



**IN THE COURT OF THE Prl.CIVIL JUDGE &
JMFC., Doddaballapura**

Present : Sri. Dasari Kranti Kiran, B.COM,
LLB.,

Prl.Civil Judge & JMFC.,
Doddaballapura.

Dated : This the 2nd day of May-2026

O.S.No.171/2017

<i>Plaintiff</i>	Sri.K.A.Nagaraj S/o K.C.Ashwathappa, Aged about 69 years, R/at.#808 Fort Road, Doddaballapura Town. (Represented by Sri.S.K.N Advocate)
V/S	
Defendant/s	1.Smt.Shahanoor Begum W/o Late.Mir Abbas Ali, Aged about 72 years,

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	<p>R/at.#7/2, II Floor, 4th 'A' Cross, Anepalya, Neelasandra, Bangalore-30</p> <p>2.Smt.Aneesa Begum D/o Late.Baban Sab, W/o Khaleed HussAain, Aged about 70 year,</p> <p>3.Smt.Farida Begum D/o Late.Baban Sab, W/o Sri.Askar, Aged about 65 years,</p> <p>4.Smt.Shakeela Begum D/o Late.Baban Sab</p>
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	<p>W/o Sri.Talab Hussain Aged about 55 years,</p> <p>5.Smt.Khairunnissa W/o Late.Zakir Ali, Aged about 50 years,</p> <p>6.Sri.Babajan S/o Late.Zakir Ali, Aged about 30 years,</p> <p>7.Sri.Afeez Ali, S/o LateBaban Sab Aged about 50 years,</p> <p>8.Smt.Bibitaj W/o Afeez Ali, Aged about 50 years,</p>
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	<p>9.Sri.Roshan Ali, S/o Afeez Ali, Aged about 22 years,</p> <p>10.Sri.Shabbeer Ali S/o Afeez Ali, Aged about 22 years,</p> <p>11.Sri.Nawab S/o Zama Ali, Aged about 50 years, defendants NO.2 to 10 are R/at.Maruthinagar, Court Road, 5th Ward, Doddaballapura Town Bangalore Rural District.</p>
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	<p>12.Dabir Ali S/o Salaamat Ali, Aged about 61 years, R/at.#1286, Maruthinagar, Court Road, 5th Ward, Doddaballapura Town, Bangalore Rural District. (Represented by Sri. S.N Advocate for defendant No.1, Sri.T.N.B advocate for defendant No.12 and defendants No.2 to 11 are exparte)</p>
Date of institution of the suit	13-04-2017
Nature of the suit	Permanent Injunction
Date of commencement of recording evidence	21-09-2023
Date on which the judgment	02-05-2026

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pronounced	
Total duration	Year/s Month/s Days 09 00 20

JUDGMENT

This is the suit brought by the plaintiff as against the defendants seeking for the relief of permanent injunction with respect to suit property.

2. The brief facts of the plaintiff's case are as follows:

It is the case of the plaintiff that the plaintiff is the absolute owner of the suit property now bearing Serial No.237, Property No. 1138/1144/950,(old katha no.698, old Door No.528, subsequent khata NO.841 and door No.699, measuring 80 feet x 12 ½ feet situated at Kottabidi, Bottaballapura town which is the suit property and the plaintiff has purchased the same from one sri Mohammad



peer and his children through a registered sale deed dated 15.12.1980 for a valuable consideration and subsequently the plaintiff has got the khata of the suit property transferred to his name and has also paid tax to the authorities and since the date of purchase the plaintiff is in peaceful possession and enjoyment over suit property without anybody interference. That the defendant who is a stranger to the suit property came near the suit property on 3.4.2017 along with her supporters and tried to forcibly enter into the suit property with a malafide intention of dispossessing the plaintiff and demolish the compound wall and the same has been resisted by the plaintiff with the help of neighbours and thereafter the plaintiff approached the jurisdictional police and lodged a complaint and the police have not taken any action terming that the said issue is in civil nature and hence the plaintiff was constrained to bring the suit.

3. After service of suit summons, the defendant No. 2 to 11 are placed *exparte* and the defendant No.1 and 12



appeared through thier counsel and filed the written statement. The defendant no. 1 filed written statement contending that the suit is not maintainable either in law or on facts and the same is liable to be dismissed and denied all the plaint averments and contented that the defendant no. 1 and other defendant no.2 to 4 and 7 and 11 are the absolute owners and they are the co-owners and common tenants of the house and vacant site property CMC.NO.836/835/155 present number and old number 830/829/D 661 and 836/531 and 477, totally measuring east-west 90 feet, north-south 100 feet, situated at Fort Road, Doddaballapura town, which is more fully described in the scheduled part of the plaint. The Katha stands in the name of the defendant no. 1 to 4 father and grandfather deceased Baban Sab and the ancestors of the defendant no. 1 to 4 and at the present defendant no. 1 to 4 names are forth coming in the katha. Defendant no. 1 further contented that the said suit property belongs to one deceased Baban Saab and his



brother Chaman Saab. The Baban Saab has got three sons namely Mohammed Saab late, 2. Hussein Ali late, 3. Zulfiqar Ali and Zulfa Saab late. Like that Chaman Saab has got three sons. Namely Pasha Sab late, Mirza Bi late, Ameer Sab late and the Zulfakar Ali. Zulfa Sab son of late Baban Sab has got seven children namely Baban Sab that is father of defendant no. 1 to 4 and late Abbas Salif his wife Shanoor Begum the plaintiff and other children of Zulfakar Ali at Zulfasab are no more. The suit schedule property is the ancestral property of defendant no. 1 to defendant no. 4 and defendant no. 7 and defendant no. 11. Still there is no division among the defendants no. 1 to defendant no. 4 and defendant no. 7 and defendant no. 11 and the plaintiff is the stranger to the defendant's family and contented that the son of late Baban Saab i.e. Mohammed Saab late, Hussein Ali late, Zulfakar Ali @ Zulfa Saab late and their uncles Pasha Saab got separate themselves and is executed by way of settlement deed bearing registration number dated 28.08.1919. All the ancestral property of the said Baban



Saab family and were got divided between supra persons i.e. released deed. So as per release Deed dated 28.08.1998, this suit property was fallen to the share of Baban sab and Pashasab equally, so after the death of Baban sab and children, these defendant no. 1 to defendant no. 4 and defendant no. 7 and defendant no. 11 have got equal share in the suit property and the suit property is enjoyed by the defendant no. 1 to defendant no. 4 and defendant no. 7 and defendant no. 11 jointly and there is no division in the suit schedule property between the children of Baban sab by meets and bounds. Now the legal heirs of Zulifikar Ali @ Zulfasab are only successors of this suit property and after the death of Babansaab and Pashasaab and the defendant no. 1 to 4 and 7 and 11 are in common tenants and enjoying the suit schedule property and in this suit schedule property defendant no. 1 to 4, 7 and 11 have got equal shares as they have succeeded to all the assets of deceased Pasha Sab son of Baban Sab. It is submitted that defendant no. 2 to 4 and one



Smt. Shanoor Begum has filed a suit in OS No. 127/ 2005 before the Senior Civil Judge at Doddaballapura got the decree by suppressing the real and material facts and this defendant no. 1 is not party in the said suit OS No. 127/2005. The decree is not binding on the defendant no. 1. After the decree, the defendant no. 2 to 4 and 7 and 11 were fabricated the CMC Kata Extract and on 10.12.2016, the defendant no. 2 to 4, 7 and 11 are trying to alienate the suit schedule property in favour of plaintiff and one K. N. Satish., Yashodamma and Dayanand, so the acts of defendant no. 2 to 4 and 7 and 11 are highly illegal and opposed to law. Then on 21.12.2016, this defendant no. 1 demanded her share in the suit schedule property from the defendants. But the defendant no. 2 to 4, 7 and 11 have failed to allot the share of the defendant no. 1 in the suit schedule property. Hence the defendant no. 1 has filed suit in OS No. 34 of 2017 against the said defendants and plaintiff before the Senior Civil Judge, Doddaballapura for the relief of partition and the separate possession of her share in the suit property and if



the defendant no. 2 to 4 and 7 and 11 have succeeded in their illegal acts, this defendant no. 1 is suffering from irreparable loss and injury. It is further contented that this plaintiff is not in lawful possession over the suit property, so the question of interference do not arise and the plaintiff himself do not know the proper location and description of the suit property, so the plaintiff cannot claim the suit property on imaginary claims. It is further contented that the defendant no. 1 or his ancestors never sold any property in favour of anybody, so the alleged sale deed is created and forged document and hence the plaintiff has no case on merits without the relief of declaration and possession and hence prays to dismiss the suit. Subsequently on the death of defendant No.1 the suit against the defendant No. 1 was abated.

4. The defendant no. 12 filed written statement contending that the suit is not maintainable either in law or



on facts and the same is liable to be dismissed and denied all the plaint averments and contented that the property claimed to have been purchased by the plaintiff formed a portion of the property which measured 90 feet east-west and 100 feet north-south. This property was owned by one Baban Sab, who had got the property under the partition with his brother under a registered sale deed dated 28.08.1980 and after the death of Baban Sab, the plaintiff's father had purchased a portion of the property measuring 51X38 feet and then there was a suit filed for partition by the successors of late Sri Baban Sab in which the plaintiff and his father were also parties in O.S.No.127/2005 on the file of the Senior Civil Judge, Doddaballapura and the suit was decreed for partition of the property after leaving the portion of 38 X 51 feet and the parties in O.S.No.127/2005 came together to sell the property measuring 39X62 to this defendants through a registered sale deed dated 26.08.2016 and the katha of the property has since been changed to the name of the defendant and this defendant is in possession of the same



and the sellers of the property to the defendant have been arrayed as defendant no. 1 to 11 and contended that the portion purchased by the plaintiff's father Sri Nagaraj Measuring 38 X 51 feet is to the south of the portion purchased by this defendant. The plaintiff was always aware of these facts and was party to the suit in Case No. 127/2005. But the plaintiff deliberately sets out wrong boundary in the plaint that the property extends till property of Sri. Kubendra Naidu, which is now owned by the Anjumani Hydera and this is an attempt to property in possession of the defendant. The plaintiff deliberately set out boundaries to mislead the court, abused the process of law and the plaintiff has to define his property correctly to seek equitable remedy and contended that there is no cause of action and contended that the suit is barred by Section 11 of the Code of Civil Procedure and also contended that the suit of the plaintiff for permanent injunction is not maintainable without seeking declaration of title and hence prays to



dismiss the suit.

5. On the basis of the above pleadings, this court has framed the following issues:

1)Whether the plaintiff proves he is in lawful possession of the suit schedule property ?

2.Whether the plaintiff further proves that the interference caused by the defendants as alleged in the plaint?

3.Whether the plaintiff is entitled for the reliefs as sought for in the plaint?

4.What order or decree?



ADDITIONAL ISSUES

1. Whether the suit of the plaintiff is not maintainable without seeking relief of declaration?

6. The plaintiff, in order to establish his case, examined himself as P.W.1 and got marked 17 documents as per Ex.P1 to Ex.P.17. On the other hand the defendants in order to establish their case has examined defendant No.12 as D.W.1 and got marked 3 documents as per Ex.D1 to Ex.D3.

7. Heard the arguments of both parties. Perused the documents on record.

8. My findings to the above issues are as under:

Issue No. 1 : In the Affirmative

Issue No. 2 : In the Affirmative

Issue No. 3 : In the Affirmative



Addl. Issue No. 1 : In the Negative

Issue No.4 : As per the final order.

for the following:-

REASONS

9. Additional Issue No. 1: This is the suit brought by the plaintiff as against the defendants seeking for the relief of permanent injunction with respect to suit property measuring 80 feet x 12 ½ feet situated at Kotta beedi, Doddaballapura town which is the suit property which is the suit property. It is the specific case of the plaintiff that the plaintiff is the absolute owner of the suit suit property and has purchased the same under the registered sale deed dated 15.12.1980 from one Mohammed peer and his children and that the defendants who are the stranger to the suit property are trying to interfere with the plaintiff's peaceful possession and enjoyment of the suit property and trying to dispossess the plaintiff from the suit property. Hence this suit came to

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be filed. It is the contention of the defendant no. 1 and no. 12 that the plaintiff without seeking declaration has filed a suit for bare injunction which is not maintainable and also it is the contention of the defendant No.1 and 12 that the successors of Baban Sab have filed suit in O.S No.127/2005 wherein the plaintiff and his father were also parties to the suit and the suit was partly decreed for partition of the property after leaving the portion measuring 38X51 feet and hence the suit is hit by Sec.11 of CPC and hence the suit is not maintainable. On perusal the defendant No.1 except filing written statement has not come forwarded to put forth any evidence in support of his pleadings and also not examined any witness nor subjected P.W.1 for cross examination. The defendant No.12 in order to establish these issues examined himself as D.W.1 by filing chief affidavit which is nothing but replica of his written statement averments and also got marked 3 documents. On perusal Ex.D1 is the certified copy of judgment in O.S.No.127/2005



the recitals therein reveals that one Shah Begum W/o Baban Sab, since deceased their representatives have brought the suit against the defendants wherein the plaintiff herein has arrayed as the 7th defendant and the children of plaintiff herein have arrayed as defendant No.9 and 10 and also the wife of the plaintiff herein is the 11th defendant in suit in O.S.No.127/2005 which was brought by the legal representative's/ successor's seeking for partition and separate possession and to declare that the sale deed dated 16.02.1981 executed by the defendant no. 1 to 6 therein in favour of defendant no. 7 who is plaintiff herein as null and void and perusal the said suit came to be partly decreed, but the suit in O.S.No.127/2005 came to dismissed against the defendant No.7 who is the plaintiff herein for non prosecution and hence this suit and cannot be barred under the doctrine of res-judicata Under Sec.11 of CPC as pleaded by the defendant No.1. On perusal it is the not case of the defendant No.12 that the plaintiff has no right over the suit property, but it is the case of the defendant No.12 that the plaintiff has



set out wrong boundaries to usurp the property which is in possession of defendant No.12. It is also not the case of the defendant No.12 that he is the absolute owner of suit schedule property, but it is the case that the plaintiff has set out wrong boundaries and has brought the suit. At this out set if the evidence of defendant No.12 is perused, the defendant No.12 is examined as D.W.1 by filing chief affidavit which is nothing but replica of averments of written statement of defendant No.12 and got marked three documents. Ex.D1 is the certified copy of judgment in O.S.NO.127/2005 and on perusal the suit was partly decreed and suit against the defendant No.7 to 11 therein was dismissed for non prosecution, Ex.D2 is the certified copy of decree in O.S.o.127/2005, Ex.D3 is the certified copy of order sheet in FDP No.6/2021 which reveals that the said proceedings was brought in view of decreed in O.S.No.127/2005 and it reveals that the Hon'ble Senior Court as appointed commissioner for demarcation of property by its



order dated 08-04-2025 and hence at the time of institution of this suit the particular share was not allotted to the parties to the suit in O.S.No.127/2005 to sell the property measuring 39X62 feet to the this 12th defendant under registered sale deed dated 26-08-2016 as pleaded in the written statement. Hence it is clear that the defendant No.12 for the above reason is not claiming right over the suit schedule property as on absolute owner, but it is the case of the defendant No.12 that he is in possession over the suit property. Further in the cross examination he deposed as follows:- ನಾನು ಸದರಿ 39-62 ಅಡಿ ಖರೀದಿ ಮಾಡಿದ ನಂತರ ವಾದಿಗೆ ದಾವೆ ಆಸ್ತಿಗೆ ಸಂಬಂಧಿಸಿ ತೊಂದರೆ ಕೊಟ್ಟಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಾನು ಖರೀದಿ ಮಾಡುವ ಮೊದಲು ಯಾರು ಯಾರಿಗೆ ಯಾವ ಯಾವ ಭಾಗ ಬರಬೇಕೆಂದು ಎಫ್ ಡಿ ಪಿ ಪ್ರಕರಣ ದಾಖಲಾಗಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ . “ Moreover the defendant No.12 has not produced any documents either registered sale deed dated 28-08-2018 or katha through which is laying claim that he is in possession over the same. Under these circumstance in the absence of the said documents of defendant No.12, the defendant No.12 cannot plea that the plaintiff has to seek relief of declaration and bare suit for



injunction is not maintainable. In result this court opined the defendant No.1 and 12 have failed to discharge the burden of issue No.3 and additional issue No.1. **Hence additional issue No.1 in the Negative.**

10.Issue No.1 and 2:- The plaintiff in order to establish that he is in peaceful possession and enjoyment over the suit property as on the date of suit and that the interference made by the defendants has examined himself as P.W.1 by filing chief affidavit which is nothing that replica of plaint averments and got marked 17 documents as per 1 to 17. Ex.P.1 is registered sale deed dated 15-12-1980 and the recitals therein reveals that the plaintiff has purchased the suit property from one Mohammad Peera and his children and Ex.P16 is the katha with respect to suit property and the recitals therein reveals that the plaintiff is in possession over the suit property and Ex.P14 is the tax demand register extract also in the name of the plaintiff, Ex.P4 and 15 are the encumbrance certificate, Ex.P2,3 and 12 and 13 are the tax



paid receipts and SA S forms and the recitals therein reveals that the plaintiff is paying tax to the suit property, Ex.P10 is the certified copy of the plaint in suit in O.S.No.34/2017. Ex.P11 is the certified copy of the written statement in suit in O.S.No.34/2017.Ex.P9 is the certified copy of the order sheet in suit in O.S.No.34/2017 which reveals that the said Shananoor begum has brought the suit against the successor's of Baban Sab and the plaintiff herein seeking for partition and separate possession and the said suit was abated. Ex.P 6 is the certified copy of plaint in suit in OS No. 354/2017. Ex.P 7 is the certified copy of order on IA No. 1 filed Under Order 39 Rule 1 and 2 of CPC in suit in OS No. 354/2017 and the said application brought by the defendant No.12 against the plaintiff got dismissed. Ex.P5 is the certified copy of order sheet with respect to suit in O.S.No.354/2017 which was brought by the defendant No.12 herein against the plaintiff herein seeking for relief of permanent injunction which came to be dismissed for non prosecution. Ex.P8 is the certified copy of Judgment in M.A.

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10084/2019 wherein the Honourable court has dismissed an appeal preferred by the defendant No.12 being aggrieved by the orders on Ex.P.7 and on perusal the Honorable court has dismissed the said appeal. Ex.P 17 is the certified copy of judgment in OS No.174/2017 and the same reveals that the son of plaintiff herein by name K.N.Dayanand who is the defendant No.10 in suit in OS No. 127/2005 has brought the suit in OS No.174/2017 against the defendants herein seeking for the relief of permanent injunction with respect to property in OS No. 171/2017 pending before this court and on perusal the Honourable Addl civil judge and JMFC at Doddaballapura has decreed the suit restraining the defendants from interfering with the plaintiff son's peaceful possession and enjoyment over the suit property which is suit property herein. At this out set if the cross examination of P.W.1 is perused. In the cross examination he deposed as follow:-



“ ದಾವಾ ಸ್ವತ್ತು ಬಬನ್ ಸಾಬ್ ಸೇರಿರುತ್ತದೆಂದರೆ ಸರಿ. ದಾವಾ ಆಸ್ತಿಯ ಒಟ್ಟು ವಿಸ್ತೀರ್ಣ **102** ಪೂರ್ವ ಪಶ್ಚಿಮ, ಉತ್ತರ ದಕ್ಷಿಣ **76** ಅಡಿ ಇರುತ್ತದೆ. ಸದರಿ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಿಸಿ ಷ ಬೇಗಂ ಎನ್ನುವವರು ಈ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಭಾಗಕ್ಕಾಗಿ ದಾವೆಯನ್ನು ಹೂಡಿರುತ್ತಾರೆಂದರೆ ಸರಿ, ಸದರಿ ದಾವಾದಲ್ಲಿ ನಾನು ಮತ್ತು ನನ್ನ ಮಕ್ಕಳು ಪ್ರತಿವಾದಿಯರು ಎಂದರೆ ಸರಿ. ಸದರಿ ದಾವಾದಲ್ಲಿ ದಾವಾ ಆಸ್ತಿಯನ್ನು ಖರೀದಿ ಮಾಡಿರುತ್ತೇನೆಂದು ಪ್ರತಿವಾದ ಪತ್ರವನ್ನು ಸಲ್ಲಿಸಿರುತ್ತೇನೆಂದರೆ ಸರಿ. ಸದರಿ ದಾವೆಯಲ್ಲಿ ನನಗೆ ಮಾರಾಟ ಮಾಡಿರುವ ಇಸ್ಸಿ ಯನ್ನು ಹೊರತುಪಡಿಸಿ ಭಾಗ ಆಗಬೇಕೆಂದು ಡಿಕ್ರಿಯಾಗಿರುತ್ತದೆಂದರೆ ಸರಿ.

ಸದರಿ ದಾವೆಯಲ್ಲಿ ನನಗೆ **102x76** ಕ್ರಯವಾಗಿರುತ್ತದೆಂದು ಪ್ರತಿವಾದ ಪತ್ರದಲ್ಲಿ ತಿಳಿಸಿರುತ್ತೇನೆ. ಸದರಿ ಸತೀಶ್ ಗೆ ಪೂರ್ವ ಪಶ್ಚಿಮ **51** ಉತ್ತರ ದಕ್ಷಿಣ **38** ಕ್ರಯ ಆಗಿರುತ್ತದೆಂದು ನನ್ನ ಪ್ರತಿವಾದ ಪತ್ರದಲ್ಲಿ ತೋರಿಸಿರುತ್ತೇನೆ. ಸದರಿ ದಾವೆಯಲ್ಲಿ ನನ್ನ ಪತ್ನಿ ಯಶೋದಮ್ಮಗೆ ಪೂರ್ವ ಪಶ್ಚಿಮ **51** ಉತ್ತರ ದಕ್ಷಿಣ **38** ಕ್ರಯ ಅಗಿರುತ್ತದೆಂದು ನನ್ನ ಪ್ರತಿವಾದ ಪತ್ರದಲ್ಲಿ ತೋರಿಸಿರುತ್ತೇನೆ. ಸದರಿ ದಾವೆಯಲ್ಲಿ ದಯಾನಂದ್ ಗೆ ಪೂರ್ವ ಪಶ್ಚಿಮ **51** ಉತ್ತರ ದಕ್ಷಿಣ **38** ಕ್ರಯ ಅಗಿರುತ್ತದೆಂದು ನನ್ನ ಪ್ರತಿವಾದ ಪತ್ರದಲ್ಲಿ ತೋರಿಸಿರುತ್ತೇನೆ. ಸದರಿ ದಾವಾ ನಂಬರ್ **127/2005** ರಲ್ಲಿ **4** ಕ್ರಯ ಪತ್ರಗಳನ್ನು ನಾನು ದರಿ ದಾವೆಯಲ್ಲಿ ನಾನು ಹಾಜರು ಮಾಡಿರುತ್ತೇನೆ. ”

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“ ನಾನು ದಾವಾ ನಂಬರ್ **127/2005** ರಲ್ಲಿ ಪೂರ್ವ ಪಶ್ಚಿಮ **51** ಉತ್ತರ ದಕ್ಷಿಣ **38** ವಿಸ್ತೀರ್ಣಕ್ಕೆ ಮಾತ್ರ ಪ್ರತಿವಾದ ಪತ್ರವನ್ನು ಸಲ್ಲಿಸಿದ್ದು ಅದನ್ನು ಹೊರತು ಪಡಿಸಿ ಡಿಕ್ರಿಯಾಗಿರುತ್ತದೆಂದರೆ ಸರಿಯಲ್ಲ. ದಾವಾ ನಂಬರ್ **127/2005** ರಲ್ಲಿ ಆಗಿರುವ ಪ್ರಿಲಿಮಿರಿ ಡಿಕ್ರಿ ಆಧಾರದ ಮೇಲೆ ಎಫ್ ಡಿ ಪಿ ಆದೇಶ ಆಗಿರುತ್ತದೆಂದರೆ ಸರಿ . ನಮಗೆ ದಾವಾ ನಂಬರ್ **127/2005** ರಲ್ಲಿ ಕೇವಲ ಪೂರ್ವ ಪಶ್ಚಿಮ **51** ಉತ್ತರ ದಕ್ಷಿಣ **38** ಆಗಿದ್ದರೂ ಸಹ ಹೆಚ್ಚಿ ನ ವಿಸ್ತೀರ್ಣಕ್ಕಾಗಿ ಈ ದಾವೆಯನ್ನು ತಂದಿರುತ್ತೇನೆಂದರೆ ಸರಿಯಲ್ಲ.

11. But as discussed above this is suit not suit for declaration and it is suit for bare injunction though there is no such pleading taken by the plaintiff herein in suit in O.S.NO.127/2005 that he has filed written statement in the said in O.S.NO.127/2005 that his wife and her children also got 51X38 feet, but the documents produced by the plaintiff herein clearly reveals that he is in possession over the suit property as on date of filing of the suit. At this out set if the evidence of defendant No.12 is perused as discussed above he got examined himself as DW.1 by filing chief affidavit which is nothing but replica of his written statement and got marked



three documents as discussed above and the Hon'ble Senior Civil judge has partly decreed the suit in O.S.No.127/2005 brought by the Sha begum W/o Baban Sab since deceased through her Lrs against the defendants wherein the plaintiff herein is 7th defendant therein and the court has partly decreed the suit which was brought for partition and has observed that the defendant No.7 purchased the suit property and has retained property to an extent of 51X38 feet which is said to be purchased by the plaintiff herein and the Ex.D1 also reveals that the defendant No.7 has not taken the plea in the written statement therein that his wife Yashodamma and two children also got property to an extent of 51X38 feet each, but as discussed above this is the suit for bare injunction and katha Ex.P16 and sale deed Ex.P1 reveals that the plaintiff is in possession over the same and at this stage if cross examination of D.W.1 is perused he deposed that in suit O.S.NO.127/2005 only the plaintiff got property to an extent of 51X38 feet and not his wife and children but showed his ignorance as follows:-

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“ಸದರಿ ನಾಗರಾಜು ಮತ್ತು ಅವರ ಹೆಂಡತಿ ಮಕ್ಕಳು ತಲಾ 51 - 38 ಅಳತೆಗೆ ಸಂಬಂಧಿಸಿ 1981 ರಲ್ಲಿ ಖಾತೆ ಮಾಡಿಸಿಕೊಂಡಿರುತ್ತಾರೆಂದರೆ ಅದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಸದರಿ ವಾದಿ ಮತ್ತು ಅವರ ಹೆಂಡತಿ ಮಕ್ಕಳು ತಲಾ 51 -38 ಅಡಿಗಳಿಗೆ ಸಂಬಂಧಿಸಿ ಮಾಡಿಸಿಕೊಂಡ ಖಾತೆಗಳನ್ನು ನಾನು ನೋಡಿರುವುದಿಲ್ಲ. ವಾದಿ ನಾಗರಾಜು ಮತ್ತು ಅವರ ಮಕ್ಕಳು ಸತೀಶ್ ಮತ್ತು ದಯಾನಂದ್ ರವರಿಗೆ ಸೇರಿರುವ ಖಾಲಿ ನಿವೇಶನ ತಲಾ 51 - 38 ಅಡಿ ಸಂಬಂಧಿಸಿ ಅವರವರ ಹೆಸರಿಗೆ ಖಾತೆ ಇರುತ್ತದೆಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ”

12.Hence the witness is not aware that whether the katha is in name of plaintiff and his wife and children to an extent of 58X31 or not. Further he deposed as follows:-

“ ನಾನು 39 -62 ಖರೀದಿ ಮಾಡಿದ ನಂತರ ನನ್ನ ಹೆಸರಿಗೆ ಖಾತೆಯಾಗಿರುತ್ತದೆ. ಖಾತೆಯನ್ನು ರದ್ದು ಗೊಳಿಸಲು ವಾದಿ ನನಗೆ ವಿರುದ್ಧ ಪ್ರಕರಣ ದಾಖಲು ಮಾಡಿರುತ್ತಾರೆಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಸದರಿ ಖಾತೆ ರದ್ದುಗಾಗಿ ಹಾಕಿರುವ ಪ್ರಕರಣ ನಂಬರ್ ಆರ್ ಪಿ 1/18-19 ರಲ್ಲಿ ನನಗೆ ನೋಟಿಸು ಬಂದಿದ್ದು ನಾನು ಹಾಜರಾಗಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ಆದೇಶ ಆಗಿ ನನಗೆ ಆಗಿರುವ ಖಾತೆ ರದ್ದಾಗಿರುತ್ತದೆಂದರೆ ಗೊತ್ತಿಲ್ಲ. ನನ್ನ ಹೆಸರಿಗೆ ಖಾತೆಯಾಗಿದೆ ಎಂದು ತೋರಿಸಲು ಖಾತೆಯನ್ನು ನಾನು ಹಾಜರು ಮಾಡಿರುತ್ತೇನೆ. ನಾನು ಆ ರೀತಿ ದಾಖಲೆಗಳನ್ನು ಹಾಜರು ಮಾಡಿರುವುದಿಲ್ಲ ಎಂದರೆ ಸಾಕ್ಷಿಯು ವಕೀಲರಿಗೆ ನೀಡಿರುತ್ತೇನೆ ಅವರು ಹಾಜರು ಮಾಡಿರುವ ಬಗ್ಗೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ”



13.Hence there is no piece of document to establish that the defendant No.12 holding katha with respect to suit or any other property. Furthermore there is o document to establish that he has purchased the property to an extent of 39X62 feet from Baban Sab and there is no document in this regard. Hence this court answered **Issue No.1 and 2 in the Affirmative.**

14.Issue No.3:- The plaintiff by ocular and_documentary evidence has clearly established that he is in possession and enjoyment over the suit schedule property as on date of suit and interference made by the defendants. Hence this court opine that the plaintiff is certainly entitled for the relief sought for. Accordingly this court answered **Issue No.3 in the Affirmative.**

15. **Issue No.4:-** In view of the above discussion on issue No.1 to 3 and Additional Issue NO.1 this court proceed to pass the following:

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ORDER

The suit of the plaintiff is hereby decreed with cost.

Accordingly the defendants are hereby permanently restrained from interfering with the plaintiff peaceful possession and enjoyment over the suit schedule property in any manner whatsoever.

Draw decree accordingly

(Dictated to the Stenographer, transcribed by her, corrected and then pronounced by me in the open court on this the 2nd day of May - 2026)

(Dasari Kranti Kiran)
Prl.Civil Judge & JMFC.,
Doddaballapura



ANNEXURE

List of witnesses examined for the plaintiff:

PW 1 : K.A.Nagaraja

List of witnesses examined for the defendants:

DW 1 : Dabir Ali

List of documents marked for the plaintiff:

- Ex.P.1 : Registered sale deed dated
15-12-1980
- Ex.P2, 3 and 12 and 13 : Tax paid receipts and SAS forms
- Ex.P4 and 15 : Encumbrance certificate
- Ex.P 7 : Certified copy of order on IA No. 1
- Ex.P8 : Certified copy of Judgment in M.A.
10084/2019
- Ex.P9 : Certified copy of the order sheet in
suit in O.S.No.34/2017

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- Ex.P10 : Certified copy of the plaint in suit in
O.S.No.34/2017
- Ex.P11 : Certified copy of the written statement in
suit in O.S.No.34/2017
- Ex.P14 : Tax demand register extract
- Ex.P16 : Katha
- Ex.P 17 : Certified copy of judgment in OS
No.174/2017

List of documents marked for the defendants:

- Ex.D1 : Certified copy of judgment in
O.S.No.127/2005
- Ex.D2 : Certified copy of decree in
O.S.O.127/2005,
- Ex.D3 : Certified copy of order sheet in FDP
No.6/2021

List of witnesses examined by Court

Nil

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**List of documents marked for the plaintiff
through court commissioner**

Nil

Sd/-

(Dasari Kranti Kiran)
Prl.Civil Judge & JMFC.,
Doddaballapura.