



CNR: KAHC010207552012

NC: 2026:KHC:41862
RFA No. 658 of 2012

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

REGULAR FIRST APPEAL NO. 658 OF 2012 (INJ)

BETWEEN:

SRI. J.AROGYASWAMY,
S/O. LATE JOGAPPA,
AGED ABOUT 65 YEARS,
R/AT VEERANNAPALYA,
NAGAVARA DHAKALE,
ARABIC COLLEGE POST,
BENGALURU-560045.

...APPELLANT

(BY SRI. KRISHNAMOORTHY D., ADVOCATE)

AND:

1. BHUVANESHWARI YUVAKARA SANGHA,
VEERANNA PALYA VILLAGE,
NAGAVARA DHAKALE,
ARABIC COLLEGE (POST),
BENGALURU-560045
REPRESENTED BY ITS SECRETARY
SRI. SRIRAM.
2. SRI. R.SRINIVAS,
S/O. RAMAPPA,
AGED ABOUT 45 YEARS,
3. SRI. VENKATESH,
S/O. MUNISWAMAPPA,
AGED ABOUT 49 YEARS,

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA



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4. SRI. R.SRIRAM,
S/O. THIMMAIAH,
AGED ABOUT 45 YEARS,

RESPONDENTS NO.2 TO 4 ARE
R/AT VEERANNA PALYA VILLAGE,
NAGAVARA DHAKALE,
ARABIC COLLEGE (POST),
BENGALURU-560045.

...RESPONDENTS

(BY SRI. V.RAGHUNATH, ADVOCATE FOR R1 TO R4 - ABSENT)

THIS REGULAR FIRST APPEAL IS FILED UNDER SECTION
96 OF THE CODE OF CIVIL PROCEDURE, 1908.

THIS REGULAR FIRST APPEAL IS LISTED FOR FINAL
HEARING, THIS DAY, THE JUDGMENT IS DELIVERED AS
UNDER:

ORAL JUDGMENT

Sri.Krishnamoorthy D., counsel for the appellant,
appeared in person.

Although the matter was called twice, there was no
representation from the respondents, either personally or via
video conferencing. As shown in the daily order sheet, the
appeal was listed on 30.07.2026, but there was no
representation from the respondents on that day. Thus, for
counsel's appearance it ordered to be listed on 07.08.2026.



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Today, the appeal is listed again, and as previously noted, the respondents are still not represented. The Court finds it appropriate to proceed with the hearing and decide the case on its merits.

2. The current appeal challenges the Judgment and Decree dated:03.04.2012 passed by the Court of XVIII Additional City Civil Judge at Bengaluru City (CHH.No.10) in O.S.No.8918/2006.

3. For simplicity, the parties are referred to according to their status and ranking before the Trial Court.

4. The plaint averments are these:

The plaintiff claimed ownership and possession of property bearing Kaneshumari No.184, now CMC Khata No. 1/1-1, situated at Eeranna Palya, Nagavara Dhakale, Bengaluru North Taluk. The property was purchased by his father, Jojappa, under a registered sale deed dated 08.04.1946. Upon Jojappa's death, the plaintiff inherited the estate and produced Khata certificates and supporting documents evidencing possession. On 06.10.2006, the defendants obstructed his



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possession, asserting their rights over the suit schedule property. The plaintiff sought an injunction against interference.

Defendant No.3 filed a written statement denying the plaint and referred to O.S.No.17561/2005, a pending suit involving villagers of Eeranna Palya, claiming overlap with the present schedule property and prayed for the dismissal of the suit.

The Trial Court, after framing issues and recording evidence, dismissed the suit by Judgment and Decree dated 03.04.2012. Aggrieved, the plaintiff filed this appeal under Section 96 of CPC.

5. Counsel for the appellant contends that the Trial Court's decision is unlawful and arbitrary. It is argued that the plaintiff's father's purchased the property under a registered sale deed dated:08.04.1946 (Ex.P3) is undisputed, and no evidence was led to challenge the plaintiff's title. The Trial Court erred in dismissing the suit merely on the ground that all members of the Association were not impleaded. Further,



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interference in 2006 constituted a recurring cause of action, justifying the injunction.

A further submission is made that, in addition to noting a pending suit in O.S.No.17561/2005, no additional evidence was provided or controverted regarding the plaintiff's ownership of the suit property.

The appellant's counsel highlighted during the Court's review of PW1's cross-examination that the plaintiff admitted not having a 40-foot measurement area in the East-West direction. Instead, the plaintiff acknowledged a 35-foot area in that direction. Based on this, the counsel argued that, following the plaintiff's instructions, the injunction should be limited to a 35-foot measurement in the East-West direction and a 64-foot measurement in the North-South direction. Accordingly, counsel submits that the appeal may be allowed.

6. Heard and perused the papers and records with care.

7. The point for consideration is whether the Judgement and Decree of the Trial Court require interference.



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8. The facts are clearly presented and do not need to be restated. The matter is limited in scope and concerns the denial of the plaintiff's request for an injunction.

9. The plaintiff argued that his father, Jojappa, bought the property through a registered sale deed dated 08.04.1946 (Ex.P3). The plaint clearly states that on 06.10.2006, the defendants attempted to interfere with his possession of the suit property. This interference prompted him to seek an injunction. The Trial Court erred by focusing on PW1's cross-examination, which mentioned his attempt to construct a building in 1991 (Ex.P6), implying that the suit was filed too late in 2006. This reasoning is flawed. It is a law that interference can be a recurring ground for an injunction. No doubt, the plaintiff did not build the house in accordance with the 1991 and 1998 sanction plans, but he did apply for the 2006 sanction plan, and there was interference during construction. The defendants' interference in 2006 justified his request for an injunction. The Trial Court overlooked this key fact and wrongly refused the injunction.



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Next, let me consider the plaintiff's prayer to limit the injunction to 35 feet in the East-West direction and 64 feet in the North-South direction.

The Court has perused the cross-examination of PW1 with utmost care. In the cross, he has stated as follows:

"It is true to suggest that after leaving 5' space in east west direction there remains only 35' on east west direction in our property. We have shown in the schedule east west 40' and we are ready to give up 5' which was already given up and satisfy with 35' East West space. It is true to suggest that we are not in possession of 40' measurement area on East West direction. We are in possession of 35' measurement area on East West direction"

Because the plaintiff admits to owning a space measuring 35 feet East-West and 64 feet North-South, the case favors him. An injunction is granted to stop the defendants from interfering with this area. The registry is instructed to prepare the decree reflecting the specified extent of 35 feet East-West by 64 feet North-South.



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10. The Judgment and Decree dated 03.04.2012, passed by the Court of the XVIII Additional City Civil Judge at (CHH.No.10), Bengaluru City, in O.S.No.8918/2006, is set aside. The plaintiff's suit is decreed. The Registry is hereby directed to draw the decree as ordered by this Court.

11. Resultantly, the Regular First Appeal is ***allowed***.

**SD/-
(JYOTI M)
JUDGE**

MRP
List No.: 1 Sl No.: 46