

KAMS410001562025



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

PRESENT

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

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 01ST DAY OF SEPTEMBER 2025

O.S. No. 51/2025

Plaintiff :

Anjum Sharif S/o Late. Zafer Sharif
Aged about 40 years,
R/at Bherya Village,
Bherya Post, Hosa Agrahara Hobli,
Saligrama Taluk, Mysuru District.

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

- V/s -

Defendant:

1. Nasir Ahamed S/o Late. Nazeer Ahamed,
Aged about 52 years,
R/at Chikka Bherya Village,
Munjanahalli Post,
Saligrama Taluk,
Mysuru District.
2. Naveed Ahamed
S/o Late. Nazeer Ahamed,
Aged about 48 years,
R/at Patanvadi, Chicken Market,
Channapattana, Ramanagara District.
3. Nizam S/o Abdul Gaffar,
Aged about 37 years,

R/at Chikka Bherya Village,
Munjanahalli Post, Saligrama Taluk,
Mysuru District.

(Rep. By Sri. B.K.N., Advocate)

ORDERS ON PRELIMINARY ISSUE NO.3

This Court has framed issue No.3 on 26.06.2025 and treated the Issue No.3 as Preliminary Issue. Issue No.3 is as under;

1. Whether the suit is not maintainable for want of proper cause of action?
2. This is the suit filed by the plaintiff for the relief of permanent injunction and he is the absolute owner having and continued with the possession of the suit schedule property bearing Sy.No. 170 to an extent of land measuring 02 acres and 37 guntas of land located, reside and situated at Matadakavalu Village, Mirle Hobli and Saligrama Taluk. According to the plaintiff, the said landed property measuring 3 acres under survey number 94 originally sanctioned and granted in the name and favour of one Smt. Shahazadiamma on 18.08.1961. Later it was bifurcated with new survey numbers among the joint owners. Therefore old survey number bifurcated and divided into sub-new survey numbers and it was newly phoded and numbered as survey number 170. Thereafter the successors of the said Smt. Shahazadiamma have been continued with possession over the schedule property ever since from timelines over 30 years.

3. Further although and notwithstanding 3 acres of land in survey number 170 is allotted and sanctioned in favour of Smt. Shahazadiamma due to kink, error and omission on the part of the Revenue Department, it was falsely mentioned and denoted as fallow land of Government (Sarkari Beelu). Thereafter as per the order dated 20.11.2024 passed by the Assistant Commissioner, Hunsur in 260/2024, directed the Tahsildar Saligrama, to change the khata and enter the name of allottee in favour of Smt. Shahazadiamma as per the grant and allotment. From thereafter, as per the direction of the Assistant Commissioner, Hunsuru, in the place of fallow land of Government (Sarkari Beelu), the khata was effected in the name of Smt. Shahazadiamma. Thereafter through, on account of and by virtue of the partition deed dated 18th of December 2024 which was taken place and held among the family members of the plaintiff, the suit schedule disputed property has been apportioned, appropriated and distributed towards the share of the plaintiff herein. Thereafter the revenue documents continued and followed in the name of plaintiff and he continued with the settled undisputed, uninterrupted peaceful possession over the schedule property by effecting and transferring the entries in the revenue department into his name.

4. Further, in the remaining pleadings and paragraph of the affidavit annexed along with the application it was further urged and professed that be the things stood thus, the defendants who are utterly strangers, unfamiliar or unknown to the plaintiff

unlawfully with ill intent, motive and to dolose, they started hindering, clogging, snagging and cumbering the activities of the plaintiff doing agricultural operation. Despite the request of the plaintiff, the illegal acts of the defendants were not restricted or prohibited. Further, the defendants in spite of the request and appeals of the plaintiff herein repeatedly, they continued their unlawful activities and the said activities were time and again augment and gradually surpassed and exceeded.

5. Further on 07.01.2025 when the surveyor attached to the office of the ADLR, K.R.Nagar, as per the petition and the plaintiff herein went near the schedule property for the purpose of measuring the schedule property to lay and fix boundary stones, the defendants caused obstruction and hindrance in discharging duties of the public servant and the work deployed and entrusted upon him.

6. Further, Despite and in spite of the written complaint has been registered and lodged before of the Jurisdictional Police Station, the plaintiff was asked and advised to approach Civil Court to address and redress his grievance. Further it has been incubated and also alleged in the plaint herein that, on 15.01.2025 the surveyor who was entrusted the work of survey has write upon a letter addressing to the Jurisdictional Police Station, seeking and claiming for necessary assistance of the Police so as to smooth and

to carry out the activities that were deployed and entrusted upon him. Hence, the plaintiff is before this court presenting the suit.

7. However upon service of summons, the defendants while representing the suit, appearing before this court through their counsel, they have presented their written statement, wherein in the said statement of defence, it reveals that, the entire pleadings and averments of the plaint specifically, candidly and with precision denied refuted and the same has been defied by the defendants. Further averments of the statements of objections would indicate and suggest that, the plaintiff in wrongful conspiracy, intriguing and in collusion with the department of the revenue, they could succeed in creating and concocting the documents of the revenue department unlawfully and illegally.

8. Whereas further averments contemplated and tabulated in the statement would show that, the defendants and their members of the family who are in actual and real possession of the property which is described and annexed along with plaint uninterruptedly and without there being any disruptions what so ever from any body in any manner from the time immemorial and reminisce and from their ancestors and lenten. Further it has been contemplated and contended by the defendants that, as per the plaintiff, they have no connections proximity nexus or relationship with the one Shahazadiyamma. Further, it has been inculpated and it has been vilified in the statement that, the plaintiff without there being any

possession over the suit schedule property as described and falsely contended by him in the plaint, the suit has been moved, initiated and presented with created imaginary and fictitious story on a cinematic and in an enigmatic manner, nurturing, woven and on the basis of the flair, fairy tale.

9. Further according to the defendants as per their statements of objections, the schedule property has been belonged and owned by the defendants and one Abdul Rasheed who was in actual true and real possession and enjoyment over the schedule property where upon neither the plaintiff herein nor the family members of the plaintiff are the owners or having the possession of the schedule property. Though and except for owning the property or nor having any possession pertaining to the schedule property they are relentlessly and resolutely, they are trying to cause obstructions and interceptions on and over the continued settled possession of the defendants over the schedule property and by creating and formulating the documentary in controversy and against to the norms and the same has been in conspire collaboration. Further the said documents were created in collusion and collaboration with the Revenue officials. Hence, from all these reasons coated, contemplated and perpetrated in the statement of the objections, the defendants craves to plead, canvas and urged before this court that the suit is sans merit. Hence, prays for dismissal of the suit.

10. Heard both sides, perused the documents available on record.

11. The points that would arise for consideration of the Court is:

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

12. Findings to the above point is as under:

Point No. 1 : Negative for the following:

REASONS

13. POINT NO.1:

According to the plaintiff, as per the stature, submissions, pleadings, propositions, narrations and descriptions evolved of the plaint that, originally land bearing Sy.No.94 to an extent of 3 acres of land has been sanctioned, conceded, granted and issued in favour of one Smt.Shahazadiamma. Further the said 3 acres of land is exists, located and it is situated at Matadakavalu Village, Hosaagrahara Hobli, Saligrama Taluk, Mysuru District. Further out of the entire 3 acres of land, to an area, width and amplitude measuring 3 guntas of land is the Karab Land. Therefore, deducting and shorn of the said Karab land of 3 guntas, the remaining cultivable land is 2 acres 27 guntas and the same is belong to one Smt.Shahazadiamma in the light and by virtue of the allotment and grant made in her favour on 18.08.1961.

14. Furthermore, it has been auspice, disclosed, nurtured and remise in the plaint that, towards the said extent of 2 acres 27 guntas of land, the khata being mutated, recorded and transferred in her name and she was remitting bearing and incurring the revenue tariff, cess and toll towards the said land which is sanctioned in her favour. It is the family of the plaintiff and her ancestors from the time immemorial, they are in consecutive, cumulative, constructive, composite and joint possession of the property without there being any hindrance, pester, rebuff, clogging, snagging and cumber and disruption for more than 30 years.

15. Further after the death of the Smt.Shahazadiamma, in a partition and division which was solemnized, held and taken place on 18.12.2024, the khata pertaining to the schedule property has got entered, effected and transferred in the name of the plaintiffs. Further it has been described, narrated, postulated and submitted by the plaintiff that, land measuring to an extent of 2 acres 37 guntas of land previously and erstwhile it was allotted in favour of one Smt.Shahazadiamma and in the records it has been clearly denoted, mentioned and shown as fallow land of Government (Barren land) (Sarkari Beelu).

16. Thereafter, as per the order passed by the Assistant Commissioner, Hunsuru, dated 24.11.2024, he has issued

directions to the Tahsildar of Saligrama to effect, mutate and transfer the khata in the name of the Smt.Shahazadiamma on account of grant and durasth made. Further the said order of the Assistant Commissioner has been stayed by the Special District Collector as per the order passed in RP No.65/2025 dated 18.02.2025. Further the plaintiff approached the inspector of police, Saligrama, so as to initiate suitable action against the defendants. Further the surveyor attached to the office of revenue department has also write upon a letter addressing the Inspector of Saligrama, claiming, seeking and requesting to extend their assistance, aid and service, in order to bifurcate examine, conduct phodi and durasth work in order to fixe the boundary stones.

17. Therefore according to the plaintiff herein, in spite of the complaint being registered, an endorsement has been issued by the police, endorsing, acknowledging and stating that, the dispute, lis, clash, ambiguity and combat between the parties being civil in nature, it was directed to approach the competent civil court to get rid of, resolve and decide their issues. Therefore according to the plaintiffs, she has approached, appeared and caused her presence before this court with a plea, placing requesting and soliciting to prevent the defendants from causing any kind of bother, harassment, disruption and interruptions over the possession of the plaintiff in respect of the suit schedule property.

18. Wherein on the contrary repugnance and contorting the said views, expressions, pleadings, narrations and descriptions of the plaint, the defendants inturn declining, refusing and naysay the entire averments canvased, advanced and proposed in the plaint, the defendants submitted in their written statement that, it is the defendants and their family members who are in actual physical and real possession of the property described, explained, shown and annexed along with the plaint, uninterruptedly without there being disruptions, incommode, pester, pesky, spanner and hindrance from anybody in any manner from time immemorial and the plaintiffs without having any connections, proximity, nexus, propinquity and relationship with one Smt.Shahazadiamma, it has been imprecating, inculcating, denounced and incriminated in their statement that, the plaintiff falsely claiming that, they are in possession over the schedule property.

19. Therefore according to the plaintiffs, the plaint and the suit which is brought by the plaintiffs is suppression, concealing, occlude, ambuscading, hele, subjugate, quell and concealing the real facts before this court and the entire pleadings are false vexatious, unethical, illicit, vague, kook and queer. Further the suit has been brought, filed and enrolled before this court with created, imaginary, fictitious

and fable story in an cinematic and enigmatic way and manner. Further it has been another important and primary averment that has been urged, initiated and taken by the defendants that, the suit has been filed without there being any valid cause of action and the suit is bad and not maintainable for want of proper cause of action.

20. Further the concept of cause of action introduced in Section 20 of the C.P.C. a cause of action is a legal claim that allow a legal party to seek judicial relief from another party. It is the factual consideration that led to a dispute between the parties. Further, the cause of action is a defence and the basis for the plaintiff to claim certain pleadings and it is the burden again to prove the said pleadings and also the averments affirming in his statement. In the present case on hand, the plaintiff has taken specific plea that, he is the owner of the schedule property and the defendants without having any manner of right, title, possession and interest over the schedule property, they are causing heavy hindrance, obstructions and interference in respect of the settled possession and enjoyment of the plaintiff over the schedule property. Hence it is according to the plaintiff, the cause of action to launch the suit is arose on 02.01.2025.

21. Further, a cause of action is a set of fact that, gives raise for a legal claim or right to sue. As such the said cause to

launch this suit is only to set up action and also the consideration under which leads the plaintiff to approach the court. However, again it is for the plaintiff alone or the person who approaches this court to produce and to lead all sort of evidence in support of the said pleadings and cause of action.

22. Hence, this court is of the opinion that, there is a cause of action which is clearly coated and averred in the pleadings of the plaint it is clear from the very bare, nobbut and plain reading of the plaint and in respect of the remaining averments as discussed above are to be dealt in detail during further course of trial. Hence, the additional issue framed by this court is answered in the **Negative** and court proceeds to pass the following:

ORDER

Issue No.3 is answered in the Negative.

Accordingly, the suit is maintainable.

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced by me in the open Court on this the 01st day of September 2025)

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