

Heard Sri. DJR advocate for plaintiff on I.A. No.1 to 3.

Present suit filed for the declaration to declare the plaintiff as absolute owner in possession and enjoyment of the suit schedule property with consequential relief of permanent injunction pertaining to the suit schedule property.

Suit schedule property being agricultural land measuring 4 acres 4 guntas out of 37 acres 27 guntas in Sy.No.25/1 of Somaguaddu village.

IA No.1 filed under sec.80(2) of CPC to dispense the mandatory notice against defendant no.5 the public servant in his official capacity. By considering the urgency of the matter, IA No.1 allowed. Plaintiff permitted to file the suit, by dispensing the notice.

IA No.2 filed U/Sec.94 R/w Sec.151 of CPC will be considered after service of notice, as MR 35/2008 and 2009 is cancelled by the Hon'ble DC and there are several other MRs are there to Sy.No.25 of the suit schedule survey number, to the defendant no.5.

IA No.3 filed U/o 39 Rule 1 and 2 of CPC for grant of Temporary Injunction restraining the defendant no.1 to 3 from interfering with the plaintiff peaceful possession and enjoyment of suit schedule property.

In the affidavit accompanying the application C.H. Thippeswamy the plaintiff sworn that, the suit schedule Sy.No.25 is measuring total extent of 37 acres 27 guntas including the kharabu 16 guntas. He obtained 2 acres 14 guntas in the family partition to registered partition deed dated 14.10.1992. He purchased 1 acre 30 guntas of the land from his brother through registered sale deed dated 26.04.2002. The defendant no.1 who is the legal heir of one of the co-parsoner Kenchappa @ Hotte Kenchappa preferred petition before the Tahasildar for measurement and also to show the boundaries to her properties. The said petition was rejected. She preferred appeal against said order before DDLR, Chitradurga who also dismissed the same. Against said order she preferred RA 9/2013-14 before the Hon'ble DC, Chitradurga. Hon'ble DC, Chitradurga cancelled MR No.35/2008-09 pertaining to the suit

schedule Re.Sy.No.25. On the basis of said order now the defendant no.1 with support of other defendant attempting to interfere with the plaintiff peaceful possession and enjoyment of the suit schedule property. Hence suit and application.

The plaintiff produced original partition deed dated 14.10.1992, original sale deed dated 26.04.2002, xerox copy of orders dated 04.10.2012 passed in Appeal No.66/2011-12 on the file of the Technical Assistant Deputy Director of Land Records at Chitradurga, Certified copy of order dated 06.11.2019 passed in RA(A)No.9/2013-14 on the file of Deputy Commissioner at Chitradurga, Certified copy of mutation register extract no.3/1992-93 pertaining to suit lands, certified copy of MR extract no.2/2002-03 pertaining to suit lands, certified copy of the RTC of Sy.No.25/1 of Somaguddu village for the years 2020-2021, Certified copy of the RTC of Sy.No.25 of Somaguddu village for the years 1995-96 to 1999-2000, Certified copy of the RTC of Sy.No.25/p2 of Somaguddu village for the years 2002-2003, Certified copy of the RTC of Sy.No.25/p7 of Somaguddu village for

the years 2004-2005, tow receipts patta books. pertaining to the suit schedule property.

On perusal of the documents and pleadings it is held that, plaintiffs made out a prima-facie a case. If injunction is not granted, certainly it will leads to multiplicity of litigation.

If the notice is issued there is chance of interference the possession and enjoyment of the suit schedule property. Hence notice dispensed.

It is necessary to pass suitable order to stop the defendant no.1 to 4 from interfering with the peaceful possession and enjoyment of the suit schedule property. Hence in the interest of justice I pass following,

ORDER

Exparte Temporary Injunction granted.

The defendant no.1 to 4 are hereby restrained from interfering with the peaceful possession and enjoyment of the suit schedule property, till filing of W/s and objection.

Plaintiff directed to comply with the provisions of order 39 Rule 3 of CPC.

Issue Summons and notice of I.A. No.1 to 3 and present order to the defendants through e-mail or whatsApp and RPAD to the defendants if PF paid and postage furnished and e-mail address and whatsApp number and sufficient copies supplied by the plaintiff.

Call on 02.11.2020.

Senior Civil Judge and JMFC,
Challakere