

IN THE Court OF THE CIVIL JUDGE & J.M.F.C. SANDUR

DATED THIS 14TH DAY OF DECEMBER 2020

ORIGINAL SUIT NO. 38/2019

(I.A.NO.II)

PLAINTIFF: SYED MOHAMMAED YUNUS

// VS //

DEFENDANT: HAJI N. JEELAN AND OTHERS.,

:: ORDERS ON I.A.NO.II ::

PETITIONER: SYED MOHAMMAED YUNUS

// VS //

OPPONENTS: HAJI N. JEELAN AND OTHERS.,

1. This is application filed by the plaintiff Under Order 39 Rules 1 and 2 R/W Section 151 of CPC and he prayed for temporary injunction against defendants in respect of suit schedule property along with his application he filed affidavit and contended that, he is the owner of the suit schedule property the defendants are trying to interfere with the suit schedule property. To prevent them without having any alternative way he filed the present suit and application against the defendants, and urging other grounds he prayed for allow this application.

2. After service of summons the defendants appeared through there counsel and filed there objection and contended that, the suit schedule property is originally belongs to Government in

the said property Government Hospital was constructed and other Government offices related to hospital are working in the said property. The defendants without having any right filed the present suit and also application and there is no relevance with the suit schedule property by the plaintiff and the plaintiff not at all shown any documents, he tried to Knock the suit schedule property, and filed by present application and urging other grounds he prayed for dismissal of application.

3. Heard both side arguments perused the documents available on record the points that arise for my consideration and determination are as under:

- 1) Whether the plaintiff made out the prima- facie case?
- 2) In whose favor the balance of convenience is lies?
- 3) Who will suffer the irreparable loss if the temporary injunction is granted or not granted?
- 4) What order?

4. Heard both side My answer to the above points are as under:

Point No.01	...	In the Negative.
Point No.02	...	In Favour of Defendants.
Point No.03	...	In Favour of Defendants.
Point No. 04	...	As per final order for the following.

-:: R E A S O N S ::-

5. POINT NO. 1: On perusal of plaint and documents filed by the plaintiff those are shows that, the suit schedule property is belongs to 'ವೈದ್ಯರ ಬಂಗಲೆ' the plaintiff in his application not at all stated that, how the suit schedule property is came to him and what is the relevance between him and 'ವೈದ್ಯರ ಬಂಗಲೆ ' this fact is not at all clarified by the plaintiff. Without clarifying this, the plaintiff filed this application and prayed injunction against defendants.

6. To Counter this version of plaintiff the defendants filed documents like Village Map, in the said Village Map Sy.No. 269 is situated adjacent to the main road of Sandur where in the Government Hospital situate. The plaintiff is not at all explain where the exactly suit schedule property is situated. In further the plaintiff not at all clarified how the ವೈದ್ಯರ ಬಂಗಲೆ is came to him and in support of that he not at all filed any documents to show the said thing all these facts are clearly shows that, the plaintiff not at all made out the prima-facie case. Hence I answer the point No.01 in the Negative.

7. POINT NO. 02 & 03: When the plaintiff fails to made out the prima-facie case then there is no necessity of discussing about balance of convenience and also irreparable loss. Hence I answer the point No.02 & 03 in Favour of defendants.

8. POINT NO. 04: For the aforesaid said reasons I proceed to pass the following:

~: O R D E R :~

The application filed by the plaintiff
Under Order 39 Rules 1 and 2 R/W Section
151 of CPC is hereby Dismissed.

No order as to costs.

(Dictated to the Stenographer, typed by him, corrected by me and then pronounced in the open Court on this 14th day of December 2020.)

(MANJUNATHA.R)
Civil Judge & JMFC.Sandur.