

KABI030033932019



**IN THE COURT OF THE 1st ADDL.CIVIL JUDGE & JMFC.,
AT BALLARI.**

**PRESENT: IRAPPA DHAVALSHWAR
B.A., LLB.,
I ADDL.C.J. & J.M.F.C., BALLARI.**

DATED: THIS THE 03RD DAY OF DECEMBER 2022

O.S. No:659/2019

PLAINTIFF :-

Smt.K.Kerikeri Shankramma wife of late Eraiah, aged 70 years, Beggar, R/o H.No.78, W.No.1, Ujjalapete, Kurugodu, Kurugodu taluk, Ballari district, now at W.No.22, Bhagath Singh Nagar, Ballari.

(By Sri N.Mallikarjuna, Advocate)

//Vs.//

DEFENDANTS :-

1. Smt.Vanajakshamma W/o late Krishnappa, aged 30 years,
 2. Huligemma W/o Mareppa, D/o Vadwa Eranna, aged 30 years,
 3. Rajappa son of Basappa, aged 50 years,
 4. Siddaiah, son of Mareppa, aged 26 years,
 5. Basavaraja son of Mareppa, aged 19 years,
 6. Hanumantha son of Mareppa, aged 28 years,
- All are agriculturist, R/o Ujjalapete, W.No.1,
Kurugodu, Kurugodu taluk, Ballari district.

(E x p a r t e)

Date of Institution of Suit :	18.11.2019						
Nature of Suit	Permanent injunction						
Date of commencement of the Recording of the evidence	18.04.2021 (PW.1)						
Date on which the Judgment was Pronounced	03.12.2022						
Total Duration	<table><tr><td><u>Year/s</u></td><td><u>Month/s</u></td><td><u>Day/s</u></td></tr><tr><td>03</td><td>00</td><td>15</td></tr></table>	<u>Year/s</u>	<u>Month/s</u>	<u>Day/s</u>	03	00	15
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03	00	15					

(Sri. IRAPPA DHAVALESHWAR)
I A.C.J. & JMFC, BALLARI.

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

1. The plaintiff has filed this suit against the defendants for the relief of permanent injunction.
2. The brief facts of the plaintiff case is as under :-

The plaintiff is the absolute owner of the house cum hut bearing No.78, W.No.1, Ujjalapete, measuring 20 x 20, which is a government land (**hereinafter called as suit schedule property**).. Further it is contended that the plaintiff has constructed the said house more than 20 years back and she and her daughter living in the suit schedule property. The plaintiff is a old age lady and her

daughter is mentally disorder and unsound mind person. Further it is contended that on 21.10.2019 and on 28.10.2019 the defendants have interfered in the suit schedule property and removed roof sheets an made galata and threatened the plaintiff. Further plaintiff has contended that the defendants are no way concerned to the suit schedule property and are trying to interfere into peaceful possession and enjoyment of suit schedule property. In this regard, plaintiff has issued legal notice on 21.10.2019 to the defendants and plaintiff also lodged complaint before Kurugodu police station against the defendants, but the police have not taken any action against the defendants and stated that the matter is civil in nature and approach civil court of law. Hence with no other option plaintiff are constrained to file this suit for the relief of permanent injunction restraining the defendants, from interfering into the peaceful possession and enjoyment of suit schedule property. Hence this suit.

3. Summons duly served to the defendants, but they did not appear before this court. Hence the defendants are placed exparte.
4. In order to prove the case, the plaintiff examined herself as PW 1 and 3 documents were marked as Ex.P.1 to 3 and closed her side.
5. Heard the arguments on plaintiff side. After perusal of the records, the following points would arise for my consideration.

1. Whether the plaintiff prove that, she is in actual possession and enjoyment of the suit schedule property as on the date of filing this suit ?
2. Whether the plaintiff further prove that the defendants have caused interference over the suit schedule property ?
3. Whether the plaintiff is entitled for the relief as sought in the plaint ?
4. What order or decree ?

6. My answers to the above points are as under :-

Point No.1 to 3 .. In the Negative

Point No.4 .. As per final order, for the following ;

REASONS

7. **POINT No.1 & 2** :- These points are taken up together for common discussion in order to avoid repetition of facts and evidence also.
8. It is the specific case of the plaintiff that, she is in peaceful possession and enjoyment of suit schedule property since 20 years and the defendants are no manner of right over the suit schedule property and they are trying to interfere over the suit schedule property. Hence the plaintiff has constrained to file this suit.
9. In order to prove the case of the plaintiff, the plaintiff examined herself as PW 1 and she has reiterated the plaint averments in her examination in chief and 3 documents was marked as Ex.P.1 to 3. Ex.P.1 is the true copy of Aadhar card of plaintiff. Ex.P.2 is the photographs and Ex.P.3 is the C.D.
10. On careful perusal of the entire materials available on record, it clearly discloses that, the plaintiff filed this suit against the defendants for the relief of permanent

injunction. The main contention of the plaintiff that, she is in peaceful possession and enjoyment of suit schedule property since 20 years. To prove her contention, the plaintiff has produced her Aadhar card, photograph and one C.D., Except the photograph i.e. Ex.P.2 the plaintiff has not produced any document to show that she is in peaceful possession and enjoyment of suit schedule property since 20 years. Further the suit schedule property is belongs to Government of Karnataka and she is claiming permanent injunction against the defendants for interfering over the suit property. More over the plaintiff has not produced any document to show that, she is in peaceful possession and enjoyment of suit schedule property. As per the contention of the plaintiff that she is in peaceful possession and enjoyment of suit schedule property since 20 years, but the plaintiff has not produced any tax paid receipts or Hakku Pathra of the suit schedule property to show that, she is in peaceful possession and enjoyment of suit schedule

property and mere allegations against the defendants that they are interfering over the suit schedule property the plaintiff has filed this suit.

11. In a bare injunction suit, the court should consider only that whether plaintiffs are able to establish that as on the date of filing of the suit they are in peaceful possession and enjoyment of suit schedule property and the defendants caused interference over the suit schedule property. Except the oral evidence of PW 1, no other documents placed before the court to prove that, the plaintiff is in peaceful possession and enjoyment of suit schedule property. Hence for the above said reason, the plaintiff has failed to prove that, she is in peaceful possession and enjoyment of suit schedule property and the defendants caused interference over the suit schedule property. Hence for the above said reason, my answer to the Point No.1 & 2 are in the Negative.

12. **POINT No.3** :- While this court given finding on Point No.1 & 2 that the plaintiff has failed to prove that,

she is in peaceful possession and enjoyment of suit schedule property as on the date of filing of the suit and the plaintiff has failed to prove that the defendants caused interference over the suit schedule property. Hence the plaintiff are not entitled for any relief sought in the plaint. Hence for the above said reason, my answer to Point No.3 in the Negative.

13. **POINT No.4** :- In view of the discussion made supra, I pass the following :-

: O R D E R :

The suit of the plaintiff is hereby dismissed with cost.

Draw decree accordingly.

(Dictated to stenographer, transcribed and computerized by him, corrected, signed and then pronounced by me in the open Court on this 03rd day of December 2022)

(IRAPPA DHAVALESHWAR),
I ACJ & JMFC, BALLARI.

: A N N E X U R E :

List of witnesses examined for Plaintiff:

P.W.1: Shankramma

List of exhibits marked for Plaintiff:

Ex.P.1 : Copy of Aadhar card of plaintiff

Ex.P.2 : One photograph

Ex.P.3 : One C.D.,

List of witnesses examined for defendants: - NIL.

List of exhibits marked for defendants: - NIL.

I A.C.J. & JMFC., BALLARI.

(Order pronounced in the open court, vide separate Judgment).

: ORDER :

The suit of the plaintiff is hereby dismissed with cost.

Draw decree accordingly.

I A.C.J. & JMFC, BALLARI.

