

IN THE COURT OF THE CITY CIVIL JUDGE

AT BANGALORE

O.S. No. _____ /2016

BETWEEN:-

Smt. Muniyamma,
Aged 57 years,
W/o. late Gundappa,
Residing at No.50/3,
Old No.2234, 2nd Cross,
'A' Block, Subramanya Nagar,
Bangalore – 560 003.

PLAINTIFF

AND:-

1. Smt.Nanjamma
Aged 56 years,
W/o. late B. Govindappa,
Residing at
No.51/3, 2nd Cross,
A Block, Subramanya Nagar,
Bangalore – 560 003.

2. Smt.Kusuma
Aged about 43 years,
D/o. Nagarajappa,
Proprietor
M/s. TDK Developers & Builders,
Having its office at
No.676/15 & 12,
Hongasandra Village,
Bommanahalli,
Begur Hobli,
Bangalore – 560 068

DEFENDANTS

**PLAINT UNDER ORDER VII RULE 1 OF THE CODE OF
CIVIL PROCEDURE 1908**

The plaintiff above named begs to state as under:

1. The address of the plaintiff for the purpose of service of summons, notices etc., from this Hon'ble Court is as stated in the cause title and also of his counsel Sri. _____, Advocate, No._____, 3rd Floor, _____ Complex, 3rd Main, Gandhinagar, Bangalore – 560 009.

2. The address of the defendants for similar purposes of service of notice, summons, etc., from this Hon'ble Court is as stated in the cause title.

3. That the plaintiff is the absolute owner of the property bearing No.2234, now assigned with the municipal No.50/3, 2nd Cross, A Block, Subramanya Nagar, Bangalore – 560 003 measuring east to west on the southern side 42 feet, on the western side 46 feet and north to south 15 feet in all measuring 660 sq.ft. with residential building which is more fully and particularly described in the schedule hereunder and hereinafter referred to as the **Schedule 'A' Property** for the sake of brevity. That the husband of the Plaintiff late Gundappa has acquired the schedule property under a Sale Deed dated 05.09.1977 from his vendor Sri.Rangappa for valuable Sale Consideration, which is registered as document No.1892/1977-78, in Book-I, Volume No.290, at page 33 to 35, in the office of the Sub-Registrar Rajajinagar, Bangalore. The copy of the Sale Deed is herewith enclosed as **Document No.1.**

4. The Plaintiff submits that her husband Sri.Gundappa died on 27.07.2012 leaving behind the Plaintiff, Son and Daughter. The Death Certificate is herewith enclosed as **Document No.2.** Thereafter the Plaintiff made an application before the Assistant Revenue Officer, Subramanya Nagar Ward, BBMP, Bangalore, for transfer of Khatha and other revenue records in her name in respect of the schedule property. The concerned authority has transferred Khatha of schedule property in the name of Plaintiff and assessed the property to revenue and has paid taxes to the concerned authority. The Plaintiff is herewith furnishing the Khatha Certificate, Khatha Extract and Tax paid receipts as **Document No.3 to 5.** The Bruhath Bangalore Mahanagara Palike has also issued confirmation letter indicating that the earlier site No.2234 being assigned with Municipal No.50/3 under letter dated 18.08.2008. The Copy of the said letter is herewith enclosed as **Document No.6.** The Plaintiff is in peaceful possession and enjoyment of schedule property and exercising all the rights of true ownership over the schedule property.

5. That the Defendant No.1 is the owner of the property bearing old No.2235 and 2236 and new No 51 and No.52, PID No 065-W0060-19 and PID No 065-W0060-15, 2nd cross, 'A' block, Subramanya Nagar, Bangalore – 560 003, which is adjoining the Plaintiff's property. The said Property is more fully and particularly described in the schedule hereunder and hereinafter referred to as the **Schedule 'B' Property** for the sake of brevity. The Plaintiff is herewith enclosing the sketch furnished by the first defendant while seeking sanction of plan before the Bruhath Bangalore Mahanagara Palike authorities and the same is here within enclosed as **Document No. 7**. The said sketch clearly indicates the boundaries of both the schedule properties.

6. That the Defendant has obtained the sanction plan and license from the BBMP to put up new construction vide LP No.Ad.Com/WST/0282/14-15 dated 28.11.2014. As per the sanctioned plan, the Defendant No.1 is entitled to put up only basement, ground and, three upper floors only on the said property. The Plaintiff is herewith enclosing the sanctioned plan and license as **Document No.8 & 9**. The plan also indicates the setbacks to be left by the defendants while putting up the construction, but the defendants have not even left one feet also and thus contravened the terms of the license and the undertaking given before the sanctioning authorities, which can be visualized by looking to the photographs.

7. That the Defendant No.1 has engaged the Defendant No.2 to put up the construction and also Defendant No.2 is the General Power of Attorney Holder of the Defendant No.1. The Defendants are putting up the construction in utter violation of the sanctioned plan and license and have not left the requisite setbacks and further have illegally and unauthorizedly put up two additional upper floors in addition to what is sanctioned by the BBMP authorities. That the said construction carried on by the Defendants is illegal and contrary to law. The Plaintiff being the adjoining owner is put to lot of inconvenience and there is obstruction for free flow of light and air and the said construction is causing nuisance and there is no peacefulness to the Plaintiff.

The Plaintiff has requested the Defendants to put up the constructions in accordance with law, but the Defendants have ignored the request and are putting up the construction according to their whims and fancies. The Plaintiff is herewith furnishing the photographs and CD as **Document No.10 & 11.**

8. Since the Defendants did not heed to the advice of the Plaintiff, the Plaintiff has lodged a complaint with the BBMP authorities and the BBMP authorities have inspected the property and have noticed the illegal construction and have issued notice under Section 321 (1) of KMC Act and passed preliminary order and called upon the Defendant No.1 to stop the construction and to demolish the illegally constructed portion by passing order under Section 321 (2) confirming the interim order and further passed final order under Section 321 (3) and directed the Defendant No.1 to demolish the illegal construction or to face the consequences. The notices are herewith furnished as **Document No.12 to 14.**

9. That in spite of all the efforts the Defendants have not stopped the ongoing construction or demolished the illegal construction, but instead are putting up two more upper floors illegally. The Defendants have got vast political and monetary influence and have not bother to bring back the building to the sanctioned limits. That the said illegal construction is causing mental agony and the Plaintiff is spending sleepless nights. The Defendants have not taken any precautionary measures and many a times bricks, mortar and other construction materials are falling on the roof of the Plaintiff's house and there is danger to the Plaintiff and her family members. That the plaintiff and her family members are living under threats. That the concerned authorities have not taken further action against the illegal construction and have yielded to political pressure. That statutory authorities have failed to comply with the law and the Plaintiff is unable to get justice at the hands of the authorities. The Plaintiff having no other alternative has filed the above suit.

10. That the entire act of the defendants is highly illegal, contrary to law, amounts to high-handedness. The plaintiff being law abiding citizen, helpless and unable to resist the illegal acts of the

defendants has approached this Hon'ble Court. The plaintiff's lawful right, title and possession of the Schedule 'A' Property has to be protected by grant of permanent injunction against the defendants. Hence this suit.

11. The cause of action for the suit arose on 28.11.2014 when sanctioned plan and license was issued, on 12.01.2015 when the Bruhath Bangalore Mahanagara Palike authorities passed final order, and on all subsequent dates, within the jurisdiction of this Hon'ble Court.

12. That the suit schedule property is situated within the jurisdiction of this Hon'ble Court and as such this Hon'ble Court has got territorial and pecuniary jurisdiction to try the suit.

13. There is no pendency of any legal proceedings and litigation either past or present concerning any part of the subject matter of this suit/petition in any court within the knowledge of the plaintiff.

14. For the purposes of Court fee and jurisdiction, the suit is valued under Section 26(c) of the Karnataka Court Fees and Suits Valuation Act, 1958 (as amended) and the Court fee is paid as per the separate valuation slip.

PRAYER

WHEREFORE, the plaintiff prays that this Hon'ble Court be pleased to pass a Judgment and Decree against the defendants:

(a) Granting permanent injunction, restraining the defendants, their henchmen, agents, representatives, servants, supporters and anybody acting on their behalf from putting up illegal construction on the Schedule 'B' Property,

(b) Grant mandatory injunction to demolish the illegal construction put up on the Schedule 'B' Property in contravention of Sanctioned Plan vide LP No.Ad.Com/WST/0282/14-15 dated 28.11.2014,

(c) Grant such other relief/s as this Hon'ble Court deems fit in the circumstances of the case, including costs of this suit, in the interest of justice and equity.

SCHEDULE 'A' PROPERTY

All that the part and parcel property bearing site No.50/3, New PID No.-065-W0066-2/1, Old No.8-59-50/3, BDA Site No.2234, 2nd Cross Road, 'A' Block, Subramanya Nagar, Ward No.65, Kadumalleshwara Ward, Bruhath Bangalore Mahanagara Palike, Bangalore – 560 003, and bounded by:

East by : Road
West by : Site No.2232,
North by : Property belonging to Erayya
South by : Site No.3278/B

SCHEDULE 'B' PROPERTY

All that the part and parcel property bearing property bearing old No.2235 and 2236 and new No 51/3 and No.52/3, PID No 065-W0060-19 and PID No 065-W0060-15, 2nd cross, 'A' block, Subramanya Nagar, Bangalore – 560 003 and commonly bounded by:

East by : Site No.3375, 3375/A, 3376, 2234, and
3378
West by : Site No.3372,
North by : Road
South by : Road (Wrongly mentioned as Site No.3292 and
3297)

ADVOCATE FOR PLAINTIFF

PLAINTIFF

VERIFICATION

I, **Muniyamma**, the plaintiff above named, do hereby declare that what is stated in paragraphs No.1 to 13 and the documents furnished are true and correct to the best of my knowledge, information and belief.

Bangalore,
Date: 18.01.2016

PLAINTIFF

IN THE COURT OF THE CITY CIVIL JUDGE

AT BANGALORE

O.S. No. _____ /2016

BETWEEN:-

Smt. Muniyamma, ... Plaintiff

AND:-

Smt. Nanjamma and Another ... Defendants

VERIFYING AFFIDAVIT

I, Smt.Muniyamma, aged 57 years, W/o. late Gundappa, Residing at No.50/3, Old No.2234, 2nd Cross, A Block, Subramanya Nagar, Bangalore – 560 003, do hereby solemnly affirm and state on oath as under:

1. I state that I am the plaintiff in the above case and well aware of the facts of the case.
2. I state the averments made in Para 1 to of the plaint are true and correct and the documents furnished along with plaint as document No.1 to 13 are original/true copies of the same.

VERIFICATION

I, **Smt.Muniyamma**, the deponent herein, do hereby solemnly affirm and state that this is my name and signature and the contents of this affidavit are true and correct.

Identified by me,

Deponent
Sworn to before me

Advocate

Bangalore,

Date: 18.01.2016

No. of corrections:-

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Aged 57 years,
W/o. late Gundappa,
Residing at No.50/3,
Old No.2234, 2nd Cross,
A Block, Subramanya Nagar,
Bangalore – 560 003.

PLAINTIFF

AND:-

1. Smt.Nanjamma

Aged 56 years,
W/o. late B. Govindappa,
Residing at
No.51/3, 2nd Cross,
A Block, Subramanya Nagar,
Bangalore – 560 003.

2. Smt.Kusuma

Aged about 43 years,
D/o. Nagarajappa,
Proprietor
M/s. TDK Developers & Builders,
Having its office at
No.676/15 & 12,
Hongasandra Village,
Bommanahalli,
Begur Hobli,
Bangalore – 560 068

DEFENDANTS

**APPLICATION UNDER ORDER 39 RULE 1 & 2 READ WITH
SECTION 151 OF THE CODE OF CIVIL PROCEDURE**

That for the reasons sworn to in the accompanying Affidavit, the Plaintiff most humbly prays that this Hon'ble Court be pleased to pass an order of temporary injunction, restraining the defendants, their agents, representatives, henchmen, supporters or anybody acting on their behalf from putting up the construction on the Schedule 'B' Property, till disposal of the above suit, in the interest of justice and equity.

In view of urgency of the matter notice of this application may be dispensed to the defendants under Order 39 Rule 3 of the Code of Civil Procedure and pass an ad-interim order of temporary injunction in like terms.

SCHEDULE 'B' PROPERTY

All that the part and parcel property bearing property bearing old No.2232 and 2233 and new No 51/3 and No.52/3, PID No 065-W0060-19 and PID No 065-W0060-15, 2nd cross, 'A' block, Subramanya Nagar, Bangalore – 560 003 and commonly bounded by:

East by : Site No.3375, 3375/A, 3376, 2234, and
3378
West by : Site No.3372,
North by : Road
South by : Road (Wrongly mentioned as Site No.3292 and
3297)

Bangalore,
Date: 18.01.2016

ADVOCATE FOR PLAINTIFF

IN THE COURT OF THE CITY CIVIL JUDGE,

AT BANGALORE

O.S. No. _____ /2016

BETWEEN:-

Smt. Muniyamma ... Plaintiff

AND:-

Smt. Nanjamma and Another ... Defendant

AFFIDAVIT

I, Smt. Muniyamma, aged 57 years, W/o. late Gundappa, residing at No.50/3, Old No.2234, 2nd Cross, 'A' Block, Subramanya Nagar, Bangalore – 560 003, do hereby solemnly affirm and state on oath as under:

1. I state that I am the plaintiff in the above case and well aware of the facts of the case. Hence I am swearing to this affidavit.

2. I state that this Hon'ble Court vide order dated 08.06.2016 was pleased to grant ad interim injunction against Defendant No.1 and 2 as prayed in I.A.No.1. The said order passed by this Hon'ble Court is well within the knowledge of the Defendants as the Defendants have been observing the proceedings of the case.

3. I state that the Defendants being educated are aware of the consequences of disobedience of the order and in spite of it have challenged the order by taking law into his own hand and continuing the construction in utter disregard to the order of this Hon'ble Court.

5. I state that the above case is adjourned to 12.07.2016 and taking advantage of the date, the Defendants are trying to complete the construction and as such the above case has to be advanced to 27.06.2016.

VERIFICATION

I, **Smt.Muniyamma**, the deponent do hereby solemnly affirm and state that this is my name and signature and the contents of this affidavit are true and correct.

Identified by me,

Advocate
Bangalore,
Date: 27.06.2016

Deponent
Sworn to Before Me

IN THE COURT OF THE CITY CIVIL JUDGE

AT BANGALORE

O.S. No. _____ /2016

BETWEEN:-

Smt. Muniyamma, ... Plaintiff

AND:-

Smt. Nanjamma and Another ... Defendants

APPLICATION UNDER ORDER 6 RULE 14 OF CIVIL

PROCEDURE CODE, 1908

The plaintiff states that the address of the defendants stated in the cause title to the suit is the correct address of the defendants.

Bangalore,
Date: 18.01.2016

ADVOCATE FOR PLAINTIFF

1.