

IN THE COURT OF PRL. CIVIL JUDGE AND JMFC, ANEKAL.

07th day of December 2024

PRESENT: Sri. Shankarareddy.D.V., L.L.B., PGD in IR & PM.,
Prl. Civil Judge and JMFC, Anekal.

OS.No. 515/2024

Plaintiff : Sri. B.R Belagavi & another

V/s.

Defendant : Y.B Shivashankara Reddy & another

IA No.I

Plaintiff/ Applicant : Sri. B.R Belagavi & another

V/s.

Defendant/Opponent : Y.B Shivashankara Reddy & another

IA No.II

Plaintiff/ Applicant : Sri. B.R Belagavi & another

V/s.

Defendant/Opponent : Y.B Shivashankara Reddy & another

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COMMON ORDERS ON IA No.I & II

IA No.I filed by the plaintiffs U/o.XXXIX Rule 1 & 2 R/w
Sec.151 of CPC seeking an interim order of temporary injunction
restraining the defendants and their men from interfering with
their peaceful possession and enjoyment of suit schedule
property pending disposal of the suit.

IA No.II filed by the plaintiffs U/o.XXXIX Rule 1 & 2 R/w Sec.151 of CPC seeking an interim order of temporary injunction restraining the defendants and their men from disconnecting the electricity connection to the suit schedule property pending disposal of the suit.

2. In the affidavits annexed to the present applications, plaintiff No.2 stated that plaintiff No.1 is her father. It is further stated that suit schedule property belongs to defendant No.1. Defendant No.2 is the son of defendant No.1.

It is further case of the plaintiffs that, plaintiffs inducted into the suit schedule property by virtue of lease agreement dated 24-09-2017 on monthly rent basis. Subsequently, after expiry of lease period as per the said agreement, the defendant No.1 executed fresh lease agreement dated 22-05-2019 for monthly rent of Rs.40,000/-.

It is further stated that plaintiffs spent Rs.2,85,33,000/- for putting up construction in the suit schedule property and for buying equipments to run Hospital in the name and style as Life Diagnostic Center. It is further stated that plaintiffs paying rent

regularly to the defendant No.1. That being the case, on 19-06-2024 the defendant No.1 & 2 disturbed the plaintiffs possession and enjoyment of suit schedule property and threatened to the plaintiffs to vacate the schedule property forthwith. Therefore, plaintiffs constrained to file the present suit for permanent injunction restraining the defendants from dispossessing the plaintiffs from suit property except due process of law along with present applications for the aforesaid reliefs.

3. Present suit resisted by the defendants by filing written statement along with memo praying to adopt the written statement as objection to IA No.1. In the written statement, defendants admitted that suit schedule property belongs to defendant No.1 and they further admits that plaintiffs inducted into suit property as a tenants and remaining averments of plaint are denied and contended that plaintiffs not paid the rent regularly to the defendant No.1 and as on the date of suit the plaintiffs were due arrears of rent Rs.12,80,000/- to the defendant No.1 and further contends that after expiry of lease period as per the lease agreement dated 22-05-2019, the defendant No.1 not intended to extend the lease period to the

plaintiffs. Therefore, defendant No.1 instructed to the plaintiffs to vacate the suit schedule premises. But, the plaintiffs not vacated the suit premises. It is further case of the defendants that after expiry of lease agreement dated 22-05-2019, the plaintiffs possession in the suit property called as unauthorized possession and the plaintiffs filed the present suit only to harass the defendants.

It is further case of the defendants that the plaintiffs entered into the suit property to run hospital, but the plaintiffs without permission of the defendant No.1 making alteration in the suit property, therefore the defendant No.1 filed a suit at OS No.769/2024 before this court and obtained ex-parte interim order against the plaintiffs herein from changing the nature of the suit schedule property. Accordingly, among these and other grounds the defendants prayed to dismiss the present suit as well as IA No.I and II with cost.

4. Having heard both side and on perusal of the material available on record, the following points arise for consideration;

1. Whether the plaintiffs have made out prima-facie case in their favour?
2. Whether the balance of convenience lies in-favour of plaintiffs?
3. Whether irreparable injury would be caused to the plaintiffs, if present applications are disallowed?
4. What order?

5. On appreciation of material available on record, the above points are answered as under;

POINT No.1 to 3 :- In the Affirmative,

POINT No.4 :- As per final order,

for the following ;

REASONS

6. Point No.1:- In support of their case, plaintiffs produced copies of lease agreements, certificate of registration, photographs, invoices etc.,.

On the other hand, in support of their case the defendants produced copy of sale deed, copy of RTCs, copies of rent agreements, copy of rent settlement letter, copy of FIR, copy of bail order, copy of complaint, copy of quit notice, photographs etc.,.

During the course of argument, learned counsel for the plaintiffs submitted that admittedly the plaintiffs are tenants under defendant No.1 in respect of suit schedule property and he further argued that the defendants cannot evict the plaintiffs from suit schedule property except due process of law and he further argued that if plaintiffs are due arrears of rent in respect of suit property, then same has to be recovered in due process of law by the defendant No.1 and he further argued that the defendants cannot take the law into their own hands by evicting the plaintiffs from suit property except due process of law and he relied upon five decisions in support of his arguments and same are depicted hereunder ;

1. AIR 1980 SC 226,
2. AIR 2008 Karnataka 14,
3. ILR 1995 KAR 183,
4. ILR 2002 KAR 174.
5. AIR 1989 Punjab and Hariyana 9.

The said arguments of plaintiffs counsel refuted by the learned defendants counsel and submitted that the plaintiffs not paid the rent regularly and plaintiffs possession after issuing quit notice

dated 19-10-2024 in the suit property is unauthorized possession. Therefore, the plaintiffs are not entitled temporary injunction as sought for.

Admittedly, the plaintiffs inducted into suit property as a tenants under defendant No.1. In the circumstance, if the plaintiffs not paid the rent regularly to the defendant No.1 and if the possession of plaintiff schedule is required to the defendant No.1, then the defendant No.1 shall have to recover the arrears of rent and possession of suit property in due process of law. Thus, as rightly argued by the learned plaintiffs counsel, the plaintiffs cannot be evicted from suit property except due process of law. The said view of this court supported the view of Hon'ble Apex Court and Hon'ble High Court of Karnataka in the aforesaid decisions.

Further, whether the plaintiffs paid the rent regularly to the defendant No.1 or not and whether plaintiffs made any attempt to alter the suit schedule property or not and whether plaintiffs spent Rs.2,85,33,000/- for putting up construction in the suit schedule property and buying equipments to run hospital in the suit property or not can be decided after trial and same cannot be

determined at this stage by holding mini trial. Therefore, this court of the view that at this stage plaintiffs have made out prima-facie case for trial. In the result, point No.1 answered in the Affirmative.

7. Point No.2 & 3:- To avoid repetition of facts, these two points are taken up together for consideration;

Admittedly, the plaintiffs are in possession of suit property as a tenants under defendant No.1. As pointed above, if the defendant No.1 not interested to continue the lease of the plaintiffs in the suit property, then defendant No.1 shall have to evict the plaintiffs through due process of law and the plaintiffs cannot be dispossessed from suit property except due process of law by the defendants by taking the law into their hands.

In the facts and circumstances of the case, if interim order of temporary injunction as prayed by the plaintiffs in IA No.I and II not granted, then the defendants may evict the plaintiffs from suit property other than due process of law and also take steps to disconnect the electricity connection to the suit property and if such act is taken place, then same would cause great injustice to

the plaintiffs as they cannot continue their business in the suit property and such kind of act of the defendants not permissible under the law as the principle in our country is that no one can take the law into their own hands. With this discussion, this court of the view that balance of convenience lies infavour of plaintiffs. Therefore, this court of the view that interim order as prayed by the plaintiffs to be granted. In the result, point No.2 & 3 are answered in the Affirmative.

8. Point No.4: For the reasons assigned in point No.1 to 3, this court proceeds to pass the following:-

ORDER

IA No-1 & II filed by the plaintiffs under Order XXXIX Rule 1 and 2 R/w Sec.151 of CPC are hereby allowed.

By granting temporary injunction, the defendants and their men are hereby restrained from dispossessing the plaintiffs from suit schedule property pending disposal of the suit.

Further, by granting temporary injunction the defendants and their men are hereby restrained from disconnecting the electricity

connection to the suit property pending disposal
of the suit.

*(Directly dictated to steno, corrected, signed and pronounced by me in Open Court on this
the 07th day of December 2024.)*

(Sri. Shankarareddy D.V)
Prl. Civil Judge & JMFC., Anekal.

