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

**PRESENT**

**Sri. Arun Chougule,  
B.A.LL.B.[Hons.]**

**Civil Judge and J.M.F.C,**

**Dated this the 11<sup>th</sup> day of August-2025**

**ORIGINAL SUIT NO.179/2010**

**PLAINTIFF/S:-** Sri. Laxman S/o Late Mallappa,  
Age: 71 Years, Occ: Agriculture  
R/o Ganpur village, Tq: & Dist: Yadgiri.

**(By Sri. D.M. Advocate)**

**-V/S-**

**DEFENDANT/S:-** 1. Sakrappa S/o Late Honnappa,  
Age: 50 Years, Occ: Business,  
2. Bhimshappa S/o Late Honnappa,  
Age: 45 Years, Occ: Agriculture,  
3. Saibanna S/o Late Honnappa,  
Age: 42 Years, Occ: Advocate,  
4. Narasappa S/o Late Honnappa,  
Age: 10 Years, Occ: Agriculture,  
5. Manishappa S/o Late Honnappa,  
Age: 38 Years, Occ: Agriculture,

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6. Ravi Kumar S/o Late Honnappa,  
Age: 35 Years, Occ: Agriculture,

All are R/o Ganpur village,  
Tq: & Dist: Yadgiri

( By Sri. M.K.V.A Advocate)

**IN I.A.No.37**

**Applicants/ plaintiff/s:** Sri. Laxman S/o Late Mallappa by  
his GPA Holder.

**-V/S-**

**Opponents/defendant/s** : Sri. Sabanna S/o Late Honnappa,  
and Others,

|     |                                                                          |                                                      |
|-----|--------------------------------------------------------------------------|------------------------------------------------------|
| i.  | <i>Provision under which the application is filed</i>                    | Under Order 13 Rule 10(1) and (2) R/w Sec.151 of CPC |
| ii. | <i>Relief sought for</i>                                                 | <i>Seeking to summon the original documents</i>      |
| iii | <i>The date on which the application is filed</i>                        | 08.07.2025                                           |
| iv. | <i>Number of the application</i>                                         | IA No.37                                             |
| v.  | <i>The date on which the objections are filed by different opponents</i> | 17.07.2025                                           |
| vi. | <i>The date on which the orders were passed on the said application.</i> | 11-08-2025                                           |

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**ORDER ON I.A.NO.37**

The plaintiff has filed the present application seeking to summon the following original documents from the Tahashildar Yadgiri.

1. Declaration in Form No.(11) in file No.LRY/SCR/526/1974-75, dated 31.12.1974 of Land Tribunal Yadgiri.

2. Jamabandi book of Ganpur village for the year 1964.

3. Application dated 28.02.2025 of S.Hanumanthapa Ganpur along with the set enclosed with the application which aspects concerned with this OS No.179/2010 pertaining to suit land Sy.No.(3).

4. Summons respectively dated 26.04.2008, 16.07.2008 and 20.09.2008 concerned as above shown in Sl.No.(3).

2. The SPA holder of plaintiff has sworn to an affidavit in support of the application stating that the plaintiff's father Mallappa had submitted declaration in form No.11 on 31.12.1974 in connection with proceedings bearing

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No.LRY/SCR/526/1974-75 before the Land Tribunal Yadgiri as required under Section 66 of the Karnataka Land Reforms Act, 1961 regarding the land holdings of his joint family consisting of his 4 sons. In the said declaration, it is clearly mentioned that suit land Sy.No.3 and non-suit land Sy.No.4 are ancestral properties. That, summons issued to plaintiff's father Mallappa in the said proceedings was received by defendants' father Honnappa. Thereafter, said Honnappa having appeared before the Land Tribunal had given his statement on 22.07.1977 and his further statement was recorded on 25.07.1977. The said documents are marked as Ex.P-52 to 61. However, the Dw.1 in his cross-examination deliberately denied contents of Ex.P-52 to 61 documents with an intention to suppress the real facts. The Dw.1 has also denied contents of Ex.P-23 document. As such, it is necessary to obtain expert opinion regarding genuineness of the documents. Therefore, the original documents sought in the application are necessary for obtaining the expert opinion. Hence, the plaintiff prays to allow the application.

3. The defendants have filed objections contending that the plaintiff had filed similar application in IA No.19 and the same

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has been dismissed by this Court. That, the plaintiff had also filed similar application before the Hon'ble Court of Senior Civil Judge, Yadgiri in RA NO.13/2018 which was dismissed with costs. Thereafter, the plaintiff had filed Writ Petition No.201926/2019 before Hon'ble High Court of Karnataka, Kalaburagi Bench wherein the order passed by Senior Civil Judge, Yadgiri was upheld and the Writ Petition was dismissed. Thereafter, the plaintiff having obtained certified copies of relevant documents has produced the same before this Court and got marked as Ex.P-52 to 61. However, the plaintiff has again filed similar application and therefore, the same is not maintainable. On these grounds, the defendants pray to dismiss the application with heavy costs.

4. I have heard arguments of learned counsel for both parties and perused the records. Learned counsel for the plaintiff has also written arguments.

5. After hearing the arguments and perusal of pleading and records, the following points arise for my consideration.

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**1. Whether application deserves to be allowed?**

**2. What order?**

6. My findings on the above points are as under;

**Point No.1 : In the Affirmative.**

**Point No.2 : As per final order,  
for the following:**

**REASONS**

7. **POINT NO.1:** The plaintiff has filed the present suit seeking the relief of declaration of title, permanent injunction restraining the defendants from interfering with his possession over the suit land and direction to the revenue authorities to enter the name of the plaintiff by deleting the name of defendants' father in the RTC of suit land bearing Sy.No.3 measuring 20 acres 07 guntas situated at Ganapur village of Yadgiri Taluk.

8. The case of the plaintiff is that, the suit property was purchased by his grandfather in the name of defendants' father. Thereafter, the suit property was fallen to the share of plaintiff in an oral partition held on the day of Basava Jayanti of 1979. Accordingly, the plaintiff being the absolute owner is in

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possession and enjoyment of the suit land. However, the revenue records of the suit property continued in the name of father of defendants. It is alleged that, the defendants taking undue advantage of name of their father appearing in the records started causing interference to the plaintiff's possession over the suit property. Hence, the plaintiff was constrained to file the present suit.

9. On the other hand, the defendants having appeared through their counsel filed written statement denying the case of the plaintiff contending that the suit land was purchased by their father out of his own earnings and therefore, the suit property was self-acquired property of their father. The defendants, denying the plaintiff's title and possession over the suit land as also the factum of alleged oral partition, claimed to be the owners and in possession thereof.

10. Thereafter, this court, having regard to pleadings of both the parties, framed necessary issues and having recorded evidence of both the parties, dismissed the suit of the plaintiff by judgment dated 12.01.2016. Aggrieved by the same, the plaintiff filed appeal before the Hon'ble Court of Senior Civil

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Judge, Yadgiri in RA No.13/2018. The appeal was allowed by judgment dated 21.08.2021 and the matter was remanded back to this court for fresh disposal with a direction to give opportunity to the plaintiff to adduce additional evidence and to conduct cross-examination of Dw.1 and 2. Accordingly, the matter was restored to its original number.

11. Thereafter, this court recorded additional evidence and the matter came to be posted for final arguments on merits. At this stage, the plaintiff filed the present application.

12. As the material on record suggest, the plaintiff claims that the suit land Sy.No.3 measuring 20 acres 07 guntas was an ancestral property and the same was fallen to his share in a family partition. On the other hand, the defendants contend that the suit property was a self-acquired property of their deceased father Honnappa, who had purchased the same under a registered sale deed dated 10 Behamen 1359 Fasli.

13. The plaintiff, in order to prove the factum of partition, has produced Ex.P-23 document. The plaintiff claims that Ex.P-23 is written by father of defendants by name Honnappa in his



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own handwriting wherein the list of properties fallen to the share of himself, the plaintiff and their brothers is mentioned. The defendant No.3/Dw.1 in his cross-examination denied the suggestion that Ex.P-23 document was written by his deceased father. However, the witness has admitted that his father being patawari has written Ex.P-63 to 72 documents. The said Ex.P-63 to 72 are the jamabandi documents written by father of defendants in his capacity as the patawari of Ganapur village. As the Dw.1 having denied the handwriting of his father in Ex.P-23 document has admitted his father's handwriting in Ex.P-63 to 72 documents, the plaintiff is seeking to summon the original Ex.P-63 to 72 documents from the Tahasildar Yadgiri.

14. Further, the Dw.1 having denied the handwriting of his father in Ex.P-23 document has alleged that it is written by the counsel for the plaintiff by name Sri.S.H.M.G, who is none other than one of the brothers of the plaintiff and father of defendants. As such, the plaintiff is also seeking to summon original application dated 28.02.2025 submitted by learned S.H.M.G to the Tahasildar Yadgiri.

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15. At this stage, it is relevant to mention that the plaintiff is seeking to summon the above referred documents with the purpose of seeking expert opinion regarding handwriting of Ex.P-23 document to know whether it is written by father of the defendants. This Court is of the opinion that, expert opinion would be helpful to decide the genuineness of Ex.P-23 document and the said document would be relevant to decide the factum of alleged partition. The burden of proving the alleged partition is admittedly upon the plaintiff. As already noted above, plaintiff is relying upon Ex.P-23 document to prove the factum of partition. As such, fair opportunity has to be given to the plaintiff to discharge his burden. Hence, it is just and necessary to summon the original documents sought under the application from the Tahasildar Yadgiri. Accordingly, point No.1 is answered in the Affirmative.

16. **POINT NO.2:** In view of the above discussion, the following;

**ORDER**

IA.No. 37 filed by the plaintiff under Order  
13 Rule 10(1) and (2) R/w Section 151 of CPC is  
hereby allowed.

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Office issue summon to Tahasildar Yadgiri to produce the following original documents:

1. Declaration in Form No.(11) in file No.LRY/SCR/526/1974-75, dated 31.12.1974 of Land Tribunal Yadgiri.

2. Jamabandi book of Ganpur village for the year 1964.

3. Application dated 28.02.2025 of S.Hanumanthapa Ganpur along with the set enclosed with the application which aspects concerned with this OS No.179/2010 pertaining to suit land Sy.No.(3).

4. Summons respectively dated 26.04.2008, 16.07.2008 and 20.09.2008 concerned as above shown in Sl.No.(3).

No orders as to costs.

(Dictated to the stenographer, typed by him and after corrections, pronounced in the Open Court on this the 11<sup>th</sup> day of August, 2025.)

**(ARUN CHOUGULE)**  
**CIVIL JUDGE & JMFC,**  
**YADGIRI.**