

KAMS410003242023



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

PRESENT

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

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 02ND DAY OF FEBRUARY 2026

O.S. No.115/2023

Plaintiff :

1. Smt. Sushilamma W/o Late. Boraiah,
Aged about 62 years,
2. Mr. B.Shivakumar S/o Late. Boraiah,
Aged about 42 years,
3. Mr. P.B.Ravikumar S/o Late. Boraiah,
Aged about 35 years,
4. Smt. P.B.Pallavi D/o Late.Boraiah,
Aged about 32 years,

All are R/at Husurukallahalli Village,
K.R.Nagar Taluk, Mysuru District.

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

V/s

Defendants:

1. The Principle Secretary,
M.S.Building, 3rd Floor,
3rd Gate, Ambedkar Veedhi,
Bengaluru Karnataka-560001.
2. The Chief Executive Officer,
Zilla Panchayath, Mysuru-570004.

3. The Executive Officer,
Grama Panchayathi,
K.R.Nagar Taluk, Mysuru District.
4. The Panchayath Development Officer,
Kaggere Grama Panchayathi,
K.R.Nagar Taluk, Mysuru District.

(D1 By A.G.P.,)

(D2 to 4 By Sri. T.G., Advocate)

ORDERS ON PRELIMINARY ISSUE NO.3

This court has framed issue No.3 on 31.10.2025 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 as contended in the para No.9 of the written statement?

2. The plaintiffs have instituted the present suit seeking the relief of permanent injunction. It is their specific case that they are in peaceful possession and enjoyment of the suit schedule property. According to the plaintiffs, the defendants have no manner of right, title or interest over the suit property, yet they are attempting to interfere with, obstruct and disturb the settled possession and enjoyment of the plaintiffs. Hence, the suit has been filed to restrain the defendants permanently from interfering with the plaintiffs' possession.

3. Upon service of summons, the defendants appeared through counsel and filed their written statement denying and disputing the averments made in the plaint. In paragraph No.9 of the written statement, the defendants have specifically contended that the suit is not maintainable for want of cause of action, inter alia contending that the suit property belongs to the Village Panchayath and that defendant No.4 has initiated action against the plaintiffs in accordance with law.

4. On the basis of the said contention, the present preliminary issue has been framed and taken up for consideration before adjudication of the other issues. It is a settled principle of law that, while deciding a preliminary issue relating to maintainability of the suit and existence of cause of action, the Court has to look only into the averments made in the plaint and not the defence set up by the defendants in the written statement.

5. On a plain reading of the plaint averments, the plaintiffs assert that the suit property originally belonged to one deceased Boraiah, from whom the plaintiffs claim to have succeeded to the property. It is further pleaded that they have been in possession and enjoyment of the property and have been using the same as a cow shed and cattle hut. The plaintiffs have specifically pleaded that the cause of action for

filing the suit arose in November 2022, when villagers lodged oral complaints against them at K.R.Nagar Police Station and before defendant No.4, and when defendant No.4 issued a series of notices dated 15.11.2022, 29.11.2022 and 16.12.2023, allegedly interfering with their possession.

6. These pleadings, on their face value, clearly disclose a cause of action for seeking the relief of permanent injunction. Whether the plaintiffs are in lawful possession, whether the suit property belongs to the plaintiffs or to the Village Panchayath, and whether the actions initiated by defendant No.4 are justified or otherwise, are all disputed questions of fact and law. Such questions necessarily require evidence and cannot be adjudicated at the pre-trial stage while deciding a preliminary issue.

7. At this nascent stage of the suit, it cannot be said that the plaint does not disclose any cause of action or that the suit is barred on the ground of maintainability. The defence set up by the defendants, even if strong, cannot be a ground to reject the plaint or to non-suit the plaintiffs at this stage. For the foregoing reasons, this Court is of the considered view that the suit discloses a cause of action and the question raised by the defendants cannot be decided as a preliminary issue. Hence, the preliminary issue framed by

this court is required to be 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. List the matter for recording of evidence on the remaining issues.

(Dictated to the Stenographer transcribed by her, revised, corrected, signed and then pronounced by me in the open Court on this the 02nd day of February 2026)

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