

KAYG030011772010

**IN THE COURT OF PRL CIVIL JUDGE AND JMFC., AT YADGIRI****PRESENT****Sri. Arun Chougule,****B.A.LL.B.[Hons.]****Prl. Civil Judge and J.M.F.C, Yadgiri****Dated this the 02nd day of June-2026****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,

KAYG030011772010



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.40

Applicants/ defendant No.3: Sri. Saibanna S/o Late
Honnappa and others.

-V/S-

Opponents/defendant/s : Sri. Laxman S/o Late Mallappa,

i.	<i>Provision under which the application is filed</i>	Under Section 45 of the Indian Evidence Act R/w Sec.39 of Bharatiya Sakshya Adhiniyama
ii.	<i>Relief sought for</i>	<i>Seeking to refer documents to the expert opinion</i>
iii	<i>The date on which the application is filed</i>	11.03.2026
iv.	<i>Number of the application</i>	IA No.40
v.	<i>The date on which the objections are filed by different opponents</i>	24.03.2026
vi.	<i>The date on which the orders were passed on the said application.</i>	02-06-2026

KAYG030011772010

**ORDER ON I.A.NO.40**

The defendants have filed the present application under Section 45 of the Indian Evidence Act read with Section 39 of the Bharatiya Sakshya Adhiniyama (BSA), seeking to refer the documents marked as Ex.P-52 to Ex.P-57 and Ex.P-61, along with an unexhibited pedigree table, to the FSL, Kalaburagi or Bengaluru, for an expert opinion as to whether the handwriting on the said documents belongs to Shri S. Hanumantappa.

2. Defendant No. 3 has sworn to an affidavit in support of the application, stating that Shri S. Hanumantappa had drafted the declaration and other documents submitted to the Land Tribunal, Yadgiri, with the intention to defraud the defendants' father. It is stated that the said information was not furnished by the defendants' father, but was prepared by Shri S. Hanumantappa, who intentionally depicted the suit land as a joint family property. It is further stated that D.W.1 has also deposed that all the documents submitted to the Land Tribunal were prepared by the advocate, Shri S. Hanumantappa. Hence, the defendants contend that it is just and necessary to refer the

KAYG030011772010

said documents to the FSL for an expert opinion on whether the handwriting is that of Shri S. Hanumantappa. On these grounds, the defendants pray to allow the application.

3. The plaintiff has filed objections, contending that the defendants are trying to mislead the Court with the intention of grabbing the suit land. It is submitted that Mallappa, son of the late Sakryappa, being the head of the joint family at the relevant point in time, had furnished the particulars of the lands belonging to the joint family in the form of a declaration, as required under Section 66 of the Karnataka Land Reforms Act. The plaintiff highlights that D.W.1 himself, during his cross-examination, admitted that his grandfather Mallappa and his father Honnappa did not know how to read and write the English language. As such, the youngest son of the propositus Mallappa, namely S. Hanumantappa, who was a practicing advocate, merely assisted his father in submitting the declaration. It is contended that S. Hanumantappa, in his capacity as a son, only helped his father by filling out the annexures of the declaration in the English language, but the declaration itself was made by his father, Mallappa. Thereafter,

KAYG030011772010



the defendants' father, Honnappa, received the notice dated 05.07.1977 issued by the Land Tribunal on behalf of his aged father. Honnappa personally appeared before the Land Tribunal and gave statements dated 22.07.1977 and 25.07.1977 on behalf of his father, Mallappa. On these grounds, the plaintiff seeks the dismissal of the application.

4. I have heard arguments of learned counsel for both parties and perused the records.

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

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 Negative.

**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

KAYG030011772010

restraining the defendants from interfering with his possession over the suit land and direction to the revenue authorities to enter his name 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 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

KAYG030011772010

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 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

KAYG030011772010

this stage, the plaintiff filed IA No.37 under Order 13 Rule 10 of CPC seeking to summon original documents from the Tahasildar, Yadgiri.

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 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-

KAYG030011772010

63 to 72 are the jamabandi documents written by father of defendants in his capacity as the Patawari of Ganapur village. The DW.1 further denied that the signatures appearing in Ex.P-57 notice and P-59 statement belong to his father while admitting his father signature appearing in Ex.D-50 service register book. As the Dw.1 having denied the handwriting and signature of his father in Ex.P-23, Ex.P-57 and Ex.P-59 documents has admitted his father's handwriting in Ex.P-63 to 72 documents and signature in Ex.D-50 document, the plaintiff filed IA No.37 under Order 13 Rule 10 of CPC seeking to summon the original documents containing handwriting and signature of the defendants' father from the Tahasildar Yadgiri. The said application was allowed by this Court by an order dated 11.08.2025 and summons was issued to the Tahasildar Yadgiri to produce the relevant original documents. Accordingly, the Tahasildar Yadgiri has submitted original documents to this Court on 12.09.2025.

14. Thereafter, the plaintiff filed IA No.38 U/s 45 of Indian Evidence Act seeking to refer the Ex.P-23, Ex.P-57, Ex.P-59 and Ex.D-50 documents along with documents containing admitted

KAYG030011772010

signature and handwriting for expert opinion regarding handwriting and signature of the defendants' father. The said application was allowed by an order dated 18.10.2025 and the disputed documents were referred for expert opinion to the FSL Kalaburagi. The FSL authorities have submitted a letter dated 09.12.2025 stating that since Ex.D-50 service book Late Honnappa containing his admitted signature is a photocopy, the same is not suitable for examination. The FSL authorities further sought this court re-submit the documents along with original admitted signatures of Late Honnappa. As such, the plaintiff filed IA No.39 U/o 13 Rule 10 of CPC seeking to summon the original service book of Late Honnappa from the Tahasildar Yadgiri. While IA No.39 was pending consideration, the defendants filed the present application U/s 45 of Indian Evidence Act R/w Sec.39 of Bharatiya Sakshya Adhiniyama seeking to refer Ex.P-52 to P-57 and P-61 documents for expert opinion to prove that the contents of said documents were written by Shri.S. Hanumanthappa.

15. One Mallappa was the propositus of the family of the plaintiff and the defendants. The plaintiff is the son of the said

KAYG030011772010

Mallappa, whereas the defendants are the children of the plaintiff's deceased brother, Honnappa, and grandchildren of the propositus, Mallappa. The plaintiff claims that the suit land was a joint family property of Mallappa and that it fell to his share in a family partition. On the other hand, the defendants contend that the suit property was the self-acquired property of their deceased father, Honnappa.

16. In order to prove that the suit land was a joint family property of the propositus, the plaintiff has produced the declaration marked as Ex.P-52, Form No. 10 annexures marked as Ex.P-53 to Ex.P-55, an unexhibited pedigree table, and the list of survey numbers marked as Ex.P-56, Ex.P-57, and Ex.P-61. The plaintiff claims that the Ex.P-52 declaration and the accompanying annexures were submitted by the propositus, Mallappa, to the Land Tribunal, Yadgiri, wherein he declared the suit land to be one of the joint family properties.

17. However, the defendants, while denying the said claim of the plaintiff, contend that the contents of the declaration, annexures, and the pedigree table submitted to the Land

KAYG030011772010

Tribunal in the name of the propositus, Mallappa, were written by Shri S. Hanumantappa, who intentionally depicted the suit land as a joint family property with the intent to defraud the defendants' father. It is relevant to mention that Shri S. Hanumantappa, the advocate representing the plaintiff in the present case, is none other than the plaintiff's own brother, a son of the propositus Mallappa, and the paternal uncle of the defendants. To prove that the declaration and annexures were written in the handwriting of Shri S. Hanumantappa, the defendants now seek to refer the documents marked as Ex.P-52 to Ex.P-57 and Ex.P-61 to the FSL for an expert opinion.

18. The defendants intend to prove that the disputed documents were written by Shri S. Hanumantappa. It is relevant to mention that the plaintiff, in paragraph 12 of his objections, admits that Shri S. Hanumantappa, being the educated son of the propositus Mallappa, was an advocate and had therefore assisted his father by filling out the annexures of the declaration in the English language. Thereby, the plaintiff admits that the contents of the annexures to the declaration form marked as Ex.P-52 were written by Shri S. Hanumantappa

KAYG030011772010



in his own handwriting. In view of the said admission, this Court is of the opinion that it is not necessary to refer the documents to the FSL for an expert opinion. Hence, the application deserves to be dismissed. Accordingly, Point No. 1 is answered in the negative

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

ORDER

IA.No.41 filed by the defendants under Order 13 Rule 10 R/w Section 151 of CPC is hereby dismissed.

No orders as to costs.

(Dictated to the stenographer, typed by him and after corrections, pronounced in the Open Court on this the **02nd day of June, 2026.**)

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