

KAMS210009712018



IN THE COURT OF THE PRL.CIVIL JUDGE AND JMFC
AT H.D.KOTE

:PRESENT:

SRI. SANTHOSHA KOTARI, B.A.L,LL.B.,
Prl. Civil Judge and JMFC.,H.D.Kote.

Dated this the 29th day of June, 2026

ORIGINAL SUIT NO.271/2018

PLAINTIFF : Sri.H.B.Rajesh
S/o. Byrappa
Aged about 40 years,
R/at Hampapura Village,
Hampapura Hobli, H.D.Kote Taluk,
Mysuru District.
(By Sri. B.L.Tharanath, Advocate)

-VS-

DEFENDANTS : 1. Smt.Jayamma
W/o. Late. H.S.Shivanna
Aged about 60 years,
2. Sri.Dayananda
S/o. Late. H.S.Shivanna
Aged about 30 years,

3. Savitha
D/o. Late. H.S.Shivanna
Aged about 28 years,
4. Sri.Marigowda
S/o. H.S.Channegowda
Aged about 58 years,
5. Smt.Kalyanamma
W/o. Marigowda
Aged about 48 years,

All are R/at Hampapura Village,
Hampapura Hobli, H.D.Kote Taluk,
Mysuru District.

(By Sri K.Chandrashekhara, Advocate)

Date of Institution	10.08.2018
Nature of the Suit	Permanent Injunction
Date of Commencement of recording of Evidence	25.11.2022
Date of Pronouncement of Judgment	29.06.2026
Total Duration	Year/s Month/s Day/s
	07 10 19

(SANTHOSHA KOTARI)
Prl. Civil Judge & J.M.F.C.,
H.D.Kote.

J U D G M E N T

The plaintiff has filed this suit against the defendants
for the relief of permanent injunction restraining the

defendants, their men or agents from interfering with plaintiff's peaceful possession and enjoyment of the suit schedule property.

2. The description of the suit schedule property involved in the suit is as follows:-

All that piece and parcel of site bearing property No.178/1, Assessment No.180/1, Janjar No.150/1, measuring East to West 22 feet and South to North 70 feet, situated at Hampapura Village, Hampapura Hobli, H.D.Kote Taluk and bounded on:

East by	:	House of Byrappa
West by	:	House of H.S.Shivanna, Defendant No.1 to 3 property bearing No.178 and 179/1
North by	:	Land in the name of Shivanna
South by	:	M.M. Road

3. The plaint averments in brief are as under:

According to the plaintiff, the plaintiff is the absolute owner in possession and enjoyment of the suit schedule property as he acquired the same through registered Gift deed dated 07.12.2009 executed by his father Byrappa. Originally the suit schedule property belonged to his father Bhyrappa and same was standing in his name in Hampapura Village Panchayath. Thereafter on 07.12.2009 he executed a registered gift deed in respect of the suit schedule property infavour his son plaintiff. After he acquiring the suit schedule property, the Katha of the suit

schedule property got changed in his name in Hampapura Village Panchayath and since the date of registered gift deed, he has been in peaceful possession and enjoyment of the suit schedule property by paying necessary tax to the government. However, though the defendants have no manner of right, title or interest over the suit schedule property they are interfering with his peaceful possession and enjoyment over the suit schedule property. The defendant No.1 to 3 are the neighbors of the suit schedule property on its Western side and the defendants No.4 and 5, are supporters of the defendant No.1 to 3 are trying to interfere with his peaceful possession and enjoyment over the suit schedule property. On 25.07.2018 the defendants have colluded with each other and trespassed into suit schedule property and interfered with his peaceful possession and enjoyment of the suit schedule property. The plaintiff has resisted their illegal act of interference and on the same day i.e. on 25.07.2018 he had given a complaint to the H.D.Kote police station against the defendants. Thereafter again on 01.08.2018 also the defendants were trying to interfere with his peaceful possession and enjoyment of the suit schedule property. Further, the defendants were also attempted to measure the suit schedule property along with their property bearing Katha No.178, 179/1 which is situated on the Western side of the suit schedule property under the pretext of preparing

Form No.9 and 11 through the panchayth authorities i.e., Panchayath Development Officer and panchayath members. The plaintiff has resisted their illegal acts and shown the documents of title deeds and other relevant documents to the panchayath officials. Thereafter they left the suit schedule property without measuring the property of the defendant No.1 to 3 situated on the Western side of the suit schedule property. The defendants have colluded with each other and came near the suit schedule property on 01.08.2018 at about 3.00 P.M. and trying to interfere with his peaceful possession and enjoyment of the suit schedule property with an intention to put up fence by including the plaintiff's suit schedule property.

4. It is further averred that the plaintiff has filed a suit against defendant No.1 to 3 before this Court in respect of suit schedule property in O.S.234/2011 and thereafter on the advise of the the panchayathdars and well wishers of the Village, they stopped their illegal act of interference and accordingly the plaintiff has not pursued the suit on the advice of the panchatayathdars and the request of the defendant No.1 to 3. Thereafter the defendant No.1 to 3 by taking advantage of the same, again started to interfere with his peaceful possession ad enjoyment of the suit schedule property. Hence, he constrained to file the present suit.

5. After registering the suit, the suit summons was issued to the defendants. The defendants have appeared

before the Court through their counsel and the defendant No.4 has filed detailed written statement denying the averments made in the plaint. Further, the defendants No.1 to 3 and 5 have filed memo adopting the written statement filed by the defendant No.4. In the written statement it is stated that the suit filed by the plaintiff is neither maintainable under law nor on facts, as such, same is liable to be dismissed. Further, he denied the plaintiff's absolute right and possession over the suit schedule property and alleged interference on their part. It is submitted that the plaintiff's father have no absolute right to bequeath the suit schedule property in favour of the plaintiff under the gift deed. It is further submitted that Smt.Nagamma wife of H.S.Shivanna of Hampapura Village and their children H.S.Parashiva, H.S.Siddegowda, H.S.Shivananda and H.S.Chandrakala had filed a suit against second wife of said H.S.Shivanna by name Sm.Jayamma and their children Dayananda and Savitha i.e. defendant No.1 to 3 herein before the Hon'ble Senior Civil Judge and JMFC, Hunsur in O.S.94/2007 for the relief of declaration and the Will dated 28.12.2006 executed by the H.S.Shivanna is not binding on them and permanent injunction. In the said suit the item No.9 i.e. the property bearing old assessment No.183 and New No.189/12 and item No.10 i.e. property bearing old assessment No.184 and new assessment No.178 were also included. The plaintiff has filed the present suit

against the defendants showing the similar property number by changing the boundaries. The plaintiffs and defendants in the above said suit in O.S.94/2007 have settled the matter on 01.10.2010 by filing a joint compromise petition and in the said compromise the item No.9 and 10 of the said suit schedule properties were allotted to the share of the defendants No.1 to 3. The plaintiff has filed the present suit against the defendants showing the wrong property numbers of the said item No.9 and 10 properties and by changing the boundaries. It is further submitted that in the middle of the said property belonged to the defendant No.1 and 2 there exist a road which runs towards South to North and which has been used by the defendants No.1, 2 and 4. On the Eastern side of the said road, the house property belonged to the defendant No.4 is located and they are using the said road for the time immemorial. Except the said road, the defendants have no other way to reach their property. The plaintiff with an intention to grab the said road has filed this false suit by suppressing material facts of earlier orders and decree existing in favour of defendant No.1 in O.S.97/2007. The grand father of the plaintiff and H.S.Shivanna are own brothers and on 09.10.1964 they have entered a registered partition deed and the said H.S.Shivanna had executed a Will in favour of plaintiffs and defendants in O.S.94/2007 in respect of the property

allotted to him in the said partition and based on the said Will both the parties have compromised the matter and accordingly compromise decree was drawn. Despite of knowing of all these material facts the plaintiff has filed the above suit with an intention to grab the suit schedule property. For all these reasons, he prayed to dismiss the suit with cost.

6. On the basis of the pleadings of the parties, the court has framed the following;

ISSUES

- 1. Whether the plaintiff proves that he is in peaceful possession and enjoyment over the suit schedule property as on the date of filing of the suit?*
- 2. Whether the plaintiff further proves any sort of interference by the defendants?*
- 3. Whether the plaintiff is entitled for the relief of Permanent Injunction as sought for?*
- 4. What order or decree?*

7. In order to prove his case, the plaintiff examined himself as PW-1 and produced as many as 09 documents and they are marked as Ex.P1 to Ex.P9. Further during cross examination of DW-1, the counsel for plaintiff has confronted two photos to the DW-1 and on his admitting them, the said photos are marked as Ex.P10 and P11 on behalf of the plaintiff. On the other hand, the defendant

No.4 examined as DW-1 and produced as many as 03 documents and they are marked as Ex.D1 to Ex.D3.

8. Heard arguments from both sides and also perused entire record.

9. My findings to 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

10. **Issue No.1 :-** The plaintiff has filed the above suit against the defendants for the relief of permanent injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit schedule property. In a suit for Permanent Injunction, it is burden on the plaintiff to prove his/her lawful possession over the suit schedule property as on the date of suit and interference on the part of the defendant.

11. It is contended and argued on behalf of the plaintiff that the plaintiff is the absolute owner in possession and enjoyment of the suit schedule property as he acquired the same through registered Gift deed dated 07.12.2009 executed by his father Byrappa. Originally the suit schedule property belonged to his father Bhyrappa and same was standing in his name in Hampapura Village

panchayath. Thereafter on 07.12.2009 he executed a registered gift deed in respect of the suit schedule property infavour his son plaintiff. After he acquiring the suit schedule property, the Katha of the suit schedule property got changed in his name in Hampapura Village panchayath and since the date of registered gift deed, he has been in peaceful possession and enjoyment of the suit schedule property by paying necessary tax to the government. However, though the defendants have no manner of right, title or interest over the suit schedule property they are interfering with his peaceful possession and enjoyment over the suit schedule property.

12. In order to prove his case, the plaintiff examined himself as PW-1. He filed affidavit in lieu of his examination-in-chief, wherein he reiterated the plaint averments. Hence, repetition is not necessary. Further in support of his oral evidence, the PW-1 has also produced as many as 9 documents and they are marked as Ex.P1 to 9. Ex.P1 is demand register extract in respect of suit schedule property for the period 2006-07 standing in the name of plaintiff's father by name Bhyrappa, Ex.P2 is assessment register extract in respect of property bearing Janjer No.196 with site No.179/2 for the period 2006-07, Ex.P3 is another demand register extract in respect of suit schedule property for the period 2013-14 stands in the name of plaintiff, Ex.P4 is NOC certificate issued by the PDO, Hampapura

Village panchayath, Ex.P5 and 6 are tax paid receipts, Ex.P7 and 8 are copy of acknowledgment dated 23.02.2018 and 25.07.2018 issued by the H.D.Kote police and Ex.P9 is registered gift deed dated 07.12.2009 executed by the father of the plaintiff by name Bhyrappa in favour of the plaintiff in respect of the suit schedule property. Further during cross examination of DW-1, the counsel for plaintiff has confronted two photos to the DW-1 and on his admitting them, the said photos are marked as Ex.P10 and P11 on behalf of the plaintiff. By these oral and documentary evidence, the plaintiff has tried to prove his case. Further, the counsel for plaintiff in support of his argument has relied on the decision of Hon'ble Supreme Court in the matter of *Peter Augustine Vs. K.V.Xavier and others*, reported in 2025 SAR (Civ)724.

13. On the other hand the defendants have denied the contention taken by the plaintiff. Further, they denied the plaintiff's absolute right and possession over the suit schedule property and alleged interference on their part. It is contended and argued on behalf of the defendants that the plaintiff's father had no absolute right to bequeath the suit schedule property in favour of the plaintiff under the gift deed. It is further contended and argued on behalf of the defendants that Smt.Nagamma wife of H.S.Shivanna of Hampapura Village and their children H.S.Parashiva, H.S.Siddegowda, H.S.Shivananda and H.S.Chandrakala

had filed a suit against second wife of said H.S.Shivanna by name Sm.Jayamma and their children Dayananda and Savitha i.e. defendant No.1 to 3 herein before the Hon'ble Senior Civil Judge and JMFC, Hunsur in O.S.94/2007 for the relief of declaration and the Will dated 28.12.2006 executed by the H.S.Shivanna is not binding on them and permanent injunction. In the said suit the item No.9 i.e. the property bearing old assessment No.183 and New No.189/12 and item No.10 i.e. property bearing old assessment No.184 and new assessment No.178 were also included. The plaintiffs and defendants in the above said suit in O.S.94/2007 have settled the matter on 01.10.2010 by filing a joint compromise petition and in the said compromise the item No.9 and 10 of the said suit schedule properties were allotted to the share of the defendants No.1 to 3. The plaintiff has filed the present suit against the defendants by showing the wrong property numbers of the said item No.9 and 10 properties and by changing the boundaries. It is further contended and argued that in the middle of the said property belonged to the defendant No.1 and 2 there exist a road which runs towards South to North and which has been used by the defendants No.1, 2 and 4. On the Eastern side of the said road, the house property belonged to the defendant No.4 is located and they are using the said road for the time immemorial. Except the said road, the defendants have no other way to reach their

property. The plaintiff with an intention to grab the said road has filed this false suit by suppressing material facts of earlier orders and decree existing in favour of defendant No.1 in O.S.97/2007.

14. In order to defend the suit the defendant No.4 has examined himself as DW-1 and he filed affidavit in lieu of his examination-in-chief, wherein, he reiterated the written statement averments. Hence, repetition is not necessary. Further, in support of his oral evidence, the DW-1 has also produced as many as 3 documents and they are marked as Ex.D1 to 3. Ex.D1 is certified copy of plaint in O.S.94/2007, Ex.D2 is compromise petition filed under Order XXIII Rule 3 of CPC in said O.S.94/2007 and Ex.D3 certified copy of decree passed in O.S.97/2007. By these oral and documentary evidence, the defendants have tried to defend the suit.

15. It is pertinent to mention here that on careful perusal of materials on record particularly pleadings of the parties and evidence on record there is no much dispute between the parties as to the existence of the suit schedule property and its extent and measurement as defendants have not specifically denied the existence of the suit schedule property and its extent and measurement. However, they denied the plaintiff's right, possession and enjoyment over the suit schedule property and contended that at no point of time, the plaintiff or his family members

are in possession and enjoyment of the suit schedule property and the plaintiff's father have no right to execute the gift deed infavour of plaintiff. Thereby the defendants have disputed the plaintiff's right and possession over the suit schedule property. Hence, it is burden on the plaintiff to prove his possession over the suit schedule property as on the date of the suit. The plaintiff in order to prove his right, possession and enjoyment over the suit schedule property examined himself as PW-1 and produced Ex.P1 to 9. Among Ex.P9 is registered gift deed dated 07.12.2009. On careful perusal of said registered gift deed it reveals that on 07.12.2019 the father of the plaintiff by name Bhyrapa S/o. Late. H.S.Channegowda had executed a registered gift deed in favour of his son i.e. plaintiff in respect of suit schedule property. It further reveals that on the date of execution of the said gift deed itself, the father of the plaintiff/donor of the said gift deed had handed over vacant possession of the suit schedule property to the plaintiff. On careful perusal of said gift deed at Ex.P9, particularly, schedule attached to the said gift deed it clearly reveals that the description of property shown in the said gift deed property number, extent, measurement and boundaries shown in the said gift deed is completely tallies to the description of the suit schedule property i.e. property number, extent, measurement and boundaries of the suit schedule property as shown in the schedule attached to the

plaint. On careful perusal of said gift deed it further reveals that the said gift deed was executed at undisputed point of time i.e., on 07.12.2009 and same was executed in compliance of all the requirement of section 123 of Transfer of Property Act. Further, it is pertinent to mention here that though the defendants have denied the validity of the said gift deed in their written statement, till date they have not challenged the validity/ genuinity of the said gift deed before any Court. Thus, on careful perusal of the said gift deed at Ex.P9 it clearly reveals that the plaintiff has acquired the suit schedule property under registered gift deed dated 07.12.2009 from his father Byrappa and by virtue of the said gift deed, he become an absolute owner in possession and enjoyment of suit schedule property.

16. Further, the plaintiff in support of his case has also produced another relevant document i.e. demand register extract in respect of suit schedule property for the period 2013-14 at Ex.P3. On careful perusal of said demand register extract it reveals that after he acquiring the suit schedule property under gift deed dated 07.12.2009 at Ex.P9 the Katha of the suit schedule property got changed in the name of the plaintiff in the concerned Village panchayath i.e. Hampapura Village Panchayath and accordingly they issued demand register in the name of the plaintiff. Further, the plaintiff in support of his case has also produced NOC certificate issued by the Hampapura

Village Panchayath in respect of suit schedule property. On careful perusal of said gift deed at Ex.P9, particularly, schedule attached to the said NOC certificate it clearly reveals that the description of property shown in the said NOC certificate i.e., property number, extent, measurement and boundaries shown in the said certificate is completely tallies to the description of the suit schedule property i.e. property number, extent, measurement and boundaries of the suit schedule property as shown in the schedule attached to the plaint. Further, the said NOC certificate was issued by the concerned Village Panchayath infavour of plaintiff at undisputed point of time i.e., on 01.06.2013 and till date the defendants have not challenged the the correctness or otherwise of the said certificate.

17. Further, the plaintiff has also produced the demand register extract for the period 2006-07 at Ex.P1. On careful perusal of said demand register extract it reveals that the plaintiff's father before executing the registered gift deed at Ex.P9 infavour of his son plaintiff, the Katha of the suit schedule property was standing in the name of plaintiff's father Bhyrappa S/o. Late. H.S.Channegowda. On careful perusal of said document also it further reveals that the description of the suit schedule property i.e. the property number, Janjar number and assessment number is clearly tallies to the description of the suit schedule property as shown in the schedule attached to the plaint.

18. Further, the plaintiff has also produced the tax paid receipts for the year 2015-16 and 2018-19 at Ex.P5 and P6. On careful perusal of said documents it reveals that the plaintiff after acquiring the suit schedule property through registered gift deed dated 07.12.2009 at Ex.P9, the Katha of the suit schedule property got changed in his name in the concerned Village panchayath and he has been in peaceful possession and enjoyment of the suit schedule property by paying necessary tax to the government. Thus, all these documents at Ex.P1, P3 to P9 make it clear that originally the suit schedule property belonged to the father of the plaintiff by name Byrappa and the plaintiff had acquired the suit schedule property under registered gift deed dated 07.12.2009 from his father Byrappa and by virtue of the said gift deed, the Katha of the suit schedule property got changed in his name and he become an absolute owner in possession and enjoyment of suit schedule property.

19. It is the contention of the defendants that the suit schedule property belongs to defendant No.1 to 3 as they acquired the same by virtue of compromise decree passed in suit in O.S.94/2007 filed by one Smt.Nagamma who is the first wife of H.S.Shivanna and their children against the Smt.Jayamma who is defendant No.1 herein and who is second wife of said H.S.Shivanna and their children i.e., defendant No.2 and 3 herein before the Hon'ble Senior Civil

Judge and JMFC Hunsuru, wherein the suit schedule property was shown as item No.9 and 10. However, the plaintiff by showing the wrong property numbers of the said item No.9 and 10 properties and by changing the boundaries has filed the present suit against the defendants. Though the defendants have taken the aforesaid contention, however, they have utterly failed to substantiate/prove the same by cogent evidence. The defendants in support in support of their defence, have produced certified copy of plaint and decree in O.S.94/2007 at Ex.D1 and D3. On careful perusal of said plaint and compromise decree particularly properties shown in item No.9 and 10 of the schedule attached to the plaint and decree, it reveals that the description of the properties shown in the said plaint and decree is not at all tallies to the description of the suit schedule property as shown in the schedule attached to the plaint. Further item No.10 in the said plaint and compromise decree is shown as land bearing Sy.No.9, measuring 03 acres, situated at Hampapura Village, Hampapura Hobli, H.D.Kote Taluk and same is nowhere connected with the suit schedule property bearing property No.178/1 with assessment No.181/1, Janger No.151/1, measuring East to West 22 feet and North to South 70 feet. Further, item No.9 in the said plaint and compromise decree is concerned, in item No.9 of the schedule attached to the said plaint and compromise decree

the description of the property is shown as assessment No.183 and there is no further particulars/details as to the Janjar number, property number, extent, measurement and boundary of the said property. Thus, the said property shown in the item No.9 of the said plaint and compromise decree is also nowhere connected with the suit schedule property bearing property No.178/1 with assessment No.181/1, Janger No.151/1, measuring East to West 22 feet and North to South 70 feet. Further, the defendants have not taken any pain to describe how the properties shown in item No.9 and 10 of the said suit in O.S.No.94/2007 and the suit schedule properties are one and the same. Hence, the contention taken by the defendants cannot be acceptable. Thus, on perusal of oral and documentary evidence of both the parties, this Court is of the opinion that plaintiff has proved that he is in peaceful possession and enjoyment of the suit schedule property as on the date of the suit within the boundary and measurement as shown in the schedule attached to the plaint. **Hence, for the above said reasons, Issue No.1 is answered in the 'Affirmative'.**

20. Issue No.2:- It is pertinent to mention here that in a suit for Permanent Injunction it is not only sufficient for the plaintiff to prove his/her lawful possession and enjoyment of the suit schedule property as on the date of the suit but it is also equally important for him/her to prove

an interference on the part of the defendant. It is further case of the plaintiff that he is in possession and enjoyment of the suit schedule property and though the defendants have no manner of right, title or interest over the suit schedule property, they are interfering with his peaceful possession and enjoyment over the suit schedule property. In order to prove the alleged interference by the defendants, the plaintiff examined himself as PW-1 and filed affidavit in lieu of his examination in chief, wherein he categorically deposed that the defendant No.1 to 3 are the neighbors of the suit schedule property on its Western side and the defendants No.4 and 5, are supporters of the defendant No.1 to 3 are trying to interfere with his peaceful possession and enjoyment over the suit schedule property and on 25.07.2018 the defendants have colluded with each other and trespassed into suit schedule property and interfered with his peaceful possession and enjoyment of the suit schedule property. He has resisted their illegal act of interference and on the same day i.e. on 25.07.2018 he had given a complaint to the H.D.Kote police station against the defendants. Thereafter again on 01.08.2018 also the defendants were trying to interfere with his peaceful possession and enjoyment of the suit schedule property with an intention to put up fence by including his suit schedule property. On the other hand defendants have denied said contention and contended that the suit

schedule property belongs to defendant No.1 to 3 as they acquired the same by virtue of compromise decree passed in suit in O.S.94/2007 filed by one Smt.Nagamma who is the first wife of H.S.Shivanna and their children against the Smt.Jayamma who is defendant No.1 herein and who is second wife of said H.S.Shivanna and their children i.e., defendant No.2 and 3 herein before the Hon'ble Senior Civil Judge and JMFC Hunsuru, wherein the suit schedule property was shown as item No.9 and 10. However, the plaintiff by showing the wrong property numbers of the said item No.9 and 10 properties and by changing the boundaries has filed the present suit against the defendants. The defendant No.1 to 3 are in joint possession and enjoyment of the suit schedule property and at any point of time, the plaintiff is not in absolute possession and enjoyment of the suit schedule property, as such, the question of interference on their part do not arise at all and the gift deed relied by the plaintiff is created one and under the said gift deed no title was passed / conveyed to the plaintiff.

21. It is pertinent to mention here that through out their written statement and evidence, the defendants have denied the plaintiff's right, possession and enjoyment over the suit schedule property and claimed that the suit schedule property is belonged to defendants No.1 to 3 as they acquired the same by virtue of compromise decree

passed in suit in O.S.94/2007 filed by one Smt.Nagamma against the defendants No. 1 to 3 herein before the Hon'ble Senior Civil Judge and JMFC Hunsuru, wherein the suit schedule property was shown as item No.9 and 10 and they are in joint possession and enjoyment of the suit schedule property. As we discussed supra under issue No.1 that by oral and documentary evidence the plaintiff has proved his lawful possession and enjoyment over the suit schedule property as on the date of the suit within the boundary and measurement as shown in the schedule attached to the plaint. Further, though the defendants have taken a contention that the suit schedule property belonged to defendants No.1 to 3 as they acquired the same by virtue of compromise decree passed in suit in O.S.94/2007 and they are in possession and enjoyment of the suit schedule property and the gift deed relied by the plaintiff is created and got illegally executed from his father Byrappa, they have utterly failed to substantiate their stand. All these aspects show the conduct of the defendants and further makes it clear that the defendants despite having no semblance of right, title and interest over the suit schedule property are interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property. Further, the very denial of plaintiff's right and possession over the suit schedule property and claiming/ taking contention that it belonged to the defendants No.1 to 3 and

they are in possession and enjoyment of it and the very tenor of the written statement filed by the defendants reveal that they are interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property. Further, it is pertinent to mention here that to maintain a suit for a perpetual Injunction it is not mandate that the defendant ought to invade the plaintiff's right to or enjoyment of the suit schedule property, it is sufficient that if he threatens to invade such plaintiff's right to property. Further, at this juncture, it would be relevant to refer to the decision of Hon'ble High Court of Karnataka in the matter of **Jeevappa Vs Sahebgouda in RSA No. 200379/19 C/W RSA No.200380/19 dated 22.11.2023**, wherein, the Hon'ble High Court has held that "*The position of law is well settled that once the plaintiff is successful in proving his possession and enjoyment of the suit schedule property and when the defendant has chosen to contest the suit the interference on the part of the defendant could be inferred and the plaintiff is entitled for permanent injunction*". The said decision is aptly applicable to the present case on hand. In the present suit also, the defendants have appeared before the Court and contested the suit by denying the plaintiff's right and absolute possession over the suit schedule property and claiming that it belonged to the defendants No.1 to 3 and they are in possession and enjoyment of it without substantiating the same. Thus, for

aforementioned reasons, this Court is of an opinion that the plaintiff has proved the alleged interference on the part of the defendants. **Hence, without discussing much on this, Issue No.2 is answered in the “Affirmative”.**

22. Issue No.3:- The plaintiff has filed this suit against the defendants for the relief of Permanent Injunction restraining them from interfering with his peaceful possession and enjoyment of the suit schedule property. As we discussed supra under issue No.1 and 2 that by oral and documentary evidence the plaintiff has proved his lawful possession over the suit schedule property as on the date of the suit and interference on the part of the defendants. When the Plaintiff has established his lawful possession and enjoyment over the suit schedule property as on the date of the suit and also an interference by the defendants, then he is entitled for the equitable relief of Permanent Injunction. Thus, this Court is of the considered opinion that the plaintiff has proved the necessary ingredients to entitle himself for the equitable relief of permanent injunction as sought for in the plaint. **Accordingly, Issue No.3 is answered in the “Affirmative”.**

23. Issue No.4:- In view of the discussions made under Issues No. 1 to 3 and the reasons stated therein, I proceed to pass the following:

ORDER

The suit of the plaintiff is hereby decreed with cost.

The defendants, their henchmen or representatives are hereby restrained by an order of Permanent Injunction from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property.

Draw decree accordingly.

(Dictated to the stenographer, computerized by her, same is corrected and then pronounced by me on this the **29th day of June 2026.**)

(SANTHOSHA KOTARI)

Prl.Civil Judge & J.M.F.C.,
H.D.Kote.

:-ANNEXURE:-**List of witnesses examined for plaintiff:**

PW-1 - Sri.H.B.Rajesh

List of witnesses examined for defendants:

DW-1 - Sri.Marigowda

List of documents exhibited for plaintiff:

Ex.P1 : Demand register extract in respect of suit schedule property for the period 2006-07 standing in the name of plaintiff's father by name Bhyrappa,

- Ex.P2 : Assessment register extract in respect of property bearing Janjar No.196 with site No.179/2 for the period 2006-07.
- Ex.P3 : Demand register extract in respect of suit schedule property for the period 2013-14 stands in the name of plaintiff,
- Ex.P4 : NOC certificate issued by the PDO, Hampapura Village panchayath,
- Ex.P5 and 6 : Tax paid receipts
- Ex.P7 and 8 : Copy of acknowledgment dated 23.02.2018 and 25.07.2018 issued by the H.D.Kote police
- Ex.P9 Registered gift deed dated 07.12.2009 executed by the father of the plaintiff by name Bhyrappa in favour of the plaintiff in respect of the suit schedule property
- Ex.P10 and 11 Photos (Confronted to the DW-1 during his cross examination)

List of documents exhibited for the defendants:

- Ex.D1 : Certified copy of plaint in O.S.94/2007
- Ex.D2 : Compromise petition filed under Order XXIII Rule 3 of CPC in O.S.94/2007
- Ex.D3 : Certified copy of decree passed in O.S.97/2007.

(SANTHOSHA KOTARI)
Prl. Civil Judge & J.M.F.C.,
H.D.Kote,