

**KARN210012512017**



**R.A./19/2017(J)**

Presented on : 28-10-2017  
Registered on : 28-10-2017  
Decided on : 05-06-2026  
Duration : 08 years, 07 months,  
09 days

**IN THE COURT OF THE ADDL.SENIOR CIVIL JUDGE  
& JMFC, CHANNAPATNA**

**:PRESENT:**

**SANDESHA.K., M.A., L.L.B.,**  
Addl. Senior Civil Judge & JMFC,  
Channapatna

**Dated, this the 05<sup>th</sup> day of June 2026**

**R.A./19/2017**

**APPELLANT :**

Smt.Mahadevamma,  
W/o Chikka Eregowda,  
Aged about 57 years,  
R/at Malagal Village,  
Virupakshipura Hobli,  
Channapatna Taluk,  
Ramanagara District.

**(By Sri. M.K.N., Adv.)**

**V/s**

**RESPONDENT:**

Smt.Girigamma,  
W/o Late Eregowda,

**KARN210012512017**



2

**R.A./19/2017(J)**

Aged about 62 years,  
R/at Malagal Village,  
Virupakshipura Hobli,  
Channapatna Taluk,,  
Ramanagara District.

**(Respondent By Sri. L.R., Adv.)**

**IN O.S./152/2015 IN THE SUIT IN BETWEEN:-**

Smt.Mahadevamma

**.....Plaintiff**

**-Vs-**

Smt.Girigamma

**.....Defendant**

**DATE OF PRESENTATION  
OF THE REGULAR APPEAL**

**: 28.10.2017**

**NATURE OF THE APPEAL**

**: Against the Judgment  
and Decree passed by  
the learned Addl. Civil  
Judge & JMFC,  
Channapatna. in  
O.S./152/2015 dated:  
12.09.2015.**

**JUDGMENT PRONOUNCED ON :**

**05.06.2026**

**KARN210012512017**



3

**R.A./19/2017(J)**

**DURATION OF THE  
REGULAR APPEAL**

**:**     Year/s   Month/s   Day/s  
         -08-       -07-       -09-

**(SANDESHA.K.)**

Addl. Senior Civil Judge & JMFC  
Channapatna.

\* \* \* \*

**JUDGMENT**

The appellant has preferred this appeal under Section 96 of CPC against the judgment and decree passed by the learned Addl. Civil Judge in JMFC., Channapatna in O.S.No.152/2015 dated 12.09.2017.

**2.** The appellant was the plaintiff. Respondent was the defendant before the trial Court.

**3.** For the sake of convenience, hereinafter the parties are referred to as their rank shown in the suit before the trial Court.



**4. The brief facts of the plaintiff case is that:**

Plaintiff is agriculturist by profession. Plaintiff is absolute owner in possession and enjoyment of the plaintiff A schedule property. Plaintiff has cultivating Coconut tree, Mango saplings in the A schedule property. Plaintiff mainly depends upon the earing of Mango and Coconut for her lively wood. She getting annual income of Rs.2,00,000/-. Defendant is the adjacent owner of the B schedule property. She has the cultivating the Eucalyptus in the B schedule property since 6 months, B schedule property totally surround the A schedule property in all four corners. At the time of plating Eucalyptus in the B schedule property, the plaintiff and other adjacent land owner, objected and filed complaint before the concerned office, instead of all this plaintiff cannot be restrained the defendant plating the Eucalyptus even after advise of the elders.



**5.** It is further stated that, the Eucalyptus tree absorb the undergone the water from the depth of 100 feet and reaches of 500 feet, the Eucalyptus tree which are cultivated in the B schedule property very adjacent to the A schedule property not to more than 25 feet distance of A schedule property. The leaves having heavy oil contents, are falling in the A schedule property root are also having oil contents which having protruded to the A schedule property and absorb the water due to this more than 10 to 15 fruit yielding Mango and Coconut tree are dried up even the area near by B schedule property is not suitable for growing other crops. Plaintiff illegally cultivating Eucalyptus over the B schedule property. Hence, this suit.

**6.** After issuance of suit summons defendant appear before trial court but defendant is not failed written statement. Hence, written statement of the defendant taken as not filed and case is posted for plaintiff evidence.



7. On the basis of pleadings mentioned supra, the learned trial court has framed the following points:

**POINTS**

- 1. Whether the plaintiff proves that she was in possession of the suit schedule A property as on the date of the suit?**
- 2. Whether the plaintiff proves that, the defendant interfered with the peaceful possession of the suit schedule A property?**
- 3. Whether the plaintiff proves that she is entitled for the relief of permanent injunction as prayed for?**
- 4. Whether the plaintiff show sufficient grounds to grant mandatory injunction as prayed for?**
- 5. What order and decree?**

8. In order to prove the case of the plaintiff, the plaintiff has examined herself as PW1 and got admitted 33 documents as Ex.P1 to Ex.P33. Though the defendant have appear before the trial court, they have not filed any



written statement. Hence, evidence of defendant does not arise.

**9.** After considering the ocular and documentary evidence placed by the plaintiff, the Learned trial Court has dismiss the suit. Being agreed by the impugned judgment and decree passed by the learned trial court, the plaintiff has preferred an appeal before this court. Hence, the matter before this court through an appeal. In the appeal, appellant contended that the trial court has committed an error in disbelieving the version of the appellant. The trial court filed to clinch true facts above case. The Eucalyptus tree absorb the undergone water by getting the report from the concerned department and without property application of mind, the trial court dismiss the suit. There is standing order for the removal Eucalyptus tree and that aspect of the case has not been appreciate by the trial court. Due to the Eucalyptus



plantation plaintiff suffered monitorial loss. Hence, the appellant sought for allow the appeal and set-aside the decree passed by the trial court.

**10.** Pursuant to the notice issued by this court, the respondent appeared before the court through her advocate.

**11.** Subsequently, the record of trial court has secured. I have heard the argument of erudite counsel for the appellant and respondent.

**12.** After hearing the argument and on going through the material record, the following points arise for my consideration.

**1. Whether the appellant/plaintiff prove that, the trial court has erred in dismiss the suit?**

**2. Whether the interference of this Court is called for in the Judgment and Decree of the trial court?**





**3. What order or decree?**

**13.** My findings to the above points are as under:

Point No.1: In the **Negative**  
Point No.2 : In the **Negative**  
Point No.3: **As per final order**  
For the following:-

**REASONS**

**14. POINT No.1 and 2 :** Since all these points are interconnected to each other, they are taken up together for common discussion in order to avoid repetition of fact and finding.

**15.** The plaintiff has filed the suit against the defendant seeking the relief of permanent injunction. In a suit for permanent injunction, two basic ingredients must be proved by the plaintiff. The first ingredient is factum of possession and second ingredient is factum of interference. If the plaintiff established that she is in possession over the suit land, then he would get right to protect her property



from the interference of other side. If he fail to prove that, then there suit must fail. But in this case plaintiff seeking injunction against the defendant from not to cultivate Eucalyptus tree in the plaint B schedule property and also seeking mandatory injection to cut and remove the Eucalyptus tree in the B schedule property. Therefore, plaintiff has prove that, there is a state order that Eucalyptus tree cannot be planted. Said fact has to be proved by the plaintiff. By keeping the above aspects as basic touchstone, now let me re-appreciate the material available on record.

**16.** As per the contention of the plaintiff/applicant that, defendant is planted a Eucalyptus tree in the B schedule property. A schedule property covered B schedule property. Eucalyptus tree absorb the undergone the water. Eucalyptus tree are cultivated in the B schedule property are very adjutants to A schedule property. There is a strict



order of state that Eucalyptus tree cannot be planted. But defendant is cultivated Eucalyptus tree in the B schedule property illegally and unauthorized without having any manner of right. In order to prove the aforesaid contention of the plaintiff, she has been examined herself as PW-1 and got marked -33- documents as Ex.P-1 to Ex.P-33. The erudite counsel for the defendant has not filed written statement and also not cross-examined the PW-1.

**17.** The appellant/plaintiff has contended that, defendant has illegally cultivated Eucalyptus tree in the plaint schedule property. Without having any right, Adjutants B schedule property A schedule property is situated, plaintiff planted Mongo tree and Coconut trees. There is strict order of the state that Eucalyptus tree cannot be planted but defendant planted the Eucalyptus tree in the B schedule property without having in a right, it



is caused to the cultivation of the plaintiff. Hence, pray for allow the appeal.

**18.** In the course of arguments, the erudite counsel for the appellant/plaintiff has contended that, the trial court failed to appreciate document and oral evidence of the plaintiff.

**19.** On the other hand, the erudite counsel for the defendant/respondent argued before this court that, plaintiff has not produced any state Government order to shows that state Government is pass an order that Eucalyptus tree cannot be planted. Defendant has planted a Eucalyptus tree in her property. Defendant illegally planted a Eucalyptus tree. Plaintiff has not proved how he difficult to cultivate the her property. There is no violation of legal right of the plaintiff. Photos are not shown the



interference of defendant. Rights of the defendant cannot be restricted. Hence, pray for dismiss the appeal.

**20.** On appreciation of entire oral and documentary evidence available on record, the crux of the matter is whether the defendant is illegally cultivate the Eucalyptus tree in the B schedule property and it is caused loss to the plaintiff property.

**21.** In the background of contention taken by the plaintiff it appears that, the PW-1 has filed an affidavit in lieu of her examination-in-chief and examined as PW-1. The erudite counsel for the defendant has not cross-examined the PW-1 and also not filed written statement.

**22.** The plaintiff has produced Ex.P1 which shows that plaintiff has cultivated the plaintiff schedule property. Ex.P2 to Ex.P10 are the RTC extracts with respect to the plaintiff schedule property, which clearly show that plaintiff A



and B schedule property standing in the name of plaintiff and defendant. Ex.P11 to Ex.P32 are the Photos, Ex.P33 is the C.D, Ex.P11 to Ex.P32 shows that in the plaint A and B schedule property Eucalyptus tree and Mongo, Coconut trees are planted. As already above plaintiff has to prove that defendant has illegally planted the Eucalyptus tree in the plaint B schedule property. Admittedly, plaint B schedule property belongs to the defendant. Plaintiff has not produced any single iota of document to shows that defendant has planted the Eucalyptus tree illegally in the B schedule property. Therefore, the contention of the plaintiff cannot be accepted without any base. Plaintiff further contended that State Government strictly prohibited the plantation of the Eucalyptus tree. But in order to prove the above said contention plaintiff has not produced any notification issued by the State Government. Mere taking contention is not sufficient hold that the State



Government has prohibited the cultivation Eucalyptus tree. Therefore, absence of the such authenticated document, the contention of the plaintiff cannot be consider.

**23.** As already stated that plaintiff is admitted that plaint B schedule property is belongs to defendant, she cultivated the Eucalyptus tree in the B schedule property. As the owner of the property she can cultivated the Eucalyptus tree. But whether she is illegally cultivated or not is to be decided in the trial. But in order to prove the same the plaintiff has not produced any pice of documents. RTC extracts cannot confirmed that, defendant is illegally cultivated the Eucalyptus tree in the plaint B schedule property. If the defendant is cultivated the Eucalyptus tree in the plaint B schedule property, plaintiff can filed the complaint before the competent authority, but plaintiff do not so. Hence, the contention of the plaintiff is without



documents cannot be consider. Hence, plaintiff cannot entitled any equable relief of injunction.

**24.** When the plaintiff is failed to prove her case interference on the part of the defendant does not arise. Plaintiff also seeking mandatory injunction to cut and removed the Eucalyptus tree standing in the B schedule property. When the plaintiff is failed to prove that, the defendant is illegally cultivated Eucalyptus tree in the B schedule property plaintiff cannot be entitled mandatory injunction. It is admitted by the plaintiff that defendant is planted the Eucalyptus tree in the plaint B schedule property. B schedule property is belongs to the defendant. Such being in the case the plaintiff cannot be entitled mandatory injunction. Accordingly, this Court is of the considered view that the learned trial court has rightly appreciated the matter in the right perspective and dismiss the suit filed by the plaintiff. Hence, the interference of this





court is not necessary to the Judgment and Decree rendered by the learned trial court. Consequently, I am answering Point No.1 and 2 in the **NEGATIVE**.

**25. POINT No.3:-** In view of my findings to the point No.1 and 2, I proceed to pass the following:

**ORDER**

**The appeal filed by the appellants/ plaintiff Under Section 96 of C.P.C. is hereby dismissed with costs.**

**The impugned Judgment and Decree passed by the learned Addl. Civil Judge & JMFC, Channapatna, on dated:12.09.2017 by dismiss the suit in O.S.No.152/2015 is hereby confirmed.**

**In the result any I.As is pending stands disposed.**

**Draw decree accordingly.**

**KARN210012512017**



18

**R.A./19/2017(J)**

**Send back the trial court record  
immediately along with the copy of the  
Judgment.**

**(Dictated to the Stenographer directly on the computer and signed by me and  
then pronounced in the Open Court on this 05<sup>th</sup> day of June 2026)**

**(SANDESHA.K.)**

**Addl. Senior Civil Judge & J.M.F.C.  
Channapatna.**

**KARN210012512017**



***(JUDGMENT PRONOUNCED IN THE OPEN COURT  
(ON /05/0/2026)  
(VIDE SEPARATE ORDER)***

**ORDER**

**The appeal filed by the appellants/  
plaintiff Under Section 96 of C.P.C. is  
hereby dismissed with costs.**



**The impugned Judgment and Decree passed by the learned Addl. Civil Judge & JMFC, Channapatna, on dated:12.09.2017 by dismiss the suit in O.S.No.152/2015 is hereby confirmed.**

**In the result any I.As is pending stands disposed.**

**Draw decree accordingly.**

**Send back the trial court record immediately along with the copy of the Judgment.**

Addl. Senior Civil Judge & J.M.F.C.  
Channapatna.

**KARN210012512017**

