreasonable, unjust and inequitable, as well as against law to grant any relief to the original grantee-the petitioners-appellants, permitting restoration of the land and to treat the transfer of the land taken place long back to be null and void.

5. 2025(3) KCCR SN 199 (DB) between SRI. M.R. MUKUND KUMARJI V/S L.N.K. MURTHY.,
wherein it is held that,

“Section 5. Application seeking restoration of granted land was filed after an unexplained delay of over 39 years. Such prolonged and unjustified delay attracted the bar of laches and disentitled the applicant to equitable relief. Restoration of land after such an extended period was rightly declined.



Rejection of the application was held to be proper.”

9. 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 Negative
Issue No.4:	In the Negative
Issue No.5:	In the Negative
Issue No.6:	In the Affirmative
Issue No.7:	As per the final order, for the following;

REASONS

10. **ISSUE NO. 1, 3 and 4:** These issues are taken together for common discussion as they are inter linked with each other and also to avoid repetition of facts.
11. PW1 in his affidavit evidence reiterated the plaint averments as such I do not want to repeat the same. PW1 produced G-Tree as per Exhibit P1 to show that the



plaintiffs are the family members of Late Gowdegowda. Exhibit P2 is the certified copy and Exhibit P38 is the original registered sale deed dated 28.05.1952. Exhibit P2/P38 discloses the Hucchaiah alias Huccha S/o Chinnaiah and his first deceased son Venkatahanumaiah's wife Tirumalamma, second son by name Sannahanuma, third son by name Chikka since minor represented by his guardian father Huccha sold land bearing Survey No. 24 measuring 3 acres and 5 acres in favour of Gowdegowda son of Venkate Gowda for sale consideration amount of ₹1000. Exhibit P3 is the record of rights of Survey No. 224 measuring 5 acres 1 guntas, Karab of 5 guntas, 4 acres 36 guntas. Exhibit P4 to P7 are the RTC Extracts of land bearing Survey No. 224 in the name of Venkatahanuma and column number 12 of the said document discloses name of Venkategowda from 1979-80 till 2001-02. Exhibit P8 is the Index of Lands which discloses that land bearing Survey No. 24 is



podid as Survey No. 223 and 224. Exhibit P9 is the record of rights which discloses that land bearing Survey No. 24 is gomala land. Exhibit P10 is the akarband of land bearing Survey No. 224 to an extent of 5 acres 1 gunta. Exhibit P11 is the survey sketch which discloses land bearing Survey No. 224 was granted to Huccha, son of Chinnaiah. Exhibit P12 is the mutation order dated 11.08.2015 which shows that an extent of 5 guntas in Survey No. 224 is acquired by Kaveri Neeravari Nigama Exhibit P13 is the mutation order dated 29.01.2017 which discloses that an extent of 4 acre 31 guntas came to be mutated in the name of Narasimaiah S/o. Late Gowdegowda from the name of Venkatahanuma. Exhibit P14 is the mutation order dated 28.06.2022 reflecting the entries at Exhibit P12 and Exhibit P13. Exhibit P15 to P24 are the RTC Extracts of Land Bearing Survey No. 224 wherein an extent of 4 acres 31 guntas which stood in the name of Venkatahanuma and same was mutated



in the name of Narasimhaiah S/o. Late Gowdegowda which again came to be re-entered in the name of Venkatahanuma on the basis of the order of the Assistant Commissioner on 27.06.2022. Exhibit P26 is the encumbrance certificate of land bearing Survey No. 224 for the period 01.04.2004 to 06.02.2025. Exhibit P27 to 32 are the Death Certificates of Gowdegowda Son of Venkategowda, Smt.Chenamma wife of Gowdegowda, Venkategowda Son of Gowdegowda, Smt. Lakshamma wife of Venkategowda, Smt.Huchamma wife of Narasimaiah and Narasimaiah son of Gowdegowda i.e., the family members of the plaintiffs.

- 12.** Exhibit P33 is the certified copy of the order sheet of OS No. 18.09.2019, Exhibit P34 is the certified copy of the plaint of the said suit, Exhibit P35 is the certified copy of the amended plaint of the said suit, Exhibit P36 and Exhibit P37 are the certified copies of the compromise petition of the said suit which shows that the present



plaintiffs compromised suit in OS No. 189/2019 wherein the present plaintiff no. 1 acquired 1 acre 10 guntas of land in old Survey No. 24, new Survey No. 224 and present plaintiff no. 2 to 5 acquired 38 guntas each in the said land, totally measuring 4 acres 31 guntas.

13. Exhibit P39 is the original registered sale deed dated 28.05.1952 which discloses the Hanumaiah S/o Chinnaiah sold land bearing Survey No. 223 measuring 5 acres in favour of Gowdegowda son of Venkate Gowda for sale consideration amount of ₹200. Exhibit P40 is the original registered sale deed dated 17.04.1960 which discloses the Kare Hanumaiah S/o Chinnaiah sold land bearing Survey No. 223 measuring 5 acres in favour of Gowdegowda son of Venkate Gowda for sale consideration amount of ₹200.

14. Exhibit P41 is Section 6 (1) acquisition notification dated 01.02.2006 in the name of Venkate Gowda to an extent of 5 guntas in Survey No. 224 which is acquired by the



Special Land Acquisition Officer. Exhibit P42 is the report of the Village Accountant which discloses that the plaintiffs are in possession of 4 acres 31 guntas of land in Survey No. 224 of Naranahalli Village, C. S. Pura Hobli, Gubbi Taluk for the past 70-80 years. Exhibit P43 is the report of the Thashildar, Gubbi Taluk which discloses that the children of Narasimhiah son of Gowdegowda are in possession of 4 acres 31 guntas of land in Survey No. 224 of Naranahalli Village, C. S. Pura Hobli, Gubbi Taluk. Exhibit P44 is the order from the Office of Thashildar, Gubbi Taluk dated 04.06.2022 which discloses there was oral direction of SC/ST commission seeking for cancellation of mutation of MR No. H17/2016-2017. The said mutation order of MR No. H17/2016-2017 is produced by PW1 at Exhibit P13 wherein an extent of 4 acre 31 guntas came to be mutated in the name of Narasimaiah S/o. Late Gowdegowda from the name of Venkatahanuma. Exhibit



P45 is the representation of the Thashildar, Gubbi Taluk before the SC/ST commission showing the reason for her non-appearance before the said commission and in the said representation the Thashildar, Gubbi Taluk has mentioned regarding oral direction of SC/ST commission seeking for cancellation of mutation of MR No. H17/2016-2017. Exhibit P42 to P45 clearly discloses that the plaintiffs are in possession of the suit schedule property, yet here was oral direction from the said commission directing the revenue officials of Gubbi Taluk to cancel the mutation order transferred in the name of Narasimaiah son of Gowdegowda i.e. elder uncle of the plaintiff no. 1 to 3 and father of plaintiff no.4 and 5.

- 15.** PW1 in his cross-examination deposed that he is resident of Cheeranahalli Village, C. S. Pura Hobli. He denied that he is residing in Bengaluru and carrying on business in the said place for the past 25 years. He admitted that land bearing Survey No. 24 was Gomala land. He pleaded



ignorance about the documents of the said property prior to 1940 standing in the name of the Government. He admitted that during 1940-41 the government for the upliftment of backward communities granted 5 acres of land each in suit schedule survey number to one Huccha, Karehanamaiah son of Chinnaiah and Venkata son of Hucchaiah. He admitted that as per Order dated 14.06.1949, RMC 48-44, land bearing Survey No. 24 was podid as Survey No. 223 and 224. The counsel for the defendant suggested PW1 that land was granted in Survey No. 24, 223 and 224. PW1 deposed that his grandfather purchased 8 acres of land. He admitted that as per Durasth of 1948-49 documents of 5 acres of land are transferred in the name of Hucchahanuma son of Chinnaiah. He admitted that the defendant is the family member of the said Hucchahanuma. When the counsel for the defendant suggested PW1 that katha of 5 acres of land stood in the name of Hucchahanuma son of



Chinnaiah, PW1 deposed that his grandfather purchased the property but did not get katha transferred into his name. He admitted that as per RR No. 72, katha came to be transferred in the name of the said Hucchahanuma. PW1 volunteered that his family members did not get katha changed in their name.

- 16.** PW1 denied that on the basis of saguvalichit, Kare Hanumaiah, son of Chinnaiah is in possession of 5 acres of land. PW1 volunteered that after sale transaction the plaintiffs are in possession of the land for the past 70 years. He admitted that the land of the said Kare Hanumaiah is podid as Survey No. 223 after Durasth. He admitted that the said Durasth is in the name of Kare Hanumaiah. PW1 volunteered that after Durasth his grandfather Gowdegowda purchased the property. He admitted that after Durasth in the name of Kare Hanumaiah, same is transferred in katha No. 578. He admitted that as per the Durasth documents, katha and



Pahani of Survey No. 223 is transferred in the name of Kare Hanumaiah. He admitted that till 2022 the katha was in existence in the name of the said Kare Hanumaiah. PW1 volunteered that as they were illiterates they did not get katha transferred into their name. He denied that as the said land was reserved for backward communities, katha was not changed in the name of his grandfather. PW1 admitted that land of Venkata Hanuma son of Huccha came to be numbered as Re-survey No. 224. He admitted that katha No. 506 came to be transferred in the name of the said Venkata Hanuma son of Huccha. He pleaded ignorance that the said lands were granted to the persons belonging to SC community.

- 17.** PW1 admitted that he had filed RP No. 256/2022 with respect to the suit schedule property and RP No. 270/2022 before the Deputy Commissioner, Tumakuru. He admitted that R. P. No. 256/2022 is dismissed on 06.11.2024. He admitted that as per order of R. P. No.



256/2022 the Deputy Commissioner has ordered that the said property belongs to SC/ST community and he has not challenged the said order.

- 18.** PW1 deposed that property was purchased on 29.05.1952 from the great grandfather of the defendant by name Huccha alias Hucchaiah son of Chinnaiah. He denied that the said Huccha alias Hucchaiah died on 02.09.1950. He pleaded ignorance if the said Huccha alias Hucchaiah was alive on 29.05.1952. He deposed that his grandfather Gowdegowda purchased property from Karehanumaiah, son of Chinnaiah. He pleaded ignorance that the said Karehanumaiah died on 03.06.1955 and Venkatahanumaiah died on 25.02.1951. He deposed that the wife of the said Venkatahanumaiah, by name Thirumalamma has put her signature to the sale deed. He admitted about issuance of land acquisition notice to the defendant's family. PW1 volunteered that the father of the defendant gave him the notice and told



the plaintiffs to get changed katha into their names. When the counsel for the defendant suggested PW1 that on 22.07.2015 the government has observed that the defendant's family is the owner of the suit schedule property, PW1 deposed that as the katha was in their name same was observed by the government. He volunteered that the sale deed of the said property is in their name. When the counsel for defendant suggested PW1 that after the sale of 1952 till 2022 they did not get changed katha into their names, PW1 answered that after the death of their father they tried to get katha changed into their names. He deposed that katha of land bearing Survey No. 223 is transferred in the name of his younger uncle Narasimaiah. He admitted that the said katha is cancelled by the Deputy Commissioner, Tumakuru. He admitted that the plaintiff's family of Venkate Gowda and the defendant's family belong to different communities. He deposed that katha was changed on 29.01.2017 vide



MR No. H17/2016-17. He admitted that the name in the said mutation order is Narasimaiah son of Gowdegowda. He denied that in the said mutation order, the grandfather of PW1 by name Narasimaiah got created the mutation order as the son of Venkata Hanuma. He admitted that due to the said reason the defendant gave application before the SC/ST commission. He admitted that in the enquiry of the said application in petition No. 279/2019 notice was issued to the Thahsildar, Gubbi on 25.05.2022. He pleaded ignorance that the Thashildar, Gubbi represented before the said commission to take action against the created document. He admitted that the katha and pahani standing in the name of the plaintiffs came to be cancelled. He volunteered that same is cancelled without bringing it to their notice. He denied that name of Venkatahanumaiah reflected from 1952 to 2023-24. He volunteered that the katha in the name of his grandfather and younger uncle came to be cancelled.



He denied that the compromise of suit as per Exhibit P33 does not bind the defendant and his family members as they were not parties to the said suit. He denied that he illegally got created documents of Survey No. 24, 223 and 224.

19. PW1 admitted that in the sale deed dated 28.05.1952 there is Thumb impression of Huccha Hanumaiah. He denied that the said Huccha Hanumaiah died in the year 1950. He denied that they got created the thumb impression of the said Huccha Hanumaiah in the sale deed at Exhibit P38. He denied that the thumb impression in the said sale deed is not of the said Huccha Hanumaiah.

20. PW2 and PW3 are the independent witnesses examined by the plaintiffs. PW2 and PW3 in their affidavits deposed that they are acquainted with the plaintiffs, defendant and they have seen the suit schedule property. They deposed that suit schedule Survey No. 24, Re-survey No.



224 totally measuring 4 acres 31 guntas situated at Naranahalli, C.S.Pura Hobli, Gubbi Taluk belongs to the plaintiffs and they are in the possession of the said property. They deposed that the defendant does not have any rights and possession over the suit schedule property. They deposed that the plaintiffs have grown coconut and arecanut trees in the suit schedule property and the said trees are fruit yielding. They deposed that the plaintiffs are enjoying the fruits of the said trees and they are in the possession of the suit schedule property. They deposed that as the defendant caused interference to the plaintiffs, hence they filed this suit.

- 21.** PW2 in his cross examination deposed that land bearing Survey No. 24 is totally measuring 4 acres 31 guntas. He admitted that the said land originally measured 15 acres 33 guntas. He pleaded ignorance about the grant made in the said land. He pleaded ignorance about the details of phodi of Survey No. 24. He pleaded ignorance about



grant of the suit schedule property to the family of the defendant on 09.07.1940. He pleaded ignorance about the transactions pertaining to land bearing Survey No. 24 that has took place before his birth. He deposed that he is born in 1973. He deposed that his father and grandfather had informed him about the details of the suit schedule property. He deposed that he is the neighboring land owner of land bearing Survey No. 224 in Survey No. 222. He deposed that he has not seen the document of the defendant pertaining to the suit schedule property. He deposed that there are about 30 years old coconut and arecanut trees in the suit schedule property. He deposed that the said trees were planted by the father of the plaintiff no. 1 by name Venkategowda. He denied that the said Trees are aged 65-70 years. He denied that the defendants have not given the possession of the suit schedule property either to the plaintiffs or their family members. He pleaded ignorance about the



revenue proceedings pertaining to the suit schedule property that has taken place before the Deputy Commissioner, Tumakuru. He denied that the plaintiffs are the residents of Bengaluru.

- 22.** PW3 in his cross examination pleaded ignorance about the transactions that has taken place in the suit schedule property prior to 25 years before his birth. He deposed that he is born in the year 1965. He admitted that during 1940 the suit schedule property was government land. He pleaded ignorance about the grant made by the government to the family of the defendant who belonged to Schedule Caste and Schedule Tribes Community. He pleaded ignorance about grant of 15 acres 33 guntas of land to the family of the defendant who belonged to the said community. He denied that the family of the defendant have not handed over the possession of the suit schedule property either to the plaintiffs or their family members. He denied that



coconut, arecanut, tamarind and other trees which are existing in the suit schedule property were planted by the defendant and his ancestors. He denied that he is not resident of Cheeranahalli and he is residing with the plaintiff no. 1 at Bengaluru. He denied that the defendant and his family members are using the yield of the suit schedule property.

- 23.** The said cross-examination by the counsel for defendant discloses the facts as under:

Point number 1: The defendant and his family members belong to Schedule Caste/Schedule Tribes Community as such the suit schedule property was granted to the persons belonging to SC/ST community. Hence the sale deed of the plaintiffs is not valid.

Point number 2: The vendor of the plaintiffs grandfather i.e. Hucchahanumaiah with respect to the suit schedule property died in the year 1950. As such sale deed dated 29.08.1952 is not a valid document.



Point number 3: The revenue records of the suit schedule property continued in the name of Huccha S/o.Hanuma which shows the rights of the defendant and his family members over the suit schedule property.

Point number 4: When the revenue documents of the suit schedule property continued in the name of Huccha S/o Hanuma, the younger uncle of the plaintiff by name Narasimaiah, illegally got created mutation order of the suit schedule property into his name on Pouthivarasu, even though he is not related to the family of the defendant.

Point number 5: Cancellation of the revenue records of the suit schedule property from the name of Narasimaiah, son of Gowdegowda by the Deputy Commissioner, Tumakuru by holding that the suit schedule property belongs to the persons belonging to SC/ST community.



Point number 6: The coconut and arecanut trees were planted in the suit schedule property by the defendant and his ancestors.

- 24.** In this suit there are certain defenses established by the defendant to disprove the rights of the plaintiffs over the suit schedule property. In this background it is necessary to examine the Oral and documentary evidence produced by the defendant.
- 25.** DW1 in his affidavit evidence reiterated the contents of his written statement. As such, I do not want to repeat the same. DW1 produced certified copy of the grant certificate at Exhibit D1/D18 which shows that 5 acres of land in Survey No. 24 of Naranahalli Village, Gubbi Taluk, Tumakuru District was granted in favour of Venkatahanuma.
- 26.** Exhibit D2 is the notice of the Thashildar, Gubbi Taluk which is dated 21.07.2022 which shows that it is regarding Cancellation of Katha and Pahani of Land



Bearing Survey No. 224 measuring 4 acre 31 guntas situated at Naranahalli Village, C.S.Pura Hobli, Gubbi Taluk, Tumakuru District which came into existence on the basis of created documents. Exhibit D2 discloses that the Pahani holders of Land Bearing Survey No. 224 measuring 4 acre 31 gunta situated at Naranahalli Village, C.S.Pura Hobli, Gubbi Taluk, Tumakuru District got created katha and Pahani as such the applicant by name Srinivas i.e. the defendant of this suit filed application before the Scheduled Caste/Schedule Tribes Commission wherein the said commission directed in the inquiry dated 27.05.2022 for cancellation of mutation order number H17/2016-17. As such the Assistant Commissioner ordered cancellation of mutation order number H17/2016-17 and redirected for the katha as per earlier names. Hence, the said Narasimaiah, son of Gowdegowda was directed to hand over land survey measuring 4 acres 31 guntas to the family members of



Venkata Hanuma by name Srinivas i.e. the present defendant.

- 27.** Exhibit D3 is the certified copy of the order of the Assistant Commissioner, Tumakuru dated 03.06.2022 as per which, the Thashildar, Gubbi taluk was directed to enter the name of Gowdegowda alias Gowdaiah, son of late Venkategowda in the revenue records of Land Bearing Survey No. 24 measuring 4 acres 22 guntas to an extent of 3 acres situated at Naranahalli Village, C. S. Pura Hobli, Gubbi Taluk on the basis of registered sale deed bearing Document No. 504/52-53. In the said order it was directed that the legal heirs of the purchaser could get the document of katha and Pahani on pouthi-varasu.
- 28.** Exhibit D4 to D6 are the hissa tipani of Re-survey No. 24. Exhibit D7 and D15 are the certified copy of the index of lands of Survey No. 24 which is phodid as Survey No. 223 and 224. The said document discloses that land bearing Survey No. 24 was Gomala land and it was



granted to one Huccha son of Hanuma. Exhibit D8 is the caste certificate of the defendant. Exhibit D9 and D9(a) and (b) are the G-Tree and affidavits of the family of the defendant.

- 29.** Exhibit D10 is the Death Certificate of Hucchaiah alias Huccha i.e. the grandfather of the defendant, date of death as 02.09.1950. Exhibit D11 is the Death Certificate of Karehanumaiah alias Karehanuma i.e. the younger grandfather of the defendant, date of death as 03.06.1955. Exhibit D12 is the Death certificate of Venkatahanumaiah alias Venkatahanuma i.e. the elder uncle of the defendant, date of death as 25.02.1951. Exhibit D13 is the death certificate of Kariyamma alias Mariyamma i.e. the elder aunt of the defendant, date of death as 13.03.1999. Exhibit D14 is the death certificate of Thirumalamma i.e. the elder aunt of the defendant, date of death as 26.05.1969. Exhibit D16 is the grant certificate which shows that 5 acres of land in Survey No.



24 of Naranahalli Village, Gubbi Taluk, Tumakuru District was granted in favour of Hucchahanuma. Exhibit D17 is the grant certificate which shows that 5 acres of land in Survey No. 24 of Naranahalli Village, Gubbi Taluk, Tumakuru District was granted in favour of Karehanumaiah. Exhibit D19 is the certified copy of the index of lands of Survey No. 24 in the name of Karehanuma and Venkatahanuma.

- 30.** Exhibit D20 are 23 RTC Extracts of Land Bearing Survey No. 24 measuring 5 acres for the period 1985-86 to 2017-18, wherein column number 9 reflects the name of Huccha Son of Hanuma and in the said land, an extent of 18 guntas is acquired for Kaveri Neeravari Nigam. Thereafter, remaining extent of 4 acres 22 guntas is reflecting the name of Huccha, son of Hanuma and column number 12 reflects the names of Narasimaiah and Venkategowda. The said Narasimaiah is the elder uncle of plaintiff no. 1 to 3 and father of plaintiff no. 4



and 5 and the said Venkategowda is the father of plaintiff no. 1 to 3. Exhibit D21 is the mutation order number T68/2021-22 dated 03.06.2022 as per which in Survey No. 24 totally measuring 5 acre 25 guntas including (B) Kharab of 23 guntas name of Gowdegowda was ordered to be entered to an extent of 3 acres, name of Huccha son of Hanuma to an extent of 1.22 acres and Kaveri Neeravari Nigam land acquisition to an extent of 18 guntas.

- 31.** Exhibit D22 is the certified copy of the order of the Deputy Commissioner, Tumakuru dated 16.10.2024 as per which the present defendant challenged the order of the Assistant Commissioner dated 03.06.2022. Exhibit D21 discloses that the present defendant challenged mutation order at Exhibit D21 before the Deputy Commissioner at Exhibit D22. As per the order of the Deputy Commissioner, Tumakuru at Exhibit D22 it is



seen that the matter was remanded to the Assistant Commissioner, Tumakuru for fresh inquiry.

- 32.** Exhibit D23 and D31 are 23 RTC Extracts of Land Bearing Survey No. 224 measuring 5 acres for the period 1968-69 to 2013-14, wherein column number 9 reflects the name of Venkatahanuma and column number 12 reflects the names of Venkategowda. The said Venkategowda is the father of plaintiff no. 1 to 3. Exhibit D24 is the mutation order number T5/2015-16 which reflects that in land bearing Survey No. 223, 224 and 24 an extent of 4 guntas, 5 guntas and 18 guntas is required for Kaveri Neeravari Nigam.
- 33.** Exhibit D25, 25(a) are the applications of the present defendant before the Karnataka State Schedule Castes and Schedule Tribes Commission. Exhibit D26 and D27 are the notices issued by the said commission to the Thashildar, Gubbi Taluk and this defendant. Exhibit D28 is the complaint of the present defendant before the said



commission. Exhibit D29 are four RTC extracts of land bearing Survey No. 224 measuring 4 acres 36 guntas wherein the name of Narasimaiah son of Late Gowdegowda is reflected to an extent of 4 acres 31 guntas and 5 guntas in the name of Kaveri Neeravari Nigam land acquisition. The said Narasimaiah is the Elder uncle of plaintiff no. 1 to 3 and father of plaintiff no. 4 and 5. Exhibit D30 is the proceedings of the said commission in petition number 279/2018 dated 27.05.2022. The proceedings of the commission at Exhibit D30 discloses that Revenue Inspector of C.S.Pura Hobli by name Sreenivas, as respondent no. 2 of the said petition was present, it is mentioned that the said Revenue Inspector gave statement before the said commission that, katha of land bearing Survey No. 224 measuring 5 acres 1 guntas of Naranahalli Village, C. S. Pura Hobli, Gubbi Taluk is entered on the basis of created document which is brought to the notice of the



Revenue Inspector and during the said entry he was not working as the Revenue Inspector of C. S. Pura. It is mentioned that the said Revenue Inspector further stated that Katha and Pahani entered on the basis of created documents is wrong and same will be brought to the notice of Tahsildar and cancellation order will be made within 1 month. On the said date, the said commission directed Tahsildar, Gubbi Taluk and Deputy Commissioner, Tumakuru District to be present before the commission on the next date of hearing on 22.07.2022.

- 34.** Exhibit D32 is the order of the Deputy Commissioner dated 06.11.2024 in RP No. 256/2022 wherein the revision petition filed by the present plaintiff no. 1 challenging the order of the Assistant Commissioner dated 27.06.2022 came to be rejected. As per Exhibit D32 it is observed that in Land Bearing Survey No. 224, measuring 4 acres 36 guntas, an extent of 5 guntas is



acquired for Kaveri Niravari Nigam and remaining extent of 4 acres 31 guntas RTC Extracts reflected the name of Venkatahanuma till 2016-2017, wherein the name of Narasimhaiah, son of Gowdegowda came to be entered on pouthi-varasu vide MR No. H17/2016-2017 and the Assistant Commissioner after verifying the documents came to the conclusion that Venkatahanuma belonged to Adi Dravida caste and the said Narasimaiah belonged to Vokkaliga caste. Hence, Narasimaiah is not the legal heir of Venkatahanuma. And the said MR was wrongly transferred in the name of Narasimaiah. As such the the Deputy Commissioner, Tumakuru came to the conclusion that the order of cancellation of the said MR by the Assistant Commissioner is correct.

- 35.** Exhibit D33 are 26 RTC Extracts of Land Bearing Survey No. 223 measuring 5 acres for the period 1968-69 to 2023-24, wherein column number 9 reflects the name of Karehanuma and column number 12 reflects the names



of Venkategowda. The said Venkategowda is the father of plaintiff no. 1 to 3.

- 36.** DW1 in his cross-examination deposed that his brother Ramesh obtained the death certificates of his ancestors i.e. Karehanumaiah, Venkatahanumaiah, Kariamamma and Thirumalamma from Revenue Department. When the counsel for the plaintiff questioned DW1 as to how did he obtain the said death certificates in 2012 pertaining to the death dated 1950, DW1 deposed that his brother by name Ramesh has obtained the said documents. DW1 deposed that his brother Ramesh is dead. This shows that DW1 is not aware of the date of death as mentioned in Exhibit D11 to D14. In the said circumstances, mere production of death certificates at Exhibit D11 to Exhibit D14 to show that the vendors of the plaintiffs ancestors were dead before the sale deeds does not falsify the sale deed of the plaintiffs at Exhibit P2, P38 to 40.



37. DW1 in his cross-examination deposed that this suit is filed by the plaintiffs with respect to land bearing Survey No. 24 measuring 15 acres 33 guntas. He denied that this suit is filed with respect to land bearing Survey No. 24, New Survey No. 224 measuring 4 acres 31 guntas. He deposed that land bearing Survey No. 24 is bounded on East by Survey No. 224, West by Borappana Halli road, North by Borappana Halli boundary and South by Survey No. 22 and 23. As per the boundaries of the suit schedule property of Survey No. 24, New Re-survey No. 224, as per plaint schedule, it is mentioned as East by land bearing Survey No. 223, now belongs to Annayappa, West by land bearing Survey No. 24, now belongs to plaintiff no. 1, North by Hemavathi canal acquired five guntas in Survey No. 224 and South by Land of Narasimaiah and Krishnamurthy. This shows that the extent of the suit schedule and the boundaries of the said schedule property as deposed by DW1 are not as per the



plaint schedule. Hence, it can be concluded that the defendant is neither aware of the extent and boundaries suit schedule property.

- 38.** DW1 deposed that the suit schedule property belonged to his grandfather and prior to that the said property was government land. He deposed that same was granted to his grandfather on 09.07.1940. DW1 is acquainted with the plaintiff no. 1 Govindraju and he deposed that he is resident of Cheeranahalli and the father of the plaintiff no. 1 is Venkategowda. He admitted that the father of the said Venkategowda is Gowdegowda. DW1 admitted the G-Tree of the plaintiffs as per Exhibit P1. He admitted that in Land bearing Survey No. 24, Re-survey No. 224, measuring 4 acres 31 guntas, the RTC Extracts at column number 12 (2) reflects the name of Venkategowda. He admitted that the said Venkategowda is the son of Gowdegowda. He denied that the said Gowdegowda i.e., the grandfather of the plaintiff no. 1



purchased 5 acres and 3 acres of land in Survey No. 24 under registered sale deed dated 28.05.1952. He denied that on 18.03.1956 and 17.04.1960 his grandfather and great grandfather sold 2 acres and 3 acres of land in Survey No. 24 and 223 under registered sale deeds. He denied that after the said purchase, the grandfather of the plaintiff no. 1 by name Gowdegowda was in possession of the purchased properties. He denied that after his death his children by name Venkategowda, Narasimaiah, Rangaiah, Ganganna and Shivanna were in possession of the said land. He denied that as such the names are appearing in cultivation column of the RTC Extracts. He denied that after their death the plaintiffs are in possession of the said properties. He deposed that as per MR No. 17/2016-17 document was mutated in the name of Narasimaiah in Survey No. 224. He admitted about filing of suit in OS No. 180/2019 by the plaintiffs seeking relief of partition which ended in compromise. He



denied that as per the said compromise, plaintiff no. 1 was allotted 1 acre 10 guntas, plaintiff no. 2 was allotted 26.04 guntas, plaintiff no. 3 to 5 were allotted 38.04 guntas each in Survey No. 24. When the counsel for the plaintiff suggested DW1 that the plaintiffs are in possession of the suit schedule property, DW1 deposed that from the date of the grant on 09.07.1940 till 2020-21, the defendant and his family members were in possession but the plaintiffs illegally got changed katha and Pahani into their names. He denied that the plaintiffs obtained compromise decree in OS No. 180/2019. He deposed that the plaintiffs got compromised the suit with respect to the property belonging to the defendant. He admitted that he was aware of the said suit in the year 2019 and he did not challenge the decree of OS No. 189 by 2019. DW1 further admitted that during the oral direction given by Karnataka State Schedule Castes and Scheduled Tribes



Commission in their 2020, the said Narasimaiah was not alive and he died during 2019. He deposed that after the death of the said Narasimha his legal heirs were not made as parties in the petition before the said commission.

- 39.** The above-discussed oral and documentary evidence on record discloses the fact that there is no dispute between the parties regarding grant of suit schedule property in the name of Hucchahanuma. The evidence on record discloses that the grandfather of the plaintiffs by name Gowdegowda purchased the suit schedule property under registered sale deed dated 28.05.1952 at Exhibit P2/P38. It is specific to mention that the said sale deed was executed by the ancestor of the defendant by name Hucchaiah alias Huccha S/o Chinnaiah and his first deceased son Venkathanumaiah's wife Tirumalamma, second son by name Sannahanuma, third son by name Chikka since minor represented by his guardian father



Huccha. The said document is registered document which is more than 30 years old document and it carries presumptive value of its genuineness and valid execution.

40. To substantiate the same I would like to place reliance on the judgment of **Hon'ble Apex Court in (2006) 5 SCC 353 between Prem Singh and others V/s Birbal and others** wherein it is held that,

“There is a presumption that a registered document is validly executed. A registered document, therefore, prima facie would be valid in law. The onus of proof, thus, would be on a person who leads evidence to rebut the presumption. In the instant case, respondent No.1 has not been able to rebut the said presumption.”

41. The said principle is considered by the Hon'ble Apex Court in its reportable judgment in **2020 SCC online SC 936 between Rattan Singh and others V/s Nirmal Gil and others.**



42. Though the counsel for the defendant during cross examination of PW1 tried to establish that the thumb impression of Hucchahanumaiah is created and it is not his thumb impression, there is no corroborative evidence produced by the defendant to prove the said fact. Hence, it is clear that defendant failed to prove that the thumb impression of Hucchahanumaiah in Exhibit P2/ P38 is created. Further, it is established that Hucchahanumaiah died in the year 1950 as such he has not executed the sale deed. But the afore made discussion regarding the death certificates at Exhibit D10 to D14 shows that the defendant has not obtained the said documents, he is not aware of the source from which the said documents originated. Hence, it can be clearly held that the defendant tried to put up a wise play by producing death certificate of Hucchaiah alais Huccha showing the date of death as 02.09.1950 and that he was not alive as on the date of sale deed at



Exhibit P2/ P38 dated 28.05.1952 but the defendant utterly failed in his wise play as the defendant failed to prove the said date of death by corroborative evidence.

43. Hence, the said principle is aptly applicable to the case on hand as in this suit the above discussed document at Exhibit P2/ P38 being registered document is presumed to be genuine documents validly executed and the defendant failed to rebut the said presumption.

44. That apart **Section 90 of the Indian Evidence Act (Section 92 of The Bharatiya Sakshya Adhiniyam, 2023)** provides for Presumption as to documents thirty years old and the said provision reads as under:

Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purport to be in the handwriting of any



particular person, is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

- 45.** In the instant case, the said document at Exhibit P2/P38 which is dated 28.05.1952 being more than 30 years old document carry presumptive value of due execution of the sale deed by the elder grandfather and their family members of the defendant in favor of Gowdegowda i.e., the grandfather of the plaintiffs.
- 46.** It is the case of the plaintiffs that the grandfather and the father of the plaintiffs were not aware of getting the revenue documents transferred in their names. When the RTC Extracts of the suit schedule property are seen at Exhibit P7, P15 to P24, D20, D23, D29 and D31, though Column No 9 reflects the names of Venkatahanuma, Huccha and Karehanuma but Column No 12(2) reflected



the names of Narasimaiah and Venkategowda i.e., the elder uncle and father of PW1. This shows that the elder grandfather of defendant handed over the possession of the suit schedule property to the grandfather of the plaintiffs under registered sale deed.

- 47.** At this juncture I would like to place reliance on the judgment of Hon'ble High Court of Karnataka in **WP NO. 3773 OF 2025 (KLR-RES) dated 19.02.2025 between Sri Suresh.K.N V/s The State of Karnataka and Others** wherein it is held that,

“This Court is of the considered view that the discretion vested in the revenue authorities under Section 128 of the Karnataka Las of the considered view that the discretion vested in the revenue authorities under Section 128 of the Karnataka Land Revenue Act, 1964, is inherently limited when dealing with changes to the katha. Once a petitioner acquires valid title over immovable property through a registered sale deed, a mandatory duty arises for the



revenue authorities to effect changes to the katha strictly in accordance with the conveyance as reflected in the registered document. The rights acquired under a registered sale deed are legally enforceable, and the petitioner is not required to independently notify the revenue authorities about the acquisition of rights in the immovable property. Rather, it is the responsibility of the registering authority to notify the jurisdictional Tahsildar, triggering the necessary steps for katha transfer as per the statutory framework.”

- 48.** Hence it was the duty of the revenue officials to change the revenue entries of land bearing Sy. No. 24, new Sy. No 224 to an extent of 5 acres in the name of the grandfather of plaintiffs Gowdegowda on the basis of registered sale deed. If at all the revenue authorities were diligent in entering the name of the grandfather of plaintiffs in the revenue records of the suit schedule property on the basis of registered sale deed at Exhibit



P38, there would be no scope for the defendant to falsify the rights of the plaintiffs over the suit schedule property.

- 49.** The elder uncle of the plaintiff no. 1 to 3 and father of plaintiff no. 4 and 5 by name Narasimaiah approached the Assistant Commissioner, Tumakuru seeking for change of revenue entries on the basis of registered sale deed. Accordingly the Assistant Commissioner, Tumakuru passed orders at Exhibit D3 to change the revenue records on the basis of the registered sale deed bearing Document No. 504/52-53 i.e. Exhibit P38. As mentioned above in the said order, the Assistant Commissioner specifically directed that the revenue documents can be changed in the name of the legal heirs of the purchaser on pouthi varasu. Accordingly mutation order came to be passed at Exhibit P13, MR No. H17/2016-17, changing the revenue records of land bearing Survey No. 224 measuring 4 acres 31 guntas from the name of Venkatahanuma to the name of



Narasimaiah, son of Late Gowdegowda on 29.01.2017. Exhibit P13 discloses that the nature of possession in the said document came to be entered as pouthi. When Exhibit D3 order of the Assistant Commissioner, Tumakuru is read along with Exhibit P13, it is clear that the said order of the Assistant Commissioner was to change revenue records in the name of the purchaser on the basis of the registered sale deed at Exhibit P38 dated 28.05.1952 as such direction was given to change the mutation in the names of the legal heirs of the purchaser. On the basis of the said direction nature of possession in Exhibit P13 came to be mentioned as pouthi which means the legal heirs of the purchaser and not the legal heirs of the grantee. Further order of the Deputy Commissioner, Tumakuru at Exhibit D32 clearly discloses that both the Assistant Commissioner, Tumakuru Sub Division and the Deputy Commissioner, Tumakuru came to the wrong conclusion that nature of



possession in Exhibit P13 mentioned as pouthi was relating to the grantee Venkatahanuma belonging to Adi Dravida whereas the said Narasimaiah belonged to Vokkaliga caste. The said officials ought to have read the mutation order at Exhibit P13 along with Exhibit D3 to clarify that the nature of possession in Exhibit P13 as pouthi is not from Venkatahanuma instead it was from the purchaser Gowdegowda.

- 50.** Further, it is specific to mention that the Deputy Commissioner in order dated in order at Exhibit P32 dated 06.11.2024 has not come to the conclusion that the suit schedule property is hit by the provisions of PTCL Act.
- 51.** The plaintiffs being the grandchildren of the purchaser of the suit schedule property under Exhibit P38 filed suit in OS No. 189/2019 and entered into compromise and obtained compromise decree from the Court of Senior Civil Judge and JMFC, Gubbi on 28.02.2020 which is



evident from Exhibit P33 to P37. The defendant utterly failed to prove that the grant to an extent of 15 acres in Survey No. 24 is governed under PTCL Act and the defendant succeeded to the suit schedule property by way of inheritance. Accordingly, Issue No. 1 is answered **in the Affirmative and** Issue No. 3 and 4 are answered **in the Negative.**

52. ISSUE NO. 2: The plaintiffs pleaded that the defendant with mala fide intention and to cause loss to the plaintiffs filed application before the SC/ST commissioner for cancellation of katha and handing over the possession of the suit schedule property and same was filed against dead person Narasimaiah. On the basis of the application of the defendant, the said commission issued notice to the Dead person Narasimaiah and ordered for cancellation of katha and directed the Tahsildar to hand over possession of the suit schedule property to the defendant. The plaintiffs alleged that the defendant has



threatened the plaintiffs to take possession of the suit schedule property. As discussed above the revenue records of the suit schedule property reflected the name of the ancestors of the plaintiffs from 1968-1969 in cultivation column which reflects the possession of the plaintiffs and their family members over the suit schedule property for more than 40 years.

- 53.** That apart the plaintiffs got examined PW2 and PW3 who deposed about the possession of the plaintiffs in the suit schedule property and they have planted coconut and arecanut trees in the suit schedule property. The defendant for the first time during the cross examination of PW2 and PW3 suggested that the said trees were planted by the defendant and his ancestors and not the plaintiffs. This shows that the defendant came up with such defense only to disprove the possession of the plaintiffs over the suit schedule property.



- 54.** If at all the defendant was in possession of the suit schedule property , nothing prevented the defendant from producing supporting evidence to corroborate his defense. Non production of such evidence and the oral and documentary evidence produced by the plaintiffs aforementioned clearly establishes the possession of the plaintiffs over the suit schedule property.
- 55.** The Karnataka State Schedule Caste and Schedule Tribes Commission is established for safeguarding the interests of the Scheduled Castes and Scheduled Tribes and also facilitate effective implementation of all the schemes including share reasonable adequate reservation, Government jobs, elected offices, educational institutions and equal participation in Governance. These safeguards are contained in the Directive Principles of State Policy of the Constitution and a specific provision in Article 46 which is comprehensive provision comprising both the developmental and regulatory aspects that the State



should promote with special care the Educational and Economic interests of the weaker sections of the people and in particular the Scheduled Castes and the Scheduled Tribes and should protect them from social injustice and all forms of exploitation.

- 56.** In this case the act of the defendant approaching The Karnataka State Schedule Caste and Schedule Tribes Commission regarding revenue entries and alleging interference by the plaintiffs which is a civil dispute shows the malafide intention of the defendant to take possession of the suit schedule property by hook or crook which cannot be allowed. The said acts of the defendant clearly discloses interference caused by the defendant to the plaintiffs peaceful possession and enjoyment over the suit schedule property. Accordingly, Issue No. 2 is answered **in the Affirmative.**



57. ISSUE NO.5: The defendant took contention that the suit of the plaintiff is not maintainable as the suit claim comes under PTCL Act.

58. At this juncture I would like to place reliance on the Reportable judgment of Hon'ble High Court of Karnataka in **WP NO. 3597 OF 2025 (SC/ST) dated 06.07.2026** between **Sri R Suresh Mohan V/s The State of Karnataka and Others** wherein it is held that,

“Thus, the Apex Court while upholding the validity of the PTCL Act has created an exception by stating that if the purchaser has perfected his title by virtue of prescription of time or otherwise, such a transfer cannot be set aside. Thus, the Apex Court has held that, any challenge made to the alienation in respect of the granted lands under the provisions of the PTCL Act has to be made within a reasonable period.



16. In the present case, admittedly, there is a delay of around 40 years in challenging the alienation.

17. In the present case, the original grantee himself alienated the land in the year 1967. Admittedly, he received a valuable consideration equivalent to the market value as on the date of the sale. After a lapse of around 40 years, when the value of the land has increased multifold, he challenges the same.

18. A beneficial legislation is enacted to help the downtrodden, uneducated and the deprived classes to be insulated from the exploitation that they may be subjected to by others. However, such beneficial legislation is not intended to enable a person belonging to the deprived class to use it as a tool to exploit others. Under the given facts and circumstances of the case, the challenge to the sale which has taken place in the year 1967 cannot be considered to have been done within a reasonable period. The impugned orders under challenge have put the purchaser to a



great loss that he should not suffer and causes serious injustice to him.”

- 59.** Though the said judgment of Hon'ble High Court of Karnataka is arising out of the impugned order in PTCL No.6/2011 dated 09.10.2017 of the Deputy Commissioner, Chamarajanagar District, the ratio laid down in the said judgment is aptly applicable to the case on hand, as even in this case the defendant is claiming that the suit schedule property falls within the ambit of PTCL Act on the basis of grant of dated 09.07.1940 even though the grantee and his family members sold the suit schedule property to the grandfather of the plaintiffs on 28.05.1952 and the said claim was made by the defendant in his written statement filed on 02.04.2024. This shows that the said claim is made by the defendant after lapse of 71 years 10 months 5 days i.e., the date of filing of written statement.



- 60.** Further, it is specific to mention that the defendant filed IA No. 4 under Order VII Rule 11 (d) read with Section 151 of CPC and Section 4, 5 and 8 of PTCL Act seeking for rejection of plaint on 03.08.2024 and the said application came to be dismissed vide considered order dated 03.12.2024 by observing that the plaint cannot be rejected under Section 4, 5 and 8 of PTCL Act.
- 61.** That apart, the documents mentioned above produced by the defendants at Exhibit D1 to D33 clearly establishes that there is no order of the competent authority produced by the defendants to show that the suit schedule property falls within the ambit of PTCL Act. Though there is order of the Assistant Commissioner, Tumakuru Sub-Division and Deputy Commissioner, Tumakuru, it is with regard to change of revenue records in the name of Narasimaiah, son of Late Gowdegowda vide MR No. H17/16-17 at Exhibit P13. That apart the



order of the Deputy Commissioner at Exhibit D32 is rejecting MR No. H17/16-17 at Exhibit P13 by observing that change of the said mutation at Exhibit P13 from the person belonging to Adi Dravida community in the name of the person belonging to Vokkaliga community cannot be on pouthi. There is no observation by the competent authority that the suit schedule property falls within the ambit of PTCL Act. In the said circumstances, this Court is of the opinion that the defendant utterly failed to prove that suit is not maintainable under the provisions of PTCL Act. Accordingly Issue No. 5 is answered **in the Negative.**

- 62. ISSUE No.6:** The plaintiffs sought for declaration of their ownership and consequential relief of permanent injunction.
- 63.** By answering Issue No. 1 and 2 in the affirmative and Issue No. 3 to 5 in the negative, it is held that the



plaintiffs are the absolute owners and in possession of the suit schedule property on the basis of registered sale deed dated 28.05.1952 at Exhibit P38 followed by compromise decree of O.S. No. 189/2019 and the defendant has caused interference to the plaintiffs peaceful possession and enjoyment over the suit schedule property and that the defendant failed to prove that the suit schedule property falls within the ambit of PTCL act and that the defendant succeeded to the suit schedule property by way of inheritance.

- 64.** Further, as per Section 34 of The Specific Relief Act, 1963 it is the discretion of the civil court to grant an order of declaration, the plaintiff so entitled. Hence, the plaintiffs are entitled for the relief of declaration of title and consequential relief of permanent injunction. Accordingly Issue No. 6 is answered **in the Affirmative.**



65. ISSUE No. 7: In view of The above discussions, I proceed to pass the following:

ORDER

Suit of the plaintiffs seeking relief of declaration of title and permanent injunction is hereby decreed with costs.

The plaintiffs are hereby declared as the absolute owners and in possession of the suit schedule property on the basis of registered sale deed dated 28.05.1952.

The defendant or anybody claiming through him are hereby permanently restrained from causing interference to the plaintiffs peaceful possession and enjoyment over the suit schedule property.



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 **7th day of August 2026**).

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

ANNEXURE

List of witnesses examined on behalf of the plaintiffs:

P.W.1	-	Govindaraju
P.W.2	-	Narayan
P.W.3	-	Gowdegowda

List of Documents marked on behalf of the plaintiffs:

Ex.P.1	-	G-Tree
Ex.P2	-	C/c of Sale deed dated 28.05.1952
Ex.P.3	-	C/C of record of rights of Sy.No. 224



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| Ex.P.4-7 | - | C/C of 4 RTC extracts of land bearing Sy.No. 224 |
| Ex.P.8 | - | C/C of Index of land of Sy.No. 24 |
| Ex.P.9 | - | C/C of Form No.5 of Sy.No.24 |
| Ex.P.10 | - | C/C of Akar Bandh of Sy.No.224 |
| Ex.P.11 | - | C/C of Hissa Tippani of Sy.No.24, new Sy.No. 224 |
| Ex.P.12 | - | C/c of Mutation order No.T5/ 2015-16, dated 11-08-2015 |
| Ex.P.13 | - | C/c of Mutation order No.H17/ 2016-17, dated 29-01-2017 |
| Ex.P.14 | - | C/c of Mutation order No.T70/ 2021-22, dated 28-06-2022 |
| Ex.P.15-24 | - | 10 RTC extracts of land bearing Sy.No. 224 |
| Ex.P.25&26 | - | Encumbrance certificate for the period 01-04-1952 to 31-03-2004 and 01-04-2004 to 06-02-2025 |
| Ex.P.27 | - | Original death certificate of Gowdegowda alias Gowdaiah |
| Ex.P.28 | - | Original death certificate Chennamma |
| Ex.P.29 | - | Original death certificate of Venkategowda |
| Ex.P.30 | - | Original death certificate of Lakshmamma |
| Ex.P.31 | - | Original death certificate Huchamma |
| Ex.P.32 | - | Original death certificate Narasimhaiah |



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| Ex.P.33 | - | C/c of order sheet of OS No. 189/2019 |
| Ex.P.34&35 | - | C/c of plaint and amended plaint of OS No. 189/2019 |
| Ex.P.36 | - | C/c of Compromise Petition of OS No. 189/2019 |
| Ex.P.37 | - | C/c of Compromise Petition of OS No. 189/2019 |
| Ex.P.38 | - | Original registered sale deed dated 28.05.1952 |
| Ex.P.39 | - | Original registered sale deed dated 18.03.1955 |
| Ex.P.40 | - | Original registered sale deed dated 17.04.1960 |
| Ex.P.41& 41(a) | - | C/c if Sec.6(1) Notification dated 01.12.2006 pertaining to land acquisition along with award details |
| Ex.P.42 | - | C/c of Report of the Village Accountant |
| Ex.P.43 | - | C/c of Communication made by the Tahasildar, Gubbi dated 25.05.2022 |
| Ex.P.44 | - | C/c of Office Correspondence of the Tahasildar, Gubbi Dated 04.06.2022 with Endorsement dated 07.06.2022 |
| Ex.P.45 | - | C/c of Communication made by the Tahasildar, Gubbi dated 21.07.2022 |

List of Witnesses examined on behalf of the defendants:

D.W.1 - Srinivas

**List of Documents marked on behalf of the defendants:**

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|-----------------------|---|---|
| Ex.D.1 | - | C/c of Grant Certificate dated 09.07.1940 |
| Ex.D2 | - | Endorsement issued by Tahasildar, Gubbi dated 21.07.2022 |
| Ex.D.3 | - | C/c of Order of the Assistant Commissioner, Tumakuru Dated 03.06.2022 |
| Ex.D.4-6 | - | C/c of Three Hissa Tippani of Re- Sy. No. 24 |
| Ex.D7 | - | C/c of Index of land of Sy. No. 24 |
| Ex.D.8 | - | Caste Certificate |
| Ex.D.9,9(a)
D.9(b) | - | G-Tree along with two affidavits |
| Ex.D10 | - | Original Death Certificate of Hucchaiah @ Huccha |
| Ex.D.11 | - | Original Death Certificate of Karehanumaiah @ Karehanuma |
| Ex.D..12 | - | Original Death Certificate of Venkatahanumaiah @ Venkatahanuma |
| Ex.D.13 | - | Original Death Certificate of Kariyamma @ Mariyhamma |
| Ex.D..14 | - | Original Death Certificate of Venkatahanumaiah @ Venkatahanuma |
| Ex.D.15 | - | C/c of Index of land Ex.D..12 |
| Ex.D.16-18 | - | C/c of Three Grant Certificates dated 09.07.1940 |
| Ex.D..19 | - | C/c of Index of land |



- Ex.D.20 - C/c of 23 RTC Extracts of land Beareing Sy. NO. 24.
- Ex.D.21 - C/c of MR No. T68/2021-22
- Ex.D.22 - C/c of Order of Deputy Commissioner, Tumakuru Dated 16.10.2024
- Ex.D.23 - C/c of 22 RTC Extracts olf land bearing Sy. No. 224.
- Ex.D.24 - C/c of MR NO. T5/2015-16
- Ex.D.25 - Application dated 01.03.2018 along with
25(a) complaint
- Ex.D.26 - Notice dated 21.03.2018
- Ex.D.27 - Enquiry Notice dated 29.04.2022
- Ex.D.28 - Complaint dated 23.03.2018 along with postal receipts.
- Ex.D.29 - C/c of 4 RTC Extracts of land bearing Sy. No. 224.
- Ex.D.30 - C/c of Proceedings of petition No. 279/2018
- Ex.D.31 - C/c of RTC Extracts of land bearing Sy. No. 224
- Ex.D.32 - C/c of order Deputy Commissioner, Tumakuru dated 06.11.2024
- Ex.D.33 - C/c of 26 RTC Extracts of land bearing Sy. No. 223

Sd/-

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