

KABC010002252025



IN THE COURT OF THE III ADDL. CITY CIVIL AND
SESSIONS JUDGE, (CCH-25) AT BENGALURU

DATED: THIS THE 10th DAY OF SEPTEMBER, 2025.

PRESENT : Smt. NISHARANI A.C., B.A., LL.B.,
III Addl. City Civil and Sessions
Judge, Bengaluru.

O.S.No.89/2025

PLAINTIFF:

Sri.M.K.Prathvi
S/o Late M.M. Kaverappa,
Aged about 58 years,
R/at No.119, Yellappa Lane,
Domlur Village,
Bengaluru – 560 071.

(By Sri.K.G.Sadashivaiah, Advocate)

V/s

DEFENDANTS: 1. Sri.K.Ramesh Reddy
S/o Late G.Krishna Reddy,
Aged about 68 years,
R/at Doddanekkundi Village,
K.R.Puram Hobli, Bengaluru East
Taluk, Bengaluru – 560 037.

2. Smt.Vanajakshi
W/o Krishna Reddy,
D/o Late G.Krishna Reddy,
Aged about 66 years,

R/at Anjaneyaswamy Temple Road,
Banasavadi, Bengaluru – 560 000.

3. Sri.Gururaj Reddy

S/o Late G.Krishna Reddy,
Aged about 64 years,
R/at Doddanekkundi Village,
K.R.Puram Hobli, Bengaluru East
Taluk, Bengaluru – 560 037.

4. Smt.Ananthamma

W/o Munikrishna Reddy,
D/o Late G.Krishna Reddy,
Aged about 64 years,
R/at Doddanekkundi Village,
K.R.Puram Hobli, Bengaluru East
Taluk, Bengaluru – 560 037.

5. Smt.Pramila @ Prema

W/o Ramesh Reddy,
D/o Late G.Krishna Reddy,
Aged about 60 years,
R/at Channasandra Old Road,
Banasawadi, Bengaluru – 560 043.

(D.1, 3 by Sri.H. N. C. K, Advocate
D.2, 4, 5 by Sri.N. R. J, Advocate)

**ORDER ON INTERLOCUTORY APPLICATION No.I FILED BY
THE PLAINTIFF UNDER ORDER XXXIX RULE 1 AND 2 R/W
SEC.151 OF CODE OF CIVIL PROCEDURE .**

The learned counsel for the plaintiff has filed I.A.No.I
under Order XXXIX Rule 1 and 2 r/w Sec.151 of CPC, for

the relief of Ex-parte temporary injunction by dispensing with the notice to the defendants before granting ex-parte order restraining them, their agents or any persons acting in their behalf from interfering with the plaintiff peaceful possession and enjoyment of the suit schedule property and grant such other reliefs.

2. In support of the application, the plaintiff has sworn to an accompanying affidavit stating that the plaintiff is the absolute owner in lawful possession and enjoyment of the suit schedule property. Originally the land bearing Sy.No.104/2 measuring 4 acres 4 guntas situated at Doddanekkundi Village, K.R.Puram Hobli, Bengaluru East Taluk was owned and possession by one Sri.G.Krishna Reddy by virtue of a registered partition deed dated 23.06.1973 entered by and between the brothers of G.Krishna Reddy. G.Krishna Reddy conveyed an extent of 16 guntas and 24 guntas in favour of Sri.Madhurappa

and Sri.N.A.Krishna Reddy respectively. A retained extent of 3 acres 4 guntas were enjoying by the defendants and the said Sri.N.A.Krishna Reddy. While this being the state affairs the said Sri.N.A.Krishna Reddy and family members formed a private layout along with Sri.Madhurappa and Sri.N.A.Krishna Reddy. It may be noted here that nearly 65 sites were formed and the said sites were sold to different persons from the 1989 onwards and the respective owners were put in physical possession of the property. The suit schedule property bearing site No.32 was sold by one Maddurappa S/o Chikka Muniyappa in favour of Sri.G.Hemanth Kumar vide Sale Deed dated 18.07.1989 registered as document No.1249/1989-90. That by virtue of the Sale Deed the said Sri.G.Hemanth Kumar was put in physical possession of the property. The aforesaid site No.32 was sold by the aforesaid purchaser Sri.G.Hemanth Kumar in favour of the plaintiff through sale deed dated 05.08.1999 registered as document No.3213/1999-2000

and the plaintiff was put in physical possession of the same. Soon after the purchase of the suit schedule property the plaintiff has obtained Khatha in his name and has paid the betterment charges to the competent authority and has put up a residential construction over the suit schedule properties.

2(a). Further by virtue of the notification issued by the government of Karnataka, the plaintiff was permitted to regularize the construction made on the suit schedule property and accordingly the plaintiff has been paying the taxes and other requisite charges initially to the CMC Mahadevapura and further from the year 2007 to the B.B.M.P. and has continued to pay even to this day. The plaintiff being a bonafide purchaser has purchased the suit schedule property by paying a valuable sale consideration. While this being the state of affairs the 2nd defendant filed a suit in O.S.No.5603/2007 by claiming Sy.No.104/2 as an agricultural land and sought for a share and in fact the

other defendant No.1, 3 to 5 who are also parties in the said suit did not choose to file written statement and contest the matter. The 2nd defendant who heartily contested the matter by filing the suit colluding with the family members has executed a confirmation deed by collecting the present rate in favour of the neighbouring site owners. It is submitted that neither the plaintiff nor the defendant No.1, 3 to 5 O.S.No.5603/2007 denied the plaint averments so also the plaintiff's sale deeds and the documents. In view of the peculiar circumstances the plaintiff right, title and interest has to be protected by this Court by granting a permanent injunction. It may be noted here that the entire proceeding in O.S.No.5603/2007 the 2nd defendant not whispered anything about the said facts and suppressed the same as an innocent and further the defendants No.1, 3 to 5 sailed together to defraud not only the plaintiff, but also the neighbouring site owners. Since 1989 onwards the development has taken place to an

extent of 4 acres 4 guntas and several valuable buildings have come up which includes both residential and commercial. Further the plaintiff and other site owners have seriously contested the matter by filing an appeal in RFA No.2692/2024(PAR) before the Hon'ble High Court of Karnataka. This being the state of affairs on 09.09.2024 at about 6.00 PM the defendants who have no manner of right, title and interest over the suit schedule property tried to interfere with the suit schedule property along with hired goondas. Hence, the plaintiff left with no other alternative except to file the suit for permanent injunction. The defendants having sold the property in question in favour plaintiff and other for the reasons best known to the defendants have started interfering with the possession and enjoyment of the suit schedule properties. The plaintiff has made out a prima facie case and the balance of convenience lies in his favour and if the defendants are not permanently restrained by means of a permanent

injunction the plaintiff will be put to greater hardship and loss, resulting in miscarriage of justice which cannot be compensated in terms of money. On the other hand, no harm or injury would be caused to defendants as they have no manner of right, title and interest over the suit property. Hence, prays to allow the application.

3. On the other hand, the defendants No.1 and 3 have filed memo to adopt his written statement as objections to I.A.No.1 contending that the suit of the plaintiff is not maintainable either in law or on facts and liable to be dismissed with exemplary costs. The suit is high misconceived, speculative in character. The plaintiff has suppressed the material facts before this Court and had come up with the above suit in order to cause harassment to these defendants to harass them. These defendants are senior citizens and are suffering from various age related issues. These defendants submit that their sister one Smt. Vanajakshi had filed an original suit in

O.S.No.5603/2007 on the files of VII Additional City Civil and Sessions Judge (CCH No.19) at Bengaluru against these defendants and the plaintiff and other defendants for the Judgment and decree of partition and for other reliefs concerning the joint family properties claiming her alleged share in the properties, the suit schedule property is one amongst the properties claimed by the plaintiff therein defendant No.2 Smt.Vanajakshi. These defendants were the defendants 2 and 3 in O.S.No.5603/2007. In the said suit, the Court was pleased to conduct a full-fledged enquiry and Judgment and decree is passed on 9th September, 2024 by decreeing the suit of the plaintiff therein Smt.Vanajakshi, who is second defendant herein. It is submitted that as per the Judgment and decree passed in O.S.No.5603/2007 the second defendant herein has her alleged 1/5th share in the property in question. The plaintiffs and other alleged to have filed RFA No.2692/2024 on the the files of the Hon'ble High Court of

Karnataka, Bengaluru, wherein they have challenged the Judgment and decree passed in O.S.No.5603/2007 and the said Appeal is pending for consideration before the Hon'ble High Court of Karnataka, Bengaluru. Thus from the above, it is evident that the instant suit concerning the suit schedule property is subjudice before the Hon'ble High Court of Karnataka in R.F.A No.2692/2024 as admittedly the suit schedule property forms part of the land in Survey No.104/2 of Doddanekkundi Village, K.R.Puram Hobli, Bengaluru East Taluk which is belonged to these defendants. When the matter in question is subjudice before the Hon'ble High Court of Karnataka, the instant suit of the plaintiff is unsustainable and it is liable to be dismissed at its threshold. In view of the above facts and circumstances, the instant suit of the plaintiff has no legs to stand and liable to be dismissed. There is no cause of action to the plaintiff to institute the above suit concerning the schedule property (which is subject matter of the

O.S.No.5603/2007). The plaintiff on false, frivolous and vexatious grounds had approached this Court with ulterior motive to cause harassment and nothing else. The defendants have denied the averments made in the plaint as false and utter falsehood and the plaintiff be put to strict proof thereof. The suit schedule property is the subject matter of the RFA No.2692/2024 Hon'ble High Court of Karnataka, Bengaluru, arising out of the judgment and decree O.S.No.5603/2007, the instant suit of the plaintiff is premature and suit for bare injunction is not maintainable. The suit is not properly valued. Therefore, defendants prayed to dismiss the application.

4. On the other hand, the defendants No.2, 4 and 5 have filed memo to adopt his written statement as objections to I.A.No.1 contending that the suit of the plaintiff filed for the relief of permanent injunction against the defendants in respect of the suit schedule property is

not maintainable either in law or on facts and as such, the same is liable to be dismissed in-limine. The suit is false, frivolous, vexatious and the same is highly misconceived. The present suit is filed based on assumption and presumption and surmises and conjectures and based on concocted and created documents. The plaintiff has suppressed the mated facts with malafide intention. Hence, the suit is liable to be dismissed. The plaintiff is well aware of the fact that he has not acquired any lawful and marketable right, title and interest in respect of the suit schedule property and the land hearing Sy.No.104/2 measuring 4 Acres 04 guntas situated at Doddanakkundi village, K.R.Puram Hobli, Bengaluru East Taluk which is the subject matter of the partition suit filed by the defendant No.2 herein in O.S.No.5603/2007 (CCH-19) in which the plaintiff has arrayed as defendant No.18. It is further submitted that the said suit for partition came to be decreed in favour of the defendant No.2 herein vide

Judgment and Decree dated 09.09.2024. As such, the plaintiff has no legal right to the present suit for permanent injunction and infact he has to get the proper and appropriate relief as provided under the Code of Civil Procedure. Therefore, with malafide intention to obtain a fraudulent Order/ Judgment against the defendant No.2. The defendants have denied the averments made in the plaint and also specifically denied the title of the plaintiff and in the plaint pleadings in O.S.No.5603/2007 and as well as in the course of her evidence by producing cogent and valid documentary evidence. It is held by the Hon'ble Supreme Court of India in AIR 2008 SC 2033, when complicated question of title is involved, it could be examined only in a title suit for declaration and consequential reliefs and not in a suit for injunction simplicitor. In a reported judgment reported in ILR 2010 KAR 2996, it is held that when title to the property in a suit for bare injunction is shown to be clouded, hence the

proper course in a case of this nature is to relegate the parties to a comprehensive suit for declaration, title and consequential reliefs. There is no cause of action for the suit and the alleged one is false and created for the purpose of the case. The suit is not properly valued and no proper court fee is paid. All other allegations made in the plaint which is not specifically traversed herein and which are contrary to the tenor of this written statement are all hereby specifically and emphatically denied as false and incorrect. Therefore, defendants prayed to dismiss the application.

5. From the contents of the IA and counter parts filed by the parties the following points that arise for my consideration.

1. Whether the plaintiff has made out a prima-facie for grant of temporary injunction as prayed in the I.A.No.1?
2. Whether the balance of convenience lies in favour of the plaintiff?

3. Whether the irreparable loss or injury caused to plaintiff?

4. What order?

6. Heard arguments. After hearing the arguments and after considering the available material on record my answer to the above points are:-

POINT NO.1 : In the **Affirmative**,

POINT NO.2 : In the **Affirmative**,

POINT NO.3 : In the **Affirmative**,

POINT.NO.4 : As per final order,
for the following-

REASONS

7. **POINT NO.1 PRIMA-FACIE CASE:-** The plaintiff has filed the suit for permanent injunction restraining the defendants from dispossessing him from the suit schedule property.

The plaintiff case is that he is one of the purchaser from the propositus of the plaintiff family. In O.S.No.5603/2007 the judgment passed on 09.09.2024

wherein the Court has decreed the suit in favour of the plaintiff herein. In the said case, the plaintiff herein arrayed as one of the defendant. However, the plaintiff states that the defendant herein and the plaintiff in O.S.No.5603/2007 has executed a confirmation deed to some of the purchasers who are arrayed as the plaintiff in the connected other matters. Therefore, they are in the possession of the property. If this application is not allowed, they will be put to much hardship and injury. Therefore, to grant ad-interim order against the defendants not to dispossess from the suit schedule property.

8. On the other hand, the defendants herein seriously objected stating that the suit itself is not maintainable because he has obtained a decree in O.S.No.5603/2007 from the Court and he is entitled for his share in the suit schedule property. The Court has already observed with respect to the confirmation deeds as well as the Sale Deed of this plaintiff. Therefore, it is just and

necessary for his dispossession, but one of the defendant/ plaintiff herein to got his share in the suit schedule property. If the said application is allowed, then it will infringed the right of the defendants. Therefore, to reject the application.

9. On perusal of records, it is true that the Court has decreed the suit in favour of one of the defendant herein and the Court has divided his share by metes and bounds. The Sale Deed filed by the plaintiff clarifies that the vendor delivered the possession to the plaintiff. Therefore, the plaintiff is in the possession of the suit schedule property, at this stage prima facie case is made out by the plaintiff. Hence, I answer point No.1 in the **Affirmative.**

10. **POINT Nos.2 & 3 – BALANCE OF CONVENIENCE & IRREPARABLE LOSS:-** If the order of injunction is not granted, plaintiff will be put to much

hardship and injury. Therefore, the application filed by the plaintiff under Order 39 Rules 1 and 2 r/w Sec.151 of CPC is hereby allowed. Hence, I answer **Point Nos.2 & 3** in the **Affirmative**.

11. **POINT No.4:-** For the foregoing reasons, I proceed to pass the following:-

ORDER

IA.No.I filed by the plaintiff under Order XXXIX Rule 1 and 2 r/w Sec.151 of CPC is hereby allowed.

Defendants, their agents or any persons acting in their behalf are restrained by way of temporary injunction from dispossessing the plaintiff without due process of law, **till the disposal of the suit.**

(Dictated to the Stenographer on computer, typed by her, corrected and pronounced by me in open Court on this **10th day of September, 2025**).

**(NISHARANI A.C)
III ADDL. CITY CIVIL AND
SESSIONS JUDGE, BENGALURU.**