

**IN THE COURT OF THE ADDL CIVIL JUDGE & JMFC,
AT DODDABALLAPURA**

: PRESENT :

**Smt. Preethy K.,
LL.M.,
ADDL. CIVIL JUDGE & JMFC.,
At DODDABALLAPURA**

DATED THIS THE 13th AUGUST 2025

O.S.No.504/2023

PLAINTIFFS:-

- 1. Sri. Muniyappa**
S/o Late Muniyellappa,
Aged about 80 years,
- 2. Sri. Rajappa**
S/o Late Muniyellappa,
Aged about 67 years,
- 3. Sri. Periyanna**
S/o Late Muniyellappa,
Aged about 57 years,

All are R/at Banavathi Village,
Sasalu Hobli,
Doddaballapura Taluk,

Also at 282, thirumagondanahalli,
Attibele Hobli,
Anekal Taluk.

-V/s-

DEFENDANTS :-

- 1. Sri. G.N. Ramanjinappa**
S/o Late Narayana Swamy,
Aged about 50 years,
- 2. Sri. Ravi Kumar**
S/o Late Narayana Swamy,
Aged about 45 years,

Both are R/at Gandrajapura Village,
Melekote Post,
Tubugere Hobli,
Doddaballapura Taluk,
Bengaluru Rural District.

PARTIES TO I.A. NO.I

Applicant : **Sri. Muniyapa & Others**
Plaintiff

-V/s-

Opponent : **Sri. G.N. Ramanjinappa & another**
Defendant

ORDER ON IA No.I

I A No.I is filed by the plaintiff under order 39 Rule 1 and 2 of CPC to restrain the defendants from interfering with plaintiffs possession and enjoyment of the suit property.

2. In the affidavit annexed to the application it is stated that, the plaintiff is the owner and in possession and enjoyment of the suit property. The khata of the property stands in the name of father of the plaintiff. The father of the plaintiff acquired the property under a registered sale deed and since then he is in possession and enjoyment of the same. The defendants are stranger and have no manner of right, title or interest over the suit property. The defendants tried to block and disturb the enjoyment of the suit property. The defendants are trying to damage the nature of the property by digging

trenches over the property and disturbing the agricultural operation Hence, the application.

3. After service of summons the defendants appeared before this court through their counsel. The defendants filed the written statement and memo to adopt the written statement as objection to the application. In the written statement the entire a suit of the plaintiff is denied as false. It is denied that the father of the plaintiff is owner and in possession of the land bearing Sy.No.428/1 to an extent of 3 acre 1 guntas. It is contended that the plaintiffs are claiming title on the basis of revenue documents and the boundaries shown in the plaint are incorrect. The plaintiffs have not produced any documents to prove the boundaries of the properties. The plaintiffs filed the suit with suppressing material facts and with an intention to grab the land of the defendants.

4. It is further contended that, originally the land bearing Sy.No.428 of Arudi Village is totally measuring 4 acre 39 guntas and out of 4 acre 39 guntas the government granted 1 acre 39 guntas in favour of one Konerappa S/o Late.Venkatappa under Inam Abolition Order of Deputy Commissioner in Junger No.194/363/59. Thereafter, the Government phoded the entire land in Sy.No.428 and mutated the name of Konerappa to an extent of 2 acre 25 guntas and renumbered the land as 428/1. The remaining land in Sy.No.428 is phoded as Sy.No.428/2 and 428/3. Though the land in Sy.No.428/1 is only to an extent of 2 acre 25 guntas, in the RTC of the said land, at Colum No.3, it is wrongly entered as 3 acre 01 guntas. The said Konerappa

taking advantage of the RTC and mistake in the revenue records alienated 3 acre 01 guntas instead of 2 acre 25 guntas in favour of one Basavaraju under a registered sale deed dated 03.09.1980. The said Basavaraju in turn illegally alienated 3 acre 01 guntas in favor of Muniyallappa under a registered sale deed dated 11.07.1988. As per the sale deed, though Muniyallappa purchased 3 acre 01 guntas he is in possession only in respect of 2 acre 25 guntas. The plaintiffs are very well aware of the same.

5. It is further contended that, since the original owner i.e., Konerappa had title and possession only in respect of 2 acre 25 guntas in Sy.No.428/1, he had no any right, title or interest to sell 3 acre 01 guntas to Basavaraju. Since, Konerappa had title only in respect of 2 acre 25 guntas the sale deed in excess of 16 guntas is void. The plaintiffs had no title or interest over 3 acre 01 guntas as alleged by them. The defendants are the owners and are in possession of the land bearing Sy.No.430 measuring 3.00 acres of Arudi Village. The purchased the same for a valuable consideration under a registered sale deed dated 08.10.2024. As per the said sale deed the revenue documents were mutated in their name vide MR No.H.20/2024-25. The defendants had applied for Haddubastu of the land and the government officials issued notice to the neighbor land owners. Since, the plaintiffs title deeds and possession was not tallying the plaintiffs objected to measure the property and with an intention to avoid the Haddubastu the plaintiffs have filed this suit and got an interim order. The plaintiffs, taking advantage of

the interim order, have successfully stopped the measurement work of the defendant's land. The plaintiffs are having title only in respect of 2 acre 25 guntas in Sy.No.428/1. Hence, they are avoiding the measurement of the property of these defendants. The plaintiffs intention is to harass these defendants and grab the portion of the property of these defendants. Since these defendants are denying the title of the plaintiff in respect of 3 acre 1 guntas in Sy.No.428/1, the plaintiffs have to seek the relief of declaration and the suit for bare injunction is not maintainable. Hence prays to dismiss the suit and present application.

6. Heard and perused the entire materials. The counsel for the plaintiff submitted written arguments.

7. The following points arise for consideration:

- 1. Whether the plaintiffs have made out a prima facie case?*
- 2. Whether the balance of convenience lies in favour of the plaintiffs?*
- 3. Whether the plaintiffs are put to irreparable loss and injury if the application is not allowed?*
- 4. What Order?*

8. The above points are answered as under:

- 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

9. **Point No.1:** The suit is for Permanent injunction. In this application the plaintiffs are seeking to restrain the defendants from committing acts of waste by removing the fence and tree over the suit property and thereby interfering in the plaintiffs possession and enjoyment of the suit property. It is the case of the plaintiffs that the suit property was a self-acquired property of father of the plaintiffs namely Muniyellappa. The said Muniyellappa had purchased the property from one Basavaraju under a registered sale deed dated:11-07-1988. The said Basavaraju had acquired the property under a registered sale deed dated:03-09-1980 from his vendor Konerappa. The khata of the property stood in the name of Muniyellappa. After the death of father of the plaintiffs the plaintiffs are in possession and enjoyment of the property. The plaintiffs had applied for change of revenue entry to their name and Tahasildar did not act as per the request. Due to illiteracy of the plaintiffs and differences between them the revenue entries have not been transferred in the name of plaintiffs. The defendants without any manner of right title or interest are interfering in the possession of the plaintiffs and are trying to dispossess and remove the Eastern boundary fence and Neem trees. The plaintiffs resisted acts of the defendants and the defendants have not bothered about the advise of elders of the village. The plaintiffs approached the police and the police insisted to approach the court. Hence, the plaintiffs are constrained to file this suit and

present interlocutory application. To substantiate their case the plaintiffs have produced the original sale deed dated:11-07-1988 and 03-09-1980, copy of death certificate, copy of the M.R extract, 7 RTC extracts, original Patta books, 6 original tax paid receipts, police Acknowledgment and an endorsement.

10. Further, the defendant on other hand contends that, the plaintiffs father was not having any right in Sy.No.428/1 to an extent of 3 acre 1 gunta. As per the defendants originally the property was granted infavour of Konerappa to an extent 1 acre 39 gunta in Sy.No.428 and at the time of phodi of the land the Government mutated name of Konerappa to an extent of 2 acre 25 guntas based on his possession to the said extent. It is contended that though land in Sy.No.428/1 is only for an extent of 2 acre 25 guntas in the RTC of the land it is wrongly entered as 3 acre 1 gunta. The said Konerappa taking advantage of the entry in RTC alienated the land to an extent of 3 acre 1 guntas instead of 2 acre 25 guntas infavour of one Basavaraju and the said Basavaraju inturn alienated the property infavour of Muniyellappa. Though Muniyellappa purchased 3 acre 1 gunta as per the sale deed he was in possession only to an extent of 2 acre 25 guntas. Since, Konerappa had no title in respect of 3 acre 1 gunta he had no right to alienate the same. The defendants purchased land bearing Sy.No.430 measuring 3 acres under a registered sale deed date:08-10-2022 and got mutated their name in the property. It is contended that the plaintiffs are objecting the measurement of the property with intention to avoid the Haddbastu. To substantiate their contention the

defendants have produced copy of Hissa survey book of land bearing Sy.No.428, copy of tippani, copy of Akar Bank of land bearing Sy.No.428/1, copy of RTC extract of land bearing Sy.No.428/1, copy of registered deed, copy of records of right of Sy.No.430, copy of Tippani and Akar bank and RTC extract and copy of village map.

11. Further, on perusal of the entire materials, it is not in dispute that the father of the plaintiffs had purchased the property in Sy.No.428. As per the sale deed dated:11-07-1988 Muniyellappa purchased to an extent of 3 acre 1 gunta in Sy.No.428. Even the sale deed of his vendor dated: 03-09-1980 is 3 acre 1 gunta. The defendants contend that, original grantee of the land i.e; Konerappa was allotted only 2 acre 25 gunta and it is wrongly entered as 3 acre 1 gunta in RTC and as such he had no right to alienate the said extent. Whether the land purchased by the father of the plaintiff in Sy.No.428 is to an extent of 3 acre 1 gunta or not are to be adjudicated in this suit. The contention of the defendants that the plaintiffs are not in possession of the land to an extent of 3 acre 1 gunta clearly indicates that the defendants are objecting the rights of the plaintiffs in the suit property. All these factor makes out that there is a prima-facie case in this suit. Hence point No.1 is answered in Affirmative.

12. Point No.2: The plaintiffs herein are claiming to be an absolute owner of the suit schedule property and are alleging that the defendants are interfering in their possession. The defendants contend that the plaintiffs lack title to an extent of 3

acre 1 guntas in Sy.No.428 as the original grantee of the land was allotted only to an extent of 2 acre 25 guntas. The sale deed of the father of the plaintiff and the sale deed of his vendor are to an extent 3 acre 1 guntas. The RTC and all other documents produced by the plaintiffs with respect to Sy.No.428 is to an extent of 3 acre 1 guntas. The defendants are claiming that the land is only to an extent of 2 acre 25 guntas and the revenue entries to an 3 acre 1 gunta is wrong. The documents stood in the name of father of the plaintiffs since 1988 and are reflecting as 3 acre 1 gunta. The plaintiffs are seeking protection in respect of the said land. The possession of plaintiffs in Sy.No.428 is undisputed and the dispute is only to its extent. The defendants have purchased the property in Sy. No.430 on 08.10.2024, whereas the plaintiffs are in possession since 1988. The balance of convenience appears to be infavour of the plaintiffs. Hence point No.2 is answered in Affirmative.

13. **Point No.3** : The plaintiffs herein approached this court alleging that the defendants are interfering in their possession of the property and are trying to remove the fence and trees towards Eastern side of the suit property. The contention raised by the defendants regarding area of land in the possession of the plaintiffs clearly indicates that the defendants are objecting the possession of the plaintiffs over the suit property. Until the extent of possession is decided any disturbance by the defendants would cause more hardship and injuries to the plaintiffs. Hence point No.3 is answered in **Affirmative**.

14. **Point No.4:** In view of the above said discussions this court proceed to pass the following:-

:: ORDER ::

IA No.I filed by the plaintiffs under Order XXXIX Rule 1 and 2 of CPC is hereby allowed on cost.

The defendants, their agents or any persons claiming through them are hereby restrained from interfering with the plaintiffs possession and enjoyment of suit property till disposal of the suit.

(Dictated to the Stenographer directly on computer and after corrections, signed and pronounced by me in open Court on this 13th August, 2025)

Sd/-
(PREETHY.K)
Addl.C.J & JMFC.,
Doddaballapura