

IN THE COURT OF CIVIL JUDGE & JMFC., JEWARGI  
AT: JEWARGI

Present : Shri.D.RAMESH, B.AL., LL.B.,  
Civil Judge & J.M.F.C., Jewargi

DATED:THIS THE 25<sup>th</sup> DAY OF NOVEMBER, 2021

O.S.No.48/2021

**Plaintiff:** Manjula W/o Naganna Sutar  
D/o Vithal Rao,  
Aged about : 34years,  
Occ: Agriculture and Household,  
R/o Janiwar, Tq: Jewargi,  
Dist: Kalaburagi.

**(By Sri. J.V.H., Adv.)**

**V/s**

**Defendant:** Shantamma  
W/o Shivappa Bachimathi,  
Aged about : 52 years,  
Occ: Agriculture and Household,  
R/o Janiwar, Tq: Jewargi,  
Dist: Kalaburagi.

**(By Sri. R.B.B., Adv.)**

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Date of institution of the suit : 24.06.2021

Nature of the suit : Declaration and Permanent  
Injunction

Date of the commencement of  
Recording of the evidence. : 27.08.2021

Date on which the Judgment  
was pronounced. : 25.11.2021

Total Duration : Year/s Month/s Day/s  
-00- -05- -01-

Civil Judge & J.M.F.C.,  
Jewargi.

### J U D G M E N T

The plaintiff has filed the suit against the defendant for the relief of declaration and permanent injunction in respect of suit schedule property.

#### **2. The brief averments of the plaint are as follows:-**

That, the plaintiff is the absolute owner and in possession of suit property as she purchased through registered sale deed bearing document No.3432/2017-18 dated 25-07-2017 for valuable consideration amount. The name of plaintiff is mutated and corresponding entries have been taken place in the ROR. The defendant was the earlier owner of the suit property and she had sold it for her family and legal necessity to the plaintiff, and she had put the plaintiff in possession of the suit property. The plaintiff is in peaceful possession and enjoyment of the suit property as its absolute owner. The defendant has no right in any manner whatsoever after selling the suit property to the plaintiff. The defendant without having any right, title or interest is bent upon to deny the title of the plaintiff, and trying to interfere into possession and enjoyment of the plaintiff. The defendant actually came upon the suit property on 20-05-

2021 and try to interfere into possession and enjoyment of the plaintiff over the suit property and denied the title of plaintiff. However the plaintiff succeeded in resisting the illegal interference of the defendant with the aid of neighbors. The defendant went away saying that she will come back along with her supporters and threatened to disposes the plaintiff. Hence, the plaintiff constrained to file this suit.

3. The cause of action arose for the suit on 20-05-2021 when the defendant denied the title of plaintiff and try to interfere into possession of plaintiff over the suit property.

4. In pursuance of suit summons the defendant appeared through her counsel but not file written statement.

5. In order to prove the case of plaintiff, herself examined as PW1 and got marked 3 documents at Ex.P.1 to 3.

6. Heard the arguments on behalf of plaintiff, perused the records.

7. The points that arise for my consideration are:-

1. Whether the plaintiff proves that, she is the absolute owner and in possession of suit schedule property?
2. Whether the plaintiff proves that, the alleged interference by the defendant over the suit schedule property?
3. Whether the plaintiff is entitled for the relief sought for?

4. What order or decree?

8. I answer the above points 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.**

### R E A S O N S

9. Point No.1 : It is the case of the plaintiff that the defendant was the earlier owner of the suit property and she had sold it in favour of plaintiff under registered sale deed dated 25-07-2017. Accordingly the plaintiff is absolute owner and in peaceful possession and enjoyment of the suit property. The defendant has no right in any manner whatsoever after selling the suit property to the plaintiff. The defendant came upon the suit property on 20-05-2021 and tried to interfere into possession and enjoyment of the plaintiff over the suit property and denied the title of plaintiff. However the plaintiff succeeded in resisting the illegal interference of the defendant with the aid of neighbors.

10. In order to prove the case of the plaintiff, herself examined as PW.1 by way of affidavit and reiterated the averments of plaint and got marked the documents at EX.P1 to 3. The EX.P.1 is the original sale deed dated 25-07-2017, EX.P.2 is the RTC for the year 2020-2021, EX.P.3 is the mutation extract MR.No.H10/2018-19.

11. I have carefully gone through the EX.P.1 to 3. The EX.P.1 is the sale deed dated 25-07-2017. It shows that the defendant herein has sold the suit schedule property in favour plaintiff for valuable sale consideration amount of Rs.3,62,000/-, and she has handed over the possession of suit schedule property in favour of plaintiff on the date of sale deed itself. Further the EX.P.3 mutation extract MR.No.H10/2018-19 shows that the katha of the suit schedule property has been transferred in the name of plaintiff based on above said sale deed. The EX.P.3 RTC shows the name of the plaintiff as owner and possessor. The documents produced by the plaintiff clearly established that the plaintiff is absolute owner and in possession of the suit schedule property from the date of its sale. As noted above though the defendant appeared through her counsel did not file the written statement and not challenged the case of plaintiff. Therefore oral and documentary evidence of plaintiff is unchallenged, hence there is no impediment to disbelieve the oral and documentary evidence of the plaintiff. Therefore as discussed above the documents produced by the plaintiff proves that she is the absolute owner and in possession of the suit schedule property. Accordingly I answered the Point No.1 in the Affirmative.

12. **Point No.2:-** It is the contention of the plaintiff that the defendant made illegal attempts to interfere in to suit schedule property on 20-05-2021 and also denied the title of the plaintiff over the suit property. As discussed above the oral and documentary evidence of

plaintiff are unchallenged. Hence I am of the opinion that the plaintiff has prove the interference and denial of title by the defendant. Accordingly I answered the Point No.2 in the Affirmative.

13. Point No.3:- As above discussed in the point No.1 and 2, the plaintiff proved her title and possession over the suit schedule property, and interference by the defendant as alleged in the plaint. Main object of the issuance of injunction is to protect the lawful possession of party and avoid damage to property. In this case, plaintiff has proved her title and possession and interference. It is fit case for issuance of declaratory relief and injunction in order to protect possession of the plaintiff over the suit schedule property. Hence, I am of the opinion that, the plaintiff is entitle the relief sought for. Accordingly I answer the point No.3 in the Affirmative.

14. Point No.4:- In view of my findings on the above points, I proceed to pass the following;

### ORDER

The suit of the plaintiff is hereby decreed with cost.

It is declared that the plaintiff is the absolute owner and in possession of the suit schedule property.

Further the defendant or any person claiming through her are hereby restrained from interfering into peaceful possession and enjoyment of the plaintiff over the suit schedule property by way of permanent injunction.

Draw decree accordingly.

(Dictated to the Stenographer directly on Computer corrected and then pronounced by me in the open court on the 25<sup>th</sup> day of November-2021.)

(D.RAMESH)  
Civil Judge & J.M.F.C,  
Jewargi.

### ANNEXURES

**Witnesses examined for the plaintiff:**

PW1 - Manjula W/o Naganna Sutar.

**Documents exhibited by the plaintiff:**

Ex.P.1 - Original Sale deed.

Ex.P.2 - RTC.

Ex.P.3 - Mutation extract.

**Witnesses examined for the defendant:**

- NIL -

**Documents exhibited by the defendant:**

- NIL -

(D.RAMESH)  
Civil Judge & J.M.F.C,  
Jewargi.