

KACD320013612022



**IN THE COURT OF PRL. CIVIL JUDGE
AND JMFC, AT HIRIYUR**

Present :- **Shridhara, H.D.,**
B.A. L.L.B,
Prl. Civil Judge & JMFC,
Hiriyuru.

Dated: this 04th day of April, 2026

O.S. No.120 / 2022

PLAINTIFF/S : 1) N. Devegowada
S/o P.Kenchappa,
Aged about 65 years,
Agriculturist,
R/o Kodihalli village,
Dharampura Hobli,
Hiriyur Taluk.

(By Sri.B.N.T., Advocate)

//Versus//

DEFENDANTS: 1) Panchayath Development Officer,
Ikkanur Grama Panchyath,
Ikkanur, Dharmapura Hobli,
Hiriyur Talaku.

(By Sri. C.K., Advocate)

1.	Date of institution.	22.04.2022
2.	Nature of the Suit.	Permanent Injunction

3	Date of commencement of recording evidence	10.11.2023		
4.	Date of closing of recording evidence	04.11.2025		
5.	Judgment pronounced	04.04.2026		
6.	Total duration.	Year/s 03	Month/s 11	Day/s 13

**Prl. Civil Judge & JMFC.,
Hiriyur.**

J U D G M E N T

The plaintiff has filed the suit for the relief of permanent injunction against the defendant.

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

It is the case plaintiff that his father Kenchappa purchased land measuring 8 acres in Survey No.269 of Kodihalli village under a registered sale deed dated 05-04-1971. After the death of his father, the plaintiff succeeded to the property and the khata was mutated to his name as Survey No.269/1P.

The plaintiff further pleaded that he sold 2 guntas of land in favour of Dyamakka and 2 guntas in favour of Pandurangappa on the western side of the land. He also gifted 10 guntas of land for establishment of a hospital and 11 guntas of land for establishment of a veterinary hospital on the northern side. After these transactions, the plaintiff is in possession and enjoyment of 7 acres 15 guntas of land. It is further pleaded that as per the village map, there exists a footpath in the middle of the suit property running from Kodihalli village to Venukallu Guddada village in north-south direction. But the defendant is trying to form a new road of 100 feet width in the middle of the suit property apart from the existing footpath without acquiring the land and without authority of law. The suit property is agricultural land and not converted for non-agricultural purpose. Therefore, the defendant has no right to form a new road in the suit property. Hence, the plaintiff filed the suit for permanent injunction.

3. After service of summons, the defendant has appeared through his counsel and filed written statement.

4. Gist of the written statement is as follows:-

The defendant has denied all the averments made in the plaint as false and incorrect.

The defendant further contends that there exists a 100 feet public road in the center of the suit schedule property since time immemorial. The said road leads from Kodihalli village to Venukallu Guddada village and it is also connected to Sira-Dharmapura main road and the said road is shown in the village map and the Government Hospital and High School are situated near the said road. The villagers are using the said road since long time and it is a public road. The defendant further contends that the plaintiff has suppressed these material facts and filed the suit in order to grab the public road and the boundaries and identity of the suit schedule property are incorrect and the plaintiff has filed the suit only to cause trouble to the defendant and villagers. Therefore, the defendant prays to dismiss the suit with exemplary costs.

5. On the basis of pleadings and materials available on record, the issues are framed as under:-

ISSUES

1. Whether the plaintiff proves that, he is in possession of suit schedule property?

2. Whether the plaintiff proves that, his peaceful possession and enjoyment is interfered by the defendant?

3. Whether the plaintiff is entitled for the relief sought for?

4. What Order or decree?

6. In order to prove his case the, SPA holder of plaintiff is examined as PW-1 and got marked 18 documents as Ex.P1 to Ex.P.18. The defendant not led any evidence.

7. Heard both sides perused the materials available on record.

8. After careful scrutiny of evidence and material available on record, the findings of this Court to the above Issues are as follows:

ISSUE No.1 : Partly in the Affirmative.

ISSUE No.2 : In the Affirmative.

ISSUE No.3 : Partly in the Affirmative.

**ISSUE No.4 : As per final order,
for the following: -**

REASONS

9. ISSUE No.1:- The plaintiff has filed the present suit seeking the relief of permanent injunction. In a suit for bare injunction, the plaintiff has to prove that he was in lawful and peaceful possession of the suit schedule property as on the date of filing of the suit.

10. To prove the case, SPA holder of the plaintiff by name Kempegowda D is examined himself as PW.1 by filing affidavit in lieu of his chief examination. In support of his oral evidence, he produced 18 documents at Ext.P-1 to 18. Out of the documents produced by the plaintiff, Ex.P.1 is the registered sale deed, Ex.P.2 is the true copy of form No.1. Exs.P.3 to 16 are the hand written RTC extract, Ex.P.17 and 18 are the two RTC extracts.

11. In order to prove his possession, the plaintiff has produced RTC extracts at Ex.P17 and Ex.P18. These documents show that the suit property stands in the name of the plaintiff. The RTC extracts create a presumption regarding possession of the plaintiff over the suit property. The defendant has not seriously disputed the title and possession of the plaintiff over

the suit property. The main dispute between the parties is only regarding the existence of road and its width in the suit property.

12. PW1, who is the SPA holder of the plaintiff, in his cross-examination has clearly admitted that there exists a road in the suit property. He has deposed that the said road is about 6 to 7 feet width and it is a footpath. He has also admitted that the said footpath is shown in the village map. He has also admitted that near the suit property there exists Government Hospital and School. But he has specifically denied that there exists a 100 feet road in the suit property.

13. This evidence clearly shows that the plaintiff is in possession and enjoyment of the suit schedule property except the portion of the existing footpath. The public are using the said footpath. Therefore, the plaintiff has proved that he is in peaceful possession and enjoyment of the suit schedule property except the existing footpath. Accordingly, Issue No.1 is answered **Partly in the Affirmative.**

14. Issue No.2: The The plaintiff has contended that the defendant is trying to form a new road of 100 feet width in the middle of the suit property without acquiring the land.

15. On the other hand, the defendant has contended in the written statement that there exists a 100 feet public road in the suit property since time immemorial and the said road is used by the villagers and it connects Kodihalli village to VenukalluGuddada village and also connects to Sira–Dharmapura main road. The defendant has also contended that the said road is shown in the village map and Government Hospital and School are situated near the said road.

16. When the defendant contends that there exists a 100 feet public road in the suit property, the burden is on the defendant to prove the same by producing documents and oral evidence. But in this case, the defendant has not led any oral evidence and has not produced any documents such as village map, survey sketch, phodi sketch, road records, acquisition records or any government notification to show that there exists a 100 feet public road in the suit property. Except making suggestions in the cross-examination of PW1, there is no evidence on behalf of the defendant to show the existence of 100 feet road.

17. On the other hand, PW1 has admitted the existence of only a footpath of 6 to 7 feet width and he has denied the existence of 100 feet road. Therefore, the contention of the defendant that there exists a 100 feet public road in the suit property cannot be accepted.

18. When the defendant tries to form a new road of 100 feet width in the suit property without acquiring the land and without authority of law, it amounts to interference with the possession of the plaintiff. Therefore, the plaintiff has proved that the defendant is interfering with his peaceful possession and enjoyment of the suit schedule property. Accordingly, **Issue No.2** is answered In the **Affirmative**.

19. Issue No.3: In a suit for permanent injunction, the plaintiff has to prove his lawful possession over the suit property and interference by the defendant. In this case, the plaintiff has show his possession over the suit property through RTC extracts and oral evidence of PW1. The defendant has failed to prove that there exists a 100 feet public road in the suit property. However, the plaintiff has admitted the existence of a footpath of 6 to 7 feet width in the suit property and he has also admitted that the

said footpath is shown in the village map. Therefore, the public have right to use the existing footpath. The plaintiff cannot obstruct the public from using the existing footpath. But the defendant has no right to form a new road of 100 feet width in the suit property without acquiring the land in accordance with law.

20. Therefore, the plaintiff is entitled for permanent injunction restraining the defendant from forming a new road of 100 feet width in the suit schedule property, but the plaintiff is not entitled to obstruct the public from using the existing footpath. Accordingly, **Issue No.3** is answered Partly in the **Affirmative.**

21. ISSUE No.4:- In view of discussion on issue No 1 to 3, this Court proceed to pass the following :-

ORDER

The suit of the plaintiff is hereby partly decreed.

The defendant, his officials, servants, or anybody acting under him are permanently restrained from

forming or laying a new road having width of 100 feet in the suit schedule property without acquiring the land in accordance with law.

However, the plaintiff shall not obstruct the public from using the existing footpath situated in the suit schedule property.

Under the facts and circumstances of the case, there is no order as to costs.

Draw decree accordingly.

(Dictated to the stenographer directly on Desk-top, the same is corrected by me and then pronounced by me in the open Court on this the 04th day of April, 2026)

(Sri.Shridhara. H.D.)
Prl. Civil Judge & JMFC,
Hiriyur.

ANNEXURES

List of the Witnesses examined on behalf of Plaintiff:

P.W.1 : Kempegowda D.

List of the Documents marked on behalf of Plaintiff:

Ex.P.1 : Registered sale deed,

Ex.P.2 : True copy of form No.1.

Ex.P.3 to 16 : 14 Hand written RTC extract,

Ex.P.17 &18: Two RTC extracts,

List of the Witnesses examined on behalf of Defendants:

-----Nil-----

List of the Documents marked on behalf of Defendants:

-----Nil-----

**Prl. Civil Judge & JMFC,
Hiriyur.**