

KAMS410019302024



**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. 489/2024

Plaintiff :

Sri. N.Mahadeva
S/o Nagabhushana Aaradhya
Aged about 47 years,
R/at Hanumanahalli Village,
Mirle Hobli, Saligrama Taluk,
Mysuru District.

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

- V/s -

Defendant:

1. Sri. B.C.Ningappa
S/o Late. Chikkaverappa,
Aged about 80 years,
 2. Sri. B.N.Doresha S/o B.C.Ningappa,
Aged about 52 years,
- Both are R/at Beechanahalli Village,
Mirle Hobli, Saligrama Taluk,
Mysuru District.

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

ORDERS ON PRELIMINARY ISSUE NO.3

This Court has framed issue No.3 on 02.09.2025 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.5 of the written statement?
- 2.** This is the suit filed by the plaintiffs for the relief of permanent injunction. According to the plaintiff, the suit itself has been instituted for the relief of perpetual injunction against the defendants. The plaintiff asserts that, the property bearing Survey No.4/4, measuring 11 guntas of land originally belonged to his mother, Smt.Indramma. The said Indramma executed a registered deed of gift in favour of the plaintiff on 06.05.2017.
- 3.** It is further averred that pursuant to the gift, the plaintiff's name has been duly mutated in the revenue records, and ever since, he has been in continuously and regularly paying land revenue and other statutory dues to the concerned authorities. The plaintiff alleges that, the defendants without having any right, title, or interest in the suit schedule property, are attempting to interfere with his peaceful possession by causing obstruction and disturbance. Hence, prays for decreeing the suit.

4. However, in pursuance of the suit summons against the defendants, they appeared before this court and filed their written objections. Wherein they denied, defied and also refuted all the pleadings of the plaintiff. As per the statement of the defendants, the plaintiff has no right, title, or interest over the suit schedule property. It is specifically submitted that Smt.Indramma, the mother of the plaintiff, had already alienated and sold the said property in the year 2005 itself, by executing a registered sale deed. Thus, after such alienation, she had no subsisting right to execute the alleged gift deed dated 06.05.2017 in favour of the plaintiff.

5. The defendants further contend that, despite the said alienation in 2005, the plaintiff, in collusion with certain revenue officials, has managed to get the khata and other revenue entries mutated in his name. Such mutation, according to the defendants, is illegal, collusive, and without any legal sanctity, as revenue entries do not confer title.

6. It is asserted that, the defendants are the rightful owners and are in possession of the suit schedule property by virtue of the valid sale deed of 2005. The plaintiff has no possession whatsoever, and hence there is no question of interference by the defendants. The defendants submit that, the present suit has been filed only to harass, trouble, and put the defendants to unnecessary inconvenience with regard

to their lawful property. The same is devoid of merit, without cause of action, and not maintainable in law. Therefore, sought for dismissal of the suit.

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

8. 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 as contended in the para No.5 of the written statement?

9. Findings to the above point is as under:

Point No. 1 : Negative for the following:

REASONS

10. POINT NO.1:

The matter is listed for consideration of the preliminary issue framed by this Court on the basis of the pleadings. In the written statement, at paragraph No.5, the defendant has specifically contended that the present suit is not maintainable for want of a proper cause of action. Accordingly, this Court, having adverted to the said contention, has framed Issue No. 3 as a preliminary issue for adjudication.

11. It is the case of the plaintiff that, the suit has been instituted seeking the relief of perpetual injunction against

the defendants. The plaintiff submits that the property bearing Survey No.4/4, measuring 11 Guntas of land, originally belonged to one Smt. Indiramma, who is none other than the mother of the plaintiff. It is further stated that the said Indiramma executed a registered deed of gift in favour of the plaintiff on 06.05.2017. Pursuant thereto, the plaintiff's name was duly mutated in the revenue records, and he has since been regularly paying land revenue and other statutory dues.

12. The plaintiff asserts that, the defendants have no manner of right, title, or interest in the suit schedule property. However, they have been causing interference with his peaceful possession and enjoyment of the said property. In order to restrain such unlawful interference, the present suit has been filed. According to the plaintiff, the cause of action for filing the suit arose during the first week of September 2024, when the defendants attempted to interfere with his possession.

13. Thus, the question that arises for consideration as a preliminary issue is whether the suit is maintainable in law in view of the objection raised by the defendants regarding absence of a cause of action. The law is well settled that for the purpose of examining maintainability on the ground of want of cause of action, the Court must confine itself to the

plaint averments alone. The truth or correctness of those pleadings cannot be tested at this stage. Further, if on a meaningful reading of the plaint it discloses a cause of action, the plaint cannot be rejected under Order VII Rule 11 CPC. Similarly, the existence of the cause of action must be gathered from the plaint as a whole.

14. On perusal of the plaint, this Court finds that the plaintiff has pleaded title derived under a registered gift deed, mutation of his name in the revenue records, payment of land revenue, and interference alleged by the defendants in September 2024. These averments clearly disclose a cause of action for filing the suit for injunction. Whether such averments are true or whether the plaintiff can ultimately prove them is a matter for trial and evidence, and not for decision at the preliminary stage.

15. 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, archon, master, proprietor, bass and landlord 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 from 1st week of September 2024.

16. 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.

17. 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 the 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 03rd day of November 2025)

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