

KAKP030002772017



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

**Present : SMT. TRIVENI IRAGAR,
M.Com, L.L.B.,
I Addl. Civil Judge & JMFC.,
Koppal.**

Dated on this the 02nd day of July 2026

ORIGINAL SUIT No.38/2017

plaintiff:

1. Rehamansab
S/o Rajasab Nadaf,
Age: 60 yrs, Occ: Business,
R/o: Mangalapur, Tq: Dist: Koppal.

(By Sri. P.R.H. Adv.,)

V/s

Defendants:

1. Madarsab S/o Kaseemsab Karadi,
dead by his LR's.
- 1a. Khasim Ali S/o Madarsab Karadi,
Age: 40 yrs, Occ: Coolie,
R/o Mangalapur, Tq: Dist: Koppal.

- 1b. Rajahussain S/o Madarsab Karadi,
Age: 35 yrs, Occ: Coolie,
R/o Mangalapur, Tq: Dist: Koppal.
- 1c. Mardana W/o Chandsab Karadi,
Age: 45 yrs, Occ: Household,
R/o Mangalapur, Tq: Dist: Koppal.
- 1d. Khasimbi W/o Khasimsab Mujawr,
Age: 33 yrs, Occ: Household,
R/o Muddaballi, Tq: Dist: Koppal.
- 1e. Bibijan D/o Madarsab Karadi,
Age: 30 yrs, Occ: Household,
R/o Mangalapur, Tq: Dist: Koppal.
2. Smt. Fatima
W/o Hussainsab Bhimnoor,
Age: 48 yrs, Occ: Coolie,
R/o Mangalapur, Tq: Dist: Koppal.

**(Deft-1(a, b), 2 By Sri. Y.J.R. Adv.
Deft-1(c, d, e) exparte)**

Date of Institution of Suit	15-02-2017		
Nature of Suit.	Suit for permanent injunction		
Date of recording of evidence.	03-04-2017		
Date on which judgment was pronounced.	02-07-2026		
Total Duration.	Year/s	Month/s	Days
	09	04	15

JUDGMENT

The plaintiffs has filed this suit seeking the relief of permanent injunction.

2. The brief facts of the plaintiff's case is as under;

he is the absolute owner and in possession of the house and open site property bearing panchayath No.77 its plot No.22 measuring 467 sq.yard (sala Gaja) situated at Mangalapura village of Koppal Taluka and the said house and open site property is bounded by the boundaries i.e. towards East: House of Gaibusab, towards West:Gaunthana open space, Towards North: Road, towards South: Gaunthana open space and house of Khalesab total it measuring 70 X 60 feet and he purchase said property from one Gundu Panth S/o Dattambhat Ponaskar, R/o: Koppal through registered sale deed No.167 on dt; 07.08.1988 thereafter the mutation took place in the said suit property the plaintiff is in possession and enjoyment of the same property by constructing the house, floor mill rooms by the wind some

open space within the boundaries of area in 647 sala Gaja i.e. square yards of Mangalapur village. Hence this suit.

3. After due service of summons defendants No.1 and 2 have appeared through their counsels, and the defendant No.1 has filed his written statement and the defendant No.2 filed memo to adopt the same.

4. On rival contentions of either parties and on perusal of the materials placed on record, this court has framed the following;

ISSUES

- 1)** Whether the plaintiff proves that, he is in the lawful possession and enjoyment of the suit schedule property as alleged in the plaint?
- 2)** Whether the plaintiff proves that, defendants are interfering with his lawful possession and enjoyment of the suit schedule property?
- 3)** Whether the plaintiff is entitled for the reliefs as claimed?
- 4)** What order or decree?

5. In order to prove this case, the plaintiff has examined himself as PW-1 and 4 supporting witnesses examined as PW-2 to 5 and got 12 documents as Ex.P-1 to 12 and closed his evidence and the defendant No.1 has examined himself as DW-1 and got 4 documents as Ex.P-1 to 4 and closed their evidence.

6. Heard the arguments of both sides.

7. After carefully perusing pleadings of either parties, the evidence on record and after arguments of both side, this court proceeds to answer the aforementioned points for consideration as under:

Issue No.1	: In the Affirmative.
Issue No.2	: In the Negative.
Issue No.3	: In the Negative.
Issue No.4	: As per the final order for the following;

:: REASONS ::

8. **Issue No.1:** The plaintiffs have filed this suit for permanent injunction against the defendants. In his

plaint pleadings he alleged that, is the absolute owner and in possession of the house and open site property bearing panchayath No.77 its plot No.22 measuring 467 sq.yard (sala Gaja) situated at Mangalapura village of Koppal Taluka and the said house and open site property is bounded by the boundaries i.e. towards East: House of Gaibusab, towards West:Gaunthana open space, Towards North: Road, towards South: Gaunthana open space and house of Khalesab total it measuring 70 X 60 feet and he purchase said property from one Gundu Panth S/o Dattambhat Ponaskar, R/o: Koppal through registered sale deed No.167 on dt; 07.08.1988 thereafter the mutation took place in the said suit property the plaintiff is in possession and enjoyment of the same property by constructing the house, floor mill rooms by the wind some open space within the boundaries of area in 647 sala Gaja i.e. square yards of Mangalapur village in order to prove the same the plaintiff had filed his affidavit in a form of examination in chief and got marked Ex.P-1 which is the sale deed of the suit schedule property and registered one

as per the sale deed the suit schedule property bearing No.22 with a measurement of 467 the boundaries are same as mentioned by the plaintiff in his plaint according to the Ex.P-1 the plaintiff has purchased the suit schedule property on 07.05.1988 and after purchase of the said property the plaintiff name mutated to the suit schedule property as per Ex.P-2 and the plaintiff is in continuation paying the property tax till today as per Ex.P-3 to 6 even the Hiresindogi Gram panchayath authority have issued authentication certificate in the name of plaintiff with a respect to plot No.22 and the property No.77 including a house of open space as per Ex.P-8. Even the sub registrar office has issued nil encumbrance certificate in favour of the plaintiff with respect to suit schedule property as per Ex.P-9 and 10 and Tahashildar Koppal has issued Nusul registered certified copy pertaining to the suit schedule property standing in the name of original owner of the suit schedule property who was the vendor of the suit schedule property to the plaintiff by name Balambhat Karadi as per Ex.P-11. On perusal of the all these

documents as Ex.P-1 to 11 it clearly shows that, the plaintiff is the absolute owner of suit schedule property and as per Ex.P-3 to 7 the plaintiff is in actual possession and enjoyment of suit schedule property.

9. The defendant had not deny the ownership of the plaintiff over the suit schedule property bearing No.22 to the extent of 467 sq.yard equal to 70 X 60 feet thereby the plaintiff proved the issue No.1 that he is in possession and enjoyment of suit schedule property from 07.05.1988 thereby **I answer issue No.1 in the Affirmative.**

10. Issue No.2 :- The plaintiff filed tis suit alleging that there is interference by the defendant in his peaceful possession and enjoyment over the suit schedule property in order to prove the same he had filed his affidavit in the form of examination in chief and he got marked in total 12 documents those documents pertaining to the suit schedule property and on perusal of those documents it goes to show that the plaintiff is owner and in possession

of suit schedule property bearing No.22 Panchayath No.77 measuring 467 square yard (Sala Gaja) i.e. 70 X 60 sq.feet along with his affidavit by way of examination in chief the plaintiff examined another 4 witnesses by name Khasim Ali S/o Khasamsab, Basavantagoud S/o Rudragouda Gosi, and Prakash S/o Basappa Murudi and Chandrashekhar S/o Shantappa Gosi the plaintiff examined as PW-1 and he was cross examined by the defendant counsel the defendant had denied all the pleadings of the plaintiff in his written statement and in the cross examination counsel for the defendant try to elicit from the mouth of the plaintiff that whether alleged interference by the defendant in his peaceful possession and enjoyment over the suit schedule property by cross examine the PW-1 plaintiff deposed that as per Ex.P-1 he purchase suit schedule property from one Gundu Panth and at the time of purchase in the said property the property was not standing in the name of Gundu Panth it was standing in the name of Gundu Panth mother and he further deposed that the property measurement is

mentioned in the form of Sala Gaja, SalaGaja is measurement of 9 feet equivalent to one SalaGaja further he admitted that the total area purchased by him is 467 sq.yard salagaja which is measuring east:west-70 feet, south:north-60 feet out of it he had made construction of a building in part of the property purchased by him leaving the construction area there is a open space which is remained in the front of building measuring up to 55 sq.feet he admits that the property purchased by him measuring 467 is having boundary to the remaining open space of 55 sq.feet i.e. towards east house of Gaibusab towards west:house of Husensab, towards south:there is a road, towards north:Gauthana open space and he admits that there is no house belonging to the defendant adjacent to his property and he admits that the defendants are residing in Gauthana open space from last 10 years prior that the defendants were not to residing in the Gauthana he also admits that the defendants are having art of playing bear and the shifting from one village to another village through out the year there will be traveling

therefore they have not constructed any house and they are not residing permanently for long run days in a fixed place but a use to visit the Gauthana open space now and then and they use to reside in that Gauthana place by putting a tent even he admits that the defendants are visiting in that Gauthana open space and they are residing from many years without there being any disturbance by any of the villagers or public and he admits that he had put floor machine in the open space in front of his house and also got constructed laboratory and constructed a house of wooden storage and he running that floor mill from 1988 and admits that after filing of this case he had constructed toilet in the open space adjacent to the floor mill room and he denies suggestion that toilet wastage water flows in the defendants open space i.e. Gauthana he denies suggestion that there is 5 feet open space between his property and defendant property. But, the witnesses examined by the plaintiff by name Prakash S/o Basappa Murudi examined as PW-4 and Chandrashekhar S/o Shantappa gosi examined as

PW-5 both have deposed that, the plaintiff have purchased suit schedule property from Dattabhat and defendants are residing in Gramathana open space as per the suit schedule property furnished by the plaintiff the Gramathana open space is situated at the western side and southern side of the suit schedule property though the defendant denied there is gap of 5 feet between the plaintiff and defendant even he failed to prove that there is encroachment by the defendant in his suit schedule property as well as he failed to prove that on which side of the suit schedule property the defendants are residing in the Gramathana open space and even the plaintiff failed to prove there is alleged interference by the defendants in his peaceful possession and enjoyment over the suit schedule property because the plaintiff himself admitted in his cross examination that the defendants are now and then visiting the Gramathana open space and there residing over the open space by putting for temporary purpose and in all other times they are wondering for their livelihood and their often visit to the open space

which is called as Gramathana open space from 20 years even PW-4 and 5 have deposed in their cross examination that they don't know to the which side of the suit schedule property there is the encroachment by the defendant and as the plaintiff himself admitted in the cross examination that the defendants are having art of playing the bear and they are wandering from villages to the villages for their livelihood by playing the captivating animal bear thereby it shows that the defendants are not permanent residing in the Gramathana property and as they are not residing continuously in the said property it clearly goes to show that there is no chance of encroachment made by the defendants over the suit schedule property are there is alleged interference by the defendants for the peaceful possession and enjoyment of the plaintiff over the suit schedule property the witnesses examined by the plaintiff are the person who are residing in same locality of the plaintiff residence but those witnesses are not having knowledge about the suit schedule property being encroached by the defendants are

the defendants have interfering the peaceful possession and enjoyment of the plaintiff over the suit schedule property and one of the witness PW-4 deposed that the defendants are residing in the place of Gavisiddappa and Mohmad Husen thereby there is no chance of alleged interference by the defendant over the peaceful possession and enjoyment of the plaintiff in the suit schedule property.

11. The particulars case in hand is filed in the year 2017 after filing case in hand the suit summons duly served on the defendants on 13.07.2017 as defendants have appeared before the court the defendants placed exparte and matter is posted for plaintiff evidence argument heard on exparte judgment was passed on 04.07.2017 by restraining the defendant by permanent injunction from disturbing the plaintiff peaceful possession and enjoyment over the suit schedule property aggrieved by this order the defendant had preferred RA No.23/2017 ink the said appeal the judgment passed by

the trial court dated; 04.07.2017 is set aside and the matter is remanded back with a direction of fresh trial in view of the appellate court order matter is restored a chance has been given to the defendants for filing his written statement after filing the written statement the defendant succeeded to the cross examine PW-1, 4 and 5 and the matter is posted for defendant evidence at the stage of defendant evidence DW-1 filed his affidavit and got marked 4 documents after that the PW-1 not tendered himself for cross-examination later on it is reported that DW-1 expired therefore on death of DW-1 his legal heirs were brought on record i.e. defendant No.1(a) to 1(e) were brought on record the notice of the LR's application duly served on the legal heirs of the defendants No.1 have not appeared before the court therefore they have placed exparte.

12. Though the defendant No.1 legal heirs placed exparte but this court would like to emphasis on the examination chief and produced by the defendant Ex.P-1

to 4 those documents are Ex.D-1 and 2 are the electric collection bills and Ex.P-3 and 4 are the pass book of to highlights built in the defendants ownership open space though of the Ex.D-1 to 4 the measurement of the defendants properties are not mentioned but in Ex.D-3 and 4 it is mentioned that the defendants are holding ownership over the property bearing No.78 and 78/1 thereby it is clear that the defendants are owners to the property bearing No.78 and 78/1 after verifying the documents of ownership of defendants over the property 78 and 78/1 the panchayath authority have granted permission to make construction in their property of toilet room accordingly the difference have constructed two toilet rooms in their property as per Ex.P-3 and 4 but in order to restrained the defendant from entering the open space of Gauthana permanently which is in use by the defendant from 20 years in order to take disadvantage of the absence of the defendants in the Gauthana open space when they are out of the place in their regular practice of playing the captivated bear for their livelihood

they use to wander from place to place the plaintiff filed this suit with an intention to have the adverse possession over the defendants property but he utterly failed to prove that there is alleged interference by the defendants over his peaceful possession and enjoyment in the suit schedule property therefore **I answer issue No.2 in the Negative.**

13. Issue No.3:- As discussed in detail in issue No.2 I am of the opinion that the plaintiff is not entitled relief sought by him against the defendants because the plaintiff utterly failed to prove that there is alleged interference by the plaintiff over the suit schedule property in his peaceful possession and enjoyment. Hence **I answer issue No.3 in the Negative.**

14. Issue No.4: In view of the foregoing reasons as narrated supra, this court proceeds to pass the final order as under:

ORDER

“The suit filed by the plaintiff is hereby dismissed.

The parties shall bear their cost.

Draw decree accordingly.”

(Dictated to Stenographer and typed by him and then transcript is corrected and signed by me and then pronounced by me in the open court on this 02nd day of July 2026).

(Smt. Triveni Iragar)
I Addl. Civil Judge., & JMFC,
Koppal.

:ANNEXURE:**List of the Witnesses examined on behalf of plaintiffss:**

- P.W.1 : Rehaman Sab S/o Rajasab Nadaf.
P.W.2 : Khasim Ali S/o Khaseem Sab Ojanahalli.
P.W.3 : Basavantagouda S/o Rudragouda Goshi.
P.W.4 : Prakash S/o Basappa Murudi.
P.W.5 : Chandrashekhar S/o Shantappa Gosi.

List of the Documents marked on behalf of plaintiffss:

- Ex.P-1 : Registered sale deed.
Ex.P-1(a) to 1(f) : Signature of Gunde panth,
Ex.P-1(g) : Signature of Munishi,
Ex.P-1(h) : Signature of Madaransab
Ex.P-2 : Nujul paper,
Ex.P-3 : Tax demand register extract.

Ex.P-4 to 7 : 4 tax paid receipts.

Ex.P-8 : Certificate issued by Mandala panchayath
Hiresindogi dt; 09.06.1988

Ex.P-9 : Encumbrance certificate issued by Sub-Registrar
Koppal dt;13.07.1988 about Plot No.22.

Ex.P-10 : Encumbrance certificate issued by Sub-
Registrar Koppal dt;26.03.1988 about Plot No.22.

Ex.P-11 : Nujul certificate issued by Tahashildar Koppal
dt;16.05.1988 pertaining to suit property.

Ex.P-12 : Blue map pertaining to suit schedule property.

**List of the Witnesses examined on behalf of
Defendants:**

DW-1 : Madarsab S/o Khaseem Sab Karadi.

**List of the Documents marked on behalf of
Defendants:**

Ex.D-1 and 2 : Electricity bills.

Ex.D-3 & 4 : Patta books.

**(Smt. Triveni Iragar)
I ADDL.CIVIL JUDGE & JMFC,
KOPPAL.**