



CNR: KAHC010176812021

NC: 2026:KHC:40384  
RFA No. 649 of 2021

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 3<sup>RD</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR**

**REGULAR FIRST APPEAL NO. 649 OF 2021 (INJ)**

**BETWEEN:**

1. BENGALURU DEVELOPMENT AUTHORITY  
T. CHOWDAIAH ROAD,  
KUMARA PARK WEST,  
BENGALURU - 560 020.  
REPRESENTED BY ITS COMMISSIONER.

...APPELLANT

(BY SRI. VENU GOPALGOWDA R, ADVOCATE)

**AND:**

1. SMT. P. ANITHA  
D/O. SRI. P. ANJANEYULU NAIDU,  
AGED ABOUT 42 YEARS,  
R/AT NO. 11-67-1,  
N.G.O. COLONY,  
PUTTUR - 517 583.  
CHITTOR DISTRICT,  
A.P. DISTRICT.

...RESPONDENT

(BY SRI. SHRAVAN S LOKRE, ADVOCATE)

THIS RFA IS FILED UNDER ORDER 41 RULE 1 R/W  
SEC.96 OF THE CPC, AGAINST THE JUDGMENT AND DECREE  
DATED 23.10.2020 PASSED IN O.S.NO.3881/2016 ON THE FILE

Digitally  
signed by  
THEJAS  
KUMAR N  
Location:  
HIGH  
COURT OF  
KARNATAKA



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OF THE XXVII ADDITIONAL CITY CIVIL JUDGE, BANGALORE  
AND ETC.,

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,  
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

### **ORAL JUDGMENT**

The present appeal is filed by the defendant-Bangalore Development Authority (BDA), challenging the judgment and decree dated 23.10.2020 passed by the XXVII Additional City Civil Judge, Bengaluru, in O.S. No. 3881/2016, whereby the suit filed by the plaintiff for permanent injunction came to be decreed.

2. Though the matter is listed for orders, with the consent of both the parties, the matter is taken up for final disposal.

3. For the sake of convenience, the parties are referred to as per their rankings before the Tribunal.

4. It is the case of the plaintiff that the plaintiff is the absolute owner of site No.27 in sy.No.81/5 situated in Hennuru



village of Bengaluru North taluk. The same came to the possession of the plaintiff by virtue of registered sale deed dated 21.04.2003 and he has settled possession on the purchased property and all the records were mutated in the name of the plaintiff and obtained the electricity connection from the BESCOM authorities and also he has leased out the suit schedule property in favour of a tenant and collected the rentals. But the defendant are interfering with the peaceful possession of the property. Therefore, the plaintiff has filed the suit for permanent injunction.

5. The defendant has filed written statement and contend that the plaintiff has not issued the statutory notice under Section 64 of the BDA Act and the land in sy.No.81/5 of Hennur village has been notified for formation of the layout called Arkavathi layout. In this regard, a preliminary notification was issued on 03.02.2003 and final notification was issued on and 23.02.2004. It is submitted that One Appaiah is the original notified kathedar and Anubhavadar of sy.No.81/5 measuring 1 acre 25 guntas of Hennur village, Kasaba, Bengaluru North.



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6. It is the case of the defendant that the award has been passed on 27.10.2004 and the same was duly approved by the competent authority on 19.10.2004. On 10.11.2004 the possession of the said lands has been taken over by the BDA and same was handed over to the Engineering section for the formation of the layout. Further, it is submitted that the land bearing sy.No.81/5 of Hennur village, Kasaba hobli, measuring 1 acre, which also encompasses the suit schedule property has absolutely vested with the defendant authority. Therefore, contend that plaintiff cannot have any right title over the suit property.

7. It is contended by the defendant that the suit schedule property is absolutely vested with the BDA and the same has been acquired for public purpose. Therefore, prayed to dismiss the suit.

8. Based on the pleadings of the parties, the trial Court framed the following issues:



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**issues**

- i. Whether the plaintiff proves that she is in lawful possession and enjoyment of the suit schedule property as on the date of the suit?*
- ii. Whether plaintiff proves that defendant is trying to dispossess the plaintiff from the suit schedule property without due process of law?*
- iii. Whether plaintiff is entitled for the reliefs as sought for?*
- iv. What Order or decree?*

9. In order to prove the case, two attesting witnesses examined as PW-1 and PW-2 and got marked 8 documentary evidence as Exs.P1 to P8 and closed his side of evidence. On behalf of defendant, one official of the BDA is examined as DW-1 and got marked documentary evidence as Exs.D1 to D7.

10. The trial Court, after hearing both the parties, decreed the suit. It is observed that the suit schedule property originally bearing Sy.No. 81/5 of Hennur Village, measuring 1 acre 25 guntas, was notified for acquisition for the formation of Arkavathi Layout. However, in the final notification, an extent of 7 guntas was left out from the acquisition proceedings. The



trial Court, while recording such findings, relied upon Ex.D5, which is the mahazar drawn by the Land Acquisition Officer, and Ex.D4, which is the award passed under Section 11 of the Land Acquisition Act. Based on these documents, the trial Court held that the suit schedule property was not the subject matter of the acquisition proceedings and that the said portion of the property was left out from acquisition. The said finding was supported by the documentary evidence produced at Exs.D4, D5, D6 and D7 and the oral evidence of DW-1. Accordingly, the trial Court held that the plaintiff was in lawful possession and enjoyment of the suit schedule property and that the same was not acquired by the defendant authority. Therefore, the suit for injunction came to be decreed.

11. Being aggrieved by the said judgment and decree, the defendant-Bangalore Development Authority (BDA) has preferred the present appeal by urging various grounds. Learned counsel for the appellant-BDA has addressed arguments in consonance with the grounds urged in the appeal memorandum.



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12. Learned counsel for the appellant submitted that the property in question is covered under the acquisition proceedings initiated by the Special Land Acquisition Officer and that the said land was acquired pursuant to the preliminary notification issued for the formation of Arkavathi Layout. It was contended that the plaintiff is neither the owner nor in lawful possession and enjoyment of the suit schedule property. Therefore, the suit filed for injunction is not maintainable. On these grounds, learned counsel prayed for allowing the appeal and setting aside the judgment and decree passed by the trial Court.

13. On the other hand, learned counsel for respondent submitted that the property though coming within the land of the suit schedule property measuring 1 acre 32 guntas but in the final notification the 7 guntas of the land was left out in which the 7 guntas of land the suit property is situated. It is contended that the construction existing over the suit schedule property is situated in the portion left out of acquisition and therefore, the property was never acquired by the defendant authority. Learned counsel further submitted that the said fact



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is evident from the documents produced at Exs.D3, D4, D6 and D7 along with the evidence of the defendants, and the trial Court has rightly appreciated the said material and decreed the suit. It was argued that the findings recorded by the trial Court are based on evidence and do not call for interference. Hence, learned counsel prayed for dismissal of the appeal.

14. Further, learned counsel for the respondent submitted that the plaintiff has filed an application seeking regularization of the occupation under Section 38D of the BDA Act, and the same is pending consideration before the competent authority. It was contended that, when such application is pending adjudication, the plaintiff cannot be dispossessed or evicted from the suit schedule property without due process of law. Hence, prays to dismiss the appeal.

15. Upon hearing the arguments of the learned counsel for the parties and on perusal of the material available on record, the following points arise for consideration:



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1. Whether the plaintiff proves that he is in lawful possession and enjoyment of the suit schedule property as on the date of filing of the suit?
2. Whether the plaintiff proves the alleged interference by the defendant with his peaceful possession and enjoyment of the suit schedule property?
3. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for?
4. Whether the judgment and decree passed by the Trial Court calls for interference by this Court?

16. Upon considering the appeal and the material available on record, it is seen that the suit is filed by the plaintiff for the relief of permanent injunction. The plaintiff has relied upon the registered sale deed dated 21.04.2003, which establishes that he has purchased the suit schedule property. Ex.P2 is the property register extract issued by the BBMP, Exs.P3 and P4 are the tax paid receipts, and Exs.P5, P6 and P7 are the letters issued by BESCO and the electricity demand bill. These documents, coupled with the oral evidence, establish that the plaintiff is in possession and enjoyment of the suit



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schedule property. Therefore, the plaintiff has successfully proved his ownership and possession over the suit schedule property as on the date of filing of the suit. The case of the defendant is that the layout formed over the land, under which the plaintiff claims the suit schedule property, is an unauthorised layout. It is further contended that the land in which the suit schedule property is situated forms part and parcel of the land acquired for the formation of Arkavathi Layout. However, on perusal of the preliminary notification, though Sy.No. 81/5 of Hennur Village, measuring a total extent of 1 acre 32 guntas, was initially notified for acquisition, an extent of 7 guntas was excluded from the acquisition proceedings. Therefore, the portion of the property claimed by the plaintiff falls within the area which was left out from the acquisition process.

17. Further, at this stage, it is necessary to appreciate the evidence available on record. The documents produced by the defendant authority, namely Exs.D4, D5, D6 and D7 are relevant for consideration. Ex.D4 is the award passed under Section 11 of the Land Acquisition Act, and Ex.D5 is the



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mahazar drawn by the Land Acquisition Officer. As per the said mahazar, It is also recorded that the portion of the land wherein the said structures were situated was not included in the final notification and only the vacant portion was notified for acquisition. Therefore, based on the evidence, the trial Court has decreed the suit.

18. In a suit for permanent injunction, the primary consideration is whether the plaintiff is in lawful possession and enjoyment of the suit schedule property as on the date of filing of the suit and whether there was any interference by the defendant with such possession. In this regard, the plaintiff has established his possession over the suit schedule property. The registered sale deed dated 21.04.2003, mutation of the property in the name of the plaintiff, payment of property taxes, and other supporting documents clearly establish the possession and enjoyment of the plaintiff. Even though the defendant has contended that the occupation of the plaintiff is unauthorised, the defendant has not established the same by producing sufficient evidence. On the contrary, it is seen that the appellant has filed an application under Section 38D of the



BDA Act seeking regularization of the occupation of the respondent. As submitted by the learned counsel for the respondent, the said application is still pending consideration before the competent authority. Therefore, the plaintiff has successfully proved his possession over the suit schedule property and the trial Court has rightly granted the relief of permanent injunction.

19. Learned counsel for the plaintiff has filed a memo with copy of the order passed in W.P.No.33196-33198/2016 dated 24.11.2025 and this Court has ordered directing the defendant authority "to consider and dispose of the petitioners representations dated 28.10.2025 in accordance with law, within an outer limit of two months from the date of receipt of a certified copy of the order and it has further ordered that, until such consideration and decision, the respondent Nos.2 and 3 shall not take any coercive steps against the petitioners or disturb their possession of the schedule property."

20. Therefore, all these evidence came to be proved that plaintiff is in possession. Therefore, decree passed by the



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trial court for permanent injunction is justifiable, which needs no interference.

21. Accordingly, I answer point No.1 to 3 in the ***affirmative*** and point No.4 in the ***negative*** and I proceed to pass the following:

**ORDER**

The appeal is ***dismissed***.

Sd/-  
(HANCHATE SANJEEVKUMAR)  
JUDGE

rv  
List No.: 1 Sl No.: 5