

KAMS610015962020



IN THE COURT OF THE PRL.CIVIL JUDGE AND JMFC.,
AT PERIYAPATNA.

-: P R E S E N T :-

Sri.YOGESHA M.R.,^{BA.LLB.},
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

*Dated this the **07th day of MARCH, 2026.***

OS.No.255/2020

PLAINTIFF/S : Nirmala, 50 yrs,
W/o Chandrashekhar,
R/at Maruru Village,
Haranahalli Hobli,
Periyapatna Taluk,
Mysuru District.
(Represented by Sri.CTN., Adv)

V/s

DEFENDANT/S : **1.** Kariyappa, 65 yrs,
S/o late Belliyappa,
2. Manjula,
W/o Kariyappa,
3. Manjunatha,
S/o Kariyappa,

The defendant No.1 to 3 are
R/at Koppa Village,
Harannahalli Hobli,
Periyapatna Taluk,
Mysuru District.

(Dft-1 to 3 Represented by Sri.CN., Adv)

Date of Institution of Suit : **05.11.2020**
Nature of Suit : **PERMANENT INJUNCTION**
Date of commencement of trial : **28.08.2023**
Date on which the Judgment : **07.03.2026**
was pronounced
Duration of Suit : **YEAR/S MONTH/S DAY/S**
05 04 03

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

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

The plaintiff has filed the present suit against the defendants for the relief Permanent Injunction in respect of the suit schedule property.

2. The brief facts of the plaintiff's case is as under;

(a). The plaintiff is the absolute owner in possession and enjoyment of the suit schedule property. The suit schedule property was derived to the plaintiff from her father-in-law. The plaintiff by constructing a Kalnar sheet house, residing in the suit schedule property since 15 years. The defendants have no manner of right, title and possession over the suit schedule property at any point of time. Even then, the defendants are interfered with the suit schedule property and also threatened the plaintiff with dire consequence. Even after the intervention of the jurisdictional police, the defendants not stopped their interference over the suit schedule property. *Hence, this suit.*

3. After institution of the suit, the summons were issued to the defendant No.1 to 3. The defendant No.1 to 3 appeared through their counsel and filed the written statement from their side.

4. The sum and substance of written statement of defendant No.1 to 3 as under ;

(a). The suit of the plaintiff is not maintainable either under law or on facts. The land bearing Sy.No.61/13P-4 measuring 3 acre 17 guntas was granted to the defendant No.1 from the government. Thereafter, the revenue records pertaining to the aforesaid land was mutated in the name of the defendant No.1. The plaintiff in order to defeat the rights of the defendant No.1 and to oust him, the husband of the plaintiff and his followers tried to enter the aforesaid land contending that, they have purchased the 1 acre 20 guntas in the aforesaid survey number. *Hence, prayed to dismiss the suit with exemplary cost.*

5. On the basis of the above pleadings, this court has framed the following issues ;

:- I S S U E S :-

1. *Whether the plaintiff proves that, she is in possession and enjoyment of the suit schedule property as on the date of filing of the suit ?*

2. *Whether the plaintiff further proves that, alleged interference by the defendants ?*
3. *Whether the plaintiff is entitled for the reliefs as sought in the plaint ?*
4. *What decree or order ?*

6. To substantiate the case, the plaintiff examined herself as PW.1 and adduced as many as 27 documents as per Ex.P1 to Ex.P27 and also examined two more witness by name Muttanna and Ramegowda as PW.2 and PW.3. On the other hand, the defendant No.3 examined himself as DW.1 and adduced as many as 4 documents as per Ex.D1 to D4.

7. Heard the arguments from both sides and perused the material available on record. The learned counsel for the plaintiff and defendants filed written arguments from their side.

8. On the basis of oral and documentary evidence put forth by the parties to the suit and arguments advanced by both the counsels, this court findings to the above issues are as under;

ISSUE NO.1 : **NEGATIVE**
ISSUE NO.2 : **NEGATIVE**
ISSUE NO.3 : **NEGATIVE**
ISSUE NO.4 : As per the final order
for the following;

:- R E A S O N S :-

ISSUE No.1 & 2:-

9. As these issues are interrelated to each other, they are taken up together in order to avoid the repetition of facts and for better appreciation of the evidence.

10. The case of the plaintiff's is that, the plaintiff is in possession and enjoyment of the suit schedule property. However, the defendants without any right and title trying to interfere with the possession of the plaintiff's over the suit schedule property.

11. In order to prove the case, the plaintiff examined herself as PW.1 and adduced as many as 27 documents as per Ex.P1 to P27. Ex.P1 Demand Register Extract; Ex.P2 Tax paid receipt; Ex.P3 to 5 Three Electricity Bills payment

receipts; Ex.P6 to 20 Fifteen Electricity Bills; Ex.P21 Residential Certificate; Ex.P22 to 26 Five Photos; Ex.P27 CD.

12. On the other hand, the defendant No.1 to 3 contended that, the suit of the plaintiff is not maintainable either under law or on facts. The land bearing Sy.No.61/13P-4 measuring 3 acre 17 guntas was granted to the defendant No.1 from the government. Thereafter, the revenue records pertaining to the aforesaid land was mutated in the name of the defendant No.1. The plaintiff in order to defeat the rights of the defendant No.1 and to oust him, the husband of the plaintiff and his followers tried to enter the aforesaid land contending that, they have purchased the 1 acre 20 guntas in the aforesaid survey number.

13. The defendants in support of their contentions adduced as many as 4 documents as per Ex.D1 to D4. Ex.D1 Certified copy of Grant Certificate; Ex.D2 Certified copy of Official Memorandum Dated 24.01.1994; Ex.D3 RTC Extract

in respect of Sy.No.61/13P-4; Ex.D4 RTC Extract in respect of Sy.No.61/13P-4.

14. The burden of proving this issues is on the plaintiff. The plaintiff instituted this suit against the defendants for the relief of permanent injunction restraining the defendants from interfering with the suit schedule property. Particularly granting of injunction is contemplated U/sec.38 of Specific Relief Act coupled with Sec.41 of Specific Relief Act. In a suit for injunction, the party has to establish her lawful possession over the suit schedule property as on the date of filing of the suit.

15. So, in this background it would be proper to discuss the issues for consideration. As per the plaintiff's case, she is in possession of the schedule property and though the defendants have no right over the same, causing interference to her peaceful possession over the schedule property. Since the defendants have denied the possession

over the schedule property, the burden is upon the plaintiff to establish the said fact.

16. It is worth to note that, Ex.P1 is the Demand Register Extract in respect of the suit schedule property i.e., Janjar No.217, which is standing in the name of the plaintiff. The Ex.P2 is the Tax paid receipt. The Ex.P3 to P20 Electricity Bills and payment receipt. The Ex.P21 is the Residential certificate. As per Ex.P21, the plaintiff is residing in the Doddahosuru Village since 10 years, but the suit schedule property is situated in the Maruru Village. Ex.P22 to P27 are Photographs and CD.

17. It is quite essential to note that, in the schedule of the plaint, it is mentioned that, the property bearing Janjar No.217, measuring East to West 40 feets and North to South 40 feets. However, in the Ex.P1 the measurement of the suit schedule property was not mentioned. The plaintiff also not adduced any documents with respect to the boundary of the suit schedule property.

18. The plaintiff averred that, she derived the suit schedule property from her father-in-law. In this regard, the plaintiff has not adduced any Demand Register Extract, which is standing in the name of her father-in-law.

19. As per the Ex.D1 and D2, the land bearing Sy.No.61/13 measuring 3 acre 18 was granted to the defendant No.1 on 13.05.1994. The Ex.D3 & 4 are the RTC Extracts in respect of the land bearing Sy.No.61/13P-4 totally measuring 3 acre 17 guntas, out of which 1 acre 37 is standing in the name of the defendant No.1 and 1 acre 20 guntas is standing in the name of the Nagaraju.

20. At this juncture it is necessary to extract some portion of the cross of the PW.1. The PW.1 in her cross examination deposed that;

"ನಿಪಿ - 1ರಲ್ಲಿ ದಾವಾ ಸ್ವತ್ತಿನ ಚಕ್ಕುಬಂದಿ, ನಂಬರ್ ಹಾಗೂ ವಿಸ್ತೀರ್ಣ ನಮೂದು ಇಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಿಪಿ - 1 ಮರೂರು ಗ್ರಾಮದ ಆಸ್ತಿಗೆ ಸಂಬಂಧಿಸಿದ್ದು. ನಿಪಿ - 1 ರಲ್ಲಿ ಕಲ್ನಾರ್ ಶೀಟಿನ ಮನೆ ಎಂದು ನಮೂದು ಇಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ."

"ಪಿರಿಯಾಪಟ್ಟಣ ತಾಲೂಕು, ಹಾರನಹಳ್ಳಿ, ಹೋಬಳಿ, ದೊಡ್ಡ ಹೊಸೂರು ಗ್ರಾಮದ ಸ.ನಂ.61/13 ಪಿ4 ರ ದಾಖಲಾತಿಗಳನ್ನು ನೀವು ನೋಡಿದ್ದೀರಾ ಎಂದರೆ, ನಾನು ನೋಡಿಲ್ಲ. ಸದರಿ ಸರ್ವೆ ನಂಬರ್ ದಾಖಲೆಗಳು ನಮ್ಮ ಮಾವ ಪುಟ್ಟರಾಜಪ್ಪನವರ ಹೆಸರಿನಲ್ಲಿವೆ. ಆ ಬಗ್ಗೆ ದಾಖಲೆಗಳನ್ನು ಹಾಜರುಪಡಿಸಿದ್ದೇನೆ. ಸ.ನಂ.61/13 ಪಿ4ರ ಜಮೀನು 1ನೇ ಪ್ರತಿವಾದಿ ಕರಿಯಪ್ಪ ನವರಿಗೆ ಸರ್ಕಾರದಿಂದ ಮಂಜೂರಾದ ಜಮೀನು ಎಂದರೆ ಸರಿಯಲ್ಲ. ಮಂಜೂರಾದಾಗಿನಿಂದಲೂ ಸದರಿ ಜಮೀನಿಗೆ 1ನೇ ಪ್ರತಿವಾದಿ ಸರ್ಕಾರಕ್ಕೆ ಕಂದಾಯ ಕಟ್ಟಿಕೊಂಡು, ವ್ಯವಸಾಯ ಮಾಡಿಕೊಂಡು, ಶೆಡ್ ಹಾಕಿಕೊಂಡು ವಾಸವಿದ್ದಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ, ನಾವೇ ವಾಸವಿದ್ದೇವೆ. "

"ದಾವಾ ಆಸ್ತಿಯ ಅಳತೆ 40 x 40 ವಿಸ್ತೀರ್ಣ ಇದೆ. ಆ ಬಗ್ಗೆ ದಾಖಲೆಗಳನ್ನು ಹಾಜರುಪಡಿಸಿರುತ್ತೇನೆ. ದಾವಾ ಆಸ್ತಿಗೆ ಯಾವುದೇ ಪಂಚಾಯತಿ ದೃಢೀಕರಣ ಇಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಮರೂರು ಗ್ರಾಮರಾಣೆ ಹಾಗೂ ದೊಡ್ಡ ಹೊಸೂರು ಗ್ರಾಮರಾಣೆ ಬೇರೆ ಬೇರೆ ಎಂದರೆ ಸರಿ. "

21. The PW.1 in her cross examination deposed that, she has adduced the documents with respect to the measurement and boundaries of the suit schedule property. Further, the PW.1 in her cross examination deposed that, the land bearing Sy.No.61/13P-4 was granted to the father-in-law of the plaintiff and she constructed a shed in the same by

paying tax. But, the plaintiff has not adduced any documentary evidence in respect of the boundary and measurement of the suit schedule property. Further, as per the Ex.D1 to D4, the land bearing Sy.No.61/13P-4 measuring 1 acre 37 is standing in the name of the defendant No.1 and 1 acre 20 guntas is standing in the name of the Nagaraju.

22. Further, it is necessary to extract some portion of the cross of the PW.2 and PW.3. The PW.2 in his cross examination deposed that,

"ದಾವಾ ಜಮೀನಿನ ಬಗ್ಗೆ ನಾನು ಕ್ರಯಪತ್ರವನ್ನು ನೋಡಿದ್ದೇನೆ. 20 ವರ್ಷದ ಹಿಂದೆ ಕ್ರಯ ಪತ್ರ ಮಾಡಿರುತ್ತಾರೆ, ದಿನಾಂಕ ನನಗೆ ನೆನಪಿಲ್ಲ. ಕ್ರಯಪತ್ರವನ್ನು ನಂಜುಂಡಪ್ಪನವರು ಪುಟ್ಟರಾಜಪ್ಪನವರಿಗೆ ಬರೆದುಕೊಟ್ಟಿರುತ್ತಾರೆ. ಒಂದೂ ಮುಕ್ಕಾಲು ಎಕರೆಗೆ ಕ್ರಯಪತ್ರ ಬರೆದುಕೊಟ್ಟಿರುತ್ತಾರೆ. "

23. The PW.3 in his cross examination deposed that ;

"ನನ್ನ ಮುಖ್ಯ ವಿಚಾರಣೆಯಲ್ಲಿ ಬರೆದಿರುವ ಚಕ್ಕುಬಂದಿಯನ್ನು ಯಾವ ದಾಖಲೆ ಆಧಾರದ ಮೇಲೆ ಬರೆಸಿದ್ದೀರಾ ಎಂದರೆ, ನನಗೆ ನೆನಪಿಲ್ಲ. "

24. The PW.1 in her cross examination deposed that, the land bearing Sy.No.61/13P-4 is standing in her father-in-law name. The PW.2 deposed that, the father-in-law of the plaintiff by name Puttarajappa purchased the suit schedule land from Nanjundappa. But, in this regard the plaintiff has not adduced any documentary evidence. The PW.3 also not having any knowledge with respect to the boundary of the suit schedule property. In the said manner, the oral evidence of the PW.1 to 3 not helpful for the plaint averments.

25. There was no certainty of the suit property. One who comes before the court for the relief of Permanent Injunction, he must plead the correct property number, extent and also boundaries before the court with cogent and acceptable evidence. On critical assessment of the material placed on record, the plaintiff had failed to prove her possession over the suit schedule property by adducing acceptable oral and documentary evidence. There was also no certainty about the suit schedule property. On the contrary,

there was ambiguity on the extent and boundary of the suit property.

26. It is relevant to refer the decision of the Hon'ble Apex court in Anathula Sudhakar vs P. Buchi Reddy (Dead) By Lrs & Ors,

“17. To summarize, the position in regard to suits for prohibitory injunction relating to immovable property, is as under :

(a) Where a cloud is raised over plaintiff's title and he does not have possession, a suit for declaration and possession, with or without a consequential injunction, is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but he is out of possession, he has to sue for possession with a consequential injunction. Where there is merely an interference with plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter.

(b) As a suit for injunction simpliciter is concerned only with possession, normally the issue of title will not be directly and substantially in issue. The prayer for injunction will be decided with reference to the finding on possession. But in cases where de jure possession has to be established on the basis of title to the property, as in the case of vacant sites, the issue of title may directly and substantially arise for consideration, as without a finding thereon, it will not be possible to decide the issue of possession.

(c) But a finding on title cannot be recorded in a suit for injunction, unless there are necessary pleadings and appropriate issue regarding title [either specific, or implied as noticed in Annaimuthu Thevar (supra)]. Where the averments regarding title are absent in a plaint and where there is no issue relating to title, the court will not investigate or examine or render a finding on a question of title, in a suit for injunction. Even where there are necessary pleadings and issue, if the matter involves complicated questions of fact and law relating to title, the court will relegate the parties to the remedy by way of comprehensive suit for declaration of title, instead of deciding the issue in a suit for mere injunction.

(d) Where there are necessary pleadings regarding title, and appropriate issue relating to title on which parties lead evidence, if the matter involved is simple and straight-forward, the court may decide upon the issue regarding title, even in a suit for injunction. But such cases, are the exception to the normal rule that question of title will not be decided in suits for injunction.

But persons having clear title and possession suing for injunction, should not be driven to the costlier and more cumbersome remedy of a suit for declaration, merely because some meddler vexatiously or wrongfully makes a claim or tries to encroach upon his property. The court should use its discretion carefully to identify cases where it will enquire into title and cases where it will refer to plaintiff to a more comprehensive declaratory suit, depending upon the facts of the case.

27. As per the decision of the Hon'ble Apex court, where a cloud is raised over plaintiff's title and she does not have possession, a suit for declaration and possession, with or without a consequential injunction, is the remedy. Where the plaintiff's title is not in dispute or under a cloud, but she is out of possession, she has to sue for possession with a consequential injunction. Where there is merely an interference with plaintiff's lawful possession or threat of dispossession, it is sufficient to sue for an injunction simpliciter.

28. The plaintiff through documentary evidence failed to prove the extent and boundary of the suit schedule property and also not adduced any title documents to prove her title over the suit schedule property. On other hand, the defendant No.1 proved his contentions as per Ex.D1 to D4. Accordingly, the plaintiff has failed to prove her possession over the suit schedule property and also failed to prove the alleged interference by the defendants. *Hence, this court answered the Issue No.1 & 2 in the **Negative.***

ISSUE NO.3:-

29. The relief of permanent injunction is a discretionary relief granting of which vests on the discretionary power of the court. As per the provisions contemplated U/Sec.38 of the Specific Relief Act, in order to prevent the breach of an obligation existing in favour of the plaintiff, permanent injunction may be granted.

30. As discussed in the above issues No.1 and 2, the plaintiff has failed to prove her possession over the suit schedule property and also failed to prove the alleged interference by the defendants. Therefore, the plaintiff is not entitle for the reliefs as sought in the plaint. *Hence, this court answered the Issue No.3 in the **Negative**.*

ISSUE NO.4:-

31. For the reasons discussed on Issue No.1 to 3, this court proceed to pass following;

ORDER

The suit of the plaintiff is hereby
dismissed.

No order as to cost.

Draw decree accordingly.

*(Dictated to the Stenographer directly in computer, revised, corrected by me and then pronounced
in the open court on this the 07th day of MARCH, 2026.)*

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.

-: ANNEXURES :-**List Of Witnesses Examined On Behalf Of Plaintiff:**

PW.1 : NIRMALA
PW.2 : MUTTANNA
PW.3 : RAMEGOWDA

List Of Documents Marked On Behalf Of Plaintiff:

Ex.P1 : Demand Register Extract
Ex.P2 : Tax paid receipt
Ex.P3 to 5 : Three Electricity Bills payment receipts

Ex.P6to 20: Fifteen Electricity Bills

Ex.P21 : Residential Certificate

Ex.P22to26: Five Photos

Ex.P27 : CD

List Of Witnesses Examined On Behalf Of Defendants:

DW.1 : MANJU

List Of Documents Marked On Behalf Of Defendants:

Ex.D1 : Certified copy of Grant Certificate

Ex.D2 : Certified copy of Official Memorandum Dated
24.01.1994

Ex.D3 : RTC Extract in respect of Sy.No.61/13P-4

Ex.D4 : RTC Extract in respect of Sy.No.61/13P-4

(YOGESHA M.R)
PRL.CIVIL JUDGE AND JMFC.,
PERIYAPATNA.