

KABI200000362025



IN THE COURT OF THE CIVIL JUDGE & JMFC.,

AT: HAGARIBOMMANAHALLI

DATED THIS THE 5th DAY OF JULY 2025

: **PRESENT:**

SRI. **SAYED MOHIUDDIN URF KHAWAJA PEERAN.**, BA. LLB.,(Spl.)
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

O.S.No.11/2025

PLAINTIFF/s : **Sri.Harijana Yatti Nagappa S/o Late
H.Y.Durugappa,**
Aged about: 58 years, Occ:Agriculturist,
R/o # 175, Harijana Colony, Mudenuru Village,
Hoovinahadagali Taluk, Vijayanagara District.

Vs

DEFENDANT/s : **Sri.Shankarnaik S/o Gangyanaik,**
Aged about: 45 years, R/o Bithyanthanda Village,
Huvinahadagali Taluk, Vijayanagara District.

I.A.No.II

**APPLICANT/PLAINTIFF: Sri.Harijana Yatti Nagappa S/o Late
H.Y.Durugappa,**

(Rep. by Sri.**T.H.H.**, Advocate)

V/s

RESPONDENT/DEFENDANT: Sri.Shankarnaik S/o Gangyanaik,

(Rep. by Sri.**C.H/N.G.B.**, Advocates)

ORDER ON I.A.No.II

The plaintiff has filed the IA No.II under Order 39 Rule 1 and 2 R/w Section 94 and 151 of CPC., to restrain the defendant from interfering with his peaceful possession and enjoyment over the suit schedule property bearing Sy.No.404/A measuring 4.75 acres situated at Bannikal Village, Hagaribommanahalli Taluk till disposal of the suit.

2. In the accompanying affidavit to the IA., it is stated by the plaintiff that, he has filed the present suit against the defendant for the relief of declaration of title and permanent injunction with respect of suit schedule property. He is in possession and enjoyment of the suit schedule property. Revenue records are standing in his name. The suit schedule property was granted to his father by the Government as per Order No.ADLS.Land/53/1982-83. In this regard mutation was effected on 19.11.1982. His father was in possession and enjoyment of the suit schedule property from the date of grant till his death. After his death, he is in possession and enjoyment of the suit schedule property. After the death of his

father the mutation was changed in the name of his mother under M.R.No.54/2006-07. After the death of his mother, his name was entered in the revenue records of the suit schedule property as per M.R.No.H66/2020-21. The defendant has no manner of right, title and interest over the suit schedule property, but the defendant is illegally and highhandedly trying to trespass over the suit schedule property and trying to obstruct his peaceful possession and enjoyment of the suit schedule property. If the defendant has succeeded in his act, the plaintiff will be put to hardship. He has made out prima facie case, balance of convenience lies in his favour. If the temporary injunction is granted no injustice will be caused to the defendant. If temporary injunction is not granted plaintiff will be put to hardship. Hence, he prays to allow the IA.

3. After registration of the suit, suit summons and notice on I.A.No.II was issued to the defendant. The defendant served with the same, in response to the same he has appeared before the Court through his Counsel, but he has not filed any written statement to contest the suit. After

closing of plaintiff side evidence, when the case was posted for arguments the defendant has filed the I.A.No.IV and V seeking permission to file the written statement. In view of order on I.A.No.IV and V the written statement filed by the defendant was taken on record and defendant was also filed a memo adopting the written statement as objections to I.A.No.II. In the written statement the defendant has denied the case of the plaintiff, he further contended that the plaintiff and defendant are belongs to different villages, they are well known to each other. On the basis of agreement of sale dated 09.01.2007 the defendant is in possession and enjoyment of Sy.No.404 measuring 4.80 acres and 4.76 acres in total 9.56 acres. From more than 18 years the defendant is in possession and enjoyment of the above said property. The ancestor of the plaintiff was executed the said agreement dated 09.01.2007 with respect of suit schedule property for Rs.30,294/-. The ancestor of the plaintiff was received the said amount from the defendant. From the date of said agreement the defendant is in possession and enjoyment of the suit schedule property. The suit is barred by law of

limitation. The plaintiff with an intention to harass the defendant filed the false suit. Hence, he prays to dismiss the IA.

4. Heard Both the side. Perused the records.

5. The following points arise for my consideration:

1 .Whether the plaintiff has made out *prima-facie* case?

2 .Whether the balance of convenience lies in favour of plaintiff?

3.Whether the plaintiff will be put to irreparable loss and injury, if the order of Temporary Injunction is not granted?

4 .What order?

6. My answers to the above points are as under:

Point No.1 : In the **AFFIRMATIVE**

Point No.2 : In the **AFFIRMATIVE**

Point No.3 : In the **AFFIRMATIVE**

Point No.4 : As per final order for the following: -

REASONS

7. **Point No.1 to 3**:- As the facts involved in point No.1 to 3 are interlinked together, hence they are taken up together for common consideration.

8. The present suit is filed by the plaintiff against the defendant for the relief of permanent injunction with respect of suit schedule property.

According to the plaintiff, he is in possession and enjoyment of the suit schedule property. Originally the said property was granted by the Government in the name of his father in the year 1982-83. From the date of grant, the father of the plaintiff was in possession and enjoyment of the same. After his death, the plaintiff is in possession and enjoyment of the same. The suit schedule property is standing in his name. The defendant has no manner of right, title and interest over the suit schedule property, but he is illegally trying to interfere with his peaceful possession and enjoyment over the suit schedule property. Hence, he has filed the present suit and prays to decree the same.

9. The contention of the defendant is that the ancestor of the plaintiff was executed the agreement of sale dated 09.01.2007 for Rs.30,294/- with respect of Sy.No.404 total measuring 9.56 acres and received the said amount. From the date of agreement he is in possession and enjoyment of

the suit schedule property. The plaintiff with an intention to harass the defendant has filed the false suit. Hence, he prays to dismiss the I.A.

10. I have perused the documents produced by both the parties. At this stage the plaintiff has produced the Form No.2(RTC) of Sy.No.404, in the said document total extent of the said survey number is mentioned as 9.55 acres, in the said document in Column No.9 mentioned as “ಅನಾಧೀನ”. The plaintiff has produced the certified copy of the RTC extracts of suit schedule Sy.No.404 from the year 1978-79 to 1983-84, 1983-84 to 1986-87, 1988-89 to 1992-93, 1993-94 to 1997-98, in the said RTC extracts total extent is 9.55 acres, 4.75 acres of land entered in the name of Harijana Durugappa S/o Hanumavva and 4.80 acres of land entered in the name of Harijana Hanakunti Yamunappa S/o Mariyappa. The plaintiff has produced the certified copy of Mutation No.38/1983-84, on going through the same it appears that in the year 1983-84 mutation was effected in the name of father of plaintiff Harijana Durugappa with respect of suit schedule property. The plaintiff has produced the sketch. The plaintiff

has produced the Aakarband. The plaintiff has produced the RTC extracts of the suit schedule property Sy.No.404 from the year 2001-02 to 2006-07, in the said documents 4.75 acres of land is entered in the name of Harijana Durugappa S/o Hanumavva. The plaintiff has produced the RTC extracts of Sy.No.404 for the year 2007-08 to 2012-13, in the said RTC extracts 4.75 acres of land entered in the name of mother of the plaintiff Harijana Galevva W/o Harijana Durugappa. The plaintiff has produced the RTC extracts of the suit schedule property Sy.No.404/A from the year 2013-14 to 2020-21, in the said RTC extracts the name of mother of the plaintiff Galevva W/o Harijana Durugappa is entered. The plaintiff has produced the RTC extracts of the year 2021-22 to 2024-25, on going through the same prima facie it appears that as on the date of filing of the suit, the suit schedule property is standing in the name of plaintiff. The plaintiff has produced the Encumbrance certificate. The plaintiff has produced the Mutation No.54/2006-07, on going through the same it appears that after the death of father of the plaintiff Durugappa, the name of mother of plaintiff Galevva was

entered in the records of the suit schedule property. The plaintiff has produced the M.R.No.H66/2020-21, on going through the same prima facie it appears that after the death of mother of the plaintiff suit schedule property entered in the name of plaintiff. Further the plaintiff has produced the genealogy certificate issued by the Deputy Tahasildar, the said document prima facie shows the genealogy of the plaintiff.

The defendant taken a contention that the ancestor of the plaintiff was executed the agreement in favour of defendant on 09.01.2007, from the date of agreement he was in possession and enjoyment of the suit schedule property along with 4.80 acres of land. In this regard the defendant has produced the agreement dated 09.01.2007, the said document is unregistered agreement of sale, total amount mentioned in the said document is Rs.30,294/-, Sy.No.404 measuring 4.80 acres, Sy.No.404 measuring 4.75 acres total measures 9.55 acres was shown in the schedule of the said document. In the said document the name of Durugappa S/o Hanumavva is appeared to be overwritten. On going through

the said document it appears that the said document is unregistered agreement of sale. On the face of the document prima facie it appears that the contents of the said document were overwritten. On the basis of the above said document at this stage it is not possible to hold that the defendant is in possession and enjoyment of the suit schedule property. As per the document produced by the plaintiff prima facie it appears that the plaintiff is in possession and enjoyment of the suit schedule property. The above said mutation entries have got presumptive value as per Sec.133 of the Karnataka Land Revenue Act, 1964. On the basis of entire material available on record, I am of the opinion that the plaintiff is in possession and enjoyment of the suit schedule property. If during pendency of the suit, the defendant has interfere with the plaintiff's peaceful possession and enjoyment over the suit schedule property it cause injustice to the plaintiff. The plaintiff has made out prima facie case, balance of convenience lies in his favour. If the temporary injunction order is not granted, irreparable loss and injury will be caused to the plaintiff. It temporary injunction

order is granted no injustice will be caused to the defendant. On the basis of above reason and discussion, I answer **Point No.1 to 3** in the **AFFIRMATIVE**.

13. Point No.4 :- For the aforesaid reasons and discussions made above, I proceed to pass the following:-

ORDER

I.A.No.II filed by the plaintiff under Order 39 Rule 1 & 2 R/w Section 94 and 151 of CPC., is hereby allowed.

Defendant is hereby restrained from interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property till disposal of the suit.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and then pronounced in the open court on this the **5th day of July 2025.**)*

(SAYED MOHIUDDIN URF KHAWAJA PEERAN)
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.