

IN THE COURT OF THE V ADDL. CITY CIVIL JUDGE
AT BANGALORE CITY
(CCH-13)

DATED THIS THE 19th DAY OF FEBRUARY, 2025

PRESENT

Sri. ONKARAPPA.R, B.Sc., LL.B.
V ADDL.CITY CIVIL & SESSIONS JUDGE
BANGALORE

O.S.No.1044/2017

Plaintiffs:

1. Smt. Shyamala,
W/o Late A.C. Ravi Kumar,
Aged about 50 years
2. Smt. Sharadamma,
W/o Late Siddappa,
Aged about 58 years
3. Smt. Yashodamma,
D/o Late Patel Anjinappa,
Aged about 54 years
4. Smt. Muniyamma,
D/o Late Patel Anjinappa,
Aged about 58 years
5. Smt. Anusuyamma,
D/o Late Patel Anjinappa,
Aged about 58 years
6. Smt. Nagamunikanthamma,
D/o Late Patel Anjinappa,
Aged about 52 years
All are R/at Kowdenahalli village,
Ramamurthy Nagar,
Dooravani Nagar Post,
Bengaluru.

(By Sri. KR, advocate)

/Vs/

Defendants:

1. Smt. Gundamma,
W/o Late Kariyanna @ Kariyappa,
Aged about 70 years

2. Smt. Muniyamma,
W/o Late Doddakaverappa,
Aged about 68 years

3. Smt. Kempanna,
W/o Late Chikkakaverappa,
Aged about 63 years

4. Smt. Mariyamma,
W/o Late Chikkamunishamappa,
Aged about 58 years

5. Smt. Padmamma,
W/o Late Pillanna,
Aged about 55 years

6. Sri. Motappa,
S/o Late Siddappa,
Aged about 64 years,

Defendant No.1 to 6 are
R/at Channasandra, Horamavu Post,
K.R. Puram Hobli,
Bengaluru.

7. Smt. Malamma,
W/o Late Kariyanna,
Aged about 48 years,
R/at Kanakanagara,
Horamavu Post,
K.R. Puram Hobli,
Bengaluru.

8. Smt. Anjinamma,
W/o Muniyappa,
D/o Late Muniswamappa,
Aged about 42 years
R/at Kalkere, K.R. Puram Hobli,
Bengaluru east taluk.

9. Sri. A. Manmatha,
S/o Sri. M. Akkappa,
Aged about 36 years

10. Sri. A. Dhananjaya,
S/o Sri. Akkappa,
Aged about 33 years

11. Sri. A. Sudhanva,
S/o Sri. M. Akkappa,
Aged about 32 years,
Defendant No.9 to 11
are R/at No.443,
Malaya Mahadeshwara Nilaya,
Kalkere, K. Channasandra Main Road,
K.R. Puram,
Bengaluru.

(D.1, 3 to 7- Ex-parte
D.2 – Sri. SNJ
D.8 to 11- Sri. BSRR., Advocates)

ORDERS ON I.A No.12

The plaintiffs have filed suit for the relief of declaration and injunction. Wherein the suit the plaintiffs have IA No.12 sought for the relief of ad interim ex-parte order of temporary injunction restraining defendant No.8 to 11 their agents, servants, henchmen anybody claiming under or through them from changing the nature of the suit schedule property in any manner including any act which will diminish its market value and also by making any sort of temporary/permanent structure over the suit schedule property, pending disposal of the suit.

2. As per the plaintiffs, they have filed the above suit for declaration and other consequential reliefs in respect of the suit property. Late. Patel Anjinappa was propositus of their family i.e., her husband. Her father viz., Patel Anjinappa had two wives Muniyamma and Nagamma, the said Patel Anjanppa had no issues from his first wife viz., Muniyamma, he begot herself and plaintiff No.4 to 6 and A.C.Ravikumar husband of plaintiff No.1, A.C.Siddappa, husband of plaintiff No.2 from their mother i.e., his second wife. The said A.C.Ravikumar and A.C.Siddappa are no more. During the lifetime of Patel Anjinappa, he owned and possessed immovable property land measuring 24 guntas including 3 guntas Kharab in Sy.No.42 of K.Channasandra Village, East Taluk K.R.Puram Hobli, Bengaluru which is suit schedule property. The suit schedule property self-acquired property of her father viz., Patel Anjinappa. He was owned and possessed form the last six decades, his name was entered in the revenue documents, the said documents shows that her father viz., Patel Anjinappa was the owner and Khathedar of the suit schedule property. And her father Patel Anjinappa was the absolute owner of the suit schedule property and during his lifetime the khatha and other document are also standing in his name. Somewhere in the year 1969, her father via., Patel Anjinappa was died leaving behind herself, her sisters and brothers and her mother and her stepmother as his legal heirs and further, after the death of her father viz., Patel

Anjinappa, his 1st wife Muniyamma was Khartha of the family and she was managing the family and properties owned and possessed by the said Patel Anjinappa. During the lifetime of Muniyamma i.e., her stepmother, she was in possession and enjoyment of the suit schedule property along with their family members. After her death i.e., plaintiffs No.3 to 6 and her brothers who are the husband the plaintiffs No.1 & 2 as the Class-I legal heirs of Patel Anjinappa and were in lawful possession and enjoyment of the suit schedule property and they have paid the property tax up to date. The khatha in respect of the schedule property still standing in the name of her y father. Defendants No. 1 to 7 herein wants to somehow knock- off the schedule property belong to them in furtherance of our said objective, defendants No.1 to 7 collusion with the revenue officials given mis-representation with ulterior motive for illegal enrichment, created the alleged revenue documents in respect of the suit schedule property under M.R.No H7/2014-15 without any authority in law, when the schedule property standing in the name of her father,defendants No.1 to 7 given misrepresentation and transferred the Katha in their names jointly as per the above mentioned mutation. They are the absolute owners and in possession of the suit schedule property being the estate left behind by her father viz., Patel Anjinappa. The Katha is still standing in the name of her father, they have inherited and enjoyment of the schedule property and they have been in

continuous possession and enjoyment of the schedule property. After the death of her father, they have not approached the revenue authorities and have not changed the Khatha in their names, however they are in continuous possession and enjoyment of the suit schedule property, they are illiterates and they have no worldly knowledge about revenue entries. In the year 2014, behind their back, defendants No.1 to 7 have colluded with the each other along with the revenue officials have changed the Khatha in the name of their names wrongly without authority in law. On the basis of the alleged revenue documents, defendant No. 1 to 8 have denied their title over the suit schedule property. The defendants taking advantage of the Revenue appeal in R.A No.(BE) No. 382/2014-15 disposed on 22.07.2016 they have denied their title in the first week of August 2016 and subsequently on 20-01-2017 collusion with the all the defendants and their so supporters. Therefore, they have filed the above suit for declaration and consequential injunction against the defendants in respect of the suit scheduled property. When such being the case, at this stage and during the pendency of this case defendant No. 8 to 11 with the ulterior motive, trying to change the nature of the property. Such acts are highly illegal and not authorized in law. If they succeeded in their illegal act it will lead multiplicity of proceedings and diminish the value of the suit schedule property. Hence, the accompanying application to preserve

the suit schedule property in its existing position till the disposal of the suit. They have made out a prima-facie case. Therefore, if the interim order as prayed for is not granted, they will be put to a great deal of hardship, irreparable loss and injury and it would result in multiplicity of proceedings. On the other hand, no prejudice or hardship would be caused to the other side, if the relief prayed for is granted to them. The balance of convenience is also lies in her favour. Hence, the plaintiffs have sought for allowed the application.

3. In against the application defendant No.8 to 11 have filed common objection to IA No.12. Wherein the objection defendant No.8 to 11 have denied the case of the plaintiffs in toto as false. Further as per defendant No.8 to 11, the application filed by the plaintiffs is illegal, arbitrary, contrary to law and liable to be dismissed. The plaintiff has to prove the cardinal principles like prima facie case, balance of convenience, irreparable loss and injury and also hardship by producing sufficient material as well as his legal right for consideration of temporary injunction pending suit. The Hon'ble High Court as well as Apex Court in several decisions with regard to grant of temporary injunctions has specifically declared that the question of maintainability of the suit and right title and possession at the time of grant of injunction should also be considered at the time of grant of temporary injunctions. The plaintiffs are claiming to be legal heirs of one Patel Anjinappa and that he had two wives and that from his

first wife there were no issues and that some of the plaintiffs are the children born to the said Patel Anjinappa from his wife. Hindu law does not recognize second wife and hence any claim on behalf of second wife is without authority of law and dis entitles any right under law. The plaintiffs have no right, title or . interest over the suit schedule property and neither are they in possession and occupation of the suit schedule property, they are only just making a claim that defendant being put to distress pay amounts to them and application is made to extort from the defendants. The suit schedule property belonged to one Chikkanna, the brother of the grandfather of this defendant and during the life time of Chikkanna he sold the schedule property to Siddamma, the first wife of Munishamappa. Munishamappa is the father of defendant no 8. After purchase of the schedule property from Chikkanna, all revenue records stood in the name of Siddamma and after her lifetime Munishamappa's name is recorded in the revenue records having succeeded to her property viz., the schedule property. After the death of Munishamappa, the suit schedule property has devolved upon defendant no 8. Subsequent to the devolution of the suit schedule property to the name of defendant no. 8 she found the name of defendants 1 to 8 and on challenge to the same before the Assistant commissioner, as mentioned supra, the appeal filed by this defendant was allowed and this defendant name was directed to be mutated in the revenue records.

Mutation entry is carried out vide MR and RTC is now made out in the name of this defendant. Subsequent to filing of the suit, as the appeal preferred by this defendant no. 8 was allowed and the revision petition filed by the plaintiff before DC is dismissed and the present suit is filed and after more than a year, the plaintiffs filed revision petition before the DC in RP 589/2017-2018 and had obtained a stay. On coming to know about the same, and on application for vacating and bringing to his notice the fraudulent documents and rejection of their revision petition, the DC vacated the said interim order of stay on 24-10-2017. Smt Anjinamma defendant no 8 has executed a sale in favour of defendants 9,10 & 11 viz., absolute registered Sale Deed dated 05/08/2017 and defendants 9 to 11 are in the absolute un interrupted possession and occupation of suit schedule property and not exercising all rights of ownership. From the documents and flow of title, it is clear that the plaintiffs have no right over the suit schedule property, are relying on fabricated and concocted documents and are misleading the court and are claiming only through the fabricated revenue records which do not give any resemblance of rights to plaintiffs. The plaintiffs are seeking that they have prima facie case without any valid documents being produced and are just orally claim that their property against defendants hoping to make unlawful gains had even approached the defendants making unjust claims and when no amounts was paid present suit is filed and the

said application is filed only with an intention to harass and extract from the defendants. No documents of title or any documents reflecting the name of the plaintiffs are produced along with the plaint which clearly demonstrates that plaintiffs are not in possession and occupation and as they have no right, title or interest over the suit schedule property and plaint is filed and and prayer claimed is misconceived. For the reliefs claimed the essential ingredient being title documents right. The above referred to circumstances are absent and lacking and no material in support of the said claim is produced thus rendering the application an abuse of the process of law and application is liable to be rejected. It is amplified by considering the averments that there is no prima facie case in favor of the plaintiff and plaintiff also does not have balance of convenience and no hardship or injury would be caused to the Plaintiffs in the event if the application is rejected and suit is of the year 2017 and pending since 7 years and interim order of any kind is sought till date. If the court were to grant any order adversely as against the defendants it would be clear infringement of the right of defendant no 9 to 11 as they are absolute owners and possession of the property and also the sale deed is in the name of these defendants are not cancelled and no order of injunction can be passed against the true owners and who are in possession of the property. Considering the circumstances prevailing and the law there is no infringement of any personal

right or the legal right of the plaintiff by the defendants and no acts as alleged and averred by the plaintiff has occurred infringing the right of the plaintiffs for invoking the extraordinary jurisdiction of this Court. Thus the suit and application is misconceived. There is no prima facie case, there is no balance of convenience in favor of the plaintiffs, no hardship, inconvenience is either caused or will be caused if the application is rejected, defendants shall suffer irreparable loss, inconvenience and hardship if the injunction is granted in favor of the plaintiffs. A such viewed from any angle the claim of the plaintiffs invoking the provision of Order 39 Rule 1 and 2 r/w Section 151 of CPC does not arise. On these grounds defendant No.8 to 11 sought dismissal of the application with exemplary cost.

4. Heard arguments on side of the plaintiffs. Heard arguments on side of the defendants. Perused the record. The learned counsel for the plaintiffs relied on the decision reported in 2007(5) KAR.L.J.349 (Smt. Eramma Vs. The Dy. Commissioner, Gulbarga District, and others)

5. The following point that arise for my consideration:

Does the plaintiffs entitled the relief as sought in the application ?

6. My answer to the above point is in the negative for the following:

REASONS

7. With the back ground of sound principles of law viz., prima facie of the case, balance of convenience lies in whose favour and who sustained the loss, the present applications that I have taken for my consideration. Further due to exigency in against the invade act of defendant No.8 to 11 the plaintiff has come to filed the present application in during the time of trial. As per the plaintiffs, that it necessarily the need of restraintment defendant No.8 to 11 and their servants and agents, representatives, henchmen or any person acting on their behalf through or under them either individually or collectively from changing the nature of suit schedule property in any manner including any act which will diminish its market value and also by making any sort of temporary or permanent structure in the schedule property pending disposal of the suit. According to the plaintiffs Patel Anjinappa was the propositus of family of the plaintiffs. Patel Anjinappa had two wives one by name Muniyamma and Nagamma. Muniyamma and Patel Anjinappa had no issues. Plaintiff No.3 to 6 and A.C. Ravi Kumar husband of plaintiff No.1 A.C. Siddappa husband of plaintiff No.2 are the children of Patel Anjinappa and Nagamma. A.C. Ravikumar and A.C. Siddappa was no more.

In during the life time of Patel Anjinappa, Patel Anjinappa owned and possessed immovable property land measuring 0.24 guntas including 3 guntas as karab in Sy.No.42 of K. Chennasandra village. The same property now the plaintiffs describe it as suit schedule property. According to the plaintiffs, suit schedule property is the self acquired property of Patel Anjinappa. Being Patel Anjinappa was the absolute owner of the suit schedule property he owned katha of the suit property. Patel Anjinappa was died leaving behind his children as his legal representatives. After death of Patel Anjinappa first wife Muniyamma was become the Kartha of the family and she was managing the family and property owned by the joint family. After death of Muniyamma A.C. Ravi Kumar, A.C. Siddappa and plaintiff No.3 to 6 got succeed the suit schedule property by dying intestate. Defendant No.1 to 7 have no manner of right, title and much less possession of the suit schedule property and just to knock of the suit schedule property and they have been colluded with the revenue officials defendant No.1 to 7 succeed to got changed the all revenue records in their name in M.R. No.H7/2014-15. The same such of the revenue records got obtained by defendant No.1 to 7 by misrepresenting their appearance at before the revenue officials. In challenged the order of M.R No.H7/2014-15 at before Asst. Commissioner by preferring an appeal and the same appeal have dismissed by the learned Asst. Commissioner, the plaintiffs have challenged both of the concurrent order at before Dy. Commissioner in Rev.

Petition No.170/2016-17, the same proceedings still pending for disposal. The plaintiffs have been continued in the possession and enjoyment of the suit schedule property jointly even after death of Patel Anjinappa and his two sons. However defendant No.1 to 8 without any semblance of rights, interest or lien over the suit schedule property they have been created the revenue records in collusion with the revenue authorities just to detrimental to the interest of the plaintiffs. Defendant No.1 to 8 have no manner of right, title, interest or possession in the suit schedule property. Hence, cause of action to the present suit have been aroused to the plaintiffs for seeking the relief of declaration of title and permanent injunction upon the suit schedule property. It further case of the plaintiffs that, during the pendency of this suit defendant No.8 to 11 have no manner of right, title and possession with the suit schedule property and also with the ulterior motive they have been try to changed the nature of property. Such of the all acts of defendant No.8 to 11 are all highly illegal and not authorized in the law. If defendant No.8 to 11 succeed in their illegal act it would lead multiplicity of proceedings and diminish the value of the suit schedule property. Hence, now the plaintiffs are at before the court for the relief as sought in the application.

8. In against the application of plaintiffs, defendant No.8 to 11 have chosen to filed an objections and they opposed to allow the application. According to defendant No.8 to 11 there is no prima facie in the application of the plaintiff. Balance of

convenience, loss and injury would cause to the defendants and not to the plaintiffs, if once injunction would have been grant. Suit of the plaintiffs not maintainable. According to defendant No.8 to 11 suit schedule property belong to one Chikkanna, the brother grandfather of these defendants. In during the life time of Chikkanna, Chikkanna have sold the suit schedule property to one Siddamma. Siddamma was the first wife of Munishamappa. Munishamappa is the father of defendant No.8. After purchase of the suit schedule property by Siddamma all revenue records were stands in the name of Siddamma. After death of Siddamma revenue records of the suit schedule property mutated in her husband name Munishamappa by intestate succession. After death of Munishamappa suit schedule property have been succeeded by defendant No.8. Subsequent to devolution of the suit schedule property in the name of defendant No.8, defendant No.8 has found the name of defendant No.1 to 8 and on challenge to the same at before the Asst. Commissioner, the Asst. Commissioner ordered to mutated all revenue records in the name of these defendants. Subsequent to filing of this suit the appeal preferred by this defendant No.8 was allowed and the revision petition filed by the plaintiff before Dy. Commissioner has been dismissed. Defendant No.8 Anjanamma has executed the sale deed dated 05/08/2017 in the name of defendant No.9 to 11. Thereby defendant No.9 to 11 are in the absolute owner in uninterrupted possession and

enjoyment of the suit schedule property. The plaintiffs have no manner of right in the suit schedule property. The plaintiffs have relied on the fabricated and concocted documents just to mislead the course of justice. The plaintiffs have no valid documents with respect to the suit schedule property at before the court. Hopefully the plaintiffs are at before the court just to make an unlawful gains had even approached the defendants make unjust claims and when no amount was paid the present suit has been filed by the present plaintiffs only just to harass the defendants. No documents of title or any documents reflecting the name of plaintiff have been produced along with the plaint. The same have clearly demonstrated the plaintiffs are not in possession and occupation and has they have no right, title or interest in the suit schedule property. Hence according to defendant No.8 to 11 there is no prima faice in the application of the plaintiffs and they sought for rejection of the same.

9. On assimilating the controversy in between the parties both the plaintiffs and defendant No.1 to 8 have claimed the suit schedule property under different head. According to the plaintiffs, suit schedule property was the self acquired property of Patel Anjinappa. Patel Anjinappa have been died. Hence the plaintiffs claimed the right, title and possession in the suit schedule property by virtue of intestate succession. Further as per the plaintiffs, defendant No.1 to 8 have colluded with the revenue officials, defendant No.1 to 8 have got changed the

katha in their name vide M.R. No.H7/2014-15, even the same M.R once have been challenged by the plaintiffs at before the Asst. Commissioner by preferring the appeal and the same appeal have been dismissed by the Asst. Commissioner, in against the same order the plaintiffs now they are at before the Court of Dy. Commissioner in Rev. Petition No.170/2016-17. Also case of the plaintiffs, on the basis of such of the manipulated records defendant No.8 to 11 have they are going to changed the suit schedule property from its original nature to other nature and further they also try to put up the temporary or permanent structure in the suit schedule property only with an intention to diminish the market value of the suit schedule property. On the contrary, defendant No.8 claimed suit schedule property as her own. According to defendant No.8 suit schedule property was belonging to one Chikkanna, Chikkanna sold the suit schedule property to one Siddamma. After death of Siddamma her husband Munishamappa succeeded the suit schedule property on virtue of intestate succession. Defendant No.8 claim Munishamappa is her father. In virtue of dying intestate of Munishamappa, defendant No.8 succeeded the suit schedule property. Being defendant No.8 was the absolute owner in possession of the suit schedule property she executed sale deed dated 05/08/2017 in the name of defendant No.9 to 11 for valuable consideration. Further the defendants have also contended no single piece of title documents is with the plaintiffs to show the plaintiffs are the

absolute owners of the suit schedule property. Admittedly suit of the plaintiffs one for declaration and permanent injunction. If suppose the plaintiffs once would have argued, the plaintiffs have been in possession of the suit schedule property as on the date of filing of suit, how it could be possible either to changed the nature of the suit schedule property or to erect the temporary or permanent structure in the suit schedule property by defendant No.8 to 11. Further on meticulous examined the averments of the affidavit annexed to the application, the same such of the affidavit have not been evidence what kind of steps that defendant No.8 to 11 have taken to change the nature of the suit schedule property or, what intention of the defendants to diminish the value of the suit schedule property by putting temporary or permanent structure in the suit schedule property. If suppose the plaintiffs have such of the information that the defendants have going to changed the nature of the suit schedule property in which particular manner, there is no bar to the plaintiffs to plead the same at in his affidavit. Further if suppose the plaintiffs have such of the information that the defendants have going to raise any of temporary or permanent structure in the suit schedule property just to diminished the value of property, the plaintiffs atleast it could have stated the same in his affidavit. With respect to such of the two alleged invade act of the defendants both pleadings and evidence of the plaintiffs have take deep ear. In this regard, no single piece of documents that the plaintiffs have try to brought at before

the court to substantiated the prayer sought in the application. Thereby the say and prayer of the plaintiffs now at in the record remain as just an self surviving statement without of any legal proof. Hence the plaintiffs fail to probablize the prima facie of their application both by pleadings and evidence. For the above all reason finds in the record, that I am of the view the plaintiffs fail to established neither prima facie in the application nor balance of convenience lies in their favour. Further wherein in the same application there is no iota of evidence what loss could be caused to the plaintiffs if an application have not been allowed. On that score also the application of the plaintiffs have not in the position to established the case in against the defendants. Hence, I answer the above point in the negative and proceed to pass the following:

:ORDER:

**Interim application No.12
filed by the plaintiffs under order
XXXIX Rule 1 and 2 r/w Section
151 of C.P.C. hereby rejected.
No order as to costs.**

(Dictated to the Stenographer directly on computer, typed by her, corrected and then pronounced by me in open court this the 19th day of February, 2025)

**(ONKARAPPA.R)
V ADDL.CITY CIVIL & SESSIONS JUDGE
BENGALURU.**

Operative portion of the order
pronounced in open court vide separate :-

Interim application No.12 filed by the plaintiffs under order XXXIX Rule 1 and 2 r/w Section 151 of C.P.C. hereby rejected.

No order as to costs.

To hear on I.A. No.9 to 11 by 03/03/2025.

[ONKARAPPA.R]
V ADDL.CITY CIVIL & SESSIONS JUDGE
BENGALURU