

KABC010207372023



**IN THE COURT OF THE XLI ADDL.CITY CIVIL AND  
SESSIONS JUDGE : AT BANGALORE [CCH-42]**

**:PRESENT:**

**SMT. SUMANGALA CHAKALABBI, B.A. LL.B. (Hons.), LL.M.  
XLI Addl. City Civil and Sessions Judge,  
Bengaluru**

**Dated this the 21<sup>st</sup> day of February 2024**

**O.S. NO.4957/2023**

**PLAINTIFFS :**

**1. Sri.Anantha H.C.**  
S/o Late Chandrashekaraiiah,  
Aged about 70 years,

**2. Smt.Bhagyalakshmi**  
W/o Sri.Anantha H.C.  
Aged about 52 years,

Both are residing at No.1181,  
12<sup>th</sup> Main Road,  
Raghavendra Block, Srinagar,  
Bengaluru-560 050.

(By Sri. T.M.Narayana Swamy, Advocate)

**V/s.**

**DEFENDANT :**

**Smt.Anjanamma**  
W/o Late Mallesh,  
Aged about 48 years,

Residing at No.35/A,  
Ground Floor, 12<sup>th</sup> Main Road,  
Raghavendra Block, Srinagar,  
Bengaluru-560 050.

(Ex-parte)

Date of Institution of the Suit: 03.08.2023

Nature of the suit  
(Suit on Pronote, suit for  
declaration & possession, suit for  
injunction) Injunction

Date of commencement of  
recording of evidence: 16.01.2024

Date on which the Judgment was  
pronounced: **21.02.2024**

Total Duration: Year/s Month/s Day/s  
00 06 18

### **J U D G M E N T**

The plaintiff has filed this suit for the relief of permanent injunction restraining the defendant, her agents, servants, P.A.Holders or anybody acting on behalf of her, from interfering with the plaintiffs' possession and enjoyment of the suit schedule property.

**2.** The case of the plaintiffs in brief is that :

2.1 The plaintiffs are the absolute owners of the residential property bearing No.35, Municipal No.1181, BBMP PID No.53-68 measuring east to west 40 feet and North to South 15 feet together with ground and two upper floors 13 ½ sq.ft. situated at 12<sup>th</sup> Main road, Srinagara, Bengaluru.

2.2 It is further submitted that the plaintiffs acquired the suit schedule property from its previous owner Sri B. Mahesh under sale deed dated 22.09.2010.

2.3 Pursuant to the said sale deed katha and other revenue documents were effected in the name of plaintiffs by BBMP authorities and since the plaintiffs are in possession and enjoyment of the suit schedule property.

2.4 It is further submitted that the defendant is the owner of northern side property of the suit schedule property and she is possession of the same.

2.5 The defendant approached the plaintiffs and requested to sell the suit schedule property in her favour and the plaintiffs refused the same and therefore, due to vengeance with the plaintiffs the suit schedule property was not parted to the defendant.

2.6 That on 25.07.2023 the defendant came near the suit schedule property and attempted to interfere with the plaintiffs' peaceful possession and enjoyment of the schedule property and therefore, the plaintiffs with no other alternative have approached the Civil Court for the relief of permanent injunction.

2.7 The cause of action for the suit arose on 25.07.2023 when the defendant made an attempt to interfere with the suit schedule property. Hence, this suit.

**3.** In spite of service of summons, the defendant remained absent and therefore, defendant was placed ex-parte as per Order dated 17.11.2023..

4. To prove the case of the plaintiffs, the 2<sup>nd</sup> plaintiff by name Smt. Bhagyalakshmi has been examined as PW.1 by filing her affidavit in lieu of examination-in-chief and got marked documents at Ex.P.1 to Ex.P.14 and got closed their side.

5. Heard the arguments of learned counsel for plaintiffs.

6. In view of the contentions raised by the plaintiffs and the documents submitted by the plaintiff, the following points arise for consideration of this Court:

1. Whether the plaintiffs prove that they are in possession of the suit schedule property as on the date of the suit.
2. Whether the plaintiffs prove the alleged interference by the defendant over the suit schedule property.
3. Whether the plaintiffs are entitled for the relief sought in the suit.
4. What order or decree?

7. My answer to the above points are as under:

Point No.1 to 3 - In the Affirmative,

Point No.4 - As per the final order

for the following:

### **REASONS**

8. **POINT Nos.1 TO 3** :- The PW.1, who is the 2<sup>nd</sup> plaintiff herein has deposed before the Court by reiterating the facts of the plaint.

8.1 The PW.1 has further deposed that they are the absolute owners of the residential property bearing No.35, Municipal No.1181, BBMP PID No.53-68 measuring east to west 40 feet and North to South 15 feet together with ground and two upper floors 13 ½ sq.ft. situated at 12<sup>th</sup> Main road, Srinagara, Bengaluru.

8.2 She has further deposed that they acquired the suit schedule property from its previous owner Sri B. Mahesh under sale deed dated 22.09.2010. Pursuant to the said sale deed katha

and other revenue documents were effected in their names by BBMP authorities and since then they are in possession and enjoyment of the suit schedule property.

8.3 She has further deposed that the defendant is the owner of Northern side property of the suit schedule property and is possession of the same. Further, the defendant approached the plaintiffs and requested to sell the suit schedule property in her favour and they refused the same and therefore, due to vengeance with the plaintiffs the suit schedule property was not parted to the defendant and that on 25.07.2023 the defendant came near the suit schedule property and attempted to interfere with their peaceful possession and enjoyment of the schedule property and therefore, the plaintiffs with no other alternative have approached the Civil Court for the relief of permanent injunction.

9. The plaintiffs have relied upon Ex.P.1 endorsement issued by BBMP having the details of suit schedule property. Ex.P.2 is the encumbrance certificate, Ex.P.3 to P.7 are the photographs with one C.D. Ex.P.8 is the certificate under Section

65B of Indian Evidence Act. Ex.P.9 is the original sale deed dated 22.09.2010, which discloses that one Sri Mahesh has executed the sale deed dated 22.09.2010 in favour of the plaintiffs. Ex.P.10 is the original endorsement issued by BBMP dated 15.07.2011. Ex.P.11 and 12 are the tax paid receipts, Ex.P.13 is the copy of encumbrance certificate for the period 2021-22 and Ex.P.14 is the Police complaint registered in Hanumanthanagara P.S.

**10.** From the evidence of PW.1 and the documents relied upon by the plaintiffs at Ex.P.1 to Ex.P.14, it reveals that the plaintiffs have purchased the suit schedule property for valuable consideration from their vendor and they are in peaceful possession and enjoyment of the same.

**11.** The revenue records stand in the name of plaintiffs and the plaintiffs have paid up to date tax to the concerned BBMP authorities. The photographs and C.D. produced by the plaintiffs show that they are in possession of the suit schedule property.

**12.** The defendant inspite of service of summons has not appeared before the Court to disprove the allegations of the

plaintiffs. When the evidence of PW.1 and the documents relied upon by the plaintiffs have remained unchallenged by the defendant, an adverse inference can be drawn against the defendant that the defendant is not in possession and enjoyment of the schedule property and is illegally interfering with the peaceful possession and enjoyment of the plaintiffs over the schedule property. **Hence, I answer Point Nos.1 to 3 in the Affirmative.**

**13. Point No.4 :-** In view of my finding on points No.1 to 3, I proceed to pass the following :

### **ORDER**

The suit of the plaintiffs is decreed with costs.

The defendant, her agents, servants, P.A.Holders or anybody acting on behalf of her are hereby permanently restrained from interfering in any manner with the peaceful

possession and enjoyment of the plaintiffs in  
respect of the suit schedule property.

Draw decree accordingly.

*(Dictated to the judgment writer, transcribed and typed by her, corrected, signed and then pronounced by me in the open court, on this the 21<sup>st</sup> day of February, 2023).*

**(SUMANGALA CHAKALABBI)**  
XLI Addl. City Civil and Sessions Judge,  
Bengaluru.

**ANNEXURE**

**I. List of witnesses examined on behalf of :**

- a) **Plaintiff's side:** P.W.1 - Smt.Bhagyalakshmi  
b) **Defendant's side:** NIL.

**II. List of documents exhibited on behalf of :**

**a) Plaintiff's side:**

- |                 |    |  |
|-----------------|----|--|
| Ex.P.1          | -- | Endorsement issued by BBMP with respect to details of the suit schedule property |
| Ex.P.2          | -- | On-line copy of EC (subject to production of Section 65B)                        |
| Ex.P.3<br>to 7  | -- | 4 photographs and one CD   |
| Ex.P.8          | -- | Section 65B certificate  |
| Ex.P.9          | -- | Original sale deed dated 22.09.2010  |
| Ex.P.10         | -- | Original endorsement dated 15.07.2011  |
| Ex.P.11<br>& 12 | -- | Two Digital copies of Tax paid receipts  |
| Ex.P.13         | -- | Certified copy of EC consisting of two   |

Ex.P.14 -- pages  
Certified copy of endorsement issued by  
Hanumanthanagar police station.

**b)Defendant's side :** NIL

**(SUMANGALA CHAKALABBI)**  
XLI Addl. City Civil and Sessions Judge,  
Bengaluru.