



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC AT
GUBBI**

Dated this the 22nd day of July 2026

:Present:

**KIRAN S.P., B.B.M., LL.B.,
Prl. Civil Judge & JMFC., Gubbi**

O.S. No.467/2021

PLAINTIFF:- **Mohammad Hayath**
S/o Abdul Khadar
R/o Bilinandi Majare
Kempalapura
Kadaba Hobli, Gubbi Taluk.

(By Sri. C.R.B., advocate)

-V/s-

DEFENDANTS:- **Panchayath Development Officer**
Kallur Grama Panchayath, Kallur
Kadaba Hobli, Gubbi Taluk.

(D.1 by Sri. K.C.N., advocate)

Date of institution of the suit	13.12.2021		
Nature of the suit	Injunction suit		
Date of commencement of Recording of evidence	04.10.2023		
Date on which the Judgment was pronounced	22.07.2026		
Total Duration	Year/s	Month/s	Day/s
	04	07	09



JUDGEMENT

The plaintiff has filed the suit for restraining the defendant from dumping the soil and waster materials on the suit schedule property and thereby to restrain the defendant from interfering with the plaintiff's possession and enjoyment of the suit schedule property.

2. The brief facts of the plaintiff's case is that;

The plaintiff is the absolute owner in possession and enjoyment of the suit schedule property bearing Sy. No.67/3 of Bilinandi, Kadaba Hobli, Gubbi Taluk measuring 4 acres which is more fully described in the below given schedule. The khata and pahani of the suit schedule property are standing in the name of Raheemaa Bi W/o Abdul Khadar, the mother of the plaintiff. The plaintiff is raising crops regularly on the suit schedule property and also has raised arecanut and coconut garden on the suit schedule property. The plaintiff is paying kandyam. Except the plaintiff no one has got right, title, interest possession and enjoyment over the suit schedule property. The suit schedule property was granted to the father of the plaintiff namely Abdul Khadar S/o Mohammed Sab by the Tahasiladr Gubbi under No. LND 599/1960-61 dated:19-12-1961 under the Darakhast Rules. The schedule property was granted in Sy. No. 67 third block of Bilinandi. From the date of grant the said Abdul Khadar, the father of the plaintiff was in possession and enjoyment of



the suit schedule property granted to him as owner thereof. The father of the plaintiff was raising crops regularly like Ragi, etc., on the suit schedule property. The father of the plaintiff expired about a few years back leaving behind his wife Raheemaa Bi and the plaintiff as his legal heirs. Subsequent to the death of Abdul Khadar, the plaintiff and his mother have succeeded and from that date the plaintiff and his mother were in possession and enjoyment of the suit schedule property. The khata and pahani of the suit schedule property were mutated into the name of mother of the plaintiff under M.R. No. 68/1998-99. Now the khata and pahani of the suit schedule property are standing in the name of the mother of the plaintiff. The mother of the plaintiff namely Raheemaa Bi expired on 25-08-2015 leaving behind the plaintiff as his legal heir. Now the plaintiff is the absolute owner in possession and enjoyment of the suit schedule property. Under Swatcha Bharath Mission (Rural) in order to establish the Yard to dump the wastage collected in the Kallur Gramapanchayath area, the Deputy Commissioner Tumkur had granted 25 guntas of land in Sy. No.67 of Bilinandi for the said purpose. The said land granted was bound by East: Remaining Land in Sy. No.67, West: Government Road, North: Remaining Land in Sy. No.67 and South: Remaining Land in Sy. No.67. On the basis of the said grant khata and pahani of 25 guntas of land in Sy. No.67 are made out in the name of Rural Development and Panchayath Raj



Department. Now the khata and pahani for said 25 guntas of land are standing in that name. The defendant being the Executive Officer of the Kallur Grama Panchayath is looking after the said Yard granted by the Deputy Commissioner. Though the boundaries for the suit schedule property and the above said Yard granted by the Deputy Commissioner are quite different and also the granted property is situated far away from the schedule property, the defendant under the political pressure is making attempts to dump the soil and waste materials collected in the villages on the suit schedule property. The defendant has got no iota of right to do the said act and the said act is illegal. The defendant has made attempts to dump the soil and wastage materials collected in the villages on the suit schedule property the plaintiff has raised objection and demanded the defendant not to dump the waste materials on the suit schedule property. In spite of the protest made by the plaintiff as the defendant made further attempts to dump the waste materials on the suit schedule property. Hence prayed for decree the suit.

3. On service of suit summons to the defendant, the defendant has appeared before the court through its counsel and denied the entire averments of plaint at the first instance and has taken a specific contention in the written statement that the defendant submits that, the deputy commissioner prescribe Defendant property originally belongs to government pasture property, total extent 31 acre 12 guntas



including karab, this property not belongs to plaintiff property. on 14.07.2020 the defendant along with their respective president and all members of the kalluru Grama Panchayahi have made the General body meeting has discus for about Solid and liquid waste disposal unit, same as made the regulation of Solid and liquid waste disposal unit, on the basis of regulation the defendant have given requisitions to the EO Gubbi, CEO Tumkur, Thasildhar Gubbi and Deputy commissioner of tumkur, to grant the 25 gunts of land in Sy. No.67 of Belenandi, for purpose of Solid and liquid waste disposal unit, to collected the wastage in the kallur Gramapanchayth area. On the basis of requisitions issued by PDO, CEO Tumkur consent revenue department as visit the prescribed property of in Sy. No.67 of Belinandi village and identified the property and all documents send it the deputy commissioner tumkur. The Deputy commissioner of tumkur looking after the requisitions given by the CEO Tumkur and PDO kallur, same as revenue department Gubbi produce by the documents to the Deputy commissioner, the Deputy commissioner they are passed order on dated:21.08.2020 subject to condition. Same as been the Deputy commissioner of tumkur have granted 25 Guntas of land in Sy. No.67 situated at Belinandi village, kadaba,Hobli,Gubbi Taluk. Bound by East: Remaining land Sy. No.67, West: Government Road, North: Remaining land Sy. No.67, South: Remaining land Sy. No.67. For the above said purposes in favor of rural development and



panchayath raj (Solid and liquid waste disposal unit). After the grant of said land Katha and pahani of 25 Guntas of land in Sy. No.67 stands in the name of rural development and panchayath Raj department, still today katha and pahani for said 25 guntas of land is standing in the name of rural development and panchayath Raj department. After the grant of Sy. No.67 measuring 25 Guntas, the survey officer Gubbi visit and prescribe defendant property same as been made the survey sketch and also made the haddubastu. As well as handover the possession to the defendant. The defendant have made the stone fencing belongs to Sy. No.67 of 25 Guntas of land. The defendant is peaceful using for purposes Solid and liquid waste disposal unit, of the said 25 guntas of land bearing Sy. No.67 Belinandi village, from the orders passed by the Deputy commissioner Tumakur. The defendant further submits that the plaintiff is no manner of title interest, much less possession over the prescribe defendant property of 25 guntas of land bearing Sy. No.67 Belinandi village. Defendant allegedly disposed of garbage by collecting from Kalluru Gram panchayath area, Through government Road of western side of the prescribed defendant property of Sy. No.67. The defendant is using a government road where he is not making any new Road. The said road connecting from village to village. The defendant is doing the work man of that mission collected the villages on soil and waste materials to dump the said granted dumping yard land. The



defendant is not Executive officer. The plaintiff filed this suit by concealing the real facts with malafide intention to grab the property of the defendants and get the wrongful gain. Through on illegal act hence the suit is liable to be dismissed with exemplary cost. On these defendant prays to dismiss the suit.

4. From the above said averments of the plaint and the contention taken by the learned counsel for the defendants, my predecessor in office was pleased to frame the following:

ISSUES

- 1. Whether the Plaintiff proves his lawful possession over the suit schedule property as on the date of suit?**
- 2. Whether the Plaintiff further proves the interference caused by the defendant as alleged?**
- 3. Whether the plaintiff is entitle for the relief as prayed in the plaint ?**
- 4. What order or decree?**

5. In order to prove the case, the plaintiff got examined himself as PW.1 and got examined one witness as PW.2, the plaintiff has also got marked as many as 7 documents as Ex.P-1 to Ex.P-7 in respect of his claim. The defendant has not adduced its evidence.



6. Heard both side.

7. After hearing the arguments and after considering the materials on record, my answer to the above issues are as follows.

Issue No.1: In the affirmative.

Issue No.2: In the affirmative.

Issue No.3: In the affirmative.

Issue No.4: As per final order, for the following

REASONS

8. **Issue No.1 to 3:** Since these issues are interlinked they are taken up together for common discussions in order to avoid repetition of appreciation of evidence. The burden to prove these issues lies on the plaintiff. Therefore, the plaintiff is examined as PW1 by filing affidavit evidence. In the course of affidavit evidence, PW1 has reiterated the contentions taken by the plaintiff against the defendant for the relief of the permanent injunction in respect of the suit schedule property and in support of her case PW2 is also filed affidavit in lieu of examination in chief.

9. It is not in dispute that originally the suit schedule property was government land. It is pertinent to note here that the suit schedule property is bearing survey number 67/3. It is admitted by the plaintiff during his cross examination that survey number 67 is totally measuring 31 acre 12 guntas. According to plaintiff the suit schedule



property was granted to the father of the plaintiff namely Abdul Khadar S/O Mohammed Sab by the Tashildar, Gubbi under number LND 599/1960-61 dated 19.12.1961 under the Darakhast rules. From the date of grant the said Abdul Khadar, the father of the plaintiff was in possession and the enjoyment of the suit schedule property as owner thereof. The father of the plaintiff was raising crops regularly like Ragi etc on the suit schedule property. The father of the plaintiff expired about a few years back leaving behind his wife Rahima B a nd the plaintiff as his legal heirs. Subsequent to the death of Abdul Khader the plaintiff and his mother have succeeded the suit schedule property. From that date the plaintiff and his mother were in possession and enjoyment of the suit schedule property.

10. To corroborate oral evidence, the plaintiff has produced as many as 6 documents before this court which have been marked Ex.P1 to Ex.P6. The evidence of PW2 is in corroboration and supports the evidence of PW1. Though Pw1 and 2 were cross examined nothing has been elicited by the defence counsel to discard the testimony of PW1 and 2.

11. The defendant has denied the aforesaid contention of the plaintiff and denied the possession of the plaintiff over the suit schedule property. It is not in dispute that the Deputy Commissioner Tumkur had granted 25 guntas of land in survey number 67 to the



defendant For the purpose of solid and liquid waste disposal unit to collected the wastage in the Kallur gram panchayat area. It is the contention of the defendant that the plaintiff is having no manner of title, interest, much less possession over the defendant property. The defendant allegedly disposed of garbage by collecting from Kalluru Gram panchayat area through Government Road of western side of defendant property . The defendant is using a government road where he is not making any new road. Said road is connecting from village to village. The defendant is doing the Workman of that mission collected the villages on soil and waste materials to dump the said granted dumping yard land. The plaintiff filed this suit by concealing the real facts with malafied intention to grab the property of the defendants and get the wrongful gain. In order to substantiate its contentio the defendant has step into witness box. In this regard decision reported in AIR 1999 SC 1441 (Vidhyadhar V/S Manik Rao) is relevant where in it is held that:

“Where a party to a suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross examined by the other side, a presumption would arise that the case setup by him is not correct.”

The above decision is sufficient to hold that the case set up by the defendant is not correct.

12. Since the possession of plaintiff is denied by the defendant over the suit schedule property, the plaintiff has to prove his



possession over the suit schedule property. In this regard the plaintiff has relied on RTC extracts, mutation register extract and receipt. Ex.P3 is the RTC Pertaining to suit schedule property which reveals that the kata of suit shedule property was made out in the name of Abdul Khadar who is the father of plaintiff by virtue of LND No. 599/1960-61. Ex.P2 is the mutation register extract bearing number MR No. 16/1998-99 which reveals that the suit schedule property was mutated in the name of plaintiff's mother on the basis of pavathi varis. Now the present RTC pertaining to suit schedule property is standing in the name of plaintiff's mother as per Ex.P1. Therefore, Ex.P1 to P6 produced by the plaintiff supports the case of plaintiff with regard to possession. In order to disprove or disbelieve these documentary evidences, absolutely there are no material evidences on behalf of the defendant. Hence this court proceeds to hold that plaintiff is in possession over the suit schedule property.

13. So far as the alleged interference is concerned, the defendant has specifically denied the possession of plaintiff over the suit schedule property. The denial by the defendant itself sufficient to come to the conclusion that it has made attempt to interfere with the possession of plaintiff.

14. The plaintiff has filed the suit for the relief of permanent injunction restraining the defendant from interfering with the



possession of the plaintiff over the suit schedule property. In the discussion made supra, it is held that the plaintiff has succeeded in proving that he is in possession and enjoyment over the suit schedule property and defendant is interfering with the possession and enjoyment of the plaintiff over the suit schedule property. Thus there is no legal impediment for granting relief claimed in the suit. Accordingly, Issue No.1 to 3 are answered in the **affirmative**.

15. Issue No.4: For the foregoing reasons, this court proceeds to pass the following

ORDER

The suit of the plaintiff is hereby decreed with cost.

The defendant is hereby permanently restrained from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property.

Draw Decree Accordingly

(Dictated to the stenographer on-line computer, computerized by her, revised, corrected and then pronounced by me in open court on this 22nd day of July 2026)

Sd/-
(KIRAN S.P.)
Prl. Civil Judge &
JMFC., Gubbi.



ANNEXURE

1. List of witnesses examined on behalf of Plaintiff:

PW.1 : Sri. Mohammed Hayath
PW.2 : Sri. Mohammed Shariff

2. List of documents marked on behalf of Plaintiff:

Ex.P-1 : RTC extract
Ex.P-2 : Certified copy of Mutation
register extract
Ex.P-3 to Ex.P-5 : Certified copy of RTC extracts
Ex.P-6 : Revenue receipt
Ex.P-7 : RTC extract

3. List of witnesses examined on behalf of Defendants:

-Nil-

4. List of documents marked on behalf of Defendants:

-Nil-

Sd/-

(KIRAN S.P.)
Prl. Civil Judge &
JMFC., Gubbi.