

Aged not known to the plaintiff,
R/at No.15/1, Symbosis Laxmi,
Lakshmi Main Road,
Shanthi Nagar,
Bengaluru – 560027.

(By Sri.G.M.H., 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 temporary injunction restraining the defendants No.1 and 2, their men, agents, representatives or any person acting under or through them not to interfere the peaceful possession and enjoyment of the plaintiff over the suit schedule property, pending disposal of the suit.

2. In support of the application, the plaintiff has sworn to an accompanying affidavit stating that the present suit is filed by the plaintiff for permanent injunction restraining the defendants No.1 and 2 from interfering with the peaceful possession of the suit schedule property. The

plaintiff purchased the suit schedule property by virtue of Registered Sale Deed dated 10.03.2022. The suit schedule property originally belongs to Sri.Janardhan acquired by him by virtue of Registered Sale Deed dated 22.03.2017. Sri.Janardhan died on 18.05.2020, the vendor of plaintiff herein. The plaintiff was in the possession of the property since he constructed the small shed and obtained the electricity and also gas connection. The plaintiff also borrowed the loan on suit schedule property, same is reflected in the Encumbrance Certificate. The defendants No.1 and 2 having no documents claiming ownership over the suit schedule property. The plaintiff has made out prima facie case and balance of convenience lies in favour of the plaintiff. Hence, prays to allow the application.

3. On the other hand, the defendants have filed their written statement stating that the defendant No.1 is the sole absolute owner of suit schedule property purchased by virtue of Registered Sale Deed dated 20.09.1995

executed by Smt.Shaheen Aejaz GPA holder of four owners of suit schedule property. GPA dated 20.09.1995 clearly discloses that the executants No.1, 2, 3 and 4 i.e. Sri.P.K.Subramaniyan, Sri.S.Paandian, Sri.K.V.Paartiban and Sri.P.S.Raghu were the absolute owners of suit schedule property. The 1st executant Sri.P.K.Subramaniyan having acquired the same through a Sale Deed dated 25.08.1980. All the four owners have executed registered General Power of Attorney in favour of Smt.Shaheen Aejaz dated 22.11.1994 pertaining to the residential property bearing site No.5, in Khatha No.16/9A situated at Yellukunte Village. The suit schedule property originally belonging to one Sri.Thimmaiah. The said Sri.Thimmaiah in turn sold the said property through a Registered Sale Deed dated 10.05.1971 in favour of Sri.N.Krishnappa and Sri.G.N.Jayappa. The said Sri.N.Krishnappa and Sri.G.N.Jayappa in turn sold the said property in favour of Sri.P.K.Subramaniyan through Registered Sale Deed dated 25.08.1980 and his name is

mutated in the revenue records of BBMP in Form- B property register extract, disclosing her name as the owner of the suit schedule property. Thereafter, Sri.P.K.Subramaniyan formed a revenue layout in Sy.No.16/9A. Sri.P.K.Subramaniyan, Sri.S.Paandian, Sri.K.V.Paartiban and Sri.P.S.Raghu have purchased 6 sites, which was numbered as No.4, 5, 6, 10, 11 and 12 totally measuring 15603.5 sq.ft. The defendant No.1 had purchased one site out of six sites i.e. site No.55/ suit schedule property under the Registered Sale Deed dated 20.09.1995 executed by Sri.P.K.Subramaniyan, Sri.S.Paandian, Sri.K.V.Paartiban and Sri.P.S.Raghu General Power of Attorney holder by name Smt.Shaheen Aejaz under the General Power of Attorney dated 21.11.1994. The defendant No.1 is in possession and enjoyment over the suit schedule property until the plaintiff illegally occupy the suit schedule property, since from the date of Sale Deed till defendant No.1 has been paying property tax to the concern authorities from time to time.

3(a). One Kamaladevi, Reshma and Madhan Raj are the wife and children of Sri.Janardhan respectively. Sri.P.K.Subramanyian is illegally and fraudulently executed alleged Sale Deed in favour of one Sri.A.Janardhan. The Sale Deed dated 22.03.2017 is sham, created, fraudulent, concocted and illegal document for the purpose of deprive the valuable right over the suit schedule property. The aforesaid facts clearly indicate that the plaintiff is not in actual possession and enjoyment of the suit schedule property and has not approached the Court with clean hands. Hence, prays to reject the application.

4. 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?

5. 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

6. **POINT NO.1 PRIMA-FACIE CASE:-** The present suit is filed by the plaintiff for permanent injunction restraining the defendants No.1 and 2 from interfering with the peaceful possession of the suit schedule property. The light bills and other documents and the registered sale deed dated 10.03.2022 recitals shows that the plaintiff is in the possession of suit schedule property. Hence,

prima facie case is made out by the plaintiff. Hence, I answer point No.1 in the **Affirmative**.

7. **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 which can defeat for delay. 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**.

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

ORDER

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

Defendants No.1 and 2 are restrained by way of temporary injunction from interfering with the

peaceful possession and enjoyment of the plaintiff over the suit schedule property in any manner, **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 7th day of July, 2025).

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