



FORM No.9 (Civil)

(R.P.91)

TITLE SHEET FOR JUDGMENT IN SUIT
IN THE COURT OF ADDITIONAL CIVIL JUDGE & JMFC
CHANNAPATNA

PRESENT

Sri.SURESHA.S.N, B.A. LL.B.
Additional Civil Judge & JMFC.,
CHANNAPATNA

Dated: 5th day of August 2026

OS No.08/2015

Plaintiff : Sri.Mahadevaiah
S/o Late.Manchegowda,
Aged about 59 years,
R/at Koodluru Village,
Kasaba Hobli,
Channapatna Taluk,
Ramanagara District.

(Rep.by Sri.S.N, Advocate)

- V/s -

Defendant/s: 1. Smt.Hombalamma
Since dead by her Lrs,
2. Smt.Mangalamma
S/o Late.Ramalingaiah,
Aged about 47 years,
3. Kum.Meena
D/o Late.Ramalingaiah,
Aged about 39 years,



4. Sri.Satheesha
S/o Late.Ramalingaiah,
Aged about 39 years,
5. Sri.Dinesh
S/o Late.Ramalingaiah,
Aged about 35 years,

All are R/at Koodluru Village,
Kasaba Hobli, Ramanagara Taluk.

(Rep.by Sri.T.M.L, Advocate)

Date of Institution of the Suit	08.01.2015		
Nature of the Suit	Permanent Injunction		
Date of Commencement of Recording of Evidence	31.01.2018		
Date on which the Judgment was pronounced	05.08.2026		
Duration	Years 11	Months 06	Days 28

(Suresha.S.N.)
Addl.Civil Judge & JMFC
Channapatna.

JUDGMENT

This is a suit filed by the plaintiff against the defendants
for seeking relief of permanent injunction restraining the



defendants from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property.

2. The brief facts of the case as projected by the plaintiff is as under.

The plaintiff submits that, the plaintiff is the absolute owner of the suit schedule property bearing old khaneshumari No.45/1 and 45/2 situated at Koogluru village, Channapatna Taluk. The property bearing khaneshumari No.45/1 fallen to the share of plaintiff under partition held between himself and his brothers dated 19.03.1974. The property bearing khaneshumari No.45/2 measuring east-west 16 mola and north-south 24 mola, in feet 18 X 27, purchased by the plaintiff from husband of defendant No.1 i.e., Ramalingaiah under registered sale deed. Since the date of partition and sale deed the plaintiff has been possession in the suit property. In the meantime in the year 1991 the said khaneshumari numbers changed into 60 and 60/2, the total extent is 36 x 16 mola that means east-west 54 feet and south-north 24 feet. Towards the northern side in east-



west 4½ feet is the pedestrian path, except that extent, the total extent of said two khaneshumari number properties is 27 feet towards northern and southern side. The said 4½ feet towards the western side of the suit property has been using by defendant and some other persons. The suit properties again it rennumbers as khaneshumari No.29 the old khaneshumari numbers were included in khaneshumari No.29. The plaintiff obtained a license from the panchayath in respect of khaneshumari No.45/1 to construct the building house in the extents East-west 25 mola and south-north 13 mola and retained the vacant space measuring 12 feet towards the western side. The said property is the ancestral property of plaintiff came through partition. The defendants have no right, title or interest in the suit property but, in the year 1996-97 the husband of defendant No.1 given an application to the panchayath to change the khata in his name illegally, then it came to the knowledge of plaintiff and filed objection to the said application. But the defendant No.1 colluded with the members



of Taluk Panchayath and some other persons and changed the khata of suit property in his name illegally and giving obstruction to the possession of plaintiff. The plaintiff given the complaint before the police but, the police did not take any action against the husband of defendant No.1 and directed to resolve the dispute before the civil court since it is a civil dispute. Then the plaintiff got issued notice through counsel to the panchayath officials and directed to the secretary Koodluru grama panchayath to conduct the enquiry and submit the report.

3. It further averred that the husband of defendant No.1 even had no right, title or interest in the suit property, illegally interfered into the suit property and obstructed the peaceful possession of plaintiff in respect of suit property. The husband of defendant No.1 did not obey the advise made by the elders of the village, hence this plaintiff had filed suit against husband of defendant No.1 in OS No.162/1998 for seeking relief of permanent injunction in respect of suit property. During the



pendency of the suit bearing OS No.162/1998 the husband of defendant No.1 reported dead hence, the legal heirs of defendant No.1 came on record and continued in the suit. After trial conducted the suit bearing OS No.162/1998 was dismissed by this court on 12.02.2008. The said judgment and decree in OS No.162/1998 was challenged by this plaintiff before the Hon'ble Sr.Civil Judge, Channapatna in RA.No.149/2012, the said appeal was partly allowed and declared that, the plaintiff is the absolute owner of the property bearing khaneshumari No.45/1 & 45/2 new number 60, 60/2 & 29 and present number 46/1 and 46/2 of its varandah measuring 9 X 9. Thereafter the defendants filed RP 3/2013 before the Sr.Civil Judge, Channapatna the said Rev. Petition came to be allowed. Even though the Rev.Petition was allowed the defendants did not stop their interference in the suit property. Hence, the plaintiff filed the Ex.Petition No.8/2013 before this court wherein the plaintiff requested to appoint the court commissioner but this court rejected the plea of appointment of court commissioner in



the said suit. Therefore, the plaintiff had filed memo to withdraw the said Execution Petition. The cause of action to filed the suit arose on 10.12.2014. On the said reasons the plaintiff constrained the suit.

4. After service of suit summons the defendant No.5 has appeared through counsel and filed his written statement wherein he has admitted that, the property bearing khaneshumari No.45/1 fallen to the share of plaintiff under partition dated 19.03.1974 held among the plaintiff and his brothers. But, it is denied that, the property bearing khaneshumari No.45/2 measuring east-west 16 mola and south-north 18 mola under sale deed dated 08.06.1976 from the husband of defendant No.1, the plaintiff is the absolute owner of suit property and he has been possession in the suit property, thereafter, the khaneshumari No.60 & 60/2 changed in the year 1990-91 from its original No.45/1 & 45/2, the extent of suit property measuring 36 mola in feet 54, east-west 16 mola in feet 24 feet, towards the northern side of suit property



to an extent of 4½ feet towards east-west left to pedestrian path, the total extent of said two properties measuring east-west 27 feet, the pedestrian path is left towards western side of suit property to the use of defendants and others, the suit khameshumari Number are included in the said pedestrian path, the plaintiff has obtained license to construct the dwelling house in khameshumari No.45/1 measuring east-west 25 mola south-north 13 mola and remained 12 feet as retained by the plaintiff towards western side, it is the ancestral property of plaintiff fallen to his share under partition, Even though the defendants have no right, title or interest in the property the husband of defendant No.1 had given an application before the panchayathi to change the khata of suit property in his name illegally, but it came to the knowledge of this plaintiff and filed objection to the said application but, the husband of defendant No.1 changed the khata of suit property in his name by colluding with panchayath officials and some political persons, then this plaintiff had filed complaint before the police, but they did not



taken any action against this husband of defendant No.1, the police have advised to the plaintiff that, since the dispute arose between plaintiff and defendants is in civil nature, it has to be resolved before the competent civil court, then the plaintiff got issued notice to the panchayath officials, then it has directed to the secretary Koodluru grama panchayath to conduct the spot enquiry and submit the report, the husband of defendant No.1 had no right, title in the suit property illegally interfered into the suit property and obstructed the peaceful possession of plaintiff in the suit property, the defendants did not care about the advice made by the elders of the village, therefore, the plaintiff filed the suit against these defendants.

5. This defendant further contended in para No.3 & 4 of written statement that, the plaintiff has mentioned the wrong extent to the suit property, the passage and construction is in existence, to know the correct thing the defendant had furnished the rough sketch in OS No.162/1998, the said



document got marked as Exh.D12, the said rough sketch was considered by the court. The said rough sketch furnished in OS No.162/1998 has to be considered as part and parcel of the dispute. It further contended that, the real extent of suit property is measuring 36 X 18 feet it belongs to ancestors of defendants. The ancestors of plaintiff and defendants have equally divided the family property towards the eastern side of the house and eastern-northern side of a corner varandah belongs to the defendants, the defendants have been possession. Similarly the house towards the eastern side and the corner place towards western and northern side has been possession by the plaintiff. Towards the western side of the entire property there is an existence of road and towards northern eastern side there is a passage. The extent of passage towards northern side is 5 feet and the passage towards eastern side is 9 feet. Before selling the property in favour of plaintiff by the husband of defendant No.1 there was a front door towards western side. The said western side door was use



by both the parties and half verandah after verandah the property of plaintiff was situated.

6. The husband of the defendant No.1, when he sold the house property, retained the verandah in the north-west corner belonging to him and is still enjoying it under the rights and obligations of these defendants. The plaintiff, without the knowledge of these defendants, secretly added the verandah area in the possession of these defendants and made an khata in his name. The husband of the defendant No.1 collected logs for the purpose of building a verandah and sought permission from the Panchayat, when the husband of the defendant came to the notice of the plaintiff's illegal activity. The husband of the defendant submitted an application to the Panchayath, and then the Panchayath conducted an inspection of the site and came to know the truth. Later, the plaintiff, realizing the said matter, asked the husband of the 1st defendant No.1 to sell the verandah, but at that time, the defendants refused to sell the verandah with the intention of making additional



accommodation for themselves since the house in which they were living was very small. Later, the plaintiff had failed in his attempt and had filed a suit against the husband of the defendant No.1. In the event that, the husband of the defendant No.1 and the father of the remaining defendants had sold the property measuring 16 feet east-west. 18 feet north-south to the plaintiff, the property was sold leaving a path from the public road on the western side to the house of the defendants and the house of the younger brother at the back.

7. In the case instead of writing feet, it is written as mola. Since the plaintiff was intelligent at the time of the partition deed, the partition deed is written according to his statement. If it is considered as feet, then the neighboring houses are also included. Since the existing building exists, the feet of the house have to be considered. Accordingly, the Court has already considered it as feet. The plaintiff has already filed a comprehensive suit for declaration of property and possession



and permanent injunction, which has been dismissed. Then this suit has been filed with the intention of causing trouble to the defendants. After the previous one ended, the enforcement application has been filed in the same sense as this suit. These defendants filed a objection. They produced a map. When the real situation was explained, the plaintiff dismissed the enforcement application he had filed as wrong. But the court has not asked him to withdraw it. The same thing that was asked for relief due to misunderstanding in the enforcement application has been asked in this suit. Since this claim is subject to res-judicata, the claim cannot be sustained and must be dismissed.

08. On the basis of the pleadings of parties as aforestated, the following issues were framed by my learned predecessor;

ISSUES

- 1. Whether the plaintiff proves that, he is in lawful peaceful possession of the suit schedule property as on the date of suit?**



- 2. Whether the plaintiff proves that, the defendants are interfering with the peaceful possession and enjoyment over the suit schedule property?**
- 3. Whether the plaintiff entitled for the relief as sought for?**
- 4. What order or decree?**

09. In order to prove the case, the plaintiff has got examined himself as PW.1 and filed chief affidavit in lieu of examination in chief and re-averred the same facts of plaint in the affidavit and got marked 20 documents, which are got marked as Exh.P-1 to P-20. On the other hand, the defendant No.5 examined himself as DW.1 and filed chief affidavit in lieu of examination in chief and re-averred the same facts of written statement and got marked 14 documents which are got marked as Ex.D1 to 14 and one witness is examined himself as DW.2 and filed chief affidavit in lieu of examination in chief and re-



averred the same facts of written statement closed their side defense evidence.

10. Heard the arguments by the learned counsel for plaintiff and defendants.

11. On considering the evidence on record, my findings to the above issues are as under.

Issue No.1 - *In the Negative*

Issue No.2 - *In the Negative*

Issue No.3 - *In the Negative*

Issue No.4 - As per final order for the following

REASONS

12. **ISSUE No. 1 to 3** : These issues are interlinked with each other, hence taken up together for common discussion to avoid the repetition of same facts.

13. Before discussing the merit of the case it is relevant to know what is res-judicata. The **res** means **subject matter** and **Judicata** means **adjudged or decided** and together it



means a **matter adjudged**. Sec.11 of the code of civil procedure embodies the doctrine of res-judicata or the rule of conclusiveness of the judgment. It enacts that, once a matter is finally decided by a competent court no party can be permitted to reopen it in a subsequent litigation. It serves to prevent multiplicity of proceedings and to protect parties from being vexed twice for the same cause.

The object of the principle of res-judicata can be traced by three judicial maxims;

- **Nemo debets bis vexari pro una et eadem causa:-** that means no man should be vexed twice for the same cause.
- **Interest reipublicae ut sit finis litium:-** it means in the interest of the state that there should be an end to a litigation.
- **Res judicata pro veritate occipitur :-** that means a judicial decision must be accepted as correct.

Essential elements



- **Matter in issue must be same:-** to applied the principle of Res judicata the matter in the subsequent suit must be directly and substantially same in the former suit.
- **Same parties :-** the former suit must have been between the same parties or between parties under whom they or any of them claim
- **Same title:-** the parties must be litigating under the same title in both the former and subsequent suits.
- **Competent jurisdiction:-** the court that, decided the former suit must have had jurisdiction to try the subsequent suit or the suit in which the issue has been raised.
- **Heard and finally decided:-** the matter in issue must have been heard and finally decided by the former court.

14. The res-judicata also known as prime preclusion is the latin term for judged matter and refers to either of two concepts in common law civil procedure. Int he case or res judicata the matter can not be raised again either in a same court or in a different court. The court will use res-judicata to denied reconsideration of a matter. The doctrine of res-judicata



is a method of preventing injustice to the parties of a completed case, and avoiding waste of judicial resources. Res-judicata does not merely prevent future judgment from contradicting earlier ones but, also prevents litigants from multiplying judgments. It is similar to the concept of **double jeopardy** and non bis in idem in criminal law but the protection in criminal prosecution only bars an identical prosecution of the same offence. However a different offence may be charged on identical evidence at a second trial. Whereas res judicata precludes any causes of action or claims that may arise from the previously litigated subject matter.

15. Now its a time discuss above right to **personam** and right to **rem**. The terms right in rem and right in personam are derived from the latin terms "**action in rem**" and "**action in personam**" respectively. The right to personam means an individuals privilege is a prerogative granted by a specific statute and use against another person or persons. Right in rem



or jus in rem means anyone signing a contract possesses right in rem or intangible rights. They have this right against the whole globe. Basically it prevents a person's stuff from being stolen by anyone in the universe.

16. **Right in personam or res in personam :-** right in personam is a polar opposite of right in rem. Right in personam confers legal rights on a single person or party to a contract. It usually corresponds to a responsibility placed on the mentioned person or group.

The difference between right in rem and right in personam:- right in rem, these are the real rights. Rights in personam are personal rights. Rights in rem are available against common/globe, rights in personam are available against a particular person or party. One right is the subject matter of another right. Right in rem is the subject matter of right in personam. Rights in personam is the subject matter of right in rem.



17. The above discussion may adopt for the purpose to know that, the earlier suit bearing OS No.162/1998 is comes under the purview of the res-judicata and the suit was filed earlier he is apply either right to rem or right to personam.

18. The present plaintiff had filed the suit against Ramalingaiah for seeking relief of permanent injunction during the pendency of the said suit, the defendant i.e., Ramalingaiah reported dead, then the present defendants No.1 to 3 had came on record as the legal heirs of deceased defendant Ramalingaih as defendant No.1 (a) to 1(c). Actually the suit was filed for the relief of bare injunction, its a right in rem, when the defendant reported dead the suit bearing OS No.162/1998 ought to had been dismissed, but the legal heirs of Ramalingaiah brought on record. On the impleading of the defendants No.1 to 3 the suit was continued and finally adjudicated on merit on 12.02.2008. As already said above the suit ought to had been dismissed as defendant abated, but



however the proceedings of the suit continued and disposed off on the said date. Now the question would be that whether the suit, case in hand comes within the purview of res-judicata or not. The present plaintiff and defendants No.1 to 3 were also plaintiff and defendants No.1 (a) to 1(e) in OS No.162/1998, the subject matter of that suit also subject matter case in hand.

19. In order to prove the plaint averments the plaintiff examined himself as PW-1 and filed chief affidavit in lieu of examination in chief and re-averred the same facts of plaint in his affidavit and got produced 20 documents which are got marked as Exh.P.1 to 20. Among the said documents Exh.P1 is the original registered sale deed executed dated 19.03.1974, Exh.P2 is the original registered sale deed executed dated 08.06.1976, Exh.P3 is the demand extract, Exh.P5 is the official memorandum by Executive Officer Taluk Panchayath Channpatna, Exh.P6 is the a letter to the Secretary Koodluru grama panchayath and development office of Channapatna,



Exh.P7 is the license issued by president Koodluru grama panchayath, Exh.P8 to 12 are the tax receipts, Exh.P13 is the notice, Exh.P14 to 16 are the postal acknowledgments, Exh.P17 and 18 are the police MC, Exh.P19 certified copy of judgment in Rev. petition before Hon'ble Sr.Civil Judge, Channapatna in Rev.Pet.3/2013, Exh.P20 is the certified copy of RA No.148, 149/2012 before the Sr.Civil Judge, Channapatna.

20. On the other hand in order to disprove the case the defendant No.5 examined himself as DW-1 and filed chief affidavit in lieu of examination in chief and re-averred the same facts of his written statement in the affidavit and got produced the 14 documents as Exh.D1 to 14. Among the said documents Exh.D1 & 2 are the photographs, Exh.D3 is the certified copy of chief affidavit in OS No.162/1998, Exh.D4 is the certified copy of photograph, Exh.D5 is the certified copy of resolution in Koodluru grama panchayath dated 28.05.1998, Exh.D6 is the certified copy of license, Exh.D7 is the certified copy of hand



written MR 2/1998-99, Exh.D8 is the certified copy of assessment demand register, Exh.D9 & 10 are the certified copies of judgment and decree in OS No.162/1998 filed before this Addl.Civil Judge, Channapatna, Exh.D11 is the certified copy of assessment demand register, Exh.D12 and 13 are the tax receipts, Exh.D14 is the certified copy of rough sketch.

21. The above said documents are not required for detailed discussed, because in respect of the same suit property the suit had already been adjudicated in OS No.162/1998. This suit was filed by the present plaintiff for seeking the same relief of permanent injunction against the father of these defendants. During the pendency of the suit the Ramalingaiah was reported dead but, instead of dismiss the suit as defendant abated but, the legal heirs of deceased defendant I,e Ramalingaiah brought on record. As already said above the injunction against the defendants was right in personam that means the suit against the only person it binds to the name mentioned as defendant.



Except the defendants the judgment and decree not binding to others. But however the legal heirs of deceased Ramalingaiah brought on record the defendants No.1 to 3 were placed as defendants No.1(a) to 1(c). Therefore, the defendants No.1 to 3 when they came on record and continued the suit the judgment and decree passed in that suit is also binding to them. Once the matter is decided in the same subject matter, between the same parties in same claim it cannot be file the suit on the same subject matter, it will apply the res judicata.

22. The plaintiff taken up a contention that, on the basis of judgment and decree in OS No.162/1998 preferred an appeal before the Sr.Civil Judge, Channapatna wherein, alter the judgment and decree in OS No.162/1998. Therefore, the plaintiff shall go with the order of the said first Appellate court but not entitled to file the similar relief of suit on the same subject matter. **Therefore I answer Issue No.1 to 3 in the Negative.**



23. **Issue No.4:-** In the result of foregoing reasons and findings on Issue No.1 to 3, I proceed to pass the following:

ORDER

The suit of the plaintiff is hereby
dismissed with cost.

Draw decree accordingly.

*(Dictated to the Stenographer directly on computer, typed by her, the same is corrected, revised, signed and then pronounced in the open court on **05th day of August, 2026**).*

(Suresha.S.N.)
Addl.Civil Judge & JMFC
Channapatna.

ANNEXURE

List of witnesses examined on behalf of plaintiff :

PW-1 : Sri.Mahadevaiah S/o Late.Manchegowda

List of Exhibits marked on behalf of plaintiff :

Exh.P1 : Original registered sale deed executed dated 19.03.1974

Exh.P2 : Original registered sale deed executed dated 08.06.1976

Exh.P3 : Demand extract

Exh.P5 : Official memorandum by Executive Officer Taluk Panchayath Channapatna



- Exh.P6 : Letter to the Secretary Koodluru grama panchayath and development office of Channapatna
- Exh.P7 : License issued by president Koodluru grama panchayath
- Exh.P8 to 12 : Tax receipts
- Exh.P13 : Notice
- Exh.P14 to 16 : Postal acknowledgments
- Exh.P17 and 18 : Police MC
- Exh.P19 : Certified copy of judgment in Rev. petition before Hon'ble Sr.Civil Judge, Channapatna in Rev.Pet.3/2013, Exh.P20 is the certified copy of RA No.148, 149/2012 before the Sr.Civil Judge, Channapatna.

List of Witnesses examined on behalf of defendants :

- DW-1 : Sri.Dinesh S/o Late.Ramalingaiah
- DW-2 : Sri.Manjunath M S/o Marichannegowda

List of Exhibits marked on behalf of defendants :

- Exh.D1 & 2 : Photographs
- Exh.D3 : Certified copy of chief affidavit in OS No.162/1998
- Exh.D4 : Certified copy of photograph



- Exh.D5 : Certified copy of resolution in Koodluru
grama panchayath dated 28.05.1998
- Exh.D6 : Certified copy of license
- Exh.D7 : Certified copy of hand written MR 2/1998-99
- Exh.D8 : Certified copy of assessment demand register
- Exh.D9 & 10 : Certified copies of judgment and decree in
OS No.162/1998
- Exh.D11 : Certified copy of assessment demand register
- Exh.D12 & 13 : Tax receipts
- Exh.D14 : Certified copy of rough sketch

(Suresha.S.N.)
Addl.Civil Judge & JMFC.,
Channapatna.

Judgment pronounced in open court
(Vide Separate Order sheet)

O R D E R

The suit of the plaintiff is hereby
dismissed with cost.

Draw decree accordingly.



**Addl. Civil Judge and JMFC.,
Channapatna.**