

KABG510000152022



Presented on : 04-01-2022

Registered on : 05-01-2022

Decided on : 13-08-2026

Duration : 04Yrs, 07Month,08day

IN THE COURT OF PRL.CIVIL JUDGE AND JMFC,

GOKAK

:Present:

Sri.SAMPATTAKUMAR BALOLAGIDAD

B.A, LL.B, (Spl),

Prl. Civil Judge & JMFC, Gokak

O.S.No.4/2022

Dated this the 13th day of August 2026

Plaintiff/s

1. Smt. Gangavva W/o Fakirappa
Kadi, Age : 46 years,
Occ : Household work,
R/o : Kumbar Oni, Nabhapur,
Khanagaon, Tq : Gokak.

(By Sri.N.S.G, Adv.,)

V/s

Defendant/s

1. Smt. Mallappa S/o Devaraya
Kumbar, Age: 56 years,
Occ : Agriculture, R/o: Kumbar
Oni, Nabhapur, Khanagaon,
Tq : Gokak.
2. Shri. Ashok S/o Devaraya
Kumbar, Age : 54 years, Occ :
Agriculture, R/o : Kumbar Oni,
Nabhapur, Khanagaon, Tq :
Gokak.

3. Panchayat Development Officer,
Gram Panchayath, Khanagaon.
4. Section Officer,
(Khanagaon Section) Hubballi
Electrical Supply Company,
Gokak

**(D1 and D2 Sri. SBK /KSB
Advocate, D3 Exparte, D4
Sri. GPP Advocate)**

Date of institution of suit	05-01-2022		
Nature of suit	Declaration and Consequential relief of Permanent Injunction		
Date of commencement of recording of evidence	08-12-2022		
Date of pronouncement of judgment	13-08-2026		
Total duration	Year/s	Month/s	Day/s
	04	07	08

(SAMPATTAKUMAR BALOLAGIDAD)

Prl. Civil Judge & J.M.F.C.,
Gokak

JUDGMENT

The plaintiff has filed the present suit for the relief of Declaration and Consequential relief of Direction and Permanent Injunction against the defendants.

2. Factual matrix in a nut shell is as under :

It is the case of the plaintiff that, the plaintiff is owner of the house bearing G.P.No.351/A and himself along with his family members are residing in the same. Further, there are many houses in the area of plaintiff and at Eastern side, there is house of defendant No.1 and the defendant No.2 is brother of defendant No.1, they without obtaining any permission by the defendant No.3 have started chilly powder mill and causing obstruction to the public and affecting the health of public. Further the defendant No.4 even though having knowledge about the same, they permitted the defendant No.1 and 2 to run the mill. Further, she has given representation to the defendant

No.3 but they have not taken any steps to stop the same, therefore, she constrained to file present suit.

3. In spite of service of suit, summons were issued to the defendants. The defendants No.1,2 and 4 have appeared through their respective counsels and defendant No.3 remained absent and placed ex parte. But they have not filed written statement.

4. In order to prove the averments made in the plaint, the plaintiffs examined as plaintiff No.1 as Pw.1 and another examined as plaintiff No.2 as PW-2 and got marked documents as per Ex.P.1 to 20. On the other hand, there is no evidence on behalf of the defendants.

5. Heard the arguments.

4. On the strength of pleadings, rival contentions and documents placed on record, the following points have been raised for consideration.

POINTS

1. Whether the plaintiff prove that the defendant is creating nuisance to the plaintiff?
2. Whether the plaintiff is entitled for the relief of injunction as prayed for?
3. Whether the plaintiff is entitled for the relief as sought by her?
4. What order or decree?
5. Upon hearing arguments and on perusal of material placed on record, my findings to the above points are as under :

Point No.1 : In the **Affirmative**,

Point No.2 : In the **Affirmative**,

Point No.3 : In the **Affirmative**,

Point No.4 : As per the final order
for the following

REASONS

6. **POINT NO.1** : The present suit is filed by the plaintiff against the defendants for the relief of permanent injunction restraining the defendants from operating the chilly grinding machine in the suit area and to install the said chilly grinding machine outside the village.

10. In order to prove her case, the plaintiff examined as herself as PW-1 and another witness examined as PW-2 and got marked Ex.P.1 to 20 documents. In the examination-in-chief Pw.1 and Pw.2 have reiterated all the averments of plaint. Ex.P.1 is the property certificate and boundary certificate of the property of the plaintiff and defendants issued by the Gram Panchayat, Khangaon. Ex.P2 to 4 are the applications given by the plaintiff to the Gram Panchayat in regard to nuisance caused by the chilly grinding machine of defendant and Ex.P18 is the Letter given to

Zilla Panchayat, Belagavi regarding removing of the chilly powder mill without obtaining permission to run the business which caused nuisance and ill-health to the public, Ex.P19 is the Letter given to HESCOM, Belagavi to verify illegally using power supply to run the chilly powder mill. Ex.P20 is the Medical certificate of plaintiff regarding ill-health due to running of chilly powder mill. On perusal of these documents, it is clear that the defendant is running a chilly pounding machine in the suit area and plaintiff has given complaint to the Gram Panchayat as per Ex.P.2 to 4 complaining that said chilly pounding machine is causing nuisance and disturbance to them and requested to direct the defendant to shift the same to the outside of village. Ex.P.1 is the property documents issued by the Gram Panchayat which disclose that the property of the plaintiff and defendant No.1 are situated abutting to each other.

11. Further inspite of service of summons defendants No.3 has not appeared and placed exparte and defendants No.1,2 and 4 appeared through their counsel, but the defendants have not contested the case by adducing oral and documentary evidence. Even the defendants have not cross-examined the Pw.1 and Pw.2 not denied the documents at Ex.P.1 to 20. Hence the oral evidence of Pw.1 and 2 documentary evidence Ex.P.1 to 20 remained unchallenged and unrebutted. As such adverse inference can be drawn against the defendants. The oral evidence of Pw.1 and 2 and documentary evidence produced and marked as Ex.P.1 to 20 are suffice to hold that property of the plaintiff and defendant No.1 are situated abutting to each other and the defendant No.1 is running a chilly pounding machine and due to the heavy sound and vibration of the chilly pounding machine, it is causing nuisance and

disturbance to the plaintiff and her family members. Accordingly I answer point No.1 in the Affirmative.

12. **Point No.2 and 3** : The plaintiff has proved her case by producing cogent and sufficient oral and documentary evidence. The plaintiff has established that due to the heavy sound and vibration of the chilly pounding machine installed and run by the defendant No.1, it is causing nuisance and disturbance to the plaintiff. Hence, the plaintiff is entitled for the relief of permanent injunction as prayed for. Accordingly I answer Point No.2 and 3 in the Affirmative.

13. **Point No.4** :In view of aforesaid discussion, I proceed to pass the following ;

ORDER

Suit of the plaintiff is hereby decreed.

The defendant No.1is hereby restrained by way of permanent injunction from operating the chilly grinding machine and

directed to install the said chilly grinding machine outside the village.

No order as to cost.

Draw decree accordingly.

(Directly dictated to the stenographer on Computer, typed by her, the same is edited, revised and corrected by me and then pronounced in the Open Court on this the 13th day of August-2026)

(SAMPATTAKUMAR BALOLAGIDAD)
Prl. Civil Judge & J.M.F.C.,
Gokak

ANNEXURES

Witness examined for the plaintiff :-

P.W.1 : Gangavva Fakkiravva Kadi,
P.W.2 : Savankka Ningajappa Vannur,

Ex. documents marked for the plaintiff :-

Ex.P.1 : GPC extract bearing No.351/A,
Ex.P.2 to 4 : Applications to the Gram Panchayat
Ex.P.5 : Legal Notice,
Ex.P.6 to 11 : Postal receipts,
Ex.P.12 to 17 : Postal Acknowledgments,
Ex.P.18 : Application to the Zilla Panchayat,
Ex.P.19 : Application to the HESCOM,
Ex.P.20 : Medical report.

Witness/Ex. documents marked for the defendants :-

-Nil-

(SAMPATTAKUMAR BALOLAGIDAD)
Prl. Civil Judge & J.M.F.C.,
Gokak