

KATK810007222017



IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT SIRA.

Dated this the 18th Day of July 2026.

PRESENT: NARASIMHAMURTHY.A
B.A. LL.B.,
Prl. Civil Judge & JMFC., Sira

O.S.No.109/2017

PLAINTIFFS: 1. Bheemanna S/o Late Kariyanna,
 Aged about 55 years,

 2. Hanumaiah S/o Late Kariyanna,
 Aged about 50 years,
 Being unsound mind represented
 by his own brother Bheemanna,
 the plaintiff No.1.

 Both are r/o Bheemasandra village,
 Gowdagere Hobli, Sira Taluk.

(By Sri. R.K., Advocate)

V/s

DEFENDANTS: 1. Rajanna S/o Late Koramanna,
 Aged about 40 years,

 2. Narasimhamurthy
 S/o Late Koramanna,
 Aged about 45 years,
 Both are r/o Bramhasandra village,
 Gowdagere Hobli, Sira Taluk.

(By Sri. S.H.B., Advocate)

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O.S.109/2017



Date of Institution of suit : 28.04.2017

Nature of suit : Permanent Injunction

Date of commencement of
Recording of evidence : 18.08.2022

Date on which Judgment was
Pronounced : 18.07.2026

Total duration taken for
Disposal of the suit : Day/s Month/s years

20 02 09

Sd/-
(NARASIMHAMURTHY.A)
Prl. Civil Judge & JMFC.,
Sira.

J U D G M E N T

The plaintiffs have filed the present suit against the defendants seeking the relief of Permanent Injunction, for costs and such other reliefs in respect of suit schedule property.

2. Case of the plaintiff's in brief is as under:-



The plaintiffs are the own brothers and they are lawful owners and in possession and enjoyment of the suit schedule property. The khata of the suit schedule property stands in the name of plaintiffs. Accordingly they have been paying tax to the Bevinahalli gramapanchayath in respect of suit schedule property. The plaintiff No.2 has been constructing the building in the suit schedule property with the financial aid taken from the government under Ashraya Scheme.

3. The plaintiffs further submitted that defendants who are adjacent owners towards Southern side of the suit schedule property without having any right over the suit schedule property are trying to put up construction in their site towards the Southern side of the suit schedule property. The defendants are not constructed their buildings in accordance with law. They are trying to encroach the portion towards Southern side of the suit schedule property. Defendants are constructing building without leaving set back as per law. The defendants



have violated the condition mentioned in the license in order to construct the building. Hence, in order to prevent the illegal act of the defendants, plaintiff has filed this suit.

4. After serving of summons the defendants have appeared through their respective counsel and filed the written statement, wherein they have denied the plaint averments and further submitted that plaintiffs unnecessarily filed the suit against the defendants in order to harass the defendants. The plaintiffs are cultivating the habit of filing suits against persons who are in the locality at Bramhasandra village, Gowdagere Hobli, Sira Taluk, Tumakuru District. The plaintiff has filed the suit against Bheemanna and other persons in O.S.407/2013 on the file of this court, the same was dismissed. The plaintiffs have not made as necessary parties in this suit. The plaintiffs are not entitle to get the relief sought for. When there is denial of property of the right of the plaintiff, mere suit for injunction is not maintainable in law, unless the plaintiffs sought for the



relief of declaration of the suit schedule property. The suit filed by the plaintiffs is not maintainable under any law, hence it deserves to be dismissed. On these averments defendants prayed to dismiss the suit.

5. On the basis of the above pleadings, my learned Predecessor-in-office has framed the following:

ISSUES

1. Whether the plaintiffs prove that he is in lawful possession over the suit property as on the date of suit?
2. Whether the plaintiffs prove that alleged interference by the defendants?
3. Whether the plaintiffs are entitled for the relief as sought for?
4. What Order or Decree ?

6. In order to substantiate the case, the plaintiff No.2 himself examined as PW.1 and got marked 7 documents as Ex.P.1 to 7



and 1 document is marked through confrontation as Ex.D.1.

Per contra, the defendant No.2 himself examined as DW.1 and no documents are produced.

7. Heard the arguments of learned Counsel for plaintiffs and defendants. Perused the pleadings, oral and documentary evidence placed on record.

8. My answer 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

9. **ISSUE No.1 AND 2:** These Issues are taken up together for common discussion to avoid repetition of facts, as they involved common question of facts and for the reasons



that they can be answered in view of common reasons and discussions, as they are inter related.

In order to prove the case of the plaintiff, plaintiff No.1 himself examined as PW.1 and got marked 7 documents at Ex.P.1 to 7. In order to prove the contention of the plaintiff as contended in their plaint, plaintiffs have produced Ex.P.1 which is the copy of building license dated 18.07.2016 in which it is seen that plaintiff No.2 has got license to construct the house to an extent of 22 x 18 ft., in property bearing No.45/1. It has to be seen that the suit schedule property is bearing No.45/48. Further the Eastern and Southern boundaries mentioned to the suit schedule property is entirely different from East and Southern boundaries mentioned in Ex.P.1. The plaintiffs have also produced Ex.P.2 which is tax paid receipt for the year 2017, in which the property mentioned stands in the name of plaintiff No.1. Further the plaintiffs stated that plaintiff No.2 has constructed house in



the suit schedule property by obtaining license, but the plaintiffs have stated that both are the owners of the suit schedule property. But in this regard plaintiffs have not produced any supportive documents to show that both the plaintiffs are owners of the suit schedule property. The plaintiffs further relied on Ex.P.3 which is Demand Register Extract, the very same document was also stands in the name of plaintiff No.1. On carefully perusal of documentary evidence relied by the plaintiffs clearly goes to show that the gramapanchayath of Bevinahalli village issued license in favour of plaintiff No.2 in respect of K.No.45/1, but the contents of Ex.P.1 is totally different from the suit schedule property. There is a clear dispute between the identification of the property which is pleaded by the plaintiffs in their plaint and the documents relied by the plaintiffs.

10. Further PW.1 in his cross examination has given admissions as follows: ದಾವಾ ಸ್ವತ್ತಿನ ಖಾತೆ ನಂ.45/48 ಪೂರ್ವ-ಪಶ್ಚಿಮ: 57



ಅಡಿ, ಉತ್ತರ-ದಕ್ಷಿಣ: 28 ಅಡಿಗಳಿವೆ. ನಿಪಿ.1 ರಲ್ಲಿ ಖಾತೆ ನಂ.45/1 ಎಂದು ಅಳತೆ 22 x 18 ಎಂದು ಬರೆಯಲಾಗಿದೆ ಎಂದರೆ ಸರಿ. ಆದ್ದರಿಂದ ದಾವಾ ಸ್ವತ್ತು ಮತ್ತು ನಿಪಿ.1 ರಲ್ಲಿ ನಮೂದಾಗಿರುವ ಸ್ವತ್ತಿಗೆ ತಾಳೆಯಾಗುವುದಿಲ್ಲ ಎಂದರೆ ಸರಿ. ದಾವಾ ಸ್ವತ್ತಿನ ಪೂರ್ವಕ್ಕೆ ರಂಗಣ್ಣನ ಮನೆ ಇದೆ. ವಾದಪತ್ರದ ಶೆಡ್ಯೂಲ್ ನಲ್ಲಿ ಸ್ವತ್ತಿನ ಪೂರ್ವಕ್ಕೆ ರಾಮಣ್ಣನ ಮನೆ ಎಂದು ಬರೆಯಲಾಗಿದೆ ಎಂದರೆ ಸರಿ. ನಿಪಿ.1 ರಲ್ಲಿರುವ ಎಲ್ಲಾ ವಿಷಯಗಳು ಸತ್ಯವಾಗಿವೆ. ನಿಪಿ.1 ರಲ್ಲಿ ಪೂರ್ವಕ್ಕೆ ನರಸಮ್ಮನ ಮನೆ ಎಂದು ಬರೆಯಲಾಗಿದೆ ಎಂದರೆ ಸರಿ. ದಾವಾ ಸ್ವತ್ತಿನ ಪಶ್ಚಿಮ-ಉತ್ತರ: ದಾರಿ, ದಕ್ಷಿಣ: ರಾಜಣ್ಣನ ಮನೆ.

11. By plain reading of above admissions given by PW.1 it is very much clear that suit schedule property and the property mentioned in Ex.P.1 are totally different one. Since plaintiffs have not obtained license to construct the building from competent authority in respect of suit schedule property, accordingly the interference of defendants with plaintiffs peaceful possession and enjoyment over the suit schedule property does not arise at all. Hence, the plaintiffs have utterly failed to prove the case by rendering oral or documentary evidence. In the absence of the same, the version of the



plaintiffs is not believable in this case. Accordingly, I answer

Issue No.1 and 2 in the Negative.

12. **ISSUE No.3:** Since Issue No.1 and 2 are answered in the Negative, it is not proper to grant permanent injunction to the plaintiffs by restraining the defendants from interfering with the possession of the plaintiffs. Accordingly, I answer

Issue No.3 in the Negative.

13. **ISSUE No.4:** In view of my findings on the above Issues, I proceed to pass the following;

ORDER

Suit of the plaintiffs is hereby
dismissed with costs.

Draw decree accordingly.

(Dictated to the stenographer on computer, computerized and printout taken by her, then corrected, signed and pronounced by me in the open Court on 18th Day of July 2026)

Sd/-
(NARASIMHAMURTHY.A)
Prl. Civil Judge & JMFC.,
Sira.

**ANNEXURE****List of witnesses examined on behalf of the Plaintiffs:**

PW.1 Bheemanna

List of documents marked on behalf of the Plaintiffs:

Ex.P.1 Certified copy of building license

Ex.P.2 Tax paid receipt

Ex.P.3 Demand Register Extract

Ex.P.4-6 Photos

Ex.P.7 C.D

List of documents marked through confrontation by**PW.1:**

Ex.D.1 Certified copy of order passed in M.A.20/2017

List of witnesses examined on behalf of the Defendants :

DW.1 Narasimhamurthy @ Narasimhaiah

List of documents examined on behalf of the Defendants:

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Sd/-
Prl. Civil Judge & JMFC.,
Sira.