

KACN420006492017



Presented on : 27-06-2017
Registered on : 28-06-2017
Decided on : 23-07-2026
Duration : 09 years, 00 months, 26 days

**IN THE COURT OF THE CIVIL JUDGE
AND JMFC, YELANDUR
:PRESENT:**

Smt. Sujatha H,
B.A.L, L.L.M.,

Civil Judge and JMFC,
Yelandur.

Dated 23rd day of July 2026.

Original Suit No.47/2017

Plaintiff /s : Sri. G.M. Mallanna,
S/o Late Jademadppa,
Aged about 69 years,
R/at: Gangavadi Village,
Santhemarahalli Hobli,
Chamarajanagara Taluk & District.
(By Sri. C.S.R., Advocate)

-V/s-

Defendant/s : 1. Smt. Rajamma
W/o Late Shivappa,
Aged about 38 years,
R/at: Gangavadi Village,
Santhemarahalli Hobli,
Chamarajanagara Taluk & District.

2. Smt. Lavanya
W/o Shashinayana,
Aged about 35 years,
R/o Vijayanagara,
2nd Stage, K.D. Circle,
11th Main, 5th Cross,
2345, Mysuru City,
Mysuru District.

(D1-By Sri. CRN., Advocate)
(D2-By Sri. KKR., Advocate)

Date of institution of suit	:	27.06.2017		
Nature of suit	:	Permanent injunction Suit		
Date of recording evidence	:	11.01.2019		
Date of Closure evidence	:	30.10.2023		
Date of pronouncement of judgment	:	23.07.2026		
Total duration	:	Year/s	Month/s	Day/s
		09	00	26

(Sujatha H)
Civil Judge & J.M.F.C.,
Yelandur.

J U D G M E N T

This is a suit filed by the plaintiff for relief of permanent injunction against the defendants to restrain the defendants, their agents, legal heirs, representatives or anybody acting under them from interfering with peaceful possession and enjoyment of the plaintiff in respect of suit schedule property.

2. The description of the suit schedule properties are as follows:-

SCHEDULE

The land bearing Sy.No.13 measuring 0-33 guntas situated at Gangavadi Village, Santhemarahali Hobli, Chamarajanagara Taluk, Chamarajanagara District which is bounded on:-

East by : Land belonged to plaintiff,
West by : Road,
North by : Land belonged to Nataraju,
South by : Land belonged to plaintiff.

3. The brief facts of the case of the plaintiff is as follows:-

It is the case of the plaintiff that, the suit schedule property is ancestral property of plaintiff and defendants, on 25.06.2009 the plaintiff and defendants entered into a partition and in the partition the plaintiff got Sy.No.7/2 measuring 1 acre 12 guntas, Sy No.12/2 measuring 1 acre 15 guntas and Sy. No.13 measuring 33 guntas ie., the suit schedule property and Sy.No.40/1 measuring 0-16 guntas also. Apart from these properties Sri. Mahadevappa has sold

0-10 guntas in the same survey number ie., Sy. No.13 through a registered sale deed dated 12.02.1979 in favour of the plaintiff. As far as Smt. Chadramma I.e., wife of late Mahadevappa is concerned she has got Sy.No.7/2 measuring 0-17 guntas and similarly the defendants have got Sy.No.7/2 measuring 1 acre 4 guntas and 0-23 guntas in Sy No.13 ie., suit schedule survey number. The defendants are entitled only for 0-22 guntas in the suit schedule property. But she has illegally got katha of the suit schedule property ie., 0-33 guntas in Sy.No.13 in her name. The plaintiff has questioned such illegal entry in the name of the defendants and same is pending for consideration. Based on the illegal entry the defendants have also interfered with the plaintiff's possession over the suit schedule property.

4. Further stated that, the plaintiff is in peaceful possession by cultivating in suit schedule property as per the partition, there is a land of measuring 0-23 guntas in the name of the defendant's father-in-law Rudraiah S/o Basavegowda and only the said land is belong to the

defendants. In such a situation, the defendants by colluding with revenue officials have illegally converted the katha in their name. In this regard, the plaintiff has filed an appeal before the Kollegal Sub-Divisional Officer.

5. Even though the defendants have no right, interest or possession in the plaint schedule property, they are interfering with the plaintiff's peaceful possession. In this regard, the plaintiff has filed a complaint against the defendants in the Chamarajanagar East Police Station on 22-10-2016. The plaintiff has 0-33 gunta property in the plaint schedule property. The defendants are trying to alienate 0-33 gunta property by claiming that the 0-33 gunta is in their name. On 23-06-2017, when the plaintiff went for cultivation work in the schedule property, the defendants stopped him and caused obstruction to the plaintiff. In this regard, a Panchayat was held before the Village elders, but the defendants are having political economical background, so they have denied the village elders advice and causing interference to the plaintiff possession. Hence this suit.

6. Upon service of summons the defendants have appeared through their counsel and filed written statement by denying the plaint averments as false and frivolous. The defendants admitted the relationship with the plaintiff but it is contended that, late Sri. Basappa had 4 children by names Rudrappa @Rudraiah, Kamma, Bhadramma and Jademadappa. All the 4 children are deceased. The plaintiff is the son of late Jademadappa. Whereas the defendant is the wife of late Shivappa who is one son of late Rudrappa @Rudraiah. The defendant specifically contends that Rudrappa @ Rudraiah inherited Sy. No. 13 measuring 1 acre 16 guntas. Apart from this property he also inherited various other properties. In an oral partition he divided all his properties between his children and 0-33 guntas in Sy No.13 came to the share of late Shivappa. After the death of late Shivappa the defendant inherited the property and got the khatha in her name and she is in lawful possession. As far as the plaintiff is concerned he is in possession of only 0-10 guntas in Sy No.13. The plaintiff has made a false claim that he is in possession of the suit schedule property but in fact he is only in 0-10 guntas

extent. Out of the entire extent of 1 acre 26 guntas on in Sy No.13 Rudrappa @ Rudraiah got 1 acre 16 guntas. Out of that entire extent of 1 acre 16 guntas he kept 7 guntas for his life maintenance and out of the remaining 1 acre 9 guntas 0-33 guntas was given to late Shivappa and also other properties. The remaining 16 guntas in 1 acre 9 guntas was given to late Mariswamy. The defendant has got 0-33 guntas from her husband and she in lawful possession hence the plaintiff cannot claim any right in the suit schedule property. On these grounds the defendants have sought for dismissal of the suit.

7. On the basis of rival pleadings of both the parties, following issues have been framed :

Issues

1. *Whether the plaintiff proves that, he is in possession of the suit schedule property as on the date of filing of the suit?*
2. *Whether plaintiff proves that, the defendant is interfering with his possession over suit schedule property?*
3. *Whether the plaintiff is entitled for the relief of permanent injunction against defendant?*
4. *What decree or order?*

8. To substantiate the case of plaintiff, he examined as P.W-1 and got marked 5 documents as Ex.P1 to Ex.P5. On the other hand the defendants have not chosen to lead evidence nor produced any documents.

9. After closing the evidence , I have heard the learned counsel for the plaintiff Sri. CSR and the learned counsel for the defendant Sri.CRN and Sri.KKR and perused the entire materials on record.

10. My answer to the issues as following:

Issue No.1:- In the Negative

Issue No.2:- In the Negative

Issue No.3:- In the Negative

Issue No.4:- As per the final order

for the following:

REASONS

11. Issue No.1:

According to the plaintiff, the plaint schedule property is ancestral property of plaintiff and defendants as per the partition dated 25.06.2009 the plaint schedule property fallen into the share of the plaintiff, thereby he is in possession and enjoyment of the same. But the defendant illegally has converted the katha in her favour and made entries in the RTC, by taking advantage of said RTC the defendants are

trying to interfere with the plaintiff peaceful possession and enjoyment. Per contra it is contention of the defendants that, late Sri. Basappa had 4 children by names Rudrappa @Rudraiah, Kamma, Bhadramma and Jademadappa. All the 4 children are deceased. The plaintiff is the son of late Jademadappa. Whereas the defendant is the wife of late Shivappa who is one of the sons of late Rudrappa @Rudraiah. The defendant specifically contends that Rudrappa @Rudraiah inherited Sy. No. 13 measuring 1 acre 16 guntas. Apart from this property he also inherited various other properties. In an oral partition he divided all his properties between his children and 0-33 guntas in Sy No.13 came to the share of late Shivappa. After the death of late Shivappa the defendant inherited the property and got the khatha in her name and she is in lawful possession.

12. To prove the aforesaid aspects the plaintiff was got examined himself as PW1 and filed affidavit in lieu of examination in chief and wherein he has deposed inconsonance with averments made in the plaint and got

marked Ex.P1 to Ex.P5 documents. In which Ex.P1 is the register sale deed dated 12.02.1979 executed by the Mahadevappa in favor of plaintiff in respect of Sy.No.13 measuring 0-10 guntas, Ex.P2 is the Police Acknowledgment dated 22.10.2016, Ex.P3 is the RTC Extract for the year 20016-17 standing in the name Rachaiah M.Mallanna and Rajamma in respect of Sy.No.13 measuring 1 acre 26 guntas. Further column no.10 f RTC reflects that the plaintiff i.e., Mallana acquired 0-10 gunta in Sy.No.13 as per MR No.48/1978-79 and Rajamma W/o late Shivappa acquired 0-33 guntas in Sy.No.30 as per MR No.2/2007-08 and katha converted on 22.12.2007.

13. It is observed that, it is allegation of the plaintiff that the defendant has illegally converted the katha in her favour but as per Ex.P3 the katha converted on 22.12.2007 i.e., before partition deed Ex.P5. Ex.P4 tax paid receipt for the year 2017. Ex.P5 unregistered partition deed dated 25.06.2009 executed between Chandramma, Chinnamma, Rajamma, Mallanna. As per partition deed Sy.No.7/1

measuring 0-17 gunta allotted to share of Chandramma, Sy.No.7/2 measuring 0-21 gunta allotted to the share to Chinnamma, Sy.No.7/2 measuring 1 acre 04 gunta and in Sy.No.13 measuring 0-23 guntas allotted to Rajamma, Sy.No.7/2 measuring 1 acre 12 guntas, Sy.No.12/2 measuring 1 acre 15 guntas, Sy.No.13 measuring 0-33 guntas and 0-10 guntas and in Sy.No.40/1 measuring 0-16 guntas allotted to share of G.M.Mallanna.

14. But the plaintiff has pleaded in para no.2 of plaint that, Sy.No.7/2 measuring 1 acre 12 guntas, Sy.No.12/2 measuring 1 acre 15 guntas, Sy.No.13 measuring 0-33 guntas and 0-10 guntas and in Sy.No.40/1 measuring 0-16 guntas allotted to share of plaintiff but 0-10 gunta in Sy.No.13 was purchased by the plaintiff by virtue of sale deed dated 12.02.1979 but the defendants have denied title of plaintiff as well as possession over the suit schedule property, Ex.P3 is completely contra to the Ex.P5, Ex.P3 Column No.10 reflects that in the year 2007 katha converted in favor of defendant no.1, after demise of her husband but the partition deed executed in the year 2009.

15. Furthermore, it is important to note that the partition deed has to be registered under Section 17 of registration Act. If the partition deed is not registered, certainly it should be acted upon by the parties. But in the present case Ex.P5 is unregistered partition deed and one of the parties of the partition deed i.e. the defendant has completely denied the execution of the Partition deed. Hence Ex.P5 is not proved by the plaintiff. Furthermore the partition deed is completely contra to the plaint averments. Hence by relying upon partition deed, it cannot be presumed that the plaintiff has acquired 0-33 guntas in Sy.No.13 and is in possession of the plaint schedule property. The plaintiff has alleged that he has preferred a petition before Revenue Authority to cancel the Ex.P3. But there are no materials produced before this court regarding this allegation. Hence as per Ex.P3 the defendant is in possession of plaint schedule property.

16. During the course of cross examination of PW1. He has clearly admitted that, ರುದ್ರಪ್ಪನಿಗೂ ಹಾಗೂ ತಮ್ಮ ತಂದೆಗೂ 0-33 ಗುಂಟೆಗಳಂತೆ ಭಾಗ ಬಂದಿರುತ್ತದೆ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ. Further stated that,

ರುದ್ರಪ್ಪನ ಮಕ್ಕಳಾದ ಮಹದೇವಪ್ಪ, ಮರಿಸ್ವಾಮಿ, ಶಿವಪ್ಪ ಹಾಗೂ ಬಸವಣ್ಣ ಇವರುಗಳು ಆಸ್ತಿಗಳನ್ನು ಸುಮಾರು 30 ರಿಂದ 40 ವರ್ಷಗಳ ಹಿಂದೆ ಪಾಲು ಮಾಡಿಕೊಂಡಿರುತ್ತಾರೆ. ನಾನು 1979 ನೇ ಇಸವಿಯಲ್ಲಿ ಮಹದೇವಪ್ಪರವರಿಂದ 10 ಗುಂಟೆ ಆಸ್ತಿಯನ್ನು ಖರೀದಿ ಮಾಡುವ ಪೂರ್ವದಲ್ಲೇ ರುದ್ರಪ್ಪನ ಮಕ್ಕಳು ಭಾಗ ಮಾಡಿಕೊಂಡಿದ್ದರು ಎಂದರೆ ನಿಜ.

17. It is clearly admitted that, the deceased Shivappa i.e. husband of defendant and son of Rudraiah @Rudrappa. Therefore it could be presumed that there is a partition between sons of Basavappa and the property allotted to the share of Rudrappa was inherited by his son Sivappa. Moreover, the plaintiff is son of Jademadappa and if the partition took place as per Ex.P5 certainly the plaintiff would have produced RTCs but the plaintiff has suppressed the material facts. Hence it is crystal clear that defendant is in possession of the plaint schedule property as per Ex.P3. Further it is important to note that since the defendant has denied the title of plaintiff and also disputed the partition deed, bare injunction is not maintainable. Accordingly **Issue No.1 is answered in the Negative.**

18. ISSUE NO.2 & 3:-

Since the plaintiff utterly fails to establish that he is in possession of plaint schedule property, the question of interference does not arise at all. In view of the discussion on issue No.1, it is crystal clear that the defendant is in possession of the plaint schedule property and there are no sufficient materials to held that the plaintiff is in possession of the plaint schedule property by virtue of partition. Hence the injunction relief cannot be granted against the true owner. Hence the plaintiff is not entitled for the relief as sought in the plaint. Accordingly **Issue No.2 and 3 are answered in the Negative.**

19. ISSUE NO.4:- In view of my findings to the above points, I proceed to pass the following:

-:: ORDER ::-

***The suit of the plaintiff is hereby
dismissed.***

Draw decree accordingly.

(Dictated to the stenographer, directed on computer typed by him, corrected, signed and then pronounced by me in open court on 23rd day of July, 2026)

(Sujatha.H)
Civil Judge & J.M.F.C.,
Yelandur.

ANNEXURE

1. List of witnesses examined for plaintiff/s:-

P.W-1 : Sri. G.M. Mallanna

2. List of documents marked for plaintiff/s:-

Ex.P1 : Register Sale deed dated 12.02.1979

Ex.P2 : Police Acknowledgment dated 22.10.2016

Ex.P3 : RTC

Ex.P4 : Tax paid receipt

Ex.P5 : Partition deed dated 25.06.2009

3. List of witnesses examined for Defendant/s: -

-: NIL :-

4. List of documents marked for Defendant/s: -

-: NIL :-

(Sujatha.H)

Civil Judge & J.M.F.C.,
Yelandur.