

KADG420001092025



IN THE COURT OF THE CIVIL JUDGE AT HARAPANAHALLI.

Present : Shri.Manu Sharma S.P.,

B.A.LAW.LL.M.

Civil Judge and JMFC, Harapanahalli

Dated this **2nd day of June, 2026**

OS No.168/2025

PLAINTIFF/s

1. B.N.Kumara S/o B.Keshyanaik, Aged about 42 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.
2. B.Suneel S/o B.Keshyanaik, Aged about 40 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.

(By Sri.K.B.R.Adv.,)

-Vs.-

DEFENDANT/s

1. Smt. Kammibai W/o Jaya Naik, Aged about 55 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.
2. Shettya Naik S/o Rama Naik, Aged about 50 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.
3. Jaya Naik S/o Muni Naik, Aged about 45 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.
4. B.Sakraya Naik S/o Late Lokya Naik, Aged about 54 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.

5. N.Lalya Naik S/o Pakkera Naik, Aged about 64 years, Occ: Retired P.S.I, R/o Kasisanagameshwara Badavane, Harapanahalli town, Vijayanagara District.

6. Gomlibai W/o Nagya Naik, Aged about 56 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.

7. Samkibai W/o Late Rama Naik, Aged about 38 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.

8. B.Dayananda S/o Late B.Manohar, Aged about 26 years, Occ: Agriculture, R/o Shivapura village, Harapanahalli Taluku, Vijayanagara District.

(D-2, 5 and 7 Party in Person.)

(D-1, 3, 4, 6 and 8 are placed exparte)

Date of Institution of the Suit :- 01-07-2025

Nature of the Suit :- Declaration & Permanent injunction

Date of commencement of

Recording of Evidence :- 07-11-2025

Date on which the judgment Was pronounced :- 02-06-2026

Year/s	Month/s	Day/s
00	11	01

**(Manu Sharma S.P.)
Civil Judge & JMFC,
Harapanahalli.**

JUDGEMENT

1] The Plaintiffs have suit for declaration of easementary right and for permanent injunction against Defendants seeking to restrain them from interfering in the use of suit cart way by the Plaintiff.

2] Brief facts of the case as per plaint are as here under:-

Grand father of Plaintiffs had purchased the land bearing survey number 82/D measuring 4 acres 62 cents situated at Shivapur Village of Harapanahalli Taluk under registered sale deed dated 20-07-1927 from Patila Siddalingappa S/o. Vrupakshappa of Alagilavada Village. Father of Plaintiff submitted application in Form No.1 for grant of occupancy rights and and land reforms tribunal granted occupancy rights in the name of father of Plaintiffs by issuing Form No.2 on 09-06-1987, and his father had transferred the said land in his name and his name came to be jointly entered in the records of the said property along with the name of his father. Land bearing survey number 82/C belongs to Defendant No.1. Public way running from southern side to northern side is situated at Shivapura Village and Plaintiffs have to reach their land through that public road. Plaintiffs have to pass through land bearing survey number 82/A, B, C, D, E which is

marked as EFGH cart road in the plaint sketch map to reach his land. The said cart road was being used by the ancestors of the Plaintiffs, and Defendants or their ancestors had never raised objection for the use of said cart road by the Plaintiffs or by their ancestors. There is no other alternative road to reach the land of the Plaintiffs. Defendant No.1 to 3 are causing obstruction to the Plaintiffs in using said cart road. Defendant No. 1 to 3 have got nothing to with the EFGH cart road used for reaching the property of the Plaintiffs. Hence, the suit.

3]. After service of summons, Defendant No.1, 3, 4, 6 and 8 remained absent and hence they are placed ex parte. Defendant No.2, 5 and 7 have not contested the suit.

4] Based on pleadings and documents the following points arise for my consideration:-

POINTS

1. Whether Plaintiffs prove that they have got prescriptive right of easement of cart way shown as EFGH in the plaint sketch through the Defendants land?

2. Whether Plaintiffs are entitled to the reliefs claimed in the plaint?

3. What decree or order?

5]. In order to prove the case Plaintiff No.1 is examined as PW1 and got marked the following documents:

- Ex.P.1 : Village map.
- Ex.P.2 : Field map.
- Ex.P.3 : Certified copy of sale deed
- Ex.P.4 to 9 : Computerized RTCs
- Ex.P.10 to 15 : Photographs
- Ex.P.16 : Memory Card

6]. Defendants have not lead any evidence.

7]. Heard arguments and perused records.

8] My answers to the above points are as here under:-

Point No.1:- In the **Affirmative**.

Point No.2:- In the **Affirmative**

Point No.3:- As per final order for following:-

:: REASONS ::

9]. **Point No.1:-** It is the case of the Plaintiffs that they are having prescriptive easementary right over the EFGH cart way shown in the hand sketch of the plaint. In order to prove the case, PW2 is examined as PW1 and reiterated plaint averments in evidence. It is the specific case of the plaintiffs is that they have got easementary right of prescription over the EFGH court way and they have been using the same without interruption from anyone from the time of their ancestors. Furthermore, in order to show that they have got approach cart road to reach 82/D only through

the property of the defendants that is through land survey number 82/A, B, C, E and F, plaintiffs have produced survey sketch map marked as Exhibit P1. It is to be noted that Exhibit P1 survey sketch map is issued by competent authority. The said document discloses that The approach road leading to the property of the plaintiff is existing only through the property of the defendants as claimed by the plaintiffs, and no other approach road could be seen from the hand sketch map submitted on record. It is also relevant to note that plaint sketch is in consonance with Exhibit P1 survey map issued by the competent authority.

10]. As per plaint averments land bearing survey No.82/A belongs to Defendant No.1, but she never appeared before the court. However ROR of said land marked as Ex.P.4 is standing in the name of Defendant No.4. But Defendant No.4 remained ex parte. Plaintiff has produced ROR of land bearing survey no.82/B standing in the name of Defendant No.5 and 6 marked as Ex.P.9. Defendant No.5 submitted before the court that he is not interested to contest the suit, and Defendant No.6 remained ex parte. Plaintiff has produced ROR of land bearing survey No.82/C standing in the name of Defendant No.1 marked as Ex.P.5. But Defendant No.1 has not contested the suit. Plaintiff has produced the ROR of land

bearing survey No.82/E standing in the name of one Manjula marked as Ex.P.7. However said Manjula is not made as party to the suit. It is mentioned in the ROR that said Manjula is wife of one Late.Manohar. Here Defendant No.8 is shown as son of Manohar, but he remained absent and placed ex parte. Plaintiff has also produced the ROR of land bearing survey No.82/3 marked as Ex.P.8 standing in the name of Defendant No.7 who appeared before the court and submitted that he is not interested to contest the suit. Thus, it is clear from the RORs produced on record that Defendant No.1 and 4 to 8 are the adjacent owners of the property belonging to Plaintiffs. Here oral and documentary evidence lead by the Plaintiffs are unchallenged and uncontroverted and there is no reason to disbelieve the same. As already pointed out, it is clear from the evidence on record that defendants are the adjacent owners of the land of the Plaintiffs, and there is a car way leading to the property of the Plaintiffs through the lands of the Defendants shown as EFGH in the sketch of the plaint, and so far as use of said way by the Plaintiffs is concerned, no contra materials are place on record by the Defendants. Hence, I answer **Point No.1 in the Affirmative.**

11]. Point No.2: Plaintiffs have claimed the presumptive easement rate of court way and also claimed permanent injunction to restrain defendants from interfering in the use and enjoyment of the said court way by the plaintiffs. As already discussed, it is clear from the evidence on record that there is a cutaway leading to the property of the plaintiffs from the lands of the defendants, as shown in the hand sketch map. So far as alleged interference is concerned, plaintiff has clearly stated in oral evidence that defendants are interfering in their use and enjoyment of the said court way and the oral evidence led by the plaintiff is unchallenged and uncontraverted as defendants have not chosen to cross-examine PW1 on the said material point. Therefore, there is no reason to disbelieve the oral evidence of the plaintiffs so far as interference is concerned. Under such circumstances, it is to be held that plaintiffs have also proved the alleged interference by the defendants. Therefore, it is to be held that plaintiffs are entitled to the reliefs claimed in the plaint. Hence, I answer **point No.2 in the Affirmative.**

12]. Point No.3: For the reasons stated above, I am of the considered opinion that suit filed by the plaintiff is to be decreed with costs. In the result, the following:

ORDER

The suit filed by the plaintiffs is hereby decreed with costs.

It is declared that plaintiffs are having prescriptive right of easement. Over the EFGH Court Way as shown in the hand sketch map filed along with the plaint.

Defendants are thereby permanently restrained from interfering in the use and enjoyment of the EFGH Court Way by the plaintiff by the order of perpetual injunction.

Draw decree accordingly.

(Dictated to the Stenographer transcribed and typed by him, the transcript revised and corrected by me, and then pronounced in the open court on this **2nd Day of June 2026.**)

(Manu Sharma S.P)
Civil Judge and JMFC.,
Harapanahalli.

:: ANNEXURE ::**List of witnesses examined on behalf of Plaintiff/s:**

PW-1 : B.N.Kumar

List of exhibits marked on behalf of Plaintiff/s:

Ex.P.1 : Village map.

Ex.P.2 : Field map.

Ex.P.3 : Certified copy of sale deed

Ex.P.4 to 9 : Computerized RTCs

Ex.P.10 to 15 : Photographs

Ex.P.16 : Memory Card

List of witnesses examined on behalf of Defendant/s:

----Nil----

List of exhibits marked on behalf of Defendant/s:

----Nil----

**(Manu Sharma S.P.)
Civil Judge & JMFC,
Harapanahalli.**

**(Vide separate order)
Order pronounced in the Open Court
vide Dt.02.06.2026.**

: ORDER :

The suit filed by the plaintiffs is hereby decreed with costs.

It is declared that plaintiffs are having prescriptive right of easement. Over the EFGH Court Way as shown in the hand sketch map filed along with the plaint.

Defendants are thereby permanently restrained from interfering in the use and enjoyment of the EFGH Court Way by the plaintiff by the order of perpetual injunction.

Draw decree accordingly.

**Civil Judge and J.M.F.C.,
Harapanahalli.**

For Plaintiff evidence.

Call on:

15.07.2025

Civil Judge and

J.M.F.C.,

Harapanahalli