



Presented on : 09-10-2015
Registered on : 14-10-2015
Decided on : 30-06-2026
Duration : 10 years, 8 months, 21 days

IN THE COURT OF THE I-ADDL. CIVIL JUDGE & JMFC.,
AT: SINDHANUR.

PRESENT: SMT.SARASWATI HOTKAR
B.A.,LL.B.LL.M.
I-ADDL. CIVIL JUDGE & JMFC., SINDHANUR.

O.S.NO.624/2015

DATED THIS THE 30th DAY OF JUNE, 2026

BETWEEN:

Lingamma W/o. Late Laxmappa,
Age:50 years, Occ: Agriculture,
R/o.Indira Nagar, Sindhanur,
Dist:Raichur.

...Plaintiff.

(By Sri. V.M.P., Advocate)

AND:

Vishwanatha S/o. Veerabhadrayya,
Age: 40 years. Occ:Worker in Sarai Depo,
R/o. Tippu Sultan Colony, Sindhanur.

.... Defendant

(By Sri.N.R.G., Advocate)

Date of institution of suit	09-10-2015
Nature of the suit	For Permanent Injunction.



Date of recording of evidence	22-04-2017
Date of judgment	30-06-2026
Total duration	10 years, 8 months, 21 days

: JUDGMENT :

This case is remanded back from Hon'ble Senior Civil & JMFC., Sindhanur by its judgment and order passed in R.A.No.40/2022 dated 17-02-2024 with an direction to give opportunity to both the parties to lead additional evidence if any on the additional issues.

2. Originally the plaintiff filed the present suit for the relief of permanent injunction in respect of suit property. The defendant sought counter claim for the relief of declaration of title in respect of plot No.40-A. This court framed total 7 issues, out of them first issue is regarding possession of the plaintiff over suit schedule property as on the date of suit and second issue was regarding interference by the defendant over the suit property. After conclusion of trial, the suit came to be dismissed with costs and counter claim made by the defendant was allowed by order and judgment of this court dated 13-07-2022. Aggrieved by the said judgment and decree plaintiff preferred appeal under R.A.No.40/2022 before Hon'ble Senior Civil Judge & JMFC.,



Sindhanur, wherein the Honble Court allowed the appeal and remanded back the matter by deleting issue No.1 and 2 framed by this court and the Hon'ble Court directed this court to frame additional issues as follows:

1. Whether the plaintiff proves that there is a road in existence towards western side of property of the plaintiff as asserted in plaint?
2. Whether the plaintiff proves that the defendant is trying to put up a construction over 10 feet road towards western side of property of plaintiff?

And further directed the court to give opportunity to both the parties to lead additional evidence if any.

3. Description of suit schedule property:

10 feet road towards Western side of plaintiff's property bearing CMC No.5-3-227/2-A/40, (plot No.40) measuring East-West:30 feet, North-South:40 feet situated at Indira Nagar area, in Ward No.13, in Sy.No.971 within the limits of CMC, Sindhanur.



4. THE BRIEF FACTS OF THE CASE OF PLAINTIFF:

It is the case of the plaintiff that she is owner of plot No.40 bearing CMC No.5-3-327/2A/40 situated at Indira Nagar, Ward No.13, Sindhanur. The above property was purchased under registered sale deed bearing document No.4781/2013-14. She is residing in said property. There is a road towards western side of the said property measuring 30 feet width. The existence of road towards western side of the said property is clearly mentioned in her sale deed and also in the sale deed of her vendor. The defendant illegally tried to put up a shed in said road by creating a false concocted sale deed, map. Hence, she filed the present suit restraining the defendant from constructing any structure over the 10 feet road towards western side of plaintiff schedule property.

5. The defendant appeared through his counsel and filed his written statement by denying the averments of plaintiff. He contended that earlier site No.40 and 40A were jointly owned and possessed by Honnursab, Hussainsab and Khaja Hussain. They jointly sold out the site No.40 in favour of one Lakshmana S/o. Neelappa. Thereafter, they sold out remaining area i.e., site No.40A which is situated towards western side of the said site No.40 in his favour. City Municipality, Sindhanur mutated the said property in his name. The CMC gave number to said property as 5-3-620/40-



A. In the year 2008 one Channappa S/o. Lakshmana who is the S/o. plaintiff illegally interfered in his vacant site. He filed suit against him in O.S.No.205/2008 for the relief of permanent injunction. Finally they compromised the said suit on 18-10-2008. He is absolute owner of site No.40A. There is no existence of road towards western side of the property of plot No.40. But a road is in existence towards western side of his property. Hence, he prayed to dismiss the suit and he sought counter claim for the relief of declaration of title in respect of odd site No.40A (CMC No.5-3-620/40/A). He further contended that the suit is not maintainable for non-joinder of necessary parties and for not seeking declaratory relief.

6. The plaintiff filed rejoinder to the counter claim by denying the averments of counter claim. She contended that there is no existence of site No.40A in said locality towards western side of her property. The defendant illegally showing the said road as his property. The decree in O.S.No.205/2008 is not binding on her and it is binding only to the parties to said suit. Further she prayed to dismiss the counter claim.

7. Based on the above pleadings and documents and as per the direction of Hon'ble Senior Civil Judge & JMFC., Sindhanur my learned predecessor-in-office framed the following issues.



1. Whether the plaintiff proves that there is a road in existence towards western side of property of the plaintiff as asserted in plaint?

2. Whether the plaintiff proves that the defendant is trying to put up a construction over 10 feet road towards western side of property of plaintiff?

3. Whether the defendant proves that he is owner of the suit property?

4. Whether the defendant further proves that suit is bad for non-joinder of necessary parties?

5. Whether the plaintiff is entitle for the relief of permanent injunction as sought for?

6. Whether the defendant is entitle for relief of declaration as sought for?

7. What order or decree?

8. In order to prove the case, the plaintiff examined herself as PW-1. She filed her evidence by way of affidavit in lieu of chief examination. The documents are marked as Ex.P1 to P8. She examined a witness by name Shabbirsab S/o. Rajasab as PW-2. He filed his evidence by way of affidavit in lieu of chief examination. On the other hand the defendant examined himself as DW-1. He filed his evidence by way of affidavit in lieu of chief examination and



documents were marked as Ex.D-1 to 31. At the time of cross examination of DW-1 Ex.P-4 to 7 were confronted.

9. Heard both sides. Perused the materials available on records.

10. My answers to the above issues as hereunder:

Issue No 1	: In the Negative.
Issue No 2	: In the Negative.
Issue No 3	: In the Affirmative.
Issue No 4	: In the Negative.
Issue No 5	: In the Negative.
Issue No 6	: In the Affirmative.
Issue No 7	: As per final order, for the following;

R E A S O N S

11. ISSUE NO.1 and 3: These issues are interlinked with each other, to avoid repetition of facts and circumstances they are taken together for discussion.

In order to prove the case, the plaintiff examined herself as PW-1. She filed her evidence by way of affidavit in lieu of chief examination. The documents are marked as Ex.P-1 to 8 on her behalf. She examined a witness by name Shabbirsab as PW-2. He also filed his evidence by way of affidavit in lieu of chief examination.



12. Ex.P-1 is Form No.3 property extract which shows that site No.5-3-227/2A/40 measuring 30 x 40 feet is standing in the name of plaintiff. Ex.P-2 is the certified copy of the sale deed which was executed by the Smt.Renuka in her favour in respect of said property. Ex.P-3 is the certified copy of the sale deed executed by the Honnursab, Khaja Hussain and Hussainsab in favour of Lakshmana in respect of said property. Ex.P-4 to 7 are photos and Ex.P-7(a) is pen-drive. Ex.P-8 is the endorsement dated 07-11-02025 issued by CMC., Sindhanur.

13. The plaintiff has to prove the existence of 10 feet road towards western side of her property. She contended that in Ex.P-2 and 3 the existence of road was clearly mentioned in schedule of these documents towards western side. Further she contended that the defendant created a false sale deed and map in respect of said road by falsely mentioning as it is site. There is no existence of site as alleged by the defendant.

14. The defendant contended that he is the absolute owner of plot No.40/A which is situated towards western side of plot No.40 of the plaintiff. He further contended that a road is in existence towards western side of his site which is counter claim property. He further contended that he is in possession over the said property. The plaintiff illegally denied his ownership over the said property.



15. In order to prove his contentions, the defendant examined himself as DW-1. He filed his evidence by way of affidavit in lieu of chief examination. He reiterated the averments of his written statement and counter claim in his chief examination. The documents are marked as Ex.D-1 to 31. The Ex.D-1 is original sale deed executed by Honnursab, Hussainsab and Khaja Hussain in his favour. The said sale deed clearly shows that said Honnursab, Hussainsab and Khaja Hussain sold out a property measuring 10 x 40 which is situated towards western side of plot No.40 in his favour and handed over the possession of said plot. Ex.D-2 is the order of Commissioner, CMC, Sindhanur which shows that after purchasing the said plot, he applied for allotment of number to his property. The CMC allotted the number to said property as 40A and its CMC No.5-3-620/40A. The Ex.D-3 is the property extract issued by the CMC, Sindhanur. It shows that CMC Sindhanur allotted the number to said property and issued this property extract in favour of defendant. Ex.D-4 and 5 are self assessment tax paid receipts. Ex.D-6 is the endorsement issued by the CMC, Sindhanur dated 27-01-2004. It shows that the defendant applied for previous documents in respect of said plot. The CMC, Sindhanur issued the said endorsement by stating that there is no documents are available in respect of said plot before 1999. On the same day CMC, Sindhanur issued certificate in respect of ownership of defendant over the plot No.40A as per Ex.D-7. The



Ex.D-8 to 24 are tax paid receipts and self assessment tax paid Forms. These documents show that the defendant is paying tax in respect of counter claim property. Ex.D-25 to 27 are property extracts of said plot No.40A. In these documents the schedule of said property is clearly mentioned and shown the existence of road towards western side of said plot. These documents also shows that the counter claim property is standing in the name of defendant. Ex.D-28 is the certified copy of the plaint in O.S.No.205/2008. It shows that the defendant filed the said suit against one Channappa S/o. Lachamanna Korwar for the relief of permanent injunction in respect of said plot No.40A. The Ex.D-29 is compromise petition filed in O.S.No.205/2008. Ex.D-30 is the Order-Sheet of the said suit. Ex.D31 is the decree passed in said suit.

16. On careful perusal of Ex.D-1, which clearly shows that this defendant purchased counter claim property through registered sale deed from its erstwhile owners. Ex.D-2 shows that CMC allotted the number to said property. Ex.D-3 and 7 clearly show that the CMC issued certificate in respect of ownership over the said property in favour of defendant and also issued property extract. Ex.D-25 to 27 show that the said property is standing in the name of defendant. The Ex.D-4, 5, 8 to 23 clearly show that the defendant is paying tax in respect of said property. These are



all public documents. These documents clearly show the ownership of defendant over the counter claim property and also his possession over the same.

17. The plaintiff contended that the defendant created these documents by colluding with officials of CMC Sindhanur. But there is no documents to consider the said defence as true. The plaintiff contended that Ex.D-2 and 6 clearly show that the defendant created these documents. She further contended that the defendant got the number as per Ex.D-2 to the said property by colluding with officials. She further contended that Ex.D-6 clearly shows that there is no documents in respect of said property before 1999. The Ex.D-2 clearly shows that the plot number was already in existence. The CMC has given CMC number as 5-3-620/40A to the property in counter claim. In said document clearly shows the existence of plot No.40/A. The date of said document is 27-05-1999. The Ex.D-6 shows that there is no documents in respect of CMC No.5-3-620/40A before 1999. Ex.D-2 clearly clarify the same that the CMC has given number to plot No.40A in 1999. Hence, they issued Ex.D-6 by stating that there are no documents are available in respect of said plot before 1999. It shows that the documents issued by the CMC are genuine. The Ex.D-1 original sale deed also shows the ownership of defendant and also shows his possession over the property in counter claim.



18. Ex.D-3 to 5, 7 to 27 also show the possession of defendant over the property in counter claim. In these documents also clearly mentioned the measurement of said property as 40 x 10. The defendant clearly established his ownership over the property in counter claim by producing documentary evidence and also established his possession over the same.

19. The plaintiff contended that there is a road towards western side of her plot. But the plaintiff has not produced any public document to show the existence of said road towards western side of her plot. She contended that in Ex.P-2 and 3 i.e., certified copies of sale deeds the existence of road was clearly mentioned in schedule of these documents towards western side. But these documents are private documents. Persons can write anything in the sale deed documents at the time of registration. No one verified the correctness of schedule. By mentioning the road in sale deed will not create a road actually. It is not sufficient to consider the existence of road. It is the duty of the plaintiff to show the existence of road by producing public documents like Layout plan, documents issued by the CMC/Town planning authority etc., After remand, PW-1 further examined in chief and got marked the endorsement issued by CMC Sindhanur as Ex.P-8. On perusal of Ex.P-8 it goes to show that the CMC, Sindhanur has issued an endorsement stating that no documents/NA orders, layout maps



are available in their office in respect of land Sy.No.971/1 of Nataraj Colony, Sindhanur. It is to be noted that the Hon'ble Senior Civil Judge in the order passed in R.A.No.40/2022 at page No.13 observed that *"the layout in respect of land Sy.No.971 of Nataraj colony Sindhanur is not a Government layout and it is private layout. Therefore, CMC is not supposed to maintained any layout. However, the layout copies will be available with the town planning authority."* Even specific observation made by the Hon'ble court, the plaintiff applied for issuance of layout map's, NA order copies and other documents before CMC Sindhanur and not sought such documents from Town planning authority. Further, the plaintiff has not taken any strain to bring her vendors and produce the documents from Town Planning authority in support of her contention. Plaintiff's specifically averred that defendant has falsely created the document regarding plot No.40-A. If defendant created the documents in respect of said road as site, definitely CMC would have taken action against him. At this stage there is no documents to show that CMC took action against the defendant for encroachment of public road.

20. The defendant contended that earlier the son of plaintiff by name Channappa interfered in his possession over the property in counter claim. At that time he filed original suit in O.S.No.205/2008. Finally the said suit was ended in compromise.



21. To show these facts the defendant produced Ex.D-28 to 31 i.e., certified copy of plaint, Order-sheet, compromise petition and decree. In said plaint the defendant clearly mentioned his ownership and possession over the property in counter claim and sought the relief of permanent injunction against said Channappa by praying to restrain him from interfering in his peaceful possession. The compromise petition filed in O.S.No.205/2008 clearly show that the defendant and one Channappa compromised the said suit with the condition that the defendant of this suit shall not put the doors towards eastern side of the suit plot in ground floor and upstairs and the said Channappa shall not put the door towards western side of his plot i.e., plot No.40 on the ground floor and upstairs. The said document clearly shows that the said Channappa admitted the existence of site which belongs to the defendants. Both parties compromised the suit with condition that the defendant shall not put any door or window towards eastern side i.e., towards plot No.40 and said Channappa shall not put door towards western side i.e., plot No.40/A.

22. These documents clearly show that the family members of plaintiff of this suit admitted the existence of property of defendant towards western side of plot No.40. The counsel for plaintiff contended that the said decree is binding only on the parties who are parties to the said compromise petition. Not on parties against



who are not party to the said compromise. But it is not the case of plaintiff that she did not know the said Channappa, the defendant by colluding with said Channappa created those documents.

23. The PW-1 clearly admitted in her cross examination at page No.3 in second para that Channappa S/o. Lakshmana Korwar is her yajaman. But she did not clarify how he is yajaman to her. But it shows that the said Channappa is relative to the plaintiff. The said Channappa compromised the O.S.No.205/2008 in respect of the suit property and property in counter claim of this suit. Hence, these documents are relevant to consider the same.

24. It is well settled law that the decree shall bind on the parties of the said suit only. Though considering the same, the plaintiff failed to establish the existence of road independently in this suit by producing documentary evidence. The documentary evidence in respect of suit property always available in Town Planning Authority in respect of existence of road. The plaintiff has not produced any documents to show the existence of road towards western side of her plot. The PW-1 also admitted the possession of defendant in her cross examination at page No.3 in para No.3 by stating that the defendant is in possession over the property in counter claim after he purchased and mutated the same.



25. The plaintiff examined a witness by name Shabbirsab as PW-2. He deposed that the existence of road is also mentioned in his sale deed. The defendant with intend to encroach the public road tried to form a shed. But plaintiff has not produced the sale deed of PW-2 before this Court. The oral evidence of PW-2 is not at all helpful to the case of the plaintiff. The existence of road should be proved by documentary evidence. When documentary evidence are available to show a particular fact, the party shall prove the said fact by producing documentary evidence. Moreover, the defendant clearly established that there is a site towards western side of the plot No.40 and he is owner of said plot. The defendant also produced sufficient relevant documents to show his ownership over the said property. When documents clearly established the existence of plot towards western side of the plot No.40, it is the bounden duty of the plaintiff to show that those documents are created one and there is a road towards western side of her plot. But plaintiff has not produced any public documents to show the same. She relied on certified copies of sale deeds i.e., Ex.P-2 and 3. But the schedule mentioned in Ex.P-2 and 3 though shows the existence of the road towards western side of her plot, there is no supporting public document to show that there is 10 feet road towards western side of plaintiff's property. Moreover, the counsel for plaintiff clearly put suggestion at the time of cross examination of DW-1 in page No.6 at first line that there is a road to go to Idiga



after the site of defendant. The DW-1 accepted the said suggestion by stating as true. The said suggestion clearly shows the existence of road after the vacant site of property in counter claim. The plaintiff failed to establish the existence of road towards western side of her plot. The defendant clearly established the existence of property in counter claim towards western side of plot No.40. He also established his ownership and possession over the property in counter claim. Hence, **I answer issue No.1 in the Negative and issue No.3 in the Affirmative.**

26. ISSUE NO.2: The plaintiff clearly contended that the defendant by creating false documents he is trying to construct over the western side 10 feet Rastha of the plaintiff's property. But as I already said the plaintiff failed to establish the existence of road towards western side of her plot and the defendant clearly established his ownership as well as possession over the property in counter claim. The defendant clearly established that there is no road towards western side of plot of plaintiff. When there is no existence of road, question of constructing over 10 feet road towards western side of property of plaintiff does not arise. Hence, **I answer issue No.2 in the Negative.**

27. ISSUE NO.4: The defendant contended that the suit is bad for non-joinder of necessary parties. The defendant contended



that original owners of suit property and property in counter claim by names Honnursab, Hussainsab and Khaja Hussain are necessary parties to the suit to say about the existence of the road.

28. The plaintiff filed the present suit for the relief of permanent injunction. The suit for permanent injunction has to be filed against who interfered in the possession of said person and cause of action arose against whom. In the present case, the plaintiff clearly contended that the defendant trying to construct over 10 feet road towards western side of her property. It shows that the cause of action arose against defendant only. The said persons as stated by the defendant are not at all necessary parties or proper parties to the suit. Hence, **I answer issue No.4 in the Negative.**

29. ISSUE NO.5: The plaintiff failed to establish the existence of road towards western side of her plot. The defendant clearly established the existence of property in counter claim towards western side the plot of plaintiff. Hence, there is no question of construction over 10 feet road towards western side of plaintiff's property. Hence, the plaintiff is not entitled for the relief of permanent injunction. Hence, **I answer issue No.5 in the Negative.**



30. ISSUE NO.6: The defendant clearly established his title over the property in counter claim i.e., plot No.40A (CMC.No.5-3-620/40A). The plaintiff contended that the Rules of Order VII is applicable to the counter claim also. The defendant has not furnished description schedule of property in counter claim in schedule. Hence, counter claim itself is not maintainable.

31. Perused the counter claim. The defendant has not separately mentioned the schedule of property in counter claim. He clearly mentioned the entire description of property in counter claim in prayer column itself. It is not a ground to refuse to counter claim for non mentioning separate schedule, since he clearly furnished the description of the property in his counter claim. Moreover, he clearly established the existence of his property, his title and also his possession over the said property. Hence, **I answer issue No.6 in the Affirmative.**

32. ISSUE NO.7: For the above discussed reasons, I proceed to pass the following :

ORDER

***The suit of the plaintiff is dismissed
with costs.***



***The counter claim of the defendant
is decreed with costs.***

***It is declared that the defendant is
the absolute owner of counter claim
property bearing site No.40/A and its
CMC.No.5-3-620/40/A.***

Draw decree accordingly.

(Dictated to the stenographer, transcribed and typed by her, corrected by me
and then pronounced in the open court on this 30th day of June 2026)

**(Smt. Saraswati Hotkar)
I-Addl. Civil Judge & JMFC,
Sindhanur.**

: ANNEXURE:

WITNESS EXAMINED ON BEHALF OF PLAINTIFFS:

P.W.1 : Smt.Lingamma.
P.W.2 : Sri.Shabbirsab

WITNESS EXAMINED ON BEHALF OF DEFENDANTS:

D.W.1 : Vishwanath

DOCUMENTS MARKED ON BEHALF OF PLAINTIFF:

Ex.P.1 : Mutation extract.
Ex.P.2 & 3 : C/c of Sale deeds.
Ex.P-4 to 7 : Photos.
Ex.P-7(a) : Pen-drive.



Ex.P-8 : Endorsement issued by CMC, Sindhanur.

DOCUMENTS MARKED ON BEHALF OF DEFENDANT:

Ex.D.1	:	Sale deed.
Ex.D.2	:	Order of CMC.
Ex.D.3	:	Property extract.
Ex.D.4 & 5	:	Tax paid receipts.
Ex.D.6	:	Acknowledgement.
Ex.D.7	:	Ownership certificate.
Ex.D.8 to 24	:	Tax paid receipts and Forms.
Ex.D.28	:	C/c of plaint in O.S.No.205/2008.
Ex.D.29	:	C/c of Compromise petition.
Ex.D.30	:	C/c of Order-sheet.
Ex.D.31	:	C/c of Decree.

(Smt. Saraswati Hotkar)
I-Addl. Civil Judge & JMFC,
Sindhanur.



(Today Judgment pronounced in the open court, vide separate order)

ORDER

The suit of the plaintiff is dismissed with costs.

The counter claim of the defendant is decreed with costs.

It is declared that the defendant is the absolute owner of counter claim property bearing site No.40/A and its CMC.No.5-3-620/40/A.

Draw decree accordingly.

**I-Addl. Civil Judge & JMFC,
Sindhanur.**