

KAMS510000162018



**IN THE COURT OF THE I ADDL., CIVIL JUDGE &
J.M.F.C., AT NANJANGUD.**

: PRESENT :

SMT. SARITHA KUMARI A.M.

B.A., L.L.B.,

I ADDL., CIVIL JUDGE & JMFC, NANJANGUD

DATED THIS THE 04th DAY OF JUNE, 2026

O.S./11/2018

Plaintiffs:-

1. Mahadevaswamy,

S/o.Late.Nanjaiah and Late.Hoovamma,
Aged about 45 years,

2. K N Nagegowda,

S/o.Late.Nanjaiah
Aged about 37 years,

Both are R/at.Kempisiddanahundi village,
Chathra hobli,
Nanjangud Taluk.

(By Sri. K S M , - Adv.,)

-V/s-

Defendants:-

1. Kariyappa,

S/o.Late.Chikkegowda,
Dead by Lr's

2. Thayamma,

W/o.Kariyappa,
Aged about 65 years,

3. Marinnanju,

S/o.Kariyappa,
Aged about 48 years,

4. Swamy,
S/o.Kariyappa,
Aged about 42 years,

5. Mahadevu,
S/o.Kariyappa,
Aged about 38 years,

6. Chikka,
S/o.Kariyappa,
Aged about 32 years,

7. Srikanth,
S/o.Kariyappa,
Aged about 28 years,

All are R/at.Kempisiddanahundi village,
Chathra hobli,
Nanjangud Taluk.

**(Defendant No.2,4 to 6 By Sri.K S K .,- Adv.,)
(D1 and 3 abated) (D7 is placed exparte)**

Date of institution of the suit	02.01.2018
Nature of the suit	Permanent Injunction
Date of the commencement of recording of the evidence	19.07.2019
Date on which judgment was pronounced	04.06.2026
Total Duration	<u>Years/Months/Date</u> 08 05 02

**(SARITHA KUMARI A.M)
I ADDL,, FIRST CIVIL JUDGE & JMFC.,
Nanjangud.**

-:: J U D G M E N T ::-

The plaintiffs have filed this suit against the defendants for the relief of Injunction.

2.The Brief facts of the plaintiff case are as follows;

The plaintiffs submits that they are the sons of late Nanjaiah and late Hoovamma, the plaintiff No.1 is the elder brother. The mother of the plaintiff by name Smt.Hoovamma during her life time had purchased suit schedule property through Regd. Sale Deed dt: 04-09-1980 Said date of purchase itself the mother of the plaintiff Hoovamma was put into the possession of the property. The mother of the plaintiff is no more now. Subsequent to the purchase the katha pertaining to the suit schedule property here gets changed in favour of Smt Hoovamma, since the said Hoovamma was illiterate and not at all known the wordly affairs the katha never changed in her favour. Even though it is the duty casts upon the concerned revenue officials to get change the katha subsequent to Reg. Sale Deed in favour of plaintiff mother Hoovamma the same was not at all happened.

3. They further contends that, subsequent to the death of their mother the plaintiffs are in possession and enjoyment of the schedule property. After the advise from the side of the well wisher, the plaintiff rightly filed necessary application to the concerned authority to get change the katha. The plaintiff being the sons of legal heirs of Smt Hoovamma are in possession and enjoyment of the suit schedule property as

absolute owners except the plaintiff, the defendants or any body have no manner of right, title, possession over the suit schedule property.

4. They further contends that, even though the defendants have no manner of right, and interest over the suit schedule property they tried to interfere with possession of the plaintiff on 23-11-2017 at that juncture the defendants assaulted the 1st plaintiff and his wife by name Manjula, hence a complaint is lodged against the defendants vide Cr.No. 456/2017 against the defendants.

5. They further contends that, the plaintiffs being innocent and not at all having any support are not in a position to resist the above referred illegal interference of the defendants, without the aid of this Hon'ble Court, the plaintiffs are not at all in position to safeguard their interest, pertaining to the suit. Hence, the plaintiffs are constrained to file this suit.

6. The defendant was deceased and his Lr's were brought on record. Defendant No.3 was abated. Defendant No.7 was placed exparte. Defendant No.2, 4 to 6 appeared through their counsel and filed their written statement by denying the plaint averments and contended that, that on 01.05.1968 Kempamma who is the mother of the 1st defendant purchased a property east west 12 gaja North to South 07 ½ gaja from one Mr. Subbashetty. Later the said Kempamma who is the mother of the 1st defendant has built a Mangalore tailed house in that property by leaving vacant

space towards east. The plaintiffs and the defendants are the relatives. The plaintiffs property situated towards the east of 1st defendant property. The plaintiffs wronggully entered and tried to encroach the defendants property and made quarrel with the defendants. In this regards the plaintiff has filed the false complaint. The schedule mentioned by the plaintiff is not correct. Hence prays to dismiss the suit.

7. On the basis of above pleadings of the parties, my learned predecessor in this Court framed the following Issues:

::ISSUES::

1. Whether the plaintiffs prove that they are in lawful possession and enjoyment of suit schedule property as on date of filing of the suit ?

2. Whether the plaintiffs prove that defendants have interfered in her possession and enjoyment of suit schedule property ?

3. What order or decree?

8. In order to prove his case, the plaintiff got examined himself as PW.1 and got marked 3 documents at Ex.P.1 to Ex.P.3 and closed their side evidence. On the other hand, Lr of the defendant examined as Dw.1 and no documents were marked on his behalf.

9. Heard arguments by the counsel for the plaintiff and the defendants and perused the materials available on record.

10. On appreciation of the oral and documentary evidence available on record, this Court answered the above issues as follows:-

Issue No.1 : In the Negative,

Issue No.2 : In the Negative,

Issue No.3 : As per final order,

for the following:

:R E A S O N S:

11. Issue No.1 & 2: These issues are interconnected with each other and as such are taken together for common discussions in order to avoid repetition of facts and for better appreciation of evidence on record.

12. It is the specific case of the plaintiff that, the Hoovamma who is the mother of the plaintiff has purchased the suit schedule property through a registered sale deed dated: 04.09.1980 from then the mother of the plaintiff and the plaintiff are in possession of the suit schedule property. Since the mother of the plaintiff is illiterate the katha of the property never changed in her favour. After the death of the mother of the plaintiff, the plaintiff is in possession of the suit schedule property. But the defendants on 23.11.2017 has tried to interfere with possession of the plaintiff over the suit schedule property.

13. The burden of proving these issues is upon the plaintiff. The plaintiff in order to prove these issues got examined himself as P.W.1 and led his chief examination by way of affidavit and has reiterated the entire plaint

averments. Further in order to substantiate his case has produced in all 3 documents which are marked at Ex.P.1 to 3. The Ex.P.1 is the original registered sale deed and 2 encumbrance certificates are marked as Ex.P2 & 3.

14. Per contra in order to repudiate the case of the plaintiff the defendant No.4 himself got examined as D.W.1 and led his examination in chief by way of affidavit and has reiterated his written statement averments and no documents were marked, further, the D.W1 not entered into witness box for cross examination. Hence, evidence given by the D.W1 is cannot be considered.

15. It is the specific case of the plaintiff that the plaintiff is in possession of the suit schedule property and the defendants are trying to interfere with plaintiff's peaceful possession and enjoyment over the suit schedule property. The suit of the plaintiff is for permanent injunction. When the suit is filed for permanent injunction the plaintiff must establish is possession over the suit schedule property as on date of filing of the suit through cogent evidence. Ex.P1 is the sale deed. Ex.P2 and 3 are the Encumbrance Certificate. Where the Ex.P1 to 3 not establishes that the plaintiff is in possession of the suit schedule property as on date of filing of suit. More over the Ex.P1 is of the year 1980 and it discloses that one Smt. Hoovamma has purchased the suit schedule property. It is contended by the plaintiff that he is the son of said Smt. Hoovamma. Burt there is no documents to show that the plaintiff is the son of the Smt. Hoovamma. Further

there is no single documents to show that the plaintiff is in peaceful possession and enjoyment of the suit schedule property at any time.

16. Further, when the plaintiff failed prove the possession over the suit schedule property as on date of filing of the suit answering the question of interference by the defendants does not arise at all. Since the plaintiff has not prove Issue No.1 and 2 he is not entitled for the relief as sought for. Accordingly **Issue No.1 & 2** answered in the '**Negative**'.

17. Issue No.3: In view of the detailed discussions and conclusion arrived at Issue No's 1 & 2 , I proceed to pass the following:-

O R D E R

***The suit of the plaintiff is
hereby dismissed with cost.***

Draw decree accordingly.

(Dictated to the Steno, transcribed by her, transcript revised, corrected by me and then pronounced in the open court on this **04th day of JUNE-2026**)

(Saritha Kumari A.M.)
I Addl., Civil Judge & JMFC.,
Nanjangud

ANNEXURE**List of witnesses examined on behalf of Plaintiff :-**

PW-1 : Nagegowda

List of documents marked on behalf of the Plaintiff:

Ex.P-1 : Original Registered Sale deed

Ex.P-2 & 3 : Encumbrance certificates

List of witnesses examined on behalf of Defendants:

DW-1 : Swamy

List of documents marked on behalf of the Defendants:

-Nil-

(Saritha Kumari A.M.)
I Addl., Civil Judge & JMFC.,
Nanjangud.