

KAMD410024872023



Presented on : 27-10-2023  
Registered on : 04-11-2023

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC,  
AT MALAVALLI**

PRESENT: Smt. Nazia Kouser,  
B.E., LL.B.,  
Prl. Civil Judge & JMFC.  
Malavalli.

**Dated this the 22<sup>nd</sup> day of June 2026**

**O.S.No.381/2023**

Plaintiff/s:

1. Mahadevamma W/o Gangadhar, aged about 60 years,
2. Vinay G.M. S/o Gangadhar, aged about 40 years,
3. Mangalagowri G.M. @ Rajani D/o Gangadhar, aged about 42 years,

All are R/o Sulthan Road, Malavalli Town  
Mandya District.

**(By Sri.S.V.S., Advocate)**

V/s.

Defendant/s:

Sri.Gangadhar, S/o Late  
Kenchiah, aged about 65  
years,  
R/o Sodamuddanakeri, Pete,  
Malavalli Town & Taluk.

**(By Sri.P.S.M.K. Advocate )**

|                                                       |                      |        |      |
|-------------------------------------------------------|----------------------|--------|------|
| Date of institution of the suit                       | 27-10-2023           |        |      |
| Nature of Suit                                        | Permanent injunction |        |      |
| Date of the commencement of recording of the evidence | 27-03-2024           |        |      |
| Date on which judgment pronounced                     | 22.06.2026           |        |      |
| Total Duration                                        | Years                | Months | Days |
|                                                       | 02                   | 07     | 25   |

**Prl. Civil Judge & JMFC,  
Malavalli.**

### **:: J U D G M E N T ::**

The suit is for the relief of Permanent injunction along with such other reliefs.

**2.** The suit schedule property is:-

#### **SCHEDULE**

The Malavalli Municipality Katha No.859/694, out of East-west: 15 feet, North-south: 16 feet total measuring 20 X 88 feet situated Malavalli-Mysore Main Road, Malavalli Town, Mandya District bounded on the:

East by : Arya Bombay Sweets shop  
West by : Gov't Charandi  
South by : Road and Nagaraju  
North by : Land of Ramu

**3.** The case of the plaintiff is as follows:-

The defendant is the husband of plaintiff No.1 and the father of plaintiff Nos.2 and 3. It is the case of the plaintiffs that, during the subsistence of his marriage with plaintiff No.1, the defendant contracted a second marriage and thereafter started

residing with his second wife, neglecting the plaintiffs and their welfare. The defendant has deserted plaintiff No.1 and the children nearly 25 years ago and, since then, has neither provided maintenance nor made any arrangements for their livelihood, owing to the neglect and abandonment by the defendant, a Panchayat was convened in the village. In the said Panchayat, the village elders resolved that the plaintiffs should be permitted to enjoy the suit schedule property for their maintenance and livelihood. The defendant also consented to the said arrangement.

4. The plaintiffs further stated that the suit schedule property originally belonged to their grandfather, namely Kanchaiah, and after his demise, the property devolved jointly upon his children, including the defendant. In the Panchayat Paluparikath, a portion measuring 20 feet x 88 feet fell to the share of the defendant's family, and out of the said extent, the plaintiffs utilized a portion measuring 12 feet x 16 feet for construction of a studio. They initially established a workshop and thereafter constructed and commenced a studio under the name and style of "Vinay Studio" in the suit schedule property by investing substantial amounts towards construction and purchase of equipment. The studio business constitutes their sole source of livelihood. The defendant neither contributed towards the education of the children nor towards their marriage expenses. Even the marriage of another daughter, namely Vinanti, was performed by raising loans from various sources.

5. The plaintiffs assert that they are dependent upon the income generated from the studio business for their sustenance and for repayment of the debts incurred towards such marriage expenses. Despite having earlier consented to plaintiffs

possession and enjoyment of the suit schedule property, the defendant subsequently began interfering with their peaceful possession and attempted to trespass into the suit property. It is alleged that when the plaintiffs resisted such acts, the defendant lodged a complaint against plaintiff Nos.2 and 3 before the Malavalli Town Police, pursuant to which a criminal case came to be registered against them in CC.No.1266/2022. The defendant admitted that the plaintiffs are in possession of the suit schedule property in the said complaint. On 12.09.2023, the defendant, with the assistance of his followers, again attempted to unlawfully enter the suit schedule property and has since been making efforts to disturb their peaceful possession and business activities by exercising his political and financial influence. The plaintiffs approached the police authorities seeking protection against the alleged acts of interference, no effective action was taken against the defendant. Hence, this suit.

**6.** The defendant has filed his written statement denying all the averments made in the plaint, except admitting the relationship between the parties. The defendant contends that on 10.10.2017, the Town Municipal Council authorities issued a No Objection Certificate for obtaining an electricity connection, wherein the boundaries of the schedule property are correctly described. The boundaries furnished by the plaintiffs in the plaint are false, incorrect, and fabricated.

**7.** The defendant further submits that O.S. No. 526/2022, pending on the file of the Court of the I Additional Civil Judge, Malavalli, has been instituted seeking the relief of partition and separate possession, and that the present suit schedule property is described therein as Item No. 2 of the schedule properties. The said suit is still pending adjudication. The plaintiffs, by

suppressing the pendency of the said partition suit, have instituted the present suit, which is not maintainable in law. On these grounds, the defendant prays for dismissal of the suit.

8. On the basis of the above said rival pleadings, this court has framed the following:

### **ISSUES**

1. Whether the plaintiffs prove that, they are in possession of suit schedule property ?
2. Whether the plaintiffs further proves that alleged interference of defendant ?
3. Whether the plaintiffs are entitled for the reliefs as sought in plaint ?
4. What order or decree?

9. In order to prove the case of the plaintiffs, the plaintiff No.2 examined as PW-1, and got marked documents Ex.P-1 to 19. Ex.P1 is the Demand Register. Ex.P2 to Ex.P5 are the photographs. Ex.P6 to Ex.P17 are the electricity bills along with the corresponding receipts. Ex.P18 is the certified copy of the deposition of the defendant recorded in CC No.1266/2022. Ex.P19 is the certified copy of the complaint filed by the defendant against the plaintiffs before the Malavalli Town Police Station.

10. In order to disprove the case of the plaintiff, the defendant examined as DW1 and got marked documents Ex.D1 to 3. Ex.D1 is the certified copy of the order sheet in O.S. No. 526/2022. Ex.D2 is the certified copy of the plaint in the said suit. Ex.D3 is the certified copy of I.A. No. 1 filed in the said suit.

11. Heard arguments and perused the records.

12. My findings on the above Issues are as under:

Issue No.1: In the Affirmative

Issue No.2: In the Affirmative

Issue No.3: In the Affirmative

Issue No.4: As per the final order for  
the following:

### **REASONS**

#### **Issue Nos.1 to 3:-**

13. These issues are taken up together for common discussion in order to avoid repetition of facts.

14. The case of the plaintiffs is that they are in lawful and settled possession of the suit schedule property and are running a studio business therein for their livelihood, and that the defendant is unlawfully interfering with their possession and enjoyment of the property.

15. On the other hand, the defendant denies the plaintiffs' claim and contends that the suit schedule property forms part of the properties involved in O.S. No.526/2022 pending for partition and separate possession, and therefore the present suit is not maintainable. In view of the rival pleadings, the evidence on record requires consideration.

16. In support of the above contentions the plaintiff No.2 examined as PW1 and got marked Ex.P1 to P19. On the otherhand, the defendant examined as DW1 and got marked documents Ex.D1 to 3.

**17.** The principal question that arises for consideration is whether the plaintiffs have established their possession over the suit schedule property as on the date of the suit. In this regard, the plaintiffs have produced Ex.P1, the Demand Register extract, Ex.P2 to Ex.P5 photographs, and Ex.P6 to Ex.P17 electricity bills and receipts. The said documents indicate the existence of a studio in the suit schedule property and payment of electricity charges in respect thereof. Significantly, during cross-examination, DW1 has admitted that earlier there existed a garage in the suit property and that about ten years ago "Vinay Studio" came to be constructed therein. He has also admitted that the second plaintiff has been paying the electricity charges pertaining to the studio and that the plaintiffs were maintaining themselves from the income derived from the said studio. These admissions constitute substantial evidence regarding the possession and enjoyment of the suit schedule property by the plaintiffs.

**18.** Though PW1 has admitted that he has not produced title deeds relating to the suit property and that the property stands in the names of five persons, the present suit is one for bare injunction and not for declaration of title. In a suit for injunction, the primary consideration is possession as on the date of the suit and not adjudication of title. Therefore, the absence of title documents by itself is not fatal to the case of the plaintiffs when there is other convincing evidence regarding possession.

**19.** The defendant has contended that the suit schedule property is the subject matter of O.S. No.526/2022 pending before the competent Civil Court and that the present suit is not maintainable. In support of the said contention, Ex.D1 to Ex.D3 have been produced. A perusal of the said documents discloses that a suit for partition and separate possession is pending in

respect of certain properties. However, DW1 has categorically admitted in his cross-examination that the plaintiffs herein are not parties to the said suit. Merely because a partition suit is pending, the plaintiffs cannot be denied protection of their existing possession, if otherwise proved. The pendency of the said suit does not authorise the defendant to interfere with the possession of the plaintiffs except in accordance with law.

**20.** The plaintiffs have also relied upon Ex.P18 and Ex.P19. Ex.P19 is the complaint lodged by the defendant against the plaintiffs before the Malavalli Town Police Station. Ex.P18 is the certified copy of the deposition of the defendant in CC No.1266/2022. The plaintiffs contend that in the said proceedings the defendant admitted their possession over the suit property. The production of these documents, coupled with the admissions elicited from DW1, probabalises the case of the plaintiffs that they are in settled possession of the suit schedule property.

**21.** During cross examination DW1 admitted that after filing of the present suit he sought disconnection of the electricity supply to the studio. He has also admitted that the plaintiffs have been maintaining themselves from the income generated through the studio business. Such admissions clearly indicate the existence of a dispute regarding the plaintiffs' occupation and enjoyment of the suit schedule property. The defendant's act of seeking disconnection of electricity supply to the studio, coupled with the complaints and counter-complaints exchanged between the parties, probabalises the plaintiffs' allegation of interference with their possession of the suit schedule property.

**22.** The documentary evidence and, more importantly, the admissions of DW1 sufficiently establish that the plaintiffs have



been running "Vinay Studio" in the suit schedule property and deriving their livelihood therefrom for several years and defendant's interference with the plaintiffs' peaceful possession.

**23.** The settled principle of law is that a person in settled possession cannot be dispossessed otherwise than by due process of law. Even assuming that the defendant claims a right over the property, he cannot take law into his own hands and disturb the possession of the plaintiffs except through lawful proceedings.

**24.** On overall appreciation of the oral and documentary evidence, this Court is of the considered opinion that the plaintiffs have successfully proved that they are in settled possession and enjoyment of the suit schedule property as on the date of the suit and that the defendant has interfered with such possession. Consequently, the plaintiffs are entitled to the relief of permanent injunction as prayed for. Accordingly, Issue No.1 to 3 are answered in the Affirmative.

**Issue No.4 :-**

**25.** In the light of the above discussions on issue Nos.1 to 3, I proceed to pass the following:

**ORDER**

The suit of the plaintiffs is hereby decreed with costs.

The defendant, his agents, servants, followers, representatives or anybody claiming through or under him are hereby permanently restrained from interfering with the peaceful possession and enjoyment of

the plaintiffs over the suit schedule property  
except by due process of law.

Draw decree accordingly.

(Dictated to the Stenographer, transcribed by her, corrected and then pronounced by me in open Court on this the 22<sup>nd</sup> day of June 2026)

**(NAZIA KOUSER)**  
**Prl. Civil Judge & JMFC,**  
**Malavalli.**

**ANNEXURE**

**List of witnesses examined in favour of plaintiff**

PW1 : Vinay

**List of witnesses examined in favour of defendants**

DW1 : Gangadhar

**Documents exhibited on behalf of plaintiff**

Ex.P.1 : Demand Register extract  
Ex.P.2 to 5 : Photographs  
Ex.P.6 to 17 : Electricity bills and receipts.  
Ex.P.18 : Certified copy of the deposition of the  
defendant recorded in CC No.1266/2022.  
Ex.P.19 : Complaint

**Documents exhibited on behalf of defendants.**

Ex.D.1 : Certified copy of the order sheet in O.S. No.  
526/2022  
Ex.D.2 : Certified copy of the plaint in O.S.No.526/2022  
Ex.D.3 : Certified copy of I.A. No. 1 in O.S.No.526/2022

**Prl. Civil Judge & JMFC,**  
**Malavalli.**