

KAVN300022932025



IN THE COURT OF THE CIVIL JUDGE & JMFC.,

AT: HAGARIBOMMANAHALLI

DATED THIS THE 10th DAY OF DECEMBER 2025

: **PRESENT:**

SRI. **SAYED MOHIUDDIN URF KHAWAJA PEERAN.**, BA. LLB.,(Spl.)

CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

O.S.No.235/2025

PLAINTIFF/s : **Ambigara Basappa S/o Late**
Ambigara Hanumanthappa,
Aged about: 65 years, Occ:Agriculturist,
R/o Bannigola Village, H.B.Halli Taluk,
Vijayanagara District.

Vs

DEFENDANT/s : 1) **Ambigara Ramappa S/o Late Bullappa,**
Aged about: 68 years, Occ: Agriculturist,
2) **Ambigara Eshappa S/o Late Bullappa,**
Aged about: 70 years, Occ: Agriculturist,
3) **Geerasha S/o Ambigara Eshappa,**
Aged about: 30 years, Occ:Agriculturist,
4) **Raghavendra S/o Ambigara Ramappa,**
Aged about: 40 years,
5) **Karnesha S/o Ambigara Ramappa,**
Aged about: 48 years,
6) **Appanna S/o Eshappa,**
Aged about: 32 years,
7) **Balappa S/o Ambigara Ramappa,**
Aged about: 38 years,

8) **Kariyappa S/o Ramappa,**
Aged about: 37 years,

I.A.No.II

**APPLICANT/PLAINTIFF: Ambigara Basappa S/o Late
Ambigara Hanumanthappa,**

(Rep. by Sri.**K.S.**, Advocate)

V/s

**RESPONDENTS/DEFENDANTS: Ambigara Ramappa S/o Late
Bullappa and others,**

(Rep. by Sri.**P.R.**, Advocate)

ORDER ON I.A.No.II

The plaintiff has filed the IA No.II under Order 39 Rule 1 and 2 of CPC., seeking the relief of temporary injunction to restrain the defendants from trespassing, dispossessing and causing obstructions to his peaceful possession and enjoyment over the suit schedule property bearing property No.116 measuring East-West: 90 feet, North-South: 50 feet situated at Bannigola Village, H.B.Halli Taluk till disposal of the suit.

2. In the accompanying affidavit to the IA., it is stated by the plaintiff that, his grandfather Ambigara Karibasappa

had two children by name Ambigara Hanumanthappa and Ambigara Yallappa. The said Ambigara Yellappa died unmarried, Ambigara Hanumanthappa and his wife Ambigara Gangamma are having two children by name Ambigara Yamunavva and Ambigara Basappa i.e., plaintiff herein. Bannigola village has been sub-merged in T.B.Project during the year 1950. The Government has issued directions to allot the rick-yard sites to the persons who have loose their properties under T.B.Project. The grandfather of the plaintiff is one of the beneficiary of the same. In the year 1955 the Government has granted the suit schedule property to the grandfather of the plaintiff Ambigara Karibasappa in the newly established Bannigola Village. From the date of grant, the grandfather of the plaintiff is in possession and enjoyment of the same. His grandfather died on 01.01.1968. After the death of grandfather of the plaintiff, the father of the plaintiff has succeeded to the suit schedule property and he was in peaceful possession and enjoyment of the same. His father died on 02.02.1999 and his uncle Ambigara Yallappa died on 03.07.1984. From the date of death of his father, he has

succeeded to the suit schedule property and he is in possession and enjoyment of the same without any let or hindrance from anybody. But in the demand register extract maintained by the Gramapanchayath, Bannigola the name of his grandfather Ambigara Karibasappa is entered. They have lost their original title deeds of the suit schedule property. He has applied before the Gramapanchayath, Bannigola requesting them to issue certified copies of the documents with respect of suit schedule property. But till today the Gramapanchayath has not issued the said documents to the plaintiff. Till today he is in possession and enjoyment of the suit schedule property. He is using the suit schedule property for storing of cow dung, fuel, fodder and other agricultural equipments. He has put up a hut in the suit schedule property. The defendants being the adjacent owners of the suit schedule property has no manner of right, title and interest over the same. They are illegally trying to interfere with his peaceful possession and enjoyment over the suit schedule property and constructing the building in the suit schedule property. He has filed the application dated 06.10.2025 before

the concerned Gramapanchayath, but the defendants have not stopped their illegal work. On 16.10.2025 the Grama panchayath, Bannigola has issued the notice to the defendants directing the defendants not to make any construction over the suit schedule property. He has also filed the application before the Assistant Commissioner, Hosapete on 18.10.2025 and before the Tahasildar, H.B.Halli on 10.10.2025 intimating them with respect of construction work under taken by the defendants in the suit schedule property. He has approached the concerned police station, but the police authorities have not taken any action against the defendants, but the police have instructed the plaintiff to approach the Civil Court. The defendants are constructing the building in the suit schedule property in day and night. If the defendants are succeeded in their acts, he will be put to hardship. He has made out prima facie case and balance of convenience lies in his favour. If temporary injunction order is not granted he will be put to irreparable loss and injury. If temporary injunction order is granted no injustice will be caused to the defendants. Hence he prays to allow the I.A.

3. After registration of the suit, suit summons were issued to the defendants. The defendants served with the same. In response to the same they have appeared before the Court through their Counsel and filed the objections to I.A.II. In the objections the defendants have denied the case of the plaintiff, and further contended that the plaintiff has filed the present suit on the basis of false reasons. The reasons assigned in the application are false. The plaintiff has no manner of right, title and interest over the suit schedule property. The suit schedule property shown by the plaintiff in the plaint is belongs to the defendants. Government has granted the plot No.13 measuring 66 feet X 66 feet under T.B.P.Rehabilitation scheme in L.Dis.No.2056/55 dated 22.03.1956 in favour of late Ambigara Balappa S/o Ramappa. The plaintiff is claiming injunction over the defendants property. The plaintiff by suppressing the material facts filed the false suit. The plaintiff has not approached the Court with clean hands. He has not made out prima facie case and balance of convenience not lies in his favour. If temporary

injunction is granted they will be put to hardship. Hence they prays to dismiss the I.A.

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 **NEGATIVE**

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

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

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 defendants for the relief of declaration of title and permanent injunction with respect of the suit schedule property.

According to the plaintiff, he is the absolute owner and in possession and enjoyment of the suit schedule property. Originally the suit schedule property belongs to Ambigara Karibasappa. The said Ambigara Karibasappa having two children by name Ambigara Hanumanthappa and Ambigara Yallappa. The said Ambigara Yellappa, unmarried died on 03.07.1984 and the Ambigara Hanumanthappa is the father of plaintiff, he died on 02.02.1999. The suit schedule property was granted by the Government to the said Ambigara Karibasappa under the rehabilitation scheme in the year 1955. From the date of grant, he was in possession and enjoyment of the same. After his death, the father of the plaintiff Ambigara Hanumanthappa and his uncle Ambigara Yallappa were in possession and enjoyment of the same. After their death, the plaintiff is in actual possession and enjoyment of the suit schedule property. The defendants have no manner of right, title and interest over the suit

schedule property. He has lot the original title deeds of the suit schedule property. He has filed the application before the concerned Gramapanchayath requesting them to issue certified copies of the documents with respect of suit schedule property, but the concerned Gramapanchayath has not issued the documents to him. He has filed the applications before the Tahasildar, H.B.Halli and Assistant Commissioner, Hosapete with regard to alleged obstructions made by the defendants. The defendants are illegally constructing the building in the suit schedule property. Hence, he has filed the present suit for the relief of permanent injunction.

9. The defendants in the objection they have denied the case of the plaintiff, and further contended that the plaintiff with an intention to harass the defendants filed the false suit against them, and the plaintiff has no right, title and interest over the suit schedule property. The suit schedule property shown by the plaintiff in the plaint schedule is the property of the defendants. Plot No.13 measuring 66 feet X 66 feet was granted by the Government under T.B.Project in the name of late Ambigara Balappa S/o Ramappa. The plaintiff has no

manner of right, title and interest over the suit schedule property. With an intention to grab the suit schedule property the plaintiff has filed the false suit against them. Hence they prays to dismiss the suit.

10. I have perused the documents produced by both the parties. At this stage the plaintiff has produced the Form No.12/tax assessment extract of the suit schedule property No.116 for the year 2025-26, in the said document the name of Ambigara Karibasappa is entered for property No.116. The plaintiff has produced the tax paid receipts. The plaintiff has produced the death certificate of Hanumanthappa and also produced the received copy of the applications dated 06.10.2025, 15.10.2025 and 18.10.2025, on going through the same prima facie it appears that the plaintiff has filed the said applications before the concerned Gramapanchayath, Bannigola, Tahasildar, H.B.Halli and Assistant Commissioner, Hosapete to obtain the copies of the documents. The plaintiff has produced the received copy of the objections dated 06.10.2025, on going through the same prima facie it appears that the plaintiff has filed the said

objections before the concerned Gramapanchayath requesting them to direct the defendant to stop the illegal construction work in the suit property. The plaintiff has produced the notice copy dated 16.10.2025 issued by the P.D.O., Gramapanchayath, Bannigola, as per the said document prima facie it appears that the Gramapanchayath has issued the said notice to the plaintiff stating that in the demand register, property No.116 is entered in the name of Ambigara Karibasappa. But original grant certificate and extent sketch of the said property are not available in the office, further stated that if original documents are provided they will visit the spot and they will issue the boundary certificate after verifying the property. The plaintiff has produced the photographs and medical Certificate. Further the plaintiff has produced the tax paid receipt dated 31.03.2005. The plaintiff has produced the endorsement issued by the concerned Gramapanchayath Tambrahalli dated 04.12.2025, on going through the same prima facie it appears that the P.D.O., Gramapanchayath, Tambrahalli has issued the said endorsement stating that no any grant copy is available in

their office records and in the year 1988-89 the said property No.116 stands in the name of Sri.Ambigara Karibasappa. The plaintiff has produced the photographs, certified copy of tax assessment extract of the suit schedule property of the year 1988-89, in the said document name of Ambigara Karibasappa is entered for property No.116. The plaintiff has produced the copy of the house site grant register.

11. The plaintiff has filed the present suit against the defendants for the relief of permanent injunction with respect of suit schedule property. According to the plaintiff, the suit schedule property rick-yard site No.116 measuring East-West: 90 feet and North-South: 50 feet within the given boundaries towards East: open site of B.Sunandamma, West: open site of Girennara Sanna Hanumanthappa, North: House of Girennara Gangamma and South: C.C. road. The plaintiff at this stage has not produced any documents before the Court to show that the suit schedule property No.116 is measuring East-West: 90 feet, North-South: 50 feet. The plaintiff has produced the tax assessment extract of the year 2005-06, in the said document name of grandfather of

plaintiff Ambigara Karibasappa is entered, in the said document no extent is mentioned. The plaintiff has produced the copy of the house site grant register, in the said document neither the name of plaintiff nor the name of grandfather of the plaintiff is entered for rick-yard site No.116. Further in the said document name of Karibasappa is entered in House site list in S.No.2. But the plaintiff has filed the present suit for alleged rick-yard site No.116. It is the suit for permanent injunction filed by the plaintiff against the defendants. In the suit for permanent injunction for obtaining the order of temporary injunction, the plaintiff is required to show that as on the date of filing of the suit he is in possession and enjoyment of the suit schedule property within the given extent and boundaries in the plaint schedule. As stated above the plaintiff has not produced any documents before the Court to show that as on the date of filing of the suit he is in possession and enjoyment of the suit schedule rick-yard property No.116 measuring East-West: 90 feet, North-South:50 feet. The plaintiff has not produced any documents before the Court to show that suit schedule rick-yard

property No.116 measuring East-West: 90 feet, North-South: 50 feet is entered in the name of Ambigara Karibasappa. Therefore, I am of the opinion that the plaintiff has failed to prove the prima facie case. If the plaintiff has produced the material documents before the Court to show that as on the date of filing of the suit he is in possession and enjoyment of the suit schedule property within the given extent and boundaries of the plaintiff then only he is entitled for the relief as prayed in the I.A. But in the present case, the plaintiff has not produced any documents to show the extent of the suit schedule property. Therefore, plaintiff has not made out prima facie case and balance of convenience not lies in his favour. If the temporary injunction order is granted it cause injustice to the defendants. Hence I answer **Point No.1 to 3** in the **NEGATIVE**.

12. 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 of CPC., is hereby
dismissed.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and
then pronounced in the open court on this the **10th day of DECEMBER 2025.**)*

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