



Presented on	26-03-2026
Registered on	26-03-2026
Decided on	10-08-2026
Duration	04 Months, 15 Days.

IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C.,
AFZALPUR.

Present: Shri. Vinayak Mayannavar,
B.A., LL.B.,
Senior Civil Judge & J.M.F.C., Afzalpur.

Dated this the 10th Day of August – 2026.

R.A.No-06/2026.

Appellant /

Defendant : Sarubai W/o Gajanan Dhindure @ Allapur,
Age : 53 years, Occ : Household work,
R/o : Mannur village,
Tq : Afzalpur, Dist : Kalaburagi.

[By Shri. S.S.P. Advocate]



-Vs -

Respondent/

Plaintiff :- Hanamanth S/o Ningappa Allapur,
Age : 55 years, Occ : Agriculture,
R/o : Mannur village,
Tq : Afzalpur, Dist : Kalaburagi.

[By Shri C.S.H. Advocate]

J U D G M E N T

The appellant/defendant has preferred this appeal against the judgment and decree passed by the Hon'ble Civil Judge & JMFC Court Afzalpur in O.S. No-77/2021 on 13-03-2026.

2. The appellant is the defendant before the trial court. The respondent is the plaintiff before the trial court. The parties



are hereinafter referred as per their status before the trial court for the sake of convenience.

3. It is case of the plaintiff that the plaintiff is the owner and in possession of the suit property bearing panchayat No-2/143 measuring East – West 50 feet and North – South 28 feet situated at Mannur village of Afzalpur Taluka. The suit property is consisting of the following boundaries.

East	:	Govt. Road.
West	:	Govt. Road.
North	:	House of Bhimsha Talawar.
South	:	House of Abdul Sab Kothwal.

4. It is further case of the plaintiff that, the plaintiff has inherited the suit property from his forefathers. The suit property is now in dilapidated condition. The plaintiff is enjoying the suit property from last more than 30 years. The



defendant without any right in the suit property is interfering in the possession of the plaintiff over the suit property. The defendant is trying to mutate her name to the part of the suit property by colluding with the panchayath authorities. The plaintiff was away from the village and went to Maharashtra for his livelihood for some years. The plaintiff is now recently come to the village and the defendant is interfering in the suit property and trying to mutate part of the suit property in her name. On 25-07-2021 the plaintiff has requested the defendant for not to interfere in the suit property. The defendant has not ready to hear the request of the plaintiff. The plaintiff is in possession of the suit house property. The defendant is interfering in the suit property. The plaintiff is entitled for the relief of permanent injunction against the defendant. On the said material grounds the plaintiff has prayed for passing a decree in his favour.



5. The defendant has filed her written statement by denying the case of the plaintiff. The defendant has contended that, the boundaries of the suit property are wrong. The plaintiff is not in possession of the suit property. The Gajanan S/o Ningappa is the elder brother of the plaintiff. The defendant is the wife of the said Gajanan. The defendant being the wife of the elder brother of the plaintiff is entitled for 1/2 share in the suit property. The defendant is residing in the suit property from long time. The defendant is running a Vermicelli [Savige] Machine in the suit property. The father-in-law of the defendant by name Ningappa was earlier running a Hotel in the suit property. The panchayat authorities on the representation of the defendant on 28-06-2021 conducted the inspection over the suit property and found the possession of the defendant over the suit property. The defendant has obtained the certificate from the Government Authorities for the suit property. The defendant



is in possession of the suit property from more than 38 years.
On the said material grounds the defendant has prayed for
the dismissal of the suit of the plaintiff.

6. On the basis of the pleadings of the parties the Hon'ble
trial Court has framed the following issues for its
consideration.

ISSUES

- 1] Whether the plaintiff proves that, he is in
lawful possession and enjoyment of the suit
property as on the date of filling of the
suit ?
- 2] Whether the plaintiff proves the interference
by the defendant ?



3] Whether the plaintiff is entitled for the relief
as prayed for ?

4] What order or decree ?

7. The plaintiff in order to prove his case got examined himself as PW-1. The plaintiff got marked in all 3 documents as per Ex.P-1 to P-3. The plaintiff got examined 2 witnesses by name Basanna and Hanamant as PW-2 and 3.

8. The defendant in order to prove her case got examined herself as DW-1. The defendant got marked in all 19 documents as per Ex.D-1 to D-19.

9. The Hon'ble trial court has answered the issue No-1 to 3 in the affirmative and decreed the suit of the plaintiff.



10. The defendant feeling aggrieved by the judgment and decree of the trial court has preferred this appeal.

11. In pursuance of the notice of the appeal the plaintiff has appeared through her advocate. The plaintiff has objected the present appeal by supporting the judgment and decree of the trial court and prayed for dismissal of the present appeal.

12. The defendant has preferred this appeal on the following grounds:

GROUNDS

- 1] The trial court has passed the judgment and decree against the facts and law and against the principles of natural justice.



- 2] The trial court without considering the materials on record has wrongly decreed the suit of the plaintiff.
- 3] The plaintiff has not produced any documents to show his possession over the suit property.
- 4] The plaintiff has obtained the Ex.P-1 to P-3 documents just before 10 days of filing of the suit. The said fact creates a doubt in the case of the plaintiff. The trial court has not considered the said aspects.
- 5] The trial court without considering the documents produced by the defendant regarding possession of the suit property by the defendant has wrongly decreed the suit of the plaintiff.



6] The trial court has not considered the fact that, the defendant has denied the title of the plaintiff to the suit property. Hence, the suit for a bare injunction is not maintainable. The plaintiff is not in possession of the suit property. Hence, the suit is not maintainable.

7] The trial court has not framed the proper issues on the contentions of the parties.

13. On the above said material grounds the defendant has prayed to set aside the judgment and decree of the trial court and prayed for dismissal of the suit of the plaintiff.

14. Heard the arguments of both the side.

15. On perusal of the entire materials on record the following points arise for my consideration :



POINTS

- 1] Whether the trial court is right in holding that, the plaintiff has proved his possession over the suit property ?
- 2] Whether the trial court is right in holding that, the plaintiff has proved the interference over the suit property ?
- 3] Whether the trial court is right in decreeing the suit of the plaintiff ?
- 4] Whether the judgment and decree of the trial court calls for interference from this court ?
- 5] What order or decree ?



16. My answers to the above points are as under:

Point No-1 : In the negative.

Point No-2 : In the negative.

Point No-3 : In the negative.

Point No-4 : In the affirmative.

Point No-5 : As per the final
order, for the following

REASONS

17. POINT No- 1 to 4 :- These points are interlinked together. Hence in order to avoid repetition they all are taken together for common discussions and consideration.

18. The PW-1 in his cross examination has deposed that, the suit property is consisting of the following boundaries.

East : House of Indi.



West : House of Srimanth

North : House of Yogesh.

South : House of Kothwal.

The said boundaries stated by the plaintiff are contrary to the suit property boundaries.

19. The PW-1 further deposed that, the suit property has come to him from his ancestors. The suit property before him was standing in the name of his father. His father was died in the year 1973. His father has got one son and one daughter. One Mahadevi has filed a suit for partition against him and his sister and the defendant. He is residing in Mannur village from last 2 to 3 years. His father Ningappa has got only 2 children by name Hanamant and Nagabai. The Gajanan is not the son of his father. The defendant is the wife of the Gajanan. The Gajanan has died about 2 year back. The defendant has got a daughter by name Mahadevi. His father



has purchased the suit property about 50 years back. He has not produced the said documents to the court. He was residing in Nevargi village for 20 years. The daughter of the defendant i.e., Mahadevi has filed a suit for the relief of partition. The defendant was running a flour mill and Vermicelli [Savige] Machine in the suit property when he was not in the village. He has removed the said machines due to installing of the said machines in his property.

20. The PW-2 in his cross examination has deposed that, the suit property is having the boundaries towards East the house of Muslim. West : Road. North : House of Yogesh Bhimsha. South : House of Muslim. The suit property was earlier standing in the name of the Ningappa. The plaintiff was residing for 20 years in the Hingani village. Due to the said reason the plaintiff has given the suit property to the defendant. The husband of the defendant i.e., Gajanan has



died in the year 2020. Due to plaintiff going to other village the defendant was installed the Vermicelli [Savige] Machine in the suit property for her livelihood. The plaintiff has removed the machine and shed of the defendant in the year 2021 and residing in the suit property.

21. The PW-3 in his cross examination has deposed that, the suit property is in possession of the defendant from last 4 to 5 months. The suit property is situated at a distance of 100 feet from his house. The Criminal case is registered against the plaintiff for illegally removing the shed of the defendant.

22. The Ex.P-1 is the house tax demand register extract of the year 2021-2022. From the said document it appears that, the suit property bearing number 2/143 is standing in the name of the plaintiff.



23. The Ex.P-2 is the tax paid receipt dated 07-08-2021. From the said document it appears that the plaintiff has paid tax to the suit property on 07-08-2021.

24. The Ex.P-3 is the endorsement given by the PDO dated 28-03-2022. From the said document it appears that, the property bearing No-08/42 was standing in the name of one Gajanan S/o Vithal Dindure and the same was mutated in the name of the defendant on 13-08-2020.

25. The DW-1 in her cross examination has deposed that, her daughter Mahadevi is residing in the Mannur village at her husband's house. The property bearing number 8-43 was standing in the name of her husband.

26. The Ex.D-1 is the residence certificate issued by the revenue department on 11-09-2014. From the said document



it appears that, the defendant is residing in Mannur village from 38 years.

27. The Ex.D-2 is the family tree certificate issued on 20-06-2020. From the said document it appears the Ningappa is having wife by name Chandrabaga and sons by name Gajanan and Hanumanth and daughter by name Nagabai.

28. The Ex.D-3 is the family tree certificate dated 19-06-2020. From the said document it appears that the Gajanan, Hanumant, and Nagabai are shown to be the children of the Ningappa.

29. The Ex.D-4 is the application given by the defendant dated 28-07-2021. From the said document it appears that, the defendant has given application to the PDO for conducting the panchanama of the suit property.



30. The Ex.D-6 is the tax demand register extract of the year 2021-2022 of the suit property. From the said document it appears that, the suit property is standing in the name of the plaintiff.

31. The Ex.D-7 is the death certificate issued on 23-10-2020. From the said document it appears that, the husband of the defendant i.e., Gajanan is shown to be son of Chandrabaga and Ningappa Allapur.

32. The Ex.D-8 is the election identity card of the defendant issued in the year 2002. The said document shows that, the defendant is the wife of Gajanan Allapur.

33. The Ex.D-9 is the election identity card of the husband of the defendant issued in the year 1995. The said document



shows the house no-143 to the husband of the defendant in the said card.

34. The Ex.D-10 is the Aadhar card of the husband of the defendant. The said document shows that, the husband of the defendant is the son of Ningappa Allapur.

35. The Ex.D-11 is the identity card issued by the Government department to the husband of the defendant. From the said document it appears that, the husband of the defendant is shown to be the son of Ningappa. The said document was issued in the year 2018.

36. The Ex.D-12 is the ration card issued in the year 2015. From the said document it appears that, the husband of the defendant is shown to be the son of Ningappa Allapur. The



defendant is shown to be the wife of Gajanan S/o Ningappa Allapur.

37. The Ex.D-13 is the old ration card of the year 1998. The said document has recorded that, the husband of the defendant is the son of Ningappa Allapur. The name of the plaintiff and name of the daughter of the plaintiff i.e, Mahadevi are also shown in the said document.

38. The Ex.D-14 is the bank passbook of the year 2016. From the said document it appears that, the husband of the defendant is shown to be the son of Ningappa.

39. The Ex.D-19 is the certified copy of final report filed by the Afzalpur Police against the plaintiff and others. From the said document it appears that, the defendant has filed a complaint before the police reporting that, on 26-03-2022 at



4.00 PM the plaintiff and others have assaulted the defendant for leaving the house property.

40. On perusal of the materials on record it appears that, the plaintiff has filed the suit on 12-08-2021 claiming his possession over the suit property. The defendant has denied the exclusive ownership of the plaintiff to the suit property. The defendant has also denied the possession of the plaintiff over the suit property. The defendant has come up with a case that, her husband is the brother of the plaintiff and she is entitled for 1/2 share in the suit property. The plaintiff in order to prove his case has produced the Ex.P-1 a tax demand register extract issued in the year 2021-2022. The plaintiff has also produced tax paid receipt dated 07-08-2021 of the suit property. The plaintiff has also produced the endorsement issued by the PDO of the year 2022 showing that, the property bearing number 8/43 was standing in the



name of one Gajanan S/o Vithal Dindure and the same was mutated in the name of the defendant on 13-08-2020.

41. Based on the said documents the Hon'ble trial court has held that, the plaintiff is in exclusive possession over the suit property. In the present case the suit property is a house property capable of having physical possession over the same. The trial court has observed that the defendant has not claimed the relief of partition by way of counter claim and disbelieved the case of the defendant.

42. The PW-1 in his cross examination has clearly admitted that, the defendant has installed a flourmill and Vermicelli [Savige] Machine in the suit property and he has removed the same. The trial court based on the suggestion of the advocate for the defendant to the Pw-2 that the plaintiff is in possession of the suit property by removing the machine and



shed of the defendant in the year 2021 has held that the defendant is not in possession of the suit property. The trial court has also observed that the defendant has not taken any action for dispossession of her from the suit property. The trial court on considering the oral evidence about the dispossession of the defendant from the suit property by the plaintiff and on considering the Ex P-1 tax demand register extract of the suit property has decreed the suit of the plaintiff.

43. On perusal of the materials on record it appears that the plaintiff is claiming his possession over the suit property based on his title. The defendant has produced sufficient materials to doubt the exclusive ownership of the plaintiff over the suit property. Hence based on the only one document which is a tax demand register extract of the year 2021-2022 it cannot be said that the plaintiff has proved his possession



over the suit property and the plaintiff is the exclusive owner of the suit property. The materials on record are clearly creating cloud over the title of the plaintiff over the suit property. Hence on considering the case of the plaintiff it is difficult to believe the exclusive possession of the plaintiff over the suit property based on the Ex P-1 house demand register extract.

44. The plaintiff has come up with a case that the defendant is not related to the plaintiff and to the suit property. The plaintiff has come up with a case that he is in possession of the suit property from last 20 years. The materials on record are creating the serious doubt in the case of the plaintiff. The materials on record are showing that the plaintiff has dispossessed the defendant from the suit property. The plaintiff has not come up with any specific case as to when he has dispossessed the defendant from the suit property. The



police papers show the quarrel between the parties with respect to the suit property after filing the suit. The plaintiff does not show any dispossession of the defendant before filing the suit. The defendant has come up with a case of her long possession over the suit property. The Pw-1 has also admitted filing of suit for partition by the daughter of the defendant against him. Hence a serious doubt arises as to the possession of the plaintiff over the suit property as on the date of suit.

45. The dispossession of the defendant if any during the pendency of the suit by the plaintiff will not help the plaintiff to claim his possession over the suit property as on the date of suit. Hence on considering the materials on record I am of the opinion that the plaintiff has failed to prove his exclusive possession over the suit property. The claim of share in the suit property by the defendant when the plaintiff failed to



prove his exclusive possession over the suit property cannot be said to be interference to the plaintiff. The trial court appears to be based on a mere one tax demand register extract of the year of suit and on the evidence of dispossession of the defendant by the plaintiff in the year of suit has believed the case of the plaintiff. The trial court has failed to consider the materials produced by the defendant. The case of the defendant and the materials produced by the defendant are creating serious doubt in the case of the plaintiff. The conduct of the party is also important for the grant of discretionary relief. The plaintiff has not come up with any case of dispossession of the defendant in the suit. The plaintiff has come up with a case of dispossession of the defendant from the suit property in his cross examination. The case of the plaintiff is not clear as to when he has dispossessed the defendant from the suit property.



46. The materials on record are also creating a serious cloud over the title of the plaintiff. Hence under the circumstances the suit for bare injunction itself is not maintainable. Hence on considering the materials on record I am of the opinion the trial court has failed to appreciate the materials on record and wrongly believed the exclusive possession of the plaintiff over the suit property and wrongly held that the defendant has interfered with the possession of the plaintiff over the suit property. Hence I answered point no-1 and 2 in the negative.

47. On considering the materials on record and in view of my above discussions I am of the opinion that the trial court has wrongly decreed the suit of the plaintiff. The defendant has made out grounds for interference in the judgment and decree of the trial court. Hence I answered point no-3 in the negative and point no-4 in the affirmative.



48. Point No- 5 : In view of my answer to point No-1 to 4 I
proceed to pass the following :

ORDER

The appeal filed by the defendant/appellant
is hereby allowed.

The judgment and decree of the trial court
in O.S.No-77/2021 dated 13-03-2026 is hereby
set aside.

The suit of the plaintiff is hereby dismissed.

In the facts and circumstances of the case
there is no any order as to costs.

Office is hereby directed to draw decree
accordingly.



Office is hereby directed to send back the trial court records along with the copy of this judgment forthwith to the trial court.

[Vinayak Mayannavar]
Senior Civil Judge and JMFC.,
Afzalpur.



[Judgment pronounced in the Open Court vide separate sheets]

ORDER

The appeal filed by the defendant/appellant
is hereby allowed.

The judgment and decree of the trial court
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[Vinayak Mayannavar]
Senior Civil Judge and JMFC.,
Afzalpur.