



Presented on : 19-07-2025

Registered on : 19-07-2025

Decided on : 09-04-2026

Duration: 0 years, 8 months, 21 days

**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE & JMFC.,
LINGASUGUR.**

Dated this 09th Day of April, 2026.

PRESENT: Sri. AMBANNA. K.

B.Com, L.L.B. [Spl.]

PRL., CIVIL JUDGE & JMFC, LINGASUGUR.

OS.NO.108/2025.

Between:-

Shatastala Bramha Sri Sri Sri Gajadanda
Shivacharya Swamigalu S/o Devananda,
Amareshwara Guru Pitadhikarigalu,
Devarabhupur Gurupeeta Math, Topinakatti,
Sri Patta Adhayaksharu,
Age: 36 years,
R/o Devarabhupur,
Tq: Lingasugur, Dist: Raichur.

...Plaintiff

(By Sri. A.A.G., Advocate)

And:

Ningappa S/o Holeyappa,
R/o Yalagatta Village,
Tq: Lingasugur, Dist: Raichur.

... Defendant

(By Sri. H.M., Advocate)



Date of Institution of Suit	19-07-2025.
Nature of suit	Declaration and Permanent injunction.
Date of commencement of Recording of evidence	25-02-2026.
Date of which judgment pronounced	09-04-2026.
Total Duration	0 years, 8 months, 21 days

**Addl., Civil Judge & JMFC.,
Lingasugur.**

J U D G M E N T

The Plaintiff has filed this suit against the defendant for relief of declaration of ownership and permanent and mandatory injunction in respect of suit schedule property and such other reliefs.

2. The case of the plaintiff in brief is as follows:

It is submitted that, the plaintiff is the Sheer of the Amareshwara Math, Devarabhupur Village. Lingasugur Taluk. The Math having ancestral property bearing Sy.No.106, Hissa-*, measuring 02 acres 16 guntas situated at Yaradona Village, Gurugunta Hobali, Lingasugur Taluk, which is standing in the name of plaintiff. It is further stated that, the defendant illegally



encroached 14 guntas of land towards eastern side of the suit land. When the plaintiff approached the Tahasildar Lingasugr for survey, as per the survey the ADLR there was an encroachment of 14 guntas towards eastern side of the suit land. It is further stated that the defendant being the owner of adjacent land bearing Sy.No.105, Hissa-* measuring 27 acres 23 guntas have encroached the plaintiff's land. On 08-03-2025 the plaintiff asked the defendant to handed over the encroached area. But, he did not heed the same. Finally on 12-07-2025 the plaintiff met the defendant and asked to vacate the encroached area, but the defendant has refused the same. Therefore the plaintiff has constrained to file the present suit for the aforesaid reliefs.

3. After registering the suit, the suit summons were issued to the defendant, the defendant has appeared before the court but he has not chosen to file any written statement. Hence, written statement taken as not file.

4. On the basis of plaint averments the following points would arises for my consideration :

POINTS

1. Whether the plaintiff proves that, he is the absolute owner in possession of the suit schedule property ?



2. Whether the plaintiff proves that, the defendant has illegally encroached the 14 guntas of land towards eastern side of the suit land ?
3. Whether the plaintiff is entitled for the relief's as sought for ?
4. What order or decree ?
5. In order to demonstrate the case, plaintiff is examined as PW.1 and got marked the document at Ex.P1 to Ex.P.3 and closed their side evidence. On the other hand the defendant has not adduced any evidence or produced any documents on his behalf.
6. On perusal of pleadings and documents, having heard the arguments of counsel for plaintiff.
7. The Points framed for consideration are answered as under;

Point No.1:- In the Affirmative.

Point No.2:- In the Affirmative.

Point No.3:- In the Affirmative.

Point No.4:- As per the final order, for the following :



REASONS

8. **POINTS NO.1 TO 3** :- Since these points are interconnected to each other. In order to avoid the repetition facts and evidence, both points are taken up together for common discussion to accord common findings.

The plaintiff has filed this suit for the relief of declaration and consequential relief of permanent and mandatory injunction. It is asserted that, the plaintiff is the Sheer of the Amareshwara Math, Devarabhupur Village. Lingasugur Taluk. The Math having ancestral property bearing Sy.No.106, Hissa-*, measuring 02 acres 16 guntas situated at Yaradona Village, Gurugunta Hobali, Lingasugur Taluk, which is standing in the name of plaintiff. It is further stated that, the defendant illegally encroached 14 guntas of land towards eastern side of the suit land. When the plaintiff approached the Tahasildar Lingasugr for survey, as per the survey the ADLR there was an encroachment of 14 guntas towards estern en side of the suit land. It is further stated that the defendant being the owner of adjacent land bearing Sy.No.105, Hissa-* measuring 27 acres 23 guntas have encroached the plaintiff's land. On 08-03-2025 the plaintiff asked the defendant to handed over the encroached area. But, he did not heed the same. Finally on 12-07-2025 the plaintiff met the defendant and asked to vacate the encroached area, but the defendant has refused the same. Hence this suit.



9. In order to prove the plaint averments plaintiff by name Sri Gajadanda Shivacharya Swamigalu, is examined as PW.1 by filing the affidavit. On perusal of the same it is clearly reiteration of plaint averments, he relied upon the documents at Ex.P1 to 3 which are Ex.P-1 is the RTC pertaining to the suit land Sy.No.105, measuring 27 acres 23 guntas of Yaradona Village, Lingasugur Taluk, Ex.P.2 is the RTC pertaining to the suit land Sy.No.106, measuring 02 acres 16 guntas of Yaradona Village, Lingasugur Taluk, Ex.P.3 is the Hadbasth Map pertaining to the suit land Sy.No.106/*/* . On perusal of the Ex.P.3, the ADLR has mentioned there is a encroachment of 14 guntas in the said survey Number.

10. To disprove the case of the plaintiff, the defendant did not adduce any oral evidence or produce any documentary evidence. It is assertion of the plaintiff that, he is the absolute owner and in possession of the suit schedule property as on date of filing of suit. It is assertion of the plaintiff that, the defendant encroached the 14 guntas of the plaintiff's land measuring 14 guntas towards Eastern side of the suit schedule property. Further defendant has denied the title of the plaintiff.

11. As per Section **34 of the Special Relief Act**, any person entitled to any legal character or to any right as to any property, may institute a suit, against any person denying or interested to deny, his title to such character or right and the court may in its discretion make therein a declaration that he is so entitled and the plaintiff need not in such suit ask for any further relief. The



remedy **U/sec.34 of the Act** is discretionary remedy subject to the provisions mentioned therein i.e. no court shall make such a declaration, where the plaintiff being able to seek further relief than the mere declaration of title, omits to do so. In the present suit the plaintiff has sought for mandatory and permanent injunction along with declaration.

12. It is pertinent to note that, the defendant did not file any written statement and contest the matter. According to **Order 8 Rule 10 CPC.**, *where any party from whom a written statement is required under Rule 1 or 9 fails to present the same within the time permitted or fixed by the Court, as the case may be, the court shall pronounced judgment against him, or make such order in relation to the suit as it things fit and on the pronouncement of such judgment, a decree shall be drawn up.*

It must be noted that, inspite of sufficient opportunity given to the defendant, he did not cross-examined the PW.1 to test the veracity. Therefore the oral evidence of PW.1 and documentary evidence produced at Ex.P.1 to 3 would be remained unchallenged and undisputed. Therefore, the conduct of the defendant is to be taken into consideration. On perusal of the Ex.P.2 is the RTC is clearly goes to show that, the name of the plaintiff Sri Gajadanda Swamigalu, who is the absolute owner of the suit schedule property ie., Sy.No.106/*/*, measuring 02 acres 16 guntas situated at Yaradona Village. The Ex.P.3 is goes to show that the defendant has encroached the 14 guntas of land towards eastern side of the suit land. The Act of the defendant is



to be restrained by way of preventive relief. The plaintiff has established his claim by producing the oral and documentary evidence, per contra nothing on record to rebut the oral and documentary evidence of PW.1 by the defendant. Accordingly, the court is of the opinion that, the plaintiff is entitled for the relief of declaration and consequential relief of permanent and mandatory injunction as sought for. **Hence, this Court answered the Points No.1 to 3 are in the Affirmative.**

13. POINT NO.4 :- For the forgoing reasons and discussion, this Court proceed to pass the following :

ORDER

The suit of the plaintiff is hereby decreed with costs.

It is declared that, the plaintiff is the absolute owner of the suit schedule property.

The defendant is hereby directed to hand over the encroached suit schedule property to the plaintiff. If the defendant failed to do so, the plaintiff is at liberty to take action in accordance with law.

The defendant is permanently restrained from interfering with the



peaceful possession, and enjoyment
of the plaintiff over the suit schedule
property.

Draw decree accordingly.

(Dictated to the Stenographer directly on the computer, corrected by me and
then pronounced in the open Court on this 09th day of April, 2026.)

**(AMBANNA.K.)
ADDL., CIVIL JUDGE & J.M.F.C.,
LINGASUGUR.**

ANNEXURE

WITNESSES EXAMINED BY THE PLAINTIFFS :

PW.1 : Gajadanda Swamigalu.

DOCUMENTS MARKED BY THE PLAINTIFFS :

Ex.P.1 : RTC pertaining to the suit land Sy.No.105.
Ex.P.2 : RTC pertaining to the suit land Sy.No.106.
Ex.P.3 : Hadbasth Map.

WITNESSES EXAMINED BY THE DEFENDANTS:

NIL

DOCUMENTS MARKED BY THE DEFENDANTS:

NIL

**ADDL., CIVIL JUDGE & J.M.F.C.,
LINGASUGUR.**