

**IN THE COURT OF III ADDL.CIVIL JUDGE & JMFC,
BELAGAVI**

Present: Smt. Sujatha A.B.

B.A.L, LL.B.

III Addl. Civil Judge & JMFC,
Belagavi.

DATED: THIS 08th DAY OF JUNE, 2018

ORIGINAL SUIT NO.1101/2017

1. Sou Eliza W/o Augustin D' mello

... **Plaintiff**

-Versus-

1. Smt Kashavva Basavaraj Halannavar

... **Defendant**

Parties in I.A.No.2

BETWEEN:

1. Sou Eliza W/o Augustin D' mello

... **Applicant/plaintiff**

AND:

1. Smt Kashavva Basavaraj Halannavar

... **opponent/defendant**

ORDER ON I.A.No.2

I.A.No.2 is filed under Sec. 151 of C.P.C., by the plaintiffs seeking an order for police protection with respect to the suit property.

2. In support of the application, the plaintiff has sworn to an affidavit stating that, the defendant with the help of Gunda people is trying to disturb the possession of the plaintiff in the suit property. It is further stated that the defendant has no title or possession in the suit property. Hence on other hand she has produced all the title deed before this court to prove her prima facie case to get Injunction. It is also stated this court has passed Injunction and the said injunction may be enforced through the Superintendent of Police, Belagavi. It is stated that, the CPI and SPI of Belagavi are acting against his interest and they are supporting the defendant by political influence. Therefore police protection may be provided to her and her GPA. It is stated that, her father John Moti Rodriguez and the

defendants may be prevented from entering in the suit property. Hence, prayed to allow the application.

3. Learned counsel for defendant has filed objections to the above application denying the averments of affidavit as false and baseless. It is stated that, the plaintiff has suppressed the material facts. It is stated this defendant is the absolute owner and in possession, use and enjoyment of the plot no.86 and 87 bearing VPCNo.3528/A and the name of this defendant is already appearing as owner of the said property. It is stated that she has taken stay order over the property of plot No.82 and VPC.No.4187 which is alleged property of the plaintiff and now the said application pressing on the basis of the TI order on IA.NO.1 even though the suit of the plaintiff and IA.NO.1 itself is not maintainable under the provisions of law. It is stated that the plaintiff trying to enter to the property of the defendant. It is stated that the Panchayat Development issued a certificate stating that this defendant is the owner of the property VPC.No.3528 which is under the ownership and possession of this defendant only. It is further stated that the defendant is the

absolute owner and in possession, use and enjoyment of the property VPC.No.3528/2 Plot No.86 and 87 and the name of the defendant is appearing in the Gram Panchayath as owner and in possession of the said property. It is stated that the plaintiff has not come to the court with clean hands. Among these grounds, they pray for rejection of above application.

4. Heard on both side and perused material available on record.

5. The plaintiff counsel relied upon the following decision which is reported in (1996) AIR KAT 256. The learned counsel for the plaintiff filed memo along with the office copy of the complaint.

6. The points that would arise for my consideration are:-

1. *Whether the plaintiff has made out valid grounds to allow the application?*
2. *What order?*

7. My findings on the above points are as follows:

Point No.1 : In the Affirmative

*Point No.2 : As per final orders
For the following:*

REASONS

8. **Point No.1:** It is the contention of the plaintiff that the defendant is interfering with the peaceful possession and enjoyment of the suit property. For that reason, she has filed the present suit and this court has granted temporary injunction in favour of the plaintiff. Though, the temporary injunction order exists the defendant often and often trying to entering in the suit property and causing interference. The plaintiff in order to support her contention has filed memo along with office copy of the complaint. On perusal of the complaint copy, it was filed on 31.01.2018, on the other hand, the order on IA.NO.1 has been passed on 17.01.2018. At this stage it goes show that after granting temporary injunction the plaintiff has lodged complaint. It supports the contention of the plaintiff and the reasons assigned by the plaintiff are sufficient to allow the present application. It is

pertinent to note that the plaintiff is seeking the police protection against her father also, but her father is not party in this suit. Hence, this court cannot consider the plaintiff relief against her father. Though, the plaintiff can file application under Order 39 R.2(A) of CPC. There is no bar to file application for seeking police protection under Section 151 of CPC. Further, the counsel for the plaintiff has rightly pointed out the above decision, which aptly applicable to the present situation. Hence, it is necessary to allow the application to enforce the Order on IA.No.1. Hence this court is of the opinion that the present application is deserves to be allowed. **Hence, I answer Point No.1 in the Affirmative.**

9. Point No.2:- In view of the reasons assigned above, I proceed to pass the following;

ORDER

I.A.No.2 filed by the plaintiff under Sec. 151 of C.P.C., is hereby allowed.

Further, in the result, jurisdictional station house officer of Belagavi is hereby directed to provide necessary police protection to the plaintiff.

No order as to costs.

(Dictated to the Stenographer directly on the computer, revised & corrected by me and then pronounced in the open Court on this the 08th day of June, 2018)

Sd/-

**(SMT SUJATHA A.B.)
III Addl. Civil Judge & JMFC,
Belagavi**

