



Presented on : 22-04-2016
Registered on : 22-04-2016
Decided on : 06-03-2026
Duration : 09 years, 10 months, 12 days.

IN THE COURT OF THE CIVIL JUDGE & J.M.F.C, AT CHITTAPUR

:Present:

SRI ABHISHEK RAMACHANDRA JOSHI,

B.A.L.,LL.B,

Civil Judge & JMFC, CHITTAPUR

O.S.No.43/2016

Dated this the 6th Day of MARCH- 2026

PLAINTIFF:-

Gobrya S/o Bali,
Age 50 years, Occ. Agriculture,
R/o Shivanagar, Dod Tanda, At Post Yagapur,
Tq. Chittapur, Dist. Kalabuagi.

[By Smt. M.V.L., Advocate]

V/s.

DEFENDANTS:-

1. Harishchandra S/o Limbya,
Age: 65 years, Occ: Agriculture,
R/o Shivanagar, Dod Tanda, At Post Yagapur,
Tq. Chittapur, Dist. Kalabuagi.
(Since deceased through legal representatives)
- a. Suraj S/o Harishchandra, Age: 50 years,
- b. Bolaram S/o Harishchandra, Age: 48 years.
- c. Tolaram S/o Harishchandra, Age: 46 years,
- d. Neelabai D/o Harishchandra, Age: 44 years,
(C/o Suraj S/o Harishchandra)
- e. Basawaraj S/o Harishchandra, Age: 35 years,



- f. Sulibai D/o Harishchandra, Age: 32 years
(C/o Suraj S/o Harishchandra)
All R/o Shivnagar, Dodda Tanda, At Post. Yagapur.
Tq. Chittapur, Dist. Kalaburagi.

[By Sri. G.R.V., Advocate]

Date of Institution of the suit	22.04.2016		
Nature of the Suit	Perpetual Injunction		
Date of commencement of recording of Evidence	05.10.2021		
Date on which the Judgment is pronounced	06.03.2026		
Total Duration	Year/s	Month/s	Day/s
	9	10	12

JUDGMENT

The plaintiff has filed the present suit, seeking for the relief of Perpetual injunction regarding the suit property.

SCHEDULE OF THE PROPERTY:

That, the description of the suit property is land Sy. No. 73 totally measuring 10 acre 20 guntas to the extent of 2 acres 20 guntas with R.A. of 11.09 PS situated at village Yagapur, Tq. Chittapur, bounded as under:



East : Remaining portion of same Sy. No.73.

West : Sy. No. 72 and 88.

North : Sy. No.87

South : remaining portion of same Sy. No.73

(Herein after called as suit property)

2. Antecedent facts in a nutshell are as under:

Plaintiff has filed the present suit for the relief of Perpetual injunction, claiming that he is the owner in possession of suit property. The defendant is the owner of Sy. No. 88/5 and hence he is no where concerned with suit property. In spite of such fact as the property of defendant is situated towards the western side of suit property, the defendant is trying to dismantle the wall situated between the suit property and property of defendant. The plaintiff requested the defendant not to dismantle such wall, but defendant No.1 claiming that, some portion of his land is situated beyond such wall, is trying to dismantle it. When, the defendant did not heed to the request of plaintiff, the members of the community interfere and stopped defendant from doing illegal act. However, there is still an apprehension that, the defendant will try to illegally dismantle the wall and hence, the present suit is filed.

3. Per contra, defendant appeared before the court through his counsel and filed his written statement. In their written statement the defendant has denied the contention taken by the plaintiff. The defendant denies the description of suit property, ownership of plaintiff over suit property and existence of any wall in suit property. The defendant specifically contended that, the plaintiff by filing the



present suit intends to raise boundary dispute with regard to the properties of plaintiff and defendant. Such dispute cannot be decided by this court. The defendant specifically states that, the plaintiff had to approach under land revenue act and this court has no jurisdiction to entertain the present suit. Accordingly, defendant sought for dismissing the present suit.

4. Heard, both sides.

5. On the basis of the above pleadings, the following Issues arise for my consideration:

ISSUES

1. Whether the plaintiff proves that, he is in possession and enjoyment of the suit property as on the date of suit?
2. Whether the plaintiff further proves that, the defendant is interfering to remove the wall, which is of 100 years old and thereby causing interference into the peaceful possession and enjoyment of the suit property by the plaintiff?
3. Whether the defendant proves that, this court has no jurisdiction to entertain the present suit in view of remedy provided under Land Revenue Act?
4. Whether the plaintiff is entitle for the relief as sought for?
5. What order or decree?

6. Plaintiff in order to prove his case, examined himself as PW-1, and one independent witness is examined as PW-2. Ex. P-1 to P-5 documents are marked in the evidence of plaintiff. Defendant has examined himself as DW-1, but before he could be cross-examined, he has expired and hence his son who had come on record as his LR, is examined as DW-2. Ex. D-1 to D-14 are marked in his evidence



and Ex. D-15 is marked through confrontation to DW-2. All the witnesses are cross-examined by respective parties.

7. My findings on the above raised issues are as under:

8. My findings to the above issues are as follows:-

Issue No.1:-	In the negative.
Issue No.2:-	In the Negative .
Issue No.3:-	In the negative.
Issue No.4:-	In the negative.
Issue No.5:-	As per final order for the following...

:REASONS:

9. **Issue No.1:** It is the case of the plaintiff that, that he is the owner in possession of suit property as on the date of the suit and defendant is trying to interfere in his possession over suit property. In order to prove his case, plaintiff filed his affidavit evidence in lieu of chief-examination. He is examined as PW-1. He has reiterated the contention taken by him in the suit. In his evidence he got marked 5 documents at Ex. P-1 to P-5 and Ex. P-15 is marked through confrontation through DW-2. Ex. P-1 and P-2 are the RTC extracts of suit property and Sy. No. 88/5, which shows that, plaintiff was the holder in possession of 2 acres 20 guntas of land in Sy. No. 73 along with 6 other holders and Sy. No. 88/5 belongs to deceased defendant being the holder in possession. Ex. P-3 and P-4 are the photographs of suit property and Ex. P-5 is its CD. Ex.D-15 is the photograph admitted by DW-2 in his cross-examination by plaintiff. One independent witness



is examined by plaintiff as PW-2. Both the witnesses are cross-examined by advocate for defendant.

9.1 Per contra, deceased defendant during his lifetime filed his affidavit evidence in lieu of chief-examination. Ex. D-1 to D-14 were marked in his evidence. Before he could be cross-examined by advocate for plaintiff, he expired, hence defendant No.1(c) has filed his affidavit evidence in lieu of chief-examination and he is examined as DW-2. DW-2 has adopted the documents marked in the evidence of DW-1 and he is also cross-examined by advocate for plaintiff.

10. I have carefully perused the materials available on record and arguments canvassed by respective parties. Under the present issue, the plaintiff has to prove that he is in lawful possession and enjoyment over suit property as on the date of filing of the suit. The plaintiff in order to prove such fact, has examined himself as PW-1 and has reiterated his contention taken in his plaint. In this case, there is no dispute that defendants are not concerned with suit property. The only dispute in this case is with regard to identification of suit property. The plaintiff in order to prove his possession over suit property, is mainly relying upon the RTC extracts of suit property. On perusal of the same, it is clear that, the plaintiff along with 6 other persons are shown as holders in possession over respective properties. The plaintiff is shown to have possession over 2 acres 20 guntas of land in Sy. No. 73. However there is no document on record to show any division between the other holders of Sy. No.73. Hence, burden is on the plaintiff to show that, he is in possession over suit property as shown in the plaint. The plaintiff while describing the suit property has not given how he has come in possession of such property. As there is no division in Sy. No.73, the possession of plaintiff has to be considered on the basis of boundaries shown in plaint.



10.1 Now let me examine the boundaries shown by the plaintiff with regard to suit property. The suit property is described that, Sy. No. 73 measuring 2 acres 20 guntas out of 10 acres 29 guntas. The plaintiff has described that to the east of the suit property the remaining portion of Sy. No. 73 is situated, to the west Sy. No. 72 and 88 is situated, to the north Sy. No.87 and to the south Sy. No. 73 is situated. Along with the description the plaintiff has produced the hand sketch showing the exact location of suit property. The defendants deny the description shown in the plaint. The defendants are specifically contending that, there is no wall situated between the suit property and Sy. No. 88/5 and hence the plaintiff is not entitled for any relief. When PW-1 and PW-2 were cross-examined regarding the description of suit property, both the witnesses have deposed contrary to the map produced by the plaintiff. The PW-1 in his cross-examination has stated that, towards the east of suit property his remaining area is situated, towards the west property of Harischandra is situated, towards the north he does not know whose property is situated and towards to south remaining portion of Sy. No. 73 is situated. On the other hand PW-2 states that, towards the east of suit property Tanda is situated, towards the west Sy. No. 73 is situated, towards the north Sy. No. 82, 83 and Tanda is situated towards the south the property of defendants is situated. These admissions given by PW-1 and PW-2 are contrary to the contention of plaintiff. As the description given in the oral evidence are contrary to the description given in the plaint and as there is no bifurcation or division in Sy. No.73, the only oral evidence of PW-1 and PW-2 is not sufficient to prove description of suit property. The plaintiff in that situation had to take further action to prove his description. However, plaintiff has failed to do so. On the contrary the defendants have produced Ex.D-1 and D-2 which shows that, there is division in Sy. No. 88 and Sy. No. 88/5 has fallen to the share of defendants. As per



the map, the Sy.No. 88/5 is not abutting to Sy. No. 73. It is Sy. No. 88/6 standing in the name of Surjya which is the property abutting the Sy. No. 73./; Hence there is no question of any wall being situated between the suit property and Sy. No. 88/5. Hence, It is clear that, the plaintiff has failed to prove the location and identification of suit property. Accordingly, this court answers issue No.1 in the negative.

11. Issue No.2: Under the present issue the dispute is with regard interference by defendants to the peaceful possession and enjoyment of suit property by the plaintiff. The main contention between the parties is the allegation that defendants are trying to remove the wall which situated between the suit property and the property of defendant. However as discussed on issued No.1 the plaintiff has failed to prove the identity of suit property and also failed to prove the possession of plaintiff over suit property. When the plaintiff has failed to prove both identity and possession over suit property the question of interference does not arise. Accordingly issue NO.2 is answered in negative.

12. Issue No.3: The defendant in their defense have contended that, this court has no jurisdiction to entertain the present suit as per the bar provided under land revenue act. The defendants are contending that, as per Sec. 61 of Karnataka Land Revenue Act, any dispute regarding the boundary of agricultural property, is under domain of Karnataka Land Revenue Act. Sec. 61 provides that, if the dispute is under the domain Karnataka Land Revenue Act, the civil court jurisdiction is barred. Hence, defendants are contending that, the present suit is not maintainable before this court. I have perused the relevant provisions of Karnataka Land Revenue Act. Even though there is bar u/s 61 of Karnataka Land Revenue Act, Sec. 62 provides for exceptions. Under Sec. 62(b) of the said act it is



stated that, if suit between parties is for establishing any private right, the civil court has jurisdiction. In the present case also the plaintiff is not just seeking relief regarding boundary, but is claiming such relief based on private right. Hence, the bar provided under section 61 of the said act is not applicable to the case on hand. Accordingly, this court is of the opinion that, the suit is maintainable before this court. Hence, the present issue is answered in the negative.

13. **Issue No.4:** As per the discussions made of issue No.1 and 2, it is clear that, plaintiff has failed to prove his possession and enjoyment over suit property and has failed to prove interference by defendants. That being the case plaintiff is not entitled for the relief of injunction sought by him. Accordingly, the present issue is answered in the negative.

15. **Issue No.5:** In view of the discussions made on issue No. 1 to 4, I proceed to pass the following:

ORDER

Suit filed by the plaintiff is hereby dismissed.

Draw decree accordingly,

No order as to cost.

(Dictated to the Typist-Copyist, transcribed by him, the transcript corrected by me and then pronounced in the open court on this the 6th day of March 2026)

(SRI ABHISHEK RAMACHANDRA JOSHI,)

CIVIL JUDGE & JMFC., CHITTAPUR.



:ANNEXURE:

List of witnesses examined for plaintiff:

- PW-1 : Gobrya S/o Bali.
PW-2 : Megnath S/o Harishchandra.

List of documents marked on behalf of plaintiff:

- Ex.P.1 : RTC 2 Nos.
Ex. P.3 &43 : Photos 2 Nos.
Ex. P.5 : C.D. related to photographs.

List of witnesses examined on behalf of defendants:

- DW-1 : Harishchandra S/o Limbya.
DW-2 : Talaram S/o Late. Harishchandra.

List of documents marked on behalf of defendants:

- Ex. D.1 : Certified copy of map.
Ex. D.2 : Certified copy of Form No. 10.
Ex. D.3 : Certified copy of notice.
Ex. D.4 : Certified copy of statement.
Ex. D.5 : Certified copy of FIR.
Ex. D.6 to D.13: RTCs 8 nos.
Ex. D.14 : One village map.
Ex. D.15 : One Photo.

Civil Judge & JMFC., Chittapur

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