

KAMS410032182021



**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 DECEMBER 2025

O.S. No.373/2021

Plaintiff :

J.Somashekhara Shetty,
S/o Late. T.Javaraiah,
Aged about 67 years,
R/at Thondalu Village, Kasaba Hobli,
Hunsuru Taluk,

Now R/at # 531, Giridharshini,
Extension, Alanahalli Post,
T.Narasipura Main Road, Mysuru.

(Rep. By Sri. R.K., Advocate)

- V/s -

Defendant:

N.Gowdappa,
President, Marikambha Temple,
Aged about 70 years,
Vinayaka Badavane, K.R.Nagara Town,
Mysuru District.

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

ORDERS ON PRELIMINARY ISSUE NO.3

This Court has framed issue No.3 on 18.07.2023 and treated the Issue No.3 as Preliminary Issue. Issue No.3 is as under;

- 1.** Whether the suit is not maintainable for lack of prayer for declaration of title?
- 2.** The present suit was originally instituted by the plaintiff seeking only the reliefs of temporary and permanent injunction, asserting that the plaintiff is in peaceful possession and enjoyment of the suit property and that the defendants are interfering with such possession.
- 3.** The defendants entered appearance and filed their written statement. In the written statement, the defendants have specifically and categorically disputed the plaintiff's title, ownership, and right over the suit property. In view of this dispute to title raised by the defendants, the present preliminary issue regarding maintainability of the suit, in the absence of a prayer for declaration of title, came to be framed.
- 4.** During the pendency of the suit, the plaintiff filed an application under Order 6 Rule 17 CPC seeking amendment of the plaint to include the relief of declaration of title, in addition to the existing prayer for injunction. The defendants filed objections to the said application. Upon hearing both

sides, this Court allowed the amendment application, thereby permitting the plaintiff to correct the pleadings and incorporate the prayer for declaration.

5. Pursuant to the amendment allowed by this Court, the plaint now contains a specific prayer seeking declaration that the plaintiff is the absolute owner and in possession of the suit property. Thus, the suit is no longer one filed merely for injunction; it has now been converted into a suit for declaration and injunction.

6. When the relief of declaration is now expressly pleaded and available on record and when this Court itself has permitted the inclusion of such relief the preliminary issue as to maintainability of the suit for want of a prayer of declaration no longer survives. 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**, holding that the suit is maintainable, since the necessary relief of declaration has already been incorporated by way of amendment.

The suit shall therefore proceed to trial on the main issues, including adjudication of title and the consequential relief of injunction.

(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 December 2025)

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