

KAYG210013232025



**IN THE COURT OF THE SENIOR CIVIL JUDGE
& JMFC., SHAHAPUR.**

Present: **Smt.Hema Pastapur**, B.A., LL.B.

**SENIOR CIVIL JUDGE & JMFC., SHAHAPUR.
R.A.No.41/2025**

Dated this 02nd day of April-2026

**Appellants/
Plaintiffs :-**

1. Babu Patel S/o Hasan Patel, (Since died by his L.Rs)
- (a) Noor Bi W/o Babu Patel, Age: 65 years, Occ: House-hold, R/o village Kongandi, Tq: Wadagera, Dist. Yadgir.
- (b) Haseena Begum W/o Chand Patel, Age: 45 years, Occ: House-hold, R/o. Village Gundaloor, Tq: Wadagera, Dist. Yadgir.
- (c) Hussain Patel S/o Babu Patel, Age: 39 years, Occ: Agri, R/o village Kongandi, Tq: Wadagera, Dist:Yadgir.

(By Sri.S.V.K., Advocate)

Versus

**Respondents No.1
to 3 / Defendants
No.1 to 3:-**

1. Saidamma W/o Hussain Patel, Age: 70 years, Occ: House-hold, R/o village Kongandi, Tq: Wadagera, Dist. Yadgir.
2. Badema W/o Babu, Age: 40 years,

- Occ: House-hold, R/o Kongandi near Wadagera, Tq:Wadagera, Dist:Yadgir.
3. Mohammed Sirajuddin S/o Chand Patel, Age: 38 years, Occ: Contractor, R/o village Absihal, Tq: Wadagera, Dis:Yadgir.

(By Sri.A.R.G., Advocate)

Date and Nature of decree appealed : Judgment and Decree passed in O.S.No.282/2016 Dated: 02.08.2025 by the Addl. Civil Judge and JMFC, Shahapur.

Date of institution of Appeal	:	30.08.2025		
Date of Disposal	:	01.04.2026		
Total Duration		Year/s	Month/s	Day/s
		0	07	02

J U D G M E N T

That, the Appellants – plaintiffs in O.S.No.282/2016 on the file of the Addl, Civil Judge and JMFC, Shahapur, have preferred this Appeal under Order XLI Rule 1 R/W Section 96 of the Code of Civil Procedure, against the impugned Judgment dated: 02.08.2025. That, the respondents are the defendants therein. That, for the sake of convenience,

in this Appeal the parties are referred by their ranks as assigned in the trial Court.

Suit schedule property is as under:-

Land bearing Sy.No.20 measuring 13 acres 26 guntas situated at Kongandi village, Tq: Shahapur, Dist:Yadgir.

Facts of the case projected by the plaintiffs are as under :-

1. That, one deceased Shri Hussain Patel was the husband of the defendant No.1 and one deceased Shri Chand Patel was the father of the defendant No.3. That, the said Hussain Patel and Chand Patel for their legal and family necessity on the Ugad day of 1986 have orally sold the suit property to the deceased plaintiff- Babu Patel for a valuable sale consideration of Rs.3,000/- and have handed over him the possession of the said property. That, by virtue of said sale the name of the said plaintiff Babu Patel had been entered in the ROR's as the owner and possessor and the patta book had also been issued in his name.

2. That, the said Hussain Patel and Chand Patel during their life time have never interfered in the peaceful possession and enjoyment of the said plaintiff over the suit property. That, the possession of the said plaintiff on the basis of an invalid transaction is adverse from the inception i.e from the Ugad day of 1986 and nobody has alleged the said revenue entries for more than 30 years.

3. That, the defendant No.3 had preferred the Appeal against the said entries before the Assistant Commissioner, Yadgir and the illegal order had been passed on 15.07.2016. That, against the said order the said plaintiff had preferred the Revision before the Deputy Commissioner, Yadgir and got the stay order. That, the defendants on the basis of the said illegal entries are trying to interfere in peaceful possession and enjoyment of the plaintiff over the suit property and are also trying to sell the suit property. Hence, the said plaintiff was knocked the doors of Justice.

4. That, as during the pendency of the suit under Appeal the said plaintiff Babu Patel died his LR's are brought on record as the plaintiffs No.(a) and (c).

5. That, on suit summons being served, the defendants have appeared before the trial court through their learned counsel and submitted their written statement, wherein they have admitted the survey number of the suit property and its extent and have also admitted that the husband of the defendant No.1 and father of the defendant No.2 died on 09.10.2015 and father of of the defendant No.3 died on 15.10.1995 and denied the rest of plaint averments.

6. That, the defendants have traversed that the plaintiffs have not complied the provisions of Order VII Rule 3 of the Code of Civil Procedure. Hence, the suit is liable to be dismissed. That, the said property is the Matraka property of these defendants and they have got the share in the said property.

7. That, the defendants have further pleaded that neither the plaintiffs nor their ancestors never in possession of the suit land and the alleged revenue entries are against the provisions of the Section 127 and 129 of the Karnataka Land Revenue Act and the said revenue entries neither creates title nor interest.

8. That, the defendants have further pleaded that as the husband of defendant No.1 was a blind person was unable to carryout the agricultural operations and the Chand Patel-father of the defendant No.3 along with his sons was shifted Bangalore and died therein on 15.10.1995. That, as the husband of the defendant No.1 was blind he uses to give the cess pertaining to the suit property to his maternal uncle by name Shri. Hussain Sab S/o Sheikh Hussainsab. That, in the year 2015 the defendant No.3 came to about alleged illegal entries in the name of said deceased plaintiff Babu Patel he challenged the said entries before the Assistant Commissioner, Yadgir and the said authority

after hearing both the parties had allowed the said appeal and directed to the Revenue authorities for restaring the pre- mature entries and accordingly, the name of the defendant No.2 had been mutated in respect of the suit property. That, against the said order the plaintiffs have preferred the Revision before the Deputy Commissioner, Yadgir and the said was dismissed on 30.03.2017. That, the plaintiffs are having no cause of action to file suit. The suit for bare injunction is not maintainable. That, there is no concept of oral sale, hence, the story narrated by the plaintiffs is not permissible and moreover, the immovable property of more than Rs.100/- is compulsorily registered Under section 17 of the Registration Act. That, the defendants in view of their aforesaid conditions have prayed for dismissing the suit and have claimed Rs.5,000/- each as a compensatory cost.

9. That, on the basis of the pleadings of both the parties, the following issues were struck:-

1. Whether the plaintiff proves that, he is in possession of suit land as on the date of the suit ?
2. Whether the plaintiff further proves alleged interference by the defendants ?
3. Whether the suit of plaintiff is bad for non-disclosure of suit properties boundaries ?
4. Whether the plaintiff is entitled to the relief of permanent injunction ?
5. What order or decree ?

10. That, the deceased plaintiff-Babu Patel to demonstrate his aforesaid contentions has deposed himself as PW-1 and got marked the documents at Ex.P1 to 44. That, as the said plaintiff died, the plaintiff No.(c) has deposed as PW-2 and got marked the said documents at Ex.P1 to 44. That, the plaintiffs to strengthen their aforesaid contentions have got

examined one Shri Basawarajappagouda S/o Bhimarayagouda MaliPatil as PW-3 and Shri Mareppa S/o Nagappa Totadwar as PW-4 and closed their side. That, the plaintiffs have got discarded the evidence of PW-3.

That, the defendants to probabalise their aforesaid contentions have got examined the defendant No.3 as DW-1 and have got marked the defendants at Ex.D1 to 45. That, the defendants to establish their case have got examined one Shri Basavaraja S/o Dodda Sharanappa as DW-2 and closed their side.

11. That, the trial Court considering the materials placed on record, on 02.08.2025 has dismissed the suit with costs.

12. That, feeling aggrieved with the said Judgment and Decree, the plaintiffs have preferred this Appeal on the following grounds that :-

- i. the Judgment and Decree under appeal is erroneous, capricious and against the law.

- ii. the trial Court has not considered the pleadings of the parties to the suit and arrived a wrong conclusion.
- iii. the plaintiffs have established that they are in adverse possession of the suit land by producing the ROR's, Krishi pass book and Tax paid receipts. That, the trial court has failed to appreciate the same and arrived a wrong conclusion.
- iv. The findings given by the trial court on all the issues are not in accordance with law.
- v. The defendants in their written statement have admitted the ROR entries in the name of the plaintiffs, tax paid receipts and Pavati book but, the trial court has failed to consider the same.
- vi. The DWs-1 and 2 in their cross- examination through, have admitted that the plaintiffs are the owners and possessors of the suit land but, the trial court has failed to take into consideration

the said fact and arrived a wrong conclusion and dismissed the suit, which has resulted into miscarriage of justice. Hence, the said Judgment and decree is liable to be set aside.

13. That, in this Appeal the defendants have appeared through their learned counsel. That, the TCR has secured.

14. That, I have heard the arguments and perused the materials placed on record. That, the defendants have submitted their written arguments and I have gone through the same. That, the following points arise for My consideration and determination :-

1. Whether the Judgment and Decree passed by the trial Court is perverse and requires interference of this Court ?

2. What order or decree ?

15. That, on careful re-evaluation of the materials placed on record, My answer to the aforesaid points are as under:-

Point No.1 :- In the **AFFIRMATIVE**.

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

REASONS

16. **Point No.1:-** That, as I have already narrated the facts of the case without reproducing the same again, I would like to find out whether there is any substance in the grievance vendicted by the plaintiffs.

17. That, now go through the documentary evidence adduced by both the parties before the trial court. That, the plaintiffs in the trial court have got marked the documents at Ex.P1 to 44. That, the Ex.P1 is the certified copy of the suit land for the relevant year 1983 to 88, from which it appears that the father of the deceased plaintiff i.e, Hussain Patel was the owner and possessor of the suit land and after his death, the name of the plaintiff Babu Patel had been entered. That, the Ex.P2 to 19 are the RTC's pertaining to the suit land for the relevant year 1988 to 2016, wherein the name of the plaintiff Babu Patel has been shown as the owner and possessor. That, the Ex.P20 is the RTC

pertaining to the suit land for the relevant year 2016-17, wherein the name of the plaintiff No.(c) and one Shri Chand Patel S/o Jalal Patel have been shown as the owners and possessors.

18. That, the Ex.P21 is the Krishi pass book pertaining to the suit land which is standing in the name of the deceased plaintiff Babu Patel. That, the Ex.P22 and 33 are the Tax paid receipts, from which it appears that the said plaintiff Babu Patel uses to pay the tax to the suit land. That, the Ex.P16 and 34 are one and the same documents. That, the Ex.P35 to 37 are the RTC's pertaining to the suit land, wherein the name of the defendant No.3 has been shown as the owner and possessor.

19. That, Ex.P38 is the copy of Letter addressed by the Ratilal Bhagwandas Construction Company, dated:- 01.06.2004 to the deceased plaintiff Babu patel, wherein it had been mentioned that the increment had been given to him. That, the Ex.P39 is the copy of RBCC- Employees monthly cost to the

company-2004. That, the Ex.P40 is the copy of Endorsement of office of the R.P.F.C. SRO. Pune. That, the Ex.P41 is the copy of Break certificate issued by the said company to the deceased plaintiff Babu Patel. That, the Ex.P42 is the copy of Confirmation of service issued by the said company. That, the Ex.P43 is the Salary slip of the deceased plaintiff Babu Patel for the year 2011. That, the Ex.P44 is the certified copy of Order sheet in W.P No.201793-201794/2017, wherein the Hon'ble High Court of Karnataka Gulbarga Bench, had stayed the order passed by the Deputy commissioner, Yadgir in REV/ROR/APL/ 38/2015-16 dated: 30.03.2017.

20. That, before the trial court the defendants have got marked the documents at Ex.D1 to 45. that, the Ex.D1 is the copy of Order passed by the Assistant commissioner, Yadgir dated: 15.07.2016. That, from the contents of said document it appears that the present defendant No.3 had preferred the Appeal under Section 136(2) of the Karnataka Land Revenue Act,

against the entries appearing in the name of the deceased plaintiff Babu patel in the ROR's pertaining of the suit land and the said authority had allowed the said appeal and directed the Revenue Authorities for re-entering the name of the Hussain Patel- husband of the defendant No.1 and ChandPatel- father of the defendant No.3. That, the Ex.D2 is the copy of MR.No.H1, from which it appears the in-pursuance of order passed in Ex.D1 the names of the said Hussain Patel and Chand Patel have been mutated in respect of the suit land. That, the Ex.D3 is the copy of Order passed by the special Tahasildar Wadagera, dated: 21.11.2016, from which it appears that the said authority had passed the order for mutating the name of the defendant No.3 in respect of the suit land. That, the Ex.D4 is the copy of MR.No.H7, from which it appears that, in-pursuance of order passed in Ex.D3 the name of the defendant No.3 had been mutated in respect of the suit land. That, the Ex.D5 is the copy of Order passed by the Assistant Commissioner, Yadgir

dated: 21.03.2017, from which it appears that the said authority had confirmed the order passed in Ex.D4. That, the Ex.D6 is the Order passed by Deputy commissioner, Yadgiri, dated: 30.02.2017 from which it appears that the said authority had dismissed the Revision petition submitted by deceased plaintiff Babu Patel against the order passed in Ex.D1. That, the Exs.D7 and 8 are the Tax paid receipts, from which it appears that the deceased plaintiff Babu Patel, defendant No.3 and the said Hussain Patel uses to pay the tax pertaining to the suit land. That, the Ex.D9 is the RTC pertaining to the suit land for the relevant year 2016-17, wherein the name of the defendant No.3 has been shown as the owner and possessor. That, the Ex.D10 is the RTC pertaining to the suit land, from which it appears that the names of the said Hussain Patel and Chand Patel have been shown as the owners and possessors.

21. That, the Exs.D11 and 12 are the certified copies of the RTC's pertaining to the suit land, wherein the

names of the Hassan Patel ad Chand Patel have been shown as the owners and possessors. That, the Ex.D13 to 16 are the RTC's pertaining to the suit land, wherein the name of the deceased plaintiff Babu Patel has been entered as the owner and possessor. That, the Ex.D17 is the Namune-SSY-IV (Rule 17) from which it appears Rs.400/- had been sanctioned to deceased Hussain Patel under Sandhya Suraksha Scheme.

22. That, the Ex.D18 is the original Election identity card of the deceased Hussain Patel and Ex.D19 is the Death certificate of the Chand Patel issued by the Bangalore Mahanagarapalike, Bangalore. That, Ex.D20 is the death certificate of the said Hussain Patel issued by the Village Accountant, Kongandi village, Tq: Shahapur. That, the Ex.D21 is the Letter issued by the Embassy group, Bangalore, wherein the authority of the said company had certified that the defendant No.3 was designated in their Organization as a transport officer. That, the Ex.D22 is the Salary slip of the defendant No.3 pertaining to the month of August-

2013. That, the Ex.D23 is the Endorsement issued by the Tahasildhar, Shahapur, dated: 19.01.2021, wherein the said authority had certified that in their office the documents are not available from 1980 to 2016 in respect of the tax paid to the suit land. That, the Ex.D24 is the Endorsement issued by the special Tahasildhar, Wadagera dated: 04.02.2015, wherein the said authority had certified that the documents are not available in the office in respect of the mutation occurred in the name of the deceased plaintiff Babu Patel. That, the Ex.D25 to 37 are the RTC's pertaining to the suit land for the relevant year 2004 to 2017, from which it appears that the name of the deceased plaintiff Babu Patel has been shown as the owner and possessor. That, the Ex.D38 to 45 are the RTC's pertaining to the suit land for the relevant year 2017 to 2025, wherein the name of the defendant No.3 has been shown as the owner and possessor.

23. It is pertinent to note here that, the plaintiffs are claiming that the said Hussain Patel and Chand Patel

for their family and legal necessity have orally sold the suit property to the deceased plaintiff Babu Patel for a valuable sale consideration of Rs.3,000/- and have handed over the possession of the said land to him. That, the plaintiffs to demonstrate their said contentions have placed their reliance on the Ex.P1 to 33. That, the defendants though, have denied the said contentions of the plaintiffs but in cross- examination of the PW-2 dated: 05.03.2024 in page No.2 at 13th line themselves have elicited that:-

ದಾವಾ ಜಮೀನು ನಮ್ಮ ತಂದೆ 1986 ರಲ್ಲಿ ಉಗಾದಿ ಹಬ್ಬದ ಸಮಯದಲ್ಲಿ 3 ಸಾವಿರ ರೂ.ಗಳನ್ನು ಹುಸೇನ ಪಟೇಲ ಮತ್ತು ಚಾಂದ ಪಟೇಲ ರವರಿಗೆ ಕೊಟ್ಟು ಅವರ ಕಡೆಯಿಂದ ಖರೀದಿ ಮಾಡಿರುತ್ತಾರೆ. ದಾವಾ ಜಮೀನು ಖರೀದಿ ವ್ಯವಹಾರದ ಸಮಯದಲ್ಲಿ ಬಸವರಾಜಪ್ಪಗೌಡ ಮಾಲಿಪಾಟೇ, ಸಿದ್ದಲಿಂಗಪ್ಪ ಅದಂಪಟೇಲ, ಸಿದ್ದಪ್ಪ ಹಾಜರು ಇದ್ದರು. ವ್ಯವಹಾರವು ಬಾಯಿ ಮಾತಿನಿಂದ ಆಗಿರುತ್ತದೆ. ವ್ಯವಹಾರಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಯಾವುದೇ ಕಾಗದ ಪತ್ರವನ್ನು ಮಾಡಿಕೊಂಡಿರುವುದಿಲ್ಲ. ಸದರಿ ವ್ಯವಹಾರದಂತೆ ನಾವು ತಲಾಟಿ ಮತ್ತು ಗಿರಿಧರವರಿಗೆ ದಾವಾ ಜಮೀನನ್ನು ನಮ್ಮ ಹೆಸರಿಗೆ ವರ್ಗಾಯಿಸುವಂತೆ ಹೇಳಿರುತ್ತೇವೆ.

ಯಾವುದೇ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ. ತಲಾಟಿ ನಮ್ಮ ಊರಿಗೆ ಬಂದು ಬಸವರಾಜಪ್ಪಗೌಡ ಮಾಲಿಪಾಟೀಲ, ಸಿದ್ದಲಿಂಗಪ್ಪ ಆದಂಪಟೀಲ, ಸಿದ್ದಪ್ಪ ಇವರನ್ನು ವಿಚಾರಿಸಿ ದಾವಾ ಜಮೀನು ನಮ್ಮ ತಂದೆ ಖರೀದಿ ಮಾಡಿರುವುದಾಗಿ ತಿಳಿದುಕೊಂಡು ನಮ್ಮ ತಂದೆಯ ಹೆಸರಿಗೆ ವರ್ಗಾವಣೆ ಮಾಡಿರುತ್ತಾರೆ.

It is pertinent to note here that, the defendants themselves have admitted the case of the plaintiffs. It is well settled law that the admitted facts need not be proved.

24. It is pertinent to note here that, the PW-4 supporting the case of the plaintiffs has submitted his chief affidavit. That, this witness in his cross examination dated: 22.06.2024 in page No.01 at 17th line has deposed that:-

ನನಗೆ ದಾವಾ ಜಮೀನು ಖರೀದಿ ಆದ ಬಗ್ಗೆ ನನಗೆ ಗೊತ್ತಿರುತ್ತದೆ. ಆದರೆ ಖರೀದಿಯ ಕಾಲಕ್ಕೆ ನಾನು ಇರುವುದಿಲ್ಲ. ಖರೀದಿಯ ಕಾಲಕ್ಕೆ ಮಾತನಾಡಿರುವ ವಿಷಯ ನನಗೆ

ಗೊತ್ತಿರುವುದಿಲ್ಲ. ದಾವಾ ಜಮೀನನ್ನು ವಾದಿಯ 3 ಸಾವಿರ ರೂ.ಗಳಿಗೆ ಖರೀದಿ ಮಾಡಿರುವುದಾಗಿ ನಾನು ತಿಳಿದಕೊಂಡಿರುತ್ತೇನೆ.

It is pertinent to note here that, from the said evidence of the PW-4 it clearly appears that the deceased plaintiff had purchased the suit property for a sum Rs.3,000/-. That, the defendants though have tried to shake the credibility of the PW-4 but, all their efforts were went in vain.

25. It is pertinent to note here that, the defendants though, have denied the case of the plaintiffs but, the DW-1 in his cross examination dated: 07.01.2025 in page No.02 at 12th line has deposed that,

ದಾವಾ ಆಸ್ತಿಯನ್ನು ಖರೀದಿ ಮಾಡಿದ ಬಾಬು ಪಟೇಲ ತನ್ನ ಜೀವಿತಾವಧಿಯವರೆಗೆ ತಾನು ಕಬ್ಬದಲ್ಲ, ಇದ್ದು ಆತನ ಮರಣದ ಬಳಿಕ ಆತನ ಮಕ್ಕಳು ಕಬ್ಬದಲ್ಲ ಇರುತ್ತಾರೆ.

That, the said evidence of the DW-1 has strengthened the case of the plaintiffs.

In other words, the defendants have admitted the case of plaintiffs. That, there is no iota in the defence taken by the defendants.

26. It is pertinent to note here that, the defendants No.1 to 3 have placed their reliance on the Ex.D1 to 6. It is significant to note here that, the order passed by the revenue authorities such as the AC and DC are not binding on the Civil Court. That, AC and DC are authorized to pass order related to revenue, record of rights and mutation, they are considered as administrative or Judicial authorities, not Courts of law.

27. It is significant to note here that, the plaintiffs have contended that they are in adverse possession of the suit land from very inception of invalid transaction. It is pertinent to note her that, an oral sale itself does not transfer title, it can mark the beginning of adverse possession if the occupant claims ownership hostile to the original owner. It is pertinent to note here that, in

present case the plaintiffs have convincingly demonstrated that the said deceased plaintiff Babu Patel had orally purchased the suit land from the said Hussain Patel and Chand Pael for a valuable sale consideration of Rs.3,000/- and they have perfected their title over the suit property by way of adverse possession. That, the defendants by denying the ownership of the plaintiffs over the suit property have interfered in their peaceful possession and enjoyment over the suit property. Hence, the plaintiffs are entitled for the relief of perpetual injunction. That, there is substance in the grievance vendicted by he plaintiffs. Accordingly, point No.1 is answered in the **AFFIRMATIVE.**

28. **Point No.2:-** That, as discussed on point No.1, I proceed to pass the following :-

ORDER

That, the Appeal filed by the
Appellants - plaintiffs under Order XLI Rule

1 R/W Section 96 of the Code of Civil Procedure, is hereby allowed.

That, the Judgment and Decree passed by the trial Court in O.S.No.282/2016 dated 02.08.2025 is hereby set-aside.

That, the defendants, their servants or their agents are hereby restrained by way perpetual injunction from interfering in peaceful possession and enjoyment of the plaintiffs over the suit property.

That, draw the decree accordingly.

That, the office is to re-transmit the trial Court records forthwith along with copy of this order.

(Directly dictated to the stenographer, typed by him, corrected by me and then pronounced in the open Court on this 02nd day of April -2026).

(Hema Pastapur)
Sr. Civil Judge & JMFC,
Shahapur.