

KABR320073742022



IN THE COURT OF PRL CIVIL JUDGE & JMFC., DEVANAHALLI

PRESENT

**Smt. Farha Begum Sayed, BA, LL.B.,
Prl. Civil Judge & JMFC.,
Devanahalli**

Dated : 7th day of July 2026

O.S.No.259/2022

Plaintiff : Mr. Rudraswamy,
S/o Late Hucheeraiah,
Aged about 62 years,
Rep by his
GPA holder
Mr B.M Karunesh,
S/o Late B.M Madiiah,
Aged about 57 years,
No. 2/4, Langford Garden,
Richmond Town,
Bengaluru.

[By Sri. V.P.L - Advocate]

-V/s-

Defendant: 1. Mr. Manjunatha Gowda H.D,
S/o Dodda Basavaraj,
Aged about 48 years,
R/at: Huttanahalli, Chikkajala post,
Jala Hobli, Bengaluru.

2. Mr. Karthik,

S/o Late Narayanaswamy,
Aged about 40 years,
R/at: Huttanahalli, Chikkajala post,
Jala Hobli, Bengaluru.

3. Mr. Rajanna,
S/o Venkataramanappa,
Aged about 38 years,
R/at: Huttanahalli, Chikkajala post,
Jala Hobli, Bengaluru.
4. Mr. Dasappa,
S/o Thandarappa,
Aged about 36 years,
R/at: R/at: Huttanahalli, Chikkajala post,
Jala Hobli, Bengaluru.
5. Mr. Devaraju,
S/o Thirumali,
Aged about 40 years,
R/at: Huttanahalli, Chikkajala post,
Jala Hobli, Bengaluru.
6. Mr. Narayanaswamy,
Delete as per order dated: 10-11-2022.
7. Mrs. Thirumalamma,
D/o Late Krishnappa,
W/o Late Krishnappa,
Aged about 52 years,
R/at: R/at: Huttanahalli, Chikkajala post,
Jala Hobli, Bengaluru.
8. Mrs. Manjulamma,
D/o Late Krishnappa,
Aged about 48 years,
R/at: R/at: Huttanahalli, Chikkajala post,
Jala Hobli, Bengaluru.
9. Mr. Thimmegowda,

Aged about 35 years,
R/at: R/at: Huttanahalli, Chikkajala post,
Jala Hobli, Bengaluru.

**[By Sri. C.K.G for D1 to D5, D7 to D9 –
Advocate]**

Date of institution of the suit	22-06-2022		
Nature of the suit	For permanent injunction		
Date of the commencement of recording of the evidence	06-01-2024		
Date on which the judgment was pronounced	09-07-2026		
Total duration	Years 04	Months 00	Days 17

(Smt. Farah Begum Sayed)
Prl. Civil Judge & JMFC.,
Devanahalli.

J U D G M E N T

This is the suit filed by the plaintiff seeking for the relief of permanent injunction restraining the defendants their agents or anybody claiming through them from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property.

2. Brief facts of the plaintiff's case are as under :-

It is stated that plaintiff is the absolute owner of all that piece and parcel of the residentially converted property bearing Sy. No. 184/1 (old Sy. No. 161) measuring 2 acres 20 guntas, situated in Huttanahalli village, Jala Hobli, Yelahanka Taluk. Originally vested with one Mr. Hanumaiah S/o Munishamappa who was granted 4 acre 20 guntas of agricultural land in old Sy. No. 72 by the Tahasildar, Devanahalli, Yelahanka Taluk the said land was allotted a new Sy. No. 161. Out of 4 acre 20 guntas of the said land in Sy. No. 161 in favour of one Mr. Munishamappa S S/o Sonnappa for a valuable consideration vide sale deed dated: 11-10-1972. Thereafter, the aforesaid Mr. Hanumaiah S/o Munishamappa sold the remaining portion of land measuring 2 acres in Sy. No. 161 in favour of one Mr. Venkatappa S S/o Subbanna for a valuable consideration dated: 11-10-1972. It is further stated that Munishamappa S S/o Sonnappa left to heavenly abode on 19-05-2002 leaving behind his wife and children as his sole legal heirs. The legal heirs of Mr. Munishamappa sought for mutation of the suit schedule property in their names. Munishamappa entered into an oral partition on 29-07-2005. Thereafter Mr Ramachandraiah S/o Munishamappa along with his children Mr Ravi Kumar and Ms Lavanya conveyed the suit schedule property in favour of S.L Nataraj S/o S.N Lakshminarayana Dixit vide sale deed dated: 16-03-2006 registered on 04-11-2006. It is further

stated that S.L Nataraj S/o S.N Lakshminarayana Dixit referred to as the erstwhile owner for sake of brevity and in order to avoid circumlocution sold the suit schedule property to the plaintiff vide absolute sale deed dated: 17-04-2007 there Mr S.L Nataraj who was in de jure possession of the suit schedule property put the plaintiff in the peaceful and vacant possession of the same. Pursuant to purchase of the suit schedule property the plaintiff filed an application before Tahasildar for phodidurasth and accordingly the suit schedule property was bifurcated a new Sy. No. 184/1 was allotted. Subsequently phod conducted by Assistant Commissioner, Bengaluru North in Case RRT/BNA/CR/274/2008-09 and order dated; 25-08-2009 came to be passed wherein repatriation of Sy. No. 140 to 162 and 127 to old Sy. No 72. The plaintiff applied for phodidurasth to the jurisdictional Tahasildar, who inturn sought permission of Assistant Commissioner, Bengaluru North for rebuilt the records to conduct phodi as per section 67(2) of Karnataka Land Revenue Act 1964. In pursuance of same a committee set up for rebuilding of missing records. The said committee vide proceedings No. 6/2018-19 dated: 18-12-2018 approved the said proposal to rebuilt the missing records. The same was forwarded to Assistant commissioner, Bengaluru North who directed to Tahasildar and Assistant Director of survey, Yelahanka to conduct phodidurasth in Sy. No. 184 to the larger portion of land measuring 4 acre 20 guntas in which suit schedule property is situated.

Accordingly suit schedule property bifurcated into Sy. No. 184/1. The suit schedule property was converted from agricultural to non agricultural residential purposes vide conversion order dated: 18-02-2022 bearing No. ALN(JALA)SR/107/2021-22 passed by Deputy Commissioner, Bengaluru Urban District. As on the that date kasha, durasth and all revenue entries stand in the name of plaintiff. The plaintiff being absolute owner by paying taxes to concerned authority. The plaintiff being owner deputed some security personnel at the suit schedule property to safe guard his interest. On 02-06-2022 the defendants barged inside the suit schedule property and abused and threatened the security personnel deployed by plaintiff warning them to inform the plaintiff to pay the money demanded by them or that they will take possession of the suit schedule property even though they have no right over the suit schedule property. Despite of that they threatened plaintiff to dispossess from the suit schedule property. Thereafter plaintiff given police complaint at jurisdictional police Chikkajala Police station dated: 03-06-2022. It is further stated that again on 07-06-2022 defendants again came near suit schedule property and attempted to dispossess the plaintiff by threatening. Thereafter plaintiff again complied to jurisdictional police station on 08-06-2022. But the police not given protection to plaintiff against defendants. Hence this suit.

3. In pursuance of the summons issued to the defendants, the defendants appeared before this court through their counsel. Defendant No. 7 and 8 have filed the written statement. Defendants in their written statement have specifically denied all the facts that are narrated in the plaint by the plaintiff and they putforth their case stating that there is no cause of action to the case of the plaintiff. Defendant No. 7 and 8 are the owner in peaceful possession of the land bearing Sy. No. 72 (old Sy. No. 148) measuring 3 acre situated at Huthanahalli village, Jala Hobli, Yelahanka Taluk, They are having rights, tilte and interest in land bearing Sy. No. 72(old Sy. No. 148) measuring 3 acre, the same was granted land to the father of defendant No. 7 and 8 during the time of father of defendant No. 7 and 8 Tahasildr was issued saguvali chit in favour of father of defendant no.. 7 and 8 bearing No. D No. 1034/57-58 while darkasth record bearing SRI 766/62-63 accordingly schedule property is granted land to the father of defendant No. 7 and 8. they are absolute owners of Sy. No. 72 (old Sy. No. 148). During the life time of father of defendant No. 7 and 8 I.e, Krishnappa S/o Mallappa was enjoying the Sy. No. 72 (old Sy. No. 148). All revenue entries made in the name of father of defendant No. 7 and 8 during his life time. During life time of father of defendant No. 7 and 8 was borrowed money from agricultural supporting bank by mortgaging Sy. No. 72 (old Sy. No. 148) property. All revenue kandaya paid receipts stands in the name of father of defendant NO. 7 and 8. It is further stated

that defendant No. 7 and 8 are owners in physical possession and enjoyment of the suit schedule property measuring 3 acre situated at Hutanaahalli, Jala hobli. Hence prays this court to dismiss the suit with cost.

4. For proper adjudication of the case, the following issues are framed by this court:

Issues

- 1. Whether the plaintiff proves that, he is in possession and enjoyment of the suit schedule property as on the date of the suit?**
- 2. Whether the plaintiff further proves the alleged interference by the defendants over the suit schedule property?**
- 3. Whether the plaintiff is entitled for the relief of permanent injunction as sought for?**
- 4. What Order or Decree?**

5. In order to prove the plaintiff's case, the GPA holder of plaintiff has examined as PW1 and got marked Ex.P1 to Ex.P26 documents. Ex.P1 to Ex.P14 are the RTCs, Ex.P15 is the MR, Ex.P16 is the original sale deed dated: 17-04-2007, Ex.P17 and 18 are akarband, Ex.P19, 21, 22 are sketch, Ex.P20 is mojini Hakku document, Ex.P23 is mutation, Ex.P24 is encumbrance certificate, Ex.P25 is copy of FIR in

Cr No. 57/2022, Ex.P26 is copy of GPA. The defendants did not cross examined the PW-1.

6. On the other hand the defendants have not adduced any oral evidence and also not marked any documents on their behalf. Despite of sufficient opportunities they remained absent and they have not adduced any evidence. Noting the same this court proceeded further and the case is posted for the arguments.

7. In view of available materials before the court, the above issues are answered as follows:

Issue No.1 : In the Affirmative

Issue No.2 : In the Affirmative

Issue No.3 : In the Affirmative

Issue No.4 : As per final order

for the following

:: R E A S O N S ::

8. **ISSUE NO. 1 TO 3:-** Since Issue Nos.1 to 3 are interconnected and arise out of the same set of facts and evidence, they are taken up together for common consideration to avoid repetition of facts and discussion.

9. At the outset, it is necessary to note that the present suit is one for permanent injunction simplicitor. The plaintiff has not sought declaration of title. Therefore, the scope of

enquiry before this Court is limited to examining whether the plaintiff has established that he was in lawful and peaceful possession of the suit schedule property as on the date of the suit and whether the defendants interfered with such possession. In a suit for bare injunction, the Court is primarily concerned with possession and interference. Questions relating to title are examined only incidentally and only to the extent necessary for deciding possession.

10. The initial burden lies upon the plaintiff to establish his lawful possession over the suit schedule property on the date of institution of the suit. Once such possession is established by acceptable oral and documentary evidence, the burden shifts to the defendants to rebut the same by producing better evidence or by discrediting the plaintiff's case through cross-examination or independent evidence.

11. In the instant case, the plaintiff has examined his General Power of Attorney Holder as PW.1. The authority of PW.1 to depose has been established by producing the registered General Power of Attorney marked as Ex.P26. PW.1 has reiterated all the material averments made in the plaint regarding the origin of title, subsequent transfers, mutation entries, phodi proceedings, conversion of the land and the alleged interference by the defendants.

12. It is pertinent to note that despite sufficient opportunities being granted by this Court, the defendants

have not chosen to cross-examine PW.1. The evidence of PW.1 has therefore remained completely unchallenged and uncontroverted. It is a settled principle of evidence that when the testimony of a witness is not subjected to cross-examination, the opposite party is deemed to have accepted the truthfulness of such testimony unless the same is inherently improbable or contrary to the documentary evidence. In the present case, nothing has been elicited to discredit the testimony of PW.1. Consequently, the oral evidence of PW.1 inspires confidence and deserves due acceptance.

13. Apart from the oral testimony, the plaintiff has produced a series of revenue records and registered documents which establish continuous possession over the suit schedule property.

14. The Ex.P6 is the RTC pertaining to Sy.No.161 for the year 2000-01. The said revenue record assumes considerable significance. It reveals that the total extent of Sy.No.161 was 4 acres 20 guntas. Out of the said extent, 2 acres stood in the name of Venkatappa, son of Subbanna, while the remaining extent measuring 2 acres 20 guntas stood in the name of S. Munishamappa. This document clearly corroborates the genealogy of title narrated by the plaintiff and establishes that the portion measuring 2 acres 20 guntas formed a separate holding in the name of Munishamappa.

15. The Ex.P9, being the RTC for the year 2007-08, demonstrates that the said extent of 2 acres 20 guntas had thereafter been entered in the name of Sri S.L. Nataraj, s/o S.N. Lakshminarayana Dixit. This revenue entry corresponds with the plaintiff's pleading that after the death of Munishamappa, his legal representatives conveyed the property in favour of S.L. Nataraj by a registered sale deed.

16. The most important document produced by the plaintiff is Ex.P16, the original registered Sale Deed dated 17.04.2007 executed by Sri S.L. Nataraj in favour of the plaintiff. The execution of this registered conveyance has not been denied by adducing any rebuttal evidence. A registered sale deed carries with it a statutory presumption regarding its due execution. Unless the same is challenged in appropriate proceedings or rebutted by convincing evidence, the Court is bound to attach due evidentiary value to such registered document.

17. The Ex.P13 and Ex.P14 are RTC extracts relating to Sy.No.184 for the years 2020-21 and 2021-22. These revenue records reveal that after the survey and phodi proceedings, the plaintiff's vendor and thereafter the plaintiff continued to be shown in the revenue records with respect to the extent of 2 acres 20 guntas. Revenue entries, though not documents of title by themselves, are relevant evidence under the Karnataka Land Revenue Act for determining possession. The

continuity of revenue entries in favour of the plaintiff and his predecessor-in-interest strongly supports the plaintiff's case regarding possession.

18. The Ex.P18, being the Akarband Register Extract, clearly discloses that Sy.No.184 was bifurcated into two hissas. Hissa No.1 measures 2 acres 20 guntas and Hissa No.2 measures 2 acres. This document lends complete support to the plaintiff's contention regarding assignment of the new survey number after phodi proceedings.

19. The Ex.P19, Ex.P20, Ex.P21 and Ex.P22 consist of survey sketches, Tippani records and Mojini documents prepared by the competent survey authorities. These official records identify the location, extent and boundaries of the suit schedule property. These documents further establish that the property purchased by the plaintiff has been duly identified by the revenue authorities and forms a distinct survey subdivision.

20. The Ex.P23, the Mutation Register Extract, evidences mutation of the suit property in favour of the plaintiff consequent upon the registered sale deed. Mutation proceedings are fiscal in nature; nevertheless, they constitute relevant evidence regarding possession and enjoyment. There is no material placed before this Court to indicate that the mutation entries have ever been challenged before any competent revenue authority.

21. The Ex.P24 is the Encumbrance Certificate reflecting the registered transaction in favour of the plaintiff. This document further corroborates the plaintiff's lawful acquisition of the property through a registered instrument.

22. Thus, the plaintiff has produced an unbroken chain of documentary evidence commencing from the revenue entries in the name of Munishamappa, followed by entries in the name of S.L. Nataraj, the registered sale deed executed in favour of the plaintiff, mutation entries, RTCs, Akarband, survey sketches and encumbrance certificate. The cumulative effect of these documents unmistakably establishes lawful possession of the plaintiff over the suit schedule property.

23. The plaintiff has further pleaded that after purchasing the property, he obtained conversion of the land from agricultural to residential purpose and that he had deployed security personnel to protect the property. These pleadings have remained unchallenged.

24. Coming to the question of interference, the plaintiff has specifically deposed that on 02.06.2022 and again on 07.06.2022 the defendants entered the vicinity of the suit property, threatened the security personnel and attempted to dispossess the plaintiff. Immediately thereafter complaints were lodged before Police Station.

25. In support of the said assertion, the plaintiff has produced Ex.P25, the certified copy of the First Information Report registered in Crime No.57/2022. The FIR discloses registration of offences punishable under Sections 447, 504, 506 and 385 read with Section 34 of the Indian Penal Code against the defendants. Though an FIR is not conclusive proof of the allegations made therein, it is certainly a contemporaneous public document evidencing that the plaintiff approached the police immediately upon the alleged interference. Such prompt conduct on the part of the plaintiff lends assurance to his version. There is no evidence from the defendants to establish that the complaint was false, fabricated or maliciously instituted.

26. The defendants have merely filed a written statement claiming ownership over Sy.No.72 measuring 3 acres on the strength of an alleged grant in favour of their father. They have pleaded that Saguvali Chit was issued and that revenue records stood in the name of their father.

27. However, these assertions have remained mere pleadings. Not even a single document has been produced by the defendants in support of the alleged grant. Neither the Saguvali Chit, nor grant order, nor RTC, mutation extract, pahani, tax-paid receipts, mortgage records or any revenue records have been produced. The defendants themselves have not entered the witness box.

28. It is trite law that pleadings are not evidence. Facts pleaded must be proved by legally admissible evidence. A written statement unsupported by oral or documentary evidence cannot displace the positive evidence adduced by the plaintiff.

29. The conduct of the defendants in abstaining from entering the witness box also assumes significance. When a party having special knowledge of the facts deliberately withholds evidence, the Court is entitled to draw an adverse inference under Section 114 Illustration (g) of the Indian Evidence Act that had such evidence been produced, it would have gone against that party.

30. Another important circumstance which cannot be ignored is that the defendants have not cross-examined PW.1. Failure to cross-examine on material facts amounts to acceptance of those facts. Therefore, every material assertion made by PW.1 regarding possession, mutation, survey proceedings, conversion and interference has remained un rebutted.

31. The evidence placed before this Court clearly establishes that the plaintiff has been continuously recognized by the revenue authorities as the person in possession of the suit schedule property. His possession is supported by registered conveyance, mutation entries, RTCs, survey records and other public documents. On the contrary,

the defendants have not produced any evidence whatsoever to probabalise their defence.

32. Even assuming for the sake of argument that the defendants claim some independent right over any neighboring property, they cannot dispossess the plaintiff by force or intimidation. They cannot take law into their own hands or disturb the possession of the plaintiff.

33. On an overall appreciation of the oral and documentary evidence, this Court is satisfied that the plaintiff has successfully established lawful possession over the suit schedule property as on the date of institution of the suit. The plaintiff has further established that the defendants interfered with such possession without any authority of law. Consequently, the plaintiff, having established both lawful possession and unlawful interference, is entitled to the relief of permanent injunction. Accordingly, Issue No.1 to 3 are answered in the **Affirmative**.

34. **Point No.4:-** In view of the discussion and conclusion arrived on above issues, this court proceeds to pass following:

ORDER

The suit of the plaintiff is hereby decreed with cost.

The defendants, their agents or anybody claiming through them are hereby permanently restrained by way of permanent injunction from interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property in any manner.

Office is directed to draw decree accordingly.

[Dictated to the Stenographer on line computer directly, corrected by me and then signed and pronounced in the Court this the 7th day of July 2026]

(Faraha Begum Sayed)
Prl. Civil Judge & JMFC.,
Devanahalli.

ANNEXURE

List of witnesses examined for plaintiff :-

PW1 : B.M Karunesh

List of documents marked for plaintiff :-

Ex.P1 to Ex.P14 : RTCs

Ex.P15 : MR

Ex.P16 : Original sale deed dated: 17-04-2007

Ex.P17 & Ex.P18: Akarband

Ex.P19, 21, 22 : Sketch

Ex.P20 : Mojini Hakku document

Ex.P23 : Mutation

Ex.P24 : Encumbrance certificate

Ex.P25 :Copy of FIR in Cr No. 57/2022

Ex.P26 :GPA

List of witnesses examined for defendants :-

- NIL -

List of documents marked for Defendants :-

- NIL -

(Faraha Begum Sayed)
Prl. Civil Judge & JMFC.,
Devanahalli.

Order pronounced in open court vide separate

ORDER

The suit of the plaintiff is hereby decreed with cost.

The defendants, their agents or anybody claiming through them are hereby permanently restrained by way of permanent injunction from interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property in any manner.

Office is directed to draw decree accordingly.

(Faraha Begum Sayed)
Prl. Civil Judge & JMFC.,
Devanahalli.