

**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE AND
JMFC.,AT DEVANAHALLI**

Present: Sri. PRATHAP KUMAR. N.,B.A. L.L.B.,
Prl. Civil Judge & JMFC.,
Devanahalli.

Dated this the 4th day of March, 2024

O.S.No.438/2023

Plaintiff : Smt. Sugunamma

V/s

Defendant: Sri. Arjun Kumar. P.V

PARTIES IN I.A. NO.I & II

**Applicant/
Plaintiff :** Smt. Sugunamma

-V/s-

**Opponent/
defendants :** Sri. Arjun Kumar. P.V

PARTIES IN I.A. NO.III

**Applicant/
Defendants :** Sri. Arjun Kumar. P.V

-V/s-

**Opponent/
plaintiff :** Smt. Sugunamma

ORDER ON I.A. No. I to III

This order arising out of **I.A No.I** filed by plaintiffs U/o 39 Rule 1 and 2 R/w Sec.151 of CPC seeking restraining the defendant, his agents, servants or anybody claiming under him from not interfering with plaintiff peaceful possession and enjoyment of the suit schedule property till disposal of suit.

This order arising out of **I.A No.II** filed by plaintiffs U/o 39 Rule 1 and 2 R/w Sec.151 of CPC seeking restraining the defendant, his agents, servants or anybody claiming under him from not interfering with plaintiff peaceful possession and enjoyment of the suit schedule property till disposal of suit.

The order arising out of **I.A No.III** filed by defendants U/o 39 Rule 4 R/w 151 of CPC seeking vacate interim order passed passed by this Hon'ble court.

2. In support of application, plaintiff has duly sworn

affidavit and annexed the same along with application and stated that, she is in possession and enjoyment of the suit schedule property and which was acquiesced through registered sale deed dated 16-04-2021. By virtue of the sale deed all the revenue records mutated her name. The defendant is stranger to her family and he has not way concern to the schedule property. When such being the case, on 03-08-2023 defendant came near suit schedule property along with his supporters and henchmen and tried to interfere with plaintiff peaceful possession and enjoyment of the suit schedule property and also demolish th compound wall erected by her around the suit schedule property. Hence allow the application.

3. On the other hand the defendants have filed memo stating that, content of written statement filed by defendants may be taken into consider as objection to I.A. No.I and II and they stated that, in para-No-3 of the Plaint, the schedule land property which mentioned in the

schedule land is not properly assessed and not mentioned true and correct boundaries, as on the date of filing of the suit as on 07-09-2023. The alleged boundaries mentioned in the plaint schedule totally false and imaginary and further the plaintiff willfully and deliberately, by suppressing the facts and filed false claim suit that too for the relief of Permanent Injunction against this defendant. Aafter purchase of the schedule land as per the sale deed dated 11-08-2022, as mentioned supra, by this defendant and his wife and thereafter the necessary mutation registrar changed in the name of this defendant in respect of the schedule land which purchased by him, from the his vendors The colour photos of the both plaintiff and defendant land. The said colour photos it evidence that, the "yellow store" clearly shows that the plaintiff herself encroached the defendant's land and further, the plaintiff husband Ex-Grama-Panchyath member and only knock the land property of this defendant which purchased by him as on 11-08-2022, now with an ulterior motive, the Plaintiff's

husband Munegowda, through his wife-plaintiff, has filed the false claim suit against this defendant. Hence prays to dismiss the application.

4. In support of I.A No.III, the defendants have duly sworn affidavit and annexed the same along with application and stated that, the Plaintiff, the schedule land property which mentioned in the schedule land is not properly assessed and not mentioned true and correct boundaries, as on the date of filing of the suit as on 07-09-2023. The alleged boundaries mentioned in the plaintiff schedule totally false and imaginary and further the plaintiff willfully and deliberately, by suppressing the facts and filed false claim suit that too for the relief of Permanent Injunction against this defendant. After purchase of the schedule land as per the sale deed dated 11-08-2022, as mentioned supra, by this defendant and his wife and thereafter the necessary mutation registrar changed in the name of this defendant in respect of the

schedule land which purchased by him, from the his vendors The colour photos of the both plaintiff and defendant land. The said colour photos it evidence that, the "yellow store" clearly shows that the plaintiff herself encroached the defendant's land and further, the plaintiff husband Ex-Grama-Panchyath member and only knock the land property of this defendant which purchased by him as on 11-08-2022, now with an ulterior motive, the Plaintiff's husband Munegowda, through his wife-plaintiff, has filed the false claim suit against this defendant. Hence pays to allow the I.A No.III

5. On the other hand plaintiff has resist application filed by defendant and stated that,she is in possession and enjoyment of the suit schedule property and which was acquiesced through registered sale deed dated 19-04-2021. By virtue of the sale deed all the revenue records mutated her name. The defendant is stranger to her family and he has not way concern to the schedule property.

When such being the case, on 03-08-2023 defendant came near suit schedule property along with his supporters and henchmen and tried to interfere with plaintiff peaceful possession and enjoyment of the suit schedule property and also demolish th compound wall erected by her around the suit schedule property.. Hence prays to dismissal of I.A No.III

6. Heard on arguments both side and perused the materials on record.

7. Upon perusal of the records and documents, the following points are arisen for my consideration.

:POINTS:

1)Whether the prima facie case lies in favor of plaintiff?

2)Whether balance of convenience lies in favor of plaintiff?

3)Whether any irreparable injury or hardship which cannot be

compensated in terms of money would be caused to the plaintiffs in the event of refusal of temporary injunction sought?

4) **Whether the defendant shows that, plaintiff has not shown prima facie case in his favour ?**

5) **What order?**

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

Point No. 1 : In the Partly Affirmative.

Point No. 2 : In the Partly Affirmative.

Point No. 3 : In the Partly Affirmative.

Point No. 4 : In the Partly Affirmative.

Point No. 5 : As per final order for the following:

REASONS

09. POINT No.1 to 3: Since these points are inter linked with each other, they are taken up together for consideration in order to avoid repetition as here under.

10. The plaintiff has filed suit against defendant seeking relief of permanent injunction I have already narrated the case of plaintiff and defence of the defendant in the above. Therefore once again it is not necessary to re produced case of the plaintiff and defence of the defendant.

11. At this stage, without going to the merits of the case and holding mini trial, this court has considered the aspect prima-facie case. At this stage, this court makes it clear that, this court is looking towards prima-facie case and not prima-facie title. It is settled principal law that, at the time dispose the temporary injunction application, the court cannot go into prima-facie case title and only to consider whether the plaintiff has made out a prima facie case for granting interim relief.

12. The primarily purpose for granting interim relief is the preservation of the things in dispute till legal rights

and conflicting claims of the parties before the court are adjudicated. In other words, the object of making an order regarding interim relief is to evolve a workable formula to the extent called for by the demands of situation, keeping in mind the pros and cons of the matter and striking a delicate balance between two conflicting interests i.e., injury and prejudice, likely to be caused to the plaintiff if the relief is refused and injury and prejudice likely to be caused to the defendants, if the relief is granted. The underlying object of granting temporary injunction is to maintain and preserve status-quo at the time of institution of the proceedings and to prevent any change in it until the final determination of the suit. It is in the nature of protective relief granted in favour of a party to prevent future possible injuries.

13. The power to grant a temporary injunction is at the discretion of the court. This discretion, however, should be exercised reasonably, judiciously and on sound legal

principles. Injunction should not be lightly granted as it adversely affects the other side. The 1st rule is that, the applicant must make out a prima-facie in support of the right claimed by him. The court must be satisfied that, there is a bonafide dispute raised by the applicant that, there is a strong case for trial which needs investigation and a decision on merits and on the facts before the court there is a probability of the applicant being entitled to the relief claimed by the him. The existence of a prima-facie right and infraction of such right is a condition precedent for grant of temporary injunction.

14. On going through the pleadings and documents it appears that, only dispute between parties in respect of the stone fixed by the surveyor. The defendant has not dispute plaintiff ownership and possession over suit schedule property. On the other hand the plaintiff also not disputed defendants ownership possession over the suit schedule property towards western side of the suit

schedule property. Under such circumstance, it is duty of both parties to maintain status-quo without interference over their possession as restrictively till disposal of the suit. **Hence, my answer to point No. 1 to 3 in the Partly affirmative.**

15.POINT No.4: in view of answered point No-1 to 3 in the partly affirmative, my answer to **point No.4 in the partly Affirmative.**

16. POINT No.5: In view of my answer on point No.1 to 4 I passed the following:

ORDER

IA No.I and II filed by plaintiff
Under Order 39 Rule 1 and 2 R/w
Sec.151 of C.P.C, is hereby allowed in
part. In the result of I.A No.1, I.A No.III
is disposed as modified.

Both parties are directed to maintain status-quo as it is and not to interfere with each other properties till disposal of the suit.

Both parties are requested to cooperate speedy trial without seeking adjournment.

No order as to be cost.

(Dictated to Stenographer directly on computer by him, then same is corrected and pronounced by me in the open court on this the 4th day of March, 2024.)

(Sri. Prathap Kumar. N)
Prl. Civil Judge and JMFC.,
Devanahalli.