



**IN THE COURT OF ADDITIONAL CIVIL JUDGE AND J.M.F.C.,
TIPTUR.**

DATED THIS THE 08th DAY OF JUNE, 2026.

**PRESENT: SMT. MADHUSHREE.G.S., B.COM., LLB., L.L.M.,
ADDL. CIVIL JUDGE & JMFC., TIPTUR.**

O.S.NO.162/2019

PLAINTIFF : 1. B.Chandrashekaraiah
S/o Late.Bommalingaiah @ Bommaiah
Aged about 48 years
R/at Belagarahalli
Nonavinakere Hobli
Tiptur Taluk

(By Sri.S.S., Adv)

Vs.

DEFENDANTS : 1. Harisha
S/o Late.Bommalingaiah @ Bommaiah
Aged about 40 years

2. Girijamma
W/o Late.Bommalingaiah @ Bommaiah
Aged about 69 years
R/at Belagarahalli
Nonavinakere Hobli
Tiptur Taluk

(By Sri.C.V., Adv)

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Date of institution of the suit	02.05.2019		
Nature of Suit	Declaration & Possession		
Date of the Commencement of Evidence	14.12.2022		
Date of Judgment	08.06.2026		
Total Duration	Years	Months	Days
	07	01	06

Sd/-
(**MADHUSHREE G. S.**)
Addl Civil Judge & JMFC.,
Tiptur.

-: J U D G M E N T :-

The plaintiff has filed the present suit against the defendants, seeking a declaration that the plaintiff is the owner in possession of the Schedule A property, or alternatively, for the partition and separate possession of the plaintiff's one-third share in the Schedule B property, along with other consequential reliefs in respect of the suit properties.

2. Description of the suit schedule property :

'A' Schedule property

The land bearing Sy.No.207/6 totally measuring 0.13.08 guntas



out of which 0.01 guntas bounded by East : Remaining property in Sy.No.207/9 measuring 12.08 gutnas, West : property of plaintiff, North : property of plaintiff and South : Land bearing Sy.No.207/2 situated at Kannughatta, Nonavinakere Hobli, Tiptur Taluk.

'B' Schedule property

The land bearing Sy.No.207/6 totally measuring 0.13.08 guntas assed at Rs.1.18 paisa, bounded by East : property of Basavaraju, West : property of plaintiff, North : property of Sathyanna & South : Land bearing Sy.No.207/2.

Property situated at Kannughatta Village, Nonavinakere Hobli, Tiptur Taluk.

(Hereinafter referred to as “suit property”).)

- 3. The brief fact of plaintiff's case is as follows :** The plaintiff and the defendant No.1 are the sons of defendant No.2. The plaintiff, defendants and father Bommalingaiah were divided their joint family properties under a palu-patti 05.02.2001. After partition plaintiff and defendant No.1 living separately enjoying their respective shares. The father Bommalingaiah demised in the year 2002. After words defendant No.2 is residing with plaintiff. The plaintiff enjoying the properties of his father and mother. In the month of march 2019 the panchayath was held to divide the properties of father and mother of plaintiff. The suit



'A' schedule property was allotted to the share of plaintiff in the said panchayath. The joint family of parties to had fertile, valuable vast properties, the father Bommalingaiah plaintiff and defendant No.1 were personally cultivating The family properties. There was surplus income derived from the family properties. The father Bommalingaiah prudently managing the family and family properties, out of the income derived from family properties he has purchased properties in his name and also in the name of defendant No.2 particularly the suit Sy No.207/6 totally measuring 0.27 guntas. After being purchase parties to suit along with father Bommalingaiah enjoying the said property along with other family properties the said property blended with the joint family properties and enjoying said property as joint family property. The property allotted to the share of father Bommalingaiah has been divided between parties to suit equally. The suit survey number which was allotter to the share of defendant No.2 has been in possession and enjoyment of plaintiff and defendant No.2. The plaintiff personally cultivating the said property, since then defendant No.2 was residing with plaintiff after the death of her husband. The defendant No.2 has executed registered gift deed dated 28.07.2014 with respect to 13.08 guntas in suit survey number, the same is in exclusive possession and enjoyment of plaintiff. The defendant No.2 has voluntarily expressed her willingness to effect partition of 'B' schedule property, she convened



panchayath and divided the 'B' schedule properties between plaintiff and defendant. As per oral partition the plaintiff was allotted 'A' schedule property the remaining 0.12.08 guntas to defendant No.1.

The parties to suit have applied for survey sketch with the consent of parties to suit 11E sketch was prepared by surveyor on 29.01.2019. The parties to suit agreed to get register document as per sketch in the month of April 2019. But due to death of defendant No.2 sister husband at Ardagere of Gubbi Taluk. The defendant No.2 went to her sister house she was staying there till this day. The plaintiff surprisingly came to know that defendant No.1 has obtained registered gift deed dated 08.04.2019 from defendant No.2. The plaintiff approached the defendant No.2 and enquired about the said deed. The defendant No.2 expressed her innocence and told that defendant No.1 get the said document only to the extent of 0.12.08 guntas as per oral partition he has not included 'A' schedule property, believing the words of defendant No.1 she signed the said document, in this way the defendant No.1 has played fraud on the innocent defendant No.2. After registration she went to Ardagere to her sister house but possession of the property as per deed was not delivered, the entire 'B' suit schedule property is in possession of plaintiff. The alleged deed does not binds the plaintiffs share viz over 'A' schedule



property. Now the defendant No.1 on the strength of alleged registered gift deed attempting to disposes the plaintiff forcibly from the 'B' schedule property for which he has no manner of right, title or possession over the suit schedule properties. The 'A' schedule property allotted to the share of plaintiff and oral partition as such he is the owner in possession of the same. In case if this court came to the conclusion there is no partition in the 'B' schedule property the plaintiff is entitle to 1/3rd share in the 'B' suit schedule property. Hence the plaintiff has filed this suit for comprehensive relief of declaration to of 'A' schedule property and in the alternative for partition of 'B' schedule property. Hence, this suit.

4. Upon institution of suit, the summons were issued to the defendants. Summons was duly served on the defendants. In receipt of suit summons, the defendants appeared before the Court through the advocate of their choice and filed the written statement.
5. On the other hand, the defendants filed their written statement, wherein they denied in to the averments made in the plaint and contended that defendant No.2 is wife of late, Bommalingaiah @Bommaiah and Plaintiff, defendant No.1 and one Prema @ Prameela have children of the above said Bommalingaiah and defendant No.2, on 05.02.2001 the above said Bommalingaiah, the plaintiff and defendants have partition the ancestral and self



acquire of the defendant No.2's property, as per the said unregistered partition deed dated 05.02.2001 some of the property allotted to the Bommalingaiah and defendant No.2 and reaming some property allotted to the plaintiff and defendant No.1, with special shara note that if the above Bommalingaiaha and Girijamma if not able to earn the food from the schedule property of Partition they have liberal to do anything hence as per unregistered partition deed no relationship with any one and after death of Bommalingaiah, the property of the defendant No.2 is absolute property of her. The defendant No.2 has not executed any sale deed or Gift deed to the Plaintiff and plaintiff have got the sale deed on 28.07.2014 illegally and this deed not binding on defendants and plaintiff do the fraud to the defendants.

The plaintiff has not taken care of the defendant No.2 also even her husband when his life time, and the defendant NO.1 always taken care, hospital issues and all other things and from the unregistered partition deed dated 05.02.2001, the defendant No.1 has been taking care of defendant No.2 hence the defendant No.2 have executed the Gift deed dated 08.04.2019, document as registered as TPT-1-00096-2019-20, CD number TPTD231, dated 08.04.2019, in respect of the Sy No.207/6, measuring about 0.13.08 Gutnas, Situted at Kannughatta Village, Nonavinakere Hobli, Tiptur Taluk, Tumkur



District. The plaintiff has got the property from the defendant No.2 is illegally. The Plaintiff has not produced any document to show that he is in possession of suit schedule property claimed in the suit. In view of the same, the relief claimed by the Plaintiff cannot be granted in favour of the Plaintiff. The Plaintiff has suppressed material facts and by fabricated document, he is trying to grab the property belonging to this defendant No.1. The Plaintiff has not made out any prima facie case in his favour for grant of injunction in his favour and there is no balance of convenience in his favour. The suit is liable to be dismissed in limine.

The plaintiff is not entitled to any orders much less the order of injunction at the hands of this court. The relief sought by the Plaintiff is vexatious, mischievous and without any basis. There is no cause of action of this suit and cause of action is neither true nor correct. All other allegations made in the plaint which have not so far been traversed herein specifically and runs contrary to the stand taken by this defendant supra are hereby denied as false and untenable and the plaintiffs are put to strict proof of the said allegations. Hence, prays to dismiss this suit.

6. Having heard and perused, the following issues have been framed :

ISSUES



1. Whether the plaintiff proves that he is the absolute owner of the suit A schedule proeprty as per the palu patti dated 05.02.2001?
 2. Whether the alleged gift deed dated 08.04.2019 executed by the defendant No.1 in favour of defendant No.1 does not bind the share of the plaintiff?
 3. Whether the plaintiff is entitled for 1/3rd share in the suit schedule properties alternatively?
 4. Whether the plaintiff is entitled for the other reliefs sought?
 5. What order or decree?
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7. In order to establish the case, the plaintiff stepped into the witness box, filed the evidence affidavit in lieu of examination in-chief by reiterating the entire plaint averments, got examined as PW1 and marked 4 document as Ex.P-1 to Ex.P4 i.e., Ex.P1 is the RTC extract, Ex.P2 is the 11E sketch, Ex.P3 is the certified copy of gift deed and Ex.P4 is the registered partition deed and closed side.
 8. Heard both sides and perused the materials available on record along with decisions.
 9. This court answers the above points as follows:-

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 orders,
for the following ;

REASONS

10. **ISSUE NO.1 and 2** : Since these issues are interlinked and interconnected with each other, they are taken up together for common discussion to avoid repetition of facts.
11. The burden of proof in a suit for declaration of title is strictly on the plaintiff under Section 101 of the Indian Evidence Act. The plaintiff must succeed on the strength of his own case and not on the weakness of the defence.
12. To substantiate the acse, the plaintiff relies upon Ex.P1 to Ex.P4. Ex.P1 is RTC extract, Ex.P2 is 11E sketch, Ex.P3 is registered gift deed dated 28.07.2014, and Ex.P4 is palu-patti dated 05.02.2001. It is undisputed that RTC pertaining to Sy.No.207/6 stands in the name of defendant No.2 pursuant to mutation entry No.MR T3/2014–15. Revenue entries, though



not conclusive proof of title, carry a strong presumption of possession and correctness unless rebutted by cogent evidence. The plaintiff has not produced any document showing mutation of his name, transfer of title, or recognition of possession by revenue authorities in respect of Sy.No.207/6.

- 13.** Ex.P4 palu-patti does not include Sy.No.207/6 in the share allotted to the plaintiff. On the contrary, it clearly reflects allotment of other survey numbers namely 45/3, 45/4, 27/3, 193/2, 207/2 and 27/4B. Ex.P2 11E sketch pertains to Sy.No.208 and not to Sy.No.207/6. Therefore, it is irrelevant for determination of rights over the suit property. Ex.P3 is a registered gift deed executed by defendant No.2 in favour of defendant No.1. The said document does not confer any right, title or interest on the plaintiff and does not advance his case.
- 14.** The plaintiff's assertion of possession and cultivation is based only on oral testimony. However, no independent evidence such as RTC entries in his name, cultivation records, revenue receipts, or third-party corroboration has been produced. In suits involving immovable property, mere oral evidence without documentary support is insufficient to displace admitted or recorded revenue entries, particularly when such entries stand in the name of another person.
- 15.** Further, It is admitted by the plaintiff in the plaint itself that the suit schedule property was allotted to the share of defendant



No.2. Once such allotment is admitted, the property becomes the exclusive and absolute property of defendant No.2, and she is entitled in law to deal with the property in any manner she deems fit. When such being the admitted factual position, the plaintiff has made an inconsistent plea in paragraph 5 of the plaint stating that defendant No.2 executed a gift deed in his favour. However, no such gift deed has been produced before the Court. Therefore, the said plea remains unsubstantiated and cannot be accepted. Further, the plaintiff has alleged that the gift deed executed in favour of defendant No.1 is fraudulent. However, no documentary evidence whatsoever has been produced to establish fraud, misrepresentation, or illegal execution of the said document. Mere allegation of fraud, without proof, cannot be acted upon by the Court.

- 16.** The plaintiff has therefore failed to discharge the burden of proof cast upon him under Section 101 of the Indian Evidence Act. The evidence on record does not establish either title or lawful possession over Sy.No.207/6. The fact that the defendants have not cross-examined PW.1 or led evidence does not absolve the plaintiff from proving his case. A decree for declaration cannot be granted on mere absence of defence evidence when the plaintiff's own documentary foundation is lacking. In the absence of any credible evidence establishing title or possession, the plaintiff has failed to discharge the



burden under Section 101 of the Indian Evidence Act. Accordingly, Issue Nos.1 and 2 are answered in the Negative.

17. ISSUES NO.3 AND 4 : In view of the findings recorded on Issue No. 1 and Issue No. 2, it is concluded that the plaintiff is not entitled to the reliefs claimed, including the declaration of ownership and possession of the Schedule A property or the partition and separate possession of the one-third share in the Schedule B property. Accordingly, the issue No.3 and 4 are answers in Negative.

18. ISSUES NO.5 : In view of the findings recorded on Issue No.1 to 4, this Court proceeds to pass the following :

ORDER

The suit of the plaintiff is
hereby dismissed with costs.

Draw decree accordingly

(Dictated to the stenographer, who computerized the same directly and then, corrected by me, print out taken by her, signed and then pronounced by me in the Open Court on 08th day of June, 2026.)

sd/-
(MADHUSHREE G. S.)
Addl. Civil Judge and JMFC,
Tiptur.

**ANNEXURE****LIST OF WITNESSES EXAMINED FOR THE PLAINTIFFS:**

PW.1 : B.Chandrashekharaiiah

LIST OF DOCUMENTS MARKED FOR THE PLAINTIFFS:

Ex.P1 : RTC extract
Ex.P2 : 11E sketch
Ex.P3 : Certified copy of gift deed
Ex.P4 : Registered partition deed

LIST OF WITNESSES EXAMINED FOR THE DEFENDANTS:

---NIL--

LIST OF DOCUMENTS MARKED FOR THE DEFENDANTS:

---NIL--

sd/-

(MADHUSHREE G. S)

Addl. Civil Judge and JMFC.,
Tiptur.