

KAMS410013592020



**IN THE COURT OF THE HONOURABLE I ADDITIONAL CIVIL
JUDGE & JMFC, AT KRISHNARAJANAGAR.**

PRESENT: SMT.ASRINA.,B.A, LLB.
I ADDL. CIVIL JUDGE AND JMFC, KRISHNARAJANAGAR.

DATED THIS 3RD DAY OF JUNE, 2026

O.S.260/2020

BETWEEN

PLAINTIFF	Smt.Manjula W/o Late. Rajachari Aged 48 years R/at: Hosur Kallahalli Vilage, Kasaba Hobli, K.R.Nagara Taluk Mysore District (By:Shri.B.K.P. Advocate)
DEFENDANTS	1. Shri.Ramakrishnegowda S/o Late.Ramegowda Aged 65 years 2. Shri.Basavegowda S/o Late.Ramegowda Aged 63 years 3. Shri.Ramesha S/o Late.Ramegowda Aged 55 years 4. Smt.Rathnamma W/o Shri.Ramakrishnegowda



	Aged 60 years 5. Shri.Nagaraja S/o Sri.Ramakrishnegowda Aged 30 years 6. Smt.Sundaramma (Since dead R/by her LR's) W/o Sri.Basavegowda 7. Shri.Puneeth S/o Sri.Basavegowda Aged 28 years. 8. Shri.Pavan S/o Sri.Basavegowda Aged 28 years 9. Smt.Lalitha W/o Sri.Ramesha Aged 44 years 10. Shri.Ravikiran S/o Shri.Ramesha Aged 25 years 11. Shri.Varun Kumar S/o Shri.Ramesha Aged 23 years All are R/at:Hosur Kallahalli Village, Kasaba Hobli, K.R.Nagara Taluk, Mysore District. (By: Shri.J.G. Advocate)
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Date of Institution of suit	02/11/2020
Nature of suit	Suit for Perpetual Injunction.
Date of recording of evidence	02/03/2023
Date of Judgment	03/06/2026.
Total duration	Years/s Month/s Day/s -05- -07- -01-

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR.

J U D G M E N T

Plaintiff has filed the present suit for the relief of perpetual injunction to restrain the defendants or anybody claiming through or under them from interfering in the peaceful possession of the plaintiff over the suit property, for costs of the suit and for such other reliefs.

2. The Brief facts of plaintiff's case is as under:

It is the case of the plaintiff that she is a absolute owner and possessor of the suit property. It is the case of the plaintiff that after the construction of KRS Dam, the Hosuru Kallahalli villagers were rehabilitated at Sy.No.102 measuring 22 acres 30 guntas of land. It is the case of the plaintiff that during the rehabilitation, two vacant sites were granted to the father-in-law of the plaintiff

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namely Mr.Bettachari S/o Kullachari. It is the case of the plaintiff that out of those two sites, the suit property was fallen to the share of her husband in an oral partition. It is the case of the plaintiff that after acquiring the suit property in the oral partition, the husband of the plaintiff has mutated the suit property to the name of the plaintiff herein. It is the case of the plaintiff that thereafter the Government has sanctioned the fund to the plaintiff for construction of the house in the suit property under the Ashraya Yogane Scheme. It is the case of the plaintiff that by utilizing the said fund, she has constructed the RCC house in the suit property by leaving vacant space in all the four directions of the suit property. It is the case of the plaintiff that her husband and son are working as a blacksmiths and they store their equipments in the vacant space situated in the suit property. It is the case of the plaintiff that on 25/08/2020 when the husband and son of the plaintiff were digging toilet pit in the 9½ feet of open space situated in the suit property, at that point of time the defendants have caused illegal interference and the defendants have also destroyed the flower plants of the plaintiff and assaulted the plaintiff. It is the case of the plaintiff that in that regard even she has also approached the jurisdictional police and lodged the complaint as against the defendants. It is the case of the plaintiff that to the said compliant, the police has issued the endorsement. It is the case of the plaintiff that she is in actual possession and enjoyment of the suit property as its absolute owner by regularly

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paying necessary tax to the government in respect of the suit property. It is the case of the plaintiff that the defendants are not concerned with the suit property. It is the grievance of the plaintiff that without having any manner of rights over the suit property the defendants are causing illegal interference to her peaceful possession and enjoyment over the suit property. Therefore the plaintiff has contended that the acts of the defendants is highly illegal and high handed and the same is against the law. Therefore, the illegal acts of the defendants has to be checked by this court by granting the reliefs as sought for in the suit. If not the plaintiff will suffer irreparable loss which cannot be compensated in terms of money. Therefore, having no other efficacious remedy the plaintiff has approached this court by filing the above suit. According to the plaintiff the cause of action to file the above suit arose on 25/08/2020, the date on when the defendants have caused illegal interference to the peaceful possession of the plaintiff over the suit property. Hence, with the above plea the plaintiff has prayed to decree the suit.

3. In pursuance to the summons issued by this court, the defendants have entered their appearance before this court through their counsel and the defendants have contested the above suit by filing their detailed written statement.

4. The defendants have filed the written statement wherein they

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have denied the title and possession of the plaintiff over the suit property. The defendants have specifically denied the allegation of alleged interference alleged to have caused by them to the peaceful possession of the plaintiff over the suit property. By denying rest of the plaint averments, the defendants have categorically contended that the defendant No.1 owns all in total 3 vacant sites including a vacant site situated behind the suit property. It is the contention of the defendants that the defendant No.1 has acquired those three vacant sites in the manner as stated in the para No.11 of the written statement. It is the contention of the defendants that though the vacant site situated behind the suit property belongs to the defendant No.1, but the plaintiff is falsely claiming that the said vacant site belongs to her. It is the contention of the defendants that with an intention to grab the vacant sites of the defendant No.1, the plaintiff has filed this present false suit. It is the contention of the defendants that the plaintiff has filed this suit by showing the false boundaries. Therefore, the defendants have contended that the present suit filed by the plaintiff for bare injunction by showing the false boundaries of the suit property is not maintainable. Therefore the defendants have contended that by suppressing all the true and material facts the plaintiff has filed the present false suit. The defendants have contended that there is no cause of action to file the above suit and the alleged cause of action shown by the plaintiff is false and fictitious. The plaintiff has not approached this court with clean hands. The

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above suit being the false suit the defendants have prayed to dismiss the suit by awarding the compensatory costs. Hence, with the above contentions, the defendants have prayed to dismiss the suit with costs.

5. On the basis above pleadings and rival contentions, learned predecessor in office has framed the following Issues:

1. Whether the plaintiff proves that she was in actual physical possession of the suit schedule property on the date of the suit?
2. Whether plaintiff further proves interference caused by the defendants?
3. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for?
4. What order or decree?

6. In order to establish the case of the plaintiff, plaintiff has stepped into the witness box and examined herself as Pw.1 and got marked Exhibit P-1 to Ex.P-20 documents. On the other hand, in order to nullify the claim of the plaintiff and to prove the defence of the defendants, defendant No.1 has entered the witness box and examined himself as Dw.1 and got marked Exhibit D-1 to Ex.D-4 documents. In support of the defence of the defendants, the defendants have also examined two independent witnesses as Dw.2 and Dw.3 and closed their side of evidence. Thereafter, the

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case was heard on merits.

7. On perusal of the pleadings, oral and documentary evidence placed before the court, my findings to the above issues are as hereunder:

Issue No.1: In the Negative.

Issue No.2: In the Negative.

Issue No.3: In the Negative.

Issue No.4: As per the final orders for the following:

REASONS

8. ISSUE NO.1: Plaintiff has filed the present suit for the relief of perpetual injunction. It is the case of the plaintiff that she is a owner and possessor of the suit property. The defendants who are not at all concerned with the suit property, without having any right, title and interest over the suit property, the defendants have illegally tried to interfere in the peaceful possession and enjoyment of the plaintiff over the suit property. Therefore, being aggrieved by the said illegal acts of the defendants, the plaintiff has filed this suit as against the defendants to restrain the defendants from interfering in the peaceful possession and enjoyment of the plaintiff over the suit property.

9. In a suit for bare injunction it is incumbent on the part of the plaintiff to prove her possession over the suit property as on the date of the filing of the suit. Accordingly the Issue No.1 was

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framed casting burden on the plaintiff to prove her possession over the suit property.

10. In order to discharge the burden casted on her, the plaintiff has examined herself as Pw.1 and got marked Exhibit P-1 to Ex.P-20 documents. On the other hand in support of their defence, the defendants have examined the defendant No.1 as Dw.1 and the defendants have relied on Ex.D-1 to Ex.D-4 documents.

11. It is the case of the plaintiff that during the rehabilitation, two vacant sites were granted to her father-in-law namely Mr.Bettachari S/o Kullachari. It is the case of the plaintiff that out of those two sites, the suit property was allotted to the share of her husband in an oral partition. It is the case of the plaintiff that after acquiring the suit property in the oral partition, the husband of the plaintiff has mutated the suit property to the name of the plaintiff herein. It is the case of the plaintiff that thereafter by utilizing the fund sanctioned by the Government under the Ashraya Yogane Scheme, she has constructed the RCC house in the suit property by leaving the vacant space in all the four directions of the suit property. As such, the plaintiff has claimed that she is the absolute owner in peaceful possession of the suit property.

12. At para No.3 of the plaint, the plaintiff has claimed that two

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vacant sites including the suit property were granted to her father-in-law namely Mr.Bettachari S/o Kullachari and after the partition, the plaintiff has constructed the house in the suit property, which was a vacant site earlier. Ex.P-2 is a list of certified copy of list of beneficiaries to whom the property was granted by the Government. Ex.P-2 is a undisputed document and the same proves and establishes that huts (ಹುಲ್ಲಮನೆ) bearing No.126 and 129 were granted to the father-in-law of the plaintiff namely Mr.Bettachari S/o Kullachari. Ex.P-2 document does not states that two vacant sites were granted to father-in-law of the plaintiff namely Mr.Bettachari S/o Kullachari. Rather, what is stated in the Ex.P-2 document is that the huts (ಹುಲ್ಲಮನೆ) bearing No.126 and 129 were was granted to the father-in-law of the plaintiff namely Mr.Bettachari S/o Kullachari. The plaint schedule discloses that the Assessment number of the suit property is 126. Hence, the Ex.P-2 document proves and establishes that the suit property bearing No.126 was not a vacant site and rather the suit property was a hut (ಹುಲ್ಲಮನೆ) at the time of its grant to Mr.Bettachari S/o Kullachari. Thereby, the Ex.P-2 document falsifies the claim of the plaintiff that the suit property was a vacant site at the time of its grant to Mr.Bettachari S/o Kullachari.

13. Plaintiff was examined as Pw.1. At para No.1 of her cross-examination, the plaintiff/Pw.1 has deposed as under:

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ನಾನು ಈ ದಾವೆಯನ್ನು ನಿವೇಶನದ ವಿಚಾರವಾಗಿ ಸಲ್ಲಿಸಿದ್ದೇನೆ.

14. According to the plaintiff, the dispute in between herself and the defendants is in respect of the vacant site situated in the suit property. According to the plaintiff, she has filed this suit in respect of the vacant site situated in the suit property. Ex.P-3 and Ex.P-4 are the certified copies of Demand register extracts in respect of the suit property. Column No.5 to 20 of the Ex.P-3 and Ex.P-4 documents shows that the plaintiff is paying tax only in respect of the house and no tax is being paid by the plaintiff in respect of the any vacant site. Column No.5 to 20 of the Ex.P-3 and Ex.P-4 documents are extracted below:

ಡಿಮ್ಯಾಂಡ್								ಡಿಮ್ಯಾಂಡ್				ವಸೂಲಿ			
ಬಾಕಿ				ಚಾಲ್ತಿ				ಜುಮ್ಲ್ಯಾ							
ಮನೆ ತೆರಿಗೆ	ನಿವೇಶನದ ತೆರಿಗೆ	ನೀರಿನ ತೆರಿಗೆ	ದೀಪದ ತೆರಿಗೆ	ಮನೆ ತೆರಿಗೆ	ನಿವೇಶನದ ತೆರಿಗೆ	ನೀರಿನ ತೆರಿಗೆ	ದೀಪದ ತೆರಿಗೆ	ಮನೆ ತೆರಿಗೆ	ನಿವೇಶನದ ತೆರಿಗೆ	ನೀರಿನ ತೆರಿಗೆ	ದೀಪದ ತೆರಿಗೆ	ಮನೆ ತೆರಿಗೆ	ನಿವೇಶನದ ತೆರಿಗೆ	ನೀರಿನ ತೆರಿಗೆ	ದೀಪದ ತೆರಿಗೆ
5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
-	-	-	-	67	-	-	10								

ಡಿಮ್ಯಾಂಡ್ ಮೊಬಲಗು								ಡಿಮ್ಯಾಂಡ್				ಸಂಗ್ರಹಣೆ			
ಬಾಕಿ				ಚಾಲ್ತಿ				ಬೇಡಿಕೆ (ಒಟ್ಟು)							
ಮನೆ ತೆರಿಗೆ	ನಿವೇಶನದ ತೆರಿಗೆ	ನೀರಿನ ತೆರಿಗೆ	ದೀಪದ ತೆರಿಗೆ	ಮನೆ ತೆರಿಗೆ	ನಿವೇಶನದ ತೆರಿಗೆ	ನೀರಿನ ತೆರಿಗೆ	ದೀಪದ ತೆರಿಗೆ	ಮನೆ ತೆರಿಗೆ	ನಿವೇಶನದ ತೆರಿಗೆ	ನೀರಿನ ತೆರಿಗೆ	ದೀಪದ ತೆರಿಗೆ	ಮನೆ ತೆರಿಗೆ	ನಿವೇಶನದ ತೆರಿಗೆ	ನೀರಿನ ತೆರಿಗೆ	ದೀಪದ ತೆರಿಗೆ
5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1890	-	-	-	500	-	-	-	2390							

15. Further, Ex.P-9 to Ex.P-11 are the tax paid receipts in respect

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of the suit property. Ex.P-9 and Ex.P-10 documents states that the plaintiff has paid tax only in respect of building (ಕಟ್ಟಡ ತೆರಿಗೆ) and Ex.P-11 document states that the plaintiff has paid tax in respect of a house (ಮನೆ ತೆರಿಗೆ). Even the Ex.P-9 to Ex.P-11 documents does not states that the plaintiff has ever paid tax in respect of any vacant site. Though the plaintiff has claimed that there exists a vacant site/space in the suit property, but absolutely no evidence is produced by the plaintiff to prove the existence of vacant site/space in the suit property. Rather, the evidence placed on record by the plaintiff at Ex.P-2 to Ex.P-4 and Ex.P-9 to Ex.P-11 documents proves and establishes that the suit property is only a house and there exists no vacant site/space in the suit property as claimed by the plaintiff. Accordingly, I conclude that the plaintiff has utterly failed to prove the existence of vacant site/space in the suit property.

16. According to the plaintiff, the total measurement of the suit property is 22 X 36 feets. Even the plaintiff has also sought for decree for perpetual injunction in respect of 22 X 36 feets of suit property. It is significant to note here that though the plaintiff has claimed that the total measurement of the suit property is 22 X 36 feets, but the plaintiff has not placed any evidence before this court to prove the same. Plaintiff has claimed that the suit property was acquired by her father-in-law namely Mr.Bettachari S/o Kullachari under the Ex.P-2 document. But the Ex.P-2

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document does not recites the measurement of the property granted to Mr.Bettachari. Further, in her cross-examination dated 02/08/2023 at para No.6, the plaintiff has deposed as under:

ನಮ್ಮ ಮಾವನ ಹೆಸರಿನಲ್ಲಿ ಎಷ್ಟು ವಿಸ್ತೀರ್ಣದ ನಿವೇಶನ ಇತ್ತು ಎಂದು
ತಿಳಿಸಲು ದಾಖಲೆಗಳನ್ನು ನ್ಯಾಯಾಲಯಕ್ಕೆ ನೀಡಿರುವುದಿಲ್ಲ.

17. Ex.P-3 is a Demand register extract in respect of the suit property in which the measurement of the suit property is shown as 22 X 36 feet.

18. Whereas, in her cross-examination at para No.1, the plaintiff has deposed that the measurement of the suit property is 22 X 26 feet. The same is extracted below:

ನಾನು ಈ ದಾವೆಯನ್ನು ನಿವೇಶನದ ವಿಚಾರವಾಗಿ ಸಲ್ಲಿಸಿದ್ದೇನೆ. ಸದರಿ
ನಿವೇಶನದ ವಿಸ್ತೀರ್ಣ ಪೂ-ಪ 22 ಅಡಿ, ಉ-ದ 26 ಅಡಿ ಇರುತ್ತದೆ.

19. Ex.P-6 is a certified copy of the registered mortgage deed dated 03/08/2010. Similarly, Ex.P-7 is a certified copy of the registered mortgage deed dated 12/09/2011. According to the plaintiff, the Ex.P-6 and Ex.P-7 documents are executed by her in respect of the suit property. In the Ex.P-6 document, the measurement of the suit property is mentioned as 12 X 20 feet and in the Ex.P-7 document, the measurement of the suit property is mentioned as 20 X 20 feet. The Ex.P-3, Ex.P-6 and Ex.P-7 documents being relied on by the plaintiff, each of the

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above documents discloses the different measurements of the suit property. Even the plaintiff in her cross-examination referred above, she has deposed totally a different measurement of the suit property as 22 X 26 feet. Hence, the above being the case, this court is not inclined to accept the claim of the plaintiff that the total measurement of the suit property is 22 X 36 feet. Hence, when the measurement of the suit property itself is uncertain, this court cannot uphold the possession of the plaintiff in respect of 22 X 36 feet of suit property.

20. Further, in the plaint, the plaintiff has shown the boundaries of the suit property as under:

East by: Galli and Singachari and Subbachari house.

West by: Galli and Swaminayaka and
site of Ramakrishnegowda.

North by: Galli, Road.

South by: Galli and House of Somachar.

21. Whereas, in the Ex.P-6 and Ex.P-7 documents, the boundaries of the suit property is shown as under:

ಪೂರ್ವಕ್ಕೆ ಸಿಂಗಚಾರಿರವರ ಮನೆ

ಪಶ್ಚಿಮಕ್ಕೆ ಸ್ವಾಮಿನಾಯಕರವರ ಮನೆ

ಉತ್ತರಕ್ಕೆ ಗಲ್ಲಿ ರಸ್ತೆ.

ದಕ್ಷಿಣಕ್ಕೆ ಸೋಮಚಾರಿ ರವರ ಮನೆ

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22. Not only the measurement, even the boundaries of the suit property as shown in the plaint does not tally with the boundaries of the suit property as shown in the Ex.P-6 and Ex.P-7 documents. Hence, even the boundaries of the suit property being uncertain, it cannot be held that the plaintiff is in possession of the suit property within the boundaries as shown in the plaint.

23. As held above, the plaintiff has failed to prove the existence of vacant site/space in the suit property. So also the plaintiff has failed to prove the boundaries and measurement of the suit property as mentioned in the plaint. Hence, such being the case, it cannot be said that the plaintiff is in possession of the suit property, existence of which is not proved by the plaintiff. Hence, the claim of the plaintiff to be in a possession of the suit property cannot be accepted at all. Accordingly, I conclude that the plaintiff has utterly failed to prove her possession over the suit property. Accordingly for what has been discussed above, **I answer Issue No.1 in the Negative.**

24. ISSUE NO.2: As held in Issue No.1, the plaintiff has failed to prove her possession over the suit property. When the plaintiff is not in possession of the suit property then the question of causing interference to her alleged possession by the defendants does not arise at all. Accordingly, without dwelling upon this aspect of matter for any greater length **I answer Issue No.2 in the Negative.**

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25. ISSUE NO.3: In view of my forgoing discussions on above Issues, I am of the considered view that the plaintiff is not at all entitled for any reliefs as sought for in the suit. **Accordingly, I answer Issue No.3 in the Negative.**

26. ISSUE NO.4: In view of my above discussions and findings on Issues No.1 to 3, I proceed to pass the following:

ORDER

The suit of the plaintiff is hereby dismissed with costs.

Pending interim applications if any, the same are disposed off accordingly.

Draw decree accordingly.

(Dictated to the Stenographer, typed by her, and the transcript revised and corrected by me and then pronounced in the open court on this **3rd day of June, 2026**).

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC
KRISHNARAJANAGAR.

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ANNEXTURE

<u>List of Witnesses examined on behalf of the plaintiff</u> PW-1: Smt.Manjula W/o Late.Rajachari.
<u>List of Documents marked on behalf of the plaintiff</u> Ex.P-1: RTC. Ex.P-2: Certified copy of list of beneficiary. Ex.P-3 & 4: Demand Register extracts. Ex.P-5: Certified copy of Inspection report. Ex.P-6: Certified copy of registered mortgage deed dated 03/08/2010. Ex.P-7: Certified copy of registered mortgage deed dated 12/09/2011. Ex.P-8 to 11: Tax paid receipts. Ex.P-12: Acknowledgment issued by police. Ex.P-13: Letter issued by police dated 29/08/2020. Ex.P-14 to 17: Photographs. Ex.P-18: C.D. Ex.P-19 & 20: Photographs.
<u>List of Witnesses examined on behalf of the defendants</u> DW-1: Shri.Ramakrishnegowda S/o Late.Ramegowda DW-2: Shri.Ningegowda S/o Late.Siddegowda @ Shyamanna DW-3: Shri.Erannanayaka S/o Eranayaka
<u>List of Documents marked on behalf of the defendants</u> Ex.D-1: Certified copy of sale deed dated 16/05/1966. Ex.D-2 & 3: Certified copies of Demand register extracts. Ex.D-4: Certified copy of Assessment Register extract.

(SMT.ASRINA)
I ADDL. CIVIL JUDGE & JMFC
KRISHNARAJANAGAR.