

KAMS410001592023



IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR

PRESENT

Sri. Chandan S, B.Com., LL.B

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 03RD DAY OF NOVEMBER 2025

O.S. No. 47/2023

Plaintiff :

1. Chandranayaka S/o Late. Narayananayaka,
Aged about 55 years,
2. Sumithra D/o Late. Narayananayaka,
W/o Puttanayaka,
Aged about 53 years,
3. Nanjundanayaka,
S/o Late. Narayananayaka,
Aged about 51 years,
4. Gowri W/o Ravi,
D/o Late. Narayananayaka,
Aged about 49 years,

All are R/at Hampapura Village,
Hosa Agrahara Hobli, K.R.Nagar Taluk,
Mysuru District.

(Rep. By Sri. M.S., Advocate)

V/s

Defendants:

1. Jayakumara S/o Late. Rajanayaka,
Since Dead represented by his LR's

1a) Unnathi D/o Late. Jayakumara,
Aged about 16 years,

1b) Chethan S/o Late. Jayakumara,
Aged about 13 years,

D1(a) and D1(b) are minors
represented by their mother
2nd defendant.

2. Parvathi W/o Jayakumara,
Aged about 40 years,

D1(a), D2(b) and 2nd defendant are
R/at Hampapura Village,
Hosa Agrahara Hobli, K.R.Nagar Taluk,
Mysuru District.

3. Puttaswamyshetty
S/o Late. H.C.Narayanaswamy,
Aged about 78 years,
R/at Lokanayakanagara, Hebbal,
Mysuru City.

**(D1(a), D1(b) and D2 Rep. By
Sri. M.D., Advocate)
(D3 Ex-parte)**

ORDERS ON PRELIMINARY ISSUE NO.5

This Court having recorded, drafted and framed the present preliminary issue on account of the rival contentions, conflicting statements and disputes between the plaintiff and the defendants, is called upon to determine.

**1. Whether the suit is not maintainable
for want of proper cause of action as**

contended in the para No.9 of the written statement?

2. The present issue has been framed and taken up for consideration as a preliminary issue in view of the specific contention raised by the defendant in paragraph 9 of the written statement, wherein it is alleged that the suit is devoid of any cause of action and that the plaintiff has concocted and fabricated a cause of action only to institute the present proceedings.

3. According to the defendant, the pleadings in paragraph 3 of the plaint are artificial and created for the purpose of filing the suit. Hence, it is urged that the suit is not maintainable for want of proper and genuine cause of action.

4. On the other hand, the plaintiff has specifically contended that, he is the absolute owner of the suit schedule property and has been in peaceful possession and enjoyment thereof. It is stated that the property was originally granted in favour of the plaintiff's father, whose name was duly entered in the revenue records. After his demise, the plaintiff's mother, Smt. Manjulamma, succeeded to the said property and the revenue records katha and other entries were mutated in her name. Upon her death, the plaintiff became the sole successor and continued to remain in lawful possession and enjoyment of the property.

5. The plaintiff has further averred that, the father of defendant No.1, in collusion with defendant No.3, fraudulently created a document styled as a relinquishment deed dated 30.03.2019, purportedly to deprive the plaintiff of his lawful ownership. It is alleged that the said document is fabricated and invalid, having been brought into existence with an intention to defeat the plaintiff's rights over the property. Based on the said false document, the defendants have managed to get the katha transferred in their name.

6. The plaintiff asserts that on 29-12-2022, defendant No.1 and 2 attempted to interfere with his possession over the suit schedule property, which gave rise to the present cause of action. Hence, the plaintiff has filed the suit seeking a declaration that he is the absolute owner of the suit property and a decree of permanent injunction restraining the defendants from causing any interference to his peaceful possession and enjoyment of the same.

7. Therefore, as per the plaintiff's averments, the cause of action arose on 29-12-2022 when the alleged act of interference occurred. Considering the above pleadings it is evident that, the plaint discloses specific facts which, if proved, would entitle the plaintiff to the reliefs claimed. Whether such averments are true or sufficient is a matter to

be established upon evidence. However, at this stage, for the limited purpose of deciding the maintainability, the plaint cannot be held to be devoid of a cause of action merely because the defendant disputes the same.

8. It is a well-settled proposition of law that, for the purpose of deciding whether the plaint discloses a cause of action, only the averments made in the plaint are to be taken into consideration. The court should not at this stage refer to the defence or the contentions raised in the written statement. Accordingly, this Court holds that the plaint discloses a prima-facie cause of action. Hence, the preliminary issue framed by this court is answered in the **Negative** and court proceeds to pass the following:

ORDER

Issue No.5 is answered in the Negative.

Accordingly, the suit of the plaintiffs is maintainable as it discloses a proper cause of action

The trial shall proceed on the remaining issues, wherein both the plaintiffs and the defendants are at liberty to adduce their evidence in support of their respective pleadings and contentions.

For evidence of the plaintiff. Call on:
03.12.2025.

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced by me in the open Court on this the 03rd day of November 2025)

(Chandan.S)
Prl. Civil Judge and JMFC,
K.R.Nagara.