

KAMD310000742015



**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE &
JMFC AT MADDUR.**

:: PRESENT ::

**SMT. PARVATHI C.M., B.A.L, L.L.B.,
I Addl. Civil Judge & JMFC, MADDUR.**

Dated this the 02nd day of May 2026

O.S. No. 20/2015

- PLAINTIFFS:-**
- 1. Varadaraju,**
S/o Late. Varadegowda,
Aged about 50 years,
 - 2. V.Manjunatha,**
S/o Late. Varadegowda,
Dead by Lrs
 - 2(a) Smt. Yashodamma,**
W/o Late. V.Manjunath,
Aged about 49 years,
 - 2(b) M.Lokesha,**
S/o Late. V.Manjunath,
Aged about 30 years,
 - 2(c) M.Chandrashekar,**
S/o Late. V.Manjunath,
Aged about 28 years,

3. Padmanaba. V,
S/o Late. Varadegowda,
Aged about 38 years,

4. Dananjaya V,
S/o Late. Varadegowda,
Since dead issueless,
Aged about 36 years,

All are R/at Yadavanahalli
Village, Koppa Hobli,
Maddur Taluk.

(By N.M., Advocate)

V/S

DEFENDANTS:- 1. Smt. Bhagyamma,
W/o Late. K.Varadaiah,
Aged about 52 years,

2. Hemesh Y.V,
S/o K.Varadaiah,
Aged about 28 years,

3. Santhosh,
S/o Late. K.Varadaiah,
Aged about 25 years,

4. S. Mahesha,
S/o Siddegowda,
Aged about 42 years,

All are R/at Yadavanahalli
Village, Koppa Hobli,
Maddur Taluk.

(D.1 to 3 By H.V.B.,
Advocate)
(D.4 By B.R., Advocate)

Date of institution of the suit	05.01.2015		
Nature of the suit	DECLARATION AND INJUNCTION SUIT		
Date of commencement of Recording of evidence	18.07.2019		
Date of closing of recording of evidence	26.11.2025		
Date on which the Judgment is pronounced	02.05.2026		
Total Duration	Year	Month	Days
	11	03	27

(SMT. PARVATHI C.M)
I Addl. Civil Judge, Maddur.

J U D G M E N T

The plaintiffs have filed the present suit for seeking the relief of declaration and permanent injunction in respect of suit schedule properties against the defendant.

2. The brief fact of the plaintiff's case is hereunder:

It is the case of the plaintiff that, the plaintiffs are the absolute owners of suit schedule properties and the originally

the suit schedule properties was granted in favour of mother of plaintiffs through government and she is possession over the same in till her death. After that the defendants were colluded with the revenue officials and change the katha and trying to disposes the plaintiffs from suit schedule properties. Hence the plaintiffs have filed the present suit for the relief of declaration to declaring that the plaintiffs are the absolute owners of suit schedule properties and consequential relief of permanent injunction to restrained the defendants from interfering with the plaintiff's peaceful possession and enjoyment and another alternative relief that if the court comes conclusion the defendants are in possession of the properties then for order to recover the possession of suit schedule properties from defendants to plaintiffs and prays to decree the suit.

3. In response to the service of suit summons, the defendants have appeared before the court through their counsel and filed their separate written statements.

4. The brief fact of the written statement is hereunder:

The defendants have filed their written statement and it is the defence of the defendants that, the suit schedule properties is original granted in the name of mother of

plaintiffs who is sister in law of husband of defendant No.1 and another one Hemagirigowda who is brother of one Varadegowda in the joint family. Thereafter the father of plaintiffs and their brothers were entered into partition and suit schedule properties is allotted the share of defendants itself. Hence the suit schedule properties are not a self acquired properties of mother of plaintiffs and the government was granted the properties in the name of mother of plaintiffs for joint family members of Varadegowda and their brothers as well as their family members itself. Hence the plaintiffs have filed the present suit to harass the defendants and interfere with the peaceful possession of properties belongs to defendants only. Therefore, the suit of the plaintiff is liable to be dismissed with cost and prayed for dismiss the suit with cost.

5. Based on the pleadings of the parties my predecessor has framed following:

I S S U E S

1. Whether the plaintiffs prove that, the suit schedule lands were the absolute properties of their mother Channamma @ Jayamma ?

2. Whether the defendant No.1 to 3 prove that, the suit properties were the joint

family properties of the family of plaintiffs and defendants No.1 to 3 ?

3. Whether defendants No.1 to 3 further prove that, there was oral partition in the year 1986 in respect of the joint family properties of the plaintiffs and defendants No.1 to 3 ?

4. Whether the plaintiffs prove that they are in possession and enjoyment of the suit schedule lands ?

5. Whether the plaintiffs further prove the alleged interference by the defendants to their peaceful possession and enjoyment over the suit schedule lands ?

6. Whether the plaintiffs are entitled for the relief of declaration and permanent injunction as sought for ?

7. What order or decree ?

6. In order to proving of their case, the plaintiff No.1 has appeared before the court and examined himself as PW.1 and reiterated the entire plaint averments in his examination in chief affidavit and he has produced 36 documents, they are marked as Ex.P-1 to P-36 and the plaintiffs have examined the another two witnesses as a PW.2 and 3.

7. In order to disproving of plaintiffs case, the defendant No.4 has appeared before the court and examined himself as

DW.1 and retreated the entire written statement averments and he has produced 33 documents they are marked as Ex.D.1 to 33 and the defendant No.4 has examined the another two witnesses as a DW.2 and 3.

8. Heard and Perused the materials on record.

9. After considering the oral and documentary evidence on record and the facts and circumstances of the case, my findings on the above issues are as hereunder:

<i>Issue No.1</i>	<i>:</i>	<i>In the negative,</i>
<i>Issue No.2</i>	<i>:</i>	<i>In the affirmative,</i>
<i>Issue No.3</i>	<i>:</i>	<i>In the affirmative,</i>
<i>Issue No.4</i>	<i>:</i>	<i>In the negative,</i>
<i>Issue No.5</i>	<i>:</i>	<i>In the negative,</i>
<i>Issue No.6</i>	<i>:</i>	<i>In the negative,</i>
<i>Issue No.7</i>	<i>:</i>	<i>As per final order, for the following;</i>

REASONS

10. **ISSUE NO.1 TO 4:-** As these issues are interconnected. Hence, they are taken together for common discussion to avoid the repetition of fact. In order to prove their case, the plaintiff No.1 has appeared before the court and examined himself as PW.1, and reiterated the entire plaint averments in his examination in chief affidavit and he has

produced 36 documents, they are marked as Ex.P-1 to P-36. Ex.P-1 is the land grant certificate, Ex.P-2 to 6 are the hand written RTC extracts, Ex.P-7 and 8 are the survey tippani, Ex.P-9 is the patta and receipt book, Ex.P-10 to 21 are the tax paid receipts, Ex.P-22 survey tippani, Ex.P-23 is the death certificate, Ex.P-24 is the mutation register, Ex.P-25 is the encumbrance certificate, Ex.P-26 is the receipt, Ex.P-27 is the certified copy of sale deed dated 21.12.2011, Ex.P-28 and 29 are the computerized RTC extracts, Ex.P.30 is the police endorsement, Ex.P.31 is the hand written RTC extracts, Ex.P.32 is the tippani, Ex.P.33 to 36 are the hand written RTC extracts.

11. It is the case of the plaintiff that, the plaintiffs are the absolute owners of suit schedule properties and the originally the suit schedule properties was granted in favour of mother of plaintiffs through government and she is possession over the same in till her death. After that the defendants were colluded with the revenue officials and change the katha and trying to disposes the plaintiffs from suit schedule properties. Hence the plaintiffs have filed the present suit for the relief of declaration to declaring that the plaintiffs are the absolute owners of suit schedule properties and consequential relief of permanent injunction to restrained the defendants from interfering with the plaintiff's peaceful possession and enjoyment and another alternative relief that if the court comes conclusion the

defendants are in possession of the properties then for order to recover the possession of suit schedule properties from defendants to plaintiffs and prays to decree the suit.

12. In order to disproving of plaintiffs case, the defendant No.4 by name Mahesha S has appeared before the court and examined himself as DW.1 and retreated the entire written statement averments in his examination in chief affidavit and cross examined by the plaintiff counsel and he is produced 33 documents they are marked as Ex.D.1 to Ex.D.33. Ex.D.1 and 2 are the hand written RTC extracts, Ex.D.3 and 4 are the mutation registers, Ex.D.5 is the RTC extract, Ex.D.6 is the certified copy of sale deed dated 13.10.1988, Ex.D.7 is the RTC, Ex.D.8 is the mutation register, Ex.D.9 is the RTC, Ex.D.10 is the certified copy of sale deed dated 29.05.1989, Ex.D.11 is the mutation register, Ex.D.12 is the certified copy of order passed AC Mandya in R.Mis No.292/2011-12, Ex.D.13 is certified copy of order passed by DC Mandya in RP No.105/2014, Ex.D.14 is the compromise decree in OS No.379/2014, Ex.D.15 to 26 are the hand written RTC extracts, Ex.D.27 and 28 are the mutation registers, Ex.D.29 is the aakara band, Ex.D.30 is the index of land, Ex.D.31 and 32 are the patta books, Ex.D.33 is the certified copy of sale deed dated 17.12.1964.

13. It is the defense of the defendant that, the suit schedule properties is original granted in the name of mother of plaintiffs who is sister in law of husband of defendant No.1 and another one Hemagirigowda who is brother of one Varadegowda in the joint family. Thereafter the father of plaintiffs and their brothers were entered into partition and suit schedule properties is allotted the share of defendants itself. Hence the suit schedule properties are not a self acquired properties of mother of plaintiffs and the government was granted the properties in the name of mother of plaintiffs for joint family members of Varadegowda and their brothers as well as their family members itself. Hence the plaintiffs have filed the present suit to harass the defendants and interfere with the peaceful possession of properties belongs to defendants only. Therefore, the suit of the plaintiff is liable to be dismiss.

14. In order to proving of issue No.1 to 4 the plaintiffs and defendants were produced the documentary evidence as well as oral evidence. On perusal of the Ex.P.1 it is appears that the properties to an extent of 1 acre 20 guntas in Sy No.80 was granted in the name of Channamma @ Jayamma who is mother of plaintiffs on 03.01.1967. At time of granting of properties in favour of mother of plaintiffs by name Channamma @ Jayamma she has married with the one

Varadegowda who is father of plaintiffs and brother of one Varadaiah and Hemagirigowda. As per the provision of law if any properties is granted in any one of the joint family members it will be considered as properties grants in the name of one person of joint family in respect to joint family necessity only. In this case the plaintiffs were stated that the properties which is granted in favour of their mother is considered as an absolute properties of plaintiffs mother by name Channamma @ Jayamma under section 14 of Hindu Succession Act itself. As per the provision of Hindu Succession Act 1956 section 14 as held in respect to properties rights for Hindu women by grant "limited estate" ownership into absolute ownership it stipulates that any properties (movable and immovable) acquired by the female Hindu acquired the properties is held by her as full owner. As per the section 14(1) of Hindu Succession Act 1956 any property acquired by female Hindu whether before or after the act through partition, maintenance if for purchase or by her own skill is held by her fully owner and not as a limited owner and property granted by the government to a women if she is member of the Hindu joint family is generally considered as her absolute property rather then joint family property itself. But in this case the government has granted the property when the joint family is in existence in the name of mother of plaintiffs in the year of 1967. Therefore the property is granted in the name

Channamma @ Jayamma who is mother of plaintiffs is not considered as a self property of mother of plaintiffs. Because the husband of Channamma @ Jayamma and his brother were entered into partition in the year of 2001-02 and the katha was mutated in the name of Varadaiah S/o Karigowda and Bhagyamma W/o Varadaiah in jointly to an extent of 30 guntas in Sy No.153/P2 and another 30 guntas was allotted one V.Dananjaya S/o Varadegowda in Sy No.153/P1 the old Sy No.80 in the year of 1998-99 itself. As per the recitals in Ex.P.28 and 29 the properties was divided between the plaintiffs and defendants in the year of 1999 itself. Therefore the properties which is granted by the government in the name of mother of plaintiffs is considered as joint family properties of plaintiffs and defendants. Hence the plaintiffs are themselves fail to prove the issue No.1 by cogent material evidence. Hence the onus in regarding to disproving of burden is not shifted to defendants.

15. On perusal of the Ex.P.28 and 29 the defendant No.1 to 3 and plaintiffs were get partitioned in respect to suit schedule properties as well as other properties itself. Therefore the defendants were succeed to prove the issue No. 2 and 3 by cogent material evidence. After proving of burden on issue No.2 and 3 the plaintiffs have not produced any relevant documentary evidence to disprove the issue No.2 and 3,

because as per the Ex.P.1 and oral evidence of PW.1 the property was granted in the name of mother of plaintiffs when the joint family is existence itself. Hence that property is considered as joint family property father of plaintiffs and their brothers said Varadegowda itself. Therefore the plaintiffs are fail to prove the onus on issue No.2 and 3 and also the plaintiffs were not in possession over the suit item No.2 to an extent of 30 guntas in Sy No.153/P2 itself by material evidence and property item No.2 is stands in the name of defendant No.1 to an extent of 30 guntas. Therefore the plaintiffs were also fail to prove issue No.4 by cogent material evidence. Without proving of title and possession the onus in regarding to disproving of those issues to defendants is not shifted and this court comes to conclusion and answered the issue No.1 and 4 in the negative and issue No.2 and 3 in the affirmative.

16. **ISSUE NO.5:-** In order to proving of Issue No.5, the plaintiffs have not produced any documentary evidence, but he was made an allegation against the defendants in regarding to interference. In order to disproving of allegation made by the plaintiffs against the defendants, the defendants have filed their written statement and denied the averments in plaint of the plaintiffs and they are further submitted that, the plaintiffs themselves have interference with the property belongs to defendants. But, the plaintiffs have not made out any sufficient

reason in respect of Issue No.1 and 4, but the filing of written statement by the defendants for the allegation made by the plaintiffs is sufficient as per law. But in injunction suit, the allegation made against the defendants by the plaintiffs is may be taken as prove by the filing of written statement to resistance of the plaintiffs case. And also the plaintiffs in this suit has made the allegation against the defendants that, they are interfering with the peaceful possession and enjoyment of suit schedule property of plaintiffs. But without proving of possession and title the question of interference is doesn't arise. And also in this suit the plaintiffs have not proved the Issue No.1 and 4 and Issue No.1 and 4 were answered in the negative. Hence this court comes conclusion and answered the issue No.5 in the negative.

17. **ISSUE NO.6 :-** In order to proving of entitle of relief, the plaintiffs have produced the documentary evidence as well as oral evidence. In this suit, the plaintiffs have not proved Issue No.1, 4 and 5, without proving of title and possession of the suit schedule properties by the plaintiffs and without proving of allegation made by them against the defendants. The plaintiffs are not entitled for declaration and permanent injunction against the defendants in respect to suit schedule properties. Hence, the plaintiffs are not entitled for relief as

sought. Hence this court comes to conclusion and answered the Issue No.6 in the negative.

18. **ISSUE NO.7:-** In view of the findings on Issue No.1 to 6, this court proceeds to pass the following:

ORDER

The suit of the plaintiffs is hereby dismissed with cost.

Draw decree accordingly.

*((Dictated to the stenographer, transcribed by him, corrected and then pronounced by me in the open court on this the **02nd day of May 2026**)*

(SMT. PARVATHI C.M)
I Addl. Civil Judge, Maddur.

ANNEXURE

1. List of witnesses examined on behalf of Plaintiff:

PW.1	:	V.Varadaraju
PW.2	:	Sannamarigowda
PW.3	:	Kempaiah

2. List of documents marked on behalf of Plaintiff:

Ex.P-1	:	Land grant certificate
Ex.P-2 to 6	:	Hand written RTC extracts
Ex.P-7 and 8	:	Survey tippani
Ex.P-9	:	Patta and receipt book
Ex.P-10 to 21	:	Tax paid receipts
Ex.P-22	:	Survey tippani
Ex.P-23	:	Death certificate
Ex.P-24	:	Mutation register
Ex.P-25	:	Encumbrance certificate
Ex.P-26	:	Receipt
Ex.P-27	:	Certified copy of sale deed dated 21.12.2011
Ex.P-28 and 29	:	Computerized RTC extracts
Ex.P.30	:	Police endorsement
Ex.P.31	:	Hand written RTC extracts
Ex.P.32	:	Tippani,
Ex.P.33 to 36	:	Hand written RTC extracts

3. List of witnesses examined on behalf of Defendant:

DW.1	:	Mahesh S
DW.2	:	Varadaraju Y.M
DW.3	:	Jagadeesha

4. List of documents marked on behalf of Defendant :

Ex.D.1 and 2	:	Hand written RTC extracts
Ex.D.3 and 4	:	Mutation registers
Ex.D.5	:	RTC extract
Ex.D.6	:	Certified copy of sale deed dated 13.10.1988
Ex.D.7	:	RTC
Ex.D.8	:	Mutation register
Ex.D.9	:	RTC

Ex.D.10 : Certified copy of sale deed dated 29.05.1989
Ex.D.11 : Mutation register
Ex.D.12 : Certified copy of order passed AC Mandya in R.Mis No.292/2011-12
Ex.D.13 : Certified copy of order passed by DC Mandya in RP No.105/2014
Ex.D.14 : Compromise decree in OS No.379/2014
Ex.D.15 to 26 : Hand written RTC extracts
Ex.D.27 and 28 : Mutation registers
Ex.D.29 : Aakara band
Ex.D.30 : Index of land
Ex.D.31 and 32 : Patta books
Ex.D.33 : Certified copy of sale deed dated 17.12.1964.

(SMT. PARVATHI C.M)
I Addl Civil Judge & JMFC,
Maddur.