

KACD320024142024



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

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

Dated: this 25th day of March 2026

O.S. No.364/2024

PLAINTIFF/S : Smt. K. Shakeela,
W/o Late Mohammed Suban Sab,
Aged about 43 years,
R/o Huliyar Road,
Thiruvallavar Street,
Hiriyur.

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

//Versus//

DEFENDANT/S:- Sri. Devendrappa,
S/o Late Hanumanthappa,
Aged about 60 years,
R/o Huliyar Road,
Thiruvallavar Street,
Hiriyur.

(Ex-parte)

1. Date of institution.	23.11.2024
2. Nature of the Suit.	Permanent injunction
3. Date of commencement of recording evidence	28.08.2025
4. Date of closing of recording evidence	28.08.2025
5. Judgment pronounced	25.03.2026
6. Total duration.	Year/s Month/s Day/s -----01----- 04-----02-----

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

JUDGMENT

This is a suit filed by the plaintiff seeking the relief of permanent injunction against the defendant.

2) The brief facts of the case of plaintiff is as follows:-

It is case of the plaintiff that the plaintiff along with her mother and sisters have file suit in OS No.192/2017 against Reshma on the file of Additional Civil Judge & JMFC., Hiriyur seeking the relief of partition and separate possession of her share over the property bearing assessment No.1457/A/742/A/1457/A measuring 21x34ft. contest Additional Civil Judge & JMFC at Hiriyur was

pleased to grant 1/6th share in favour of the plaintiff in OS No.192/201. Thereafter, the plaintiff along with her mother and sisters have filed fin decree proceedings F.D.P. No.1/2023 for partition and separate possession of the plaintiff share. Accordingly, the court commissioner are pleased to separate the schedule property in favour of the plaintiff. After the possession of the schedule property was also handed over in favour of the plaintiff. Now the plaintiff is in possession and enjoyment of the suit schedule property. The defendant have no manner of right over the schedule property. The defendant is trying to Interfere over the schedule property alleging that he got the schedule property on lease by one Reshma. Reshma or defendant have no manner of right over the schedule property. The defendant is a teacher having political and financial influence. The plaintiff is a widow and she can't resist the Illegal activities of the defendant. Hence, plaintiff has filed this suit.

3) On being served with the suit summons, the defendant did not appeared before this Court. Hence, he was placed Ex-parte.

4) In order to prove her case the plaintiff got examined herself as PW.1 and got marked 05 documents as Ex.P.1 to 05 and closed her side evidence.

- 5) Heard and perused the materials available on record.
- 6) The following points arise for consideration:-

POINTS

1. Whether the plaintiff proves that she is the absolute owner in peaceful possession and enjoyment of the suit schedule property as on the date of the suit?
 2. Whether the plaintiff proves that her 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?
- 7) The findings to the above issues are as under:-

Point No.1 :- In the Negative,

Point No.2 :- In the Negative,

Point No.3 :- In the Negative,

Point No.4 :- As per the final order,

for the following:-

REASONS

- 8) **Point No.1 to 3:** As these points are interconnected, to avoid repetition of discussion the same are taken up together for common discussion.

9) The plaintiff has filed this suit for permanent injunction against the defendant. It is the case of the plaintiff that the suit schedule property has fallen to her share in FDP No.1/2023 arising out of O.S. No.192/2017. The plaintiff contends that after the final decree, she has taken possession of the suit property and she is in possession and enjoyment of the same. She also contends that the defendant is interfering with her Possession

10) The plaintiff in order to substantiate her pleadings plaintiff by name K. Shakeela is examined as PW.1 by filing affidavit in lieu of her chief examination and got marked 05 documents as per Ex.P.1 to 5. Out of the documents produced by the plaintiff Ex.P.1 is the copy of Final decree in F.D.P No.1/2023, Ex.P.2 is the copy of F.D.P. No.1/2023, Ex.P.3 and 4 are the certified copies of two sketches prepared by the Court commencement, Ex.P.5 is the computerized coy of E-Swathu.

11) The final decree marked at Ex.P1 and the Court Commissioner sketch marked at Ex.P3 and Ex.P4. These documents show that the suit property was allotted to the share of the plaintiff in the final decree proceedings. However, mere allotment of the property in the final decree does not itself prove that the plaintiff has taken actual possession of the property. The plaintiff has to prove

that she has taken possession and she is in actual possession and enjoyment of the property as on the date of the suit.

12) In order to prove possession, the plaintiff has to produce documents like khata, mutation extract, tax paid receipts or any other document to show that after the final decree, the khata of the property has been transferred to her name and she is paying tax and enjoying the property. In this case, the plaintiff has not produced any document to show that the khata of the suit property has been mutated to her name. She has not produced any tax paid receipts. She has not produced any electricity bill, water bill or any other document to show her possession over the suit property.

13) The plaintiff has produced E-Swathu extract marked at Ex.P5. But Ex.P5 stands in the name of one K. Dadapeer S/o Karim Sab. Further, the boundaries mentioned in Ex.P5 are different from the suit schedule property boundaries. Therefore, Ex.P5 does not help the case of the plaintiff. On the contrary, it creates doubt regarding the identity and possession of the suit property.

14) Though the Court Commissioner has allotted the property to the plaintiff in the final decree proceedings, there is no material on record to show that the plaintiff has

actually taken possession of the suit property. It is also important to note that the defendant is placed Ex-parte. But even if the defendant is placed Ex-parte, the plaintiff has to prove her case by her own evidence. The plaintiff must stand on her own case. The court cannot grant decree only because the defendant is placed Ex-parte.

15) In a suit for permanent injunction, the plaintiff must prove that she was in lawful possession of the suit property as on the date of the suit and that the defendant interfered with her possession. In this case, the plaintiff has failed to prove her possession over the suit property. When possession is not proved, the question of interference does not arise. Therefore, the plaintiff is not entitled to the reliefs as sought for. Hence, point No. 1 to 3 is answered in the Negative.

16) Point No.4: In the light of discussion made above, this court proceed to pass the following:-

ORDER

Suit of the plaintiff is
hereby dismissed.

Draw decree accordingly.

No order as to costs.

(Dictated to the Stenographer, transcribed and computerized by him, the same is corrected and then pronounced by me in the open Court on this the 25th day of march, 2026)

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

ANNEXURES

List of the Witnesses examined on behalf of Plaintiff:

P.W.1 : Smt. K. Shakeela,

List of the Documents marked on behalf of Plaintiff:

Ex.P-1 :- Copy of Final decree in F.D.P. No.1/2023,

Ex.P-2 :- Copy of FDP No.1/2023,

Ex.P-3 & 4 :- C/copies of two sketches prepared by the Court commissioner,

Ex.P-5 :- C/copy of computerized E-Swathu

List of witnesses examined on behalf of Defendant:

----- NIL-----

List of documents marked on behalf of defendants:

----- NIL-----

Prl. Civil Judge & JMFC,
Hiriyur.