

KABR610021472014



IN THE COURT OF I ADDL. CIVIL JUDGE & J.M.F.C. AT
NELAMANGALA

Present: Sri Manju.M., B.Sc. L.L.B.,
I Addl. Civil Judge & J.M.F.C.,
Nelamangala.

Dated this 2nd day of June, 2026

ORIGINAL SUIT NO.296/2014

Plaintiff: Smt Manjula,
W/o late Hanumanasegowda,
Aged about 38 years,
R/at Dasanapura village and Post,
Bengaluru North Taluk,
Bengaluru District.

(By Sri A.R., Advocate)

Defendant: V/s
Smt Nanjamma W/o Bylappa,
Aged about 47 years,
R/at Dasanapura village and Post,
Bengaluru North Taluk,
Bengaluru District.

[By Sri. B.R.S., Advocate]

PARTIES IN I.A.NO.4

Applicant/GPA Holder of Defendant: Puspa.

V/s

Opponents/Plaintiff: Smt Manjula

Order on I.A. filed by the defendant under Order 26

Rule 9 of C.P.C.

This is an application filed by the defendant under Order 26 Rule 9 of CPC and prayed to appoint the ADLR as Court Commissioner to ascertain the fact that whether defendant's house property is situated within 10 guntas of land in Sy.No.61/1 situated at Dasanapura village.

2. This application is supported by an affidavit of the GPA holder of the defendant. In the said affidavit the Applicant has sworn to the fact that, the plaintiff is seeking the relief of permanent injunction in respect of Sy.No.61/1 measuring 10 guntas situated at Dasanapura village and the defendant has stated in the written statement that the defendant's house property comes in Sy.No.61/1 and the defendant has constructed house

long back and staying the said house measuring east-west:40 feet and north-south: 60 feet. Further, it is submitted that the plaintiff has denied the said contention. Hence, it is very much necessary to appoint court commissioner. Hence, prays to allow the application.

3. The plaintiff opposed this application. In the objection it is stated by the plaintiff that, the application filed by the applicant is not maintainable and there is no proper reason to allow the application and the plaintiff has to prove his possession over the suit property. Further it is contended that the suit property is a revenue land and the defendant contended that the gram panchayath had mutated the katha in respect of house property, when such being the case, the question of appointment of ADLR as court commissioner does not arise. Hence, prays to dismiss the application.

4. Heard arguments of counsel for plaintiff and defendant. Perused the documents on record.

5. In view of the rival contentions raised by the parties, the points that arise for my consideration are as follows:

1. Whether this application deserves to be allowed or not?
2. What Order?

6. Now, my answers to the above points are as follows:

Point No:1:- In the **Negative**

Point No:2:- As per final order

for the following :-

REASONS

Point No:1:

7. It must be noted that, I need not repeat the entire contention of the parties herealso, since, I have already narrated the same at the inception of this order.

8. The plaintiff has filed this suit against defendant for the relief of permanent injunction restraining the Defendant from interfering with peaceful possession of the suit schedule property. Further, the Plaintiff has contended that, she is in possession of suit schedule property and the suit property is an ancestral property of plaintiff. Further it is contended that the defendant having no manner of right, title, interest or possession over the suit schedule property tried to interfere to the possession of the plaintiff over the suit schedule property.

9. On perusal of the pleadings and documents available on record, it is relevant to note that the Plaintiff has to establish her case by adducing the evidence and has to show her possession over the suit schedule property. Further, the Plaintiff has to establish the alleged interference by the Defendant. The burden is cast on the Plaintiff to prove her case to the satisfaction of the court. As I have already observed

above, the burden is cast on the Plaintiff to establish her case. Be it to be noted that, the defendant has not made out a proper and relevant ground for allowing the application. Further, the defendant has not made out a grounds for appointment of commissioner. Hence, this court answered **point No.1 in the Negative.**

Point No:2: -

10. In view of my findings to point No.1, I proceed to pass the following:

ORDER

I.A. filed by the applicant/GPA holder of defendant under Order 26 Rule 9 of C.P.C. is hereby dismissed.

For appearance of DW.1 and Cross examination. Call on:23.06.2026.

(Dictated to the Stenographer, transcribed and typed by him, then corrected by me on the computer, signed and then pronounced by me in the open Court on this the 2nd day of June, 2026)

**Sd/-
I Addl. Civil Judge and JMFC.,
Nelamangala.**