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**IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC,
CHIKODI, AT: CHIKODI.**

Present: SRI. ZAHEER ATANUR

**B.Sc, LL.B.,
I Addl.C.J. & JMFC, Chikodi.**

Dated this the 1st Day of August, 2026

ORIGINAL SUIT No.279/2022

Plaintiff.

1. Sri. Maruti Shankar Pawar,
Age: 51 Years, Occ: Agriculture
R/o : Ingali, Tq: Chikodi,
Dist: Belagavi.
(By Sri. D.S.K. Advocate)

Vs

Defendants.

1. Shri. Subhash Bandu Pawar,
Age: 59 years, Occ: Agriculture,
R/o: Ingali, Tal: Chikodi, Dist: Belagavi.
2. Shri. Shivaji Rama Pawar,
Age: 50 years, Occ: Agriculture,
R/o: Ingali, Tal: Chikodi, Dist: Belagavi.
3. Shri. Tanaji Rama Pawar,
Age: 45 years, Occ: Agriculture,
R/o: Ingali, Tal: Chikodi, Dist: Belagavi.
4. Shri. Vilas Krishna Pawar,
Age: 74 years, Occ: Agriculture,
R/o: Ingali, Tal: Chikodi, Dist: Belagavi.
(By Shri. B.D.P. Advocate)

Date of Institution of suit	23-11-2022
Nature of suit	For Perpetual Injunction
Date of commencement of recording of evidence	05-10-2023
Date of closing of recording of evidence	09-06-2026
Date on which the Judgment was pronounced	01-08-2026
Total Duration	Years Months Days 03 09 9

(Zaheer Atanur)
I ADDL. CIVIL JUDGE & JMFC,
CHIKODI.

:: J U D G M E N T ::

The plaintiff has filed this suit seeking relief of Perpetual Injunction in respect of the suit property.

2. Description of suit schedule A property

The agricultural land bearing RS No.189/3 measuring 01 Acre 08 Guntas situated at Ingali, Tal: Chikodi.

3. Brief facts of the Plaintiff's case are as follows:-

That, the suit land belongs to plaintiff's family and his predecessors. One Shankar Jyoti Pawar was the owner and in possession of the suit property who died on 15-04-2020. He had two sons and one daughter who predeceased her

father. The wife of said Shankar also died six months later after the death of Shankar. Plaintiff is the one of the sons of deceased Shankar. The deceased Shankar was in possession, wahiwat and enjoyment of the suit property till his death on 15-04-2020. After his death plaintiff and other legal heirs came in possession of the suit property as owners of the suit property.

4. The plaintiffs have further contended that defendant No.1 and deceased father of defendants No.2 to 4 used to disturb and obstruct the possession of deceased Shankar and they have filed suit bearing O.S.No.256/2013 which came to be dismissed on 24-09-2018. Later on the defendants No.1 to 4 have filed another suit against the said Shankar, plaintiff and his brother viz., Balasaheb bearing O.S.No.338/2018 which came to be dismissed for non-prosecution on 28-09-2022 and the same was restored but later again it was dismissed on 05-11-2022 for non-prosecution.

5. It is further averred that, now there is standing crop of sugarcane which is ready for harvesting and defendants after dismissal of O.S.No.338/2018 are bent upon to cut and

remove the said sugarcane and cause damage to the property and dispossess the plaintiff from the suit property. Further, the defendants have threatened, obstructed and interfered in the peaceful possession of the plaintiff and his family. Therefore, the plaintiff is constrained to file this suit.

6. After service of summons the defendants appeared their counsel. The defendant No.3 has filed his written statement.

6.1. Written Statement of Defendant No.3:

The defendant No.3 in his written statement has contended that the suit of the plaintiff is false, frivolous and vexatious. He contended that the description of the suit property is not correct. He further contended that the plaintiff has filed the present suit by suppressing true and material facts. He admitted that O.S.No.338/2018 was dismissed for non-prosecution and against the said order petition for restoration is pending before the II Addl.Civil Court, Chikodi in Civil Misc.No.03/2023. He contended that plaintiffs in the said suit seriously contested and interested to continue the suit but due to pandemic disease Covid-19 they are unable to attend the Court proceedings and contact their counsel and

as such there is lack of representation before the Court due to which said suit was dismissed for non-prosecution.

6.2 It is further contended that the defendants are absolute owners of the land to the extent of 06 Guntas each in R.S.No.189/2/3 which is totally measuring 01 Acres 04 Guntas. The defendant No.1 is in actual possession and enjoyment to the total extent of 00A-16G and defendant Nos.2 and 3 together are in joint possession of 16 Guntas in R.S.No.189/3. Further, the defendant No.1 is in possession of 22 Guntas and defendants No.2 and 3 are in joint possession and enjoyment of 00A-22G and defendant No.4 is in actual possession and enjoyment of 00A-22G of land, including the land in RS No.189/2/3 since from 11/6/1974 without anybody's disturbance. The defendants are cultivating the land and growing sugarcane crop and supplying sugarcane crop to various sugar factories since from 1974. Thus the suit property totally measuring 01 Acre 08 Guntas has been in continuous cultivation, actual possession and enjoyment of the defendant and their ancestors were also in possession till today, uninterruptedly without anybody's disturbance. The defendant are openly,

continuously, exclusively and peacefully remained in the actual possession of the suit property till today. They are paying tax to the revenue authorities which is known to the plaintiff and they have never objected. The plaintiff is not in actual possession of the suit property at any point of time since from 11-06-1974 to till today. This being the real fact, the defendants has a right to continue in possession of the suit property till they are evicted according to due process of law. Relying upon the said contentions, the defendant No.3 prays to dismiss the suit with cost.

7. The defendants No.1, 2 and 4 have filed memo adopting the written statement filed by defendant No.3.

8. On the basis of above pleadings, my Learned predecessor has framed the following issues:

ISSUES

1. Whether the plaintiff prove that he is in peaceful possession and enjoyment of the suit property, as contended?

2. Whether the plaintiff proves the alleged disturbance and interference by the defendants, as alleged?

3. Whether the plaintiff is entitled for the relief of perpetual injunction as sought for?

4. What order or decree?

9. In order to prove his case, plaintiff is examined as P.W.1 and got marked in all 31 documents as Exs.P.1 to Ex.P.31. Counsel for defendants has cross examined PW-1.

10. Defendant No.2 examined himself as DW.1 and got marked 15 documents as Exs.D.1 to D.15. The counsel for plaintiff has cross examined DW.1. The defendants have also examined their neighboring land owners as DW.2 to 5. During course of examination-in-chief of DW.5, 2 documents are marked as Exs.D.16 and D.17. The counsel for plaintiff has cross examined DW.2 to 5.

11. Counsel for plaintiff has filed written arguments. Heard arguments of both sides. Perused the oral and documentary evidence available on record.

12. Having given my anxious consideration and upon careful analysis, findings of this Court to the above Issues are as under:-

Issue No.1: In the ***Affirmative***

Issue No.2: In the ***Affirmative***

Issue No.3: In the ***Affirmative***

Issue No.4: *As per final order,
for the following:*

:REASONS:

13. Issue No.1:- Afore narrated facts are taken into consideration to avoid repetition.

14. Plaintiff in order to prove his case, filed his affidavit in lieu of examination-in-chief and examined himself as PW1 wherein he has reiterated plaint averments and produced 31 documents marked as Ex.P1 to Ex.P31. Ex.P1 is the Khata extract, Exs.P2 to P.18 are the Record of rights, Ex.P19 is the M.R.No.65/2012-13, Ex.P20 is the M.R.No.8/2012-13, Ex.P21 is the M.R.No.145/2016-17, Ex.P22 is the Certified Copy of order passed in O.S.No.256/2013, Ex.P23/P.W.1 is the Certified Copy of plaint in O.S.No.256/2013, Ex.P24 is the Certified Copy of order passed in O.S.No.256/2013, Ex.P25 is the Certified Copy of Additional WS of defendant No.3, Ex.P26 is the Certified Copy of WS of defendant No.2, Ex.P27 is the Certified Copy of I.A.No.II filed in O.S.No.256/2013, Ex.P28 is the Certified Copy of order passed in I.A.No.II in O.S.No.256/2013, Ex.P29 is the Certified Copy of Rozanama in O.S.No.256/2013, Ex.P30 is

the Certified Copy of Decree passed in O.S.No.256/2013, Ex.P31 is the Certified Copy of order sheet in O.S.No.338/2018.

15. The defendant No.1 has filed his affidavit in lieu of examination-in-chief and examined as DW-1 who has reiterated the contention of written statement and produced 15 documents marked as Exs.D1 to Ex.D15. Exs.D1 to D5 are 5 Photographs, Exs.D6 & D7 are the 2 CDs, Ex.D8 is the Application U/s 65B of Indian Evidence Act, Exs.D9 to D13 are -5 Bills issued by Shiraguppi Sugar Factory, Exs.D14 & D15 are the Record of Rights, DW.5 has produced documents RTC as per Ex.D16 and Ex.D17.

16. In order to substantiate their case the plaintiff has examined plaintiff No.1 as PW.1, filed his affidavit in lieu of examination-in-chief and reiterated the plaint averments. Counsel for defendants has cross examined PW.1. In the cross-examination, PW-1 has admitted the ownership of adjacent land owners who are examined as DW2 to DW5, further in relevant para No.3 of cross-examination, PW-1 has denied the suggestion that the defendants are in possession

of suit property since 11.06.1974 which is reproduced hereunder:

3) ದಾವಾ ಆಸ್ತಿಯು ಮೊದಲಿನಿಂದಲೂ ಪ್ರತಿವಾದಿಗಳ ಕಬಚಾ ವಹಿವಾಟಿಯಲ್ಲಿ ಇದೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ಎನು ಬೆಳೆ ಇದೆ ಎಂದರೆ ನಾನು ಕಬ್ಬುನ್ನು ಬೆಳೆದಿದ್ದೇನೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ನಾನು ಸಹ ಸ್ವಾ ದಿನದಲ್ಲಿ ಇದ್ದೇನೆ ಎಂದು ಮತ್ತು ಕಬ್ಬುನ್ನು ಬೆಳೆಯುತ್ತೇನೆ ಎಂದು ತೋರಿಸಲು ದಾಖಲಾತಿಯನ್ನು ಹಾಜರು ಪಡಿಸಿದ್ದೀರಾ ಎಂದರೆ ಇಲ್ಲ. ನಾನು ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ಯಾವತ್ತಿಗೂ ಸ್ವಾ ದಿನದಲ್ಲಿ ಇಲ್ಲ, ಆದರೂ ಇದ್ದೇನೆ ಎಂದು ಸುಳ್ಳು ಸಾಕ್ಷ್ಯ ಹೇಳುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ದಿ11-06-1974 ರಿಂದ ಇಲ್ಲಿಯವರೆ ದಾವಾ ಆಸ್ತಿಗೆ ಪ್ರತಿವಾದಿಗಳು ಸ್ವಾ ದಿನದಲ್ಲಿ ಇದ್ದಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಾನು ಇಲ್ಲಿಯವರೆಗೆ ದಾವಾ ಆಸ್ತಿ ಕಬಜೆ ಕೂಡಿ ಎಂದು ದಾವೆ ಮಾಡಿಲ್ಲ ಎಂದರೆ ಸರಿ.)

17. Other than this, nothing much is elicited in cross-examination of PW1 which would discredit his testimony. Further, on perusal of Ex.P2 to 18 RTC Extracts of RS No.189/3 from 2011-12 till 2022-23 in Column No.12 i.e Cultivators column it is evident that the name of plaintiff is mentioned, which is nothing but the plaintiff and Jyoti Shankar Pawar are cultivating the suit property. So also Ex.P21 MR No.H145 dated: 31.03.2017 depicts the name of plaintiff as possessor of land bearing RS No.189/3.

18. On the other hand, the defendants in order to prove their contention have examined DW1 who has reiterated the averments of written statement and during his cross-

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examination DW1 has admitted the ownership of plaintiff over suit property, but denied the suggestion that plaintiff is in possession of suit property and volunteers that he is in possession. Further he has deposed that Ex.D9 to Ex.D13 are produced to show the possession of defendants.

19. DW2 to D5 have filed their affidavits in examination-in-chief in consonance with the DW1. Now it is pertinent to note that DW2 in his cross examination has admitted that he has no information of suit property and he do not for what reason the suit is filed, he has also admitted that defendants are not related to suit property. It is also significant to note that DW2 in his cross examination has also admitted that he has friendship with defendants for which he is deposing in their favour.

20. DW3 has also remained silent when the counsel for plaintiff cross examined and asked the reason for filing of suit. He has further deposed that defendants are in possession of suit property, he has also deposed that he has no knowledge about present suit.

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21. DW4 in his cross-examination has deposed that he do not know the reason for filing this suit, he has admitted that after death of Shankar, the plaintiff and Balasaheb are in possession of suit property and he is deposing at the instance of defendants.

22. DW5 in his cross-examination has admitted that possession of suit property by plaintiff and Balasaheb after the death of Shankar was objected by defendants and further volunteered that the defendants are in possession of suit property.

23. On careful analysis of evidence of DW2 and DW4, they are interested witnesses and DW3 and DW5 have retracted their testimony in the same evidence. However, to substantiate their oral and documentary evidence, the defendants have produced 05 photographs as per Ex.D1 to Ex.D5 in which the agricultural land is visible, but the same is not conclusive proof that the said land is suit property. Ex.D9 is Sugarcane bill which depicts the Survey No.189 which is not the suit property. Ex.D10 and Ex.D13 are one and same Sugarcane bill in the name of defendant No.1 pertaining to 2024-2025 which depicts the Survey No.189/3.

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Except Ex.D10 and Ex.D13 which is of 2024-2025 no other documents are produced by defendants to show that they are in possession of suit property since 11.06.1974, so far as section 133 of Karnataka Land Revenue Act is concerned, it is presumed that the entries in Record of Rights are lawful. In the instant case, as already discussed above, Ex.P2 to Ex.P18 reflects the names of plaintiff and his brother in cultivator's column. If at all the defendants are in possession of the suit property since 1974, then their names would have been mentioned in cultivators column if not as owners. Further the defendants ought to have produced the bills or receipts pertaining to suit property since 1974. Now by producing only one bill of the year 2024-2025 as per Ex.D10 and Ex.D13 itself is not sufficient to hold the defendants are in possession of suit property and the said bill cannot over ride the presumption available to plaintiff under section 133 of KLR Act. Therefore, with these observations, this Court holds that the plaintiff is in possession of suit property. Accordingly, this Court answers **Issue No.1** in the ***Affirmative.***

24. Issue No.2: The plaintiff/PW-1 in his evidence has produced certified copies of Judgment in OS No.256/2013 as per Ex.P22 wherein the defendants had filed the suit against this plaintiff, his father Shankar and brother Balasaheb seeking relief of Adverse Possession. Relying on the Judgment of Hon'ble Supreme Court in ***Sri Gurudwara Sahib versus Gram Panchayat Village Sirthala and Another*** the said suit was dismissed on 24.09.2018 on the ground that plaintiff cannot claim adverse possession.

25. Again the defendants filed another suit vide OS No.338/2018 against plaintiff, his father Shankar and brother Balasaheb seeking relief of permanent injunction as per Ex.P31 which came to be dismissed for non-prosecution on 05.11.2022.

26. As already held in Issue No.1 that the plaintiff is in possession of suit property, now on perusal of Ex.P22 and Ex.P31 it is very clear that the conduct of defendants itself goes to show that by hook or crook they are interested in suit property and thereby unnecessarily causing interference for peaceful possession and enjoyment of suit property by the

plaintiff. Accordingly, this Court answers **Issue No.2** in the ***Affirmative.***

27. Issue No.3:- Upon overall analysis of oral and documentary evidence, this Court is of considered view that the plaintiff is in possession of suit property and defendants are causing interference in peaceful possession and enjoyment by plaintiff over suit property. No person has right to disturb lawful possession and enjoyment of any property unless authorized by law. In the instant case, the plaintiff has produced cogent and reliable evidence to prove his case, hence he is entitled to the relief of perpetual injunction against the defendants. Accordingly, this Court answers **Issue No.3** in the ***Affirmative.***

28. Issue No.4:- In view of the afore stated reasons, this Court proceeds to pass the following:

ORDER.

The suit filed by plaintiff is hereby decreed.

Defendants or men on their behalf are restrained from causing interference and disturbing the peaceful possession and enjoyment of suit property by the plaintiff.

IA's pending if any, stands disposed off.

Draw decree accordingly.

(Dictated to the Stenographer, typed by her, corrected by me and then pronounced in the Open Court on this 01st Day of August, 2026.)

(Zaheer Atanur)
I ADDL. CIVIL JUDGE & JMFC,
CHIKODI.

ANNEXURE

I. Witnesses examined on behalf of the Plaintiff:

P.W.1 : Sri. Maruti S/o Shankar Pawar.

II. Documents exhibited on behalf of the plaintiffs:

Ex.P1/P.W.1 : Khata extract
Exs.P2 to P.18/P.W.1 : Record of rights
Ex.P19/P.W.1 : M.R.No.65/2012-13
Ex.P20/P.W.1 : M.R.No.8/2012-13
Ex.P21/P.W.1 : M.R.No.145/2016-17
Ex.P22/P.W.1 : Certified Copy of order
passed in O.S.No.256/2013
Ex.P23/P.W.1 : Certified copy of plaint in
O.S.No.256/2013
Ex.P24/P.W.1 : Certified Copy of order
passed in O.S.No.256/2013
Ex.P25/P.W.1 : Certified Copy of Additional
WS of defendant No.3
Ex.P26/P.W.1 : Certified Copy of WS of
defendant No.2
Ex.P27/P.W.1 : Certified Copy of I.A.No.II
filed in O.S.No.256/2013.

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- Ex.P28/P.W.1 : Certified Copy of order
passed in I.A.No.II in
O.S.No.256/2013.
- Ex.P29/P.W.1 : Certified Copy of Rozanama
in O.S.No.256/2013
- Ex.P30/P.W.1 : Certified Copy of decree
passed in O.S.No.256/2013
- Ex.P31/P.W.1 : Certified Copy of order sheet
in O.S.No.338/2018.

III. Witnesses examined on behalf of the defendants:

- DW.1: Sri. Shivaji Rama Pawar
- DW.2: Sri. Subhash Gundu Pawar
- DW.3: Sri. Sarjerao Dattu Pawar
- DW.4: Sri. Raosaheb Babu Chougale
- DW.5: Sri. Satyappa Laxman Todkar.

IV. Documents exhibited on behalf of the defendants:

- Exs.D1 to D5/D.W.1 : 5 Photographs
- Exs.D6 & D7/D.W.1 : 2 CDs
- Ex.D8/D.W.1 : Application U/s 65B Indian
Evidence Act.
- Exs.D9 to D13/D.W.1 : 5 Bills issued by Shiraguppi
Sugar Factory
- Exs.D14 & D15/D.W.1: Record of Rights
- Ex.D16 & 17/D.W.5 : Record of Rights

(Zaheer Atanur)

**I ADDL. CIVIL JUDGE & JMFC,
CHIKODI.**