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

Dated this the 10th day of June 2026

Present: **Smt.Niveditha N.**, B.A.L., LL.B, LL.M.,
I Additional Civil Judge & JMFC., T.Narasipura.

O.S./24/2015

Plaintiff

: 1. K.Puttaswamy,
S/o Late Maraiah,
Aged about 62 years,
R/at Attahalli Village, Bannur Hobli,
T.Narasipura Taluk.

(By Sri.P.S., Advocate)

V/s

Defendants

: 1. Smt.Kamamma,
W/o Late Javaraiah,
Aged about 55 years.

2. Nandeesha,
S/o Late Javaraiah,
Aged about 28 years.

3. Hareesha,
S/o Late Javaraiah,
Aged about 26 years.

West: T.Narasipura To Bannur Road, North: Property belong Kempamma,
South: Road.

3. The brief facts of the plaintiff's case is as follows:

a. The plaintiff in the plaint has pleaded that the suit schedule property granted to plaintiff's family members and the plaintiff along with his family members are in lawful possession of the suit schedule property. On 26/05/1986 the plaintiff obtained licence from Attahalli Grama Panchayath and constructed house in a portion of the property. Further, on 12/10/1995 the plaintiff obtained licence for construction of compound wall. The plaintiff has retained ExW 5 feet and NxS 50 vacant space adjacent to the compound in eastern side for free flow of light and air, then the property of the defendants is situated.

b. Further, to knock of the suit schedule property, the defendants have constructed lavatory pit and planted jasmine plants and other trees in the suit schedule property retained ExW 5 feet and NxS 50 vacant space, keep intact the purpose of free flow of light and air in the eastern side of the property belongs to the plaintiff. In this regard, the plaintiff has given representation before the concerned panchayath, but except issuance of notice, the panchayath officer has not taken any action against the defendants. Then, he has lodged a complaint before the police, but the police have advised him to approach the court as the matter is civil in nature. Hence, this suit.

4. a. On service of summons, the defendants have appeared before the Court through their advocate. The defendants have filed the written

statement by denying the entire plaint averments and contended that the defendants have constructed lavatory in their property and no obstruction to the air and light to the plaintiff. Infact the plaintiff himself has filed an application before the gram panchayath on 15/02/2011 against the defendants by stating that due to the trees grown in the property they are unable to paint their compound wall. The said fact is not disclosed by plaintiff in the case. On 17/10/2011 the officers of gram panchyath have informed to visit the spot. The defendants have not caused obstruction but the plaintiff has caused obstruction and on 13/10/2014 the plaintiff has filed application seeking to stop the construction of toilet and received notice. On 05/11/2014 the Zilla panchayath has directed the Taluk Executive officer to take decision about construction of toilet by defendants. On 26/12/2014 the Zilla panchayath and Taluk Executive officer have recommended to take action against PDO about construction of toilet and issued notice. On 10/02/2015 the defendants have filed an application before PDO seeking for licence to get connection of drinking water But the said PDO issued notice by stating that since the matter is pending before the court and they cannot issue licence. The plaintiff has not disclosed the material fact before this court.

b. Further, the property of defendants is measuring east to wets 37 feet and north to south 23 feet house property and vacant site measuring 37x22 feet. The defendants are in possession of said property since 80 years. After obtaining the licence, when the defendants started to put up

construction of toilet, the plaintiff has filed this suit in order to cause trouble to the defendants. Hence prays to dismiss the suit with costs.

5. Based on the pleadings and the documents of the parties, my learned predecessor has framed the following:

ISSUES

1. Whether the plaintiff proves that he is in peaceful possession and enjoyment over the suit schedule property?
2. Whether the plaintiff further proves that the alleged interference by the defendants?
3. Whether the plaintiff is entitled for the suit claim?
4. What order or Decree?

ADDITIONAL ISSUES

1. Whether the plaintiff proves that, the defendant No.1 to 4 were put up lavatory and grown up some Jasmine plant and other trees by encroaching the portion in Eastern side of the suit schedule property?
2. Whether plaintiff is entitled for Mandatory Injunction?
6. Heard the argument of counsel for plaintiff and perused the entire records.
7. My findings on the above issues are as follows:

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

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

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

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

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

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

REASONS

8. Issue No.1 and 2 and Addl Issue No.1: In order to avoid repetition of facts, these issues are taken up together for discussion.

9. The plaintiff has filed the suit seeking for the reliefs of permanent injunction and mandatory injunction in respect of the suit schedule property. The defendants have filed the written statement by denying the claim of the plaintiff.

10. In order to substantiate claim of the plaintiff, the plaintiff himself has filed the chief examination affidavit by reiterating the plaint averments and examined as P.W.1 and produced Ex.P1 to 7. Ex.P1 is the certified copy of the demand register for the year 2014-15 bearing Sl.No.783 property No.546 measuring 33.6x50 feet situated at Attahalli Village, Bannuru Hobli, T.Narasipura Taluk, stands in the name of the plaintiff. Ex.P2 is the reply notice issued by PDO to the plaintiff herein dated 23/01/2012. Ex.P3 is the notice issued by Secretary of Attahalli Gramapanchayath to the plaintiff on 17/10/2011. Ex.P4 is the building licence issued by the President of Attahalli Gramapanchayath on 12/10/1995 to the plaintiff. Ex.P5 is the licence issued by Attahalli Gramapanchayath to the plaintiff for construction of house on 25/06/1986. Ex.P6 is the request letter submitted by the plaintiff to the

PDO of Attahalli Gramapanchayath seeking for mahazar document. Ex.P7 is the certified copy of the mahazar.

11. The defendants inspite of several opportunity granted, they have failed to cross examine P.W.1 and also failed to lead defendants evidence.

12. On perusal of the pleadings and documentary evidence of plaintiff, it appears that the plaintiff in the plaint has stated that he is the owner in possession of suit schedule property and by obtaining the licence from the concerned authority, has constructed house and compound wall and they have left the vacant space at eastern side of suit schedule property measuring 5x50 feet for the purpose of free flow of light and air in the eastern side of suit schedule property. The defendants are the adjacent owners of suit schedule property and they are trying to put up lavatory and grown jasmine plant and other trees by encroaching their property. In this regard, a spot mahazar was conducted by the PDO of Attahalli Gramapanchayath and the said PDO was issued direction to the defendants to not to put up lavatory in the portion of suit schedule property.

13. To prove the above contention, the plaintiff has relied upon Ex.P1 which is the certified copy of the demand register discloses that the property No.546 measuring 33.6x50 feet i.e., suit property stands in the name of the plaintiff and it also discloses the boundary of suit schedule property. Ex.P4 and 5 evidenced that by obtaining the licence, the plaintiff has put up compound wall and constructed house in suit schedule property. The above documents established that the plaintiff is

in possession and enjoyment of the suit schedule property as on the date of filing of the suit.

14. To prove the encroachment of portion of suit schedule property, the plaintiff has produced Ex.P7 which is the mahazar conducted by the President of Attahalli Gramapanchayath and also the PDO discloses that the defendants have encroached the portion of suit schedule property and have tried to put up lavatory in the said encroached property.

15. The defendants in the written statement have denied the case of the plaintiff and have contended that they are in possession and enjoyment of house property measuring 28x23 feet and vacant site 37x22 feet and by transferring the khatha they are enjoying the said property. While constructing lavatory in their property by obtaining the licence, the plaintiff has filed the present suit.

16. To prove the above defence, the defendants have not produced the documentary and oral evidence, nor cross examined P.W.1 on the documents produced by the plaintiff. Except filing the written statement the defendants have not proved their defence in accordance with law. The oral and documentary evidence of plaintiff is not challenged by defendants. The defendants have not given contra evidence in order to disprove the claim of plaintiff.

17. The plaintiff by producing Ex.P1, 4 and 5 has proved and established that he is in possession and enjoyment of suit schedule property as on the date of filing of the suit and further proved that the defendants have

encroached the portion of suit property measuring 5x50 feet. Hence, Issue No.1 and 2 and Addl Issue No.1 are answered Affirmatively.

18. Issue No.3 and Addl Issue No.2: In view of the above discussion, the plaintiff has proved that the plaintiff is in possession and enjoyment of suit schedule property and the defendants have tried to interfere with the suit schedule property and also proved that the defendants by encroaching the portion of suit schedule property, were tried to put up lavatory and grown jasmine plant and other trees. Hence, Issue No.3 and Addl Issue No.2 are answered Affirmatively.

19. Issue No.4: In view of the above answer and reasons on aforesaid issues, this Court proceeds to pass the following:

ORDER

The suit of the plaintiff is decreed with costs.

Hereby ordered and decreed that, the defendants, their agents, servants or any other persons acting under them are hereby restrained permanently from interfering with the suit schedule property of the plaintiff.

Further, ordered and directed the defendants to remove lavatory pit and jasmine plant and other trees grown in the eastern side of suit property measuring 2x50 feet within 6 months from the date of this order.

Draw decree accordingly.

[Dictated to the Stenographer, transcript typed by her corrected, initialed and pronounced by me in the open Court on this the 10th day of June 2026)

**I Addl., Civil Judge and JMFC.,
T.Narasipura.**

ANNEXURE

List of witnesses examined on behalf of plaintiff:

PW 1 : K.Puttaswamy

List of documents exhibits on behalf of plaintiff:

Ex.P 1 : Assessment register

Ex.P 2 & 3 : Notice issued by Attahalli Gramapanchayath

Ex.P 4 & 5 : Licence

Ex.P 6 : Request letter submitted by the plaintiff

Ex.P 7 : Report

List of witnesses examined on behalf of Defendants:

-NIL-

List of documents exhibited on behalf of Defendants:

-NIL-

I Addl., Civil Judge and JMFC.,
T.Narasipura.

(Judgment pronounced in open court vide separate order)

ORDER

The suit of the plaintiff is decreed with costs.

Hereby ordered and decreed that, the defendants, their agents, servants or any other persons acting under them are hereby restrained permanently from interfering with the suit schedule property of the plaintiff.

Further, ordered and directed the defendants to remove lavatory pit and jasmine plant and other trees grown in the eastern side of suit property measuring 2x50 feet within 6 months from the date of this order.

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**I Addl.Civil Judge & JMFC.,
T.Narasipura.**