

KADG520000712015



Presented on : 14-01-2015
Registered on : 14-01-2015
Decided on : 19-06-2026
Duration : 11 years, 5 months, 5 days

IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC. AT HONNALI.

Dated This 19th day of June 2026.

Present:

Sri. PUNYAKOTI S N
BA LLB
Addl. Civil Judge & JMFC,
Honnali.

ORIGINAL SUIT No.20/2015

Plaintiff : 1. B.R. Girithimmappa
S/o Rangappa (Dead by Lr's)

- (a) B. Inidramma
W/o B.R. Giritymmappa,
Aged about 65 years,
- (b) B.G. Sudha
W/o G.V. Rajakumar,
Aged about 45 years,
- (c) B.G. Umesha
S/o B.R. Girithimmappa
Aged about 42 years,
- (d) B.G. Asha
D/o B.R. Girithimmappa
Aged about 37 years,
- (e) B.G. Veena
D/o B.R. Girithimmappa
Aged about 35 years,

(f) B.G. Udaya
 S/o B.R. Girithimmappa
 Aged about 32 years,
 R/o Hanugavadi village and post
 Honnali taluk.

2. B.R. Balachandrappa, Dead by LR's

(a) Gowramma
 W/o Late Balachandrappa
 Aged about 50 years,

(b) B B Pradeep
 S/o Late Balachandrappa
 Aged about 33 years,
 Both are R/o Hanagavadi village,
 Honnali Taluk.

(Rep.by Sri. HMS Advocate)

V/s

Defendant: Lingachar
 S/o Ramalingachar
 Aged about 68 years,
 Agriculturist.
 R/o Hanagavadi village,
 In Honnali Taluk.

(Rep. By Sri. SNP Advocate)

1	Date of institution of the suit	:	14-01-2015
2	Nature of the suit	:	Permanent Injunction
3	Date of the commencement of recording of the evidence	:	28-02-2018
4	Judgment pronounced on	:	19-06-2026.

J U D G M E N T

The plaintiffs have filed this suit for the relief of permanent injunction to restrain the defendant, his agents, servants or anybody acting on his behalf from causing interference to his peaceful possession and enjoyment over the suit schedule property and for other reliefs.

2. The case of the plaintiffs in nutshell is as under :-

It is stated in the plaint that, plaintiff No.1 and 2 are the brothers and sons of Gowramma and Rangappa. Suit schedule property is originally their joint family property, same is acquired by their mother Gowramma under a Registered partition deed dtd:06-05-1972. On the strength of said partition deed, katha with respect to suit schedule property was mutated into the name of Gowramma. Being the sons and husband of the Gowramma, plaintiffs and their father were in possession and enjoyment of the said land. On 12-05-2007, plaintiffs' mother Gowramma died by leaving plaintiff No.1 and 2 as her legal heirs.

3. Further stated that, after the death of Gowramma katha with respect to the suit schedule property is mutated into the joint names of plaintiff No.1 and 2 in MR.No.H-3/2014-15. Plaintiffs are owners in joint possession over the suit schedule property by growing Areca plants therein. In the suit schedule property there are two neem trees, five Tamarind trees of 65 years old which belongs to the plaintiffs.

4. Further stated that, defendant having no manner of right, title or interest over the suit schedule property causing

interference to the plaintiffs' peaceful possession over the same. On 04-01-2015 when the plaintiffs attending their agricultural work, the defendant tried to cut the trees situated in the suit schedule property and caused obstruction to the plaintiffs' cultivation work. Though the plaintiffs resisted the defendant's illegal act, on 10-01-2015 the defendant again tried to cut the trees and caused obstruction. Further the plaintiffs again resisted the same. But the defendant while returning, openly proclaimed that, he will dispossess the plaintiffs from the suit schedule property. Hence without any alternative remedy, the plaintiffs filed this suit seeking for justice.

5. In pursuance of suit summons, the defendant appeared before the court through his counsel and filed written statement by denying the plaint averments as false and submits that, plaintiffs are interfered with the defendant's property bearing katha No.100 measuring an extent of 12X110 feet comprised of Mangaluru tiled house and backyard and another land bearing katha No.95 measuring 58X85 feet situated at Hanagawadi village, Honnali Taluk.

6. Further stated that, the defendant filed a suit against the plaintiff in OS.No.50/2006 and same was dismissed. Aggrieved, the defendant filed appeal in RA.No.33/2011 before Hon'ble Senior Civil Judge, Harihara and same was allowed by set asiding the judgment and decree passed in OS.No.50/2006 thereby the instant plaintiffs have been restrained from interfering with the above said properties.

7. Further averred that, the katha No.95 measuring 85 X58 feet is absolutely belongs to defendant. In the said property, there is one tamarind tree, one neem tree and one Tugali tree. The defendant is using the said property for manure pits, storing the hay stacks and for other purpose. The katha No.100 measuring 12X110 feet is also belongs to the defendant. Wherein there is mangaluru tiled house measuring 12 X40 feet and one tamarind tree, one coconut tree, one banny tree are existed.

8. Further pleaded that, on the either side of the defendant's property, the properties of his junior uncle's sons are situated. In the said properties neem trees and tamarind trees are existed. The present suit is filed only to grab tamarind and neem trees. By suppressing judgment and decree in RA.No.33/2011, the plaintiffs have filed this false suit. Hence prays to dismiss the suit.

9. Based on the pleadings, the following issues have been framed :-

1. Whether plaintiffs prove that, plaintiffs are in Possession & enjoyment of the suit schedule property ?
2. Whether plaintiffs prove that the defendant interfered in plaintiff's possession and enjoyment of the suit schedule property and tried to cut the trees existing in suit schedule property?
3. Whether plaintiff is entitled for the relief of permanent injunction as claimed in plaint?

4. What order or decree ?

10. In order to prove their case, plaintiff No.1 has been examined as PW-1 and produced 7 documents which have been marked as Ex.P1 to P7. On the other hand, defendant has examined as DW-1 but later his chief examination was discarded, further he himself examined as DW-2 and produced 6 documents which have been marked as Ex.D1 to 6.

11. Heard the arguments.

12. On perusal of the records, oral and documentary evidence placed before the Court, my findings on 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 the final order,
for the following;

REASONS

13. Issue No.1:- In a suit for the relief of permanent injunction, plaintiffs have to establish their peaceful possession and enjoyment over the suit schedule property as on date of filing of the suit. In order to prove their case, PW-1 filed his chief examination affidavit by reiterating the plaint averments and furnished 7 documents.

14. It is the case of the plaintiffs that, suit schedule property was originally their joint family property and same was acquired by their mother Gowramma under registered partition deed. In

supportive of their contention, PW-1 furnished certified copy of partition deed as per Ex.P1. On perusal of Ex.P1, it reveals that, plaintiffs' family members were entered into a partition under the registered partition deed dtd:06-05-1972. Wherein, it can be seen that, the suit schedule property was fallen to the share of the mother of the plaintiff No.1 and 2 Gowramma.

15. In supportive of partition deed as per Ex.P1, PW-1 also furnished certified copy of mutation extract as per Ex.P2. Wherein, it can be seen that mutation in MR.No.8/72-73 with respect to suit schedule property and also other property has been mutated into the name of the Gowramma based on the partition deed as per Ex.P1.

16. Further, on perusal the Sy. Number, extent and boundaries of Ex.P1 are clearly corroborates the survey number, extent and boundaries described in the suit schedule property. By producing the partition deed and mutation extract as per Ex.P1 and 2, the plaintiffs have proved their contention with regard to the mode of acquisition of suit schedule property.

17. PW-1 also furnished mutation and RTC extracts as per Ex.P3 to 6 and 8. Wherein, it discloses that the khata with respect to the suit schedule property is mutated into the name of the plaintiff No.1 and 2 in MR No. H3/2014-15 as per Ex. P6. On perusal of RTC extracts as per Ex.P3 and 5, it depicts that suit schedule property was standing in the name of the mother of the plaintiffs for the years 1972-73 to 2009-10 and 2013-14 and her name also shown in column No.12 as cultivator. Further

the RTC extracts also depicts that same is acquired through partition. Further, the RTCs reflects the existence of five tamarind trees, two neem trees in the suit schedule property.

18. In order to substantiate the contentions of the plaintiffs that the existence of tamarind trees and neem trees in the suit schedule property, PW-1 also furnished revenue mahazar as per Ex.P7. On perusal, then Deputy Tahsildar has submitted the report dtd:31-12-1992 by conducting mahazar by stating that, two neem trees, five tamarind trees are existing in sy.no.7/1 measuring an extent of 1 acre belongs to the Gowramma W/o Rangappa, who is the mother of the plaintiff No.1 and 2 in the present suit.

19. On perusal of all these documents it is clear that plaintiffs are in possession over the suit schedule property and two neem trees and five tamarind trees are existed therein.

20. Further it is not the case of the defendant that he is in possession over the suit schedule property and even he has not stated who are in possession over the suit schedule property but he just denied the possession of the plaintiffs over the suit schedule property. As such, it can be infer that the plaintiffs are in possession over the suit schedule property.

21. Apart from documentary evidence, It is necessary to discuss the oral evidence to determine the real dispute between the parties. During the cross-examination of PW-1, learned counsel for the plaintiffs no where suggested the PW-1 by denying plaintiffs' possession over the suit schedule property.

Further the learned counsel suggested that, defendant's property is adjacent to the suit schedule property. As such it can be taken to consideration that, defendant has not disputed the existence of the suit schedule property and the plaintiffs possession over the same.

22. DW-2 during his cross-examination admitted that, suit schedule property belongs to the plaintiffs. Further also admitted that, then Deputy Tahsildar conducted a spot mahazar during the year 1992 and reported that the alleged trees are existed in sy.no.7, thereupon in RTC with respect to sy.no.7 they also shown the existence of five tamarind trees and two neem trees. The admission given by the defendant itself shows that, plaintiffs are in possession over the suit schedule property and there exist five tamarind trees and two neem trees.

23. DW-2 during his chief examination furnished 6 documents which are certified copy of tax assessment list, DCB register extract and tax paid receipts. All these documents are not pertaining to the suit schedule property.

24. As such, on scrutiny of oral and documentary evidence of parties, the plaintiffs clearly established their possession over the suit schedule property. On assessing the entire evidence in the background of the touchstone of preponderance of probabilities in the light of principles reiterated, there is nothing on record to disbelieve or discard the oral and documentary evidence of the plaintiffs. All the documents produced by the plaintiffs are in consonance with that of their pleadings and they

proved their possession over the suit schedule property. Under such circumstances I answered Issue No.1 in the Affirmative.

25. Issue No.2 : In a suit for permanent Injunction, proving interference from the defendant to the plaintiffs' peaceful possession is one of the vital aspects. The plaintiffs have taken specific contention that the defendant is causing interference to their peaceful possession and enjoyment over the suit schedule property and also tried to cut the alleged trees. It is established by answering Issue No.1 in the Affirmative that the plaintiffs are in possession and enjoyment over the suit schedule property and there exist tamarind and neem trees.

26. The defendant has contested the suit by filing the written statement and denied the possession of the plaintiffs. Thereby, it can be inferred that the defendant might has caused the interference to the plaintiffs' peaceful possession and enjoyment over the plaint schedule property. Further during the cross-examination, DW-2 admitted that, he said to the plaintiffs to not to harvest the tamarind fruits towards their property. As such the oral as well as documentary evidence adduced by the both the parties is itself established the interference caused by the defendants to the plaintiffs' peaceful possession and enjoyment of the suit schedule property. Accordingly, I answered Issue No.2 in the Affirmative.

27. Issue No.3 : In this case, plaintiffs are entitled to the relief as they proved their possession and interference caused by the defendant over the suit schedule property. Accordingly, I answered Issue No.3 in the Affirmative.

28. Issue No.4 : In view of above findings on Issue Nos.1 to 3, this court proceed to pass the following;

ORDER

The suit of the plaintiffs is hereby decreed with costs on the following terms:

The defendant, his men, agents, servants or anybody claiming under him are hereby permanently restrained from interfering into the plaintiffs' peaceful possession and enjoyment over the suit schedule property and also restrained from cutting the trees existed in the suit schedule property by way of permanent injunction.

Draw decree accordingly.

[Directly dictated to the stenographer on computer typed by her, corrected and then pronounced by me in the open court on this day of 19th day of June 2026].

(Punyakoti S N)
Addl. Civil Judge and JMFC.,
Honnali.

ANNEXURE

1. Witnesses examined on behalf of plaintiff :

PW-1 : B.R. Girithimmappa

2. Documents marked on behalf of plaintiff :

Ex.P-1 : C.C. of Partition Deed

Ex. P2 : C.C. of MR extract

Ex. P3 : RTC Extracts

Ex. P4 : C.C. of MR Extract

Ex. P5 : RTC Extracts

Ex. P6 : MR Extract

Ex.7 : Revenue mahazar.

3. Witnesses examined on behalf of defendant:

DW-1 : Lingachari (Discarded)

DW-2 : Lingachari.

4. Documents marked on behalf of defendant:

Ex.D-1&2 : House/Land Tax Assessment List

Ex.D-3&4 : C.C. of DCB Register Extracts

Ex.D-5&6 : Tax paid receipts.

(Punyakoti S.N.)
Addl. Civil Judge and JMFC.,
Honnali.