



**IN THE COURT OF THE PRL CIVIL JUDGE AND JMFC.,
AT SHAHAPUR.**

PRESENT
SHOBHA, *B.Sc. LLB.*
Prl.Civil Judge and JMFC.,
Shahapur

O.S.No.207/2020

Date of Judgment : 14th Day of March, 2024

PLAINTIFF/S:

1. Veerupakshi S/o Mallappa Kudloor
Age: 33 years, Occ: Agri.
R/o village Sagar (B), Tq: Shahapur Dist.Yadgir

(By Sri. L.S.P., Advocate)

/Versus/

DEFENDANT/S:

1. Gourishankar @ Babu S/o
Late Sanganna Huded
Age: 33 years, Occ: Business and Agri.
R/o Sagar (B), Tq: Shahapur Dist.Yadgir

(By Sri LSK Advocate)

Date of Institution of suit	01.10.2020
Nature of suit	Perpetual Injunction
Date of commencement of Recording of evidence	02.02.2024



Date of pronouncement of Judgment	14.03.2024		
Total Duration	Year 03	Months 05	Days 13

JUDGMENT

This is a suit filed by plaintiff against the defendant for perpetual injunction not to interfere in the peaceful possession and enjoyment of the plaintiff over the suit property as described in para No.2 of the plaint.

2. The brief facts of the plaintiff's case is as follows:

The suit property is the part of house bearing panchayat No.4-22/1 adm East-West 17 feet, North-South 37.6 feet which is the compound area of the plaintiff's house at village Sagar, Tq: Shahapur, bounded as per the boundaries shown in the subject matter of the suit. The father of plaintiff by name Mallappa had purchased entire suit house from defendant through a registered sale deed on 06.07.2009, the possession of the suit property was delivered to the plaintiff's father, as per the sale deed, the entire house and the space was sold by the defendant in favour of plaintiff, the panchayat number was given as 4-22 with the boundaries towards North: Public Way, East: Public Way, West: Public road and South: House of Nagendrappa and Dundappa Gachchi and as per the sale deed,



the name of the father of plaintiff was entered in the khata extract, after his death, brother of the plaintiff by name Devaraj, elder brother's wife by name Smt Amaraveni and plaintiff himself have partitioned the suit house and the numbers given to the houses are 4-22/1, 4-22/2 and 4-22/3, that the defendant taking the advantage of his possession is interfering in the suit compound space by saying that, he has not sold it to the plaintiff and thereby, this suit is been filed against the defendant for the said relief.

3. Suit summons was issued to the defendant, in pursuance to the said summons, Sri LSK advocate has filed vakalat for defendant, but defendant has not contested the matter by filing written statement, matter was posted for plaintiff's evidence.

4. Plaintiff in order to prove his case has got examined himself as PW-1 and marked Ex.P1 to 24 and closed his side.

5. Heard learned counsel for plaintiff.

6. The following points that arise for my consideration are as under:

Points

Point No.1: Whether plaintiff proves that he is in lawful possession of the suit property as on the date of filing of the suit?



Point No.2:- Whether the plaintiff proves the alleged interference?

Point No.3:- Whether the plaintiff is entitled for the relief as sought for?

Point No.4:- What order or decree?

7. My findings to the above Points are as follows;

ANSWERS

Point No.1 : In Affirmative

Point No.2 : In Affirmative

Point No.3 : In Affirmative

Point No.4 : As per order.

REASONS

8. **Point No.1 to 3:** Since these points are inter related with each other they are taken together for common discussion to avoid repetition of facts. Plaintiff in order to prove his case got examined himself as PW-1 and got marked the 24 documents at Ex.P1 to 24; PW-1 filed his chief examination by way of affidavit, reiterated the plaint averments in his chief examination; PW-1 has stated that, his father Mallappa had purchased entire suit house property from the defendant through a registered sale deed bearing document No.1435/09-10 on 06.07.2009 for a consideration amount of Rs.4 lakhs, the panchayat number of the said house was 4-22, the name of his father was mutated in



the panchayat records, later after his death, the suit house was partitioned into three parts, the share fallen to the plaintiff is house bearing No.4-22/1, that the defendant taking the advantage of his possession and escalation of prices of compound space of the suit house with malafide intention is trying to interfere in the suit compound space by stating that he has not sold the compound area i.e. the suit space to his father, further it is stated that, it is crystal clear that, the defendant has sold entire house in particular towards west of the house as clearly shown in the sale deed, towards west of the entire suit property, towards west is the public way and now the defendant is claiming the suit open space is within the public way of the suit property, further it is stated that, the suit compound is part of house of plaintiffs' family, they are in full possession of the same from the date of purchase, after partition, his brother's wife have taken permission from the gram panchayat and constructed the house, likewise the deponent has also obtained the construction permission from the panchayat but not started the work, it is stated that, defendant has no any portion of the suit property left, he has sold the entire house and thereby, he be restrained from interfering in the suit property.

9. PW-1 has got produced 24 documents, Ex.P1 to 8 are the khata extracts in respect of property No.4-22 which was



standing in the name of defendant and later it is been mutated in the name of Mallappa father of the plaintiff, later the name of plaintiff and plaintiff's brother's name and his brothers' wife's name is been mutated in the khata extract, Ex.P9 to 11 are the tax paid receipts which are in the name of plaintiff in respect of the suit house, Ex.P12 to 15 are the photos, Ex.P17 is the sale deed, Ex.P18 is the mutation entry, Ex.P19 to 21 are the tax paid receipts, Ex.P22 is the permission obtained from the panchayat, Ex.P23 is the tax paid receipt and Ex.P24 is the sketch map. I have perused the sale deed at Ex.P17, defendant has executed the sale deed in respect of the house No.4-22 measuring North-South 66 feet and East-West 49 feet in total 3234 Sq feet for a consideration amount of Rs.4 lakhs in favour of Mallappa; plaintiff has not given the measurement with respect to the space which is suit property compound area of the plaintiff's house, but the defendant though appeared before the court has not contested the matter and rebutted the version of PW-1, further on perusal of the oral and documentary evidence, it reveals that, plaintiff is in possession of the suit property, the version of PW-1 has remained unchallenged, hence I answer points No.1 to 3 in ***Affirmative***.

10. Point No.4:- In view of my discussion held above, I proceed to pass the following.

**ORDER**

Suit of the plaintiff is hereby Decreed.

The defendant is hereby permanently restrained from interfering over the suit property which is part of House bearing No.4-22/1 admeasuring East-West 17 feet and North-South 37.6 feet situated at village Sagar (S) Tq: Shahapur.

No order as to costs.

Office to draw decree accordingly.

(Directly dictated to the Stenographer on computer, corrected and then pronounced by me in the Open Court on this the 14th day of March, 2024)

**(Shobha)
Prl Civil Judge and JMFC.
Shahapur**

ANNEXURE**1. List Of Witness Examined For Plaintiff/s**

PW-1 : Veerupakshi S/o Mallappa Kudloor

2. List of Documents marked for Plaintiff/s:

Ex.P1 to 8 : Khata extracts

Ex.P9 to 11: Tax receipts

Ex.P12 to 15: Photos

Ex.P16 : CD

Ex.P17 : Sale deed



Ex.P18 : Copy of mutation register extract

Ex.P19 to 21 : Tax receipts

Ex.P22 : Construction permission

Ex.P23 : Receipt

Ex.P24 : Sketch map

3. List of Witness examined for defendant/s:

Nil

4. List of Documents marked for defendant/s:

Nil

**(Shobha)
Prl Civil Judge and JMFC.
Shahapur.**