

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

: PRESENT :

ANITHA .N.P., B.A.L., L.L.M.,
Prl. Civil Judge and JMFC.,
Arasikere.

O.S.No.336/2011.

Dated 30th October 2015.

Plaintiffs : 1. Gowribai W/o Ratnanaika,
60 Years,
2. Naganaika S/o Ratnanaika,
42 years,
Both are R/o Mududi B Thandya,
Gandasi Hobli, Arsikere Taluk.

(By Sri.B.N.R. Advocate)

V/S

Defendant : Laxmanaika S/o Lachha Naika,
60 Years, R/o Mududi B Thandya,
Gandasi Hobli, Arsikere Taluk.

(Exparte)

Nature of the suit : Permanent injunction.

Date of Institution of suit : 18-08-2011.

Date of Commencement of
Evidence : 05-06-2012.

Date of judgement
Pronounced. : 30-10-2015.

Duration of the Suit	:	Year/s	Month/s	Day/s
		04	02	12

:- JUDGMENT :-

The Plaintiffs have filed this suit against the defendant seeking for the relief of Permanent Injunction and for such other further reliefs.

2. The case of the plaintiff in brief is as follows:-

The plaintiffs are the owners in possession of the suit schedule property. The same was originally belongs to Government. The Government has granted the suit schedule property to the father-in-law of 1st plaintiff as he belongs to SC & ST Community. The husband of 1st plaintiff as well as the father of 2nd plaintiff by name Rathnanaika had hypothecated the suit schedule property to defendant. Later, he paid the amount and got the property. The said Rathnanaika was addicted to bad vices. Taking undue advantage of the same, the defendant got the sale deed behind the back of plaintiffs. However the possession is with the plaintiffs only. As the suit schedule property is granted to the plaintiffs who belongs to SC & ST, the PTCL Act is applicable. The alleged sale deed is null and void. In spite of all these, the defendant and his men are trying to dispossess the plaintiffs over the suit schedule property. The plaintiffs have planted the coconut plants in the suit schedule property. The defendant is powerful person in the locality. The plaintiffs cannot resist the illegal act of the defendants without

the aid of this Court. The defendant and his men came near the suit schedule property and tried to dispossess the plaintiffs and tried to pluck coconuts in the suit schedule property. At the moment the plaintiffs resisted the illegal acts of the defendant. However they cannot always resist the illegal acts of the defendant. Hence, they filed this suit.

3. In spite of service of the suit summons, the defendant has not appeared before the Court. Hence the issuance of suit summons held sufficient, the defendant placed as Exparte by the Order of this Court dated : 05-06-2012.
4. In order to prove their case, the plaintiffs have examined the 2nd plaintiff as PW1 and has got exhibited the documents as per Ex.P.1 to Ex.P.4 and closed their side of evidence. The trial concluded. Matter posted for arguments.
5. Heard Arguments.
6. The following points arise for my consideration:

// POINTS //

1. Whether the plaintiffs prove that, they are in peaceful possession and enjoyment of the suit schedule property as on the date of institution of the suit?
2. Whether the plaintiffs proves the alleged interference by the defendant?

3. Whether the plaintiffs are entitled for the suit relief as prayed for?

4. What order or decree?

7. My answers to aforesaid points are as follows:

Point No:1 : In the Affirmative.

Point No:2 : In the Affirmative.

Point No:3 : In the Affirmative.

Point No:4 : As per final order for the following:

// REASONS //

8. Point No.1 & 2 :-

Since both the points are interconnected with each other, the determination of which requires common facts. Hence, both the points are taken together at once for the purpose of discussion to save the precious time of the Court and that of the public.

9. In order to prove their case, the plaintiffs have examined 2nd plaintiff as PW1. PW1 in his examination-in-chief reiterated all the facts stated in the plaint through his affidavit filed in-lieu of evidence. Therefore reiterating of all those facts once again is not necessary for the purpose of discussion. The plaintiffs have relied upon four documents as per Ex.P.1 to Ex.P.4.

10. On examination of the evidence of plaintiff Ex.P.1 is the RTC extract of Sy.No.204/7, the same goes to show that, in the year

2010-11 the Sy.No.204/7 measuring 31 guntas and 1 Acre stands in the name of plaintiff no.1. Ex.P.2 is the copy of Notice dated 20-06-2011. In the notice the plaintiffs instructed the defendant to stop his illegal acts in respect of the suit schedule property. The said notice is duly served on defendants as could be seen from Ex.P.3 & Ex.P.4.

11. The oral as well as documentary evidence of plaintiff clearly establishes that, the suit schedule property as on the date of the institution of the suit is in the possession of the plaintiff. Column no.9 establishes the possession of the plaintiff over the suit schedule property as on the date of filing of the suit. Though the plaintiff pleaded that, the defendant illegally taken sale deed from her husband Rathnanaika. She has not placed the said sale deed. Further there is no recital in the Ex.P.1 RTC about execution of sale deed in respect of suit schedule property to the defendant. In a suit for Permanent Injunction the plaintiffs have to prove their possession over the suit schedule property and the alleged interference. As such this Court is of the opinion that, the Ex.P.1 proves that, the plaintiffs are in possession and enjoyment of suit schedule property as on the date of institution of the suit.

12. The oral as well as documentary evidence of the plaintiffs with respect to alleged interference is also not denied by the defendant. Hence, the same remained unchallenged. There is no oath against oath and evidence against evidence. There are no other reasons to disbelieve the evidence placed by the

plaintiff before the Court. Under the circumstances, the evidence placed by the plaintiffs is require to be considered. Therefore, on the basis of the oral and documentary evidence placed before the Court, as per the discussion made above this Court is of the opinion that, the plaintiffs have discharged their burden of proving the facts as per Point No.1 & 2. Hence, for the aforesaid reasons I hereby answer Point No.1 & 2 in the Affirmative.

13. Point No.3 :-

The plaintiff has proved the Points No.1 & 2, which held Affirmative. The plaintiff is entitled for the relief of Permanent Injunction in respect of plaint schedule property. As such I answer point No.3 in the Affirmative.

14. Point No.4 :-

By virtue of my answers made on Points No.1 to 3, which held Affirmative I hereby proceed to pass the following: -

-:: ORDER ::-

***The suit filed by the plaintiffs
against the defendant is hereby decreed
with costs.***

***(a) The defendant and his men are
restrained by way of Permanent***

Injunction from interfering with the peaceful possession and enjoyment of the plaintiffs over the suit schedule property.

Draw decree accordingly.

SCHEDULE

The immovable property bearing Sy.No.204/7, measuring 0-16 guntas, situated at Mududi B Thandya, Gandasi Hobli, Araikere Taluk bounded on ;

East : Land of Ranganaika S/o Bheemanaika,

West : Land of Ranganaika S/o Bheemanaika,

North: The remaining property of the plaintiffs in same Sy.No.,

South: Land of Ganganaika.

(Dictated to the Stenographer, directly on Computer, transcribed by her, revised and corrected by me and then pronounced in the Open court on this, 30th October 2015.)

(Anitha N.P.)
Prl. Civil Judge & J.M.F.C,
Arsikere.

ANNEXURE

1. Witnesses examined on behalf of plaintiffs:-

PW1 - Naganaika.

2. Documents exhibited on behalf of plaintiffs:-

Ex.P.1 - RTC Extract.
Ex.P.2 - Legal Notice.
Ex.P.3 - Postal Receipt.
Ex.P.4 - Postal Acknowledgment.

3. Witnesses examined on behalf of defendant:-

Nil.

4. List of documents marked on behalf of the defendant:-

Nil.

(Anitha N.P.)
Prl. Civil Judge and JMFC,
Arsikere.