



Presented on : 26-06-2020
Registered on : 26-06-2020
Decided on : 08-06-2026
Duration : 5 years, 11 months, 12 days

**IN THE COURT OF PRL.CIVIL JUDGE AND JMFC, AT
MADHUGIRI**

O.S.No.146/2020

**PRESENT: SRI.AMARANATHA B.N.
B.A., L.L.B,
Prl.Civil Judge & JMFC,
Madhugiri**

DATED ON THIS THE 08th DAY OF JUNE, 2026

PLAINTIFF:

Sri.Nagalotappa
S/o Late Veerabhadraiah,
aged about 51 years,
R/o Garani village, I.D.Halli Hobli,
Madhugiri Taluk.

(By Sri.PDT, Advocate)

//Versus//

DEFENDANTS:

1. Sri.Puttasiddaiah
S/o Siddaiah,
aged about 70 years,
2. Smt.Rathnamma
W/o Late Siddaramaiah,
aged about 55 years,

Both are R/o Garani village,
I.D.Halli Hobli, Madhugiri Taluk.

***(Def. No.1 by Sri.BHP Advocate)
(Def. No.2 - Exparte)***



Date of Institution of Suit	26.06.2020
Nature of the suit	Declaration and Permanent Injunction.
Date of Commencement of evidence	15.11.2022
Date of Judgment	08.06.2026
Total Duration	Years Months Days 05 11 12

***Prl.Civil Judge & JMFC,
Madhugiri.***

:- JUDGMENT :-

1. The plaintiff has filed this suit against the defendants for the relief of declaration and permanent injunction, with a prayer to declare that the plaintiff is the owner and in possession of the suit schedule property and to restrain the defendants or any persons claiming under them from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. In respect of land bearing Sy.No.571/3C1 measuring 3 guntas and requisite karab portion attached to it, situated at Garani village, I.D.Hobli, Madhugiri Taluk having following boundaries;

East by : Property of Jayaramaiah and Govindaraju



West by : Dari and Government karab land

North by: Property of Kavalappa

South by: Road

2. The plaintiff in the plaint presented by him contended that the plaintiff is the owner and in possession of the suit schedule property. Further contended that the plaintiff purchased 5 guts of hiduvali land along with requisite portion of karab land attached to it out of 1 acre 13 guntas of land in Sy.No.571/3 of Garani village under the registered sale deed dated 25.04.1991 from husband of the defendant No.2 namely Siddaramaiah. Further contended that out of 5 guntas of land purchased by him under the sale deed dated 25.04.1991 sold sold 2 guntas of hiduvali land in favour of Kavalappa, said property assigned as new survey number as Sy.No.571/3C2 and remaining 3 guntas of hiduvali land requisite karab land attached to it is retained by plaintiff is the suit schedule property in the present suit.
3. The plaintiff in the plaint presented by him further contended that the plaintiff is the owner and in possession of the suit



schedule property. The defendant No.1 out of animosity developed against the plaintiff in view of the dispute raised by him in respect of right of way which is resulted in filing suit in O.S.No.320/1996 started trouble the plaintiff. Further contended that the survey authorities heed the words of defendant No.1 subjected land bearing Sy.No.571/3 for phodi-durasth of Sy.No.571/3, the survey authority extent of hiduvali land held and possessed by the plaintiff is reduced. Hence it is necessitated the plaintiff to approach Tahasildar to rectify illegal survey for which Tahasildar issued an endorsement dated 10.12.2014 in the case of RRT.CR.358/2014-15 as against the said endorsement he preferred an appeal before DDLR, Tumakuru as per case No.BU.SA.NI.(A)91/2014-15, said appeal also dismissed, as against the order passed by the DDLR in case No.BU.SA.NI.(A)91/2014-15, he preferred an appeal before Karnataka Appellate Tribunal as per appeal No.730/2017, said appeal also dismissed holding that the plaintiff has to approach the civil court for deciding his rights and the defendants are the parties to all the above proceedings. Further contended that after dismissal of appeal before the Karnataka Appellate



Tribunal the defendants trying to disposes the plaintiff from the suit schedule property about one month back. Further contended that the defendants have no manner, right, title or interest over the suit schedule property, in spite of it the defendants trying to disposes the plaintiff from the suit schedule property by denying title of the plaintiff over the suit schedule property. Hence the plaintiff without any other alternative approached this court with this suit, by stating so filed this suit.

4. Upon service of summons the defendant No.1 appeared and contested the suit by filing written statement. In spite of service summons the defendant No.2 remained absent, hence the defendant No.2 placed exparte.
5. The defendant No.1 in the written statement filed by him denied the ownership and possession of the suit schedule property as pleaded in the plaint. But the defendant No.1 admits that the plaintiff purchased the 5 guntas of land in Sy.No.571/3 and sold 2 guntas of land in favour of Kavalappa, said 2 guntas phoded and assigned new survey number as



Sy.No.571/3C2 and he has purchased said 2 guntas from Kavalappa and he is in possessed of the same and also admitted the proceedings held as per O.S.No.320/1996 and revenue proceedings pleaded in the plaint. Further contended that there is no cause of action for the suit and the alleged cause of action is created for the purpose of filing the suit.

6. The defendant No.1 in the written statement filed by him further contended that after completion legal battle as per O.S.No.320/1996 the plaintiff expressed his intention to sell the suit schedule property, after negotiation the plaintiff agreed to sell the suit schedule property in favour of defendant No.1 for a sum of Rs.80,000/-. Accordingly on 02.01.2015 the plaintiff executed the agreement of sale in favour of defendant No.1 agreeing to sell the suit schedule property in favour of the plaintiff upon receiving a sum of Rs.10,000/- as advance sale consideration and agreed to execute sale deed in favour of defendants within 3 months from the said date, but the plaintiff fails to execute the sale deed as agreed in the agreement of sale dated 02.01.2015. Hence the defendant No.1 filed a suit in O.S.No.137/2015



same is pending for adjudication. The plaintiff during the pendency of the suit in O.S.No.137/2015 by suppressing material facts filed this false suit with sole intention to trouble and harass the defendants. Hence the plaintiff is not entitled for relief of declaration and permanent injunction as prayed. Therefore the suit of the plaintiff is liable to be dismissed, by stating so prays to dismiss the suit.

7. Based on the pleadings the following issues are framed:

ISSUES

1. *Whether plaintiff proves that he is absolute owner of the suit schedule property by virtue of sale deed dated 25.04.1991?*
2. *Whether plaintiff further proves that he is in possession and enjoyment of suit schedule property?*
3. *Whether plaintiff further proves that the defendants caused interference with his peaceful possession and enjoyment of the suit property?*
4. *Whether plaintiff is entitled for reliefs as sought for?*
5. *What order or decree?*

8. The plaintiff in order to prove his case the plaintiff entered the witness box and gave evidence as PW1 and produced the



documents which are marked as per Ex.P1 to Ex.P31. On the other hand the defendant No.1 in order to rebut the claim of the plaintiff entered the witness box and gave evidence as DW1 and produced the documents which are marked as per Ex.D1 to Ex.D4.

9. Heard the arguments of Sri.PDT advocate for the plaintiff and Sri.KVSK advocate for defendants. Sri.PDT Advocate for plaintiff files memo with decisions rendered by the Hon'ble High Court of Karnataka in Writ Appeal No.148/2023 and WP NO.106515/2015 clubbed with WP NO.106514/2015 and WP No.106516/2015.

10. Based on the pleadings, oral and documentary evidence and upon hearing arguments and perusing materials on record, I answer above said issues as hereunder:

Issue No.1	: In the Negative
Issue No.2	: In the Negative
Issue No.3	: In the Negative
Issue No.4	: In the Negative
Issue No.5	: As per the final Order

For the following;



:: REASONS ::

11. **ISSUE NO.1 & 2:-** These issues are inter-connected with each other. Hence, in order to avoid repetition of facts and appreciation of the evidence, taken up together for common discussion.
12. The plaintiff in order to prove that plaintiff is the owner and in possession of the suit schedule property as on the date of filing of suit relied upon the oral evidence of PW1 and Ex.P1 to Ex.P31. On the other hand the defendant No.1 in order to rebut the claim of the plaintiff relied upon the oral evidence of DW1 and Ex.D1 to Ex.D4.
13. The PW1 in the examination-in-chief reiterated the contents of the plaint. The PW1 in the cross-examination deposed that ನಾನು ದಾವಾ ಸರ್ವೆ ನಂಬರ್ಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಆದ ಪೋಡಿಯನ್ನು ಪ್ರಶ್ನಿಸಿ ಹೂಡಿದ್ದಂತಹ ಎಲ್ಲಾ ಅರ್ಜಿಗಳು ಮತ್ತು ಮೇಲ್ಮನವಿಗಳು ವಜಾ ಆಗಿದ್ದರಿಂದ ದಾವಾ ಸ್ವತ್ತನ್ನು ಹಿರಿಯರ ಸಮಕ್ಷಮ ಪ್ರತಿವಾದಿಗೆ ರೂ.80,000 ಕ್ಕೆ ಮಾರಾಟ ಮಾಡಲು ಒಪ್ಪಿ ರೂ. 10,000 ಮುಂಗಡ ಹಣ ಪಡೆದುಕೊಂಡು ದಿ:02.01.2015 ರಂದು ಕ್ರಯದ ಕರಾರು ಪತ್ರ ಬರೆದುಕೊಟ್ಟಿರುತ್ತೇನೆ ಎಂದು ಸೂಚಿಸುವುದು ಸರಿಯಲ್ಲ. ನಾನು ಕರಾರು ಪತ್ರದಂತೆ ಕ್ರಯಪತ್ರ ಬರೆದುಕೊಡದ ಕಾರಣ 1 ನೇ



ಪ್ರತಿವಾದಿ ಕರಾರು ಪತ್ರದ ಆಧಾರದ ಮೇರೆಗೆ ನನ್ನ ವಿರುದ್ಧ ಒ.ಎಸ್.ನಂ.137/2015 ರಂತೆ ದಾವೆಯನ್ನು ಹೂಡಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.

14. The plaintiff in support of his case produced the documents which are marked as per Ex.P1 to Ex.P31. Ex.P1 to Ex.P10 are the RTC extracts in respect of the land bearing Sy.No.571/3d of Garani village, Ex.P11 is the affidavit filed before the Joint Director of Land Records, Bangalore in Appeal No. JDLR Appeal No.22:97-98, Ex.P12 is the Order passed by the Tahasildar, Madhugiri in RRT(dis)173/20-21, Ex.P13 is the sale deed dated 25.04.1991, Ex.P14 is the certified copy of mutation in respect of Sy.No.571/3, Ex.P15 to Ex.P17 are the survey sketches in respect of Sy.No.571/3, Ex.P18 is the certified copy of sale deed dated 31.12.1992, Ex.P19 is the intimation issued by the ADLR, Madhugiri, Ex.P20 is the certified copy of order passed in Appel No.730/2017(CH-1) passed by Karnataka Appellate Tribunal,Bengaluru, Ex.P21 is the certified copy of the order passed in Case No.ಭೂಉನಿ.ಅಪೀಲು:91/2014-15 passed by the DDLR, Tumakuru, Ex.P22 is the certified copy of the order passed by the Joint Director of Land Records in Appeal No.ಜೆ.ಡಿ.ಎಲ್.ಆರ್.ರಿ.ಅ.22:97-



98, Ex.P23 is RTC in respect of Sy.No.571/3 of Garani village, Ex.P24 and Ex.P28 are the RTC extracts in respect of Sy.No.571/3c1 of Granai village, Ex.P25 is the RTC in respect of Sy.No.571/3c of Garani village, Ex.P26 is the RTC in respect of Sy.No.571/3A of Garani village, Ex.P27 is the RTC in respect of Sy.No.571/3B1 of Garani village, Ex.P29 is the RTC in respect of Sy.No.571/3C2 of Garani village and Ex.P30 is the RTC in respect of Sy.No.571/3D1 of Garani village, Ex.P31 is the certified copy of order passed by the Assistant Commissioner, Madhugiri in R.A.No.92/2022.

15. On the other hand the defendant in order to rebut the claim of the plaintiff relied upon the oral evidence of DW1 and Ex.D1 to Ex.D4. The DW1 in the examination-in-chief reiterated the contents of the written statement. The DW1 in the cross-examination of deposed that ಗರಣಿ ಗ್ರಾಮದ ಸರ್ವೆ.ನಂ.571ಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಪೋಡಿಗಳು ಆಗಿರುತ್ತವೆ ಎಂದರೆ ಸರಿ. ಸರ್ವೆ.ನಂ.571ಮೂಲತಃ ಸಿದ್ಧರಾಮಯ್ಯರವರಿಗೆ ಸೇರಿತ್ತು ಎಂದರೆ ಸರಿ. ಸರ್ವೆ.ನಂ.571 ರ ಒಟ್ಟು ವಿಸ್ತೀರ್ಣ 1 ಎಕರೆ 13 ಗುಂಟೆ ಎಂದರೆ ಸರಿ. ಸದರಿ 1 ಎಕರೆ 13 ಗುಂಟೆ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಸಿದ್ಧರಾಮಯ್ಯ ನನಗೆ ಯಾವುದೇ ನೊಂದಣಿ ದಾಖಲೆ



ಬರೆದುಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ಈ ಹಂತದಲ್ಲಿ ಸಾಕ್ಷಿಗೆ ನಿಪಿ-13ರಲ್ಲಿನ ಜಮೀನ ಸರ್ವೆ.ನಂ.,
 ವಿಸ್ತೀರ್ಣ ಮತ್ತು ಚೆಕ್ಕುಬಂದಿಯನ್ನು ಓದಿ ಹೇಳಿ ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ನಿಮಗೆ
 ಯಾವುದಾದರೂ ಹಕ್ಕು ಇರುತ್ತದೆಯೇ ಎಂದು ಕೇಳಲಾಗಿ ಸಾಕ್ಷಿ ನನಗೆ ಯಾವುದೇ ಹಕ್ಕು
 ಇರುವುದಿಲ್ಲ ಎಂದು ಉತ್ತರಿಸುತ್ತಾರೆ. Further deposed that ವಾದಿ ಖರೀದಿ
 ಮಾಡಿದ 5 ಗುಂಟೆ ಜಮೀನಿನಲ್ಲಿ 2 ಗುಂಟೆ ಜಮೀನನ್ನು ಕಾವಲಪ್ಪ ಎಂಬುವವರಿಗೆ
 ಮಾರಾಟ ಮಾಡಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ಸದರಿ 2 ಗುಂಟೆ ಜಮೀನು ಹಿಡುವಳಿ ಜಮೀನು
 ಎಂದರೆ ಸರಿ. Further deposed that ನನ್ನ ಜಮೀನಿನ ಉತ್ತರಕ್ಕೆ ವಾದಿಗೆ
 ಸೇರಿದ ಜಮೀನು ಇರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ವಾದಿ ಗ್ರಾಮ ರಾಣಾ ರಸ್ತೆಯಿಂದ ಅಪರ
 ಜಮೀನಿಗೆ ಹೋಗಲು ರಸ್ತೆಯ ಹಕ್ಕನ್ನು ಕೋರಿ ಓ.ಎಸ್.320/1996ರಂತೆ
 ದಾವೆಯನ್ನು ಹೂಡಿದ್ದರು ಎಂದರೆ ಸರಿ. Further deposed that 1996
 ರಿಂದ ವಾದಿ ಖರೀದಿ ಮಾಡಿದ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ನನ್ನ ಮತ್ತು ವಾದಿಯ ಮಧ್ಯೆ
 ದಾರಿ ವಿಚಾರವಾಗಿ ವ್ಯಾಜ್ಯ ನಡೆಯುತ್ತಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ದಾವಾ ಸ್ವತ್ತನ್ನು ವಾದಿ
 ನನಗೆ ಮಾರಾಟ ಮಾಡುತ್ತೇನೆಂದು ಕರಾರು ಪತ್ರ ಬರೆದುಕೊಟ್ಟಿರುತ್ತಾರೆ ಎಂದು ನಾನು
 ವಾದಿಯ ವಿರುದ್ಧ ಓ.ಎಸ್.137/2015ರಂತೆ ದಾವೆಯನ್ನು ಹೂಡಿರುತ್ತೇನೆ ಎಂದರೆ
 ಸರಿ. ಈ ಹಂತದಲ್ಲಿ ಸಾಕ್ಷಿಗೆ ದಾವಾ ಸ್ವತ್ತಿನ ಸರ್ವೆ.ನಂ. ವಿಸ್ತೀರ್ಣ ಮತ್ತು
 ಚೆಕ್ಕುಬಂದಿಯನ್ನು ಓದಿ ಹೇಳಿ ಸದರಿ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ನಿಮಗೆ ಯಾವುದಾದರೂ
 ಹಕ್ಕು ಇರುತ್ತದೆಯೇ ಎಂದು ಪ್ರಶ್ನಿಸಿದ್ದಕ್ಕೆ ಸಾಕ್ಷಿಯು ನನಗೆ ಮಾರಾಟ ಮಾಡಲು ಒಪ್ಪಿ
 ಕರಾರು ಪತ್ರವನ್ನು ಬರೆದುಕೊಟ್ಟಿರುತ್ತಾರೆ ಅದನ್ನು ಹೊರತುಪಡಿಸಿ ನನಗೆ ಯಾವುದೇ



ಹಕ್ಕು ಇರುವುದಿಲ್ಲ ಎಂದು ಉತ್ತರಿಸುತ್ತಾರೆ. ಸದರಿ ಕರಾರು ಪತ್ರದಲ್ಲಿ ದಾವಾ ಸ್ವತ್ತಿನ ಸ್ವಾಧೀನವನ್ನು ಬಿಟ್ಟುಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಇಂದಿಗೂ ದಾವಾ ಸ್ವತ್ತಿನ ಸ್ವಾಧೀನದಲ್ಲಿ ವಾದಿ ಇರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.

16. The defendant No.1 in support of his case produced the documents which are marked as per Ex.D1 to Ex.D4. Ex.D1 is the certified copy of the order passed by the DDLR in Case No.ಭೂಉನಿ.ಅಪೀಲು:91/2014-15, Ex.D2 is the certified copy of Order passed by the Karnataka Appellate Tribunal in Appeal No.730/2017 (CH-1) and Ex.D3 and Ex.D4 are the certified copies of the Judgment and decree passed in O.S.No.320/1996.

17. On perusal of the oral and documentary evidence on record it goes to show that there is no dispute between the parties that the land bearing Sy.No.571/3 totally measures 1 acre 13 guntas belongs to husband of defendant No.2 namely Siddaramaiah and plaintiff purchased 05 guntas of land out of 1 acre 13 guntas under the sale deed dated 25.04.1991 the same is evident from Ex.P23 and Ex.P13. That apart the



defendant No.1 in the written statement filed by him admitted the said fact.

18. Further on perusal of the sale deed dated 25.04.1991 which is marked as per Ex.P13 it goes to show that the plaintiff herein purchased 05 guntas of land and karab land attached to the said property. The material particulars of the property purchased by the plaintiff under Ex.P13 mentioned as hereunder;

ಮಧುಗಿರಿ ತಾಲ್ಲೂಕು ಇಟಕದಿಬ್ಬನಹಳ್ಳಿ ಹೋಬಳಿ, ಗರಣಿ ಮಂಡಲ ಪಂಚಾಯಿತಿಗೆ ಸೇರಿದ ಗರಣಿ ಗ್ರಾಮದ ಸರ್ವೆ ಐದುನೂರ ಎಪ್ಪತ್ತೊಂದನೆ ಮೂರನೇ ಪೋಡು 571/3 ಖುಷೀಕ ಒಂದು ಎಕರೆ ಹದಿಮೂರು ಗುಂಟೆ ಉಳ್ಳ ಜಮೀನಿನ ಪೈಕಿ ನಿಮಗೆ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟಿರುವ ಜಮೀನಿಗೆ ಚಕ್ಕುಬಂದಿ ಪೂರ್ವಕ್ಕೆ ನನ್ನ ಚಿಕ್ಕಪ್ಪ ಸಿದ್ದರಾಮಯ್ಯನ ಜಮೀನು, ಪಶ್ಚಿಮಕ್ಕೆ ಸರ್ಕಾರಿ ಖರಾಬು ಜಮೀನು, ಉತ್ತರಕ್ಕೆ ಇದೇ ನಂಬರು ಪೈಕಿ ನಾನು ಬಿ.ನಾಗರಾಜಯ್ಯನಿಬೆ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟಿರುವ ಜಮೀನು, ದಕ್ಷಿಣಕ್ಕೆ ಇದೇ ನಂಬರು ಪೈಕಿ ನಾನು ಪುಟ್ಟಸಿದ್ದಪ್ಪನಿಗೆ ಬಿಟ್ಟಿರುವ ಜಮೀನು. ಈ ಮಧ್ಯೆ ಇರುವ ಖುಷೀಕ ಐದು ಗುಂಟೆ, ಆಕಾರ ಹದಿನೈದು ಪೈಸೆ ಆಗತಕ್ಕ ಜಮೀನು ಮತ್ತು ಈ ನಂಬರಿನಲ್ಲಿರುವ ಈ ಕ್ರಯದ ಜಮೀನಿಗೆ ಲಗತ್ತಾಗಿರುವ ಖರಾಬು ಜಮೀನು ಸೇರಿದ ಸ್ವತ್ತನ್ನು ನಿಮಗೆ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟು ನಿಮ್ಮ ಸುಬರ್ದು ಮಾಡಿರುತ್ತೇನೆ. ಈ ಜಮೀನಿಗೆ ಬರಲು ಇದೇ ನಂಬರಿನಲ್ಲಿ ದಕ್ಷಿಣದ ಕಡೆಯಿಂದ ಈ ಜಮೀನಿನವರೆಗೆ ದಾರಿದಿಕ್ಕು ಸಹ ಕೊಟ್ಟಿರುತ್ತೇನೆ.

Hence it goes to show that the plaintiff has purchased the 05 guntas of land in Sy.No.571/3 along with karab land attached to it and came into possession of the suit schedule property



under Ex.P13 and he sold 02 guntas of land in Sy.No.571/3 in favour of one Kavallappa and retained property on the southern side of the property purchased by him.

19. Further it is relevant to note that it is the specific case of the plaintiff that property purchased by him in Sy.No.571/3 phoded and assigned new Sy.No.571/3C, but the plaintiff in order to prove that the survey authorities after conducting hissa-phodi assigned new survey number as Sy.No.571/3C which measures 5 guntas cultivable land and kahrab land not produced any document. Further it is relevant to note that on perusal of the documents produced by the plaintiff which are marked as per Ex.P1 to Ex.P3 it goes to show that the plaintiff has not produced any document to prove that 05 guntas of land purchased by the plaintiff in Sy.No.571/3 assigned Sy.No.571/3C measuring 05 guntas of cultivable excluding karab land. On the other hand as per the revenue records land bearing Sy.No.571/3c measuring 5 guntas including 1 gunta kharab. Hence it goes to show that the land bearing Sy.No.571/3C is totally measures 05 guntas as per revenue records.



20. Further as per Ex.P24 and Ex.P28 the land bearing Sy.No.571/3C1 is totally measures 03 guntas which includes 01 gunta of karab. Hence on perusal of Ex.P24 and Ex.P28 it is clear that the land bearing Sy.No.571/3C1 is totally measures 3 guntas out of which 02 guntas is cultivable land and 01 gunta is karab land and Appeals preferred by the plaintiff challenging the phodi of Sy.No.571/3C are dismissed by the DDLR and Karnataka Appellate Tribunal. Hence the phodi effected by the survey authorities in respect of Sy.No.571/3 reached finality.
21. Further it is relevant to note that on perusal of the materials on record it goes to show that the land bearing Sy.No.571/3C totally measures 05 guntas of which 01 gunta is karab and land bearing Sy.No.571/3C1 totally measuring 03 guntas out of which 01 gunta karab, same is evident from Ex.P24 and Ex.P28. Hence it goes to show that the suit land bearing Sy.No.571/3C1 is totally measuring 03 guntas which includes 2 guntas cultivable land and 1 gunta of karab land and there is no material evidence on record to prove that the land bearing



Sy.No.571/3C1 measures 03 guntas of cultivable land and also it consists of karab land.

22. Further it is relevant to note that on perusal of the materials on record it goes to show that the plaintiff has filed this suit in respect of land bearing Sy.No.571/3C1 measuring 03 guntas of Hiduvali land and requisite karab land attached to Sy.No.571/3C1 of Garani village. But as per the revenue records the land bearing Sy.No.571/3C1 is totally measures 03 guntas which includes 01 gunta of karab. Hence the plaintiff fails to prove that the land bearing Sy.No.571/3C1 measures 03 guntas of Hiduvali land and it attached some portion of karab land. Further it is relevant to note that when the land bearing Sy.No.571/3C1 measures only 02 guntas of Hiduvali land declaring the plaintiff as the owner and in possession of 03 guntas of cultivable land along with requisite kharab land in Sy.No.571/3C1 of Garani village does not arise.

23. Further it is relevant to note that on perusal the materials on record it goes to show that land bearing Sy.No.571/3 totally measures 1 acre 13 guntas out of which plaintiff purchased 05



guntas hiduvali land and requisite karab and sold 02 guntas, but the the plaintiff has filed this suit in respect of Sy.No.571/3C1 and as per the revenue records the land bearing Sy.No.541/3C1 totally measures 03 guntas which included 01 gunta of karab. Hence it is clear that the land bearing Sy.No.571/3C1 is not measures 3 guntas of cultivable land. Hence declaring that the plaintiff as the owner of 03 guntas of cultivable land in Sy.No.571/3C1 along with requisite karab land does snot arise.

24. It is relevant to note that the counsel for the plaintiff argued that the plaintiff purchased 05 guntas of land under Ex.P13 and sold only 02 guntas under Ex.P18 and retained 03 guntas, the defendant No.1 in the written statement and DW1 in the cross-examination admitted the ownership of plaintiff over the suit schedule property, hence the plaintiff proved his ownership over the suit schedule property and prays to decree the suit. It is relevant to note that on perusal of the records it goes to show that the plaintiff purchased the 05 guntas of land in Sy.No.571/3 and he sold 02 guntas and retained 03 guntas, but subsequently the revenue authorities conducted Hissa-



phodi and assigned new Sy.No.571/3C which measures 05 guntas including 01 gunta karab, same is evident from Ex.P24 and the plaintiff has not produced any documents to prove that the land bearing Sy.No.571/3C1 measures 03 guntas excluding karab land and the plaintiff has not produced any document to prove that Hissa-phodi conducted by the revenue authorities under which Sy.No.571/3C is allotted to the property of the plaintiff is set aside or modified. That apart as per Ex.P24 and Ex.P28 the land bearing Sy.No.571/3C1 is totally measures 3 guntas including 01 gunta of kharab. Hence only on the ground that the defendants admit that the plaintiff is the owner of suit schedule property in the absence material document to establish the existence of 03 guntas cultivable land in Sy.No.571/3C1 it cannot be held that the plaintiff proved his ownership and possession and possession over the suit schedule properties within the boundaries mentioned in the plaint. Hence the contention of the counsel for the plaintiff that the plaintiff proved his ownership and possession over the suit schedule property is not acceptable one.

25. Further it is relevant to note that on perusal of the materials



on record it goes to show that the land bearing Sy.No.571/3 totally measures 1 acres 13 guntas and the plaintiff purchased 05 guntas under Ex.P13 and sold 02 guntas of land under Ex.P18, subsequently the revenue authorities conducted Hissa-phodi and assigned Sy.No.571/3C to the extent of 05 guntas to the property of the plaintiff and defendant No.1, same is evident from Ex.P25 and as on the date of filing of suit the land bearing Sy.No.571/3C1 is measuring 03 guntas including 01 gunta karab. Hence there is no material on record to prove that the land bearing Sy.No.571/3C1 consisting of 03 guntas of cultivable land, but the plaintiff claims right over 03 guntas cultivable land in Sy.No.571/3C1. Hence there is serious dispute with regard to identification of the suit schedule property. That apart the plaintiff has not mentioned the boundaries of the cultivable land and karab land existed in Sy.No.571/3C1. Hence it creates doubt about the identity of the suit schedule property out of 1 acre 13 guntas and the plaintiff has not produced any documents to prove the boundaries of the 03 guntas of cultivable land and karab land attached to it in Sy.No.5712/3C1. Hence there is a serious dispute with regard to identity of the suit schedule property.



26. *It is settled principle of law that if there is a discrepancy with regard to identification of the suit schedule property, unless the court satisfied with regard to identification of the suit schedule property with material evidence with regard to identification of the suit schedule property, the relief of declaration and injunction cannot be granted. For this I rely upon the decision rendered by the Hon'ble High Court of Karnataka in the matter of P.L.Nagendra Babu Vs Manohar Rao Pawar, reported in ILR 2005 Kar 884, wherein the Hon'ble High Court of Karnataka held as hereunder :*

Para No.34: *Unless the Judge is satisfied with regard to material details in the light of the material evidence with regard to the identification of the property no declaration and no injunction can be granted as has been done by the learned Judge.*

27. In the present case the land bearing Sy.No.571/3 totally measuring 1 acres 13 guntas and land bearing Sy.No.571/3C measuring 05 guntas including 01 gunta of karab and land bearing Sy.No.571/3C1 totally measures 03 guntas including 01 gunta karab and all the revenue appeals preferred by the plaintiff challenging the Hissa-phodi are dismissed and the



plaintiff not produced any document to prove that the Hissa-phodi conducted by revenue authorities to assigned the Sy.No.571/3C to the property of the plaintiff and defendant No.1 are set aside or modified and the plaintiff is claiming the declaration in respect of 03 gunas of land purchased under Ex.P13 including karab land attached to it, but Sy.No.571/3C1 is totally measures 03 guntas including karab land. Hence it creates doubt about the identity of the suit schedule property. Hence in the absence of material document to identify the the suit schedule property out of 1 acres 13 gunats and in the absence of material documents to prove that the land bearing Sy.No.571/3 measures 03 guntas of cultivable land excluding karab land it cannot be held that the suit schedule property can be identified in 1 acre 13 guntas of land in Sy.No.571/3. Hence in view of the above said decisions granting the relief of declaration does not arise.

28. The counsel for the plaintiff by relying upon the decisions rendered by the Hon'ble High Court of Karnataka in the matter of State of Karnataka Vs T.N.Hemanth in W.A.No.148/2023 dated 16.12.2025 and in the matter of Shivappa Vs The



General Manager, Upper Krishna Project, Nav-Nagar, Bagalkot and others in W.P.No.106515/2015 dated 07.03.2023 argued that A karab land attached to the survey number goes with the cultivable land and ownership of such land continued with the land owner. Hence the plaintiff is entitled for the relief of declaration in respect of 3 guntas of cultivable land in Sy.No.571/3C1 and karab land attached to it.

29. It is relevant to note that in view of the above said decisions it is settled principle of law that if the karab land attached to the survey number is A karab land which falls within the purview of Section 21 (2) (a) of Karnataka Land Revenue Act, the ownership of the said property would continue with the land owner who possessed the land in such survey number, if the land falls under Section 21(2)(b) of Karnataka Land Revenue Act then it belongs to government, no one can claim right over the said property.

30. In the present case on perusal of the materials on record, it goes to show that the plaintiff claiming ownership in respect of 03 guntas of cultivable land in Sy.No.371/3C and requisite



karab attached to it. But the land bearing Sy.No.571/3C totally measures 03 guntas including 01 gunta of karab and the plaintiff has not produced any document to prove that the land bearing Sy.No.571/3C is measuring 03 gunta excluding karab. Hence declaring that the plaintiff is the owner of 03 guntas of cultivable land and karab land attached to it in Sy.No.571/3C1 does not arise. Hence the decisions relied upon by the counsel for the plaintiff as referred above are not applicable to the facts and circumstances of the case.

31. Upon perusing the oral and documentary evidence on record and in view of the decisions referred above and for the reasons stated above, this court is of the opinion that the plaintiff fails to prove that the plaintiff is the owners and possession of 03 guntas of cultivable land and requisite karab land attached to it and the he is in possession and enjoyment of the suit schedule property as on the date of filing of suit along with karab land. ***Hence I answer issue No.1 and 2 in the Negative.***

32. **ISSUE NO.3:-** The plaintiff has filed this suit against the



defendants for the relief of declaration and permanent injunction in respect of the suit schedule property. The plaintiff in order to entitle for the relief of permanent injunction as prayed for, the plaintiff has to prove that the plaintiff is in possession of the suit schedule property as on the date of filing the suit and defendants are interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property.

33. In the present case in view of finding on Issue No.1 and 2 and for the reasons stated therein this court held that the plaintiff fail to prove that the the plaintiff is the owner and in possession of the suit schedule property as on the date of filing the suit. When the plaintiff fail to prove that he is in possession of the suit schedule property as on the date of filing of suit, question of interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property by the defendants does not arise. Hence this court is of the opinion that the plaintiff fail to prove that the defendants are interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property



as pleaded in the plaint. ***Hence I answer Issue No.3 in the Negative.***

34. **ISSUE NO.4:-**The plaintiff has filed this suit against the defendants for the relief of declaration and permanent injunction, with a prayer to declare that the plaintiff is the owner and in possession of the suit schedule property and to restrain the defendants or any persons claiming under them from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. The plaintiff in order to entitle for the relief of declaration and permanent injunction as prayed for, the plaintiff has to prove that plaintiff is the owner and in possession of the suit schedule property as on the date of filing of suit and the defendants are trying to interfere with the peaceful possession and enjoyment of the plaintiff over the suit schedule property as pleaded in the plaint.

35. In the present case in view of the finding on Issue No.1 to 3 and for the reasons stated therein, this court held that the plaintiff fails to prove that the plaintiff is the owner and in



possession over the the suit schedule property as on the date of filing the suit and the defendants are interfering with the possession of the plaintiff over the suit schedule property as pleaded in the plaint. Hence the plaintiff is not entitled for the relief of declaration and permanent injunction as prayed for.

36. Upon perusing the oral and documentary evidence on record and in view of the reasons stated above, this court is of the opinion that plaintiff is not entitled for the relief of declaration and permanent injunction as prayed for. **Hence, I answer point No.4 in the Negative.**

37. **ISSUE No.5** :- In view of the finding on Issue No.1 to 4 and for the reasons stated therein, this Court proceed to pass the following:

ORDER

The suit of the plaintiff is dismissed with cost.

Draw decree accordingly.

(Dictated to the stenographer, computerized by her, corrected by me and then pronounced in the open court today on this the 08th Day of June, 2026)

**(AMARANATHA B.N.)
Prl.Civil Judge & JMFC,
Madhugiri.**

**ANNEXURE****LIST OF WITNESSES EXAMINED ON BEHALF OF THE PLAINTIFF:**

PW1 : Nagalotappa,

LIST OF EXHIBITS MARKED ON BEHALF OF THE PLAINTIFF:

Ex.P1to10 : RTC extracts,
Ex.P11 : Affidavit filed before the Joint Director of
Land Records, Bangalore in Appeal No. JDLR
Appeal No.22:97-98,
Ex.P12 : Order passed by the Tahasildar, Madhugiri
in RRT(dis)173/20-21,
Ex.P13 : C/C Sale deed dated 25.04.1991,
Ex.P14 : C/C M.R. Extract,
Ex.P15 to17 : Survey sketches in Sy.No.571/3,
Ex.P18 : C/C sale deed dated 31.12.1992,
Ex.P19 : Intimation issued by the ADLR, Madhugiri,
Ex.P20 : C/C Order passed in Appel No.730/2017(CH-
1) passed by Karnataka Appellate
Tribunal,Bengaluru,
Ex.P21 : C/C Order passed in Case
No.ಭೂಲನಿ.ಅಪೀಲು:91/2014-15 passed by the
DDLRL, Tumakuru,
Ex.P22 : C/C the order passed by the Joint Director of
Land Records in Appeal
No.ಜೆ.ಡಿ.ಎಲ್.ಆರ್.ಓ.ಅ.22:97-98,
Ex.P23 to 30 : RTCs,
Ex.P31 : C/C of the order passed by the Assistant
Commissioner, Madhugiri in
R.A.No.92/2022.

LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANTS:

DW1 : Puttasiddaiah,

LIST OF EXHIBITS MARKED ON BEHALF OF DEFENDANTS:

Ex.D1 : C/C of the order passed by the DDLR in
Case No.ಭೂಲನಿ.ಅಪೀಲು:91/2014-15,
Ex.D2 : C/C of the Order passed by the Karnataka



Ex.D3 & 4 : Appellate Tribunal in Appeal No.730/2017 (CH-1),
: C/C of the Judgment and decree passed in O.S.No.320/1996.

(AMARANATHA B.N.)
Prl.Civil Judge & JMFC,
Madhugiri.