



NC: 2026:KHC:8360
RSA No. 1738 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 11TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V HOSMANI
REGULAR SECOND APPEAL NO. 1738 OF 2025 (INJ)

BETWEEN:

SMT. SUMITHRA M J.,
W/O SWAMY N.,
AGED ABOUT 27 YEARS,
R/O KODIPURA VILLAGE,
MALAVALLI TALUK,
MANDYA DISTRICT - 571 403.

...APPELLANT

(BY SRI SOMASHEKAR KASHIMATH, ADVOCATE)

AND:

1. SMT. VENKATALAKSHMAMMA
W/O LATE DODDAHANUMAIAH,
AGED ABOUT 58 YEARS,
2. SRI MUTHURAJU
S/O LATE DODDAHANUMAIAH,
AGED ABOUT 38 YEARS,

BOTH RESPONDENTS ARE
R/AT KODIPURA VILLAGE,
KASABA HOBLI,
MALAVALLI TALUK - 571 403.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka

...RESPONDENTS

THIS RSA IS FILED U/S 100 OF CPC AGAINST THE JUDGMENT AND DECREE DATED 05.08.2025 PASSED IN RA 19/2024 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, MALAVALLI, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 16.01.2024 PASSED IN OS NO.145/2022 ON THE FILE OF THE PRINCIPAL CIVIL JUDGE AND JMFC, MALAVALLI.

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



CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and decree dated 05.08.2025 passed by Senior Civil Judge & JMFC., Malavalli, in RA no.19/2024 confirming judgment and decree dated passed by Prl. Civil Judge & JMFC., Malavalli, in OS no.145/2022, this appeal is filed.

2. Sri Somashekar Kashimath, learned counsel for appellant submitted appeal was by unsuccessful plaintiff against concurrent findings in a suit for permanent injunction restraining defendants from interfering with his possession over suit property. It was submitted, that trial Court dismissed suit on observation that plaintiff had failed to establish title and possession over suit property. Same is confirmed by first appellate Court. It was submitted, one of reasons for said observation was that plaintiff had not stated manner and date in which cause of action accrued. Therefore, plaintiff now intends to file comprehensive suit for declaration and injunction. An application under Section XXIII Rule 3 of CPC is filed and prays for allowing application with liberty to file fresh suit.



3. Heard learned counsel.

4. Perusal of judgment and decree would indicate that plaintiff had filed suit for permanent injunction and led evidence. But, trial Court dismissed suit with observation that plaintiff had failed to establish possession and title in respect of suit property. It is settled law that in a suit for permanent injunction, trial Court would not be required to decide title. In case trial Court were to come to conclusion that prayer for declaration is necessary, it ought to have dismissed suit on that ground.

5. Besides, from certified copy of plaint made available by learned counsel for appellant for perusal of this Court, it is seen that plaintiff had not pleaded specific date of accrual of cause of action. In view of above, Even same formal defect, application is allowed and appeal is dismissed with liberty to plaintiff to file comprehensive fresh for declaration of title and for injunction in respect of suit property.

**Sd/-
(RAVI V HOSMANI)
JUDGE**