

KACD510002772023



Presented on : 21-02-2023
Registered on : 21-02-2023
Decided on : 11-06-2026
Duration : 3 years, 3 months, 18 days

**IN THE COURT OF ADDL. CIVIL JUDGE AND
JUDICIAL MAGISTRATE FIRST CLASS AT HOSADURGA**

Present: **SMT. THRINETHRA M.N.**
M.A., L.L.B.,
Addl. Civil Judge and JMFC.,
Hosadurga.

Dated this 11th day of June - 2026

ORIGINAL SUIT No.132/2023

PLAINTIFFS:-

Smt. Rathna G.K,
W/o. Dhanya Kumar,
Aged about 32 years,
Household work,
R/at: Kote Badavane,
Hosadurga town & taluk,
Chitradurga district.

(By Sri. A.L.B, Advocate)

-V/S-

DEFENDANT/S :-

Smt. Latha W/o. Premkumar,
Aged about 40 years,
Household work,
R/at: Behind D.C.C Bank,
Hosadurga town,
Chitradurga district.

(Rep. by Sri. H.L.N, Advocate)

1	Date of Institution of the suit	21.02.2023
2	Nature of the Suit	Permanent Injunction
3	Date of recording of Evidence	18.09.2024
4	Date of which judgment pronounced	08.06.2026
5	Duration	03 years, 03 months, 18 days

(THRINETHRA M.N.)
Addl. Civil Judge & JMFC.,
Hosadurga.

:J U D G M E N T :

The plaintiff has filed the present suit against the defendant for the relief of permanent injunction restraining the defendant, her men, agents, servants etc., from interfering with the peaceful possession and enjoyment of the suit schedule properties by the plaintiff.

2. Originally, the suit property is a vacant site situated at Hosadurga Town, bearing Sy. No. 34, NES Badavane, Ward No. 9, Town Municipality Property No. 73, measuring East to West 30 feet and North to South 20 feet, in all measuring 600 square feet, and bounded as follows:

* East: C.C. Road

* West: Site of Ranganatha

* North: C.C. Road

* South: House of Rupa, W/o Vijayakumar

The plaintiff is the absolute owner and is in lawful possession and enjoyment of the above said property. The plaintiff acquired the property under a registered sale deed dated 28/10/2022 and a grant certificate issued by the Assistant Executive Engineer, Karnataka Slum Development Board, Davanagere Sub-Division. On the strength of the said registered sale deed and grant certificate, the khatha of the property has been mutated in the name of the plaintiff. Ever since the date of purchase, the plaintiff has been in lawful possession and enjoyment of the above said property in her own right and has been regularly paying taxes to the concerned Town Municipality, Hosadurga. The aforesaid property, which is the subject matter of the present suit, is hereinafter referred to as the **“suit schedule property.”**

It is further case of the plaintiff that, the suit schedule property situated in N.E.S. Badavane, Hosadurga Town. That the government has pass on order notification No.H.M.A.224/MNI/74 dated: 11/12/1974 and Slum Board Development Authority issued grant certificate and registered sale deed in favor of the plaintiff, pertaining to the suit schedule property.

It is further case of the plaintiff that, the defendant is stranger to the suit schedule property and the defendant have no right title interest or possession over the suit schedule property. The defendant is unnecessary interfering with the peace full possession and enjoyment of the suit schedule property and defendant obstruct the peace full possession and enjoyment of the suit schedule property of the plaintiff by the last week of January 2023. The plaintiff has advised the defendant not to interfere with her possession an enjoyment of the suit schedule property. The advise of the plaintiff went in vein. The act of the defendant is highly illegal and high handed which cannot be prevented with intervention of the Hon'ble court.

In the last week of January 2023, the defendant without any reason tried to interfere with the peaceful possession and enjoyment of the suit schedule property. Thus, the cause of action for filing the present suit arose in the last week of January 2023.

Therefore, the plaintiff is constrained to file the present suit against the defendant seeking the relief of permanent injunction, restraining the defendant, her men, agents, servants or anybody claiming under them from interfering with the plaintiff's peaceful

possession and enjoyment of the suit schedule property in any manner whatsoever.

3. After service of suit summons, defendant has appeared before the court through her counsel. The defendant has filed the written statement.

4. The defendant in her written statement has denied the plaint averments. Apart from the denial, the defendant has taken up specific contentions that, originally the suit schedule Sy No. Property bearing Sv No. 34/p measuring an extent of 2 acres, which is situated Bokikere village, kasaba hobli Hosadurga Taluk, which was acquired by one Gunasheelamma W/o Boopalappa inherited vide MR. No. 16/1960-61. There after said land was converted as domicile, there by the said land was alienation vide MR.No. 21. 1985-86. and formed as sites. Now it is under limit of Hosadurga town Municipality situated at NES extension, under the style of Mahaveera layout Ajjampura road Hosadurga town. And there by khata of the five sites have been mutated in the name of the defendant by family division and here under given below:

1. Municipality assessment No. 9435/65 A measuring an extent of 30 feet x 16 feet, and bounded as fallows:

East - Road

West- Site No.65 B (belongs to defendant)

North:- Road

South -Site No.65 C (belongs to defendant)

2.Municipality assessment No. 9436/65 B measuring an extent of

35 feet x 36 feet, and bounded as fallows:

East- Site No.65 A and Site No. 65 C

West- Road

North - Road

South - Site No 65 E

(which was sold by the defendant in favour of one R, Chikkanna S/o PS Ramalingappa for the consideration amount on 28-07-2009)

3. Municipality assessment No. 9437/65 C measuring an extent of 30

feet x 20 feet, and bounded as fallows.

East- Road

West - Site No. 65 E (belongs to defendant)

North Site No.65 A. and 65 B

South- Site No.65 B (belongs to defendant)

4. Municipality assessment No 9438/65 D measuring an extent of 35

feet x 20 feet and bounded as fallows:

East- Road

West-Site No 65 E, (belongs to defendant)

North - Site No 65 C. (belongs to defendant)

South - House of Puttarangamma

5. Municipality assessment No 9439/65 E, measuring an extent of 35

feet x 20 feet, and bounded as fallows.

East -Site No. 65 C and 65 D (belongs to defendant)
West:- Road.
North:- Site No. 65 B, (belongs to defendant).
South: House of Puttarangamma.

It is further submitted that, the above 5 sites which were allotted to the defendant out of which one site bearing assessment No. 9436/65 B measuring an extent of 35 feet x 36 feet, and East Site No.65 A and Site No 65C West Road North - Road South Site No. 65 E sold by the defendant in favour of one Chikkanna, and who is enjoying the same as law full owner without disturbing from anybody.

It is further submitted that, the plaintiff has fabricated and created the documents with the help of the concerned officers, due to that one Oblamma W/o Bylappa member of the town Municipality of Hosadurga has involved for fabricated and created the documents in favour of the plaintiff by way of miss representation. What are the documents have been created by the plaintiff with respect to the suit schedule property which are not acting under law. And there by the plaintiff has filed false case against the defendant by mentioning wrong boundaries also fabricated the documents.

It is further submitted that, the plaintiff already constructed the RCC building forcibly on the properties which belongs to the

defendant Due to that one counselor of the municipality by name Oblamma is the elected member of the municipality Hosadurga, on the instigation of the municipal counselor, that the plaintiff has constructed the RCC building forcibly on the site of the defendant without obtain permission or consent of the defendant.

It is further submitted that, the defendant has given complaint before the police authority as well as before the Municipality. Though they have not taken any action against the plaintiff. The defendant has filed the case in O.S. No. 14/2004 on the file of the Addl civil judge Hosadurga with respect to the suit schedule property and other properties against one Puttarangamma and others, where in that, the defendant was plaintiff in the above suit and it was ended with compromised on 26.06.2004. The averment of the plaint, which are specifically denied as false and thereby denied are all false, created and concocted for the purpose of filing the suit and the plaintiff has no right over the suit property and no prima facie case. Hence, the suit of plaintiff is liable to be dismissed with cost.

5. On the basis of rival contentions of the parties, my predecessor-in-office has framed the following:

ISSUES

1. Whether plaintiff proves that she is in lawful possession and enjoyment of suit schedule properties as on date of suit?

2. Whether plaintiff proves the interference of defendant in the suit schedule property?

3. Whether plaintiff is entitled for permanent injunction against the defendant as prayed?

4. What order or decree?

6. In order to prove the case of the plaintiff, the plaintiff herself examined as PW.1 and got examined one independent witness as PW.2 and got marked 9 documents as Ex.P.1 to P.9, which have been explained in detail in the annexure and closed her side. In order to rebut the case of the plaintiff, the defendant has not examined any witnesses and not marked the documents.

7. Heard the arguments of both side and the counsel for defendant filed written arguments, Perused the oral and documentary evidence available on record.

8. The answers of this Court 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.
Issue No.4 : As per final order
for the following:-

REASONS

9. Issue No.1 and 2 : - Since these two issues pertain to the possession and alleged interference by the defendant over the suit schedule property, and are interlinked with each other, they are taken up together for common discussion in order to avoid repetition of facts.

10. It is the specific case of the plaintiff that he purchased the suit schedule property under a registered sale deed dated 28.10.2022, and that a grant certificate was issued by the Assistant Executive Engineer, Karnataka Slum Development Board, Davanagere Sub-Division. By virtue of the same, the plaintiff claims to be the absolute owner in possession and enjoyment of the suit property.

11. On the other hand, it is the contention of the defendant that the suit property originally formed part of Survey No. 34/P measuring an extent of 2 acres situated at Bokikere Village, Kasaba Hobli, Hosadurga Taluk, which was acquired by one

Gunasheelamma, wife of Bhopalappa, and her name was entered in the revenue records vide M.R. No. 16/1960. Thereafter, the said land was converted for non-agricultural residential purpose and alienated vide M.R. No. 21/1985-86, and sites were formed therein. Subsequently, the said property came within the limits of Hosadurga Town Municipality, situated at N.E.S. Extension, Mahaveera Layout, Ajjampura Road, Hosadurga Town.

12. It is further contended that, by way of family partition, five sites were allotted to the share of the defendant and the khata of the said sites was mutated in his name. Out of the said sites, one site bearing Assessment No. 9436/65B measuring 35 feet x 36 feet, bounded by Site No. 65A on the east, road on the west, road on the north, and Site No. 65E on the south, was sold by the defendant in favour of one Chikkanna, who is in lawful possession and enjoyment of the same.

13. The defendant further contends that the plaintiff has created and fabricated documents in collusion with the concerned officials. It is alleged that one Obulamma, wife of Bylappa, a member of the Town Municipality, Hosadurga, played a role in the creation of such documents by misrepresentation. It is further alleged that the plaintiff has filed the present false suit by showing incorrect boundaries based on such fabricated documents.

14. It is also contended that the plaintiff has forcibly constructed an RCC building on the property belonging to the defendant without obtaining necessary permission, allegedly at the instigation of the said municipal councilor.

15. Further, it is stated that the defendant had earlier filed O.S. No. 14/2004 before this Court in respect of the same property, and the said suit came to be disposed of on compromise. Hence, the present suit is not maintainable and is liable to be dismissed.

16. As far as the rival contentions of the parties are concerned, it is pertinent to note that though the defendant has filed the written statement and cross-examined PW-1, he has not adduced any independent evidence with respect to the suit schedule property. Further, the defendant has not cross-examined PW-2. On careful consideration of the rival contentions of both parties to the suit, it is clear that the defendants have seriously disputed the possession and enjoyment of the plaintiff over the suit schedule property. Under such circumstances, and in view of the issues referred above, it is for the plaintiff to establish his lawful possession and enjoyment of the suit schedule property as well as the alleged interference by the defendants.

17. In the present case, the plaintiff has acquired the suit schedule property under a registered sale deed dated 28.10.2022. The revenue records also stand in the name of the plaintiff. However, the defendants, by filing the written statement, have denied the ownership and title of the plaintiff over the suit property and have questioned the genuineness of the said document. Therefore, it is incumbent upon the plaintiff to prove his case independently, without taking advantage of any weakness in the defence.

18. The defendants have specifically contended that the sale deed (Exhibit P1) is a created and fabricated document, and that the plaintiff has no valid title over the suit property. However, the burden to prove such allegation squarely lies on the defendants. In the present case, the defendants have failed to adduce any cogent evidence to substantiate the said contention.

19. It is further contended by the defendants that the plaintiff, in collusion with a councillor of the Municipality, Hosadurga, has created false and bogus documents and has constructed an RCC building on the suit property without obtaining permission. Even for the sake of argument, if such allegation is assumed to be true, the defendants ought to have challenged the said document, i.e., Exhibit P1, before the competent authority or appropriate forum

as provided under law. However, no such steps have been taken by the defendants. Therefore, the defendants cannot simply dispute the document without seeking its cancellation or setting aside in accordance with law.

20. Further, the defendants have not produced any material documents nor have they placed any satisfactory explanation in their pleadings to substantiate the above allegations. Hence, this Court is of the opinion that the contention of the defendants that the plaintiff has created false and fabricated documents in collusion with municipal officials is without any basis and cannot be accepted.

21. On the contrary, the documents produced by the plaintiff clearly establish his case. The plaintiff has acquired the suit schedule property under the registered sale deed dated 28.10.2022, which is marked as Exhibit P1. In addition, the plaintiff has produced supporting documents at Exhibits P2 to P9. These documents clearly indicate that the plaintiff is in possession and enjoyment of the suit schedule property.

22. Moreover, it is also evident from the record that the defendants have admitted that the plaintiff has constructed a house on the suit schedule property. This admission further

strengthens the case of the plaintiff regarding his possession over the suit property.

23. Therefore, from the oral and documentary evidence on record, it is clear that the plaintiff has acquired the suit schedule property under the registered sale deed (Exhibit P1) and is in lawful possession and enjoyment of the same. The evidence on record also establishes that the defendants have caused obstruction and interference with the plaintiff's peaceful possession and enjoyment of the suit property.

24. Accordingly, this Court is of the considered opinion that the plaintiff has successfully proved his possession and enjoyment over the suit schedule property as well as the interference caused by the defendants. There is no reason to disbelieve the case of the plaintiff. **Hence, Issue Nos. 1 and 2 are answered in the Affirmative.**

25. **Issue No. 3:** The plaintiff has sought the relief of permanent injunction restraining the defendants, their men, agents, servants, or any person claiming through them from interfering with his peaceful possession and enjoyment of the suit schedule property. In view of the findings recorded on Issue Nos. 1 and 2, the plaintiff is entitled to the relief of permanent injunction as prayed for.

Hence, Issue Nos. 3 is answered in the Affirmative.

26. Issue No. 4: In view of my findings on Issue Nos. 1 to 3, I proceed to pass the following:

ORDER

The suit of the plaintiff is hereby decreed with costs.

The defendant, her agents, servants, or any persons claiming under her are hereby permanently restrained from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property.

Draw decree accordingly.

(Dictated to the Stenographer, typed by her on computer and corrected by me, then pronounced in the open Court on this 11th day of June, 2026)

(THRINETHRA M.N.)
Addl. Civil Judge & JMFC.,
Hosadurga.

ANNEXURE

1. WITNESSES EXAMINED FOR THE PLAINTIFF:-

PW.1	:-	Smt. Rathna G.K
PW.2	:-	Sri. P. Shashikumar

2. DOCUMENTS MARKED FOR THE PLAINTIFF:-

Ex.P.1	:-	Computerized copy of sale deed
Ex.P.2 & 3	:-	Copy of status of challan
Ex.P.4	:-	SAS form for properties with building
Ex.P.5	:-	Copy of status of challan
Ex.P.6	:-	BBPS bill
Ex.P.7	:-	SAS form for properties with building
Ex.P.8	:-	Computerized official memorandum
Ex.P.9	:-	Copy of claim letter

3. WITNESSES EXAMINED FOR THE DEFENDANTS:-

Nil

4. DOCUMENTS MARKED FOR THE DEFENDANTS:-

Nil

(THRINETHRA M.N.)

**Addl. Civil Judge & JMFC.,
Hosadurga.**