

**IN THE COURT OF THE PRL. CIVIL JUDGE AND
J.M.F.C AT CHINTAMANI**

:: PRESENT ::

**Smt. Shrishylaja H.V, M.A., LL.M
Prl. Civil Judge & JMFC, Chintamani.**

Dated this 10th day of November 2022

O.S.No.33/2022

Plaintiff/s :

Sri. Suryanarayana
S/o. Late Varadappa,
Aged about 60 years,
Resident of Gownicharuwupalli village,
Murugamalla Hobli,
Chintamani Taluk.

(By Sri. S.N.S., Advocate)

// Versus //

Defendant/s :

1. Sri. Ramachandrappa
S/o. Late ramappa,
Aged about 65 years,
2. Sri. Nagarajappa,
S/o. Late Lakshmanna ,
Aged about 48 years

Both are resident of
Gownicharuwupalli village,

Murugamalla Holbi
Chintamani Taluk.

**(Defendant No.1 - by Sri. S.E.G.,
Advocate;**

Defendant No.2 - Exparte)

PARTIES TO THE I.A.NO.I

APPLICANT/ : Sri. Suryanarayana
Plaintiff

// Versus //

OPPONENTS/ : Sri. Ramachandrappa and
Defendants another

ORDER ON I.A No.I UNDER ORDER XXXIX RULE 1

AND 2 OF C.P.C.

The plaintiff has filed this I.A.No.I under Order XXXIX Rule 1 & 2 of C.P.C. praying for an ad-interim order of temporary injunction restraining the defendants and their agents, labourers, family members or anybody on their behalf from interfering the suit schedule property in any manner, till the disposal of this suit.

2. The plaintiff has sworn to an accompanying affidavit stating that he is the lawful owner, in possession and enjoyment of the suit schedule property hving granted by Tahashildhar, Chintamani in the year 1979-80. The revenue authorities recognized the lawful possession and enjoyment of the suit schedule property by entering the name of plaintiff in all the concerned revenue records and the plaintiff regularly raising the crops in the suit schedule property. The defendants have no manner of right, title, interest or possession over the suit schedule property at any point of time, they formed into unlawful assembly and made attempts to trespass into the suit schedule property and also caused unlawful obstructions to the plaintiff's agricultural operations in the suit schedule property and caused pin-pricks to the lawful possession and enjoyment of the suit schedule property. The plaintiff has made out prima-facie case, the balance of convenience lies in his favour. If the

application is not allowed the plaintiff will be put to irreparable loss and injury. Hence this application.

3. *On the other hand, the defendant No.1 has filed his written statement and filed memo to adopt the written statement as objections to the I.A.No.1. In the written statement the defendant denied the entire plaint averments and contended that the 1st defendant has not related to the suit schedule property and also the plaintiff is not related to the suit schedule property. The suit schedule property belongs to karab, the villagers are rearing cattles in the suit schedule property. The 1st defendant being the owner of Sy.No.27 belongs to Gownicherupalli village and said karab land has been utilized by this defendant. Hence, prayed to dismiss the application.*

4. *Heard the arguments of both the sides.*

5. On considering the I.A. and its accompanying affidavits, the points that would arise for my consideration are as under:

POINTS

1. Whether the plaintiff/applicant has made out a prima-facie case for the grant of temporary injunction?
 2. Whether the balance of convenience/inconvenience lies in favor of the plaintiff/applicant?
 3. Whether irreparable loss and injury would be caused to the plaintiff /applicant if the temporary injunction is refused?
 4. What order?
6. My answer to the above points are as under:
- Point No.1 : In the Negative
- Point No.2 : In the Negative
- Point No.3 : In the Negative
- Point No.4 : As per final order for the following:

REASONS

7. **Point No.1 to 3:-** These points are interconnected with each other to avoid the repetition I have taken up these points together for consideration.

8. I have carefully gone through the entire pleadings as well as documents relied by both the parties. In order to consider the application under Order XXXIX Rule 1 & 2 of CPC, the Court should satisfy three ingredients namely, prima-facie case, balance of convenience and irreparable injury to the plaintiff, if injunction is not granted. The existence of a prima-facie goes in the matter of granting injunction is really the harbinger or the all clear sign to go ahead in investigating other aspects of the question governing the grant or refusal of injunction. If there is no prima-facie case at all or the case put forward is so weak and tainted having very little prospect of being accepted by the Court, further questions of balance of convenience and irreparable loss

need not be considered since the plaintiff would fall at the very first stile itself. But if there was a prima-facie case then other consideration governing the grant of injunction would come into play and will also have to be evaluated before granting or refusing the injunction. In other words the existence of a prima-facie case or even a very strong prima-facie case does not permit leap-frogging by the plaintiff directly to an injunction without crossing the other hurdles in between. Even granting that the plaintiff has an invincible prima-facie case, he will not be entitled to the grant of an injunction, unmindful of other consequences. If the consequences of granting an injunction are detrimental in nature then an injunction will not be granted even though the plaintiff's might have an unbeatable prima-facie case. Keeping these principles I would like to discuss the facts of the present case on hand.

9. *The plaintiff has knocked the doors of justice through this application for a simple relief of Temporary*

Injunction restraining defendants from interfering in the suit schedule property. In order to succeed in the application, the plaintiff is bound to prove the prima-facie case and also show the balance of convenience lies in his favour and also he has to show that he will be put into great hardship and injury if this application is rejected. With this prelude let me examine the case of the plaintiff in the light of documentary evident.

10. *It is the contention of the plaintiff that he is the lawful owner, in peaceful possession and enjoyment of the suit schedule property having granted by the competent revenue authority bearing grant No.LND/174/1979-80 dated 19/08/1979 and Chintamani Tahasildar issued grant certificate to the plaintiff. The defendants without having any manner of right, title, interest or possession over the suit schedule property, they are trying to interfere the suit schedule property. Hence, the plaintiff prays to*

grant of an ad-interim Temporary Injunction against the defendants.

11. The defendants appeared through their counsel and filed their written statement by contending that the suit schedule property is a karab and the villagers are rearing cattles in the suit schedule property and said karab land is utilized by this defendant. The 1st defendant and plaintiff are not related to the suit schedule property. That there is no prima-facie case or balance of convenience in favour of plaintiff/applicant.

12. The plaintiff has stated that suit property granted by him by the competent revenue authority bearing grant No.LND/174/1979-80 dated 19/08/1979 and he revenue entries were also mutated to his name by the revenue authorities. In order to prove his contention, he has produced grant certificate, memorandum dated 26/07/1979, application given by the plaintiff to

Tahashildar, Chintamani Taluk dated 29/02/1979, memorandum issued by Revenue Secretary dated 26/07/1979, Office endorsement dated 13/10/1979, RTC extract for the year 1971-72 to 1976-77 pertaining to suit schedule property, FIR in Crime No.95/2022 of Kencharlahalli Police Station RTC extract for the year 2021-22.

13. *The defendant No.1 contending that the suit schedule property is the karab and the villagers are rearing cattles in the suit property. The plaintiff at any time not rights and possession in the suit property and he has not produced any document to prove his defence.*

14. *The genuinenety of the documents produced by the plaintiff will be considered at the later stage, if the court given findings on the documents it will touch to merits of the case. At this stage court only looked into whether plaintiff got prima-facie case or not on the basis of*

*documents. The documents produced by the plaintiff it clearly establish that the plaintiff has not made out any prima-facie case and does not discloses the possession over the suit schedule property as on the date of the suit. Under such circumstances if the temporary injunction is granted defendants will be put great hardship. Moreover the rights and title of the parties are to be decided after adjudication of the full pledge trial. The plaintiff has not made out prima facie to show his possession over the suit schedule property. The relief of injunction is equitable relief. The plaintiff has to establish the prima-facie case but no document are produced by the plaintiff to show prima facie case and balance of convenience lies in favour of plaintiff. Hence plaintiff is not entitle relief of temporary injunction. Therefore, I answered **Point No.1 to 3 are in the Negative.***

15. Point No.4: *In view of the above discussed reasons, I proceed to pass the following :-*

ORDER

*I.A.No.1 filed by the plaintiff
under Order 39 Rules 1 and 2 of C.P.C.,
is hereby dismissed.*

*Cost of this application will
follow the result of this case.*

*(Dictated to the Stenographer directly on to the computer,
computerized by her, corrected, signed and then pronounced by me
in the open Court on this the 10th day of November 2022)*

*Sd/-
(Shrishylaja H.V)
Prl. Civil Judge & JMFC,
Chintamani.*