



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
MANVI**

Present :

Sri.SHIVARAJ V SIDDESHWAR,
Bsc., B.Ed., LL.B.,
Senior Civil Judge & JMFC, Manvi

Dated this the 29th Day of April 2026

R.A.No.18/2025

Appellant: Smt. Parwathamma @ Sharada
W/o Bheemaraya,
Age: 62 years, Occ: Agriculture,
R/o H.No.1-11-46/5,
Maharana Pratap Singh Colony,
Raichur.

(Defendant No.1 before the trial Court)
(By Sri. Mallikarjun Patil, Advocate)

V/s

Respondents: 1.Veerasha S/o Rathnappa
since dead by LRS

(1.A) Smt. Lalithamma W/o
Late Veeresh, Age: 24 years,
Occ: Housemaker,

(1.B) Praveen S/o Late Veeresh,
Age: 24 years, Occ: Student,

(1.C) Prashanta S/o Late Veeresh,
Age: 20 years, Occ: Student,

2. Harish S/o Late Yeshappa,
Age: 24 years, Occ: Agriculture,

3. Sri. Hanumesh S/o Late. Yeshappa,
Age: 23 years, Occ: Agriculture,



All R/o Jagir Pannur village,
Tq: Manvi, Dist: Raichur.

(Plaintiffs before the trial Court)

4. Aralappa S/o Narasanna,
Age: 60 years, Occ: Agriculture
and Jagir Pannur village,
Tq: Manvi, Dist: Raichur.

(Defendants No.2 before the trial Court)

(R3 By Sri. B.K.Amaresh, Advocate
R1(a to c) R2, R4 Exparte)

Date of institution of Appeal	15.11.2025
Nature of Judgment or order appealed against	Judgment and Decree passed in Original Suit No.11/2017 dated: 22.04.2022, suit for permanent injunction by the learned Civil Judge and JMFC at Manvi.
Date on which the Judgment in the present Appeal is pronounced	29.04.2026
Total Duration	Year/s Month/s Day/s 00 05 14

(Shivaraj V Siddeshwar)

Senior Civil Judge & JMFC, Manvi

JUDGMENT

This appeal is filed by the defendant No.1 against the Judgment and Decree dated 22.04.2022 passed by the learned Civil Judge & JMFC, Manvi in O.S No.11/2017, in which the



Trial Court decreed the suit for the relief of Permanent Injunction.

2. The present appellant is the defendant No.1 in original suit before the Trial Court. The present respondent No.4 is defendant No.2 in the original suit before the trial Court. Present respondent No.2 and 3 are plaintiffs in the original suit before the trial court. Present respondent No.1(A), 1(B) and 1(C) are LRS of deceased defendant No.1 in original suit before the trial Court.

3. Brief facts of plaint are as follows:

That one Eara @ Earappa S/o Bala @ Balappa was owner of suit land bearing Sy No.3 measuring 2 acres situated at Jagir Pannur village, Taluk Manvi and he is maternal grandfather of plaintiff No.1 and maternal great grand-father of plaintiff No.2 and 3. The plaintiffs further submit that said Eara @ Earappa and his wife Smt. Hampamma have got only a daughter by name Smt Gangamma. During the life time of Smt. Hampamma, due to her old age, she has submitted an application before the revenue authorities to effect mutation of suit land in the name of her daughter Gangamma's elder son namely Yeshappa and accordingly suit property was mutated in the name of Yeshappa in the year 1987. Plaintiff No.2 and 3 are sons of said Yeshappa. The plaintiff No.1 is brother of Yeshappa. Plaintiffs further submit that in the year 2004-05 plaintiff No.1 and his elder brother Yeshappa orally got partitioned the said land, in that partition an area measuring 00-34 guntas fallen to the share of father of plaintiff No.2 and 3 and 00-35 gunta fallen to the share of plaintiff No.1. The plaintiffs further submit that said



Yeshappa the elder brother of plaintiff No.1 and father of plaintiff No.2 and 3 died on 02.04.2016. The plaintiffs further submit that the plaintiffs are in possession and enjoyment of suit property. The defendants are not concerned to the suit property. The defendants without having any right, title and interest over the suit property but they tried to interfere in the possession of plaintiffs over the suit property. Hence, plaintiffs filed this suit.

4. The trial Court's records show that defendant No.2 appeared before the trial Court but not filed written statement and defendant No.1 remained exparte.

5. Trial Court's records show that the plaintiff No.1 examined himself as PW1 and also examined two witnesses as PW2 and 3 and relied upon 29 documents which are marked as Ex.P1 to 29.

6. Trial Court framed the following points for consideration;

1. Whether the plaintiffs prove that they are in actual peaceful possession and enjoyment over the suit schedule property as on the date of filing of the suit?
2. Whether the plaintiffs prove that the defendants are interfering with their actual peaceful possession and enjoyment over the suit schedule property?
3. Whether the plaintiffs are entitle for the relief of permanent injunction as sought for?
4. What order or decree?



7. After appreciating the oral and documentary evidence on record. The learned trial Judge came to the conclusion that the plaintiffs are entitled to decree of permanent injunction and has answered point No.1 to 3 in the Affirmative and has decreed the suit.

8. In this appeal the appellant/defendant No.1 has filed an application under Section 5 of the Limitation Act, which is numbered as IA No.1, thereby prayed to condone delay of 1300 days in filing present appeal against the Judgment and decree passed in OS No.11/2017 dated 22.04.2022 by the trial Court. The application IA No.1 is opposed by other side.

9. It is that the judgment which is impugned by the appellant on the following grounds:

1. The Judgment passed by the trial Court is illegal and against the provisions of law.
2. The plaintiffs deliberately given wrong address of defendant No.1 before the trial Court.
3. The appellant has good grounds and has chance of winning the case.

On these grounds and with other formal grounds the appellant prayed to set aside the Judgment and decree passed in OS No.11/2017 dated 22.04.2022 on the file of learned Civil Judge Manvi.

10. Heard arguments by the learned counsels for the appellant. Perused the written arguments filed by the learned counsel for the respondent No.3.



11. Based on the above rival contention taken up by the appellants and respondent No.3 following points arose for my consideration.

- (1)** Whether the grounds are made out to condone delay of 1,300 days in filing present appeal?
- (2)** Whether the plaintiffs prove that they are in possession and enjoyment of suit property as on the date of suit?
- (3)** Whether the plaintiffs prove that the defendants have tried to interfere in the possession of plaintiffs over the suit property?
- (4)** Whether the plaintiffs are entitled to the relief of permanent injunction?
- (5)** Whether interference is called for in the judgment and decree of the trial Court?
- (6)** What order or direction?

12. My answers to the above points are as under;

Point No.1	: In the Negative
Point No.2	: In the Affirmative
Point No.3	: In the Affirmative
Point No.4	: In the Affirmative
Point No.5	: In the Negative
Point No.6	: As per final Order, for the following :

REASONS

13. Point No.1 : Learned counsel for the appellant argued that the plaintiffs have deliberately mentioned wrong address of the appellant/defendant No.1 and illegally got obtaining exparte decree against the appellant on 30.09.2021. It is also argued that



the appellant is resident at Raichur but not in the address shown in the plaint cause title. It is also argued that the appellant had no knowledge about the Judgment, and on 23.09.2025 when notice of EP No.18/2025 served to the appellant then only she came to know about the Judgment and decree of OS No.11/2017. Learned counsel for the appellant also argued that after receiving the notice in EP No.18/2025 she was suffering from ill health. On these grounds learned counsel for the appellant prayed to allow the IA No.1 and to condone delay of 1,300. Per contra, in the written arguments respondent No.3 contended that the delay is intentional one and not properly explained by the appellant. It is also contended that appellant has failed to show sufficient cause to condone the delay. It is also contended that the appellant has created a false story to file this appeal. It is also contended that the plaintiffs respondents have taken substitute service before the trial Court and they have published the suit summons in the news paper for appearance defendant No.1/appellant but the appellant/defendant No.1 intentionally not appeared before the trial Court even after knowing the pendency of the suit against her. On these grounds learned counsel for the respondent No.1 to 3 prayed to dismiss the appeal.

13(1). Decision of Hon'ble Apex Court reported in [2023] 1 SCR 449 between AJAY DABRA Vs. PYARE RAM AND OTHERS. In this decision Hon'ble Apex Court held that;

“The appellant who seeks condonation of delay therefore must explain the delay of each day.”



14. In the present appeal, in the affidavit annexed with IA No.1 the appellant/defendant No.1 has stated that the plaintiffs have given wrong address of appellant before the trial Court as such she has no knowledge about the Judgment passed by the trial Court. It is also stated that on 23.09.2025 she received notice of EP No.18/2025 then only she came to know about the Judgment passed by the trial Court. It is also stated that after knowing about the Judgment of the trial Court she was not feeling well as such delay in filing appeal is not intentional. It is important to note here that the appellant has not produced any material to show that health of appellant was not good after receiving notice in EP No.18/2025 on 23.09.2025. In the present appeal the appellant has not produced any material such as medical evidence to show that the appellant was suffering from ill health during the appeal period to file the appeal against the Judgment and decree passed by the trial Court. Further, in the affidavit annexed with IA No.1 the appellant has not explained the delay of each day in filing the present appeal. Further, the appellant has not produced any evidence to show that she was not residing in the address mentioned in the plaint. Principles laid down in the above referred decision aptly applicable to the facts of the present appeal. Thus, it is clear that the appellant has not made out sufficient grounds to condone the delay of 1,300 days in filing appeal. Hence, I conclude that IA No.1 filed by the appellant under Section 5 of the Limitation Act, is not maintainable. Hence, **point No.1 is answered in the Negative.**

15. Point No.2: Burden is on the plaintiffs to prove that they are in possession of suit property as on the date of suit. Ex.P1 is



Kasara Pahani and it suggest that suit property is appearing in the name of one Earra. Ex.P3 to 6 are RTC for the year 1964 to 1983 and they suggest that suit property is appearing in the name of Hampamma W/o Earra. Ex.P2 mutation extract dated 19.01.1987 suggest that suit property was appearing in the name of Hampamma W/o Earra. Ex.P2 also suggest that said Earra and Hampamma had a daughter by name Gangamma. Said Gangamma had a son by name Yeshappa. Ex.P2 also suggest that said Hampamma had filed application before the revenue authority Manvi to mutate the suit property in the name of Yeshappa and accordingly suit property is mutated in the name of Yeshappa. Ex.P7 to 10 are RTC for the year 1983 to 2000 and they suggest that suit property is appearing in the name of Yeshappa. Ex.P11 to 27 are RTC for the year 2000 to 2017 and they suggest that out of suit land, land to the extent of 34 gunta appearing in the name of Yeshappa and land to the extent of 35 guntas appearing in the name of plaintiff No.1 Veeresh. Said Yeshappa and plaintiff No.1 Veeresh are brothers. Plaintiff No.2 and 3 are sons of Yeshappa. Ex.P28 is mutation extract and it suggest that said Yeshappa had obtained loan from PKPS Bank Cheekalparvi village, Taluk Manvi. Ex.P28 also suggest that out of suit land, land to the extent of 34 guntas mutated in the name of Yeshappa and land to the extent of 35 guntas mutated in the name of plaintiff No.1 Veeresh. Ex.P29 is pedigree of family of plaintiffs.

16. In the affidavit filed in lieu of examination in chief PW1 to 3 have reiterated the plaint averments. Even, PW2 and 3 namely Somayya and Mariyappa have deposed that the plaintiffs are in



possession of suit property. Trial Court's records show that the plaintiffs have taken steps for appearance of present appellant/defendant No.1 by way of substitute service ie., by publishing suit summons in the Kannada Daily News Paper by name "Kannada Prabha" for appearance of defendant No.1/present appellant, but the present appellant has not appeared before the trial Court for the best reasons known to her. Evidence produced by the plaintiff before the trail Court remained unchallenged. Evidence produced by the plaintiffs suggest that the plaintiffs are in possession and enjoyment of suit property as on the date of filing the suit. Hence, **above point No.2 is answered in the Affirmative.**

17. Point No.3: In the appeal the appellant/defendant No.1 contended that the plaintiffs have not in possession of suit property. While answering on point No.2, I have already concluded that the plaintiffs are in possession of suit property. Very contention of the appellant/defendant No.1 taken up in the appeal would clearly suggest to this Court that the appellant/defendant No.1 has tried to interfere in the possession and enjoyment of plaintiffs over the suit property. Hence, I conclude that the defendants have tried to interfere in the possession and enjoyment of plaintiffs over the suit property. Hence, **above point No.3 is answered in the Affirmative.**

18. Point No.4: In a suit for permanent injunction the plaintiffs must prove that the plaintiff is in possession of suit property, and the defendant has tried to interfere in the possession of plaintiff over the suit property. In the present appeal and in the suit OS No.11/2017, the plaintiffs have been able to prove the aforesaid



ingredients and requirements. Hence, **point No.4 is answered in the Affirmative.**

19. Point No.5: I have carefully perused the judgment passed by the learned trial Judge, and I am of the opinion that the learned trial Court has correctly appreciated the evidence on record and has given correct findings to the points framed in the suit and rightly decreed the suit. Hence, I am of the opinion that the judgment passed by the Trial Court does not required any interference by this court. Hence, **Point No.5 is answered in the Negative.**

20. Point No.6: In view of my findings to above points, I pass the following:

ORDER

The appeal filed by the appellant is dismissed with costs.

Thereby, Judgment passed by the learned Civil Judge, Manvi dated 22.04.2022 passed in OS. No.11/2017 is hereby confirmed.

IA No.1 filed by the appellant under Section 5 of Limitation Act, is rejected.

Draw decree accordingly.

Send back the trial Court's record along with a copy of this judgment forthwith.

(Dictated to the stenographer directly on the computer, typed by her and then corrected, signed and then pronounced by me in the open court on this the 29th day of April, 2026).

**(Shivaraj V Siddeshwar)
Senior Civil Judge & JMFC
Manvi.**