

OS.NO.232/2020

KAMD210005922020



Presented on : 24-07-2020
Registered on : 12-08-2020
Decided on : 29-04-2026
Duration : 05 years, 09 months, 05 days

**IN THE COURT OF THE II ADDL. CIVIL JUDGE & J.M.F.C.,
KRISHNARAJAPETE**

Present: SMT.ARPITHA K.V.,
B.A. LL.B., LL.M.
**C/C. II ADDL. CIVIL JUDGE & J.M.F.C.,
KRISHNARAJAPETE.**

OS.NO.232/2020

DATED THIS THE 29TH DAY OF APRIL 2026

Plaintiff:-

Smt.Lakshamma,
W/o Malleshgowda,
Aged about 55 years,
R/at. Nayakanahalli Village,
Santhebachalli Hobli, K.R.Pete Taluk,
Mandya District.

(By Sri. H.P.N., Advocate)

V/s.

Defendants:-

1. Sri. Mahalingegowda,
S/o Eregowda,
Aged about 45 years,

2. Sri. Puttaswamy,
S/o Chaluvegowda,
Aged about 40 years,
3. Sri. Devegowda,
S/o Kapanigowda,
Aged about 42 years,
4. Smt.Gangamma,
W/o Puttaramu,
Aged about 39 years,

The Defendants No.1 to 4 are
R/at. Santhebachalli Village,
Santhebachalli Hobli, K.R.Pete Taluk,
Mandya District.

(By Sri. K.R.M., Advocate)

Date of Institution of the suit	24.07.2020		
Nature of the suit	Declaration and Permanent Injunction		
Date of the commencement of recording of the evidence	12.11.2021		
Date of pronouncement of Judgment	29.04.2026		
Total Duration	Year/s	Month/s	Day/s
	05	09	05

(Smt. Arpitha K.V.)
C/C. II Addl. Civil Judge and JMFC,
K.R.Pete.

J U D G M E N T

The Plaintiff has instituted the present suit seeking relief of declaration, mandatory injunction and permanent injunction as against the Defendants.

Suit Schedule Property**'A' Schedule**

The property bearing Sy.No.213/7 measuring 0-31, situated at Santhebachalli Village, Santhebachalli Hobli, K.R.Pete Taluk, Mandya District, bounded on;

East by : Hubbanahalli Road,
West by : Land of Billegowda,
North by : House of the Defendants,
South by : 8 Feet Road.

'B' Schedule

The Defendants No.1 to 4 have acquired the land towards Northern side in Sy.No.213/7 measuring North to South : 2 to 5 feet and East to West : 80 feet, situated at Santhebachalli Village, Santhebachalli Hobli, K.R.Pete Taluk, Mandya District, bounded on;

East by : Hubbanahalli Road,
West by : Land of Billegowda,
North by : House of the Defendants,
South by : Land of the Plaintiff in Sy.No.213/7.

2. **Sans details, facts in germane are as follows:**

That the suit schedule property belonged to the husband of the Plaintiff and upon the consent, the name of the Plaintiff was mutated in the revenue documents as per MR.No.T114/2018-19 and accordingly he is in peaceful possession over the suit schedule property as absolute owner.

3. Though, the Defendants does not hold any right, title or interest over the suit schedule property, the Defendants have encroached 2 to 5 feet of schedule 'B' property belonging to the Plaintiff and have put up construction. Though, the Defendants were advised by the elders of the Village through Panchayath, they have ignored the same and accordingly have continued their act of interference. Though, the act of the Defendants was reported to the concerned jurisdictional Police Station, no action was taken as such. The Defendants would have not obtained any license and accordingly would have put up illegal construction. Though, the Plaintiff requested the Defendants to remove the encroachment, they have failed to do so. Hence, the Plaintiff was constrained to come up with the present suit.

4. Upon service of summons, Defendants No.1 to 4 have appeared through their counsel, but have not filed any written statement.

5. On perusal of materials placed on record, following points arise for the consideration of this Court;

Point No.1: Whether the Plaintiff proves that she is the absolute owner and in possession of the suit schedule 'A' property ?

Point No.2: Whether the Plaintiff proves the alleged interference?

Point No.3: Whether the Plaintiff is entitled for the relief of mandatory injunction?

Point No.4: Whether the Plaintiff is entitled for the relief as sought for?

Point No.5: What order or decree?

6. The Plaintiff in order to prove her case got examined herself as PW1 and got marked 18 documents as Ex.P1 to Ex.P18 and another witness named Rajegowda was examined as PW2 and thereafter the matter was posted for arguments.

7. On perusal of the materials placed on record, the above points are answered as hereunder;

Point No.1 : In the Affirmative,

Point No.2 : In the Negative,
Point No.3 : In the Negative,
Point No.4 : Partly in the Affirmative,
Point No.5 : As per the final order
for the following;

REASONS

8. **Point No.1:-** The Plaintiff herein has instituted the present suit for relief of Declaration, Mandatory Injunction and Permanent Injunction against the Defendants. Since facts are already stated, the same is avoided.

9. The Plaintiff in order to substantiate her case, Plaintiff got examined herself as PW-1 by filing affidavit in lieu of examination in chief and reiterated the averments of the plaint and got marked Ex.P1 to Ex.P18. Ex.P1 is the computerized RTC, Ex.P2 is the Mutation Register Extract, Ex.P3 is the certified copy of the Mutation Register Extract, Ex.P4 is the certified copy of the Survey Sketch, Ex.P5 is the Statement of the Survey, Ex.P6 is the Notice, Ex.P7 to Ex.P10 are the Photographs, Ex.P11 is the C.D., Ex.P12 is the Acknowledgment dt:01.08.2019, Ex.P13 is the Requisition,

Ex.P14 is the Survey Sketch, Ex.P15 is the Mahazar, Ex.P16 is the Requisition dt:29.07.2019, Ex.P17 is the Acknowledgment issued by the Police Station and Ex.P18 is the Certification of the Crop Grown.

10. Ex.P1 being the RTC shows the name of the Plaintiff with respect to Sy.No.213/7 measuring 31 guntas and the same has been mutated as per Ex.P2 i.e., the Mutation Register Extract, which shows that the name of the Plaintiff has been mutated as per MR.No.T114/2018-19. Ex.P3 being the certified copy of the Mutation Register Extract shows that the name of the Plaintiff has been mutated upon the consent given by her husband named Malleshgowda and accordingly the name of the Plaintiff is seen with respect to schedule 'A' property marked at Ex.P1.

11. Ex.P4 is the certified copy of the Sketch pertaining to Sy.No.213/7, which on perusal shows that Sy.No.213/7 has been encroached by the adjacent Sy.No.213/2A to an extent of 1 gunta of land. Further, Ex.P5 being the Statement of the Survey shows that the Survey was conducted upon consent of the residents by issuing notice as per Ex.P6.

12. The Plaintiff herein has also produced Ex.P7 to Ex.P11 in support of his contention to show that there has been encroachment made by the Defendants. Ex.P12 is the endorsement issued by the Office of the Thasildar stating that the Survey was conducted and accordingly the Sketch along with the report has been given upon the requisition made by the Plaintiff. Ex.P13 is the copy shows that the Taluk Surveyor has accordingly conducted the Survey and has submitted the same to the concerned Office. Ex.P14 is the Survey Sketch and the Report given by the Taluk Surveyor. Ex.P15 is the certified copy of the Mahazar, which shows that the Taluk Surveyor has accordingly recognized the boundaries of Sy.No.213/7 and Sy.No.211 and it is further observed here that the encroachment made was removed accordingly and accordingly the boundaries were fixed.

13. Ex.P16 is the copy of Requisition made by the Plaintiff to the Gram Panchayath stating to not to mutate khatha with respect to the names mentioned in the said document as the aforesaid names had encroached the property of the Plaintiff. In this regard, the Plaintiff has also produced acknowledgment issued by the K.R.Pete Town Police Station, wherein it shows

that the Plaintiff had approached the Police Station against one Shivu S/o Venkategowda having encroached upon the property of the Plaintiff. Ex.P18 is the Crop Certification Document.

14. The Plaintiff herein states that the Defendant herein have encroached upon the suit schedule 'B' property belonged to the Plaintiff and accordingly has sought for relief of declaration with respect to schedule 'A' property. Ex.P1 to Ex.P3 shows that the Plaintiff is the absolute owner and in possession of schedule 'A' property. Though, the Defendants have appeared before the Court, they have not put up their defence before the Court. Accordingly, the documents produced by the Plaintiff with regard to the ownership and possession of the Plaintiff remains undisputed. Henceforth, on the basis of the above made observation this Court answers Point No.1 in the **Affirmative.**

15. **Points No.2 and 3:-** The Plaintiff herein states that the Defendants have encroached upon schedule 'B' property to an extent of 2 to 3 guntas. Though, Ex.P4 shows the enroachment made by the Sy.No.213/2A to an extent of 1 gunta, subsequent document marked at Ex.P15 shows that the encroachment was

removed and the boundaries pertaining to the Sy.No.213/7 and Sy.No.211 was accordingly fixed.

16. The Plaintiff herein states that she had even approached the concerned jurisdictional Police Station regarding the interference caused by the Defendants, but the acknowledgment marked at Ex.P17 shows that the Plaintiff had approached the Police Station against one Shivu S/o Venkategowda and not against the Defendants herein.

17. The Requisition marked at Ex.P16 shows that the Plaintiff herein had approached concerned Gram Panchayath to not to mutate the khatha, but the Plaintiff herein has not produced any subsequent document or proceedings to show that there was interference or encroachment made by the Defendants herein. Henceforth, on the basis of above made observation, this Court observes that the Plaintiff herein has failed to prove the encroachment made by the Defendants or the interference caused by them. Henceforth, this Court observes that the Plaintiff is not entitled for relief of mandatory injunction. Therefore, Points No.2 and 3 are answered in the **Negative.**

18. **Point No.4:-** The Plaintiff has instituted the present suit seeking relief of Declaration, Mandatory injunction and Permanent injunction. The Plaintiff in order to prove her case got examined herself as PW1 by filing affidavit in lieu of examination in chief and accordingly got marked Ex.P1 to Ex.P18. It is to be observed here that the name of the Plaintiff being mutated in the revenue records is not denied and hence the title of the Plaintiff has remained undisputed. The Plaintiff herein states that the Defendants have encroached 2 to 5 guntas of land, but the Plaintiff herein has nowhere given any document to show that there was encroachment. Further, it is to be observed here that the Plaintiff is not specific about the area of encroachment made by the Defendants. Though, Ex.P4 shows about 1 gunta of land being encroached, Ex.P15 shows that the said encroachment being removed. Though, the Plaintiff had approached the concerned jurisdictional Police Station, the same was not against the Defendants herein and the same can be seen through Ex.P17. Though, the Plaintiff got examined as PW-2, who has reiterated in consonance with the case of the Plaintiff, the Plaintiff herein has sought relief with respect to declaration of title on schedule 'A' property and relief of mandatory injunction with respect to the area of

encroachment made. Though, the title of the Plaintiff with respect to schedule 'A' property has remained undisputed, the Plaintiff herein has failed to show that there has been encroachment made by the Defendants. Henceforth, on the basis of the above made observation, this Court observes that the Plaintiff is entitled for relief of declaration only. Accordingly Point No.4 is answered in the **Partly in the Affirmative**.

19. **Point No.5:-** In lieu of the above made observation this court proceeds to pass the following;

ORDER

The suit of the Plaintiff is hereby partly decreed with cost.

It is declared that the Plaintiff is the absolute owner of the suit schedule 'A' property.

Draw decree accordingly.

(Dictated to the Stenographer directly, computerized by her, corrected and then pronounced by me in the open court on 29th day of April 2026).

(Smt.Arptha.K.V.)
C/C. II Addl. Civil Judge and JMFC,
K.R.Pete.

:A N N E X U R E:**List of Witnesses Examined for the Plaintiff/s:-**

PW-1 : Smt.Lakshamma,
PW-2 : Sri. Rajegowda.

List of Documents Marked for the Plaintiff/s:-

Ex.P1	RTC Extract
Ex.P2 and P3	Mutation Extract
Ex.P4	Survey Sketch
Ex.P5	Statement
Ex.P6	Notice
Ex.P7 to P10	Photographs
Ex.P11	C.D.
Ex.P12 and P13	Endorsements
Ex.P14	Survey Sketch
Ex.P15	Mahazar
Ex.P16	Requisition
Ex.P17	Acknowledgment
Ex.P18	Crop Certificate Document

List of Witnesses Examined for the Defendant/s:-

-Nil-

List of Documents Marked for the Defendant/s:-

-Nil-

(Smt. Arpitha K.V.,)
C/C. II Addl. Civil Judge and JMFC,
K.R.Pete.