



**IN THE COURT OF THE III-ADDITIONAL DISTRICT AND
SESSIONS JUDGE, KOLAR
(SITTING AT KGF)**

: PRESENT :

SHRI. SHIVAKUMARA. B.

B.A., LL.B.

III-Addl. District & Session Judge, Kolar
(Sitting at KGF)

Dated this 9th day of July-2026

R.A. No.119/2024

APPELLANT/S:

Sri. R. Gopal Reddy

@ Gopalkrishna Reddy,

S/o. Ramareddy,

Aged about 58 years,

R/at. Mardhagatta Village,

Kyasamballi Hobli,

KGF Taluk, Kolar District.

(Plaintiff in O.S. No.13/2019)

(Rep. By: **Sri. K.C.N. Adv.**)

- V/s -

RESPONDENT/S:

Smt. Nagarathnamma,

W/o. Srinivas Reddy,

Aged about 58 years,

R/at. Mardhagatta Village,

Kyasamballi Hobli,

KGF Taluk, Kolar District.

(Defendant in O.S. No.13/2019)

(Rep. By – **Sri. N.S. Adv.**)



Date & nature of the decree or order appealed against.	The judgment and decree passed in O.S. No.13/2019 dated: 12.01.2024 by the Learned II-Addl Civil Judge & JMFC at KGF.		
Date of institution of the appeal	21.01.2024		
Date of Judgment	09.07.2026		
Duration of the appeal	Year/s	Month/s	Day/s
	02	06	18

JUDGMENT

This Regular Appeal is filed under Order 41 Rule 1 R/w. Section.96 of CPC, by the appellant/plaintiff challenging the legality and correctness of the impugned judgment and decree passed in O.S. No.13/2019 dated: 12.01.2024 on the file of the Learned II-Addl. Civil Judge & JMFC at KGF.

2. The appellant was plaintiff and respondent was the defendant before the trial court. I would like to refer the parties to their ranks, which they held in the trial court.

3. **The brief facts of the case of plaintiff before the trial court are that:**



The plaintiff is absolute owner in peaceful possession and enjoyment of the suit schedule property bearing Sy. No.152 measuring 0.39 guntas situated at Mardhagatta Village, Kyasamballi Hobli, Bangarpet taluk. The plaintiff had acquired the suit schedule property from his father through a partition deed vide M.T. No.5/1998-99 to an extent of 0.39 guntas out of 2 acres 0.20 guntas. The father of the plaintiff Rama Reddy S/o. Gantla Reddy had purchased the entire extent of 2 acres 20 gunta under a registered sale deed vide M.T. No.6/1972-73. Later on, the said property measuring 2 acres 20 guntas was divided and partitioned amongst the join family members and in the said partition, the plaintiff was allotted the suit schedule property measuring 0.39 guntas in Sy. No.152 of Mardhagatta village. The younger son of his father by name Shankar Narayana Reddy was allotted 0.39 guntas and father of the plaintiff Ramareddy had retained the remaining 0.22 guntas of land in the said entire extent of 2 acres 20 guntas. Subsequently, the said 0.22 guntas of land was transferred to the name of mother of the plaintiff by name Smt. Munivenkatamma. Therefore, by virtue of the said partition, the plaintiff became absolute owner in peaceful possession and enjoyment of the suit schedule property by cultivating the same. In the suit schedule property, he used to grow



vegetables and mulberry by digging borewell which is also consisting of different trees like eucalyptus, neem and honge trees.

4. It is further averred that the defendant who has no any manner of right, title, possession over the suit schedule property, illegally trying to interfere and encroaching towards eastern side of the suit schedule property. The defendant is also trying to cut and remove the existing trees in the boundaries of the suit schedule property by joining hands with 3rd party. Accordingly, the defendant is trying to interfere and dispossess the plaintiff from the suit schedule property. In this regard, the plaintiff also approached the jurisdictional police, but, he was advised by the police to approach the civil court as the matter is civil in nature. Hence, the plaintiff has filed the suit seeking the relief of Permanent Injunction against the defendant.

5. **Per-contra**, the defendant has entered appearance before the trial court through her counsel and filed written statement by denying the entire averments of the plaint. It is contended that the defendant is owner in possession of written statement schedule property. She had acquired the said property under a



registered gift deed dated: 17.02.2014 from Munemma W/o. Narayana Reddy. The defendant is daughter of younger sister of the said Munemma. The written statement schedule property is measuring 1 acre 32 guntas including 0.02 guntas of kharab. The said kharab is shown as pathway in the survey sketch. By virtue of the said gift deed, the defendant is in possession and enjoyment of the written statement schedule property. The donor of the defendant Smt. Munemma had purchased an extent of 3 acres 25 guntas in Sy. No.152 under a registered sale deed dated: 10.07.1964 from one R.S. Narayana Rao and others. The said Narayana Rao had purchased the said entire survey number property under registered sale deed dated: 04.06.1946 from R.N. Seetharamaiah. Out of the entire extent of 3 acres 25 guntas purchased by said Munemma, she had gifted 1 acre 32 guntas in favour of defendant under the said registered gift deed dated: 17.02.2014. By virtue of the said gift deed, khata was effected in the name of the defendant vide M.R. No.H5/2013-14. There are mango trees planted by the defendant in the written statement schedule property to an extent of 1.00 acre and in the remaining land, there are eucalyptus trees. Therefore, there is no cultivable land in the written statement schedule property belongs to the defendant. The entire land of



the plaintiff is under cultivation and there are no any trees in the said land. The plaintiff is raising crops with the help of borewell water dug in the said land.

6. It is further contended that Sy. No.152 was totally measuring 6.00 acres 0.05 guntas including 0.05 guntas of kharab. The said land was phoded into three sub numbers and the land of the plaintiff's father Ramareddy was assigned as Sy. No.152/1 measuring 2.00 acres 0.21 guntas including 0.01 gunta kharab, the land of the defendant was assigned as Sy. No.152/2 measuring 1.00 acre 0.32 guntas including 0.02 guntas of kharab land and the land of Basi Reddy was assigned as Sy. No.152/3 measuring 1.00 acre 0.33 guntas including 0.5 guntas of kharab. As per the phodi proceedings, RTC was also entered in the name of respective parties. Out of the land in Sy. No.152/1, the plaintiff is claiming an extent of land measuring 0.39 guntas. But, the defendant has no dispute over the alleged 0.39 guntas of land belonging to the plaintiff. But, there are no any trees in the suit schedule property measuring 0.39 guntas and the trees are existing in the written statement schedule property bearing Sy. No.152/2 belongs to the defendant. Therefore, the plaintiff is illegally making claim for the said trees belonging to the defendant.



Even, this defendant has no objection for appointment of Court Commissioner/ Surveyor to measure the lands of the parties and to de-note the existence of the said trees. There are no bonafide claim of the plaintiff for the above said trees which are existing and standing in the land of the defendant only. There was legal necessity for the defendant to cut and remove the eucalyptus trees to perform the marriage of her son Govardhan Reddy and at the said stage, the plaintiff has filed the suit and obtained exparte temporary order of injunction. The plaintiff is not in the possession of the said trees which are belonging to the defendant. Except the above said contentions, rest of the plaint averments are denied by this defendant in toto and prayed for dismissal of the suit.

7. On the basis of the above said pleadings, the Trial Court has framed the following:

ISSUES

1. Whether the plaintiff proves that he is in peaceful possession and enjoyment of the suit schedule property as on the date of the suit?
2. Whether the plaintiff proves the alleged interference by the defendant over the suit schedule property?



3. Whether the plaintiff is entitled for the relief of Permanent Injunction as prayed for?
4. What order or decree?
8. The learned Trial Judge after hearing the arguments on both sides, considering the materials and evidence available on record, answered Issue No.1 to 3 are in the Negative and Issue No.4 as per the final order and dismissed the suit of the plaintiff.
9. Being aggrieved by the judgment and decree, the appellant/plaintiff has preferred this Regular Appeal.
10. The Learned counsel for the appellant assailed the judgment and decree of the trial court on the following:

GROUND

1. The impugned judgment and decree passed by the trial court is not maintainable either on facts and circumstance of the case.
2. The trial court has drawn adverse inference against the appellant by answering Issue No.1 to 3 in the Negative and wrongly passed the judgment and decree which is one sided and also against to the principles of natural justice.



3. The impugned judgment and decree passed by the trial court is illegal, unlawful, capricious, arbitrary, frivolous and the same is not based on the sound principles of law.

4. The reasons given by the trial court are not proper and the same are untenable and baseless which neither supported by the material on record, nor on the pleadings and probabilities of the case.

5. The trial court has not applied its mind while passing the erroneous judgment and decree and it has misunderstood and misinterpreted the documentary evidence of the appellant and caused miscarriage of justice.

6. The trial court has given much importance to the documentary evidence of the respondent and passed the erroneous judgment and decree.

7. The trial court has not appreciated the material and evidence which are available on record and erroneously passed the judgment and decree which is liable to be set-aside by this court.

Hence, it is prayed to allow the appeal filed by the appellant/plaintiff by setting aside the impugned judgment and decree passed in O.S. No.13/2019 dated: 12.01.2024 on the file of the Learned II-Addl. Civil Judge & JMFC at KGF.

11. Heard arguments of both the learned counsels for the parties and perused the materials available on record.



12. The points that arise for my consideration are as follows:

POINTS

1. Whether the trial court has erred in dismissing the suit of the plaintiff/appellant with respect to the suit schedule property without properly appreciating the evidence and material available on record?

2. Whether the impugned judgment and decree of the trial court calls for any interference at the hands of the court?

3. What order?

13. My answer to the above points are as follows:

Point No.1: In the **Negative**

Point No.2: In the **Negative**

Point No.3: As per the **final order** for the following:

REASONS

14. **POINT No.1 & 2**: Since, these two points are interlinked with each other and to avoid repetition of facts, they are taken up together for discussion.

I have secured the records of the trial court and gone through the pleadings of the parties, issues, both oral and



documentary evidence adduced by the parties and also judgment and decree of the trial court.

15. In order to prove its case, the plaintiff got examined himself as PW.1 and reiterated the entire plaint averments in his affidavit filed in lieu of examination-in-chief. In support of his oral evidence, PW.1 has produced RTC extracts as per Ex.P1 to P11, Encumbrance certificate as per Ex.P12, certified copy of Akarbund as per Ex.P13 and Hissa Tippani as per Ex.P14 and also one photograph as per Ex.P15 respectively.

16. On the other hand, GPA holder of the defendant by name M.N. Srinivasa Reddy got examined as DW.1 and reiterated the written statement averments in his affidavit filed in lieu of examination-in-chief. In support of his oral evidence, he has produced GPA as per Ex.D5, original registered sale deed dated: 17.02.2014 as per Ex.D6, certified copy of sale deed dated: 10.07.1964 as per Ex.D7 and certified copy of another sale deed dated: 04.06.1946 as per Ex.D8, RTC extracts as per Ex.D9 and D10, certified copy of M.R. extract as per Ex.D11, Encumbrance certificate as per Ex.D12, Patta receipt book as per Ex.D13, Hissa Tippani as per Ex.D14 and Akarbund as per Ex.D15 respectively.



17. As discussed above, it is definite case of the plaintiff that he is absolute owner in possession and enjoyment of the suit schedule property; he acquired the suit schedule property measuring 0.39 guntas under registered partition deed vide M.T. No.5/1998-99 taken place amongst his family members including his father and by virtue of the said partition deed, the plaintiff is in peaceful possession and enjoyment of the said property as absolute owner thereof. According to the version of plaintiff, originally his father had purchased total extent of 2.00 acres 0.20 guntas under registered sale deed in the year 1972-73 and out of which, the plaintiff was allotted 0.39 guntas of land in the said partition. Another version of the plaintiff is that the defendant who has no any manner of right, title, possession over the suit schedule property, she has illegally trying to interfere and also trying to cut and remove the existing trees situated in the boundaries of the suit schedule property. Therefore, the plaintiff has filed the suit seeking the relief of Permanent Injunction.

18. On the other hand, it is not disputed by the defendant that plaintiff is owner in possession and enjoyment of the suit schedule property. The defendant is also owner in possession and enjoyment of the written statement schedule property



measuring 1.00 acre 0.32 guntas in Sy. No.152 which was acquired by her under a registered Gift deed dated: 17.02.2014 as per Ex.D1 executed by one Munemma; according to the version of the defendant and evidence of DW.1, the said Munemma was the original owner of written statement schedule property as she had purchased total extent of 3.00 acres 0.25 guntas in Sy. No.152 under a registered sale deed as per Ex.D7 from R.S. Narayana Rao and others. The said R.S. Narayana Rao i.e., vendor of the said Munemma had purchased the said entire survey number property under a registered sale deed dated: 04.06.1946 as per Ex.D8 from one R.N. Seetharamaiah. Out of the said entire extent of 3.00 acres 0.25 guntas purchased by the said Munemma, she had gifted 1.00 acre 0.32 guntas in favour of this defendant under a registered gift deed dated: 17.02.2014 which is described as written statement schedule property. Therefore, it is admitted by the defendant that the plaintiff is in possession and enjoyment of the suit schedule property. But, the defendant has very seriously disputed with respect to existence of eucalyptus trees and other trees i.e., neem and honge trees within the boundaries of the suit schedule property as claimed by the plaintiff.



19. The learned counsel for the appellant would submit that in order to prove the existence of above said trees, the plaintiff has produced RTC extracts in which, there is mentioning eucalyptus, neem and honge trees in the suit schedule property. On going through the documentary evidence produced by the plaintiff/PW.1, Ex.P1 to P11 are RTC extracts. On careful perusal of Ex.P1 RTC extract for the assessment year 2018-19, Ex.P2 RTC extract for the assessment year 2010-11, Ex.P5 RTC extract for the assessment year 2018-19, Ex.P6 RTC extract for the assessment year 1991-92 to 1992-93, Ex.P7 RTC extract for the assessment year 1986-87 to 1987-88, Ex.P8 RTC extract for the assessment year 1976-77 to 1980-81, Ex.P10 RTC extract for the assessment year 1965-66 to 1969-70 and Ex.P11 RTC extract for the assessment year 1970-71 to 1975-76, at column No.7 regarding trees, there are no entries in respect of eucalyptus, neem and honge trees; whereas, at Ex.P3 RTC extract for the assessment year 1991-92 and Ex.P9 RTC extract for the assessment year 1976-77 to 1980-81 at column No.7, the existence of trees are mentioned therein.

20. It is significant to note that on careful perusal of Ex.P3 RTC which is handwritten document and at column No.7 i.e.,



number of trees, it is mentioned that there are 5 honge trees and 20 eucalyptus trees and 10 coconut trees. Even at Ex.P9 RTC extract which is also in handwritten in which, it is mentioned as 5 honge trees, 20 eucalyptus trees and 10 coconut trees. Except Ex.P3 and Ex.P9 RTC extracts, in none of the RTC extracts i.e., Ex.P1, P2, P4 to P8, P10 and P11, there are no any entries in respect of existence of the above said trees at column No.7 of the said RTC extracts. Hence, it is made clear that Ex.P3 RTC extract for the year 1991-92 and Ex.P9 RTC extract for the year 1976-77 to 1980-81, there is mentioning of said trees.

21. It is significant to note that according to the version of the PW.1/plaintiff, there are existing of eucalyptus, neem and honge trees. But, in none of the RTC extracts including Ex.P3 and P9 RTC extracts, the existence of neem trees are not found a place or mentioned therein. But, it is only mentioned regarding honge trees, eucalyptus trees and number of 10 coconut trees. Whereas, it is the case of the plaintiff that the defendant is trying to cut and remove the said existing eucalyptus, honge and neem trees; but, it is not the case of the plaintiff that the defendant is trying to cut and remove the coconut tree existing in the suit schedule property. Except



Ex.P3 RTC extract for the year 1991-92 and Ex.P9 RTC extract for the year 1976-77 to 1980-81, the mentioning of alleged existing trees are kept blank in the remaining RTC extracts produced by the plaintiff which are marked as Ex.P1, P2, P4 to P8, P10 and P11, which must be properly explained by the plaintiff as to why the entries of the said alleged trees are not mentioned in the said remaining RTC extracts. Admittedly, the plaintiff has filed the suit before the trial court on 04.01.2019. The burden is on the plaintiff to prove that as on the date of filing of the suit, there are existence of eucalyptus, neem and honge trees within the boundaries of the suit schedule property. But, on careful perusal of Ex.P1 and Ex.P5 RTC extracts for the assessment year 2018-19, in which, it is not mentioned about existence of above said trees in column No.7.

22. It is significant to note that the learned counsel for the defendant has thoroughly cross-examined regarding existence of trees. On going through the cross-examination of PW.1/plaintiff wherein he has stated as follows:

ನನಗೆ ಸೇರಿದ 39 ಗುಂಟೆ ಜಮೀನಲ್ಲಿ ಎಷ್ಟು ಮರಗಳು ಇರುತ್ತವೆ ಎಂದರೆ 27 ನೀಲಗಿರಿ ಮರಗಳು, 10 ತೆಂಗಿನ ಮರಗಳು, 7 ಬೇವಿನ ಮರಗಳು ಇರುತ್ತವೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ.



23. As per the above said version of PW.1/plaintiff, in the entire extent of suit schedule property measuring 0.39 guntas, there are number of 27 eucalyptus trees, 10 coconut trees and 7 neem trees; but, PW.1 has nowhere stated that there are existence of number of 5 honge trees. Whereas, at Ex.P3 and P9 RTC extracts, it is mentioned in column No.7 in respect of existence of 5 honge trees, 20 eucalyptus trees and 10 coconut trees, but, it is not mentioned either at Ex.P3 or Ex.P9 RTC extracts about existence of 27 eucalyptus trees and 7 neem trees. As already discussed above, even at Ex.P3 and P9 RTC extracts, existence of number of 7 neem trees is not at all mentioned therein. Hence, the oral evidence of PW.1 as stated in his cross-examination and also documentary evidence Ex.P3 and P9 RTC extracts that itself falsify the case of the plaintiff. It is specific case of the plaintiff that there are existence of eucalyptus trees, neem trees and honge trees and the defendant is trying to cut and remove the said trees. But, mentioning of neem trees as stated by the PW.1 during the course of cross-examination is missing. Even, as per the oral evidence of PW.1 as stated supra, there are number of 27 eucalyptus trees whereas, Ex.P3 and P9 RTC extracts in which, only number of 20 eucalyptus trees are mentioned and there is no mention of existence of neem trees.



24. It is pertinent to note that during the course of cross-examination of PW.1, the learned counsel for defendant has confronted some photographs wherein PW.1 has stated as follows:

ಸಾಕ್ಷಿಗೆ ಮತ್ತೆರಡು ಪೋಟೋಗಳನ್ನು ತೋರಿಸಲಾಗಿ, ಸದರಿ ಪೋಟೋದಲ್ಲಿರುವ ಸ್ವತ್ತು ನನಗೆ ಸೇರಿದ ಸ್ವತ್ತಾಗಿರುತ್ತದೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ನನ್ನ ಅಣ್ಣನಿಗೆ ಸೇರಿದ ಸ್ವತ್ತಾಗಿರುತ್ತದೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ಸದರಿ ಪೋಟೋವನ್ನು ನಿಡಿ.1 ಮತ್ತು 2 ಎಂದು ಗುರುತಿಸಲಾಯಿತು. ಸಾಕ್ಷಿಗೆ ಇನ್ನೊಂದು ಪೋಟೋವನ್ನು ತೋರಿಸಲಾಗಿ ಸದರಿ ಪೋಟೋದಲ್ಲಿ ಕಾಣುವ ಮಾವಿನ ಮರ ಯಾರದ್ದು ಎಂದಾಗ ಸಾಕ್ಷಿಯು ಮಾವಿನ ಮರ ಇರುವ ಸ್ವತ್ತು ನನ್ನದು ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ಸದರಿ ಪೋಟೋವನ್ನು ನಿಡಿ.3 ಎಂದು ಗುರುತಿಸಲಾಯಿತು. ಸಾಕ್ಷಿಗೆ ಈಗ ಒಂದು ಪೋಟೋವನ್ನು ತೋರಿಸಿ ಸದರಿ ಪೋಟೋದಲ್ಲಿರುವ ಮಾವಿನ ಮರಗಳು ಪ್ರತಿವಾದಿಗೆ ಸೇರಿದ್ದಾಗಿರುತ್ತವೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಹೌದು ಎಂದು ನುಡಿಯುತ್ತಾರೆ. ಸದರಿ ಪೋಟೋವನ್ನು ನಿಡಿ.4 ಎಂದು ಗುರುತಿಸಲಾಯಿತು.

25. As per the above said version of PW.7, as per Ex.D1 and D2 photographs, there is existence of suit schedule property belongs to the plaintiff and also landed property belongs to his elder brother. PW.1 has admitted Ex.D3 photograph in which, the mango trees being seen which belongs to the plaintiff himself; the plaintiff also clearly stated on seeing Ex.D4 another photograph that the existing mango trees being seen in the said photograph are belonging to the defendant.



Whereas, PW.1 has further stated in his cross-examination that to show the existence of eucalyptus trees, he has produced RTC extracts which are in handwritten marked as Ex.P3 and P9 respectively; but, at Ex.P3 and P9 RTC extracts, it is not mentioned about existence of neem trees.

26. Therefore, on combined reading of oral evidence of PW.1 i.e., examination-in-chief as well as cross-examination portion as stated supra and documentary evidence i.e., Ex.P1 to P15 which clearly reveal that the plaintiff has not proved the existence of said eucalyptus trees, honge trees and neem trees within the measurement of 0.39 guntas of the suit schedule property, by adducing cogent and convincing evidence before the court. As already discussed above, the plaintiff has not produced any documents except Ex.P1 to P14 to show that as on the date of filing of the suit, there are existence of the above said trees. Even if, Ex.P1 and P5 RTC extracts pertaining to the 2018-19 are taken into consideration for the sake of discussion, it is not mentioned about the existence of the above said trees as claimed by the plaintiff. Under these circumstance, considering the evidence of both parties, oral as well as documentary, material available on record, I am of the opinion that the trial court has come to the right conclusion



and dismissed the suit of the plaintiff. Therefore, the conclusion arrived at by the learned trial Judge and also the reasons assigned by the trial court are just and proper. There are no any irregularities or error committed by the trial court in dismissing the suit of the plaintiff. Therefore, there is no need of causing interference with the impugned judgment and decree passed by the trial court by the hands of this court. Hence, the present appeal preferred by the appellant/plaintiff is liable to be dismissed as the same is devoid of merits. In the result, I answered the above said **Point Nos.1 & 2** are in the **Negative**.

27. **POINT No.3**: In view of my findings on the above said Point Nos.1 and 2 and reasons assigned on them, I proceed to pass the following:

ORDER

The Regular Appeal preferred by the appellant under Order 41 Rule 1 R/w. Section.96 of CPC, is **Dismissed**.

The impugned judgment and decree passed in O.S. No.13/2019 dated: 12.01.2024 on the file of the Learned II-Addl. Civil Judge & JMFC at KGF, in



dismissing the suit of the plaintiff is hereby
Confirmed.

Both parties shall bear their own costs.

Draw decree accordingly.

Send back the Trial Court records along with
copy of this judgment forthwith.

*(Dictated to the stenographer, transcribed by him, revised, corrected, signed
and then pronounced by me in the open Court on this the **9th day of July-2026**)*

(SHIVAKUMARA. B.)
III-Addl. District & Session Judge,
Kolar (Sitting at KGF)