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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 APRIL 2026

O.S. No. 93/2024

Plaintiff :

Murthy S/o Late.Kalegowda
Aged about 60 years,
R/at Manchanahalli Village,
Hosa Agrahara Hobli,
K.R.Nagar Taluk, Mysuru District.

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

V/s

Defendants:

1. Sujatha W/o Ramachandrashetty,
Aged about 50 years,
2. Ramachandrashetty S/o Thammashetty,
Aged about 55 years,
3. Raghu S/o Ramachandrashetty,
Aged about 35 years,
4. Loksha S/o Ramachandrashetty,
Aged about 33 years,

D1 to D4 are R/at
Manchanahalli Village,
Hosa Agrahara Hobli,
K.R.Nagar Taluk, Mysuru District.

5. Kumara S/o Javani Javaregowda,
Aged about 40 years,

6. Ravi S/o Javani Javaregowda,
Aged about 45 Years,

D5 and 6 are R/at Huyilalu Village,
Ilavala Hobli, Mysuru Taluk,

7. Prashanth S/o Padmanabha,
Aged about 50 years,
R/at Hampapura Village,
Hosa Agrahara Hobli,
K.R.Nagar Taluk, Mysuru District.

(D1 to D4 Rep.By Sri.C.L.M., Advocate)
(D5 to D7 Ex-parte)

ORDERS ON PRELIMINARY ISSUE NO.3

This Court has framed issue No.3 on 04.02.2026 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.4 of the written statement?

2. The orders on preliminary issue which has been drafted, recorded, framed and created on 04.02.2026. Further the said issue which has been taken up and reserved for orders is, whether the suit is hit and do not sustain and maintainable for want of proper and valid cause of action as it is contended, held, stipulated, propagated and adverted in the paragraph No.4 of the written statement.

Notably the suit is as could be seen, pursued and depicted that it is for the relief claimed and prayer for bare, pite and merely for the relief of injunction. Whether as per the materials provided, disclosed, propagated, predicated, propounded and nurtured in the plaint would reveal, exhibit, excerpt, overt and in terse and nutshell that, there exists a pathway, cart-track way and road which is towards the eastern region, portion and area of the plaint schedule property and towards the norther region side and area, there locates, exists and situates the property of these defendants.

3. Wherein it is further enunciated, proposed and propounded in the said pleadings that, the defendants being the adjacent, diluvial, abreast, vicinal and neighbor land owners towards and next to the property of the plaintiff, these defendants are presently embarking upon initiating and they are heavily causing hindrance, disruption, commotion, pesky, spanner and other forms of obstructions and interference in respect of the easy go movement, utilization, exert and usage of the said pathway, cart-track and the road which is there in existence and locates towards the eastern and norther portion of the property of the defendants.

4. Further it has been specifically and significantly materialistically denoted, urged and contemplated in the

remaining paragraph of the plaint that, although in respect of the said unlawful, illegal, lawless and fraudulent activities of the defendants in restricting, curtailing and prohibiting the right of the plaintiff in using, assessing, accessing, proceeding and making use of the said common cart-track, passage, road has been convened, informed and solemnized an indenture, treaty, meeting, covenant and concert in the present of the village elder senior members respectable inhabitants in the locality in the year 2023.

5. Although and despite the defendants were asked, directed and were requested not to mes up with the right of the plaintiff to make use utilization and to proceed with the said cart-track, passage and road which locates towards the eastern and norther area of the defendants property, the defendants without obeying, honoring, abiding and following the opinions, suggestions, sapience, wist, nous and the request of the elders, they have floated, refused and ignored the opinions with impunity, audacity, breeziness, unprovable and with the elements of goons, prodigal, larrikin and with rowdy elements. They further continued their foul-full and unlawful activities so as to restrict and ensure the movement to proceed in the said track and the embodied right of the plaintiff to ingress and egress into the said common passage is curtailed, deceived, shorn and prohibited.

6. Further the defendants with their prodigal and antisocial elements, they have discredited, defused, condemned and belittle the defendants. When the plaintiff approached the jurisdictional police station, due to the instigation, libido and influence of these defendants, no proper and effective efficacious action being initiated. Therefore, the plaintiff is before this court for the relief claimed and discussed above.

7. While conversely remonstrating, impugning the dissenting, declining, obtestation, censuring and specifically confronting the said suit, the defendants upon the process and service of this court, they are before this court and they do file their statement as against defiant, contorting, conflicting, differentiating and negating all the pleadings of the plaint. Further in the statement, the defendants at paragraph No.4 they have manifesto, hermetically, tautly and candidly held that, the suit is not maintainable for want of valid proper cause of action thereby this court based and pursuant to the material differences, distinctions, variation, clash, conflicts, vicissitude ambiguities and pleadings material discrepancies and dissent pleadings, disagreements, meta statements and since on account of material irregularities and in consistency in respect of the pleadings the plaint and the statement, this court proceed to record frame draw and craft in all 5 issues on 04.02.2026. Thereby

the issue No.3 since it has been one which has been recorded leads to very cause and leading to the roots of the suit and it is leading, leaning and sagging towards the maintainability and it has been termed, construed, treated and considered as preliminary one and taken up the same for adjudicating and adjudging the same prior and much earlier to adjudicate and deciding upon the other issues which are already recorded.

8. Further upon appreciation, vigilant, careful, alacrity, thoughtful process, heedful and bestowing our anxious consideration towards the pleadings, the documents and arguments rendered captioned before this court, as it is well settled established and decided tenets and proposition principle of law that, while adjudicating, discussing, determining and finalizing the issue which is in respect of cause of action the court while deciding the issue shall not travel, wigwag, trench, poke and it shall not conduct any rowing inquiry even earlier and before providing an opportunity to the parties to lead, propose and present their evidence.

9. Further it is also expounded and emerged from numerous verdicts that, the court must and it shall consider only the averments, pleadings, proposition and perpetration which were contended, proposed, discussed in the plaint

alone and it shall not travel and wigwag beyond the pleadings of the plaint. Accordingly, in that said context and scenario, while considering the pleadings, divulged and nurtured in the plaint, the plaintiff herein specifically denoted, propounded and predicated and specifically held that, there exists, situates, locates and subsists cart-track way, pathway and road which is locates and situated towards eastern and northern portion, area and site of the defendants property and these defendants being the neighbor, adjacent, abreast, diluvial and vicinal land owners, they are presently making hectic, sinewy and causing gallant, cimmerician obstructions, spanner, pesky, interruption in respect of the right of the plaintiff to access, use, exert, utilize and proceeding in the said pathway and cart-track. Because of this antecedents, antisocial rowdy, prodigal, hooligans and larrikin activities and elements of the defendants which intern cause significant and some grave obstacle, disruption and prejudice on the plaintiff, so as to ingress and egress to reach out and access the said existed cart-track and pathway.

10. It is therefore according to the plaintiff, although the meeting were conveyed, the defendants did not heed, obey, honor their suggestions, sapience that were given. Ultimately as per the plaint, notification and disclosures, the cause, reasons, grounds and the proper and appropriate

stature for registration of the suit is held, occurred, solemnized and taken place in the month of December 2023. Thereby the plaintiff herein were forced, compelled, construed to launch, lay and prefer and institute the present suit, as could be seen and revealed in the plaint, the plaint sufficiently includes all the material pleadings some triable case and cause of action for the purpose of presentation of the suit is consisted and contained in the said pleadings.

11. Furthermore, whether such pleadings are valid, true, correct, real bonafide or not is the subject matter of the preliminary issue as discussed above, this court is not required to conduct any rowing inquiry and it shall not travel, look into, row and wigwag into the pleadings of the written statement except to consider and to refer the pleadings alone. Therefore, from the regulation, observation and deliberation as discussed supra, the plaintiff has clearly pleaded all the material essential ingredients and cause for the action so as to register the suit. However, it is for the plaintiff alone who is having onus, onerous, burden, saddled and fastened with the responsibilities to vouch, grapple, fortify, embellish and authenticate the said averments by leading, presenting and laying some concrete, pivotal, significant and strong material evidence. Therefore, at this very inception, limine and installation stage, juncture and context, it is just not correct to hold and decide the suit is

suffering from cause of action or the alleged cause for the presentation of the suit is false frivolous, untenable, feeble, futile and none existence.

12. Wherefore, this court is of the absolute, clear opinion that, at this juncture it is very nascent, callow, bud and it is very premature to adjudicate the issue and hold it in the affirmative at this very instilling stage. Hence, the preliminary issue framed by this court is answered in the **Negative** and this court proceeds to pass the following:

ORDER

Issue No.3 is answered in the Negative holding that, the plaintiff has made out some triable case before this court. Therefore, the suit may be enlisted and it may posted for the purpose of recording the evidence on the remaining issues.

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 April 2026)

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