

**IN THE COURT OF ADDL. CIVIL JUDGE & J.M.F.C, ARKALGUD.  
AT ARKALGUD.**

**PRESENT:-**

SRI. KURANI KANT DHAKU.  
B.Com. L.L.B. (Spl.)  
Addl. Civil Judge & J.M.F.C.  
Arkalgud.

**Original Suit No 226/2014.**  
**Dated this 20<sup>th</sup> Day of December 2014.**

**BETWEEN:-**

1. Smt. Honnamma @ Chikk Honnamma W/o Govindappa @  
Govindaiah,  
Age: - 65 Years,  
R/o.: - Kurabgeri pete, Arakalgud Town, Arakalgud Taluka.  
Now At: Near Akashavani, Ring Road Hassan Town  
Hassan Dist.

-----Plaintiff

-Vs-

1. Shri. Jagadish S/o Balla @ Javar .  
Age:- 43 Years , Occu:- Agriculture,  
R/o: Kurabar Street, Kelagin Hatti, Arakalgud Town,  
Arakalgu Taluk.

-----Defendant

**(By Shri. Naveen Kumar Advocate for plaintiff.)**  
**(Dfendant is Placed Ex-parte to the proceedings)**

Date of Institution of suit : 12/11/2014.  
Nature of suit : Suit for Permanent Injunction  
Date of evidence commenced : 15/12/14.  
Date of evidence closed :15/12/2014.

Date of argument :15/12/2014.  
Duration of Suit :08 Days, 01 Month, 00 Year.  
Date of Judgment Delivered :20/12/2014..

## **JUDGMENT**

This is suit filed by the plaintiff against the defendant for Permanent Injunction restraining the defendant not tress pass and not to disturb the peaceful possession and enjoyment of suit scheduled property of plaintiff.

### **2.The brief facts of plaintiff case is that:**

The suit-scheduled property is originally belongs to one Heggdikere Annegowda and his son Javaregowda and the plaintiff was purchased the suit property from said Javaregowda under the registered sale deed dated 08/02/1969, and on the date of sale deed the plaintiff is lawful possession and enjoyment of suit scheduled property by paying the revenue to the Govt., Further, the defendant is not having any right, interest, title over the suit schedule property and last one month the defendant is trying to tress pass and trying to disturb the peace full possession of plaintiff property without having any right over the suit property. Hence, this suit is filed against the defendant for permanent Injunction.

3.In response to notice issued by this court, the defendant has refused to receive the notice of this court and on the date

hearing of suit, the defendant has absent to the proceeding. Hence, defendant is placed Ex- parte to the proceeding

4. With a view to establish her case, the plaintiff has examined himself as pw-1 and marked as exhibit. P-1 to 5. Exb. P-1 is the M R Dairy, Exb. P-2 is the Record of Right bearing R S No. 45/2B measuring 0-25 guntas, Exb. P-3 and 4 are Revenue paid receipts, and Exb. P-5 Certified copy of sale deed. On the other hand, in this case the defendant has absent and placed him as Ex-parte to the proceeding. Hence, he has not filed written statement and not leads any defence evidence and not got marked any documents in his favour to disprove the case of plaintiff.

5. Heard the arguments of learned counsel of Shri. Naveen Kumar for plaintiff and persued records.

6 .In this suit defendant is absent and not contested the suit and placed him as Ex-parte and has not filed written statement and when their is no written statement no issue are framed but to reach the definite conclusion this court has framed the following:-

### **ISSUES**

1. Whether plaintiff proves that he is the peaceful possession and enjoyment of suit schedule property on the date of suit?

2. Whether plaintiff proves that the defendants are disturbing and interfering the peaceful possession and enjoyment of suit schedule property?
3. Whether the plaintiff is entitled to relief sought for?
4. What decree or order?

7. On the above issues my findings and answers are :-

**Issue No.1 :-** In the Affirmative.

**Issue No.2 :-** In the Affirmative.

**Issue No 3 :-** In the Affirmative

**Issue No.4 :-** In the Affirmative.

**Issue No.5 :-** As per my final order for the following:-

### **REASONS**

**Issue No.1 to 4** : - These issues are connected with each others. Hence all these issues are discussed together to prevent the repetition of facts and circumstances.

This is suit filed by the plaintiff against the defendant for permanent Injunction for restraining the defendant not to trespass, and not to disturb the peaceful possession and enjoyment of suit schedule property. With view to establish her case the plaintiff has examined herself as pw-1 and produced 5 documents and got marked as exhibit p-1 to 5. In the chief examination P.W.-1 deposed that the suit-scheduled property

is originally belongs to one Heggdikere Annegowda and his son Javaregowda and the plaintiff was purchased the suit property from said Javaregowda under the registered sale deed dated 08/02/1969, and on the date of sale deed the plaintiff is lawful possession and enjoyment of suit scheduled property by paying the revenue to the Govt., Further, the defendant is not having right, interest, title and last one month the defendant is trying to tress pass and trying to disturb the peace full possession of plaintiff property without having any right over the suit property. Hence, this suit is filed against the defendant for permanent, and in this defendant has refused to receive the summons of this court and on the absence of defendant , this court has placed the defendant as Ex-parte to the proceeding.

I have gone through the entire case records. On the perusal of Exb.p-5 it goes to show that the plaintiff has purchased the suit property from Javaregowda under the registered sale and on the going through the Exb.p-1 to 4 it shows that the plaintiff is in law full possession and enjoyment of suit scheduled property and on the perusal of contention of plaintiff , the defendant is trying to tress pass and trying to disturb the peace full possession and enjoyment of plaintiffs suit scheduled property, and in this case the defendant has not appeared and he has place ex-parte. Hence, it goes to show that the defendant has accepted the claim of plaintiff and in this case defendant has not contested the case. Hence, there are no proper reasons to reject the prayer of plaintiff. The plaintiff has

made out the prima facie case and proved the case. Hence, the plaintiff is entitled to the relief claimed. Hence, I answer Issue No. 1 to 4 in the affirmative.

**Issue No.5 :-** On the above discussed reasons I proceeds to pass the following :-

### **ORDER**

The suit filed by the plaintiff against the defendant is hereby decreed.

Further, Hereby it is ordered and directed to defendant and any men, or agent acting on his behalf are restrained permanently not to tress pass and not to disturb the peaceful possession and enjoyment of suit schedule property of plaintiff.

Draw decree accordingly.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced in the open court as this 20<sup>th</sup> December 2014)

(Sri. Kurani Kant Dhaku)  
Addl. Civil Judge & J.M.F.C,  
Arkalgud.

**::ANNEXURES::****LIST OF WITNESS EXAMINED ON BEHALF PLAINTIFF SIDE:**

PW.1 : Smt. Honamma Aliyas ChikkaHonamma

**LIST OF DOCUMENTS MARKED ON BEHALF OF THE PLAINTIFF:**

Ex.P.1 : Sale Deed

Ex.P.2 : Record of Right

Ex.P.3 : Revenue paid Receipt

**LIST WITNESS EXAMINED ON BEHALF OF THE DEFENDANTS:**

-----Nil --

**LIST OF DOCUMENTS MARKED ON BEHALF OF THE DEFENDANTS:**

-----Nil ---

Shri. Kurani Kant Dhaku  
Civil Judge & J.M.F.C,  
A r k a l g u d.

