

KAKL400012852017



**IN THE COURT OF THE I-ADDL. CIVIL JUDGE & JMFC.,
AT MULBAGAL.**

DATED THIS THE 11th DAY OF AUGUST , 2026.

: PRESENT :

**Smt. ROHINI. D. B.A. LLB.,
I-Addl. Civil Judge & JMFC., Mulbagal.**

ORIGINAL SUIT NO. 245/2017

- PLAINTIFF/s : 1. Sri. Amaranarayana Raju,**
S/o Late Chikka Munivekataraju,
Aged about 38 years,
- 2. Sri.Venkatesh Raju,**
S/o Munishami Raju,
Aged about 39 years,
- 3. Sri. Munivenkatappa,**
S/o Annaiah,
Aged about 67 years,
- 4. Sri. Errappa,**
S/o Venkatappa,
Aged about 52years,
- 5. Sri. Munivenkata Raju,**
S/o Maddu Raju,
Aged about 39 years,

All are Agriculturists and
R/at Nagasandra Village,
Oorukunte Mitturu Post,
Mulbagal Taluk.

(Rep/by Advocate Sri.M.L.V.,)

V/s

- DEFENDANT/s : 1. Sri. Srinivas,**
S/o Late Bisappa,
Aged about 38 years,
- 2. Sri.Narayanappa,**
S/o Munishamy Gowda,
Aged about 55 years,
- 3. Sri. Jayanna,**
S/o Munishamy Gowda,
Aged about 45 years,

All are the R/at Nasandra
Village, Oorukunte Mittur Post,
Mulbagal Taluk.

(Rep/by Advocate Sri.K.R.R.,)

Nature of Suit	:	Permanent Injunction
Date of Institution of suit	:	08.09.2017
Date of Commencement of Evidence	:	23.01.2021
Date of closing of Evidence	:	25.12.2025

Date of Judgment pronounced	:	11.08.2026
Duration		Year/s Month/s Day/s 08 11 03

(Smt.ROHINI.D.)
I- Addl. Civil Judge & JMFC.,
Mulbagal.

//JUDGMENT//

The suit filed by plaintiffs against defendants under representative capacity for the relief of Permanent injunction in respect of the suit schedule properties and for the cost of suit.

2. The Brief case of the plaintiffs is that :-

The suit schedule properties belonged to Gopalaswami temple situated at Nagasandra Village, within the limits of Oorukunte, Mitturu Grama Panchayath, Avani Hobali, Mulabagal Taluk. The plaintiffs with a common intention to protect, preserve and safeguard the property belongs to temple filed this suit. The general public at large are having a common interest in the suit schedule properties. The suit

properties are belonging to a religious institution. The defendants, being powerful persons, created documents pertaining to the suit schedule properties colluding with the Grama Panchayath Authorities. They are trying to destroy the documents pertaining to the temple. Under the guise of created documents defendants are making hectic attempts to trespass into the suit schedule properties for the purpose of digging trenches and to put up construction in the suit schedule properties. On 30.08.2017 at about 10.00 a.m. all of a sudden defendants and their supporters came near the suit schedule properties and tried to dig trenches and to put up construction. But plaintiffs with the support of general public prevented the acts of defendants. Hence with no option the plaintiffs filed this suit in a representative capacity and prays to decree the suit.

3.(a). After issuance of summons to defendants, summons was duly served on them. Defendants have appeared before the court through their respective counsel. The defendant No.1 has filed the written statement. Defendants No.2 and 3 have

adopted the written statement filed by the defendant No.1 as their own written statement. In the written statement, they have denied the entire averments of plaint and contented that the land bearing Survey No.79/2 measuring 9 guntas, Survey No.79/3 measuring 1 acre 21 guntas, Survey No.79/4 measuring 1 acre, Survey No.79/5 measuring 18 guntas and Survey No.79/7 measuring 4 guntas in total 3 acres 15 guntas of land belongs to defendants and the same was acquired through their ancestors. The said lands stands in the name of Muniswami Gowda, son of late Thammegowda i.e., grand father of defendant No.1 and father of defendant No.2 and 3. The said items are commonly bounded on East by Pappana, Venkatesh and properties of Annaiah, West by Gopalswami temple and the land of temple inamthi, North by road and south by Gopalswami Temple. The plaintiff No.1 and his brother-in-law, namely Muniraju son of Paparaju had obstructed the possession of defendants over a pond and a thatched house situated towards western side of the said property in the year 1991. At that point of time, the father of defendant No.1/Bisappa and Mother of defendants No.2 and

3/Nanjamma have filed a suit in OS No.306/1991 against the said Muniraju son of Paparaju, in respect of a pond and thatched house existing within the said land for the relief of permanent injunction and delivery of possession. The said suit decreed on 07.09.1993 and the possession of the said property has been delivered.

3.(b). Further contended that defendants have closed the said pond and demolished the thatched house. Now existing only belada tree, which is in possession of defendants. The said measurement and boundaries comes under the gramatana. The said pond and belada tree are in possession of defendants and the same has been included into the panchayath in the name of defendant No.1 mother Seethamma measuring 29x35 feet, another bit of land in the name of B.Muniswami Gowda measuring 29x35 feet and another portion of land in the name of wife of defendant No. 1/Anitha measuring 22x12 feet, in total measuring East-West 70 feet, North-South 92 feet with stone slabs compound wall in 4 sides in which a belada tree is in possession of the defendants.

Gopal Swami Temple and adjacent to the temple towards southern side, the residential houses of archakas of temple are existing towards southern side of defendant's property. The said Muniraju married the sister of plaintiff No.1. The plaintiffs filed the present suit with the instigation of Muniraju, who was the defendant in the earlier suit by showing wrong measurement and boundaries including the pond and belada tree belongs to defendants. Without seeking the relief of declaration, the present suit for mere injunction is not maintainable. Hence prays to dismiss the suit with cost.

4. On the basis of the pleadings and documents averred by the parties, the following Issues are framed by my predecessor.

ISSUES

- 1. Whether the plaintiffs prove that the defendants are illegally putting up construction by trespassing in the suit schedule properties?**
- 2. Whether the plaintiff are entitled for the relief as prayed in the plaint ?**
- 3. What Order or Decree ?**

5. In order to prove their case, the plaintiff No.1 has examined as PW1 and got marked the documents as Exhibit P1 to Exhibit 34.

6. In order to prove their contention the defendant No.1 examined as DW1 and got marked the documents as Exhibit D1 to Exhibit D70. Two more witnesses examined as DW2 and DW3, but they have not tendered themselves for cross examination.

7. I have heard the arguments from learned counsel Sri.R.L for M.L.V for plaintiffs and Sri.K.R.R for defendants and perused the pleadings, evidence and documents placed on record.

8. In the light of the above, findings of this court on the above issues are as follows for the following reasons.

Issue No.1 : In the Negative,

Issue No.2 : In the Negative,

**Issue No.3 : As per the final order,
for the following;**

//REASONS//**9. Issues. No 1:-**

The burden to prove this issue was on plaintiffs. To discharge their onus of proof, the plaintiff No.1 himself examined as PW1 by filing an affidavit in lieu of his examination-in-chief, wherein he has reiterated the facts of plaint and same need not to be reproduced here. Apart from this he has tendered certified copies of Tax register extract as Ex.P1 to 4, certified copy of Sketch as Ex.P5, certified copy of Mahazar as Ex.P6, the letters as Ex.P7, 8, 17 and 18, Demand register and House list extracts as Ex.P9 to 16 and 19 to 28, Photos and CD as Ex.P29 to 34.

10. According to plaintiffs, the suit schedule properties belongs to Gopalswami Temple. The plaintiffs filed this suit under representative capacity with a common intention to protect, preserve and safeguard the property belongs to temple. With the help of concocted documents defendants are making hectic efforts to trespass into the suit schedule properties for the purpose of digging trenches and to construct houses. To

substantiate the same plaintiffs have produced documentary evidence as Ex.P1 to 34.

11. Item No.1:-

The item No.1 of the suit property is Sl No.105, Assessment No.52, measuring East-West 30 feet, North-South 13 feet, bounded on East by Ashvatha mara, West and North by road and South by land belongs to Temple, situated at Nagasandra Village, within the limits of Mitturu Grama Panchayath, Avani Hobli, Mulbagal Taluk. The plaintiffs stated that earlier there was a sedu bhavi, later it was closed, now it is in Item No.1 of the suit property belongs to the Temple. The defendants denied the same. Ex.P2, 3, 12, 13, 19, 20, 25 to 27 are the Demand register and House list for the year 2012-2013 and 2018-2019 pertaining to Item No.1 of the suit schedule property. These documents reveals that Sl No.105, Property No.52, measuring East-West 30 feet, North-South 13 feet, bounded on East by Ashvatha mara, West and North by road and South by land belongs to Temple, situated at Nagasandra Village, within the limits of Mitturu Grama Panchayath, Avani

Hobli, Mulbagal Taluk shown as Sedu bhavi. Ex.P1 and 2 does not specify which year it pertains to. The aforesaid documents does not reveal that the Item No.1 of the suit property belongs to the Temple.

12. Item No.2 :-

The item No.2 of the suit property is Sl No.51, Assessment No.96, measuring East-West 100 feet, North-South 105 feet consisting Gopalaswami Temple, and belada mara and Tamarind tree to an extent of East-West 12 feet, North-South 10 feet, bounded on East by Munishami Gowda and well, West by Road, North by Pond belongs to Gopasandra Muniswami and South by land belongs to Temple, situated at Nagasandra Village, within the limits of Mitturu Grama Panchayath, Avani Hobli, Mulbagal Taluk. The plaintiffs have stated that the Item No.2 of the suit schedule property belongs to Temple consisting belada mara and tamarind tree to an extent of East-West 10 feet and North-South 12 feet. The defendants denied the same and contended that a pond and belada tree belongs to them existing in their property. The plaintiff by showing wrong Measurement

and boundaries included the pond and belada tree belongs to them by showing as the Temple property.

13. Ex.P1 to 3, 14 to 16, 21 to 25 and 28 are the Demand register and House list extracts for the year 2012-2013 and 2018-2019 pertaining to Item No.2 of the suit schedule property. These documents reveals that, Sl No.51, Property No.96 measuring East-West 100 feet, North-South 105 feet, bounded on East by Munishami Gowda and well, West by Road, North by Gopasandra Muniswami Kunte and South by land belongs to Temple, situated at Nagasandra Village, within the limits of Mitturu Grama Panchayath, Avani Hobli, Mulbagal Taluk find place in the name of Gopalswami Temple. The aforesaid documents not reveals the existence of belada mara and tamarind tree to an extent of 10 x 12 feet in item No.2 of the suit property.

14. Item No. 3:-

The item No.3 of the suit property is one portion of land measuring East-West 60 feet, North-South 60 feet, another

portion of land measuring East-West 16 feet, North-South 92 feet and another portion of land measuring East-West 64 feet, North-South 112 feet, bearing common Junger No.13, bounded on East by Earlier land belongs to Nanjunda Gowda now land belongs to Krishna Raju, West by old Gramanatha, North by property belongs to Subbachari and South by earlier Gopasandra Munishami Kunte ow House property of Krishna Raju situated at Nagasandra Village, within the limits of Mitturu Grama Panchayath, Avani Hobli, Mulbagal Taluk. Ex.P4, 13, 14, 22 and 24 are Demand register and House list for the year 2012-2013 pertaining to Item No.3 of the suit schedule property. Wherein the property measuring East-West 64 feet, North-South 112 feet, bounded on East by Nanjunda Gowda, West by old Gramanatha, North by Subbachari and Nanjunda Gowda, and South by Go Muniswami Kunte, situated at Nagasandra Village, Mittur Grama Panchayath, Avani Hobali, Mulabagal Taluk find place in the name of Panchayath. In the plaint schedule, the Item No.3 shown as consisting three different portion of land measuring as 60 x 60, 16 x 92 and 64 x 112, all the said three portions are adjacent to each other and

having common boundaries. The materials on record not show the three different portions of land in Item No.3 of the suit property.

15. Per contra, defendants have taken the contention that the property bearing Sy No.79/2 measuring 9 guntas, Sy No.79/3 measuring 1 acre 21 guntas, Sy No.79/4 measuring 1 acre, Sy No.79/5 measuring 18 guntas and Sy No.79/7 measuring 4 guntas, in total 3 acres 15 guntas of land belongs to defendants and the same acquired through their ancestors. The said items have common boundaries. The brother-in-law of plaintiff namely Muniraju obstructed the possession of a pond and thatched house towards western side of the aforesaid property in the year 1991. The father of defendant No.1 and mother of defendants No.2 and 3 filed the suit in OS No.306/1991 for permanent injunction and delivery of possession. The said suit decreed and the possession has been delivered. After getting the possession defendants demolished the pond and thatched house. Only belada tree is existing towards western side which is in possession of defendants. Plaintiffs by showing wrong

measurement and boundaries included the said pond and belada tree as that of the property belongs to Temple.

16. In order to prove their contention, the defendant No.1 himself examined as DW1 by filing an affidavit in lieu of his examination-in-chief, wherein he has reiterated the facts of written statement and same need not to be reproduced here. Apart from this he has tendered photos as Ex.D1 and 2, certified copies of plaint, judgment and decree of OS No.306/1991 as Ex.D3 to 5, delivery warrant and receipt of Ex No.31/1994 as Ex.D6, House list and demand register extracts as Ex.D7 to 15, Tax paid receipts as Ex.D16 to 22, Electricity bills as Ex.D23 to 49 and Tax paid receipts as Ex.D50 to 70.

17. On going through the documentary evidence placed by defendants, Ex.D3 to 6 certified copies of Plaint, Judgment and Decree of OS No.306/1991 and delivery warrant and receipt of Execution No.31/1994. On perusal of these documents, it reveals that father of defendant No.1 Bisappa and mother of defendants No.2 and 3 Nanjamma filed the said suit in OS

No.306/1991 against Muniraju son of Paparaju, for the relief of Permanent injunction and Delivery of possession in respect of the Property bearing Sy No.79/3, measuring 1 acre 24 guntas including 3 guntas of karab, consisting IP set, a pond and thatched house towards western side situated at Nagasandra Village, Avani Hobli, Mulabagal Taluk, bounded on East by land of Neeraganti-Pappanna, West by pathway and Thoti-Inamti land, North by Gopalswami Temple and its Inam land, and South by Government Road. In the said suit, the defendant not appeared and placed exparte. The suit decreed on 07.09.1993. The plaintiffs of the aforesaid suit filed the execution petition in Ex No.31/1994. In the said execution petition, the property has been delivered on 29.08.1994.

18. The defendants contended that a pond and belada tree are in their possession and the same has been included into the panchayath in the name of defendant No.1 mother Seethamma measuring 29x35 feet, another bit of land in the name of B.Muniswami Gowda measuring 29x35 feet and another portion of land in the name of wife of defendant No. 1/Anitha

measuring 22x12 feet, in total measuring East-West 70 feet, North-South 92 feet with stone slabs compound wall in 4 sides. On perusal of the documents the Ex.D7 to 9 are House List and Demand Register for the year 2014-2015 pertaining to Sl No.16, Assessment No.227/1, House and vacant site measuring East-West 29 feet, North-South 35 feet, bounded on East by Jayanna, West by Road, North by B.Muniswami Gowda and South by Gopalswami Temple find place in the name of Seethamma wife of Bisappa. Ex.D16, 17, 67 to 70 tax paid receipts bears the name of Seethamma, which show that the tax has been paid by the said Seethamma from 2015 to 2022.

19. Ex.D10 to 12 are House list and Demand Register for the year 2014-2015 pertaining to sl No.16, Assessment No.227/1 measuring East-West 29 feet, North-South 35 feet, vacant site bounded on East by Jayanna, West and North by Road and South by Gopalswami temple find place in the name of B.Muniswami son of Bisappa. Ex.D18 to 21, 50 and 63 to 66 Tax paid receipts bears the name of B.Muniswami, which show that he has paid the tax from 2014 to 2022. Ex.P13 to 15 are

House List and Demand Register for the year 2014-2015, bearing Property No. 76, vacant site measuring East-West 22 feet, North-South 12 feet, bounded on East by Srinivas land, West by Road and Thoti inamti, North by Krishna Raja and South by B.Munishami Gowda find place in the name of Anitha. Ex.D23 to 49 are Electricity bills and Ex.D51 to 61 are tax paid receipts bears the name of Anitha which show that the said Anitha has paid the tax and electricity bills from 2018 to 2023.

20. The entire burden is on plaintiffs to prove that the suit schedule properties belongs to the Gopalswami Temple. The documentary evidence placed by plaintiffs show that the Item No.2 appeared in the name of the Temple, but there is no materials to show that it consists tamarind tree and belada tree to an extent of 10 X 12 feet in item No.2. The item No.1 appeared as Sedu Bhavi, but plaintiffs have not produced any documents to show that the Item No.1 belongs to the Temple. The Item No.3 shown as three portion of land with three different extent with common boundary. The documents show only an extent of 64 X 112 feet. The extent of three portions of

land in Item No.3 shown in the plaint schedule exceeds the extent recorded in the documents. No materials to show the three portions of land in Item No.3 as stated in the plaint schedule. More over the boundaries of item No.3 is not tallying with the boundary shown in the documents. The documentary evidence relied by plaintiffs does not show that the suit schedule properties belongs to Temple.

21. The plaintiffs have stated that on 30.08.2017 at about 10 a.m defendants and their supporters tried to dig the trenches in the suit properties and to put up construction in it, and plaintiffs with the support of general public prevented the defendants. There are three items in the suit schedule properties, plaintiffs not stated where exactly defendants are trespassed and tried to put up construction. Ex.P7, 8, 17 and 18 are Letters produced to show the interference by defendants. These documents are given by the villagers to the PDO and CEO of the Panchayath on 22.12.2016 stating that a pond is constructed in Item No.3 of the suit schedule property for the benefit of Nagasandra villagers. The defendants illegally closed

the said pond and trying to put up a fencing. In the plaint there is no pleadings that the Item No.3 of the suit property consists a pond constructed by the government for the benefit of villagers and the defendants have closed the said pond. In the absence of pleading the said documents are not helpful to plaintiffs. Therefore, plaintiffs failed to prove that the suit schedule properties belongs to Temple and also failed to prove the interference by defendants. **With these observations, this Court answered the Issue No. 1 in the NEGATIVE.**

22. Issue No.2:- In view of the findings on Issue number 1 as above, the plaintiffs are not entitled for the relief of Permanent Injunction. **Hence this Court answered Issue No. 2 in the NEGATIVE.**

23. Issue No. 3 :-

In view of the findings on Issues No. 1 and 2 as above, this Court proceeded to pass the following.

ORDER

**The suit of the plaintiffs is
hereby dismissed with cost.**

Draw decree accordingly

*(Dictated to the Adalat Ai Software and corrected, signed by me and then pronounced
in the Open Court on this the **11th DAY OF AUGUST, 2026**).*

**(Smt. ROHINI.D.)
I- Addl. Civil Judge & JMFC.,
Mulbagal.**

A N N E X U R E**The list of witnesses examined on behalf of the plaintiff/s :**

PW.1 : Sri. Amarnarayana Raju

The list of documents exhibited on behalf of plaintiff/s :

Ex.P1 to 4 : C/c of Tax register extracts
Ex.P5 : C/c of sktech
Ex.P6 : C/c of Mahagar
Ex.P7,8,17
& 18 : C/c of Letters
Ex.P9 to 16
19 to 28 : Demand register and House list
extracts
Ex.P 29 to 34 : Photos and CD

The list of witnesses examined on behalf of defendant/s :

DW.1 : B.Srinivas
DW.2 : T.Narayanappa
DW.3 : N.S.Praveen Kumar

The list of documents exhibited on behalf of defendant/s :

Ex.D1& 2	:	Photos
Ex.D3 to 5	:	C/c of Plaint, Judgment and decree in O.S.No. 31/1991
Ex.D6	:	Delivery warrant
Ex.D7to15	:	House list and demand register extracts
Ex.D16 to 22	:	Tax paid receipts
Ex.D23 to 49	:	Electricity Bills
Ex.D50 to 70	:	Tax paid receipts

(Smt. ROHINI. D.)
I-Addl. Civil Judge & JMFC.,
Mulbagal.