

KABI210002942020



**IN THE COURT OF THE SR. CIVIL JUDGE, H.B.HALLI,**  
**ITINERARY SITTING AT SENIOR CIVIL JUDGE,**  
**HUVINAHADAGALI.**

**Dated this the 17<sup>th</sup> day of June 2022.**

**PRESENT: Smt. ANUPAMA.D., B.COM., LL.B.**  
Senior Civil Judge & J.M.F.C., H.B.Halli,  
Itinerary sitting at Senior Civil Judge,  
Huvinahadagali.

**O.S. No. 35/2020**

**PLAINTIFF/S:**

Beluvigi Prakash  
S/o Shankarappa,  
Aged 37 years, Agriculturist,  
R/o Uttangi Village,  
Hadagali taluk, Ballari dist.

**(By Sri. M. Parameshwarappa, Adv.,)**

**V/s**

**DEFENDANT/S:**

- 1) Hulikatti Shankarappa  
S/o late Basappa  
Aged 51 years, Agriculturist,  
R/o Uttangi village,  
Hadagali taluk, Ballari dist.
- 2) Smt. Hulikatti Shankuntamma  
W/o Prakash,  
Aged 48 years, Agriculturist,

R/o Uttangi village,  
Hadagali taluk, Ballari dist.

**(R1 – exparte  
R2 by Sri S.Gurubasavaraj, Adv)**

Date of institution of suit.	:	28-07-2020
Nature of suit	:	Declaration and Injunction
Date of evidence	:	19-11-2021
Date on which Judgment was pronounced		17-06-2022
Total duration	:	Year/s    Month/s    Day/s 01            10            17

**(ANUPAMA.D)**

Sr.Civil Judge & JMFC, H.B.Halli  
Itinerary sitting at Sr. Civil Judge,  
Huvinahadagali.

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

The plaintiff has filed this suit for declaration and consequential relief of permanent injunction against the defendants.

**2. The brief facts of plaintiff case are that:**

The agricultural land bearing Sy. No.401/2 measuring 5.00 acres of Uttangi revenue village in Hadagali taluk was purchased by the plaintiff from its lawful owner Sri Hulikatti Shankarappa S/o late Basappa who is the defendant No.1 for valuable consideration of Rs.5,50,000/- through registered sale deed dated 03.07.2019. Further,

after purchase of the said property, the plaintiff became absolute owner and he is in peaceful possession and enjoyment of the same. In the meanwhile the defendant No.2 filed appeal before the Asst. Commissioner Harapanahalli by challenging the MR No.173/2010-11 dated 20.05.2011 without knowledge and without impleading the plaintiff and behind back of this plaintiff and obtained order for set aside the mutation order bearing MR No.173/2010-11 and mutated the suit schedule property jointly in the name of appellant and respondent No.2 in Appeal No.211/2019 (old No. 136/2019).

3. Further, the defendant No.2 filed objection for change of the khata of the suit schedule property as per registered sale deed dated 03.07.2019. The revenue authority registered case bearing RRT Dis. 45/2019. However the revenue authority having power to mutate the said property as per registered sale deed, even it is bound and duty of the revenue department to mutate the said property as per registered sale deed dated 03.07.2019. But revenue authority has not responded properly. The defendant No.1 and 2 are not having any right, title and interest over the suit schedule property. But interfering and obstructing to the plaintiff's peaceful possession and enjoyment over the same on 30.02.2020. The plaintiff has convened a

panchayath before the elders of the village and the elders of the village have advised the defendants particularly the defendant No.2 not to interfere and obstruct to the plaintiff's peaceful possession over the suit schedule property. But again the defendants are causing interference and obstructing to the plaintiff's peaceful possession and enjoyment over the suit schedule property on 09.03.2020. Hence, the plaintiff has filed the suit for declaration and permanent injunction over the suit schedule property.

5. Despite summons being served on the defendant No.1, he did not appear before the court, hence he placed ex parte. On receipt of summons the defendant No.2 has appeared before the court through her counsel, but not filed any written statement.

6. In order to prove the claim, the plaintiff himself has examined as PW1 and also examined a witness by name K.G. Hanumanthappa who is a witness of sale deed as PW2. PW1 has got marked 5 documents as Ex.P1 to 5.

7. Heard the arguments of counsel for plaintiff and perused the documents.

8. On the basis of the above the following points are arise for my consideration:

**POINTS**

1. Whether the plaintiff prove that he is an absolute owner and person in peaceful possession and enjoyment of the suit property?
2. Whether the plaintiff proves that the alleged interference by the defendants?
3. Whether the plaintiff is entitled the relief as sought for?
4. What order or decree?

9. My answers to the above points are as hereunder:-

Point No.1 : In the affirmative

Point No.2 : In the affirmative

Point No.3 : In the affirmative

Point No.4 : As per the final order  
for the following:

**:-REASONS:-**

10. **Point No.1 to 3:** Since, these points are interconnected to each other; they have taken up together for consideration in order to avoid repetition of facts.

11. Here in this suit the plaintiff is claiming the relief of declaration of ownership over suit schedule property, permanent injunction with respect to the same. In order to prove his claim, the plaintiff himself has examined as PW1 and he has reiterated the plaint averments in his affidavit. Ex.P1 is the registered sale deed dated 03.07.2019 and it

disclosing that one Hulikatte Shankrappa i.e., defendant No.1 has sold the property bearing Sy. No.401/2 i.e., suit schedule property in favour of the plaintiff for a consideration of Rs.5,50,000/-. Ex.P2 is the encumbrance certificate which shows the sale transaction between the plaintiff and defendant No.1. Ex.P3 is the mutation register extract which the suit property was mutated in the name of defendant No.1 as per MR No.173/2010-11. Ex.P4 is the RTC extract of the suit schedule property for the year 2019-2020 and it has been standing in the name of 1<sup>st</sup> defendant. Ex.P5 is the notice issued by the Tahshildar, Hadagali to the defendant No.2 with respect to KLR Dispute No.129. The plaintiff has also examined the witness of the Ex.P1 and he has deposed that the defendant No.1 has sold the suit schedule property in favour of the plaintiff through the registered sale deed dated 03.07.2019 for a consideration of Rs.5,50,000/-. Further deposed he is one of the witness for the said sale deed along with M.Revanna and C.Gurubasavaraj. On 03.07.2019 itself the defendant No.1 has given the possession to the plaintiff and now the plaintiff is in peaceful possession.

12. On careful perusal of the Ex.P1 deed dated 03.07.2019, it is come to know that, the plaintiff has

purchased a land bearing Sy. No.401/2 measuring 5.00 acres of Uttangi village of Hadagali Taluk. The schedule mentioned in the said document is corroborated with the schedule mentioned in suit property. He has also produced Ex.P2 encumbrance certificate, by virtue of registered sale deed i.e., Ex.P1, he became the absolute owner and was in peaceful possession over the suit schedule property. Further the PW2 has also deposed the fact that the defendant No.1 has sold the suit property in favour of the plaintiff and he is one of the witness of the sale deed. Since the defendant No.1 is placed exparte and defendant No.2 has not filed the written statement, the evidence PW1 and 2 remained unchallenged. Hence this court has no hesitation to believe the pleadings as well as evidence of plaintiff. Accordingly on the basis of oral and documentary evidence since the suit property has been purchased by the plaintiff from the defendant No.1 and became an absolute owner. Thus the plaintiff has established his right and title over the suit property. Hence on the basis of available materials on record as discussed above the plaintiff has proved his right and title over the suit property and he is entitle for the possession as sought for. Accordingly I answer Point No.1 and 2 in the affirmative.

13. **Point No.3:-** In the result, I proceed to pass the following:

**:-ORDER:-**

The suit of the plaintiff is hereby decreed.

It is declared that the plaintiff is the absolute owner of the suit schedule property.

The defendants are hereby restrained from causing interference into peaceful possession of plaintiff over schedule property by order of permanent injunction.

Under the facts and circumstances of the case, no order as to costs.

Draw decree accordingly.

(Dictated to the typist on the computer and revised by me and then pronounced in the open court on this the 17<sup>th</sup> day of June 2022)

**( ANUPAMA.D )**

Sr.Civil Judge & JMFC, H.B.Halli  
Itinerary sitting at Sr. Civil Judge,  
Huvinahadagali.

**ANNEXURE**

**I. List of witnesses examined by plaintiff/s:**

PW1 : Beluvigi Prakash

PW2 : K.G. Hanumanthappa

**II. List of documents exhibited by plaintiff/s:**

Ex.P1 : Registered sale deed dated 03.07.2019  
Ex.P2 : Encumbrance certificate  
Ex.P3 : MR extract  
Ex.P4 : RTC extract  
Ex.P5 : Notice of Tahshildar, Hadagali

**III. List of witnesses examined by defendant/s:**

-NIL-

**IV. List of documents exhibited by defendant/s:**

-NIL-

Sd/-

**(ANUPAMA.D)**

Sr.Civil Judge & JMFC, H.B.Halli  
Itinerary sitting at Sr. Civil Judge,  
Huvinahadagali.