



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

REGULAR SECOND APPEAL NO. 1981 OF 2025

(DEC/INJ)

BETWEEN:

1. SYED BALKIS
D/O LATE H. ABDUL GHANI,
AGED ABOUT 58 YEARS,
2. SYED ANIS
D/O LATE H. ABDUL GHANI,
AGED ABOUT 56 YEARS,
3. SYEDA ATTHIKA
D/O LATE H. ABDUL GHANI,
AGED ABOUT 53 YEARS,
4. SYEDA RAFATH
D/O LATE H. ABDUL GHANI,
AGED ABOUT 50 YEARS
5. SYEDA HABEEBA
D/O LATE H. ABDUL GHANI,
AGED ABOUT 48 YEARS
6. SYEDA FATHIMA
D/O LATE H. ABDUL GHANI,
AGED ABOUT 62 YEARS
7. MOHAMMED IKBAL AHAMMED
S/O LATE H. ABDUL GHANI,

Digitally
signed by
KIRAN
KUMAR R
Location:
HIGH COURT
OF
KARNATAKA



AGED ABOUT 55 YEARS

ALL ARE R/AT HEBBUR GRAMA AND HOBLI,
TUMAKURU TALUK,
TUMAKURU DISTRICT- 572120.

...APPELLANTS

(BY SRI. AKARSH KUMAR GOWDA., ADVOCATE)

AND:

1. H C NAGARATHNA
W/O LATE GOVINDRAJU,
AGED ABOUT 65 YEARS
2. TEJUS H. G.
S/O LATE GOVINDRAJU,
AGED ABOUT 40 YEARS,
3. NANDINI. H. G.
D/O LATE GOVINDRAJU,
AGED ABOUT 37 YEARS.

ALL THE RESPONDENTS ARE
R/AT HEBBUR GRAMA AND HOBLI,
TUMAKURU TALUK,
TUMAKURU DISTRICT- 572120.

...RESPONDENTS

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 28.08.2025 PASSED IN
RA NO.148/2020 ON THE FILE OF VII ADDITIONAL DISTRICT
AND SESSIONS JUDGE, TUMAKURU. DISMISSING THE APPEAL
AND CONFIRMING THE JUDGMENT AND DECREE DATED
5.02.2018 PASSED IN OS NO.193/2005 ON THE FILE OF V
ADDITIONAL CIVIL JUDGE AND JMFC, TUMAKURU.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL JUDGMENT

This appeal is filed by the appellants challenging the judgment and decree dated 28.08.2025 passed by the Court of learned VII Addl. District and Sessions Judge, Tumakuru ('First Appellate Court' for Short) in RA No.148/2020 and the judgment and decree dated 05.02.2018 passed by the Court of learned V Addl. Civil Judge and JMFC, Tumakuru ('Trial Court' for short) in OS No.193/2005.

2. For the sake of convenience, the parties are referred to based on their ranking before the Trial Court. The appellants were the legal representatives of the plaintiff, and the respondents were the legal representatives of the defendant.

3. Brief facts leading rise to the filing of this appeal are as follows:



3.1. The plaintiff filed a suit for declaration and permanent injunction against the defendant. It is the case of the plaintiffs that, the suit schedule property was owned and possessed by the plaintiff's great grandfather. Upon succession, the plaintiff became the full and absolute owner of the suit schedule property. The name of the plaintiff was entered in the revenue records and *Panchayat* records. The defendant has no right, title or interest over the vacant site measuring 15 x 48 years i.e., east-west 15 ft., north-south 48 ft. The defendants are trying to interfere and cause obstruction to the plaintiff's peaceful possession and enjoyment of the suit schedule property denying the title of the plaintiff over the suit schedule property. Hence, a cause of action arose for the plaintiff to file a suit for declaration of title and injunction.

3.2. The defendant filed a written statement denying the averments made in the plaint. It is contended that, the defendant is the absolute owner and in possession and enjoyment of the written statement schedule property,



having purchased the same under a registered sale deed dated 18.11.1991 from its lawful owner. The plaintiff is having his house towards the east of the east of the written statement schedule property. The plaintiff has given a wrong description and boundaries by including the property of the defendant in order to grab the property. The suit filed by the plaintiff is not maintainable. Hence, prays to dismiss the suit.

3.3. The Trial Court, based on the pleadings of the parties, framed the relevant issues.

3.4. The plaintiff, to substantiate his case, the SPA holder of the plaintiff was examined as PW1 and marked 33 documents as Exs.P1 to P33. In rebuttal, the defendant examined himself as DW1, one witness as DW2 and marked 19 documents as Exs.D1 to D19.

3.5. The Trial Court, after appreciating the verbal and documentary evidence, dismissed the suit of the plaintiff with costs vide judgment dated 05.02.2018.



4. The LRs of the plaintiff, aggrieved by the dismissal of the suit in OS No.193/2005, preferred an appeal in RA No.148/2020 before the First Appellate Court.

5. The First Appellate Court, after re-appreciating the entire evidence on record, dismissed the appeal vide judgment dated 28.08.2025.

6. The LRs of the defendant, aggrieved by the impugned judgments and decrees passed by the Courts below, filed this regular second appeal.

7. Heard the arguments of learned counsel for the LRs of the plaintiff.

8. Learned counsel for the LRs of the plaintiff submits that, the suit schedule property was inherited by the plaintiff from his forefather and the plaintiff was in possession of the property for more than 6 to 7 decades. The vendor of the defendant had purchased only an extent of 11 x 48 ft. under a registered sale deed dated 15.11.1962 from Mohamed Ismail. The defendant had



made an attempt to interfere with the plaintiff's peaceful possession and enjoyment of the suit schedule property. He submits that, both the Courts below have not properly considered the material on record and committed error in passing the impugned judgments. Hence, on these grounds, he prays to allow the appeal.

9. Perused the records and considered the submissions of the learned counsel for the LRs of the plaintiff.

10. It is undisputed fact that, the plaintiff filed a suit for declaration and permanent injunction claiming that the plaintiff has inherited the suit schedule property from his forefather.

11. In a suit for declaration of title, it is the duty of the plaintiff to produce the title deeds. Admittedly, the plaintiff, except producing the *Panchayat* records i.e., demand register and tax paid receipts, has not produced any title deeds to establish his ownership over the suit



schedule property. Admittedly, the documents produced by the plaintiff are not the title deeds. On the basis of mere revenue entries, title cannot be declared in the absence of any order corresponding to show on what basis such an entry is made. The plaintiff has not produced any records to establish on what basis the name of the plaintiff was entered in the revenue records. The records has to be supported by a title deed.

12. The Hon'ble Apex Court in the case of ***Dayaram and Others Vs. Dawalatshah and Others***¹ held that, mutation order passed on untrue piece of evidence has no evidentiary value.

13. Both the Courts below have rightly passed the impugned judgments holding that the plaintiff has failed to establish his title over the suit schedule property. Hence, I do not find any error in the impugned judgments and any substantial question of law that arises for consideration in this appeal.

¹ AIR 1971 SC 681



14. In view of the above discussion, I proceed to pass the following:

ORDER

- i. The appeal is ***dismissed***;
- ii. The impugned judgments and decrees passed by both the Courts below are hereby confirmed;
- iii. Pending IA(s), if any, shall stand disposed of.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

PA
List No.: 1 Sl No.: 19