



C.R.P.67

Govt. of Karnataka

Form No.9 (Civil)
Title Sheet for
Judgments in Suits
(R.P.91)

TITLE SHEET FOR JUDGMENTS IN SUITS

**IN THE COURT OF THE XXVIII ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE (CCH-29) MAYOHALL, BENGALURU**

Dated this the 2nd day of July, 2026.

PRESENT:

Sri BALAPPA APPANNA JARAGU, B.Sc., LL.M.,
XXVIII Additional City Civil and Sessions Judge,
Bengaluru.

ORIGINAL SUIT No.26461/2021

- PLAINTIFFS :**
1. Sri. Ramesh Manghat,
S/o. Narayana Kutty,
Aged about 50 years,
R/at Flat No.216.
 2. Sri. Krishna Kumar,
S/o. E.Haridas,
Age about 45 years,
R/at Flat No.209,

Both are
R/at Jyothi Clique Apartment,
4th Cross, Abbaiah Reddy Layout,
Kaggadasapura,
Bengaluru – 560 093.

(By Sri C.Krishnappa, Advocate)

Cont'd..

-VERSUS-

- DEFENDANTS:
1. Sri. Srinivas Bhat,
S/o not known,
Aged about 74 years,
R/at Flat No.316.
 2. Sri. Shrikant Vaishnav,
S/o not known,
Aged about 40 years,
R/at Flat No.G 07.
 3. M/s Jyothi Clique Owners
Association, 4th Cross,
Abbaiah Reddy Layout,
Kaggadasapura,
Bengaluru – 560 093.
Reptd. by its President
Sri. Srinivas Bhat (Flat No.316)
 4. M/s Jyothi Clique Owners
Association, 4th Cross,
Abbaiah Reddy Layout,
Kaggadasapura,
Bengaluru – 560 093.
Reptd. by its Secretary
Sri. Shrikant Vaishnav
(Flat No.G 07)

(By Sri. R.A., Advocate)

Date of Institution of the Suit :	13-12-2021
Nature of the Suit (Suit on pronote, Suit for declaration and possession, Suit for injunction etc,)	Injunction Suit
Date of the commencement of recording of the evidence :	27-01-2023
Date on which the Judgment was pronounced :	02-07-2026

	Year/s	Month/s	Day/s

Total duration :	04years, 06months, 19days.		

(BALAPPA APPANNA JARAGU)
XXVIII Additional City Civil and
Sessions Judge, Mayohall, Bengaluru.

J U D G M E N T

This suit is instituted by the plaintiffs against the defendants for the relief of permanent injunction, restraining the defendants, their men, agents, power of attorney holders or such persons claiming through them including members of Associations and children and others playing on corridor, parking area, terrace and drive way illegally. The plaintiffs have also sought direction to defendants to conduct election of office bearers as per bylaws of defendant No.3 Association and grant such other reliefs.

2. The case of the plaintiffs in brief is as under:-

That, plaintiffs are absolute owners of suit schedule I and II properties having purchaser same under registered sale deeds dated 26.05.2008 and

22.03.2007 respectively from Sri.M.Dhananjaiah Reddy. Jyothi Clique Owners Association was formed long ago. As per bye laws of Joythi Clique Owners Association for every two years election has to be conducted and new office bearers have to be elected. Th plaintiffs have communicated many problems and suggestions to Association. Defendants have not properly maintained accounts. Children of flat owners are playing every day and night on corridor, parking area, terrace and drive way thereby causing dents and scratches on two wheelers and four wheelers. The plaintiffs have brought same to the notice of defendants, but defendants have not taken any steps restraining children from playing on corridor, parking area, terrace and drive way. The builder of Apartment at initial stage itself has allocated designated play area with a shuttle court, swimming pool and kids play area. The defendants have made a shuttle court on drive way area, thereby causing hindrance to commuters of residence of Apartment. Very recently adult along with children started playing cricket on drive way making unnecessary noises and disturbing the plaintiffs. The plaintiffs have requested

many times to defendants, but they have not taken any action. The plaintiffs have also approached jurisdictional police and police have issued endorsement that, matter is of civil nature. On these pleadings, the plaintiffs have prayed to decree suit as prayed in plaint.

3. In response to the service of suit summons, the defendants have tendered their appearance before the court through their counsel and contested the case.

4. The contents of written statement of defendants in brief are as under:

That, all members of Association are entitled to the property, staircase, lifts, park and other amenities and not alone the plaintiffs. Every members of Association has exclusive rights over property, amenities like corridor, parking area, terrace, drive way. The plaintiffs have not only abused process of court by misleading the court also wasting precious time of court. The plaintiffs who are residents of Jyothi Clique Apartment intentionally and knowingly filed this suit to satisfy their oblique motive of threatening other

members of Apartment. Plaintiff No.1 is Ex-President and plaintiff No.2 is Ex-Secretary of Apartment Association. Merely because Association has elected defendant No.1 as President and defendant No.2 as Secretary of Association, plaintiffs by abusing process of court chose to file present false and fabricated case. The plaintiffs with ulterior motive have not paid maintenance fees of Apartment. When President and Secretary sent notice to plaintiffs to clear dues, plaintiffs have chosen to file present false suit. Jyothi Clique Apartment have over 80 children between age 3 to 15 years, as schools were closed due to Covid-19, children play in open area. It is not expected that, children will be silent while playing. The children have their fundamental rights to play and live with their dignity. The plaintiffs are habitual law breakers and took recourse of filing false and fabricated case. On these grounds, it is requested by the defendant to dismiss the suit of the plaintiffs.

5. On the basis of above pleadings of both parties, this court has framed the following :-

ISSUES

1. Whether the Plaintiffs prove that they are in lawful possession and enjoyment over the Suit 'A' Schedule Property as mentioned in Schedule I and II of the plaint?
 2. Whether the plaintiffs prove the interference by the Defendants as alleged in the plaint?
 3. Whether the plaintiffs are entitled for injunction as prayed for?
 4. What order or decree?
6. To substantiate the case of the plaintiff, the plaintiff No.1 examined himself as PW1 and one witness has been examined as PW2 and produced in all 12 documents as Exs.P1 to Ex.P.12. On the other hand, the President of defendant No.3 Association has been examined themselves as D.W.1 and Secretary of defendant No.3 association has been examined as DW.2. Ex.D.1 to Ex.D3 got confronted through P.W.1. Ex.P.4 produced by defendants.

7. I have heard the arguments of learned counsel for plaintiff and I have perused the case records.

8. My answers to the above issues are as under–

ISSUE No. 1 :- In the affirmative;

ISSUE No.2 :- In the affirmative;

ISSUE No. 3 :-Partly in the affirmative;

ISSUE No. 4 :- As per final order,

for the following –

REASONS

9. **ISSUE No.1** :- The plaintiffs have claimed that, they have purchased suit schedule I and II properties from Sri. M. Dhananjaiah Reddy under registered sale deeds dated 26.05.2008 and 22.03.2007 respectively. Certified copy of sale deed dated 26.05.2008 has been produced before the court as per Ex.P.1. On careful perusal of contents of said a document, plaintiff No.1 has purchased schedule I property from M.Dhananjaiah Reddy.

10. The plaintiffs have further produced certified copy of sale deed dated 22.03.2007 as per Ex.P.2. On

perusal of contents of said a document, it is clear that, plaintiff No.2 has purchased suit schedule II property from M.Dhananjaiah Reddy. Fact to be noted here, defendants have not denied about ownership of plaintiffs in respect of suit schedule I and II properties.

11. The defendants have specifically contended, plaintiff No.1 is Ex-President and plaintiff No.2 is Ex-Secretary of Jyothi Clique Owners Association. By contending so defendants have admitted these plaintiffs are owners of suit schedule I and II properties and they are members of said Association.

12. In Schedule to the plaint, Schedule 'A' is shown as property purchased by plaintiffs. Schedule 'B' is shown as undivided interest in Schedule 'A' property of plaintiffs. Schedule 'C' is shown as a car parking space in the basement, including appropriate share in common areas such as passage, lobbies, staircase, lift constructed on Schedule A property known as Jyothi clique Apartment. These Schedule 'A' to 'C' properties, as shown in Schedule to the plaint, are also mentioned in sale deeds of plaintiffs.

13. Intimation or Letter dated 22.01.2022 issued by defendant No.3 Association in respect of monthly maintenance outstanding overdue payable by plaintiff No.1 has been produced as per Ex.P3. While cross examining plaintiff No.1, who examined as PW1, it is suggested by Learned counsel for defendants that, plaintiff No.1 has not paid maintenance from 02.02.2021. It is also suggested by learned counsel for defendants to PW1 that, plaintiff No.1 has paid maintenance only after defendants raised said objection in their written statement. Receipts issued in the name of plaintiffs by defendant No.3 Association have been produced as per Ex.P6 and Ex. P7 respectively.

14. The Contents of above-referred documents coupled with evidence of parties as referred above, itself sufficient that, plaintiffs are in possession and enjoyment of suit schedule mentioned properties as mentioned in Schedule to the plaint and as per Schedule mentioned in their respective said deeds.

15. As already discussed, it is not the case of any of the defendants that, plaintiffs are not in possession and enjoyment of suit properties. The defendants have not

disputed possession of plaintiffs' over-suit schedule properties. **Hence, I answer Issues No.1 in the affirmative.**

16. **ISSUES No.2 AND 3** :- As these issues are inter-related to each other and involves common appreciation of facts and evidence on record, findings on one issue are bearing on other issues, in order to avoid repetition of facts and for convenience sake, all issues are taken together for common discussion.

17. It is specific contention of plaintiffs in their pleadings, and same is deposed by PW1 in his examination-in-chief that, children of members of Apartment are playing every day during day and night on corridor, parking area, terrace and driveway, thereby causing dents and scratches on vehicles of plaintiffs. Though plaintiffs have brought same to the notice of defendant Association, they have not taken any action in restraining children from playing on corridor, parking area, terrace and driveway. The defendants have contended that, Jyothi Clique Apartments have over 80 children between age 3 to 15 years. As schools were closed due to COVID-19,

the children will play in open areas, and it is not expected that, children will be silent while playing. Further, it is contented by defendants that, children have their fundamental right to play and live with their dignity.

18. The DW2, in his cross-examination, has deposed that, at initial stage, builder has allocated playing area, swimming pool, and kids' play area. DW2 has further admitted in his cross-examination that, in Ex. P8, it is mentioned, as we have only one play area, so residents can't use parking area, basement and any other common area to play cricket or any other game.

19. Ex. P8 is by-laws of Jyothi Clique Apartment Owners Association. At page 34 of said by-laws, it is clearly mentioned, as we know, we have only one play area, so residents can't use parking area or basement or any other common area to play cricket or any other game. Once there is by-laws of Jyothi Clique Apartment Owners Association, as per Ex. P8, all members of said Association should have adhered to the terms and conditions of said by-laws.

20. In order to show children including elders used to play cricket in common areas, plaintiffs have produced photos and pendrive containing those photos as per Ex. P9 to P11. These photos itself sufficient to come to conclusion, Members of Association, in violation of By-laws as per Ex. P8 are playing Cricket in common areas such as corridor, parking area, driveway. Such an act of children or any members of defendant No.3 Association, who are playing on corridor, parking area, terrace and driveway, which is in violation of their own bylaws as per Ex. P8, would definitely amount to interference as alleged by plaintiffs in their plaint.

21. As already discussed, plaintiffs have proved they are in lawful position and enjoyment of suit No. I and No. II properties as mentioned in plaint. Further, it is sufficiently proved by plaintiffs that, children of members of defendant No.3 Association against by-laws are playing on corridor, parking area, terrace and driveway and thereby causing interference in possession and enjoyment of plaintiffs over these common areas.

22. During course of cross-examination of PW1, an attempt was made to extract from his mouth that, plaintiff No.1 has not paid maintenance amount to the Association. As per contents of Ex. P1, in event of any member failing to pay, Maintenance amount within time, late fees of Rs. 100/- per month shall be paid by member by way of penalty. If that is so, if plaintiffs have not paid maintenance amount as contented by defendant, The Association is at liberty to recover the same with penalty.

23. In Ex. P1, there is a provision to disconnect services such as water, electricity and internet phone to the person who has not paid maintenance amount. As already discussed during course of cross-examination of PW1, it was suggested that, after objection raised in written statement filed by defendants with regard to non-payment of maintenance amount by plaintiffs, they have paid maintenance amount to the Association.

24. It is worth to note here that, merely because plaintiffs have not paid maintenance on that ground alone, the members of defendant No.3 has no right to disturb

possession and enjoyment of plaintiff's over common areas thereby causing damage to their vehicles.

25. The plaintiffs have contented that defendant No.3 Association has not conducted election to elect new office bearers. It is further contented that, even though present elected members were elected three years ago, present office bearers of Associations have not been elected. It is also alleged by plaintiffs that, defendants have not properly maintained accounts. Till date defendants failed to publish Association accounts for several months.

26. It is material to note here that, defendant No.3 Association has been registered under Karnataka Societies Registration Act. If that is so, In case there is mismanagement by office bearers and election of office bearers not conducted properly and within time, as per by-laws of Association, the agreed party has to approach competent authority as required under law. The Civil Court cannot direct Defendants hold election. It is the proper authority to take action against Association for not following by-laws and not conducting election.

27. The plaintiffs having proved their lawful possession and enjoyment over suit schedule mentioned properties and also having proved that members of defendant Association against their own bylaws are playing in common areas such as Corridor, parking area, and driveway, the plaintiffs are entitled for relief of injunction as prayed in the plaint. **Issue No.2 in the affirmative and Issue No.3 Partly in the affirmative.**

28. **ISSUES No.4** :- In view of the above said findings on **Issue No. 1 to 3**, I proceed to pass the following:-

ORDER

The suit of plaintiffs is hereby partly decreed with costs.

The defendants, their men, agents, power of attorney holders or any such persons claiming through them including children of members of Jyothi Clique Owners Association are hereby restrained by way of permanent injunction from playing on

corridor, parking area, terrace and drive way
of Apartment.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer, typed & computerized by her, corrected and signed by me and then pronounced in the open Court on this the 2nd day of **July, 2026**).

(BALAPPA APPANNA JARAGU)
XXVIII Additional City Civil and
Sessions Judge, Mayohall, Bengaluru.

ANNEXURE

1. LIST OF WITNESSES EXAMINED FOR THE PLAINTIFF:-

	<u>Examined on:</u>
P.W.1 : Ramesh Manghat	27-01-2023
P.W.2 : Shamnad S.N.	12-06-2023

2. LIST OF DOCUMENTS MARKED FOR THE PLAINTIFF:-

Ex.P.1 : Online copy of sale deed dtd: 26.05.2008.
Ex.P.2 : Online copy of sale deed dtd: 22.03.2007
along with 65-B statement.
Exs.P.3 &
Ex.P.4 : Letters.
Ex.P.5 : Emails.
Exs.P.6 &
Ex.P.7 : Receipts.
Ex.P.8 : Bylaw.
Exs.P.9 : Photographs with pendrive.
to P.11

Ex.P.12 : Police complaint.

3.LIST OF WITNESSES EXAMINED FOR THE DEFENDANT:-

Examined on:

D.W.1 : Srinivas Bhat 05-11-2025

D.W.2 : Shrikant Vaishnav 05-11-2025

4.LIST OF DOCUMENTS MARKED FOR THE DEFENDANT:-

Ex.D.1 : Assessment of maintenance.

Ex.D.2 : Registration certificate.

Ex.D.3 : Minutes of the Meeting dtd: 19.02.2022.

Ex.D.4 : Resolution dtd: 16.10.2022.

(BALAPPA APPANNA JARAGU)
XXVIII Additional City Civil and
Sessions Judge, Mayohall, Bengaluru.