



**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 9TH DAY OF JUNE, 2026

O.S.358/2021

BETWEEN

PLAINTIFF	Shri.Rafiq Ahammad S/o Abdul Basheer Aged: 48 years R/at: Sulthan Mohalla, Hunsur road, K.R.Nagar town. (By: Shri.K.B.G. Advocate)
DEFENDANTS	1. Smt.Shayida W/o Late.Jaheer Khan Aged 55 years. 2. Shri.Sadiq S/o Late.Jaheer Khan Aged 53 years. Defendants No.1 & 2 are R/at: Bherya village, Hosagrahara Hobli, K.R.Nagar Taluk. 3. Shri.Fayaz Aged 45 years

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	5. Shri.Riyaz Aged 43 years. Defendants No.3 & 4 are Owners of Car Workshop Situating at:Sulthan Mohalla, Hunsur road, K.R.Nagar town. (Defendant No.1 & 2 are placed Ex-parte) (Defendants No.3 & 4 By: Shri.K.S.D. Adv.,)
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Date of Institution of suit	16/09/2021		
Nature of suit	Suit for Perpetual Injunction.		
Date of recording of evidence	05/07/2023		
Date of Judgment	09/06/2026.		
Total duration	Years/s -04-	Month/s -08-	Day/s -23-

(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 No.3 and 4 or anybody claiming through or under them from causing noise pollution and emitting smoke to the suit property, to direct the defendants No.3

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and 4 to shift their car workshop, to direct the defendants No.1 and 2 not to lease or let out their property to carry out any work which causes noise pollution and smoke emission, to direct the defendants to reimburse the medical expenses sustained by the plaintiff, 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 the plaintiff along with his family members are in peaceful possession and enjoyment of the suit property. It is the case of the plaintiff that the suit property is self acquired property of his father. It is the case of the plaintiff that at the Western side of the suit property, the property of the defendants No.1 and 2 is situated. It is the case of the plaintiff that the defendants No.1 and 2 have leased their said property to the defendants No.3 and 4. It is the case of the plaintiff that in turn the defendants No.3 and 4 are running their car workshops in the aforesaid property of the defendant No.1 and 2 which is situated at the Western side of the suit property. It is the case of the plaintiff that during the course of their work in the car workshop, the defendants are causing constant noise pollution and also causing air pollution by emitting the smoke. Due to the said reason, the mother of the plaintiff namely Smt.Sarunnisa has died on 25/06/2020 and wife of the plaintiff namely Smt.Sumayya Naaz is also suffering from ill-health. The father of the plaintiff who is aged 80 years and the children of the plaintiff who are

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attending online classes in the suit property, even they are also facing trouble due to the noise and air pollution caused by the defendants No.3 and 4 in their car workshops. It is the case of the plaintiff that due to the noise and air pollution caused by the defendants No.3 and 4, his children are unable to study at home and they are unable to attend the online classes. Even the father of the plaintiff being senior citizen, even his health is also getting deteriorated. It is the case of the plaintiff that when he approached the defendants No.3 and 4 and informed them about the troubles faced by him and his family members, the defendants No.3 and 4 have turned their deaf ears. Therefore, on 09/12/2017 the plaintiff has submitted a complaint before the jurisdictional police as against the illegal acts of the defendants. But, the police did not take any action as against the defendants. Therefore, on 16/12/2017 the plaintiff has submitted a complaint to the Tahasildar and the Town Municipality Authority, on 21/12/2017 the plaintiff has submitted a complaint to the D.C, Mysuru and on 25/04/2018 the plaintiff has submitted a complaint to the Upa-Lokayuktha, Mysuru as against the defendants. It is the case of the plaintiff that though the concerned authorities have directed the defendants No.3 and 4 to shift their car workshop to different place, but the defendants No.3 and 4 have not obeyed the direction passed by the concerned authorities. Therefore, on 19/10/2020 the plaintiff has also issued a legal notice to the defendants calling upon them not to cause any noise or air

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pollution to the plaintiff and to shift the car workshop of the defendants No.3 and 4. It is the case of the plaintiff that instead of complying the demands made by the plaintiff in the said notice, the defendants have issued a false and untenable reply to the said notice. 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 from 09/12/2017, the date on when the plaintiff has lodged complaint to the jurisdictional police as against the illegal acts of the defendants No.3 and 4 and on all subsequent dates when the plaintiff has approached the different authorities complaining about the illegal acts of the defendants. 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 No.3 and 4 have entered their appearance before this court through their counsel and the defendants No.3 and 4 have contested the above suit by filing their detailed written statement. In spite of service of summons, the defendants No.1 and 2 did not

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appear before this court. Hence, the defendant No.1 and 2 were placed Ex-parte.

4. The defendants No.3 and 4 have filed the written statement wherein they have denied the entire plaint avements in toto. Since the plaintiff had not given the description of the suit property earlier, the defendants No.3 and 4 had contended that the plaint does not discloses as to in respect of which property the plaintiff has filed this suit. It is the contention of the above defendants that from last 8 to 10 years they are running their car mechanic workshop in the property of the defendants No.1 and 2. It is the contention of the above defendants that their work shop is not causing any noise or air pollution as falsely alleged by the plaintiff. It is the contention of the above defendants that they are not emitting any smoke nor they are using any chemicals in their workshop. Rather, the above defendants are only doing the mechanical work of the car. Therefore, it is the contention of the above defendants that absolutely no sorts of health problems are caused to the plaintiff or to his family members due to the car workshop of the defendants. It is the contention of the above defendants that the suit property is situated in the commercial area. There are many scooter and car mechanic shops situated around the suit property. Even there is a K.S.R.T.C Depot near the suit property and that even many heavy motor vehicles also keeps moving in the main high-way which is situated near the suit

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property. But, the plaintiff has not raised any objections for functioning of the K.S.R.T.C Depot, movement of heavy motor vehicles in the main high-way situated near the suit property and so also the plaintiff has not raised any objections for functioning of the other scooter and car mechanic shops situated around the suit property. But, only with an intention to cause hardship to the defendants No.3 and 4, the plaintiff has filed this false suit. It is the contention of the above defendants that though on 09/12/2017 the plaintiff has submitted a complaint before the jurisdictional police, on 16/12/2017 the plaintiff has submitted a complaint to the Tahasildar and the Town Municipality Authority, on 21/12/2017 the plaintiff has submitted a complaint to the D.C, Mysuru and on 25/04/2018 the plaintiff has submitted a complaint to the Upa-Lokayuktha, Mysuru, all the above authorities have visited the spot and after verification the concerned authorities have advised the plaintiff not to cause trouble to the defendants by filing false complaint against the defendants. It is the contention of the above defendants that the son of the plaintiff runs a spare parts shop near the mosque situated at Muslim block, K.R.Nagar. It is the contention of the above defendants that initially they used to purchased the spare parts from the shop of plaintiff's son. It is the contention of the above defendants that recent to filing of this suit, a new spare part shop opened near the car workshop of the above defendants. It is the contention of the above defendants that thereafter they started

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to purchase the spare parts from the newly opened shop situated near to their workshop. It is the contention of the above defendants that since the above defendants have stopped purchasing the spare parts from the shop of son of the plaintiff, the plaintiff has filed this false suit against the defendants in order to take revenge. Therefore the above defendants have contended that by suppressing all the true and material facts the plaintiff has filed the present false suit. The above 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 above suit being the false suit the above defendants have prayed to dismiss the suit by awarding the compensatory costs. Hence, with the above contentions, the defendants No.3 and 4 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 plaintiff proves that defendants being neighbors of his residential house by virtue of their nature of work are causing sound and air pollution?
2. Whether plaintiffs further proves that defendants by virtue of their work nature are disturbing plaintiff's peaceful stay at his residence?

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3. Whether plaintiffs are 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 himself as Pw.1 and got marked Exhibit P-1 to Ex.P-23 documents. On the other hand, in order to nullify the claim of the plaintiff and to prove the defence of the defendants No.3 and 4, defendant No.3 has entered the witness box and examined himself as Dw.1 and got marked Exhibit D-1 to Ex.D-19 documents and closed their side of evidence. Thereafter, the 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 Affirmative.

Issue No.2: In the Affirmative.

Issue No.3: In the Partly Affirmative.

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

REASONS

8. ISSUES NO.1 AND 2: Since the discussion on these two Issues are interconnected, in order to avoid repetition, the above two Issues are taken up together for a common discussion.

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9. It is the case of the plaintiff that at the Western side of the suit property, there exists a property belonging the defendants No.1 and 2, in which the defendants No.3 and 4 are running the car workshop. It is the case of the plaintiff that during the course of their work in the car workshop, the defendants No.3 and 4 are causing constant noise pollution and air pollution by emitting the smoke and the same is causing health hazards to the plaintiff and his family members. Though the plaintiff has communicated the said problem with the defendants No.3 and 4, they have turned their deaf ears. Though the plaintiff has approached several authorities in that regard, nothing yielded any positive results. Therefore, being aggrieved by the said illegal acts of the defendants, the plaintiff has filed this suit.

10. In order to discharge the burden casted on him, the plaintiff has examined himself as Pw.1 and got marked Exhibit P-1 to Ex.P-23 documents. On the other hand in support of their defence, the defendants No.3 and 4 have examined the defendant No.3 as Dw.1 and the defendants have relied on Ex.D-1 to Ex.D-19 documents. For better appreciation of evidence, the evidence placed on record by the both the parties are taken up together for simultaneous discussion.

11. It is a undisputed fact that the plaintiff along with his family members resides in the suit property. Hence, the stay of the plaintiff in the suit property along with his family members is not

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in dispute. So also the fact that the suit property belongs to the father of the plaintiff is also not in dispute. Ex.P-15 and Ex.D-10 are the E-khata in respect of the suit property and the same are the undisputed documents. Ex.P-15 and Ex.D-10 being the undisputed documents, the same proves and establishes that the suit property belongs to the father of the plaintiff. Hence, on combined reading of the evidence placed on record by the parties coupled with the admissions made by the defendants No.3 and 4 proves and establishes that the suit property belongs to the father of the plaintiff and that the plaintiff along with his family members are residing in the suit property.

12. Ex.P-5 are the medical reports of Smt.Sumyya Naaz. It is a undisputed fact that Smt.Sumayya Naaz named in the Ex.P-5 medical reports is wife of the plaintiff. Ex.P-5 document consists of medical reports of wife of the plaintiff Smt.Sumayya Naaz from the year 2012 to 2021 and the same proves and establishes that the wife of plaintiff Smt.Summayya Naaz is under constant medical treatment from the consultant physactrict Dr.Rajgopal for physactry related issues. The same establishes that the wife of the plaintiff is suffering from mental related health issue.

13. The defendant No.3 was examined as Dw.1. At para No.17 of his cross-examination, the defendant No.3/Dw.1 has deposed as under:

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17. ವಾದಿಯ ತಂದೆಗೆ 80 ರಿಂದ 85 ವರ್ಷ ವಯಸ್ಸಾಗಿರುತ್ತದೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಇರಬಹುದು ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ.

14. In his cross-examination referred above, the contesting defendant namely the defendant No.3/Dw.1 has admitted that the father of the plaintiff is a senior citizen aged 80-85 years. Hence, on combined reading of evidence placed on record by the plaintiff coupled with the above referred admissions made by the defendant No.3/Dw.1 proves and establishes that the wife of the plaintiff is mentally ill and the father of the plaintiff is a senior citizen who is aged 80-85 years. It is a undisputed fact that both father and wife of the plaintiff are residing in the suit property along with the plaintiff.

15. It is the case of the plaintiff that at the Western side of the suit property, there exists a property of the defendants No.1 and 2, in which the defendants No.3 and 4 are running the car workshop. It is the case of the plaintiff that during the course of their work in the car workshop, the defendants No.3 and 4 are causing constant noise pollution and air pollution by emitting the smoke and the same is causing health hazards to the plaintiff and his family members.

16. The defendants No.3 and 4 are the only contesting defendants. At para No.1 to 3 of his cross-examination, the defendant No.3/Dw.1 has deposed as under:

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1. ನಾನು ಕಾರ್ ವರ್ಕ್ ಶಾಪ್ ನಡೆಸುತ್ತಿರುವ ಜಾಗವು 1 ನೇ ಪ್ರತಿವಾದಿಗೆ ಸೇರಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ಕಾರ್ ವರ್ಕ್ ಶಾಪ್ ನಡೆಸಲು ಜಾಗವನ್ನು ಬಾಡಿಗೆ ಕರಾರಿನ ಮೂಲಕ 1 ನೇ ಪ್ರತಿವಾದಿ ನಮಗೆ ನೀಡಿರುತ್ತಾರೆ.
2. ನಾನು ನಡೆಸುತ್ತಿರುವ ಕಾರ್ ವರ್ಕ್ ಶಾಪ್ ದಾವಾ ಆಸ್ತಿಯ ಪೂರ್ವ ದಿಕ್ಕಿಗೆ ಇರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ದಾವಾ ಆಸ್ತಿಯ ಪಶ್ಚಿಮ ದಿಕ್ಕಿಗೆ ದಾವಾ ಮನೆಯ ಕಿಟಕಿಗಳು ಇವೆ ಎಂದರೆ ಸರಿ.
3. ನಿ.ಪಿ.7 ಮತ್ತು ನಿ.ಪಿ.9 ರ ಪೊಟೋಗಳಲ್ಲಿ ವಾಹನಗಳು ನಿಂತಿರುವ ಖಾಲಿ ಜಾಗವೇ ನಾನು ನಡೆಸುತ್ತಿರುವ ಕಾರ್ ವರ್ಕ್ ಶಾಪ್ ಎಂದರೆ ಸರಿ.

17. The defendant No.3 being the contesting defendant, in his cross-examination referred above, he has categorically admitted that at the Western side of the suit property, there exist a property of the defendants No.1 and 2, in which the defendants No.3 and 4 are running the car workshop as a tenants. Thereby, the case of the plaintiff that the defendants No.3 and 4 are running their car workshop at the Western side of the suit property is established.

18. At para No.3 and 19 of his cross-examination, the defendant No.3/Dw.1 has deposed as under:

3. ನಿ.ಪಿ.7 ಮತ್ತು ನಿ.ಪಿ.9 ರ ಪೊಟೋಗಳಲ್ಲಿ ವಾಹನಗಳು ನಿಂತಿರುವ ಖಾಲಿ ಜಾಗವೇ ನಾನು ನಡೆಸುತ್ತಿರುವ ಕಾರ್ ವರ್ಕ್ ಶಾಪ್ ಎಂದರೆ ಸರಿ.
19. ನಿ.ಪಿ.7, 9 ಮತ್ತು 10 ರಲ್ಲಿ ಕಾಣುತ್ತಿರುವ ಸ್ಥಳದಲ್ಲಿಯೇ ನಾನು ನನ್ನ ಕಾರ್ ವರ್ಕ್ ಶಾಪ್ ನಡೆಸುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ.

19. In his cross-examination referred above, the defendant No.3/Dw.1 has admitted that the Ex.P-7, Ex.P-9 and Ex.P-10 are the

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photographs pertaining to his car workshop. Further, at para No.4 of his cross-examination, the defendant No.3/Dw.1 has admitted that even the Ex.P-9 and Ex.P-10 are also pertaining to the suit property as well as his car workshop. So also the defendant No.3/Dw.1 has admitted that the vehicles which have come for repair in his workshop are standing touching to the wall of the suit property. The relevant portion of cross-examination of defendant No.3/Dw.1 is extracted below:

4. ನಿಪಿ.9 ಮತ್ತು ನಿಪಿ.10 ರಲ್ಲಿ ಕಾಣುತ್ತಿರುವ ಮನೆಯು ವಾದಿಯ ಮನೆ/ದಾವಾ ಆಸ್ತಿಯಾಗಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ದಾವಾ ಆಸ್ತಿಗೆ ಒಂದು ಇಂಚು ಜಾಗ ಸಹ ಬಿಡದಂತೆ ವಾಹನಗಳು ದಾವಾ ಆಸ್ತಿಗೆ ತಾಗಿಕೊಂಡೆ ನಿಪಿ.7, 9 ಮತ್ತು 10 ರ ಪೊಟೋಗಳಲ್ಲಿ ನಿಲುಗಡೆಯಾಗಿರುವ ಬಗ್ಗೆ ಕಂಡುಬರುತ್ತದೆ ಎಂದರೆ ಸರಿ.

20. Admittedly the Ex.P-7, Ex.P-9 and Ex.P-10 are the photographs of the car workshop of the defendant, which is situated at the Western side of the suit property. Ex.P-7, Ex.P-9 and Ex.P-10 photographs proves and establishes that many numbers of all types of cars and goods tempos are brought for repair in the workshop of the defendants No.3 and 4. Further, the Ex.P-7, Ex.P-9 and Ex.P-10 photographs also proves and establishes that the vehicles which have come for repair in the workshop of the defendants No.3 and 4, the same are standing touching to the wall of the suit property in a way that causes obstruction to the plaintiff to open his windows situated at the

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Western side of the suit property. Hence, the same proves and establishes that due to the car workshop of the defendants No.3 and 4, it is becoming inconvenient for the plaintiff to open the windows of his house. Windows are made for the purpose of ventilation and for free flow of air and light. If the opening of the windows itself is obstructed by parking the vehicles, the same will take away the right of plaintiff and his family members of accessing ventilation and free flow of air and light to their house. Therefore, the act of the defendants No.3 and 4 in parking the vehicles of their workshop touching to the Western side wall of the suit property in way that creates obstruction for the plaintiff to open the windows is certainly a hardship, that is being caused due to the workshop of the defendants No.3 and 4.

21. Further, at para No.6 of his cross-examination, the defendant No.3/Dw.1 has deposed as under:

6. ಸಾಮಾನ್ಯವಾಗಿ ಯಾವುದೇ ಚಾಲನೆಯಾಗದ ವಾಹನ ಮತ್ತು ವಾಹನದಿಂದ ಹೊಗೆ ಹೋಗದೆ ಹೊಗೆ ಕಟ್ಟಿರುವ ವಾಹನ ಇಂತಹ ವಾಹನಗಳೆಲ್ಲ ನನ್ನ ವರ್ಕ್ ಶಾಪ್ ನಲ್ಲಿ ರಿಪೇರಿಗೆ ಬರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ವಾಹನಗಳ ಎಲ್ಲ ತರಹದ ರಿಪೇರಿಗಳನ್ನು ನನ್ನ ವರ್ಕ್ ಶಾಪ್ ನಲ್ಲಿ ಮಾಡುತ್ತಾರೆ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ.

22. In his cross-examination referred above, the defendant No.3/Dw.1 has admitted that all types of repair works of the vehicles are carried in his workshop including the repair work of non-working vehicles and repair work of the vehicles of which the

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smoke emission is blocked. As admitted by the defendant No.3/Dw.1, he undertakes the repair work of non-working vehicles and repair work of the vehicles of which the smoke emission is blocked. This court takes judicial notice of the fact that the process of bringing back the non-working vehicles to the working condition involves high sound as the accelerator has to be raised. The same results in noise pollution to the suit property, which is situated very adjacent to the car workshop of the defendants No.3 and 4. Further, this court also takes judicial notice of the fact that the process of repairing the vehicles of which the smoke emission is blocked, even the same also involves emission of bad smoke blocked in the vehicle. The same results in air pollution to the suit property, which is situated very adjacent to the car workshop of the defendants No.3 and 4. Hence, the above admission given by the defendant No.3/Dw.1 proves and establishes that due to the nature of work carried out by the defendants No.3 and 4 in their car workshop, there occurs sound and air pollution to the suit property, which is situated abutting to the car workshop of the defendants No.3 and 4.

23. Further, in his cross-examination at para No.7, the defendant No.3/Dw.1 has deposed as under:

7. ಅಪಘಾತಕ್ಕೀಡಾದ ವಾಹನಗಳು ಮತ್ತು ನಷ್ಟಗುಟ್ಟಾದ ವಾಹನಗಳು ಸಹ ನನ್ನ ಕಾರ್ ವರ್ಕ್ ಶಾಪ್ ಗೆ ರಿಪೇರಿಗೆ ಬರುತ್ತದೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಿಪಿ.7 ರಲ್ಲಿ ಕಾಣುತ್ತಿರುವ ಕಾರ್ ವರ್ಕ್ ಶಾಪ್ ನಲ್ಲಿ ನಷ್ಟಗುಟ್ಟಾದ ಸೀಲ್ಡರ್

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ಬಣ್ಣದ ಕಾರು ಹಾಗೂ ಕಪ್ಪು ಮತ್ತು ಬಿಳಿ ಬಣ್ಣದ ಸಣ್ಣ ಕಾರು ಕಂಡುಬರುತ್ತದೆ ಎಂದರೆ ಸಾಕ್ಷಿ ಅದು ಸ್ವಲ್ಪ ಪ್ರಮಾಣದಲ್ಲಿ ನಜ್ಜುಗುಜ್ಜಾಗಿದೆ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ. ನಿಪಿ.7 ರಲ್ಲಿ ಕಾಣುತ್ತಿರುವ ಸದರಿ ನಜ್ಜುಗುಜ್ಜಾದ ಕಾರುಗಳನ್ನು ರಿಪೇರಿ ಮಾಡಿ ಟೆಂಕರಿಂಗ್ ಮಾಡಬೇಕಾಗುತ್ತದೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಕಾರುಗಳನ್ನು ನಾನು ರಿಪೇರಿ ಮಾಡಿ ಕೊಡುತ್ತೇನೆ ಆದರೆ ಅದಕ್ಕೆ ಟೆಂಕರಿಂಗ್ ನ್ನು ಪಕ್ಕದ ಗ್ಯಾರೇಜಿನಲ್ಲಿ ಮಾಡಿಸುತ್ತಾರೆ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ.

24. As held above, admittedly the Ex.P-7 is a photograph of car workshop of the defendants No.3 and 4. The Ex.P-7 photograph also discloses the photo of a silver car which is crushed. In his cross-examination referred above, the defendant No.3/Dw.1 has admitted that even the crushed vehicles are also repaired in his car workshop. This court takes judicial notice of the fact that the process of repairing the crushed vehicles and bringing them back to the original shape also involves high sound. The same also results in noise pollution to the suit property, which is situated touching to the car workshop of the defendants No.3 and 4.

25. Further, in his cross-examination at para No.11, the defendant No.3/Dw.1 has deposed as under:

11. ನನ್ನ ವರ್ಕ್‌ಶಾಪ್ ಗೆ ರಿಪೇರಿಗೆ ಎಂದು ಬರುವ ಕೆಟ್ಟು ಹೋಗಿರುವ ಗಾಡಿಗಳಲ್ಲಿ ಆಯಿಲ್ ಲೀಕ್ ಆಗುತ್ತದೆ ಎಂದರೆ ಸಾಕ್ಷಿಯು ಸ್ವಲ್ಪ ಪ್ರಮಾಣದಲ್ಲಿ ಆಗುತ್ತದೆ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ.

26. In his cross-examination referred above, the defendant No.3/

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Dw.1 has admitted that there occurs oil leakage in the vehicles which have come for repair in the workshop of the defendants No.3 and 4. The oil so leaked from the vehicles under repair will release odorous smell. Since the suit property is situated very adjacent to the car workshop of the defendants No.3 and 4 and since the Western side windows of the suit property faces towards the car workshop of the defendants No.3 and 4, the odorous smell so released by the oil leaked from the vehicles under repair will directly go in side the suit property and thereby causing air pollution to the plaintiff and his family members. That apart, even the chemicals that are used by the defendants No.3 and 4 for the purpose of all types of repairs of vehicles will also create pungent smell, which will directly go in side the suit property through the Western side windows which are facing towards the car workshop of the defendants No.3 and 4.

27. Learned counsel for the defendants has argued that the houses of relatives of the plaintiff is also situated next to the suit property and they have never complained that the work carried out by the defendants No.3 and 4 causes sound or air pollution to them. But, the said line of arguments canvassed by the learned counsel for the defendants holds no water because as evidenced from Ex.P-7, Ex.P-9 and Ex.P-10 photographs, the Western side windows of the suit property directly faces towards the car workshop of the defendants No.3 and 4. Hence, the noise pollution

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as well as the air pollution so caused by the car workshop of the defendants No.3 and 4 in the manner stated above, the same will directly effect the plaintiff and not to the relatives of the plaintiff, whose houses are not situated adjacent to the car workshop of the defendants as much as the suit property. Since the Western side windows of the suit property faces towards the car workshop of the defendants No.3 and 4, the suit property will come into direct contact with the air and sound pollution so caused by the workshop of the defendants No.3 and 4. Therefore, the plaintiff and his family members being the primary contact, who are directly affected by the air and sound pollution so caused by the workshop of the defendants No.3 and 4, they have filed this suit.

28. Further, learned counsel for the defendants No.3 and 4 has also argued that though there are bakeries and fast food stalls exists near the suit property, but the plaintiff has not made any complainants about those bakeries and fast food stalls. Even the said line of arguments canvassed by the learned counsel for the defendants holds no water because the bakeries and fast food stalls will not cause sound or air pollution to the plaintiff, as much as the car workshop of the defendants No.3 and 4 does.

29. Hence, the evidence placed on record by the parties coupled with the admissions given by the defendant No.3/Dw.1 proves and establishes that due to the nature of work carried out by the

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defendants No.3 and 4 in their car workshop, there occurs sound and air pollution to the suit property, as the windows of the suit property facing towards the car workshop of the defendants No.3 and 4. The noise pollution as well as the air pollution so caused by the car workshop of the defendants No.3 and 4 in the manner stated above, the same will directly effect the plaintiff and his family members. As held above, Ex.P-5 document proves and establishes that from the year 2012 the wife of plaintiff Smt.Summayya Naaz is under constant medical treatment from the consultant physactrict Dr.Rajgopal for physactry related issues. The same establishes that the wife of the plaintiff is suffering from mental related health issue. Further, in his cross-examination at para No.17, the contesting defendant namely the defendant No.3/Dw.1 has admitted that the father of the plaintiff is a senior citizen aged 80-85 years. Hence, on combined reading of the evidence placed on record by the plaintiff coupled with the above referred admissions made by the defendant No.3/Dw.1 proves and establishes that the wife of the plaintiff is mentally ill and the father of the plaintiff is a senior citizen who is aged 80-85 years. It is a undisputed fact that both father and wife of the plaintiff are residing in the suit property along with the plaintiff. Therefore, the wife of the plaintiff being mentally ill and the father of the plaintiff being a senior citizen aged 80-85 years, the noise and air pollution so caused by the defendants No.3 and 4 in their car workshop will certainly further effect the health condition of

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the wife and father of the plaintiff. Even the plaintiff and his children will also be affected from the air and noise pollution so caused by the defendants No.3 and 4 in their car workshop. Thereby, it is proved that the peaceful stay of the plaintiff and his family members are getting effected due to the air and noise pollution so caused by the defendants No.3 and 4 in their car workshop. Accordingly, I conclude that the plaintiff has successfully discharged his burden and the plaintiff has successfully proved the Issues No.1 and 2.

30. It is the case of the plaintiff that though he had approached the jurisdictional police, Town municipal authorities, Tahasildar as well as Lokayuktha and complained about the problems faced by him due to the air and noise pollution caused by the defendants No.3 and 4 in their workshop, but nothing yielded any positive results. In that regard, the plaintiff has produced the Ex.P-18 to Ex.P-22 documents. That apart, the fact that the plaintiff has submitted several complaints to the jurisdictional police, Town municipal authorities, Tahasildar and Lokayuktha is categorically admitted by the defendants No.3 and 4 at unnumbered para No.3 of their written statement. The same is extracted below:

ದಾವಾದ 2 ನೇ ಖಂಡಿಕೆಯಲ್ಲಿ ಹೇಳಿರುವಂತೆ ವಿದ್ಯಾಭ್ಯಾಸ ಮಾಡುವ ಚಿಕ್ಕ ಮಕ್ಕಳಿದ್ದು, ತೊಂದರೆಯಾಗುತ್ತಿದೆ ಎಂದು ಸಂಬಂಧಪಟ್ಟ ಪೊಲೀಸ್ ಠಾಣೆಗೆ 19/12/2017, ತಾಲ್ಲೂಕು ದಂಡಾಧೀಕಾರಿಗಳಿಗೆ

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16/12/2017, ಪುರಸಭಾ ಅಧಿಕಾರಿಗಳಿಗೆ 16/12/2017,
ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಗೆ 21/12/2017, ಲೋಕಾಯುಕ್ತರಿಗೆ
25/04/2018 ನೋಟೀಸ್ ನೀಡಿದ್ದು ಎಂಬ ಅಂಶವು ಸತ್ಯವಾಗಿದ್ದು,

31. Further, the plaintiff was examined as Pw.1. At para No.9 and 13 of cross-examination of Pw.1, learned counsel for the defendants No.3 and 4 has cross-examined the plaintiff by admitting and acknowledging about the complaints given by the plaintiff to the jurisdictional police, Town municipal authorities, Tahasildar as well as Lokayuktha on various dates. The relevant portion of cross-examination of plaintiff/Pw.1 at para No.9 and 13 are extracted below:

9. ದಿ: 09.12.2017 ರಂದು ನಾನು ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಹೋಗಿ ದೂರನ್ನು ನೀಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ದಿ: 16.12.2017 ರಂದು ನಾನು ತಾಲ್ಲೂಕು ದಂಡಾಧಿಕಾರಿಯವರಿಗೆ ಮತ್ತು ಪುರಸಭೆಯವರಿಗೆ ದೂರನ್ನು ನೀಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ದಿ: 21.12.2017 ರಂದು ನಾನು ಜಿಲ್ಲಾಧಿಕಾರಿಯವರಿಗೆ ದೂರನ್ನು ನೀಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ. ದಿ: 25.04.2018 ರಂದು ನಾನು ಲೋಕಾಯುಕ್ತರಿಗೆ ದೂರನ್ನು ನೀಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ.

13. 2017 ರಿಂದಲೂ ನಾನು ಬೇರೆ ಬೇರೆ ಮೇಲಾಧಿಕಾರಿಯವರಿಗೆ ಪ್ರತಿವಾದಿಯರ ವಿರುದ್ಧ ದೂರನ್ನು ನೀಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿ.

32. Adding further, in his cross-examination at para No.14, even the defendant No.3/Dw.1 has also admitted about the complaints given by the plaintiff to the jurisdictional police, Town municipal

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authorities, Tahasildar as well as Lokayuktha on various dates. The relevant portion of cross-examination of defendant No.3/Dw.1 at para No.14 is extracted below:

14. ಆದ್ದರಿಂದ ವಾದಿ ತಹಸೀಲ್ದಾರವರಿಗೆ ದೂರನ್ನು ಕೊಟ್ಟಿದ್ದರು ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ತಹಸೀಲ್ದಾರವರು ಸ್ಥಳಕ್ಕೆ ಬಂದು ಸ್ಥಳ ಪರಿಶೀಲನೆ ಮಾಡಿ ವಾದಿಗೆ ಬುದ್ದಿವಾದ ಹೇಳಿರುತ್ತಾರೆ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ. ಅದಾದನಂತರದಲ್ಲಿ ವಾದಿ ನಮ್ಮ ವಿರುದ್ಧ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ದೂರನ್ನು ನೀಡಿದ್ದರು ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ಪೊಲೀಸರು ಸಹ ಸ್ಥಳ ತನಿಖೆ ಮಾಡಿ ವಾದಿಗೆ ಬುದ್ದಿವಾದ ಹೇಳಿ ಹೋಗಿರುತ್ತಾರೆ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ. ನಂತರದಲ್ಲಿ ವಾದಿ ಜಿಲ್ಲಾಧಿಕಾರಿಯವರಿಗೂ ಸಹ ದೂರನ್ನು ನೀಡಿದ್ದರು ಎಂದರೆ ಸರಿ. ಸಾಕ್ಷಿಯು ಮುಂದುವರೆದು ಈ ರೀತಿ ಸುಳ್ಳು ದೂರನ್ನು ನೀಡಬಾರದೆಂದು ಜಿಲ್ಲಾಧಿಕಾರಿಯವರು ಸಹ ವಾದಿಗೆ ಬುದ್ದಿವಾದ ಹೇಳಿರುತ್ತಾರೆ ಎಂದು ಸ್ವತಃ ನುಡಿದಿರುತ್ತಾರೆ. ಅದೇ ರೀತಿ ಹುಣಸೂರಿನ ಉಪವಿಭಾಗಾಧಿಕಾರಿಗಳಿಗೆ ವಾದಿ ದೂರನ್ನು ನೀಡಿದ್ದರು ಎಂದರೆ ಸರಿ.

33. As per Sec.58 of Indian Evidence Act, the admitted facts need not be proved. Admissions made in the pleadings and admissions made in the evidence are judicial admissions. Apart from Ex.P-18 to Ex.P-22 documents, the fact that the plaintiff has submitted several complaints to the jurisdictional police, Town municipal authorities, Tahasildar and Lokayuktha is categorically admitted by the defendants No.3 and 4 in their written statement as well as in the cross-examination of defendant No.3/Dw.1. Hence, the same proves and establishes that even before filing of this suit, ever since from the year 2017 the plaintiff has approached several

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authorities and complained about the problems faced by him and his family members due to the nature of work carried out by the defendants No.3 and 4 in their car workshop. Since the plaintiff did not get any reliefs, ultimately the plaintiff has approached this court. In a suit for bare injunction, the cause of action is continuous and recurring. The daily problems which are faced by the plaintiff and his family members due to the nature of work carried out by the defendants No.3 and 4 in their car workshop gives raise to a new cause of action. Therefore, it cannot be said that the suit is barred by limitation.

34. Ex.D-11 is a letter that is allegedly submitted by the Karnataka Rakshana Vedike to the Lokayutha stating that the defendants No.3 and 4 are not causing any problem to the plaintiff due to their car workshop. When the defendant No.3/Dw.1 was cross-examined about the Ex.D-11 document at para No.22, the defendant No.3/Dw.1 has deposed as under:

22. ನಿಡಿ.11 ರಲ್ಲಿರುವ ರುದ್ರೇಶರವರಿಗೂ ಮತ್ತು ಈ ದಾವೆಗೂ ಯಾವುದೆ ಸಂಬಂಧ ಇಲ್ಲ ಎಂದು ಸೂಚಿಸಿದ ಪ್ರಶ್ನೆಗೆ ಸಾಕ್ಷಿಯು ನಾನು ಲೋಕಾಯುಕ್ತಕ್ಕೆ ದೂರನ್ನು ನೀಡಿದಾಗ ಕರ್ನಾಟಕ ರಕ್ಷಣಾ ವೇದಿಕೆಯವರು ಬಂದು ಸ್ಥಳ ಪರಿಶೀಲಿಸಿ ವರದಿಯನ್ನು ನೀಡಿದ್ದರು ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ. ನಿಡಿ.11 ರಲ್ಲಿರುವ ರುದ್ರೇಶ ಮತ್ತು ನಾನು ಸ್ನೇಹಿತರು ಎಂದರೆ ಸಾಕ್ಷಿಯು ನಾವಿಬ್ಬರು ಪರಿಚಯಸ್ಥರು ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ. ಲೋಕಾಯುಕ್ತಕ್ಕೆ ನಾನು ದೂರನ್ನು ನೀಡಿರುವುದಿಲ್ಲ ಆದರೆ ಬಸೀರ್ ಎನ್ನುವವರು ದೂರನ್ನು ನೀಡಿದ್ದರು. ಲೋಕಾಯುಕ್ತಕ್ಕೂ

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ಮತ್ತು ಕರ್ನಾಟಕ ರಕ್ಷಣಾ ವೇದಿಕೆಗೂ ಯಾವುದೇ ಸಂಬಂಧ ಇಲ್ಲ ಎಂದರೆ ಸರಿ.

35. In his cross-examination referred above, the defendant No.3/Dw.1 has categorically admitted that the author of the Ex.D-11 namely Mr.Rudresh is his known person. So also the defendant No.3/Dw.1 has categorically admitted that there is no nexus between the Lokayutha and Karnataka Rakshna Vedike. The above admissions made by the defendant No.3/Dw.1 proves and establishes that though the author of the Ex.D-11 document namely Karnataka Rakshna Vedike is not concerned with the present issue, just because the defendant No.3 is known person to Mr.Rudresh of Karnataka Rakshna Vedike, it has issued the Ex.D-11 document. Even otherwise, the Karnataka Rakshna Vedike is not a competent authority to issue the Ex.D-11 document. Nor the Karnataka Rakshna Vedike has any *locus-standi* issue the Ex.D-11 document. Therefore, this court is not inclined to rely on the Ex.D-11 document.

36. Further, in their written statement at un-numbered para No.3, the defendants No.3 and 4 have set up the defense that the son of the plaintiff runs a spare parts shop near the mosque situated at Muslim block, K.R.Nagar and they used to purchased the spare parts from the shop of plaintiff's son. It is the contention of the defendant No.3 and 4 that recent to filing of this suit, a new spare part shop had opened near their car workshop and that there after

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they started to purchase the spare parts from the newly opened shop situated near to their workshop. It is the contention of the defendants No.3 and 4 that since they have stopped purchasing the spare parts from the shop of son of the plaintiff, the plaintiff has filed this false suit against the defendants in order to take revenge. This is the precise defense set up by the defendants No.3 and 4 at unnumbered para No.3 of their written statement. The same is extracted below:

ಸದರಿ ವಾದಿಯ ಮಗನು ಕೆ.ಆರ್.ನಗರದ ಮುಸ್ಲಿಂ ಬಡಾವಣೆಯ ಚಿಕ್ಕ ಮಸೀದಿ ಬಳಿ ಸ್ಟೂಟರ್ ಮತ್ತು ಕಾರ್ ಸ್ಟೇರ್ ಗಳಿಗೆ ಸಂಬಂಧಿಸಿದ ಅಂಗಡಿಯನ್ನು ಹೊಂದಿದ್ದು, 3 & 4 ನೇ ಪ್ರತಿವಾದಿಗಳು ತಮ್ಮ ಕಾರಿನ ರಿಪೇರಿಗೆ ಬೇಕಾದ ಸ್ಟೇರ್ ಗಳನ್ನು ವಾದಿಯ ಮಗನ ಅಂಗಡಿಯಲ್ಲಿ ಕೊಂಡುಕೊಳ್ಳುತ್ತಿದ್ದು, ಸದರಿ ವಾದಿ ಮತ್ತು ಪ್ರತಿವಾದಿಗಳ ವಾಸದ ಮನೆ ಮತ್ತು ಜಾಗದಲ್ಲಿ ಈ ದಾವೆಯನ್ನು ಸಲ್ಲಿಸುವ ವರ್ಷಗಳ ಮುಂಚೆ ಹೊಸದಾದ ಆಟೋ ಸ್ಪಾಟ್ಸ್ ಅಂಗಡಿಯು ಸ್ಥಾಪನೆಯಾಗಿದ್ದು, ಸದರಿ ಅಂಗಡಿಯು ಪ್ರತಿವಾದಿಗಳ ಹಾಜು ಬಾಜಿನ ಅಂಗಡಿಯಾಗಿದ್ದು, 3 & 4 ನೇ ಪ್ರತಿವಾದಿಗಳು ತಮ್ಮ ಕಾರಿನ ರಿಪೇರಿಗೆ ಬೇಕಾದ ಬಿಡಿ ಭಾಗಗಳನ್ನು ಅಲ್ಲಿಯೇ ಖರೀದಿಸುತ್ತಿದ್ದು, ವಾದಿಯ ಮಗನ ಅಂಗಡಿಯಲ್ಲಿ ಯಾವುದೇ ಮೆಕಾನಿಕ್ ಬಿಡಿ ಭಾಗಗಳನ್ನು ತರಿಸಿಕೊಳ್ಳದ ಕಾರಣ ವಾದಿಯು ತನ್ನ ವ್ಯಾಪಾರದ ದೃಷ್ಟಿಯಿಂದ 3 & 4 ನೇ ಪ್ರತಿವಾದಿಗಳ ಮೇಲೆ ಇಲ್ಲ ಸಲ್ಲದ ಆರೋಪಗಳನ್ನು ಹೊರಿಸಿ ಈ ಒಂದು ಸುಳ್ಳು ದಾವೆಯನ್ನು ತಂದಿರುತ್ತಾರೆ.

37. It is significant to note here that, though in their written statement the defendants No.3 and 4 have set up the above defense, but during the course of cross-examination of plaintiff at para No.12, learned counsel for the defendants No.3 and 4 has

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made following suggestions:

12. ನನಗೆ ಅತೀಕ ಖಾನ್ ಎನ್ನುವ ತಮ್ಮ ಇದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಅತೀಕ ಖಾನ್ ರವರು ಚಿಕ್ಕ ಮಸೀದಿಯ ಬಳಿ ಆಟೋ ಸ್ಟೇರ್ಸ್ ಅಂಗಡಿಯನ್ನು ನಡೆಸುತ್ತಿದ್ದರು ಎಂದರೆ ಸಾಕ್ಷಿಯು ಮೊದಲು ನಡೆಸುತ್ತಿದ್ದರು ಆದರೆ ಈಗ ನಡೆಸುತ್ತಿಲ್ಲ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ. ಅತೀಕ ಖಾನ್ ರವರು ಸದರಿ ಆಟೋ ಸ್ಟೇರ್ಸ್ ಅಂಗಡಿಯನ್ನು ಮುಚ್ಚಿರುವುದಿಲ್ಲ ಬದಲಾಗಿ ಈಗಲೂ ಸಹ ಅದನ್ನು ನಡೆಸುತ್ತಿದ್ದಾರೆ ಹಾಗೂ ಸದರಿ ಆಟೋ ಸ್ಟೇರ್ಸ್ ಅಂಗಡಿಯಲ್ಲಿ ಕೇವಲ ದ್ವಿಚಕ್ರ ವಾಹನಗಳ ಸ್ಟೇರ್ಸ್ ಪಾರ್ಟ್ಸ್ ಗಳನ್ನು ಮಾತ್ರ ಮಾರಾಟ ಮಾಡುತ್ತಾರೆ. ನಿಡಿ.2 ರ ಹಿರೋ ಮೋಟರ್ಸ್ ಶೋ ರೂಮ್ ಬಲಬದಿಯಲ್ಲಿ ಆಟೋ ಸ್ಟೇರ್ಸ್ ಅಂಗಡಿ ಇದೆ ಎಂದರೆ ಸರಿ. ಪ್ರತಿವಾದಿಯರ ವರ್ಕಶಾಪ್ ನಿಂದ ನನ್ನ ತಮ್ಮನಾದ ಅತೀಕ ಖಾನ್ ರವರ ವ್ಯಾಪಾರಕ್ಕೆ ಅಡ್ಡಿಯಾಗಿರುವುದರಿಂದ ಹಾಗೂ ಅವರ ವ್ಯಾಪಾರ ಕಡಿಮೆಯಾಗಿರುವುದರಿಂದ ಪ್ರತಿವಾದಿಯರ ವರ್ಕಶಾಪ್ ನ್ನು ಮುಚ್ಚಿಸಬೇಕು ಎನ್ನುವ ದುರುದ್ದೇಶದಿಂದ ಈ ದಾವೆಯನ್ನು ಹೂಡಿರುತ್ತೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.

38. Though in their written statement the defendants No.3 and 4 have contended that since they have stopped purchasing the spare parts from the shop of son of the plaintiff, the plaintiff has filed this false suit against the defendants in order to take revenge, but in the cross-examination of plaintiff/Pw.1, learned counsel for the defendants No.3 and 4 has set up altogether totally a different story by contending that since the business of brother of the plaintiff namely Mr.Atheek Khan is affected due to the car workshop of the defendants No.3 and 4, the plaintiff has filed this false suit. There is total contradiction in the defence set up by the

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defendants No.3 and 4 in their pleadings and evidence. Hence, such being the case, this court is not inclined to accept the contrary defense set up by the defendants. Therefore, it cannot be said that the present suit is a false suit filed by the plaintiff to take revenge against the defendants No.3 and 4.

39. Ex.D-19 is a license issued by the Town Municipality, K.R.Nagar to the defendant No.3 to run the car workshop from 01/04/2020 to 31/03/2021. Except the Ex.D-19 document, the defendants No.3 and 4 have not produced any other documents to prove that from the beginning to till date, they were running the car workshop by obtaining license. In his cross-examination at para No.15 and 25, the defendant No.3/Dw.1 has deposed as under:

15. ನಾನು 2008-09 ರಿಂದ ನನ್ನ ಕಾರ್ ವರ್ಕ್‌ಶಾಪ್ ನ್ನು ನಡೆಸುತ್ತಿದ್ದು, ಕಾರ್ ವರ್ಕ್‌ಶಾಪ್ ನಡೆಸಲು ಪರವಾನಿಗೆ ಪಡೆಯಬೇಕು ಎಂಬ ಮಾಹಿತಿ ಇಲ್ಲದಿದ್ದ ಕಾರಣ ಈ ಹಿಂದೆ ಪರವಾನಿಗೆಯನ್ನು ಪಡೆಯದಿದ್ದು, ಇತ್ತೀಚೆಗೆ 2020 ರಲ್ಲಿ ಪುರಸಭೆಯಿಂದ ಕಾರ್ ವರ್ಕ್‌ಶಾಪ್ ನಡೆಸಲು ಪರವಾನಿಗೆ ಪಡೆದಿರುತ್ತೇನೆ. 2020 ರವರೆಗೂ ಯಾವುದೇ ಪರವಾನಿಗೆ ಇಲ್ಲದೇ ನೀವು ಕಾನೂನುಬಾಹಿರವಾಗಿ ವರ್ಕ್‌ಶಾಪ್ ನಡೆಸುತ್ತಿದ್ದೀರಿ ಎಂದು ಸೂಚಿಸಿದ ಪ್ರಶ್ನೆಗೆ ಸಾಕ್ಷಿಯು ಆಗ ನನಗೆ ಪರವಾನಿಗೆ ಪಡೆಯಬೇಕು ಎನ್ನುವ ಮಾಹಿತಿ ಇರಲಿಲ್ಲ ಎಂದು ನುಡಿದಿರುತ್ತಾರೆ.

25. ಉದ್ದಿಮೆ ಪರವಾನಿಗೆಯನ್ನು ಪಡೆಯಬೇಕು ಎನ್ನುವ ತಿಳುವಳಿಕೆ ನನಗೆ ಈ ಹಿಂದೆ ಇರದಿದ್ದ ಕಾರಣ ನಾನು 2020 ರ ಪೂರ್ವದಲ್ಲಿ ನನ್ನ

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ಕಾರು ವರ್ಕ್ ಶಾಪನ್ನು ನಡೆಸಲು ಪುರಸಭೆಯಿಂದ ಉದ್ಧಿಮೆ
ಪರವಾನಗಿಯನ್ನು ಪಡೆದಿರಲಿಲ್ಲ.

40. The above admission made by the defendant No.3/Dw.1 proves and establishes that from the year 2008 upto the year 2020, i.e., nearly for 12 long years the defendants No.3 and 4 were running their car workshop without any license. Further, apart from Ex.D-19, the defendants No.3 and 4 have not produced any other documents to prove that apart from the year 2020-21, they have obtained license from the concerned authority subsequent to the said period until date. Though learned counsel for the plaintiff has sought for producing the license upto the year 2025, but the defendants No.3 and 4 have not produced the same. Hence, the same proves and establishes that except for the year 2020-21, when this suit was filed, the defendants No.3 and 4 have not obtained any license from the concerned authorities to run their car workshop from the year 2008-09 to 2020 and from the year 2021-22 to till date. The same establishes that, the defendants No.3 and 4 are illegally running their car workshop without obtaining any permission from the concerned authorities.

41. The Ex.D-19 document proves and establishes that the said license was issued by the Town Municipality, K.R.Nagar to the defendant No.3 subject to 16 conditions as stated at the reverse page of Ex.D-19. The conditions No.5, 6 and 11 reads as under:

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5. ಸಾರ್ವಜನಿಕರಿಗೆ ಯಾವುದೇ ರೀತಿಯ ತೊಂದರೆ ಆಗದಂತೆ ಉದ್ಯಮ ನಡೆಸಬೇಕು.

6. ಉದ್ಯಮದ ಬಗ್ಗೆ ಸಾರ್ವಜನಿಕರಿಂದ ದೂರುಗಳು ಬಂದಲ್ಲಿ ತಮ್ಮ ಪರವಾನಿಗೆ ರದ್ದುಪಡಿಸಲು ಕ್ರಮವಹಿಸಲಾಗುವುದು.

11. ನಿಯಮಾನುಸಾರ ಪ್ರತಿವರ್ಷ ಪರವಾನಿಗೆಯನ್ನು ಮಾರ್ಚ್ 31 ರ ಒಳಗಾಗಿ ನವೀಕರಿಸಿಕೊಳ್ಳತಕ್ಕದ್ದು.

42. Ex.D-19 license was issued by the Town Municipality, K.R.Nagar to the defendant No.3 subject to aforesaid conditions which states that the defendants No.3 and 4 should run their car workshop without causing any problems to the general public and if any complaint is received from the general public about the car workshop, then the Ex.D-19 license will be canceled. But, as held above, it is proved that due to the nature of work carried out by the defendants No.3 and 4 in their car workshop, there occurs sound and air pollution to the suit property. Moreover, the Ex.P-7, Ex.P-9 and Ex.P-10 photographs proves and establishes that the vehicles which have come for repair in the workshop of the defendants No.3 and 4, the same are standing touching to the wall of the suit property in a way that causes obstruction to the plaintiff to open his windows situated at the Western side of the suit property. Hence, the same also proves and establishes that due to the car workshop of the defendants No.3 and 4, it is becoming inconvenient for the plaintiff to open the windows of his

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house, which affects ventilation and for free flow of air and light to the suit property. Hence, from the above discussion, it is proved that the nature of work carried out by the defendants No.3 and 4 in their car workshop, the same causes problems to the plaintiff and his family members. Thereby, violating the condition No.5 of the Ex.D-19 license.

43. Further, the Ex.P-18 to Ex.P-22 documents coupled with the admissions made by the defendants No.3 and 4 in their pleadings and evidence proves and establishes that even the plaintiff has also submitted many complaints to the several authorities including the Town Municipality and complained about the problems faced by him and his family members due to the nature of work carried out by the defendants No.3 and 4 in their car workshop. Thereby, the defendants No.3 and 4 violating the condition No.6 of the Ex.D-19 license. In view of the complaints made by the plaintiff about the problems faced by him and his family members due to the nature of work carried out by the defendants No.3 and 4 in their car workshop, the same is a ground for the issuing authority to cancel the Ex.D-19 license as per condition No.6.

44. Further, as per condition No.11, the defendants No.3 and 4 ought to have renewed the Ex.D-19 license every year. But, apart from Ex.D-19, the defendants No.3 and 4 have not produced any

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other documents to prove that apart from the year 2020-21, they have obtained license from the concerned authority subsequent to the said period until date. Though learned counsel for the plaintiff has sought for producing the license upto the year 2025, but the defendants No.3 and 4 have not produced the same. Hence, for non-production of the license subsequent to the period 2020-21, adverse inference is drawn as against the defendants No.3 and 4 in terms of Sec.114(g) of the Indian Evidence Act. Therefore, it has to be held that the defendants No.3 and 4 are illegally running their car workshop without obtaining any license from the concerned authorities.

45. In this case learned counsel for the defendants No.3 and 4 has also filed his written arguments. Without there being any pleadings and evidence, for the first time in his written arguments learned counsel for the defendants No.3 and 4 has contended that this court has no jurisdiction to try this suit and rather the jurisdiction to try this case vests with the National Green Tribunal. But his court is not inclined to accept the said line of arguments for two reasons. Firstly, all the objections regarding the jurisdiction has to be raised at the first instance and not at the time of final judgment. Without there being any pleadings and evidence in that regard, the arguments of learned counsel for the defendants No.3 and 4 that this court has no jurisdiction to try this suit cannot be accepted at all, that too at this belated stage.

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Secondly, the wrong alleged to have committed by the defendants in this suit is a civil wrong. Hence, the civil court has all the jurisdiction to try this suit. Viewing from any angle, the defendants No.3 and 4 could not able to discharge the onus casted on them and thereby, the defendants No.3 and 4 have utterly failed to disprove the case and claim of the plaintiff. On the other hand, the plaintiff has successfully discharged his burden and the plaintiff has successfully proved the Issues No.1 and 2. Accordingly, **I answer Issues No.1 and 2 in favour of the plaintiff in the Affirmative.**

46. ISSUE NO.3: In this suit the plaintiff has sought for as many as four reliefs. The first relief sought in this suit is to permanently restrain the defendants No.3 and 4 from causing noise and air pollution to the suit property in which the plaintiff and his family members resides. As held above, it is proved that the suit property belongs to the father of the plaintiff and that the plaintiff along with his family members are in actual possession of the suit property. The plaintiff and his family members being in possession of the suit property, they are entitled to own, possess and enjoy the suit property without any sorts of interference. As held above, it is proved that the wife of the plaintiff is mentally ill and the father of the plaintiff is a senior citizen who is aged 80-85 years. It is proved that both father and wife of the plaintiff are residing in the suit property along with the plaintiff. It is proved that the suit

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property and car workshop of the defendants No.3 and 4 are situated abutting to each other. It is proved that the Western side windows of the suit property are also faces towards the car workshop of the defendants No.3 and 4. Since the Western side windows of the suit property faces towards the car workshop of the defendants No.3 and 4, the suit property will come into direct contact with the air and sound pollution so caused by the workshop of the defendants No.3 and 4. Therefore, the plaintiff and his family members being the primary contact, they will be directly affected by the air and sound pollution so caused by the workshop of the defendants No.3 and 4.

47. Further, it is also proved that due to the nature of work carried out by the defendants No.3 and 4 in their car workshop, there occurs sound and air pollution to the suit property as the Western side windows of the suit property faces towards the car workshop of the defendants No.3 and 4. The noise pollution as well as the air pollution so caused by the car workshop of the defendants No.3 and 4 in the manner stated above, the same will directly effect the plaintiff and his family members. The wife of the plaintiff being mentally ill and the father of the plaintiff being a senior citizen aged 80-85 years, the noise and air pollution so caused by the defendants No.3 and 4 in their car workshop will certainly further effect the health condition of the wife and father of the plaintiff. Even the plaintiff and his children will also be

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affected from the air and noise pollution so caused by the defendants No.3 and 4 in their car workshop. Thereby, it is proved that the peaceful stay of the plaintiff and his family members in the suit property is getting effected due to the air and noise pollution so caused by the defendants No.3 and 4 in their car workshop. Hence, when it is proved that the plaintiff is in lawful possession of the suit property and the peaceful possession of the plaintiff and his family members are getting disturbed due to the air and noise pollution so caused by the defendants No.3 and 4 in their car workshop, I hold that the plaintiff is very much entitled to the relief of permanent injunction to restrain the defendants No.3 and 4 from causing noise and air pollution to the suit property.

48. Further, it is proved that except for the year 2020-21, the defendants No.3 and 4 have not obtained any license from the concerned authorities to run their car workshop from the year 2008-09 to 2020 and from the year 2021-22 to till date. The same establishes that, the defendants No.3 and 4 are illegally running their car workshop without obtaining any license from the concerned authorities. Thereby, the defendants No.3 and 4 have violated the condition No.11 of the Ex.D-19 license. Further, the Ex.D-19 license was issued by the Town Municipality, K.R.Nagar to the defendant No.3 subject to the conditions No.5 and 6 that the defendants No.3 and 4 should run their car workshop without

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causing any problems to the general public and if any complaint is received from the general public about the car workshop, then the Ex.D-19 license will be canceled. But, as held above, it is proved that due to the nature of work carried out by the defendants No.3 and 4 in their car workshop, there occurs sound and air pollution to the suit property. Moreover, the Ex.P-7, Ex.P-9 and Ex.P-10 photographs proves and establishes that the vehicles which have come for repair in the workshop of the defendants No.3 and 4, the same are standing touching to the wall of the suit property in a way that causes obstruction to the plaintiff to open his windows situated at the Western side of the suit property. Hence, the same also proves and establishes that due to the car workshop of the defendants No.3 and 4, it is becoming inconvenient for the plaintiff to open the windows of his house, which affects ventilation and for free flow of air and light to the suit property. Hence, from the above discussion, it is proved that the nature of work carried out by the defendants No.3 and 4 in their car workshop, the same causes problems to the plaintiff and his family members. Thereby, violating the condition No.5 of the Ex.D-19 license. Further, in view of the Ex.P-18 to Ex.P-22 complaints made by the plaintiff about the problems faced by him and his family members due to the nature of work carried out by the defendants No.3 and 4 in their car workshop, the same is a ground for the issuing authority to cancel the Ex.D-19 license as per condition No.6.

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49. Hence, when it is proved that the plaintiff and his family members are in lawful possession of the suit property and the peaceful possession of the plaintiff and his family members are getting disturbed due to the air and noise pollution so caused by the defendants No.3 and 4 in their car workshop and also when it is proved that the defendants No.3 and 4 are running their car workshop by violating the conditions No.5, 6 and 11 of Ex.D-19 license and also when it is proved that from the year 2021 the defendants No.3 and 4 are illegally running their car workshop without obtaining any license/permission from the concerned authorities, I hold that the plaintiff is very much entitled to the relief of permanent injunction to restrain the defendants No.3 and 4 from causing noise and air pollution to the suit property.

50. Further, in this suit the plaintiff has also sought to pass directions to the defendants No.3 and 4 to shift their car workshop to any other place and to further direct the defendants No.1 and 2 not to lease their property to any sorts of work which would cause noise and air pollution. But, granting the above reliefs are not within the domain of this court. Hence, I conclude that the plaintiff is not entitled for the reliefs No.2 and 3.

51. Further, the plaintiff has sought for reimbursement of medical expenses. But, the plaintiff has not specifically stated as to whose medical expenses he is seeking for reimbursement. Furthermore,

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even the plaintiff has also not led evidence supporting his claim on this relief. Hence, I conclude that the plaintiff is not entitled for the relief No.4. Accordingly, for what has been discussed above, **I answer Issue No.3 in the Partly Affirmative.**

52. 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 decreed in part.

By an order of permanent prohibitory injunction, the defendants No.3 and 4 or anybody claiming through or under them are hereby restrained from causing air pollution, noise pollution and causing any sorts of disturbance/trouble/inconvenience/nuisance to the plaintiff and his family members which would affect the peaceful stay of the plaintiff and his family members in the suit property.

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 **9th 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: Shri.Rafiq Ahammad S/o Abdul Basheer
<u>List of Documents marked on behalf of the plaintiff</u> Ex.P-1: Tax paid receipt. Ex.P-2: Letter dated 21/03/2018. Ex.P-3: Paper publication in Vijayavani Kannada daily news paper dated 27/08/2020. Ex.P-4: Legal notice dated 19/10/2010. Ex.P-5 & 6: Medical reports. Ex.P-7: Photograph. Ex.P-8: C.D. Ex.P-9 to 14: Photographs. Ex.P-15: E-khata Ex.P-16 &17: Tax paid receipts. Ex.P-18: Copy of compliant dated 14/12/2017. Ex.P-19: Copy of compliant dated 16/12/2017. Ex.P-20: Copy of compliant dated 30/11/2017. Ex.P-21: Copy of compliant dated 19/08/2020. Ex.P-22: Job offer letter. Ex.P-23: Complaint dated 05/06/2020.
<u>List of Witnesses examined on behalf of the defendants</u> DW-1: Shri.Fayaz.
<u>List of Documents marked on behalf of the defendants</u> Ex.D-1 to 9: Photographs. Ex.D-10: E-Khata. Ex.D-11: Letter dated 22/02/2018. Ex.D-12 to 17: Photographs.

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Ex.D-18: C.D.

Ex.D-19: Trade License.

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