

KAMD510010052024



Presented on : 17-09-2024
Registered on : 18-09-2024
Decided on : 16-07-2026
Duration : 1 years, 9 months, 29 days

**IN THE COURT OF PRINCIPAL CIVIL JUDGE AND JMFC.,
NAGAMANGALA**

PRESENT:

Sri.Shivaraju H.S.

B.A.Law. L.L.B.,

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

DATED THIS 16th DAY OF JULY-2026

Original Suit No.361/2024

PLAINTIFF : Krishnegowda
S/o Late Kothwalegowda,
Aged about 56 years,
R/at Hubbanahalli Village,
Santhebachahalli Hobli,
K.R.Pete Taluk,
Mandya District.

(By Sri.L.R.P., Advocate)

Versus

DEFENDANTS : 1) Manjunatha S
S/o Shivappa,
Aged about 46 years,
R/at No.158, 3rd Cross,
2nd Main Road,
Near Madhusri Wine Store,
Priyadarshini Badavane,

Mudalapalya,
Bengaluru-560039.

- 2) Kumara
S/o Hanumegowda,
Aged about 42 years,
R/o Hanumanahalli Village,
Bindiganavile Hobli,
Nagamangala Taluk,
Mandya District.
- 3) Vishwanatha M.S.
S/o Shankaregowda,
Aged about 24 years,
R/o Malaguru Village,
Santhebachahalli Hobli,
K.R.Pete Taluk,
Mandya District.

**(Sri.S.L., Advocate for defendants No.1)
(defendants No.2 and 3 – Ex-Parte)**

Date of Institution of the suit.	17.09.2024
Nature of the suit.	Declaration and Permanent Injunction
Date of the commencement of recording of the evidence.	30.10.2025
Date on which the Judgment was pronounced.	16.07.2026
Total Duration	Year/s Month/s Day/s
	01 09 29

**(SHIVARAJU H.S.)
Prl. Civil Judge & JMFC.,
Nagamangala.**

J U D G M E N T

The plaintiff has filed this suit against the defendants for the relief of declaration and permanent injunction in respect of suit properties.

2. Brief facts of the case are as under:-

It is specific case of the plaintiff's that his mother namely Sannamma W/o late Kothwalegowda purchased the properties as shown in the plaint as follows;

Item No.	Survey/Property Numbers.	Measurement	Village
1	5/1	01 acre 03 guntas	Hanumanahalli Village
2	34/2	0 acre 14 guntas	Hanumanahalli Village
3	34/8B	0 acre 08 guntas	Hanumanahalli Village
4	36/3	0 acre 08 guntas	Hanumanahalli Village

from Kapanigowda S/o Mota Hanumegowda under sale deed dated 18.11.1963. As such, the mother of the plaintiff has become absolute owner and possessor of the said properties. The said properties as shown in the plaint schedule are subject matter of the suit hereinafter referred as “**Suit Properties**”.

3. It is also case of the plaintiff's that, the mother of the plaintiff had been in possession and enjoyment of the suit properties from 1963 to till her death. The records of the suit properties from 1963 till 2022-23 are continued in the name of mother of the plaintiff. The measurement of item No.3 is mentioned in the sale deed as 5 guntas. But, in the RTC extract, the measurement of the same is mentioned as 8 guntas. The measurement of item No.4 is also mentioned as 7 guntas in the sale deed. But, in the RTC extract, it is mentioned as 8 guntas. The mother of the plaintiff had seven children i.e., Nanjamma, Thimmegoda, Jayamma, Krishnegowda/plaintiff, Chandregowda, Nagegowda and Rameshagowda. The mother of the plaintiff died on 26.05.2004. After the death of said mother, the plaintiff and his brothers have been in joint possession and enjoyment of the suit properties. But, the records of the suit properties are continued in the name of his mother. The plaintiff has got absolute right over the suit properties and also he has been in possession and enjoyment of the suit properties by paying tax to the local authority. He also grown Ragi, Hurali and other crops in the suit properties. The suit properties are self-acquired properties of mother of the plaintiff. The seven children

of said mother being only surviving successors have got right over the suit properties.

4. It is further case of the plaintiff that, defendants have no right, title and interest over the suit properties. The name of mother of defendant No.1 is Hombamma W/o Nanjegowda. But, defendant No. 1 created false and bogus death certificate as if Sannamma W/o late Kothvalegowda alias Nanjappa, died in the year 2000 and based on the said false death certificate colluding with the revenue officials changed the khata of the suit properties in his name. The defendants by taking undue advantage of the same created false and bogus documents of suit properties in their name. The said revenue entries created by the defendants in colluding with the revenue officials are not valid documents and also not binding on the plaintiff. The defendants by taking undue advantage of change of khata of the suit properties, defendant No.1 sold item No.1 in favour of defendant No. 2 under sale deed dated 09.08.2023 and the very same defendant No.1 also sold item No.2 infavour of defendant No.3 under agreement of sale dated 11.08.2023. The plaintiff has challenged the revenue entries standing in the name of defendants in R.Miss

No.75/2023-24. But, the said revenue authority directed the parties to appear before the Civil Court and to resolve their disputes. The defendants, based on false and bogus entries executed sale deed and agreement of sale in respect of item No.1 and 2 and based on the same, the defendants illegally and highhandedly causing interference or obstruction to the plaintiff in possession and enjoyment of the suit property. Hence, on 11.06.2024, when order was passed by the Assistant Commissioner directing the parties to approach Civil Court, on 09.08.2023 and 11.08.2023, when sale deed and agreement of sale came to be executed by defendant No.1, cause of action arose for the plaintiff to file this suit.

5. Therefore, the plaintiff has constrained to file suit against the defendants for the relief of declaration to declare that the suit properties are ancestral properties of plaintiff and also consequential relief of permanent injunction against the defendants restraining them, their men agents or servants or any other person claiming under them from causing any kind of interference or obstruction to the plaintiff in possession and enjoyment of the suit properties.

6. After service of suit summons, defendant No.1 has appeared before the court through his counsel, but not filed any written statement.

7. In spite of service of suit summons, defendant No.2 and defendant No.3 have not appeared before the court. Hence, they were placed as ex parte.

8. In order to prove the case, plaintiff himself examined as P.W.1. In the examination-in-chief PW-1 filed affidavit in consonance with plaint averments by reiterating the plaint averments, copy of Sale Deed dated 18-11-1969 marked as per Ex.P1, Mutation Register M.R.No.2248 marked as per Ex.P2, Record of Rights marked as per Ex.P3, RTC Extract for the year 2022-23 in respect of land bearing Sy.No.36/3 measuring 0 acre 08 guntas situated at Hanumanahalli Village, Bindiganavile Hobli, Nagamangala Taluk, marked as per Ex.P4, RTC Extract for the year 2022-23 in respect of land bearing Sy.No.34/2 measuring 0 acre 39 guntas situated at Hanumanahalli Village, Bindiganavile Hobli, Nagamangala Taluk, marked as per Ex.P5, RTC Extract for the year 2022-23 in respect of land bearing Sy.No.5/1 measuring 1 acre 3 guntas situated at Hanumanahalli

Village, Bindiganavile Hobli, Nagamangala Taluk, marked as per Ex.P6, RTC Extract for the year 2022-23 in respect of land bearing Sy.No.34/8B measuring 0 acre 08 guntas situated at Hanumanahalli Village, Bindiganavile Hobli, Nagamangala Taluk, marked as per Ex.P7, Death Certificates marked as per Ex.P8 and Ex.P9, RTC Extract for the year 2024-25 in respect of land bearing Sy.No.5/1 measuring 1 acre 3 guntas situated at Hanumanahalli Village, Bindiganavile Hobli, Nagamangala Taluk marked as per Ex.P10, RTC Extract for the year 2024-25 in respect of land bearing Sy.No.34/2 measuring 0 acre 23 guntas situated at Hanumanahalli Village, Bindiganavile Hobli, Nagamangala Taluk marked as per Ex.P11, RTC Extract for the year 2024-25 in respect of land bearing Sy.No.36/3 measuring 0 acre 08 guntas situated at Hanumanahalli Village, Bindiganavile Hobli, Nagamangala Taluk marked as per Ex.P12, RTC Extract for the year 2024-25 in respect of land bearing Sy.No.34/8B measuring 0 acre 08 guntas situated at Hanumanahalli Village, Bindiganavile Hobli, Nagamangala Taluk marked as per Ex.P13, computerized copy of sale deed dated 09-08-2023 marked as per Ex.P14, computerized copy of agreement of sale deed dated 11-08-2023 marked as per Ex.P15, RTC Extract for the year 1988-

89 to 1994-95 in respect of land bearing Sy.No.34 measuring 0 acre 75 guntas situated at Hanumanahalli Village, Bindiganavile Hobli, Nagamangala Taluk marked as per Ex.P16, copy of mutation extract bearing M.R.No.H3/2017-18 marked as per Ex.P17.

9. On behalf of the plaintiff two more witnesses as PW2 and PW3. No documents were produced through PW2 and PW3.

10. The defendants have not adduced any evidence.

11. Heard the arguments of counsel for plaintiff and perused entire materials placed on record.

12. Upon hearing arguments and on materials placed on record, the following points that would arise for consideration:-

POINTS

1. Whether the plaintiff proves that his mother namely late Sannamma W/o late Kothvalegowda purchased the suit properties under sale deed dated 18.11.1963 from Kapanigowda S/o Motahanumegowda, as such the suit properties are ancestral properties of plaintiff?

2. Whether the plaintiff proves that he is in possession and enjoyment of suit properties and also alleged interference caused by the defendants?

3. What Order or Decree?

13. My findings to 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

14. **Point No.1 and 2:-** Herein, the plaintiff has come up with this case by specifically alleging that his mother purchased the suit properties under sale deed dated 18.11.1963. The said mother died on 26.05.2004. The said mother had seven children. The said seven children are only surviving successor of the said mother. The records of suit properties from 1963 till 2022-23 are in the name of mother of the plaintiff. After the death of the said mother, the plaintiff has been in possession and enjoyment of the sole property. But, the defendants created false and bogus death certificate as if Sannamma W/o Kotvalegowda alias Nanjappa died in the year 2000

and she is their grandmother and based on the said false death certificate changed the khata of the suit properties into their name. Thereafter, defendant No.1 sold item No.1 infavour of defendant No. 2 under sale dated 09.08.2023 and defendant No.1 also executed agreement of sale agreeing to sell item No.2 infavour of defendant No.3 under agreement of sale dated 11.08.2023. The said revenue entries, sale deed and agreement of sale are not valid documents and also not binding on the plaintiff. The defendants by taking undue advantage of the said documents, illegally and highhandedly causing interference or obstruction to the plaintiff in possession and enjoyment of the suit properties. Hence, the suit.

15. The defendants have not appeared before the court and not cross-examined PW.1. Hence, oral and documentary evidence of plaintiff remains unchallenged and un-impeached.

16. No doubt, the defendants have not contested the case by filing written statement. However, it is settled the position of law that mere non-contesting the case by the defendants or weakness of the defendants is not a ground to decree the suit. It is for the plaintiff,

who approached the court to establish the case by adducing cogent and convincing evidence before the court. The non contesting of the case by the defendants is not at all ground for the plaintiff to decree the suit. In this background, let me come into the discussion of the case.

17. Here in the case, it is prime contention of the plaintiff that his mother purchased the suit properties under sale dated 18.11.1963 from its previous owner namely Kapanigowda S/o Motahanumegowda. Accordingly, the plaintiff in support of his contention has produced certified copy of sale deed dated 18.11.1963 marked as per Ex.P1.

18. So, let me examine the recitals of the sale deed marked as per Ex.P1. Accordingly, the recitals of the sale deed marked as per Ex.P1 makes very clear that Kapanigowda S/o Motahanumegowda and Hanumegowda S/o Kapanigowda have jointly executed sale deed dated 18.11.1963 and sold four bits of land for valid consideration amount of Rs.300/- infavour of Sannamma W/o Kotvalegowda, who is said to be mother of the plaintiff.

19. Further, the said vendors have sold four bits of land. Firstly, 25 gundas in Sy.No.5, bounded towards East-land of Marigowda, West-land of Nanjegowda, North-Gomala and South-Gomala. Secondly, 14 guntas of land in Sy.No.34/2, bounded towards East Marigowda, West-land of Jayamma's Sanappa, North-Marigoda's Chikkaiah and South-Jayamma Sannappa. Thirdly, 7 guntas of land in 36/3 bounded towards East-Kabbaranasa Nanjappa, West-Halla, North-Patelara Kapanigowda and South-Kabbarasa Nanjappa and fourthly, 5 guntas of land in Sy.No.34/8 bounded towards East-land of Marigowda, West-land of Nanjaiah, North-Jayamma Sannappa and South-land of Maganna. Whereas, thus it becomes clear that Kapanigowda S/o Motahanumegowda and Hanumegowda S/o Kapanigowda have sold 4 bits of land under sale deed dated 18.11.1963.

20. However, now coming to the identification of the said properties including boundaries and measurement of the said properties. Firstly, the survey number mentioned in the sale deed and plaint schedules are one and the same. But, the measurement of item No.3 and 4 as shown in the plaint schedule is varying from

the measurement mentioned in the sale deed marked as per Ex.P1. The measurement of item No.3 in the sale deed is shown as 5 guntas. But, in the plaint schedule, it is shown as 8 guntas. Even, the measurement of item No.4 in the sale deed is shown as 7 guntas. Whereas, in the plaint schedule it is shown as 8 guntas.

21. Furthermore, the boundaries of all the suit properties mentioned in the plaint schedule and boundaries shown in the sale deed marked as per Ex.P1 are not at all tallying with each other. The boundaries of the properties mentioned in the sale deed is completely contrary to the boundaries mentioned in the plaint schedule. Therefore, at the very outset the plaintiff has utterly failed to prove the very identification of the properties with its boundaries. Even, there is no valid explanation and sufficient documents to show how the boundaries are different in the plaint schedule from the boundaries mentioned in the sale deed.

22. Further, it is true that there is a mutation extract marked as per Ex.P2 and other RTC extracts of suit properties are in the name of mother of the plaintiff. However, the said RTC extracts and Mutation

Register extracts are not at all proof of title. Therefore, in view of the aforesaid discussion the Mutation Register extracts and RTC extracts are not at all coming infavour of the plaintiff to prove the title and ownership of mother of the plaintiff over the suit properties.

23. Therefore, upon considering all these facts and circumstances of the case, it is very clear that the very boundaries mentioned in the sale deed mark as per Ex.P1 and the boundaries mentioned in the plaint schedule are totally contrary to each other. Absolutely, they are not one and the same.

24. As such, the plaintiff has failed to prove the very identification of the suit properties. Hence, this Court is of the opinion that blindly it cannot be said that the mother of the plaintiff had purchased the suit properties as shown in the plaint under sale deed dated 18.11.1963. As such, it cannot be declared that the mother of the plaintiff had purchased the suit properties under sale deed dated 18.11.1963 and the suit properties are ancestral properties of plaintiff. Such being the case, when the plaintiff failed to prove the very purchase of the suit properties under Sale deed dated 18.11.1963 and identification of the suit properties, then ascertaining his possession and also alleged

interference caused by the defendants does not arise at all that too when plaintiff has failed to prove the very identification of the suit properties. Therefore, the plaintiff has failed to prove his case by producing material evidence before the court. Hence, suit is liable to be dismissed. ***Therefore, this court answered the Point No.1 and 2 are in the Negative.***

25. **Point No.3**:- In view of findings on point No.1 and 2, this court proceed to pass the following:-

ORDER

The suit of the plaintiff is hereby
dismissed.

No order as to costs.

Draw decree accordingly.

(Direct dictated to the stenographer on computer typed by him corrected by me and signed in the open Court on 16th day of July-2026)

**(SHIVARAJU H.S.)
Prl. Civil Judge & JMFC.,
Nagamangala.**

ANNEXURES**List of Witnesses examined on behalf of plaintiff:-**

P.W.1 : Krishnegowda,
P.W.2 : Rajegowda,
P.W.3 : Hanumegowda.

List of Documents marked on behalf of plaintiff:-

Ex.P-1 : Copy of Sale Deed dated 18-11-1969
Ex.P-2 : Mutation Register Extract,
Ex.P3 : Record of Rights,
Ex.P-4 to 7 : RTC Extracts,
Ex.P-8 and 9 : Death Certificates,
Ex.P-10 to 13 : RTC Extracts.
Ex.P14 : Copy of Sale Deed dated 09-08-2023
Ex.P15 : Agreement of Sale dated 11-08-2023
Ex.P16 : RTC Extract,
Ex.P17 : Mutation Register Extract.

List of Witnesses examined on behalf of defendants:-

-NIL-

List of Documents marked on behalf of defendants:-

-NIL-

(SHIVARAJU H.S.)
Prl. Civil Judge & JMFC.,
Nagamangala.
