

KAMS610025562014



**IN THE COURT OF THE I ADDITIONAL CIVIL  
JUDGE AND JMFC AT PERIYAPATNA.**

**: PRESENT:**

**Smt. SHWETHA.J. B.Com., LL.B.,**  
I Addl. Civil Judge & JMFC., Periyapatna.

Dated this the 1<sup>st</sup> Day of April 2026

**OS.No.316/2014**

- PLAINTIFFS:**
1. Sri.Ramanayaka,  
S/o late Kaveraiah,  
Aged about 70 years,
  2. Smt.Chikkamma,  
W/o Ramanayaka,  
Aged about 50 years,

Both are R/at  
Muttinamulasoge Village,  
Haranahalli Hobli,  
Periyapatna Taluk.

*(By Sri.IRS, Advocate)*

**-Vs.-**

- DEFENDANTS** : 1. Late Siddalinganayaka  
S/o late Kaveraiah,  
**Since dead by L.Rs:**

**D.1(a).** Krishnanayaka  
S/o late Siddalinganayaka  
Aged about 50 years,

**D.1(b).** Sri.Lokeshanayaka,  
S/o late Siddalinganayaka,  
Aged about 48 years,

**D.1(c).** Sri.Ravinayaka,  
S/o late Siddalinganayaka  
Aged about 46 years,

All are R/at  
Muttinamulasoge Village,  
Haranahalli Hobli,  
Periyapatna Taluk.

**2.** Late Shivalingaiah,  
S/o late Kaveraiah,  
**Since dead by L.Rs.,**

**D.2(a).** Smt.Bhagyamma  
W/o late Shivalingaiah  
Aged about 65 years,

**D.2(b).** Sri.Hemanth Kumar,  
S/o late Shivalingaiah  
Aged about 45 years,

**D.2(c).** Smt.Geetha,  
D/o late Shivalingiah,  
Aged about 35 years,

All are R/at Kanmanike Colony,  
Near Pepsi Factory,  
Kumbalagudu,  
Bengaluru-560074.

*(Deft.No.1(a) to (c) by Sri.R.S.,Adv.)*  
*(Deft.No.2(a) to (c) by Sri.B.J.R,Adv.)*

Date of institution of suit	10.10.2014		
Nature of the suit	Permanent Injunction		
Date of commencement of evidence	20.04.2019		
Date of closure of evidence	21.02.2026		
Date of Judgment	01.04.2026		
<b>Total duration</b>	<b>Year/s</b>	<b>Month/s</b>	<b>Day/s</b>
	<b>11</b>	<b>05</b>	<b>21</b>

**(SHWETHA.J)**  
**I Addl. Civil Judge & JMFC,**  
**Periyapatna.**

### **J U D G M E N T**

This suit is filed by the plaintiffs against the defendants seeking the following reliefs:-

**(a).** Restrain the defendants, their agents or anybody acting on their behalf from interfering with the plaintiff properties by the plaintiffs by means of permanent injunction;

**(b).** Award costs and such other reliefs.

**2. The pleadings of the plaint in brief are as**

**follows:**

(a) The suit Item No. 1 property is the self-acquired property of the plaintiffs No. 1 and 2 acquired the same through Saguvali issued by the Government on 07.12.1996. The katha of the suit Item No.1 property was changed into the name of the plaintiffs through M.R No.48/1996-97. The suit Item No. 2 property is the ancestral property of the plaintiff no. 2 acquired by him in the oral partition held between himself and his brothers. Since from the date of acquisition of the suit properties, the plaintiffs are in peaceful possession and enjoyment of the same by paying tax to the Government. It is further submitted that at the time of grant, the suit Item No.1 was bearing Survey No. 30. After its phode, it is re-numbered as Survey No. 30/P91 in the RTCs. The plaintiffs are in peaceful possession without any interference from anybody.

**(b).** It is further submitted that on 25.09.2011 the defendants have trespassed into the suit Item No. 1 property and tried to destroy the crops and remove the fencing around it. They have also tried to trespass into the suit Item No. 2 property. In this regard Panchayath held in the village and complained to the police. The same went in vain. Hence, without any alternative, the plaintiffs have filed the present suit seeking permanent injunction.

**3.** After service of summons, defendant No. 1 and 2 appeared through their counsel. Defendant No. 1 has filed his written statement and defendant No. 2 has adopted the said written statement.

**4. The brief facts of the written statement of defendant No.1 are as follows:**

The defendant No. 1 has denied the entire plaint pleadings in toto and further, inter alia, mentioned to the effect that the suit is not maintainable either in law or on facts. The defendants have not caused any

interference to the suit properties. The plaintiffs have caused interference to Survey No. 30/322 measuring 2 acres 13 guntas belongs to the Defendant no. 2 and Survey No. 30/321 belongs to Defendant no. 1 and removed the fencing around their properties. Therefore, the defendant no. 2 has filed suit in OS No. 30/2015 seeking permanent injunction against the plaintiff No. 1 to not to interfere to his property bearing Survey No. 30/322. The said property came to the Defendant no. 2 vide LND No.1/1/T/13/1975-76 dated 10.11.1975 as per the orders of Special Assistant Commissioner of Hunsuru. Likewise, Survey No. 30/321 was granted by Special Assistant Commissioner of Hunsuru vide his order in LND 1/T/13/1975-76 dated 10.11.1975. Since from the date of the said order, defendant no. 1 and defendant no. 2 have been in possession of the above-said properties by changing kata into their names. The plaintiffs, in order to grab the said properties, have been causing

interference by giving false boundaries. Hence prayed to dismiss the suit.

**5.** Based upon the above allegations, the following Issues were framed:

**ISSUES**

*1. Whether the plaintiffs prove that they have been in possession and enjoyment of the suit schedule properties ?*

*2. Whether the plaintiffs prove the alleged interference ?*

*3. Whether the plaintiffs are entitle the reliefs ?*

*4. What order or decree ?*

**6.** In order to establish their case, the plaintiffs have got examined their SPA holder by name Naganayaka as PW1. Through him, documents at Ex.P.1 to P8 got marked. The plaintiffs have also got examined independent witnesses by name Rudraiah and Lokesh D.P. as PW2 and PW3. On the other hand,

the Defendant No. 1(a) is examined as DW1 and through him documents at Ex.D.1 to D3 got marked.

7. Heard Sri IRS advocate for the plaintiffs and Sri RS advocate for the defendants. I have perused the entire materials on record.

8. My answers to the above issues are as under:-

***Issue No.1: In the Affirmative***

***Issue No.2: In the Affirmative***

***Issue No.3: In the Affirmative***

***Issue No.4: As per final order  
for the following;***

### **REASONS**

9. **ISSUE No.1:** The plaintiffs have filed the present suit seeking the relief of permanent prohibitory injunction against the defendants. It is well settled proposition of law that the permanent injunction can be granted if the plaintiffs found to be in the possession of the suit properties. The factum of possession is a relevant matter in a suit of this nature. Once the possession of the plaintiffs is accepted, even

they have failed to establish their title, the plaintiffs are entitled for permanent prohibitory injunction. In a suit for bare injunction, scope is very limited if in case the question of title is involved normally the court will look into the title of the plaintiffs incidentally and collaterally.

**10.** In this background, let me advert to the facts of the present case. It is the specific case of the plaintiffs that they are the absolute owners in possession and enjoyment of the suit properties by virtue of the grant and also through oral partition Held between the plaintiff no. 1 and his brothers. Now the defendants were having no right, title and interest over the suit properties are trying to trespass and interfere with the peaceful possession and cultivation of the plaintiffs over the suit properties. On the other hand the defendants have denied the case of the plaintiff in toto, inter alia contended that the plaintiffs have

caused interference to their properties and by giving false boundaries, trying to grab their properties.

**11.** In order to prove the factum of possession, the plaintiffs have got examined their SPA holder as PW1. PW1 in his evidence has reiterated the plaint averments and got marked as many as 8 documents as Exhibit P1 to P8. The plaintiffs have also got examined two witnesses as PW2 and PW3. PW2 and PW3 in their chief examination have deposed in consonance with the plaint averments. In order to disprove the case of the plaintiffs, the learned counsel for the defendants has cross examined the PW1 to PW3 at length.

**12.** During the pendency of the suit, defendant no.1 and 2 have died. Therefore, their Legal representatives are brought on record. The Defendant no. 1(a) examined as DW1. DW1 in his evidence has reiterated the written statement averments and got marked as many as 3 documents at Ex. D1 to D3.

**13.** The plaintiffs have shown two suit Item properties. Item No. 1 property is the landed property bearing Survey No. 30/P91 measuring 1 acre 35 guntas. Whereas the suit Item No. 2 property is the Mangalore tiled house and cow shed bearing Junger No.115 and Property No. 129 measuring 30 feet x 25 feet. In order to prove the factum of possession, the plaintiff has relied upon Ex.P1 to P8.

**14.** Ex.P8 is the Certified copy of the grant certificate in respect of Suit Item No. 1 property. It is forthcoming from the Ex.P8 Grant Certificate that an extent of 1 acre 35 guntas in Sy. No.30 of Chennakallakavu Village, Periyapatna Tauk, bounded on East by: Krishnegowda and Katte, West by: Siddalingappa, North by: Government Halla and South by: Ramanayaka was issued in favour of the plaintiff no. 1 and 2 vide LND (2) 197/91/92 dated 04.12.1996. Ex. P2 is the mutation register bearing MR No. 48 /96-97, which establishes that after the

issuance of Grant Certificate in the names of plaintiff no. 1 and 2, khata has been changed into their names. Ex. P3 is the RTC of Sy.No.30 standing in the name of the plaintiff no.1 and 2. Exhibit P4 is the RTC of Sy. No.30/P91 standing in the name of plaintiff no. 1 and 2 and the mode of acquisition is through MR No. 48/96-97. The above documentary evidence establishes that the plaintiffs are in peaceful possession and enjoyment of the suit Item No. 1 property. Added to this DW1 during his cross-examination has clearly admitted that the land in Survey No. 30/P91 measuring 1 acre 35 guntas of Chennakallukaval Village belongs to the plaintiffs and they are in cultivation of the said property. He further stated that their family and the family of deceased no. 2 have no right, title or possession in Survey No. 31/P91 measuring 1 acre 35 guntas of Chennakallu Kavalu Village. The above answers elicited from the mouth of DW1 coupled with the documentary evidence

adduced by the plaintiffs clearly establishes that the suit Item No. 1 property was granted to the plaintiff no. 1 and 2 and they are in cultivation and possession of the same property by changing khata into their names and the defendants have no manner of right, title, interest or possession over the suit Item No. 1 property.

**15.** So far as Suit Item No. 2 property is concerned, it is the averment of the plaintiffs in their plaint that the said property acquired by the plaintiff no. 1 in the oral partition held between himself and his brothers. In order to establish the said averments, the plaintiffs have got marked Ex.P5 and Ex.P6- Demand Register Extracts standing in the name of the plaintiff no. 1 and the tax paid receipt at Ex.P7 paid by the plaintiff no. 1. DW1 during his cross-examination has admitted that the plaintiff no. 1 and deceased Shivalingaiah have partitioned the properties during the year 1990 and have been residing separately. He

further admitted that his father and brothers of his father have been residing separately in the houses constructed by them. He further admitted that his father and brothers of his father have orally partitioned the houses and residing therein. At para 4 of his cross-examination, DW1 has stated that they have no right, title and possession over the suit Item No. 2 property. The above answers of DW1 in the cross-examination coupled with the demand registers and tax paid receipt Marked at Exhibit P5 to Exhibit P7, it is clear that the plaintiff no. 1 and 2 have been in possession and enjoyment of suit Item No. 2 property also.

**16.** It is the contention of the defendants that the land in Sy.No.30/322 measuring 2 acres 13 guntas belongs to the defendant no. 2 and the land in Survey No. 30/321 belongs to the defendant no. 1 granted to them by the government and the plaintiffs have been causing interference to the cultivation of the defendants to the above said properties. Therefore,

they have filed a suit against the plaintiff no. 1 in OS No.30/2015 for permanent injunction. In support of the same, they have produced the grant certificate at Exhibit D2 pertaining to the Survey No. 13/321 granted in the name of Siddalingaiah. Exhibit D1 is the judgment and decree in OS No. 30/2015 dated 01.12.2022 in respect of Survey No. 30/322 measuring 2 acres 13 guntas of Channakallu Kavalu Village, Haranahalli Hobli, Periyapatna Taluk. Exhibit D3 is the Village Map. The document at Exhibit D1 to D3 pertains to Survey No. 30/322, which is not the suit properties. Therefore, the said documents are in no way helpful to the case of the defendants.

**17.** It is the further contention of the defendants that the plaintiffs have shown the wrong boundaries. The defendants in their written statement have not made specific implications about the correct boundaries. Nothing has been elicited from PW1 to PW3 during their cross-examination that they have

assigned a wrong boundary to the suit properties. DW1 during his cross-examination at para number 5 has stated that the land of Krishnagoda is situated on the Eastern boundary of Sy No. 30/322 measuring 2 acres 30 in guntas and thereafter the suit Item No. 1 does exist. Therefore, it is clear that the suit item No.1 property and the land in Sy.No.30/322 are not adjacent lands. The boundaries mentioned to the Suit Item No. 1 bearing Sy. No. 30/P91 measuring 1 acre 35 guntas are on the East by: Krishnegowda and Katte, West by: Siddhalingappa's land, North by: Govt. Halla and South by: Ramanayaka's land. The said boundaries mentioned in the plaint schedule are as per the grant certificate at Ex.P8. The defendants have not produced any other documents to establish that the plaintiffs have assigned wrong boundaries to the suit Item No.1 property. So far as Suit Item No. 2 property is concerned, the defendants have not made any efforts to put suggestions to PW1 to PW3 about

the boundaries nor they have produced any documentary evidence to believe that the plaintiffs have assigned wrong boundaries. The said pleading is without any proof. Therefore, for the aforesaid reasons the plaintiffs have successfully proved their possession and enjoyment over the suit properties as on the date of filing of the suit. ***Hence the issue No. 1 is answered in the affirmative.***

**18. ISSUE No.2:** The plaintiffs have not produced any documentary evidence to show the interference of the defendants over the suit properties. However during the cross examination of DW1, he has admitted that there are criminal cases against the plaintiff and the defendants in respect of the suit properties. It is further admitted that the criminal cases are in respect of fencing the land in Survey No. 31/P91 measuring 1 acre 35 guntas and interfering to the possession of the plaintiffs. He further admitted that on 25.09.2014 the plaintiffs

have conducted durasth in suit Item No. 1 property and fencing the same after the survey, but denied about the obstruction to the plaintiffs for cultivation and fencing. The perusal of the above answers elicited from the mouth of the DW1 would show that there was hostility between the plaintiffs and the defendants. It is the evidence of DW1 during his cross-examination that the plaintiffs have encroached the property of the defendants to an extent of 1 acre 35 guntas in addition to the property of 1 acre 35 guntas of the plaintiffs. But it is not the pleading in their written statement. Therefore, the said evidence in the cross-examination of DW1 cannot be believable because they have filed the suit in OS No. 30/2015 for permanent injunction but not possession. Apart from this, it is the settled law that mere filing of the written statement itself Sufficient to presume the interference. In this case, the defendants have filed

their written statement and seriously contested the suit denying the possession of the plaintiffs in the suit properties. Therefore, it is presumed that there is interference to the possession of the plaintiffs in the suit properties. **Hence, Issue No. 2 is answered in the affirmative.**

**19. ISSUE No.3:** This issue does not call for much discussion, as the plaintiffs have demonstrated factum of possession and alleged illegal interference by producing cogent evidence before the court. Under such circumstances if the injunction is granted, no hardship or injury caused to the defendants. On the other hand, if the injunction is not granted, Plaintiffs would suffer great hardship and injury which cannot be measured in terms of money. However granting of injunction will not affect any right of the defendants over their properties. **Hence, Issue No. 3 is answered in the affirmative.**

**20. ISSUE No.4:** For the aforesaid discussion on Issue Nos.1 to 3, this Court proceeds to pass the following;

**ORDER**

The Suit of the plaintiffs is hereby decreed with costs.

The defendants, their agents, or anybody claiming under them are permanently restrained from interfering with the peaceful possession and enjoyment of the plaintiffs in the suit properties.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer, thereof corrected, signed and pronounced by me in the open Court on this the 1<sup>st</sup> day of April 2026)

**(SHWETHA.J.)**

**I Addl. Civil Judge & JMFC,  
Periyapatna.**

**ANNEXURE**

**Witness examined for the Plaintiffs:**

PW1 : Sri.Naganayaka  
PW2 : Sri.Rudraiah

PW3 : Sri.Lokesh.D.P

**Documents marked for the Plaintiffs:**

Ex.P1 : Special Power of Attorney  
Ex.P2 : Mutation Register Extract  
Ex.P3 : Hand written RTC Extract  
Ex.P4 : RTC Extract  
Ex.P5 & 6 : Demand Register Extracts  
Ex.P6 : Demand Register Extract  
Ex.P7 : Tax paid receipt  
Ex.P8 : Copy of Saguvali Chit

**Witness examined for the Defendants:**

DW.1 : Sri.Krishnanayaka

**Documents marked on for the Defendants:**

Ex.D1 : Certified copy of Judgment and decree in  
O.S.No.30/2015  
Ex.D2 : Grant Certificate  
Ex.D3 : Certified copy of Village Map

**(SHWETHA.J.)  
I Addl. Civil Judge & JMFC,  
Periyapatna.**