Karnataka Civil Judge (Mains) 2018

Law Paper II · compulsory paper

Framing of Issues and writing of Judgment in Civil Case · Date: 15.07.2018 · Time: 10.00 AM to 1.00 PM · Max Marks: 100

Note: 1. Option is given to the candidates to write answers either in English or in Kannada. 2. If there is any discrepancy in the questions in English language and Kannada language, the questions as framed in English language shall prevail.

1. Frame proper issues in the following case. 15 Marks

OS No.306/2009

Plaintiffs: 1) Ranganath S/o Muddanna; 2) Lakshmamma W/o Muddanna
Vs
Defendants: 1) Somanna S/o Rudraiah; 2) Shivamma W/o Somanna
Suit is filed on 01.06.2009

Plaint

1. The plaintiff No.2 is the mother of Plaintiff No.1. The suit property bearing Sy.No.18/1 measuring 2 acres 20 guntas situated in Srinivasapura Village, Rampura Taluk, were fallen to the share of plaintiff No.1 and 2 in the family partition deed dated 20.12.1995. In the said partition, suit item No.1 of suit 'A' schedule property was allotted to the share of Plaintiff No.1 and suit item No.2 of suit 'A' schedule property was allotted to the share of plaintiff No.2.

2. The defendant No.1 is possessing some land in Sy.No.17/2 on the northern side of suit 'A' schedule property. The defendants are cultivating the lands on the northern side of suit 'A' schedule property and they started to encroach upon the suit 'A' schedule properties which did not come to the knowledge of plaintiffs.

3. In the year 2007, the plaintiffs filed an application before the Tahsildar to survey the suit 'A' schedule property and after conducting survey, they came to know that the Defendants have encroached upon 27 guntas of land which is morefully described in suit 'B' schedule property. The plaintiffs are the absolute owners of suit 'B' schedule property. The plaintiffs requested the defendants to hand over the suit 'B' schedule property, but they have not delivered the possession of suit 'B' schedule property. Hence this suit.

4. The cause of action arose in the year 2007, when they applied for survey and demarcation of suit 'A' schedule property and on 06.05.2009, when they came to know about the exact encroachment after the survey held by Taluk surveyor within the jurisdiction of the Court.

5. Wherefore, the plaintiffs pray that the Hon'ble Court may be pleased to pass judgment and decree in favour of plaintiffs and against the defendants;

(a) For the relief of declaration that the plaintiffs are the absolute owners of suit 'A' schedule property.
(b) For the relief of possession of suit 'B' schedule property.
(c) For costs and such other and further reliefs as the Court deems fit to grant in the facts and circumstances of the case.

Written statement of defendants

1. The defendants deny that the plaintiffs are the absolute owners of suit 'A' schedule property.

2. The defendants have contended that they are possessing some lands in Sy.No.17/2 on the northern side of suit 'A' schedule property and they have been in possession and cultivation of the said lands since more than 20 years.

3. The defendants deny that they have encroached the lands of plaintiffs and the Taluk surveyor conducted survey and noted the encroachment and prepared sketch.

4. The defendants have contended that they have been in possession and cultivation of suit 'B' schedule property since more than 20 years to the knowledge of plaintiffs and their predecessor-in-title and thereby they have perfected their right and title over the said land by adverse possession.

5. Suit is barred by limitation.

6. The plaintiffs have no cause of action to file this suit.

Hence, the defendants pray for dismissal of suit.

2. Frame proper issues in the following case. 15 Marks

O.S.No.17/2013

Plaintiffs: 1) Pradeep S/o Ramegowda; 2) Mohan S/o Gangaiah
Vs
Defendants: 1) Manjula W/o Siddaiah; 2) Siddaiah S/o Moodalagiri; 3) Mahesha S/o Siddaiah; 4) Manjunath S/o Siddaiah
Suit is filed on 31.01.2013

Plaint

1. The defendants are the absolute owners in possession of suit property bearing Sy.No.80/4 measuring 5 guntas situated at Hebballi Village, Shivaganga Taluk. The defendant No.2 is the husband of defendant No.1. The defendant No.3 and 4 are the children of defendant No.1 and 2.

2. The defendants have agreed to sell the suit property in favour of plaintiffs and accordingly, after mutual negotiation, both the plaintiffs and defendants entered into an agreement of sale dated 27.08.2010 for total sale consideration of Rs.5,00,000/-. In pursuance of the agreement of sale, the defendants have received earnest money of Rs.2,00,000/- from the plaintiffs.

3. It was agreed that the defendants should execute sale deed within 5 months from the date of agreement by delivering the necessary documents. The defendants did not come forward to execute the sale deed in favour of the plaintiffs.

4. The plaintiffs have always been ready and willing to perform their part of contract. But inspite of repeated requests, the defendants did not execute the registered sale deed. Hence, this suit.

5. The cause of action arose on 27.08.2010, the date of agreement of sale and on 14.09.2012, the date of issue of legal notices to the defendants within the jurisdiction of this Court.

6. Wherefore, the plaintiffs pray that the Hon'ble Court may be pleased to pass judgment and decree in favour of plaintiffs and against the defendants;

(a) For specific performance of the suit agreement of sale dated 27.08.2010 and directing the defendants to execute the sale deed on receipt of balance sale consideration of Rs.3,00,000/- from

the plaintiffs.

(b) For alternative relief of refund of earnest money.

(c) Directing the defendants to pay the cost of this suit to the plaintiffs and such other and further reliefs as the Court deems fit and proper to grant under the circumstances of the case in the interest of justice.

Written statement of defendants

1. Suit is not maintainable.

2. The defendants deny the execution of agreement of sale in favour of plaintiffs for sale consideration of Rs.5,00,000/- and receipt of earnest money of Rs.2,00,000/-.

3. The defendants deny that the plaintiffs have always been ready and willing to perform their part of the contract.

4. The defendants have contended that they are cultivating the suit properties for their livelihood and they have no other properties and they are daily labourers and they were working under the plaintiffs as daily wage earners.

5. The defendants have contended that they approached the plaintiffs for financial assistance of Rs.2,00,000/- to develop the suit property and to provide education to the defendant No.3 and 4. The plaintiffs have agreed to give loan of Rs.2,00,000/- and obtained their signatures on blank papers and gave Rs.2,00,000 as loan.

6. The defendants have contended that the plaintiffs have concocted the alleged agreement of sale by misusing the blank signed papers. Hence, prayed for dismissal of suit.

3. Write a considered Judgment on the basis of oral and documentary evidence by giving valid and cogent reasons. 70 Marks

In the Court of Civil Judge, Ganganagar

O.S.No.270/2007

Between: Nanjappa S/o Late Hanumantappa, Aged 85 years, Since deceased by his LRs

(1) Narayana S/o Late Nanjappa, Aged 48 years, Shrinivasapura Village, Ganganagara Taluk.
(2) Saraswathi D/o Late Nanjappa, Aged 46 years, Ramapura Village, Ganganagara Taluk.
(3) Kalamma D/o Late Nanjappa, Aged 43 years, Aralapura Village, Ganganagara Taluk. ---- Plaintiffs

Vs

Govindaraj, Aged 55 years, S/o Late Keshavanarayana, Shrinivasapura Village, Ganganagara Taluk. ---- Defendant

Plaint under Section 26, Order VII Rule 1 of the Code of Civil Procedure, 1908

The Plaintiff Submits:

1. The plaintiff is the absolute owner in possession of the suit properties. The plaintiff submits that his father late Hanumanthappa had 3 sons namely (1) Nanjappa (Plaintiff), (2) Marappa (3) Keshavanarayana. Marappa and Keshavanarayana are no more. Marappa has left behind his sons (1) Kempanna (2) Gangaiah who are also no more. Kempanna has left behind his wife Ramakka and they have no issues. Gangaiah has left behind his wife Rajivi and 3 daughters (1) Gayathri (2) Manjula (3) Sridevi. Aforesaid Keshavanarayana has left behind his son Govindaraj, the defendants herein.

2. The plaintiff submits that after the death of Hanumanthappa, there was a family partition among his children during the year 1952 vide a registered partition deed dated 05.11.1952. The plaintiff submits that item No.1 of suit schedule property was a jodi Inam land which was governed under Inam abolition Act. In the year 1959, Nanjappa, the plaintiff, Marappa and Keshavanarayna claimed item No.1 of the suit schedule property by virtue of Inam Abolition Act for regrant. The plaintiff submits that item No.1 was granted in favour of Nanjappa, the plaintiff, Marappa and Keshavanarayana vide order passed by Special Deputy Commissioner of Inam Abolition, Sougandipura District. The plaintiff submits that Nanjappa, the plaintiff, Marappa and Keshavanarayana have been in possession and enjoyment of item No.1 of suit property since 1959-60. Hence they gave statement before the Tahsildar insisting for separate Katha in respect of the portion of the properties under the occupation of the respective parties. Since item No.1 was in possession of the plaintiff, he has got a separate Katha registered in his favour.

3. The plaintiff submits that item No.2 of suit property is an ancestral property which was acquired by the plaintiff by virtue of partition deed dated 05.11.1952. After the partition, the Katha of suit item No.2 property was registered in the name of plaintiff.

4. The plaintiff submits that he has been in possession and enjoyment of the suit properties. But after the death of Keshavanarayana, his son Govindaraju, the defendant herein in connivance with the revenue officials got his name entered in the RTC illegally in the year 1988. This fact came to the knowledge of plaintiff recently. Neither Keshavanarayana nor the defendant possesses any manner of right, title and interest over the suit properties.

5. The plaintiff submits that taking advantage of illegal revenue entry, the defendant is trying to interfere with the peaceful possession and enjoyment of suit properties. On 19.11.2006, the defendant committed trespass into the suit property and tried to cut off the Eucalyptus trees grown by the plaintiff. The plaintiff has lodged police complaint on 24.11.2006 at Srinivasapura Police Station. The plaintiff submits that he apprehends danger to the suit property at the hands of the defendant. Hence, this suit.

6. The cause of action arose on 19.11.2006 when the defendant made an attempt to trespass into the suit property and subsequently within the jurisdiction of this Court.

7. That for the purpose of Court fee, the property is valued and requisite Court fee is paid as per the details mentioned in the valuation slip annexed to the plaint.

8. WHEREFORE, the plaintiff prays for Judgment and decree:

(a) Declaring that the plaintiff is the absolute owner in possession and enjoyment of the suit properties.
(b) Permanent injunction restraining the defendant or his agents or any other persons claiming through the defendant from interfering with the plaintiffs peaceful possession and enjoyment of suit properties.
(c) Award costs and expenses of this suit.
(d) Grant such other reliefs as this court deems fit to grant to the plaintiff in the circumstances of the case.

Sd/- Advocate of Plaintiff · Sd/- Plaintiff

Schedule

Item No.1: An agricultural land bearing Sy.No.22/4 measuring 1 acre 8 guntas situated at Kelagadde Village, Ganganagar Taluk with boundaries; EAST: Land of Hanumanthappa; WEST: Land of Kalappa in Sy.No.23/4; NORTH: Land of Prakash; SOUTH: Gomala

Item No.2: An agricultural land bearing Sy.No.82 measuring 1 acre 6 guntas situated at Arahalli Village, Ganganagar Taluk with boundaries; EAST: Land of Channappa; WEST: Land of Thimappa; NORTH: Land of Gopala; SOUTH: Land of defendant

I, the plaintiff do hereby declare that the statements made herein above are true to the best of my knowledge, information and belief.
Srinivasapura · Dated: 30.01.2007 · Sd/- Plaintiff

Written Statement filed under Order VIII Rule 1 of Code of Civil Procedure, 1908 on behalf of the defendant

The defendant begs to submit as under:

1. The defendant submits that the suit is false and not maintainable.

2. The averments about the genealogy of late Hanumanthappa is admitted as true. It is true that after the death of Hanumanthappa, there was a family partition among his sons.

3. That the plaintiff and the defendant's father Keshavanarayana were in possession and enjoyment of item No.1 of suit property since 1959-60. Late Marappa was never in possession of item No.1 of the suit property and he gave a statement that he do not require any land in suit item No.1 property and hence, Keshavanarayana and the plaintiff divided the suit item No.1 property equally and he got 24 guntas of land in suit item No.1 property and revenue records stands in the name of defendant in respect of 24 guntas of land in suit item No.1 property.

4. It is false to state that the plaintiff is in exclusive possession and enjoyment of suit properties.

5. It is admitted that the suit item No.2 property is an ancestral property. It is denied that the plaintiff is the absolute owner of suit item No.2 property. The defendant submits that in view of the partition, the defendant has got a share of 16 guntas in the suit item No.2 property and the relevant pahanis are in the name of defendant in respect of the extent of land allotted to him.

6. The averments made in the plaint that the defendant has committed trespass and attempt to cut off the Eucalyptus trees is totally denied as false. The defendant submits that he is the absolute owner of an extent of 24 guntas in suit item No.1 property on which he has grown Eucalyptus trees and he has got right to cut and sell the same. It is true that the plaintiff had lodged a police complaint. But the police after verification of documents advised the plaintiff not to interfere with the activities of the defendant in respect of 24 guntas of land.

7. Suit is not properly valued and not paid sufficient Court fee.

8. Suit is barred by limitation.

WHEREFORE, the defendant prays that this Hon'ble Court be pleased to dismiss the suit of the plaintiff with exemplary costs in the interest of justice.
Srinivasapura · Sd/- Advocate for defendant · Sd/- Defendant · Date: 21.04.2007

I, the above named defendant do hereby declare that all statement made herein above are all true and correct to the best of my knowledge, belief and information.
Srinivasapura · Date: 21.04.2007 · Sd/- Defendant

Issues

1. Whether the plaintiff proves that he is the absolute owner in possession of suit properties?
2. Whether the plaintiff proves that the defendant is trying to interfere with the peaceful possession and enjoyment of the suit properties by the plaintiff?
3. Whether the plaintiff is entitled for the reliefs claimed in the above suit?
4. What order or decree?

Evidence

PW1: Affidavit filed by the plaintiff No.1 in lieu of examination-in-chief

I, Narayana S/o late Nanjappa, aged 48 years, resident of Shrinivasapura Village, do hereby solemnly affirm and states as under:

1. I say that I am the plaintiff No.1 in the above suit, I am deposing on behalf of plaintiff No.2 and 3. I say that the contents of the plaint filed by my father late Nanjappa may be read as part of the affidavit.

2. I say that my father Late Nanjappa has filed the above suit against the defendant for declaration that he is the absolute owner of the suit properties and for permanent injunction.

3. I say that, we are the absolute owner in possession of the suit properties. I say that my grandfather late Hanumanthappa had 3 sons namely (1) Nanjappa (deceased Plaintiff), (2) Marappa and (3) Keshavanarayna. Marappa and Keshavanarayana are no more. Marappa has left behind his sons (1) Kempanna (2) Gangaiah who are also no more. Kempanna has left behind his wife Smt. Ramakka and they have no issues. Gangaiah has left behind his wife Rajivi and 3 daughters (1) Gayathri (2) Manjula (3) Sridevi. Aforesaid Keshavanarayana has left behind his son Govindaraj.

4. I say that after the death my grandfather Hanumanthappa, there was a family partition among his children during the year 1952 vide a registered partition deed dated 05.11.1952. I say that item No.1 of suit schedule property was a jodi Inam land which was governed under Inam abolition Act. In the year 1959, Nanjappa, the deceased plaintiff, Marappa and Keshavanarayna claimed item No.1 of the suit schedule property by virtue of Inam Abolition Act for regrant. I say that item No.1 was granted jointly in favour of Nanjappa, Marappa and Keshavanarayana vide order passed by Special Deputy Commissioner of Inam Abolition, Srinivasapura. I say that Nanjappa, Marappa and Keshavanarayana have been in possession and enjoyment of item No.1 of suit property since 1959-60, hence they gave statement before the Tahsildar insisting for separate Katha in respect of the portion of the properties under the occupation of the respective parties. Since item No.1 was in possession of my father, he has got a separate Katha registered in his favour.

5. I say that item No.2 of suit property is an ancestral property which was acquired by my father by virtue of partition deed dated 05.11.1952. After the partition, the Katha of the suit item No.2 property was registered in the name of my father.

6. I say that, my father had been in possession and enjoyment of the suit properties. But after the death of Keshavanarayana, his son Govindaraju, the defendant herein in connivance with the revenue officials got his name entered in the RTC illegally in the year 1988. This fact came to the knowledge of my father recently. Neither Keshavanarayana nor the defendant possesses any manner of right, title and interest over the suit properties.

7. I say that taking advantage of illegal revenue entry, the defendant is trying to interfere with the peaceful possession and enjoyment of suit properties. On 19.11.2006, the defendant committed

trespass into the suit property and tried to cut off the Eucalyptus trees grown by my father. My father had lodged police complaint on 24.11.2006 at Srinivasapura Police Station.

8. I say that the cause of action arose on 19.11.2006, when the defendant made an attempt to trespass into the suit property and subsequently within the jurisdiction of this Court. Hence, I pray for decreeing the suit.

Identified by: Sd/- (Advocate) · Sd/- Deponent

Further examination-in-chief by Advocate for plaintiffs:

I have filed affidavit in lieu of Chief examination and I have signed the affidavit. The contents of the affidavit are true. I have produced the Genology, marked as Ex.P1. I have produced certified copy of partition deed, marked as Ex.P2. I have produced RTCs marked as Ex.P3 and Ex.P4. I have produced photographs of suit property marked as Ex.P5 to 7 and negatives as Ex.P8 to 10.

Cross Examination by Advocate for defendant:

It is true to suggest that suit item No.1 was Inam land. It is true to suggest that the said property was granted jointly in the names of my father and my uncles Marappa and Keshavanarayana. Kempanna and Gangaiah are the children of deceased Marappa. It is not true to suggest that I have created RTCs in collusion with Revenue Officials. It is true to suggest that after the regrant order and after the execution of partition deed, there was an agreement between my father, Marappa and Keshavanarayana. It is true that as per the contents of the said agreement, the property of Kelagadde village is to be equally partitioned between Nanjappa, Marappa and Keshavanarayanna. It is true that as per the agreement, my father and father of defendant handed over 15 1/3 guntas of land in suit item No.1 to Marappa. It is true that in view of handing over of said land, we are not the owners of entire land measuring 1 acre 8 guntas in suit item No.1. It is true that father of defendant i.e., Keshavanarayana died in the year 1986. It is true that as per Ex.P4 RTC, Khata of suit item No.1 property stands jointly in the name of defendant and my father. It is true to suggest that my father, the father of defendant i.e., Keshavanarayana and Marappa gave application jointly to grant suit item No.1 property. I have not filed any appeal against grant order. It is not true to suggest that my father, father of defendant i.e., Keshavanaraynana and Marappa are entitled equal share in suit item No.1. It is not true to suggest that the defendant is in possession of land after the death of his father, which was allotted to the share of his deceased father in Sy.No.82 and accordingly RTC stands in his name. It is not true to suggest that the defendant cut and removed the Eucalyptus trees grown in the land possessed by him. It is false to suggest that I have lodged false complaint before the police.

Re-examination: Nil · R.O.I & A.C. · Sd/- Civil Judge

Ex.P1: Genealogy (family tree)

Hanumantappa had three sons: Nanjappa (deceased), Marappa (deceased) and Keshavanarayana (deceased). Nanjappa's children: Narayana, Saraswathi, Kalamma. Marappa's sons: Kempanna (deceased; wife Ramakka) and Gangaiah (deceased; wife Rajeevi; daughters Gayathri, Manjula, Sridevi). Keshavanarayana's son: Govindaraja.

Ex.P2: Partition Deed

On the 5th day of November 1952, we three, namely Nanjappa (first), Marappa (second) and Keshavanarayana (third), sons of the late Hanumantappa of Srinivasapura village, Ganganagar Taluk, have executed this written partition deed. About six years ago, Nanjappa and Marappa, finding that

they could not live together in the family, began living separately and enjoying the properties as each liked. In the same way, since we do not wish that any of the immovable properties of our family should remain undivided in future, we today called the panchayatdars who are well-wishers of us, and placed our accounts before them. The panchayatdars examined our accounts and decided the partition by allotting the properties shown in Schedules A, B and C, and we have accepted the decision of the panchayatdars. I, Nanjappa, have taken for my share the properties valued at one thousand rupees shown in Schedule A. I, Marappa (the second), have taken for my share the properties valued at one thousand rupees shown in Schedule B. I, Keshavanarayana (the third), have taken for my share the properties valued at one thousand rupees shown in Schedule C. Accordingly each of us shall pay the land revenue for the properties that fell to his share and shall enjoy them with full ownership, free of any encumbrance. Henceforth we have no relationship, except of blood, in respect of property. The two banyan trees on Resurvey No.3 near Arahalli village and the stone-built Kalyani step-well, and the mantapa near them, are left in common, and all three have an equal right to use them, to carry out repairs and to maintain them. In that mantapa, the land of the third item shown in Schedule C is left to Keshavanarayana for the daily worship of the deity on Ramanavami and similar services, and the expenses of that worship shall be borne by Keshavanarayana. Likewise in Arahalli village, Resurvey No.82, an extent of one acre six guntas valued at four thousand rupees (Hippe grove), all three have an equal right. The trees left in common, and the trees standing in the land of each, belong to the respective holders. This is the partition deed written with our free will and as advised by the panchayat.

Schedule A: immovable properties in Arahalli, Kodigadde and Kelagadde villages of Ganganagar Taluk that fell to the share of the first, Nanjappa. (1) Arahalli, Sy.No.3/2, 2.22, 4-4-0; (2) Kodigadde, Sy.No.19, 0.16, 2-6-0; (3) Kelagadde, Sy.No.27, 0.26, 3-0-0.

Schedule B: immovable properties in the same villages that fell to the share of the second, Marappa. (1) Arahalli, Sy.No.3/3, 3.24, 3-2-0; (2) Kodigadde, Sy.No.20, 0.18, 2-4-0; (3) Kelagadde, Sy.No.26, 0.25, 3-4-0.

Schedule C: immovable properties in the same villages that fell to the share of the third, Keshavanarayana. (1) Arahalli, Sy.No.31/4, 2.00, 2-0-4; (2) Kodigadde, Sy.No.21, 0.18, 2-5-0; (3) Kelagadde, Sy.No.25, 0.24, 3-2-0. (Columns: serial number, village, survey number, extent, assessment.)

Panchayatdars: 1. Narayana 2. Doddanarasimha 3. Achyutha. Signed: 1. Nanjappa 2. Marappa 3. Keshavanarayana.

Ex.P3: RTC of the year 1965-66 to 1989-90 in respect of property bearing survey No.22/4 measuring 1 acre 8 guntas situated at Kelagadde Village, Ganganagar Taluk stands in the name of Nanjappa.

Ex.P4: RTC of the year 1990-91 to 1992-93 in respect of property bearing survey No.22/4 measuring 1 acre 8 guntas situated at Kelagadde Village, Ganganagar Taluk stands in the name of Nanjappa and Govindaraj.

Ex.P5 to P7: Photographs of suit item No.1 property. **Ex.P8 to P10:** Negatives of photographs Ex.P5 to P7.

DW1: Affidavit in lieu of examination-in-chief filed by the Defendant

I, Govindaraj S/o Late Keshavanarayana, aged 55 years, Shrinivasapura Village, Ganganagaf Taluk, do hereby solemnly state and affirms on oath as follows:

1. I say that I am the defendant and I know the facts of the case.

2. I say that the averments about the genealogy of late Hanumanthappa is admitted as true. It is true that after the death of Hanumanthappa, there was a family partition among his sons.

3. I say that the plaintiff and my father Keshavanarayana were in possession and enjoyment of item No.1 of suit property since 1959-60. Late Marappa was never in possession of item No.1 of the suit property and he gave a statement that he do not require any land in suit item No.1 property and hence, my father and the plaintiff divided the suit item No.1 property equally and I got 24 guntas of land in suit item No.1 property and revenue records stands in my name in respect of 24 guntas of land in suit item No.1 property.

4. I say that it is false to state that the plaintiff is in exclusive possession and enjoyment of suit properties.

5. I say that it is admitted that the suit item No.2 property is an ancestral property. It is denied that the plaintiff is the absolute owner of suit item No.2 property. I submits that in view of the partition, I got a share of 16 guntas in the suit item No.2 property and the relevant pahanis are in my name in respect of the extent of land allotted to him.

6. I say that the averments made in the plaint that I have committed trespass and attempt to cut off the Eucalyptus trees is totally denied as false. I submit that I am the absolute owner of an extent of 24 guntas in suit item No.1 property on which I had grown Eucalyptus trees and I have got right to cut and sell the same. It is true that plaintiff had lodged a police complaint, but the police after verification of documents advised the plaintiff not to interfere with my activities in respect of 24 guntas of land.

Identified by: Sd/- (Advocate) · Sd/- Deponent

Further examination-in-chief by Advocate for Defendant

I have filed affidavit in lieu of chief-examination and I have signed said affidavit. The contents of the affidavit are true. I have produced the endorsement issued by the special Deputy Commissioner for abolition of Inams marked as Ex.D1. I have produced the agreement dated 30.11.1971 marked as Ex.D2.

Cross examination by the Advocates for Plaintiffs:

It is true that my father and his brothers entered into partition in the year 1952. It is true that in the said partition, the properties of Arahalli, Kodigadde and Kelagadde villages are included. It is not true to suggest that suit item No.1 property was in exclusive possession of deceased Nanjappa. Witness volunteers that said property was jointly cultivated by my father and Nanjappa. There is no document. It is not true to suggest that the plaintiffs are the absolute owners in possession of suit properties. It is not true to suggest that I am deposing falsely to claim the suit properties.

Re-examination: Nil · R.O.I & A.C. · Sd/- Civil Judge

Ex.D1: Endorsement (Office of the Special Deputy Commissioner for Abolition of Inams, Sougandhipura District, dated 30.09.1966)

To Nanjappa, Marappa and Keshavanarayana, sons of Hanumanthappa, residents of Srinivasapura village, Ganganagar Taluk, Sougandhipura District: you are informed that, having considered your

application dated 12.05.1966 asking that certain survey numbers in the Inam village, which are in the personal Inam of a person of Mysore and are governed by various Inam abolition rules under the Act of 1954, be entered in your names, you have been declared occupants and khatedars under Section 10 of the said Act for the survey numbers shown below in the said Inam village. You must pay as premium, in accordance with law, _____ times the assessment to Government in _____ instalments. Village: Kelagadde; Survey No.22/4; Extent: 1 acre 8 guntas; Assessment: 1.75. You must pay the land revenue with cesses to Government every year according to the survey assessment. (Special Deputy Commissioner for Abolition of Inams, Sougandhipura District.)

Ex.D2: Agreement

On the 30th day of November 1971, we, Nanjappa the first son, Marappa the second son and Keshavanarayana the third son of Hanumanthappa of Srinivasapura village, Ganganagar Taluk, Sougandhipura District, write this agreement as follows. Seventeen years ago, before the partition deed was registered, we had been enjoying Survey No.22/4 jointly. As that joint enjoyment gave rise to differences among us, and we wished to settle the matter, we placed our accounts before our well-wisher panchayatdars, and as per their decision, in Survey No.22/4 of Kelagadde village, bounded on the east by the land of Hanumantappa, on the west by the land of Kalappa, on the north by the land of Prakasha, and on the south by the land of Marappa out of us, the strip of 15 1/3 guntas lying between belongs to Nanjappa, the first of us; in the same survey number, bounded on the east by the land of Hanumantappa, on the west by the land of Kalappa, on the north by the land of Nanjappa out of us, and on the south by the land of Keshavanarayana, the strip of 15 1/3 guntas lying between belongs to Marappa, the second of us; and in the same survey number, bounded on the east by the land of Hanumantappa, on the west by the land of Kalappa, on the north by the land of Marappa out of us, and on the south by the land of Gomala, the strip of 15 1/3 guntas lying between belongs to Keshavanarayana, the third of us. We have agreed to this with our free will. Signed: 1. Nanjappa 2. Marappa 3. Keshavanarayana. Panchayatdars: 1. Shankaranarayana 2. Hanumantharaya.