

KAMS310000562012



IN THE COURT OF PRL. CIVIL JUDGE & JMFC.,
AT: HUNSUR.

DATED THIS THE 3rd DAY OF JULY, 2026

:PRESENT:

SMT.AYISHABI.P.MAJID., B.A.L.L.B.,
Prl. Civil Judge & JMFC.,
Hunsur.

O. S. No. 63/2012

Plaintiffs : Smt.B. Lakshmi,
W/o D.G Rajanna,
Aged about 40 years.

(Rep., by GPA holder, who is the
husband of plaintiff)
Sri. D.G Rajanna,
S/o Gopalanaika,
R/at : Dharmapura Village,
Bilikere Hobli, Hunsur Taluk.
(Rep. by Sri.L.K.J.,- Adv.,)

Defendants : 1. Sri. Nanjappanaika
S/o Late. Shambhunaika
Aged about 50 years.
2. Sri. Shankara
S/o Late. Shambhunaika
Aged about 43 years.

3. Chikkannanaika
S/o Late. Shambhunaika
Aged about 48 years.

4. Smt. Kamalamma
W/o Late. Ningannanaika
Aged about 43 years.

5. Sri. Shivanaika
S/o Shambhulinganaika
Aged about 53 years.

Defendant Nos.1 to 5 are
R/at : Dharmapura Village
Bilikere Hobli, Hunsur Taluk.

6. Government of Karnataka,
Vidhanasoudha, Bengaluru.

7. Deputy Commissioner
Mysuru Division
Mysuru.

8. Assistant Commissioner,
Hunsur Sub Division
Hunsur.

9. Tahshildar
Taluk Office, Hunsur.

**(D1 to D3 and D5 Rep. by Sri.
D.A., - Adv.,)
(D4 – Rep., by Sri. M.K Adv.,) (D6
to D9 – Rep., by Learned AGP)**

Date of Institution of the Suit :	29.02.2012
Nature of Suit :	Suit for Permanent Injunction and for easementary right
Date of Recording of Evidence :	14.11.2014
Date of Closing of Evidence :	05.10.2023
Date of Judgment Pronounced :	03.07.2026

Total Duration :	Year's	Month's	Day's
	14	04	04

(Ayishabi.P.Majid.,)
Prl. Civil Judge & JMFC,
Hunsur.

: J U D G M E N T :

This is the suit filed by the plaintiff against the defendants for the relief of permanent injunction and easement right in respect of suit schedule property.

2. The brief facts of the Plaintiff's case is that, the suit schedule property granted in the name of D.G.Rajanna as per grant in the year 1994-95. As per the grant certificate the plaintiff husband was in possession and enjoyment of the suit schedule property. In the partition the suit schedule property fallen to the share of plaintiff. In order to reach her agricultural land the plaintiff is using right of way which is situated in the land of the defendant No.1 to 5. The defendant No.1 to 5 are cultivating the land illegally and no grant certificate was issued in the name of defendant No.1 to 5. To reach the land of the plaintiff, she has to pass through the road situated in the land of

defendant No.1 to 5 except the said road, there is no other alternative road for the plaintiff to reach her land.

3. It is further case of the plaintiff that, the defendant No.1 to 5 are obstructing the plaintiff to use the road situated in Sy.No.22. The plaintiff has requested the defendants not to obstruct the right of way, several panchayaths were taken-place in the village inspite of the same, the defendants are obstructing the plaintiff to use the right of way. It is further case of the plaintiff that, on 01.09.2006 the plaintiff has applied for measure the suit schedule property, the concerned officials have went to the spot and conducted mahazar and it is noticed that except the suit schedule property there are no other alternative way for the plaintiff to reach her property. The concerned panchayath officers have issued notice to the defendant No.1 to 5 however the defendants have not replied to the notice. The plaintiff is having right of way over the suit schedule property, the defendant No.1 to 5 are obstructing the plaintiff to use the right of way to reach the land of the plaintiff. The plaintiff is having easement right over the suit schedule property. Hence, constrained to file this suit for the aforementioned reliefs.

4. On service of summons, the defendants have appeared through their counsel, however in spite of sufficient opportunity the defendant No.4 and 6 to 9 have not filed written statement.

5. The defendant Nos.1 to 3 and 5 have appeared through their counsel and filed written statement by denying the plaint averments inter-alia contending that, there is an existence road in Sy.No.22 and the defendant No.1, 2, 3 and 5, are in peaceful possession and enjoyment of the property bearing Sy.No.22, the Assistant Commissioner, Hunsur, passed the orders in LND No. 63/07-08 and granting the land bearing Sy.No.22 and thereafter, the Assistant Commissioner directed the Tahasildhar to issue the Saguvali chit in favour of the defendant No.1's wife viz. Manjulamma and said Manjulamma has cultivated the land and raised the crops like coconut and other crops as a absolute owner and she got a good right, title, intestate over the said property. It is further contended that, the defendants lodged the complaint against the plaintiffs before the Bilikere police station in the year 07, and Bilikere police registered the criminal case against the plaintiff No.2 and submitted the charge sheet before

the Civil Judge (Jr.Dn) & J.M.F.C., at Hunsur, in C.C.No.7 and the Court was passed the order of conviction against the plaintiff No.2. It is further contended that, the defendants have filed a case against the plaintiff before the Assistant Commissioner, Hunsur bearing LND No.12/2010-11, and the said case is pending before the Assistant Commissioner Court, Hunsur, for adjudication.

6. It is further contended that, the plaintiff No.2 working as a post man in the post office, as he is a Central Government Employee. Hence he is not entitle to any land from the Government authority as per the provision of Law. Besides the property bearing Sy.No.22 granted in favour of defendant No.1's wife namely Manjunat. But the plaintiff did not made a Manjula necessary party to the suit. Hence the suit is bad for non joinder of necessary parties besides the suit filed by the plaintiff is not maintainable. Hence prays for dismissal of the suit with cost.

7. On the basis of pleadings of the parties my predecessor in office has framed the following issues for determination;

ISSUES

1. Whether the Plaintiff proves that, he is absolute owner in possession of the suit schedule property ?
2. Whether the Plaintiff proves that the existence of road in the cultivation land of the defendant No.1 to 5 ?
3. Whether the plaintiff proves that the absolute necessity of easement right over the alleged road and no other alternative road to access the suit schedule property ?
4. Whether the plaintiff proves the alleged interference of the defendants?
5. Whether the plaintiffs are entitled to the relief sought?
6. What order or decree?

8. After settlement of Issues, the GPA holder of the plaintiff entered into the witness box deposed as P.W.1 in support of his case he got marked documents at Ex.P.1 to Ex.P.24 and closed his side evidence. On the other hand, the defendant No.3 entered into witness box deposed as D.W.1 and got marked documents at Ex.D.1 to Ex.D.4 and closed their side evidence.

9. Heard the argument advanced by the learned counsel for the Plaintiff and Defendants. Perused the oral and documentary evidence placed on record.

10. My findings to the above said issues are as under;

Issue No.1 : In the **Negative**

Issue No.2 : In the **Negative**

Issue No.3 : In the **Negative**

Issue No.4 : In the **Negative**

Issue No.5 : In the **Negative**

Issue No.6 : As per final order,
for the following;

: R E A S O N S :

11. **Issue Nos.1 to 4:-** Since these issues are interconnected, with each other, these issues are taken up together for common discussion in order to avoid repetition of facts and evidence.

12. It is the specific case of the plaintiff that, the suit schedule property fallen to the share of plaintiff through partition. The suit schedule property granted in the name of D.G.Rajanna as per grant in the year 1994-95. As per the grant certificate the plaintiff husband was in possession and enjoyment of the suit

schedule property. In the partition the suit schedule property fallen to the share of plaintiff. In order to reach agricultural land, the plaintiff is using road which is situated in the land of the defendant No.1 to 5. The defendant No.1 to 5 are cultivating the land illegally and no grant certificate was issued in the name of defendant No.1 to 5. To reach the land of the plaintiff, she has to pass through the road situated in the land of defendant No.1 to 5 except the said road there is no other alternative road for the plaintiff to reach the land of the plaintiff.

13. It is further case of the plaintiff that, the defendant No.1 to 5 are obstructing the plaintiff to use the road situated in Sy.No.22. The plaintiff requested the defendants not obstruct the right of way, several panchyaths were taken-place in the village inspite of the same, the defendants are obstructing the plaintiff to use the right of way. Hence constrained to file the suit.

14. To substantiate the case, in his examination-in-chief the GPA holder of the Plaintiff has reiterated the averments made in the plaint, the plaintiff has produced the documents and got marked as Ex.P.1 to Ex.P.24. Ex.P.1 is the General Power of Attorney, Ex.P.2 to Ex.P.6 are the RTC Extracts, Ex.P.7 is the Grant Certificate, Ex.P.8 and Ex.P.9 are the Akar Bhand, Ex.P.10 is

the Akar Bhand, Ex.P11 is the sketch, Ex.P12 is the survey map, Ex.P13 is the Form No.-1. Ex.P14 is the postal receipt, Ex.P15 is the application. Ex.P16 is Notice issued by Assistant Commissioner, Hunsur Sub-Division, Hunsur, Ex.P17 is certified copy of F.I.R. Ex.P18 is the certified copy of the complaint. Ex.P19 is the certified copy of the property list, Ex.P20 is certified copy of the spot mahazar, Ex.P21 is the copy of legal notice, Ex.P21(a) to Ex.P21(e) are the postal acknowledgments, Ex.P22 is the Letter of Assistant Commissioner, Hunsur Sub-Division, Hunsur. Ex.P23 is the Letter of Deputy Commissioner, Mysuru District, Mysuru. Ex.P24 is the certified copy of the Order passed by the Tahasildar, Hunsur.

15. The plaintiff has produced the documents at Ex.P1 is the General Power of Attorney wherein it goes to show that, the plaintiff has given power of attorney in favour of her husband to proceed with the case. The RTC extract produced at Ex.P2 goes to show that, the land in Sy.No.22/p3 measuring 4 acres 23 guntas stands in the name of husband of the plaintiff and same is acquired through grant. The RTC extract produced at Ex.P3 in respect of Sy.No.139 measuring 1 acres 19 guntas stands in the name of plaintiff and minor children. Further the RTC extract

produced at Ex.P4 goes to show that, the land in Sy.No.140 measuring 3 acres 1 gunta stands in the name of plaintiff. Further the RTC extract produced Ex.P5 goes to show that, the land in Sy.No.22/p2 totally measuring 222.00 acres government land. Further the RTC extract produced at Ex.P6 goes to show that, the land in Sy.No.22/p2 measuring 2 acres stands in the name of one Channamma, Puttashetty, 23 guntas stands in the name of Venkateshanayaka, 1 acre 10 guntas stands in the name of Sannathimmanayaka, 1 acre 10 guntas stands in the name of Thopamma, and same is acquired through grant. Further the grant certificate produced at Ex.P7 goes to show that, the land in Sy.No.22 measuring 4 acres 23 guntas granted in the name of husband of the plaintiff D.G.Rajanna S/o Gopalanayaka.

16. The sketch produced at Ex.P8 and 9 in respect of Sy.No.22, new Sy.No.139, 140 goes to show that, Sy.No.22 subjected for phode and renumbered as Sy.No.139, 140 measuring 4 acres 23 guntas. Ex.P10 is the Akarbund of Sy.No.139 and 140. Further Ex.P11 is the sketch in respect of Sy.No.22 and Sy.No.140 and Sy.No.17 of Gowrikatte village. Ex.P12 is the sketch in respect of Sy.No.22. The Form No.1

produced at Ex.P13 is the Form No.1 wherein it goes to show that, the GPA holder of the plaintiff has applied for the information with regard to action taken by the Tahasildar as per the application submitted by him. Ex.P14 is the postal receipt and the application produced at Ex.P15 goes to show that, the GPA holder of plaintiff filed an application before the Tahasildar stating that, inspite of applying the application under Right to Information the information has not been provided to him. The notice produced at Ex.P16 goes to show that, the plaintiff has preferred an appeal before the Assistant Commissioner stating that, he has not received documents under Right to Information Act. The FIR produced at Ex.P17 goes to show that, the plaintiff has given complaint against the defendants. Ex.P18 is the copy of the mahazar and Ex.P19 is the property Form pertaining to C.C.No.399/2007. The spot mahazar produced at Ex.P20 goes to show that, in C.C.No.399/2007 as per complaint filed by the plaintiff the police have went to the spot and drawn up mahazar in the presence of panch witnesses. The notice produced at Ex.P21 goes to show that, the plaintiff has got issued notice to the defendants and Ex.P21(a) to Ex.P21(e) are the postal

acknowledgments for having served notice to the defendants. The application produced at Ex.P22 goes to show that, the plaintiff has filed application before the learned Assistant Commissioner stating that he is having right of way in Sy.No.22 measuring 4 acres 20 guntas. Ex.P23 is the notice issued by the Deputy Commissioner to Tahasildar, Hunsur to take necessary action as per application submitted by the plaintiff. The copy of the order passed by the Tahasildar, Hunsur produced at Ex.P24 goes to show that, the Tahasildar has taken bond from the defendant No.1 to 5 to maintain peace in the society.

17. It is to be noted that as per plaint averments the plaintiff has specifically stated that, the land in Sy.No.22 was granted in the name of her husband thereafter she become the owner of the land as per partition and the defendants are interfering with her peaceful possession over the land in Sy.No.22 as well as she is having right of way in the land of defendant No.1 to 5 in Sy.No.22 which is not yet granted in favour of defendant No.1 to 5. As per pleadings, nowhere in the plaint the plaintiff has given measurement of land in Sy.No.22 and as per schedule of the plaint also measurement of the suit schedule property is not mentioned by the plaintiff. As per

schedule it is only mentioned as Sy.No.22 and no specific measurement is mentioned in the schedule to prove before the court, what is extent of the way situated in the land of defendant No.1 to 5. Neither the plaintiff has shown the measurement of her land in Sy.No.22 nor she has shown the measurement in respect of the suit schedule property. However the grant certificate produced at Ex.P7 goes to show that, the husband of the plaintiff D.G.Rajanna S/o Gopalanayaka had granted land in Sy.No.22 measuring 4 acres 23 guntas of Basthamadanahalli village. The plaintiff has not produced any documents before the court to show that, the suit schedule property fallen to her share in the partition.

18. On the other hand, it is the contention of the defendant No.1, 2, 3 and 5 that, the suit schedule property granted in favour of wife of the defendant No.1 and the plaintiff is not having any right of way in the land belongs to the defendants. In order prove their contention, the defendants have produced the documents, at Ex.D1 to 5 RTC Extracts. The RTC extract produced at Ex.D1 in respect of Sy.No.22 goes to show that 3 acres each stands in the name of defendant No.3 and defendant No.5 and Kamalamma W/o Late.Ninganayaka. Further the RTC

extract produced at Ex.D2 for the year 2017-18 in respect of land in Sy.No.22/p21 measuring 2 acres 10 guntas standing in the name of one Manjulamma W/o Nanjappanayaka and as per column No.10 it goes to show that, the said land was granted in favour of wife of defendant No.1. Further the RTC extract produced at Ex.D3 for the year 2022-23 in respect of Sy.No.22 measuring 3 acres stands in the name of defendant No.3. Further the RTC extract produced at Ex.D4 for the year 2022-23 measuring 10 guntas standing in the name of wife of defendant No.1. Hence, from the RTC extracts produced at Ex.D1 to D4 goes to show that, the land in Sy.No.22 measuring 3 acres each granted in favour of defendant No.2, 3 and 2 acres 10 guntas granted in favour of wife defendant No.1 Kamalamma, Manjulamma and defendant No.2. As per the plaint averments the plaintiff has specifically stated that, the land in Sy.No.22 granted in favour of husband of the plaintiff and as per partition she is in possession of Sy.No.22 and the defendants are interfering with her possession over the Sy.No.22. whereas the defendant No.1 to 5 who are all also unauthorized possession of the land in Sy.No.22 and she is claiming the right of way in land of defendant No.1 to 5. From the documents produced by the

plaintiff and defendants it is admitted fact that, the land in Sy.No.22 is measuring several acres including 4 acres 23 guntas the land was granted in favour of husband of the plaintiff as well as granted in the name of wife of defendant No.1.

19. Now it is for the plaintiff to prove before the court that, what is extent of the land in which the defendants are interfering with the peaceful possession of the plaintiff and it is burden of the plaintiff to prove before the court that what is the measurement of road in which plaintiff is claiming right of way. As stated supra, no measurement of property is furnished by the plaintiff to claim the relief of Permanent Injunction and easement right. In a suit relating to immovable property the plaintiff should clearly mention the measurement and boundaries of the suit schedule property so that it is identified with certainty. Under Order 7 rule 3 of CPC the plaintiff is required to furnish a description of the suit schedule property sufficient to identify it. When identification depends upon the extent and dimensions of the property the plaintiff should describe the measurement, boundaries and survey particulars. At one stretch the plaintiff claiming Permanent Injunction from interfering in the land in

Sy.No.22. On the other hand claiming easement right over the suit schedule property without proper measurement of her land as well as right of way.

20. Apart from that, no documents are produced by the plaintiff to show that, right of way existed in the land of the defendants. Moreover, no documents are produced by the plaintiff to prove title in respect of the land in Sy.No.22 as well as no documents are produced to show that, except the suit schedule property she is not having alternative way to reach her land. Furthermore, in order to prove that, plaintiff is having right of way in Sy.No.22 the plaintiff has not made any attempt to get appoint the Commissioner who can spot inspect and file report to show that whether there is a right of way existed for the plaintiff to reach her land. Mere pleadings that, the suit schedule property is right of way it is not sufficient.

21. Apart from the documentary evidence, during the course of cross-examination of PW.1, the PW.1 has admitted that, she has not produced any documents before the court to show that, there is a right of way in land of the defendants. Furthermore, in the cross-examination PW.1 has deposed that, she has given application before the Tahasildar to provide Cart

road to reach her land as per Ex.21 however on perusal of Ex.P21 it goes to show that, the application is submitted after filing of the suit. The DW.1 in the cross-examination admitted that, the plaintiff has granted the land in Sy.No.22 and as per the grant the plaintiff is in possession of the said land and cultivating the land. The DW.1 in the cross-examination has denied that, there is a right of way in the land of the defendants. The plaintiff has failed to further cross-examine the DW.1.

22. As stated supra, no documents are produced by the plaintiff to show that, she is in possession of the land in Sy.No.22. Furthermore, no proper measurement is furnished by the plaintiff to show that, the defendants are interfering with her peaceful possession over the suit schedule property.

23. The next point for consideration is that, whether the plaintiff prove the alleged interference caused by the defendants. It is the case of the plaintiff that, the defendants are causing interference with her possession over suit schedule property. As stated supra, the plaintiff utterly failed to prove her possession over the suit schedule property. As such the plaintiff is not entitled for the relief of Permanent Injunction over the suit schedule property. Further the RTC extract produced Ex.D1 and 2 clearly

goes to show that, the wife of defendant No.1 and defendant No.2 and 5 are in possession of the land in Sy.No.22 measuring 3 acres and 2 acre 10 guntas. In the present case though the plaintiff claims that, he is in possession of the suit schedule property as a absolute owner however no documents are produced on record to show that, she is in possession of the suit schedule property. When the plaintiff is not in possession of the suit schedule property she is not entitled for the relief of permanent injunction against the defendants.

24. It is for the plaintiff to prove that, she is in possession of the suit schedule property. In the decision of the our Hon'ble High Court reported in **2004 (1) KCCR 662 (K.Gopala Reddy (deceased) by Lrs V/s Suryanarayana and others**. In the said decision his lordship held as under:

"Whenever a party approaches the court for a relief, based on the pleadings and issues, he has to prove his case. The suit has to be decided based on merits and demerits of the party who approaches the court. Weakness of the defendant cannot be considered as a trump card for the plaintiff".

The above decision is applicable to the case on hand. The plaintiff has utterly failed to prove that, she is having easement right in the suit schedule property and she is in possession of

the land in Sy.No.22. With these observations the **Issue No.1 to 4 are answered in the Negative**

25. **Issue No. 5:-** While answering issue No.1 to 4 this court has come to the conclusion that, the plaintiff has miserably failed to prove that, she is in possession of the suit schedule property and the suit schedule property is the road wherein the plaintiff is having easement right over the suit schedule property. Hence, looking from any angle plaintiff is not entitled for relief as prayed for. As such **Issue No.5 is answered in the Negative.**

26. **Issue No.6:-** For the reasons discussed above, this court proceed to pass the following :-

: O R D E R:

The suit of the plaintiff is hereby
Dismissed.

No order as to costs.

Draw decree accordingly.

(Dictated to the Stenographer on line computer, corrected by me and pronounced in open court on this the **3rd day of July, 2026**)

(Ayishabi.P.Majid)
Prl. Civil Judge & JMFC.,
Hunsur.

A N N E X U R E

List of witnesses examined for the Plaintiffs:

P.W.1 : Sri. D.G.Rajanna

S/o Gopalanaika

List of witnesses examined for the Defendants:

D.W.1 : Sri. Chikkannanayaka
S/o Shambhunayaka

List of documents marked for the Plaintiffs :

Ex.P.1 : General Power of Attorney
Ex.P.2 to 6 : RTC Extracts
Ex.P.7 : Grant Certificate
Ex.P.8 and 9 : Akar Bhand
Ex.P.10 : Karnataka Revision Settlement Akar Bhand
Ex.P.11 : Sketch
Ex.P.12 : Survey map
Ex.P.13 : Form No.1
Ex.P.14 : Postal receipt
Ex.P.15 : Application
Ex.P.16 : Notice
Ex.P.17 : Certified copy of F.I.R
Ex.P.18 : Certified copy of the complaint
Ex.P.19 : Certified copy of the property form
Ex.P.20 : Certified copy of the spot mahazar
Ex.P.21 : Copy of legal notice
Ex.P.21(a) to Ex.P21(e) : Postal acknowledgments
Ex.P.22 : Letter of Assistant Commissioner, Hunsur Sub-Division, Hunsur.
Ex.P.23 : Letter of Deputy Commissioner, Mysuru District, Mysuru.
Ex.P.24 : Certified copy of the Order passed by the Tahasildar, Hunsur

List of documents marked for the Defendants:

Ex.D.1 to 4 : RTC extracts

Prl. Civil Judge & J.M.F.C,
Hunsur.