

KAMD210007482018



Presented on : 22-06-2018
 Registered on : 23-06-2018
 Decided on : 20-07-2026
 Duration : 8 years, 0 months, 28 days

**IN THE COURT OF THE II ADDL. CIVIL JUDGE
 AND JMFC, K.R.PETE.**

:: Present ::

SMT.PARVATHI.V., B.A., L.L.B.,
 II Addl. Civil Judge & JMFC,
 K.R.Pete.

Dated : This the 20th day of July 2026.

OS.NO.308/2018

<u>PLAINTIFF:-</u>	Sri. Shivaramgowda, S/o. Late Eregowda, Aged about 53 years, R/at. Bedadahalli Village, Kunduru Post, Santhebachalli Hobli, K.R.Pete Taluk, Mandya District. (By Sri. N.R.R., Advocate)
-V/s.-	
<u>DEFENDANTS:-</u>	1. Sri. Rajegowda, S/o. Late Eregowda, Aged about 58 years,

	2. Sri. B.R.Naveenkumar, S/o. Rajegowda, Aged about 27 years, The defendants No.1 and 2 are R/at. Bedadahalli Village, Kunduru Post, Santhebachalli Hobli, K.R.Pete Taluk, Mandya District. (By Sri. M.R.P., Advocate)
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Date of institution	22.06.2018		
Nature of the Suit	Permanent Injunction		
Date of commencement of recording evidence	16.04.2024		
Date of close of evidence	24.10.2025		
Judgment pronounced	20.07.2026		
Total duration	Years	Months	Days
	08	00	28

(SMT.PARVATHI.V)

II Addl.Civil Judge & JMFC,
Krishnarajapet.

JUDGMENT

The present suit is filed by the plaintiff against the defendants seeking the relief of permanent injunction in respect of the suit schedule property.

2. **The brief facts of case of the plaintiffs are under:-**

The plaintiff is the owner of the suit schedule property bearing Sy.No.274/1, measuring to an extent of 1 acre of land, same was acquired by the plaintiff through a Panchayath Palupatti dated:14.02.2007. In pursuance the said panchayath palupatti, the revenue documents have been effected in his name in vide MR.No.2/2007-08 and The plaintiff has got the Durkhastuphodi under government scheme and has dug two borewells and has constructed a pump set house therein. And by utilizing water from borewells, the plaintiff has been cultivating crops such as sugarcane, coconuts and other agricultural crops, and is in possession and enjoyment of in the suit schedule property. The plaintiff has availed a loan of

Rs.2,92,000/- from the Kaveri Grameena Bank on 17.05.2016 for the purpose of developing the suit schedule property. The defendants are well aware that the suit schedule property has fallen to the share of the plaintiff under the partition. The defendants have no right, title over the suit property, have unlawfully assembled and are making attempts to trespass into the plaintiff's possession, to cut the standing sugarcane crops and to destroy the existing standing crops and interfering with the plaintiff's peaceful possession. In this regard, the plaintiff has lodged a complaint before the Kikkeri Police Station on 27.01.2018, which was registered as NCR.No.46/2018, the Police called the defendants and cautioned them not to interfere with the plaintiff's peaceful possession. But they have continued same. Hence, the plaintiff has filed this suit.

3. In response to the suit summons, the defendants have appeared through their counsel and filed their written statement along with counter claim.

4. The brief facts of the written statement and counter claim of the defendants are as under:

5. The defendants submit that the plaintiff and defendants are the joint family members. The plaintiff and defendant No.1 and their brothers got partitioned the properties through an unregistered Palupatti on 08.11.1997. Again they have entered into an unregistered rectification partition deed dated 14.2.2007, as per said partition deed, defendant No.1 has got share in Sy.No.274/1 measuring 34½ guntas of land including kharab. After the first defendant has purchased the Sy No. 274/1 measuring 4½ guntas and Sy No.273/3 measuring 18½ guntas land from his brother namely Devaraju through a registered Sale Deed dated 30.07.2009. The defendant is in peaceful possession of Sy.No.274/1 measuring 40 guntas including 2½ guntas kharab. The original partition deeds dated 8.11.1997 and 14.2.2007 are in the custody of the plaintiff. After the partition among themselves, neither a survey sketch was prepared nor were boundaries have been

properly fixed. They are in possession of the same in their respective shares. The plaintiff has been in possession of approximately 1 acre of land till today. The defendant No.1 has dug two borewells in Sy.No.274/1 measuring 33 guntas, which he acquired through partition. He has also obtained an electricity connection and constructed a pump set house in the said property. further submits that the plaintiff, in collusion with the Survey Officials, has created and fabricated the signature of defendant No.1 and has misused the scheme of the podi mukta abhiyana, and illegally got the Phodi Sketch in contrary to possession of their respective shares. The first defendant has filed an appeal before DDLR No.180/2017-18. The said appeal was decided on 14.08.2018 and the appeal has been challenged by the defendant. The plaintiff has filed the suit including the property of the defendants. It is evident that the plaintiff is not in possession of the suit schedule property as descried in the plaint. In such circumstances, without seeking the relief of declaration of title, suit of the permanent injunction is not maintainable. The plaintiff has

no right, title or interest over the suit schedule property and has interfered with the defendants' possession. Hence, they have prayed to dismiss the plaintiff's suit and allow the counter claim filed by the defendants.

6. On considering the rival pleadings of both the parties, this court has framed the following;

ISSUES

1. Whether the plaintiff proves that he is in lawful possession of suit schedule property as on the date of suit?
2. Whether the plaintiff proves the alleged interfere by the defendants?
3. Whether the defendants prove that they are in lawful possession of suit schedule property as on date of suit?
4. Whether the defendants prove the alleged interfere by the plaintiff?
5. Whether the plaintiff is entitled to relief of injunction as sought for?
6. What order or decree?

ADDL. ISSUE

1. Whether the plaintiff is entitled to relief of injunction as sought for?

7. The plaintiff has examined himself as PW-1 and has got marked the documents as Ex.P1 to P27. On the other hand, in spite of sufficient opportunities being granted, the defendants did not choose to lead any evidence on their behalf. Hence, the defendants' evidence is taken as nil and the matter was posted for arguments.

8. Heard the arguments from both side. Perused the material available on record, after going through rival contents of the parties and the documents.

9. On consideration of the materials placed on record, this court answers the aforesaid issues are as under;

Issue No. 1	:	In the Affirmative,
Issue No. 2	:	In the Affirmative,
Issue No. 3	:	In the Negative
Issue No. 4	:	In the Negative
Issue No. 5	:	In the Affirmative,
Addl Issue No.1	:	In the Negative
Issue No. 6	:	As per the final order for the following;

:: REASONS ::

10. **ISSUE No.1 and 2:** Since these issues are inter-connected with each other, they are taken together for common discussion in order to avoid repetition of facts and evidence.

11. It is a specific case of the plaintiff that, he is the owner of the suit schedule property bearing Sy.No.274/1, measuring to an extent of 1 acre of land, same was acquired by the plaintiff through a Panchayath Palupatti dated:14.02.2007. In pursuance the said panchayath palupatti, the revenue documents have been effected in his name in vide MR.No.2/2007-08 and The plaintiff has got the Durkhastuphodi under government scheme and has dug two borewells and has constructed a pump set house therein. And by utilizing water from borewell, the plaintiff has been cultivating crops such as sugarcane, coconut and other agricultural crops, and is in possession and enjoyment of in the suit schedule property. The plaintiff has availed a loan of Rs.2,92,000/- from the

Kaveri Grameena Bank on 17.05.2016 for the purpose of developing the suit schedule property. The defendants are well aware that the suit schedule property has fallen to the share of the plaintiff under the partition. The defendants have no right, title over the suit property, have unlawfully assembled and are making attempts to trespass into the plaintiff's possession, to cut the standing sugarcane crops and to destroy the existing standing crops and interfering with the plaintiff's peaceful possession. On the other hand the defendants contended that they are in possession of the suit property and the plaintiff has interfered with their possession of the same.

12. It is a settled principle of law that heavy burden is on the person who comes with suit by seeking relief as contemplated U/s.101 to 103 of Indian Evidence Act. Whoever desires any court to give judgment as to any legal rights or liability depending on existing facts, which he ascertains must prove that those facts exist. Thus the Evidence Act clearly lays down that the burden of proving

facts always lies upon the person who ascertain. until such burden is discharged. The other party is not required to be called upon to prove his case. the court has examine as to whether the person, upon when burden lies, has been able to discharge his burden. Until the arrives conclusion, he cannot proceed. On the basis of weakness of the other party. In view of the this legal position of the Evidence Act, it is clear that in the instant matter a heavy burden lies on the plaintiff to prove he is actual possession of the suit schedule property. Similarly, the burden to prove that the plaintiff is not in possession of the suit schedule property and the defendants are in possession of the suit property and the plaintiff has interfered with the possession of the same is on the defendants against the evidence of the plaintiff.

13. In order to prove this case, the plaintiff examined himself as PW1. He has reiterated the entire plaint averments in his chief examination, in support of his oral evidence. The plaintiff has got marked documents as Ex.P1

to Ex.P29. On perusal of the documents. Ex.P1 is the partition deed, it indicates that Sy No.274/1, measuring 1 acre of land, allotted to share of the plaintiff, Ex.P2 is the tax paid receipt, Ex.P3 to Ex.P9 are the certified copies of Adhbast sketch and statements. Ex.P10 is the copy of Akarband, Ex.P11 is the copy of mutation register extract, in survey No.274/1 measuring 1 acre, is standing in the name of the plaintiff. Ex.P12 is the copy of notice, Ex.P13 is the RTC, is standing in the name of the plaintiff for the year 2017-18. Ex.P14 is the receipt, Ex.P15 is the is the bank statement of the plaintiff, Ex.P16 is the endorsement issued by Kikkeri police, Ex.P17 to 22 are the photos, Ex.P13 is the C.D, Ex.P24 and 25 are the postal receipts, Ex.P26 and 26(a) are the postal cover and legal notice, Ex.P27 is the copy of legal notice issued to the defendants by the plaintiff's counsel.

14. The Learned Counsel for the Plaintiff argued before the Court that the Plaintiff in actual possession and enjoyment over the suit schedule property. The suit

schedule property was acquired by the plaintiff under a partition deed. In pursuance of the partition deed, the revenue documents were mutated in the name of the plaintiff and RTC is standing in the name of the plaintiff, hence by considering the oral and documentary evidence adduced by the PW1, equitable relief of permanent injunction may be granted in favour of the Plaintiff. In the light of the arguments canvassed by the Learned Counsel for the Plaintiff, this Court has carefully perused the material on records. Ex.P1 is the partition deed, on perusal of the same, it is very clear that the Plaintiff has acquired the suit schedule property by the partition, in pursuance of the partition deed, the revenue documents were effected in his name as per Ex.P13, said Ex.P13 stands in the name of the Plaintiff, it indicates that the plaintiff is in possession of the suit property. By considering the said documents, this Court is of the opinion that the Plaintiff is in actual possession and enjoyment of the suit schedule property. Further that

defendants did not denied documents produced by the plaintiff, which are marked.

15. The oral evidence of the PW-1 is corroborated by the documentary evidence Ex.P1 to Ex.P.27, oral evidence of the PW-1 and documentary evidence of the plaintiff very much clear that the plaintiff is the absolute owner in possession and enjoyment of the suit schedule property, the entries in the revenue records Ex.P11 and 13 i.e., RTC and mutation extracts, valid presumption U/s.133 of KLR Act can be drawn that an entry in revenue documents shall be presumed to be true until contrary is proved. As discussed above there is no reliable evidence to discard the evidence of PW-1. RTC and mutation Extracts with respect to the suit property, what ever the entries mentioned in revenue records are considered to be true and reliable. The PW.1 further deposed that the defendants have no right, title or interest in any manner over the suit schedule property, with an ulterior motive and malafide intention, they are illegally interfering with the plaintiff's peaceful

possession and enjoyment of the suit schedule property. The said evidence of PW1 is also remind unchallenged.

16. Though the defendants denied the title and possession of the plaintiff over suit property, they have failed to substantiate the said defence by furnishing cogent oral or documentary evidence. In order to substantiate their contention, the defendants have not produced any evidence and have failed to prove their counter claim in respect of the suit property and pleadings. Therefore, the said inconsistent pleadings and evidence of the PW1 has strength and weightage to throw light on the issue under discussion. In other words the counter assertion of possession over the suit schedule property, made by the defendants in the above facts and circumstances of the case, amounts to interference by them over the suit schedule property and as such the case of the plaintiff that the defendants are trying to interfere with the plaintiff's possession of the suit schedule property gets probabilized and proved.

17. As aforesaid, since the plaintiff has proved his possession over the suit schedule property, being a possessor, he is having all rights to secure his property from any kind of interference. It is settled principle of law that in order to get an injunctive relief from the hands of the Court, actual interference is not necessary, a mere threat or apprehension is sufficient to seek the relief of injunction. Therefore, this is a fit case to believe that the defendants are trying to interfere with the plaintiff's peaceful possession and enjoyment of the suit schedule property. Accordingly the oral and documentary evidence produced by the plaintiff has clearly established that suit property belongs to him. Under such circumstances, there is no occasion to discard the oral and documentary evidence of PW1. Hence, the plaintiff is entitled for the relief of permanent injunction. Further, though the plaintiff has entered to the witness box and deposed in support of his case. But the defendants have not rebutted the evidence adduced by the PW-1 by way cross examination or lead evidence on their behalf. Hence the evidence

adduced by the plaintiffs is remained un-rebutted and unchallenged. Hence this court has answered answered the Issue No.1 & 2 in the Affirmative.

18. **Issue No 3 and 4:-** These issues are inter-connected with each other, hence they are taken up together for common discussion in order to avoid repetition of facts and evidence. The burden, to prove the said issues lies upon the defendants. But in order to prove the said issues, the defendants neither entered into the witness box, nor elicited any facts from the mouth of the plaintiff in support of their case by way of cross examination.

19. It is a well settled principal of law that where a party to the suit fails to enter the witness box and depose on oath and does not offer himself for cross-examination by other side, an adverse presumptive would arise that the case set up by him is not correct". This principle also is embodied in Section 114 of the Evidence Act. The same has been reiterated in the decision of **Hon'ble Apex court of India reported in AIR 1999 Supreme Court 1441**

between Vidhyadhar V/s. Manikrao. Therefore, this Court can draw an adverse inference that the contention taken by the defendants is false and incorrect. Hence this court is of the opinion that the defendants have utterly failed to prove that they are in possession of written statement schedule property and also failed to prove the alleged inference by the plaintiff. Accordingly, this court has answered issue No.3 and 4 in the negative.

20. **Issue No.5 and Addl. Issue No.1:-** These issues are inter-connected with each other, hence they are taken up together for common discussion in order to avoid repetition of facts and evidence In view of findings given on issue No.1 to 4, this court is of the opinion that the plaintiff has successfully established by way of oral evidence as well as documentary evidence, he is in possession of the suit property and the defendants have caused interference to his possession. Per contra, the defendants have utterly failed to prove that they are in possession of the property mentioned in written statement and alleged interference by

the plaintiff. Hence plaintiff is entitled to the relief sought in the plaint. But the defendants are not entitled to any relief as sought in their counter claim. Accordingly, this court has answered issue No.5 in the affirmative and Addl. issue No.1 in the negative.

21. **Issue No.6:** For the aforesaid discussion on Issue No.1 to 5 and Addl. Issue No.1, this Court proceeds to pass the following:

ORDER

The suit of the plaintiff's is hereby decreed.

The Defendants, their legal representatives, servants, agents, henchmen or any body acting on their behalf or through them, are hereby permanently restrained from interfering with Plaintiff's peaceful possession and enjoyment of the suit schedule property.

The counter claim of the defendants' with respect to written statement schedule property is hereby dismissed.

In view of the facts and circumstances of the case, parties are bare their own costs.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced by me in the open court on this 20th day of July 2026).

(SMT.PARVATHI.V)
II Addl.Civil Judge & JMFC,
Krishnarajapet.

ANNEXURE

1.List of witnesses examined by the Plaintiff:

PW-1 : Sri. Shivarammegowda.

2.List of documents exhibited by the Plaintiff:

Ex.P1	Panchayath Palupatti
Ex.P2	Tax Paid Receipt
Ex.P3 and P4	Haddubast
Ex.P5 and P6	Statements
Ex.P7 and P8	Notice
Ex.P9	Form No.5
Ex.P10	Akharband
Ex.P11	Mutation Extract
Ex.P12	Notice
Ex.P13	RTC Extract
Ex.P14	Receipt
Ex.P15	Bank Account Statement
Ex.P16	Endorsement
Ex.P17 to P22	Photographs

Ex.P23	C.D.
Ex.P24 and P25	Postal Receipts
Ex.P26	Unserved Postal Cover
Ex.P26(a)	Unserved Legal Notice
Ex.P27	Legal Notice dt:22.12.2017

3. List of witnesses examined by the Defendants:

-Nil-

4. List of documents exhibited by the Defendants:

-Nil-

(SMT.PARVATHI.V)

II Addl.Civil Judge & JMFC,
Krishnarajapet.