

**IN THE COURT OF THE V ADDL. CITY CIVIL JUDGE,
AT BANGALORE CITY.
(CCH-13)**

DATED THIS THE 22nd DAY OF AUGUST, 2017

PRESENT

**SMT.NAGAVENI, B.A.,LL.B.
V ADDL.CITY CIVIL & SESSIONS JUDGE
BANGALORE**

O.S.NO.4773/2016

PLAINTIFF: **Sri.S.Prathap
S/o G.Selvarajan
Aged about 43 years, r/at
No.401, Tejaswini Enclave,
4th cross, Thyagaraj Layout,
Jai Bharath Nagar,
M.S.Nagar Post,
Bangalore-560 033.**

(By Sri.Gopi P.M, Advocate)

/VS/

DEFENDANT: **Sri.Srinivas
S/o Chenappa
Aged about 45 years, r/at
Subramanya Temple street,
Subbaianapalya Post,
Lingarajapuram,
Bangalore-560 033.**

(By Sri.M.D, Advocate)

Date of Institution of the suit	01-07-2016
Nature of the suit (suit on pronote, : suit for declaration and possession ,suit for injunction, etc.)	Injunction suit
Date of Commencement of recording of evidence	13-06-2017
Date on which judgment was Pronounced	22-08-2017

Duration	Years	Months	Days
	01	01	22

(NAGAVENI)
V ADDL.CITY CIVIL JUDGE
BANGALORE

J U D G M E N T

The plaintiff's suit is for permanent injunction against the defendant restraining him, his agents, his henchmen, servant or anybody acting on his behalf from interfering with the peaceful possession and enjoyment of the suit schedule property and such other reliefs.

.2. The brief facts of the plaint averments are as under:

The description of the property is as per the schedule below :

SCHEDULE

All the piece and parcel of residential vacant site bearing Municipal New No.10 (old No.194),

situated at Subramanya Temple stree, S.B.Palya, Bangalore, Ward No.28, PID No.87-233-10, now comes under the jurisdiction of BBMP, measuring East to West 85 feet, North 72 feet and South 68 feet, totally measuring 5,950 square feet and bounded on :

East by : Chittoor Chinnamma's Kana

West by : House of Laxmaiah

North by : Property No.195/2,

South by : Property No.194 belongs to Ramaiah

The suit schedule property was purchased under the registered sale deed dated 11/08/1964 by S.Narayanappa S/o late Subbaiah from S.P.Narayanappa S/o Pakirappa. The purchaser S.Narayanappa acquires absolute right, title, interest and possession over the suit schedule property. S.Narayanappa, in turn sold the suit schedule property in favour of J.Venice S/o late Jayasheelan under the registered sale deed dated 16/07/2010. The authorities have accepted the mutation in the name of said purchaser J.Venice and he acquires right, title,

interest and possession over the suit schedule property. Thereafter, said J.Venice sold the suit schedule property in favour of R.Veera Prathap S/o late R.Mallikarjunaiah, Smt.Harini Prathap W/o R.Veera Prathap and R.V.Tushar S/o R.Veera Prathap by dividing the suit schedule property into three portions and each three portions are respectively sold under three different sale deeds dated 30/08/2013. The said purchasers have acquired title and possession in respect of their portions. The BBMP in turn assessed the said three portions of the property independently and assigned with independent PID Numbers as PID No.87-233-10, PID No.87-233-10/1 and PID No.87-233-10/2. Thereafter, R.Veera Prathap, Harini Prathap, R.V.Tushar have independently executed sale deed dated 23/03/2016 in favour of the plaintiff. Thus, he acquired title and possession over the suit schedule property and also BBMP had assigned with three independent PID numbers. The plaintiff is

paying taxes to the BBMP to the amalgamated khatha issued by the assigning single PID NO.86-233-10. Further, contends that defendant is an utter stranger to the suit schedule property, knowing fully well that he has no right, title and interest in any portion of the suit schedule property, surprisingly the defendant came near the suit schedule property on 20/06/2016 at about 10.00am with the help of rowdy elements, supporters to dispossess the plaintiff with the help of rowdy elements. The defendant deliberately making hectic attempt to interfering suit schedule property and the said act of the defendant has been resisted by the plaintiff with the help of neighbourhood and defendant while withdrawing from his high handed act has caused threat of repetition of illegal act and thereby made hectic attempt to cause illegal interference with peaceful possession and enjoyment of the plaintiff. Thereafter, he approached the local police for protection, but the police have refused to entertain

the plaintiff on the oral say that the matter is civil in nature and instructed the plaintiff to approach civil court. The cause of action for the suit arose on 20/06/2016 at about 10.00am with the help of rowdy elements, supporters and thereby dispossess the plaintiff with the help of the rowdy elements and the said act has been resisted by the plaintiff with the help of neighbourhood. Hence, constrained to file the suit.

3. On issue of suit summons, the defendant appeared through his counsel and filed the written statement as under :

The entire averments denied as false except the admitted facts. It is stated that plaintiff is not at all the owner of the suit schedule property and he is not in possession of the suit schedule property at any point of time and he has created the concocted documents only with an intention to knock off the property by filing this suit against him even though he

has not at all entered into the suit schedule property at any point of time and he is a stranger to the above suit. There is no cause of action for the suit arose as stated in the plaint since the defendant has at any point of time interfered with the suit schedule property and he is no way concerned with the suit schedule property and plaintiff has created bogus documents to file the above suit even though the plaintiff is not at all in possession and enjoyment of the suit schedule property. Hence, prayed to dismiss the suit.

.4. On the basis of the above pleadings, the following issues are framed ;

- 1. Whether the plaintiff proves his lawful possession over the suit schedule property ?**
- 2. Whether the plaintiff proves the alleged interference by the defendant ?**
- 3. Whether the plaintiff is entitled for reliefs sought for ?**
- 4. What order or decree ?**

.5. In order to prove the case, plaintiff himself has examined as P.W-1 and got marked documents Ex.P.1 to Ex.P.14 and closed his side. The defendant has not chosen to adduce evidence.

.6. Heard the arguments on plaintiff's side and no arguments on defendant's side.

.7. My findings on the above Points are as follows:

Issue No. 1: In the Affirmative

Issue No. 2 : In the Affirmative

Issue No. 3 : In the Affirmative

Issue No. 4 : As per final order

for the following:

REASONS

.8. **Issue No.1** : It is the case of the plaintiff that he is in possession and enjoyment of the suit schedule property and he purchased the suit schedule property from R.Veera Prathap S/o late R.Mallikarjunaiah, Harini Prathap W/o R.Veera Prathap and R.V.Tushar

S/o R.Veera Prathap on 23/03/2016 and the above persons have independently executed the sale deed in his favour. As per the sale deed, he has acquired his title, interest and possession over the suit schedule property and also got khatha changed in his name by paying taxes to the BBMP and same was amalgamated khata in single PID No.86-233-10. To support his contention, the plaintiff in his affidavit evidence reiterated the plaint averments and also produced the documents Ex.P.1, the certified copy of the registered sale deed dated 13/08/1959, Ex.P.2 is the registered sale deed dated 11/08/1964, Ex.P.3 is the certified copy of the registered sale deed dated 16/07/2010, Ex.P.4 is the certified copy of the registered sale deed dated 30/08/2013, Ex.P.5 is the certified copy of the registered sale deed dated 30/08/2013, Ex.P.6 is the certified copy of the registered sale deed dated 30/08/2016, Ex.P.7 to Ex.P.9 are the certified copies of the sale deed dated 23/03/2016, Ex.P.10 is the

certified copy of the amalgamation deed dated 26/03/2016, Ex.P.11 is the Encumbrance Certificate, Ex.P.12 is the form No.15, Ex.P.13 is the khatha extract and Ex.P.14 is the khatha certificate dated 24/05/2016.

.9. Per contra, it is the case of the defendant that plaintiff has no right, title over the suit schedule property and he is not in possession of the suit schedule property. Further, the plaintiff has created the documents. But defendant has not produced any materials to prove his contention. Moreover, the defendant has not challenged the evidence of P.W-1 and also not questioned the documents produced by the plaintiff. Mere filing of the written statement by the defendant with no materials produced by the defendant to prove his contention. Further, defendant in his written statement has not taken any specific contention with respect to suit schedule property and

he has only denied the contents of the plaint. In the written statement, the defendant has taken contention that plaintiff has created the documents, to prove the said contention, the defendant has not chosen to adduce his evidence and also not produced any materials.

.10. On perusal of documents produced by the plaintiff, it reveals that plaintiff has purchased the suit schedule property as per Ex.P.7 to Ex.P.9 from its owners namely R.Veera Prathap, Harini Prathap and R.V.Tushar. Thereafter, as per Ex.P.10, the amalgamation deed dated 26/03/2016 executed in respect of suit schedule property. Ex.P.11 and Ex.P.12 are the Encumbrance Certificate, Ex.P.13 reveals that plaintiff's name mentioned in the khata extract as the owner of the suit schedule property. Further, as per Ex.P.14, BBMP had issued khata certificate in the name of the plaintiff with respect to suit schedule

property, property ID mentioned as No.87-233-10. the defendant has not produced any materials to deny the title and possession of the plaintiff. The materials produced by the plaintiff shows that he is in possession and enjoyment of the suit schedule property. Hence, plaintiff is in possession and enjoyment of the suit schedule property. Accordingly, I answer issue No.1 in the Affirmative.

.11. **Issue No.2 :** It is the specific case of the plaintiff that defendant has interfered with his peaceful possession and enjoyment of the suit schedule property with support of rowdy elements. The defendant has denied the contention of the plaintiff in his written statement. Further, defendant in his written statement stated that at any point, he has not interfered with the suit schedule property and plaintiff is no way concerned with the suit schedule property and he has created bogus documents. The denial of

ownership and possession of the plaintiff in respect of the suit schedule property by the defendant itself shows that defendant is interfering with plaintiff's peaceful possession and enjoyment of the suit schedule property. Accordingly, I answer issue No.2 in the Affirmative.

.12. **Issue No.3** : In view of my findings to issue Nos.1 and 2, plaintiff is entitled for the suit reliefs as sought for. Accordingly, I answer issue No.3 in the Affirmative.

.13. **Issue No.4** : For the foregoing reasons, I pass the following :

ORDER

The suit of the plaintiff is hereby decreed.

Permanent injunction is granted against the defendant restraining him, his agents, his henchman, servants, or anybody acting on his behalf from interfering with the peaceful possession and enjoyment of

plaintiff over the suit schedule property in any manner.

The parties shall bear their own costs.

Draw decree accordingly.

(Dictated to the Judgment Writer, transcribed by her, corrected and then pronounced by me in open court this the 22nd day of August, 2017.).

**(NAGAVENI)
V ADDL.CITY CIVIL JUDGE,
BANGALORE.**

ANNEXURE

List of witnesses examined for the plaintiff :

P.W.1 S.Prathap

List of witnesses examined for the defendant : Nil

List of documents marked for the plaintiff :

Ex.P.1	Certified copy of the registered sale deed dated 13/08/1959
Ex.P.2	Certified copy of the registered sale deed dated 11/08/1964
Ex.P.3	Certified copy of the registered sale deed dated 16/07/2010
Ex.P.4	Certified copy of the registered sale deed dated 30/08/2013
Ex.P.5	Certified copy of the registered sale deed dated 30/08/2013
Ex.P.6	Certified copy of the registered sale deed dated 30/08/2016
Ex.P.7	Certified copy of the registered sale deed dated 23/03/2016
Ex.P.8	Certified copy of the registered sale deed dated

Ex.P.9	23/03/2016 Certified copy of the registered sale deed dated 23/03/2016
Ex.P.10	Certified copy of the Amalgamation deed dated 26/03/2016
Ex.P.11	Encumbrance Certificate
Ex.P.12	Form No.15
Ex.P.13	Khatha extract
Ex.P.14	Khatha certificate dated 24/05/2016

List of documents marked for the defendant : Nil

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