

KABC010110822023



**IN THE COURT OF I ADDITIONAL CITY CIVIL &
SESSIONS JUDGE AT BENGALURU (CCH.No.2)**

PRESENT :- Sri. B.P.Devamane, LL.M.
I Addl. City Civil & Sessions Judge,
Bengaluru.

Dated this the 15th day of November 2024.

O.S. No.2816 / 2023

PLAINTIFF:- Sri.C.M.Ramanujan,
S/o. Late Sri.C.M.Shyam Iyengar,
Aged about 90 years,
R/at Bungalow No.2, Mills Quarters,
Malleshwaram, Bengaluru-560 003.

Rep. by his GPA Holders

Sri.Lokesh K,
S/o. Sri.G.Kenchaiah,
Aged about 39 years,
R/at No.26/A, Papaya Garden,
4th Cross, BSK 3rd Stage,
Bengaluru-560 085.

AND:

Sri.N.Venkatesh,
S/o. Late Nagalingappa,
Aged about 58 years,
R/at 3rd Main Road, 2nd Cross,
Katriguppa East, BSK 3rd Stage,
Bengaluru-560 085.

(By Sri.Thejesh P, Adv.)

- VS -

DEFENDANTS:-

1. Sri.B.L.Veerabadhre Gowda,
S/o. Sri.Lakshmana Gowda,
Aged about 80 years.

2. Sri.Suresh,
S/o. Sri.S.Veerabadre Gowda,
Aged about 35 years.

Both r/at No.492-C, 7th Block,
West Jayanagar, Bengaluru-560 082.

(By Sri.B.N.Ananthanarayana, Adv.)

ORDER ON I.A.No.1

The plaintiff has filed this suit for injunction and IA No.1 under Order 39 Rule 1 and 2 r/w Sec.151 of CPC with prayer to restrain the defendants or anybody acting on their behalf from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property i.e., property bearing Site No.5, Carved out of Sy.No.6/1, situated at Kattriguppe Village, Uttarahalli Hobli, Bengaluru South Taluk, Old Ward No.54, New Ward No.163 measuring east to west 90 feet and north to south 45 feet bounded on east - private property, west - road, north - site No.4 and south - Site No.6, pending disposal of this suit.

2. In the affidavit supporting IA No.1, it is stated that, the plaintiff has purchased the suit schedule property under the registered sale deed dated 09.09.1971 from Smt.Kamamma W/o. Late Subbaiah and her children. Vendor of the plaintiff by name Smt.Kamamma and her children acquired the suit schedule property under the registered partition deed dated 14.08.1965. After purchase of the suit schedule property, the plaintiff is in possession

and enjoyment of the same. Recently i.e., on 06.04.2023, the defendants and their accomplices allegedly claiming ownership over the suit schedule property trying to interfere with the plaintiff's possession and enjoyment over the suit schedule property. The plaintiff approached the Police, who advised him to approach the Civil Court, since the dispute is of civil nature. Hence, the plaintiff has filed this suit with I.A.No.1. The plaintiff has made out prima facie case and balance of convenience lies in his favour. Hence, the plaintiff prays to allow the I.A.No.1

3. The defendants have filed their written statement, which is adopted as objections to I.A.No.1. In the written statement, the parawise contents of the plaint are denied. It is further contended that, the defendant No.1 is the owner of the property bearing Municipal No.6, Formed in Sy.No.6/1 of Kathriguppe Village, Uttarahalli Hobli, Bengaluru South Taluk, situated at 4th and 5th A Main Road, Kathriguppe, Bengaluru, in Ward No.54, Srinivas Nagar, Bengaluru, measuring east to west 30 feet and north to south 80 feet bounded on east - property of Puttannachar and Boraiah, west - 3 feet passage and property of Nagaraj, north and south -30 feet road. The property is purchased along with the other properties by the defendant No.1 under the registered sale deed dated 22.09.1971. After purchase of the said property, the defendants are paying the tax regularly to the concerned authorities by changing the katha and other revenue documents in their name. They will produce the relevant documents at the appropriate point of time. The property claimed by the plaintiff is imaginary and unidentifiable. The alleged suit property is not in existence, but based on the created and forged documents, he is trying to interfere with the peaceful possession and

enjoyment of the defendant over their property. The PA holders of the plaintiff along with his goonda elements and political supporters tried to interfere with the possession and enjoyment of the property of the defendant. In this regard, the defendant has filed complaint before the Police, who warned the PA holder of the plaintiff not to interfere with the possession and enjoyment of the property of the defendants. The plaintiff has not made out prima facie case and balance of convenience not lies in favour of the plaintiff, hence, prayed to reject the IA.No.1.

4. Heard the arguments from both the sides. Perused the materials on record.

5. Now the points that arise for my consideration are as follows :-

1. Whether the plaintiff has made out a prima facie case for grant of temporary injunction as prayed in I.A.No.1 ?
2. Whether the plaintiff will be put to great hardship in the event of temporary injunction is not granted and the balance of convenience lies in his favour ?
- 3 . What order ?
6. My answer to the above points are as under:

Point No.1 & 2 :- In the affirmative.

**Point No.3 :- As per the final order,
for the following:**

REASONS

7. **POINT Nos.1 & 2:-** It is the specific case of the plaintiff that, he purchased the Site No.5, Carved out of Sy.No.6/1, situated at Kattriguppe Village, Uttarahalli Hobli, Bengaluru South Taluk i.e.,

suit schedule property under the registered sale deed dated 09.09.1971. It is further case of the plaintiff that, his vendor by name Smt.Kamamma and her children acquired the suit schedule property under the registered partition deed dated 14.08.1965 and she along with her children has executed the sale deed in respect of the suit schedule in favour of the plaintiff for valuable consideration. The plaintiff has produced the certified copy of the partition deed dated 14.08.1965 and the certified copy of the sale deed dated 09.09.1971. The plaintiff has also produced the encumbrance certificate issued on 02.07.2015, wherein, the name of the plaintiff is appearing as owner of the site No.6 measuring 90 x 45 feet.

8. On the contrary, it is contended by the defendant No.1 that, he is the owner of the property bearing Municipal No.6, Formed in Sy.No.6/1 of Kathriguppe Village, Uttarahalli Hobli, Bengaluru South Taluk, situated at 4th and 5th A Main Road, Kathriguppe, Bengaluru, in Ward No.54, Srinivas Nagar, Bengaluru, measuring east to west 30 feet and north to south 80 feet bounded on east - property of Puttannachar and Boraiah, west - 3 feet passage and property of Nagaraj, north and south -30 feet road. The property is purchased along with the other properties by the defendant No.1 under the registered sale deed dated 22.09.1971. After purchase of the said property, the defendants are paying the tax regularly to the concerned authorities by changing the katha and other revenue documents in their name.

9. It is not the case of the plaintiff that, the defendants are trying to encroach or encroached on the suit schedule property. It is also not the case of the defendants that, plaintiff has encroached on his property. Either of the parties have not produced sketch of their

respective properties. Both the parties are claiming the same land as their property. Both the parties have purchased the properties from the common vendor. Hence, full pledged trial is required to decide the ownership and possession of the property. However, looking to the sale deed, khatha and other documents, the plaintiff has made out prima facie case. A similar suit is filed by the defendants against this plaintiff in O.S.No.6067/2023 seeking injunction in respect of the property of the defendant. Without expressing any opinion on the merits of the case, looking to the available materials before the Court, it is fit case to direct both the parties to maintain status-quo, pending disposal of this suit. Accordingly, I answer point Nos.1 and 2 are in the Affirmative.

10. **POINT No.3** :- In view of the aforesaid discussions, I proceed to pass the following :-

ORDER

I.A.No.1 filed by the plaintiff under Order 39 Rule 1 and 2 r/w Sec.151 of CPC, is allowed.

Both the parties are directed to maintain status-quo in respect of the suit schedule property, pending disposal of this suit.

(Dictated to the Stenographer-III, transcribed and typed by her, corrected and then pronounced by me in the open court on this the 15th day of November, 2024)

(B.P.Devamane)
I Addl. City Civil & Sessions Judge,
Bengaluru.