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

PRESENT

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

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

Dated this the 18th day of February-2026

ORIGINAL SUIT NO.243/2022

PLAINTIFF/S:-	Sri. Earappa S/o Sabanna, Age: 33 Years, Occ: Agriculture, R/o Kotagera village, Tq: & Dist: Yadgiri.
	(By Sri. G.B.N Advocate)
	-V/S-
<u>DEFENDANT/S:-</u>	<ol style="list-style-type: none">1. The Deputy Commissioner Yadgiri, District Yadgiri.2. The Deputy Director of Social Welfare Department Yadgiri, by constructed building of Dr.B.R.Ambedkar Residence School Kotagera village, Tq: & Dist: Yadgiri.3. The Head Master of Dr.B.R.Ambedkar Residence School Kotagera, Tq: & Dist: Yadgiri.4. The Assistant Commissioner Yadgiri, Tq: & Dist: Yadgiri.5. The Tahsildar, Yadgiri, Tq: & Dist: Yadgiri.

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	<p>6. The Assistant Executive Engineer Karnataka Wasati Shikshana Sangha Yadgiri, Tq: & Dist: Yadgiri.</p> <p>7. Sharant Engineer, Yadgiri, Under Work Karnataka Wasati Shikshana Samstegala Sangha Yadgiri, Tq: & Dist: Yadgiri.</p> <p>8. The Contractor Eranna Mandar, Raichur, Under Work in Deputy Director Social Welfare Department Yadgiri, Tq: & Dist: Yadgiri.</p> <p>9. The Sub Contractor Ashok, Under work in Deputy Director Social Welfare Department Yadgiri, Tq: & Dist: Yadgiri.</p>
	<p style="text-align: center;">(D-1 to 7 by Learned ADGP) (Suit against defendant No.8 and 9 is dismissed for default)</p>

ORDER ON MARKING OF PHOTOGRAPHS.

The plaintiff has filed the present suit seeking the relief of declaration of title and recovery of possession of the suit land.

2. The case of the plaintiff is that, he is the owner of entire 02 acres 24 guntas of land bearing Sy.No.500/2 situated at Kotagera village of Yadgiri Taluk and District. That, on

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03.01.2022, the plaintiff had made an application to the survey department for fixing boundaries of his land bearing Sy.No.500/2. Accordingly, on 18.06.2022, the surveyor having issued notice to the adjacent land owners conducted measurement and prepared map showing that the defendant No.2 has encroached upon suit 05 guntas of land in Sy.No.500/2. That, the plaintiff requested the defendants to remove the encroachment and to handover the vacant possession of the suit land. However, the defendants did not pay any heed to the same. It is alleged that the defendants are digging the suit land for construction of school building. Hence, the plaintiff was constrained to file the present suit.

3. On receipt of suit summons, the defendants No.1 to 7 appeared through learned ADGP but they did not file written statement within the prescribed period of time. As such, written statement of defendants No.1 to 7 is taken as not filed.

4. The suit against defendants No.8 and 9 is dismissed for default as the plaintiff did not take steps for issuance of process to the said defendants.

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5. Thereafter, the matter was posted for evidence of the plaintiff. Accordingly, the plaintiff got examined himself as Pw.1 and produced Ex.P-1 to 63 documents. When the plaintiff sought to mark certain photographs and a C.D produced by him, the same was objected to by learned ADGP appearing for the defendants on the ground that the plaintiff has not produced certificate as required under Section 65B of the Evidence Act.

6. Thereafter, on 23.04.2025, the plaintiff filed an affidavit under Section 65B of Evidence Act. Learned ADGP filed objections contending that the affidavit filed by the plaintiff is not in accordance with Section 65B of Evidence Act. That, the plaintiff is not authorized person to file the affidavit. It is contended that the certificate has to contain information regarding the instrument in which the photos were taken and the device used for taking printout of the photos. However, affidavit filed by the plaintiff does not contain details of the device and there is no statement that the computer was regularly used to store or process information. Hence, the affidavit is not admissible and is liable to be rejected. On these

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grounds, learned ADGP sought to reject the affidavit filed by the plaintiff.

7. Thereafter, I have heard arguments of both side and perused the records.

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

- 1. Whether the affidavit dated 23.04.2025 filed by the plaintiff is in accordance with Section 65B of the Evidence Act?**
- 2. Whether the photos and C.D produced by the plaintiff are admissible in evidence?**
- 3. What order?**

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

Point No.1 : In the Negative.

Point No.2 : In the Negative.

**Point No.3 : As per final order,
for the following:**

REASONS

10. **POINTS NO.1 & 2:** As already noted above, the plaintiff alleges that the defendants have encroached upon suit 05 guntas of land bearing Sy.No.500/2 belonging to him. In

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order to prove the same, the plaintiff is intending to produce 25 photographs. Along with photographs, the plaintiff has also produced a C.D. Thereafter, when the defendants objected to the marking of the photographs on the ground that it is not supported by a certificate, the plaintiff has filed an affidavit under Section 65B of the Evidence Act.

11. Admittedly, the plaintiff has not produced the original device used for capturing photographs. As such, the photographs supported by C.D are secondary evidence. Therefore, a certificate as required under Section 65B of Act is mandatory. As per the provisions of Section 65B of Evidence Act, the certificate shall contain description of electronic record, details of the device, an affirmation that the computer was operating properly and was regularly used, and statement that the person giving the certificate had lawful control over the device. However, in the present case on hand, the affidavit produced by the plaintiff does not contain description the device used for taking the photographs in question. There is no statement in the affidavit as to who had captured the photographs and affidavit does not contain affirmation that the device was operating properly and regularly used. There is no

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mention in the affidavit as to the process through which the photographs were developed and produced before the court. Affidavit does not contain name of the person who fed the data into computer to take printout of the photographs.

12. Further, Hon'ble High Court of Rajasthan in a recent judgment rendered in the case of **Shethabh Singhal Vs. J.K and Sons** reported in **2025 SCC OnLine Raj 4870** has held that the certificate has to be submitted by the person in whose device the video was recorded. The said decision makes it clear that the plaintiff has to submit certificate of the person in whose device the photos were captured. However, as already noted above, the affidavit filed by the plaintiff does not mention as to in which device the photos were captured. As such, this court is of the opinion that, the affidavit filed by the plaintiff is not in accordance with Section 65B of Evidence Act and therefore, the photographs produced by the plaintiff cannot be admitted in evidence. Hence, Points No.1 and 2 are answered in the Negative.

13. **POINT NO.3:** In view of the above discussion, the following;

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**ORDER**

The affidavit filed by the plaintiff on 23.04.2025 is rejected as the same is not in accordance with Section 65B of the Evidence Act.

For further chief-examination of Pw.1, if any.

Call on: 13.03.2026.

(Dictated to the stenographer, transcribed by him, transcript corrected by me and then pronounced on this the **18th day of February, 2026.**)

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