

KAUK620004762017



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

-:PRESENT:-

**SRI. ANIL JOHN SEQUEIRA,**  
B.B.A., L.L.B.,  
Addl. Civil Judge & JMFC.,  
Honnavar.

**Dated this the 25<sup>th</sup> day of March-2026.**

**O.S. No. 26/2017**

**PLAINTIFF/S:-**

**Ramachandra Gajanan Hegade,**  
Aged about 55 years,  
Occ: Agriculturist,  
R/o Melina Mannige, Bommaru,  
Tq: Honnavar.

**(Represented by Sri. G.P.H Advocate)**

**//Versus//**

**DEFENDANT/S:-**

- 1. Lokesh Ganapayya Naik,**  
Aged about: 40 years,  
R/o: Mannige,  
Taluk: Honnavar.
- 2. Smt. Kamala W/o Ganapayya Naik,**  
Aged about: 60 years,  
Occ: Household,  
R/o: Mannige,  
Taluk: Honnavar.

3. **Smt. Bagirathi W/o Madeva Naik,**  
Aged about: 58 years,  
Occ: Household,  
R/o: Mannige,  
Taluk: Honnavar.
  
4. **Gajanan Manju Naik,**  
Aged about: 30 years,  
Occ: Agriculturist,  
R/o: Mannige,  
Taluk: Honnavar.
  
5. **Nagesh Ganapayya Naik,**  
Aged about: 30 years,  
Occ: Agriculturist,  
R/o: Mannige,  
Taluk: Honnavar.
  
6. **Shambu Madeva Naik,**  
Aged about: 35 years,  
Occ: Agriculturist,  
R/o: Mannige,  
Taluk: Honnavar.

**(Represented by Sri. H.U.N Advocate)**

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1.	Date of Institution of Suit	16-03-2017.
2.	Nature of the suit	Permanent Injunction
3.	Date of the commencement of	22-02-2021.

	recording of the evidence	
4.	Date of the commencement of closing of the evidence.	03-06-2025.
5.	Date on which the Judgment was Pronounced	<b>25-03-2026.</b>
6.	Total Duration	Years / Months / Days 09        00        09

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**:-J U D G M E N T:-**

The plaintiff has filed this suit against the defendants for the relief of permanent injunction.

**02. The brief facts of the plaintiffs' case is as under:-**

The suit schedule property is situated in Survey No.72 of Minor Forest Land of Melina Mannige Village, Honnavar Taluk, as described in the plaint schedule. Out of the said land, an extent of approximately 3-0-0 has been under encroachment and cultivation by the plaintiff's ancestors since long prior, and thereafter by the plaintiff. The said portion is surrounded by a laterite stone compound wall. The plaintiff along with his brothers has been cultivating cashew, mango

and other crops in the said land and has been enjoying the produce thereof. Adjacent to the said land are the plaintiff's own properties bearing Survey Nos.42, 43 and 44. Further, the plaintiff has submitted applications before the concerned authorities seeking grant of the said 3-0-0 extent, and the same is stated to be pending consideration.

**03.** There is no residential house or building belonging to the defendants near the suit schedule property. The defendants are residing at a distance of approximately half a kilometer from the suit property. However, on the lower side of the suit property and outside the compound wall, there exists an extent of approximately 0-1-0 land belonging to defendant No.1.

**04.** In between the encroached portion and the defendant's property there exist a old boundary wall. The defendant No.1 is threatening and interfering with the peaceful possession of the plaintiff. The defendant is threatening to pluck the usufructs of the suit schedule property. Hence the plaintiff prays before this Court be pleased to grant a permanent injunction restraining the defendants from breaking the compound wall of the suit schedule property.

**05. The contentions of the defendants are as follows:-**

The defendants denied the contents of the plaint averements. They further contended that the defendants' family owns land measuring 0-3-0 acres in Survey No. 41/2 of Melina mane Village. Adjacent to the said land, in Forest Survey No.72, these defendants have encroached upon and cultivated an extent of approximately 0-15-0 acres by putting up boundary marks and have been in continuous

possession and enjoyment of the same since prior to 1978 for the purpose of family livelihood. The land allegedly encroached by the plaintiff is not adjacent to the land cultivated by these defendants. The plaintiff has never cultivated any portion of Forest Survey No.72 at any point of time, nor have his ancestors.

**06.** The plaintiff and his family are affluent landholders owning extensive properties. Taking advantage of their wealth and political influence, the plaintiff's family has recently been attempting to illegally take possession of forest lands and lands cultivated by poor and helpless persons for their livelihood, and to evict them therefrom. By filing this false suit, the plaintiff seeks to dispossess poor occupants who have been in possession for decades and convert the same into his own land.

**07.** It is submitted that the Government has initiated a process to regularize forest encroachments in favour of eligible beneficiaries. With an intention to misuse the said process, the plaintiff has been filing applications seeking grant of various government lands and has allegedly created false documents in support of such applications, with an ulterior motive to unlawfully claim lands cultivated by others.

**08.** The defendants have never threatened to harvest crops standing on the suit property or to dispossess the plaintiff. As the plaintiff has never been in possession of the suit property, the question of issuing such threats does not arise. The plaintiff has never encroached upon or enjoyed possession of the suit property. Hence, the plaintiff prays to dismiss the suit.

**09.** Based on the above pleadings and rival contentions of the parties, this Court has framed the following issues:-

**:-I S S U E S:-**

1. Whether the plaintiff proves that he is in possession of suit schedule properties as on the date of suit?
2. Whether the plaintiff proves alleged interference by the defendants?
3. Whether the plaintiff proves that he is entitle for permanent injunction as sought for?
4. What order or decree?

**10.** In order to prove the case, the plaintiff examined himself as PW-1 and not marked the documents. The defendant has not lead any evidence.

**11.** Heard the arguments and perused the documents.

**12.** My findings to the above issues are as follows:-

Issues No.1 to 3 : **In the Negative**

Issues No.4 : **As per the final order for the following.**

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**:-R E A S O N S:-**

**13. Issue No. 1 to 3:** In order to avoid repetition facts, all the issues are taken up together for common discussion.

**14.** In order to prove his case, the plaintiff filed an affidavit in lieu of chief-examination and examined himself as PW1. In his examination-in-chief, he has reiterated the averments made in the plaint. However, the plaintiff has not produced any documentary evidence to establish that he is in lawful and peaceful possession of the suit schedule property. His entire case rests solely on oral testimony.

**15.** It is a settled principle that in civil disputes, particularly those relating to possession, documentary evidence assumes significant importance. In the present case, the plaintiff has failed to produce any document such as revenue records, grant orders, or any other material to substantiate his alleged possession. Mere oral assertions, in the absence of supporting documentary evidence, are insufficient to establish possession over immovable property.

**16.** The plaintiff has further contended that the concerned authorities are in the process of granting the land in his favour. However, even in this regard, no documents have been produced or marked to show that any such application is pending or under consideration before the authorities.

**17.** During cross-examination, PW1 has admitted that since the time of his grandfather, the land in question has been encroached forest land. He further deposed that his grandfather had submitted an application to the Forest Department seeking grant of the land, but the said application is no longer available as it is stated to have been destroyed. He has also admitted that his father had not applied for any such grant, and that his uncle had made an application. The

plaintiff has also stated that he himself has applied for grant of the land. However, no documentary proof has been produced to substantiate any of these assertions.

**18.** Though the plaintiff has filed a list of documents on 16.03.2017, none of those documents have been marked in evidence. Moreover, they are only photocopies and not certified copies. In the absence of proper proof and marking, these documents cannot be relied upon. Therefore, no evidentiary value can be attached to the said documents.

**19.** On the other hand, the defendant has filed a written statement denying the plaintiff's averments. It is true that the defendant has not adduced oral evidence or stepped into the witness box. However, the burden of proof lies upon the plaintiff to establish his possession and the alleged interference. Upon appreciation of the oral evidence, this Court is of the considered opinion that the plaintiff has failed to prove that he is in lawful possession of the suit schedule property.

**20.** Further, there is absolutely no material to show that any application for grant is pending or being considered by the Forest Department. The plaintiff has also failed to establish any act of interference by the defendants. In the absence of proof of possession and interference, the relief of permanent injunction cannot be granted. Accordingly, this Court holds that the plaintiff has failed to prove his case. Hence, the suit is liable to be dismissed. Hence, **I answer Issues No.1 to 3 in the Negative.**

**21. Issue No.4:-** In view of my findings on Issues No.1 to 4, this court proceeds to pass the following:-

**ORDER**

The suit of the plaintiff is dismissed with cost.

(Typed by me in my laptop, corrected and then pronounced by me in the open Court, on this the 25<sup>th</sup> day of March, 2026.)

**ANNEXURES**

**1. LIST OF THE WITNESSES EXAMINED ON BEHALF OF PLAINTIFF/S:-**

PW-1 : Ramachandra Gajanan Hegade

**2. LIST OF THE DOCUMENTS EXHIBITED ON BEHALF OF PLAINTIFFS:-**

-Nil-

**3. LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENDANT/S:-**

-Nil-

**4. LIST OF DOCUMENTS MARKED ON BEHALF OF DEFENDANT/S:-**

-Nil-

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