

KAUK510021872021



Presented on : 24-11-2021  
Registered on : 24-11-2021  
Decided on : 26-03-2026

**IN THE COURT OF CIVIL JUDGE & JMFC, HALIYAL**  
**AT: HALIYAL, UTTARA KANNADA**

**Dated this 26<sup>th</sup> day of March, 2026**

**PRESENT**

**Smt. Geeta.** B.A.LL.B (Hon's) LL.M.,  
Civil Judge and JMFC, Haliyal

**ORIGINAL SUIT NO: 112/2021**

**BETWEEN:**

1. Sri. Shankar S/o Masanu Tamburkar  
Age: 62 years, Occ: Agriculture,  
R/o. B.K. Halli, (Bujarkanchanahalli)  
Tq: Haliyal, Dist: Karwar.

.....Plaintiff

**(By Sri. M.N.J, Advocate for Plaintiff)**

**AND:**

1. Sri. Suresh S/o Mahadev Daivajnya @ Sonar  
Age: 54 years, Occ: Agriculture,  
R/o. B.K. Halli, (Bujarkanchanahalli)  
Tq: Haliyal, Dist: Karwar.

..Defendant

**(By Sri. S.S.K. Advocate for Defendant)**

Date of Institution : 24.11.2021  
Nature of the suit : For Injunction Suit  
Date of Evidence : 14.02.2023  
Date of Judgment : 26.03.2026  
Total Duration : Year/s Month/s Day/s  
04 04 02

### **JUDGMENT**

This is a suit filed by the plaintiff against the defendant for the relief of permanent injunction to restrain the defendant, his agents, servants, or anybody acting on his behalf from obstructing peaceful possession and enjoyment of suit property bearing survey No.168/2 of B.K. Halli Village, Haliyal Taluk.

#### **2. Description of suit property is as under:**

An agricultural land bearing survey No.168/2, measuring 01 acre, 32 guntas, 12 annas, assessed at Rs.10.89 paisa, situated at BK Halli Village, Haliyal Taluk. Hereinafter referred as suit property.

#### **3. The brief facts of the case are as follows:**

It is the case of plaintiff that, he is an absolute owner in lawful possession and enjoyment of suit property. The suit property was allotted to plaintiff in the family partition taken place between him and his brothers by name Fakkir Hanumanth Shambaji in the year 2014. Accordingly, survey No.168 is divided into 04 parts and survey No.168/ 2 was allotted to the

plaintiff. Thereafter podi was effected and suit property was entered in the name of plaintiff as owner and possessor. The survey authorities have prepared map and the plaintiff is paying assessment to the government regularly. Since the date of partition, the plaintiff is in possession and growing sugarcane. Towards the southern side of suit property, the plaintiff has erected temporary shed and putting agricultural implements and parking tractor and trailer.

4. It is further averred that, defendant without having any right, title, interest over the suit property, is unnecessarily causing obstruction by creating forged and fabricated documents and got entered his name in respect of 03 guntas of land in VPC records without any registered valid transfer deed. The defendant colluding with Panchayat authorities got entered his name in VPC extract and created documents by forging and putting thumb impression of somebody and created documents styled as agreement of sale. The brother of plaintiff never put any thumb impression, but the defendant has created VPC extract without paying any amount to the brother of plaintiff. Now in order to grab valuable portion of suit property, the defendant has created documents and unnecessarily obstructing the peaceful possession and enjoyment of suit property. Based on such created documents, defendant has obtained permission for construction of building in a portion of suit property without any valid title deed and trying to dig pits in the suit property for construction of building. The defendant is also threatening the

plaintiff with dire consequences. Further, the defendant along with some other persons entered suit property and destroyed agricultural implements and hurriedly laying foundation in the suit property. In spite of request by the plaintiff, the defendant has not stopped obstruction and interference in enjoyment of suit property. Hence, plaintiff constrained to file this suit. The cause of action arose on 17.11.2021 when the defendant caused obstruction to the peaceful possession and enjoyment of suit property by the plaintiff. With these contentions, plaintiff prayed to decree the suit.

**5.** After issuance of suit summons, defendant appeared through his counsel and filed written statement denying the plaint averments specifically and stated that the land measuring 03 guntas, situated at B.K Halli village, bearing Gram Panchayat No.586, was purchased by defendant through the brother of plaintiff by name Hanumanth Mashnu Tamburkar. Since the date of purchase, the defendant is in possession and enjoyment of said property. The defendant purchased said 03 guntas of land on 09/12/2011 through an agreement of sale registered before notary public and paid Rs. 18,500/- to the brother of plaintiff by name Hanumanth. Thereafter, the defendant has given an application to Gram Panchayat to enter his name in the VPC records, and on 23.02.2012, the Gram Panchayat BK Halli has passed a resolution to enter the name of defendant in the VPC records with respect to 03 guntas of land purchased by him from Hanumant Mashnu Tamburkar. At the

time of passing resolution, the Gram Panchayat authorities have taken permission from brother of plaintiff and since then, the defendant is in possession and enjoyment of said 03 guntas. On 22/10/2021, the defendant was constructing a house in the suit property in the said 03 guntas by obtaining permission on 24/10/2021, when the defendant was laying foundation in the 03 guntas, plaintiff and his children have restrained him from entering suit property and obstructed the construction work. Therefore, the defendant has filed a suit bearing OS 101/ 2021 for the relief of permanent injunction. Now, in order to grab suit property from defendant, the plaintiff has filed this suit by showing wrong description. Therefore, the suit of the plaintiff is liable to be dismissed. With these contentions, defendant prayed to dismiss the suit.

6. In view of the above said pleadings, this Court has framed the following issues:

### **ISSUES**

1. *Whether plaintiff prove that, he is in peaceful possession and enjoyment of the suit schedule property as on the date of filing of the suit ?*
2. *Whether the plaintiff further proves the alleged interference of the defendant to his possession over the suit property?*
3. *Whether plaintiff proves that, he is entitle for the relief of permanent injunction as sought for?*

4. *What order or decree?*

7. In order to prove their case, plaintiff himself examined as PW.1 and got marked in all 04 documents as Ex.P1 to 4, 02 other witnesses were examined as PW2 and 3. However, the PW2 has not cross-examined by defendant. On the other hand, in order to prove his contentions, defendant himself examined as DW1 and got marked 03 documents as Ex.D1 to 3.

8. Heard arguments.

9. After analyzing the pleadings of the parties, oral and documentary evidence placed on record and after hearing the arguments, answers to the above issues are as under:-

**Issue No.1 : In the Negative.**

**Issue No.2 : In the Negative.**

**Issue No.3 : In the Negative.**

**Issue No.4 : As per final order  
for the following:-**

**REASONS**

10. **ISSUE No.1 and 2** :- These issues are inter connected with each other, in order to avoid repetition of facts and for the sake of convenience these issues are taken together for common discussion.

It is the case of plaintiff that, he is an absolute owner in possession and enjoyment of suit property. The suit property was allotted to him in the family partition and thereafter he is in possession of said property by effecting Phodi and his portion was numbered as survey No.168/2, measuring 01 acre, 32 guntas, 12 annas. The defendant without having any right, title, interest over the suit property has created some documents by forging the signature of his brother Hanumanth and got entered his name in the VPC records colluding with Gram Panchayat authorities. Based on such documents, the defendant is trying to put up building in the suit property by digging foundation. The defendant denied the contentions of plaintiff and stated that he has purchased 03 guntas of land from the brother of plaintiff by name Hanumanth Mashnu Tamburkar through an agreement of sale by paying Rs.18,500/-. Since the date of agreement, the defendant is in possession and enjoyment of said land and constructing building by obtaining permission from Gram Panchayat.

**11.** In order to prove his contentions, the plaintiff himself examined as PW1, filed affidavit in lieu of examination in chief and got marked in all 04 documents as Ex.P1 to 4. Two other witnesses were examined as PW2 and 3. The Ex.P1 is the RTC extract with respect to land bearing survey No.168/2 for the year 2021-22, situated at Bhujur Kanchana village, wherein 01 acre 25 guntas, 12 annas, stands in the name of plaintiff. Ex.P2 is M.R No.T90/2013-14, wherein the land measuring 01 acre 25

guntas, 12 annas was mutated in the name of plaintiff. Ex. P3 is the M.R No.10/2004-2005, as per this document, brother of plaintiff by name Hanumanth Mashnu Tamburkar gifted 06 guntas, 08 annas to the Taluka Panchayat and Ex.P4 is the Hissa sheet with respect to block No.168/2.

**12.** In order to prove his contentions, defendant himself was examined as DW1, filed affidavit in lieu of examination in chief and got marked in all 03 documents as Ex. D1 to D3. Out of which, Ex.D1 is the photo, Ex. D2 is the revenue paid receipt and Ex.D3 is the tax paid receipt.

**13.** On perusal of documentary evidence, the plaintiff has not produced a single document to prove that he is owner of entire land measuring 01 acre, 32 guntas, 12 annas out of RS No. 168/2. Though the plaintiff produced RTC extract, but in which the land measuring 01 acre, 25 guntas, 12 annas only stands in the name of plaintiff and remaining 05 guntas is shown as phoot karab 'B'. Though, the plaintiff has contended that the defendant has created some documents by forging the signature of his brother. But the plaintiff has not produced documents to prove such contentions. Further, though the plaintiff contended that the defendant is trying to construct a building in the suit property by laying foundation, however, no documents produced to prove such contentions. Therefore, except the averments of plaintiff regarding obstruction by the defendant, he has not produced any documentary evidence to prove such contentions.

**14.** Though the plaintiff examined 02 other witnesses as PW2 and 3 and they deposed in the chief examination that plaintiff is the absolute owner of suit property and the defendant has created some documents and trying to obstruct his peaceful possession of suit property. But PW.3 in the cross-examination, admitted that the brother of plaintiff by name Hanumanth has sold his land to different persons, and the different persons have constructed their house and other buildings in the property allotted to the brother of plaintiff by name Hanumanth. The PW3 also pleaded ignorance that defendant purchased his a portion of land from brother of plaintiff by name Hanumanth and said property is not coming under the portion of plaintiff. Therefore, the plaintiff failed to prove that the alleged 03 guntas is coming under his portion of land.

**15.** Further, it is the contention of plaintiff that defendant has created some documents and interfering with his possession, however, the plaintiff has not produced such created documents before the court to show that defendant created documents and trying to dig foundation in the suit property. Further, the plaintiff has not produced single document to prove that the property purchased by defendant is coming within his partition of property. Therefore, the plaintiff utterly failed to prove his possession over the suit property and obstruction by defendant. Further, though the defendant has contended in his written statement that he has purchased 03 guntas of land and he is absolute owner of property. But the plaintiff has not sought

the relief of declaration to declare such document as null and void. Further, the plaintiff has not produced a single document to prove that defendant has laid foundation for construction of building. Therefore, the plaintiff failed to prove his contentions as pleaded in the plaint. The plaintiff approached this court with an allegation, therefore, the burden is on him to prove the same. However, in the case on hand, the plaintiff has not produced a single document to prove the creation of documents by defendant and also obstruction by him in enjoyment of suit property. Therefore, the plaintiff utterly failed to prove his possession over entire land measuring 01 acre, 32 guntas, 12 annas and also obstruction by the defendant in his enjoyment. Hence, **I answer issue No.1 and 2 in the Negative.**

**16. ISSUES NO.3:-** In view of discussion on issue No.1 and 2, the plaintiff failed to prove his possession over entire suit property and also failed to prove the alleged obstruction by the defendant. Further, the relief of permanent injunction is discretionary relief, the plaintiff has to disclose all the facts regarding said property. However, the plaintiff in the plaint pleaded that the defendant has created some documents by forging thumb impression and got entered his name in the VPC records. The plaintiff has not stated which document is created by defendant and also whose signature has been forged by defendant. Further, the plaintiff contended that defendant has got forged the signature of his brother and got created some documents with respect to 03 guntas of land. However, the

plaintiff has not made his brother Hanumanth as party to this suit, to say regarding the sale of 03 guntas by him to defendant. Further, the PW3, being resident of BK Halli village, has clearly deposed that brother of plaintiff has sold his portion to different persons and they have constructed building in the said land. It proves that, brother of plaintiff by name Hanumanth has sold said 03 guntas to defendant. It is true that defendant has not produced alleged agreement of sale. However, the initial burden is on the plaintiff to prove his contentions. In the case on hand, the plaintiff failed to prove the alleged contentions by producing oral and documentary evidence and he failed to discharge his burden of proving his case. Therefore the plaintiff is not entitled for any relief as sought in the plaint. Hence, **I answer issue No.3 in the Negative.**

**17. ISSUE NO.4:** In view of the discussion on above issues and for the reasons stated therein, I proceed to pass the following:

**ORDER**

**Suit of the plaintiff is hereby  
dismissed with cost.**

**Draw decree accordingly.**

(Dictated to the Stenographer, transcribed and typed by her, then corrected, signed and pronounced by me in the Open Court on this the **26<sup>th</sup> day of March, 2026**)

**Sd/-**

**(Geeta)  
Civil Judge and JMFC,  
Haliyal**

**ANNEXURE****List of witnesses examined for the plaintiff/s :-**

- PW.1 : Sri. Shankar S/o Masanu Tamburkar  
PW.2 : Sri. Manjunath S/o Bharmanna Gouda  
PW.3 : Sri. Topamma S/o Laxman Londi

**List of documents marked for the plaintiff/s :-**

- Ex.P1: RTC extract with respect to land bearing survey  
No.168/2  
Ex.P2: M.R No.T90/2013-14  
Ex.P3: M.R No.10/2004-2005  
Ex.P4: Hissa sheet with respect to block No.168/2.

**List of witnesses examined for the Defendant/s :-**

- DW.1 : Sri. Suresh S/o Mahadev Daivajnya @ Sonar

**List of documents marked for the Defendant/s :-**

- Ex.D1: Photo  
Ex.D2 : Revenue paid receipt  
Ex.D3 : Tax paid receipt.

**Sd/-  
(Geeta)  
Civil Judge and JMFC,  
Haliyal**