



**IN THE COURT OF THE II ADDL.CIVIL JUDGE & JMFC,
AT MAGADI**

PRESENT

Smt.Ranjitha G.B B.B.A,LL.B (Hons)
II Addl.Civil Judge & JMFC, Magadi.

Dated this 16th day of March, 2026

OS No.114/2019

PLAINTIFF :- Smt.H Sunitha
W/o C.B Chandru,
Aged about 31 years,
R/at Channenahalli Village,
Tavarekere Hobli,
Bangalore South Taluk.

(By Sri.C.D.C, Advocate)

--- V/s ---

DEFENDANTS :- 1. Sri.Channahanumegowda @ Gowda
S/o Late.Bylappa,
Aged about 45 years,
R/at Kempegowdanagara,
Near Abhaya Anjaneya Temple,
Honniganahatti Village,
Tavarekere Hobli,
Bangalore South Taluk.

2. Venkatappa Since by dead

(By Sri.G.P, Advocate)

Date of Institution	:	15.03.2019
Nature of the suit	:	Permanent Injunction



Date of commencement of recording evidence	:	29.01.2025		
Date of evidence closed	:	29.01.2025		
Date of Judgment	:	16.03.2026		
Total Duration	:	Years	Months	Days
		07	00	01

**II Addl.Civil Judge & JMFC,
Magadi**

J U D G M E N T

This suit is filed by the Plaintiff for the relief of Permanent Injunction as against the Defendants.

SCHEDULE

'A' SCHEDULE

All that piece and parcel of RCC roofed dwelling house property bearing No.40/4, Assessment No.12, khata No.8, measuring to an extent of east-west 24 feet and north-south 40 feet, in total 960 sq.ft, situated at Channenahalli Village, Tavarekere Hobli, Bangalore South Taluk, bounded as:

East by : Site No.7
West by : Schedule-B property
North by : Private property
South by : Road



'B' SCHEDULE

All that piece and parcel of vacant site property No.40/4, Assessment No.12, khata No.8, measuring to an extent of east-west towards north 4 feet and towards south 6 feet and north-south 40 feet, in total 200 sq.ft, situated at Channenahalli Village, Tavarekere Hobli, Bangalore South Taluk, bounded as:

East by : Schedule 'A' property
West by : Private property
North by : Private property
South by : Road

'C' SCHEDULE

All that piece and parcel of site property No.40/4, Assessment No.12, khata No.8, measuring to an extent of east-west towards north 28 feet and towards south 30 feet and north-south 40 feet, in total 1160 sq.ft, situated at Channenahalli Village, Tavarekere Hobli, Bangalore South Taluk, bounded as:

East by : Site No.7
West by : Private property
North by : Private property
South by : Road

2. The case of the Plaintiff in brief is as follows:

The Plaintiff is an absolute owner of the suit schedule 'C' property and the same was acquired by the Plaintiff vide



registered Sale Deed dated 02.08.2006. On the basis of said Sale Deed, the khata pertaining to the suit schedule 'C' property is transferred in the name of the Plaintiff. Accordingly, the Plaintiff is in possession & enjoyment of the suit schedule 'C' property. The Plaintiff had constructed the dwelling house in the suit schedule 'A' property and suit schedule 'B' property is utilized by the Plaintiff for the purpose of vehicle parking, ventilation etc., The Plaintiff had also fenced the suit schedule 'B' property.

3. The Defendants are strangers to the Plaintiff and they have illegally entered into the suit schedule 'C' property and removed the fence along with boundary stone pillar and attempted to erect the concrete and other structures in the suit schedule 'B' property. The Plaintiff had requested the Defendants not to erect the structure in the suit schedule 'B' property illegally. But, the Defendants being powerful persons and well connected to the local politicians have not paid any attention to the Plaintiff. In



this regard, the Plaintiff has lodged a complaint before the jurisdictional police. But, they have not taken any actions. The Plaintiff is unable to resist the illegal act of the Defendants. With no other alternatives, the Plaintiff has filed this suit. Hence, prayed to decree the suit.

4. The cause of action for the suit arose on 12.03.2019, when the Defendants along with their men and material came and removed fence and boundary stone in the suit schedule 'B' property and thereby interfered with the possession of the Plaintiff.

5. After instituting the suit, suit summons was served to the Defendants, the Defendants have entered appearance and filed the written statement.

6. **The written statement averments of the Defendants is as follows:**

The Defendants have filed written statement and denied the plaint averments and contended that, the Plaintiff is not at all the owner of suit schedule properties.



The Plaintiff has not left any space as alleged by her. The Plaintiff without leaving any space had constructed the building and at that time, windows were not constructed. There is no space left by the Plaintiff for the purpose of ventilation. The Plaintiff had put-up the windows for ventilation during the life-time and also painted and thereafter, the Plaintiff has filed this false suit.

7. The Plaintiff had also put-up the compound wall during the night time that to in absence of the Defendants. There is no property belong to the Plaintiff or her vendor. The Plaintiff has not produced any documents to show that, she has left the suit schedule 'B' property and she is the owner of suit schedule 'C' property, Therefore, the Plaintiff is not entitled for the relief of Permanent Injunction. Hence, prayed to dismiss the suit.

8. This Court arises the following issues for consideration;



ISSUES

- 1. Whether the Plaintiff proves that, the Defendants have illegally put-up construction in suit schedule 'B' properties?**
- 2. Whether the Plaintiff proves the alleged interference by the Defendants over the suit schedule 'C' properties?**
- 3. Whether the Plaintiff is entitled for the relief sought for?**
- 4. What order or decree?**

9. In order to prove the case of the Plaintiff, the Plaintiff is examined as PW-1 and got marked the documents Ex.P1 to Ex.P13 & closed her side of evidence. On the other hand, the Defendants have only filed the written statement, but, not led any evidence on their behalf.

10. Heard the arguments by learned Counsel for Plaintiff. Perused the material on record.

11. The findings to the above Issues are as follows:

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:** The Plaintiff has filed this suit as against the Defendants for the relief of Permanent Injunction in respect of the suit schedule properties. The case of the Plaintiff is that, he Plaintiff is an absolute owner of the suit schedule 'C' property and the khata pertaining to the said property is standing in the name of the Plaintiff. Accordingly, the Plaintiff is in possession & enjoyment of the suit schedule 'C' property. The Plaintiff had constructed the dwelling house in the suit schedule 'A' property and suit schedule 'B' property is utilized by the Plaintiff for the purpose of vehicle parking, ventilation etc., The Defendants are strangers to the Plaintiff and they have illegally entered into the suit schedule 'C' property and removed the fence along with boundary stone pillar and attempted to erect the



concrete and other structures in the suit schedule 'B' property.

13. In order to prove the case of the Plaintiff, the Plaintiff has filed an affidavit in-lieu of examination-in-chief as PW-1 and reiterated all the averments stated in the plaint and got marked the documents as Ex.P1 to Ex.P13. Ex.P1 is the Sale Deed dated 02.08.2006, Ex.P2 is the demand register for the year 2007-08, Ex.P3 to 5 are the tax paid receipts, Ex.P6 is the certified copy of complaint dated 12.03.2019, Ex.P7 is the acknowledgment dated 12.03.2019 issued by Tavarekere police, Ex.P8 to 12 are the photographs & Ex.P13 is the CD.

14. On the other hand, the Defendants have contended that, the Plaintiff is not at all the owner of suit schedule properties. The Plaintiff has not left any space as alleged by her. There is no space left by the Plaintiff for the purpose of ventilation. There is no property belong to the



Plaintiff or her vendor. The Plaintiff has not produced any documents to show that, she has left the suit schedule 'B' property and she is the owner of suit schedule 'C' property. To prove the contentions of the Defendants, they have only filed the written statement, but, not led any evidence on their behalf.

15. On perusal of Sale deed dated 02.08.2006, at Ex.P1, it reveals that, the Plaintiff had purchased the suit schedule 'C' property from one Sri.T.Narasimhaiah. Based on the said Sale Deed, as per Ex.P2, the demand register for the year 2007-08 reflects that, the suit schedule 'C' property is standing in the name of Plaintiff. Accordingly, as per Ex.P3 & 5, the Plaintiff had paid taxes to the concerned authority in respect of the suit schedule 'C' property.

16. The Defendants have contended that, the Plaintiff is not an owner of the suit schedule property. Hence, a suit for bare injunction is not maintainable without seeking a



relief of declaration. It is important to note that, in this suit, the Defendants have neither cross-examined the PW-1 nor lead their evidence. But, on perusal of written statement averments, it is noticed that, the Defendants have stated that, the Plaintiff is not owner of suit schedule 'C' property and she is not in possession of the same.

17. In the present suit, the Plaintiff has only filed the suit for the relief of Permanent Injunction as against the Defendants over the suit schedule properties. Further, even after filing of the written statement and after adducing the evidence by the Plaintiff, the Plaintiff has not converted the present suit seeking for the relief of declaration. Therefore, the present suit is not maintainable without seeking for declaration and the same is supported by the decision passed by the ***Hon'ble Apex Court in Ananthula Sudhakar V/s P.Buchi Reddy (Dead) by Lrs and Others, reported in (2008) 4 SCC 594***, the relevant portion of the decision is extracted below for reference:



“We may, however, clarify that a prayer for declaration will be necessary only if the denial of title by the defendant or challenge to the plaintiff's title raises a cloud on the title of the plaintiff to the property. A cloud is said to raise over a person's title, when some apparent defect in his title to a property, or when some prima facie right of third party over it, is made out or shown. An action for declaration, is the remedy to remove the cloud on the title to the property. On the other hand, where the plaintiff has clear title supported by documents, if a trespasser without any claim to title or an interloper without any apparent title, merely denies the plaintiff's title, it does not amount to raising a cloud over the title of the plaintiff and it will not be necessary for the plaintiff to sue for declaration and a suit for injunction may be sufficient. Where the plaintiff, believing that the defendant is only a trespasser or a wrongful claimant without title, files a mere suit for injunction and in such suit, the defendant discloses in his defense the details of the right or title claimed by him, which raises a serious dispute or cloud over the plaintiff's title, then there is a need for the plaintiff, to amend the plaint and convert the suit into one for declaration. Alternatively, he may withdraw the



suit for bare injunction, with permission of the Court to file a comprehensive suit for declaration and injunction. He may file the suit for declaration with consequential relief, even after the suit for injunction is dismissed, where the suit raised only the issue of possession and not any issue of title”.

As per the aforesaid decision, the Plaintiff ought to have filed a suit for declaration and permanent injunction. But, the Plaintiff has utterly failed to do so.

18. Further, in order to prove that, the Defendants have attempted to erect the concrete/other structures in the suit schedule 'B' property. The Plaintiff has not made an attempt to examine any independent witness, but, in that regard, they have only produced the photographs at Ex.P8 to 12. By only relying on the said photographs, this Court cannot opine that, the Defendants have made an attempt to erect the structure in suit schedule 'B' property. Therefore, by relying on the aforesaid decision and the reasons, this Court is of the opinion that, the Plaintiff has failed to prove



her case. Hence, this Court proceeds to answer Issue No.1 in the “**Negative**”.

19. **ISSUE No.2:** The case of the Plaintiff is that, the Defendants have entered into the suit schedule properties and removed the fence and attempted to erect concrete/other structures in the suit schedule ‘B’ property and thereby interfered with the possession of the Plaintiff over the suit schedule ‘C’ property. In this regard, the PW-1 in his affidavit filed in-lieu of examination-in-chief had supported the plaint averments. As discussed in Issue No.1, the Plaintiff has failed to prove her case. This being the case, the question of alleged interference by the Defendants over the suit schedule ‘C’ property does not arise. Hence, this Court proceeds to answer Issue No.2. in the “**Negative**”.

20. **ISSUE No.3:** In order to obtain a relief of Permanent Injunction, the Plaintiff has to prove possession



and interference. In the present suit, the Plaintiff has utterly failed to prove her possession and interference by the Defendants over the suit schedule properties. Hence, this Court proceeds to answer Issue No.3 in the “**Negative**”.

21. **ISSUE No.4:** In view of the aforesaid reasons, this Court proceeds to pass the following:

ORDER

The suit filed by the Plaintiff is hereby dismissed with cost.

Draw decree accordingly.

(Dictated to the Stenographer directly on computer typed by her, Judgment corrected and signed by me, then pronounced by me in Open Court on this 16th day of March, 2026).

(Smt.Ranjitha G.B)
II Addl.Civil Judge & JMFC,
Magadi

ANNEXURES

List of the Witnesses examined on behalf of Plaintiffs:

PW-1 : Smt.Sunitha, W/o Chandru



List of the Documents marked on behalf of Plaintiffs:

- Ex.P1 : Sale Deed dated 02.08.2006
Ex.P2 : Demand register for the year 2007-08
Ex.P3 to 5 : Tax paid receipts
Ex.P6 : Certified copy of complaint dated
12.03.2019
Ex.P7 : Acknowledgment dated 12.03.2019
issued by Tavarekere police
Ex.P8 to 12 : Photographs
Ex.P13 : CD

List of the Witnesses examined on behalf of Defendant:

-NIL-

List of the Documents marked on behalf of Defendant:

-NIL-

**(Smt.Ranjitha G.B)
II Addl.Civil Judge & JMFC,
Magadi**