

**IN THE COURT OF THE SENIOR CIVIL JUDGE  
AND JMFC AT CHALLAKERE**

Present:- **Sri. Devendra Pandith,**  
B.A., M.L.,(M.A.)  
**Senior Civil Judge and J.M.F.C.**  
**Challakere**

**Dated this the 21th day of April 2021**

**O.S.No.109/2020**

|                    |  |                   |
|--------------------|--|-------------------|
| <b>Plaintiff</b>   |  | Eranna @ Veeranna |
|                    |  | Versus            |
|                    |  |                   |
| <b>Defendant/s</b> |  | Eramma and others |

|                                  |  |                   |
|----------------------------------|--|-------------------|
| <b>Applicant<br/>/plaintiff</b>  |  | Eranna @ Veeranna |
|                                  |  | Versus            |
|                                  |  |                   |
| <b>Opponents/<br/>defendants</b> |  | Eramma and others |

**: ORDER ON IA. No.2 :**

Under Order 39 Rule 1 & 2 of CPC, the plaintiff prayed for grant of temporary injunction restraining the defendants from receiving or with drawing the part of the award amount of Rs.40,90,790/- from the office of special land acquisition officer national highway authority of India Hiriuru.

2. The defendants resisted the application filing objection.
3. Heard the arguments.
4. Point that arises for my consideration are;

POINTS

1. Whether the plaintiff proves the prima-facie there is a case ?
2. Whether the plaintiff further proves balance of convenience in his favour?
3. Whether plaintiff further proves if injunction not granted, he will be put great hardship and irreparable loss?
4. What order?

5. My answer to point no.1 to 3 Negatively, and point no.4- as per final order for the following;

#### REASONS

##### **Point no.1 to 3.**

As all these points are interconnected with each other in order to avoid the repetition of facts all these points are taken together for consideration.

The suit schedule property item no.1 being a landed property bearing Sy.No.84/1p2 measuring 2 acre 24 guntas, situated at Sanikere village, bounded by East;- land of Puttappa s/o Katappa, West;- Road, North;- land in name of deceased Sandeppa, South;- Road.

Item no.2 property being the landed property bearing Sy.No. 9/1p5 measuring 6 acres of land situated at Sannikere village, bounded by East;- Bellary-Bangalore Highway road, West;- Karechittappa and halla, North;- land of Chidananda s/o Katappa, South;- land of Gatteppa s/o Katappa.

In the affidavit accompanying the application Eranna @ K.Veeranna, the plaintiff sworn that the suit schedule properties, are the ancestral property, of plaintiff and defendant no.1 to 3. Now the national highway authorities acquired part of the suit schedule property and prepare to release the amount of compensation in the name of defendants, in whos name the Katha is standing. If the

compensation released then the plaintiff will be put to great hardship and irreparable loss. Hence prayed to allow the application.

The plaintiff produced RTC of Re.Sy.No. 84/1 for a period of 1976 to 1979-80 of the RTC of Sy.No.84/1p for the period of 1981-82-84-85, RTCs bearing Sy.No.84/1p for a period of 1985-86-1989-90, RTC of Re.Sy.No.84/1p for period of 1990-91 to 94-95 to 96, 99 to 2000, 2015 to 2016, 2016 to 2017-18-19-20, in certificate copy of the registered sale deed dtd.4-12-1980, mutation extract, RTC of Re.Sy.No.9 for the period of 1981 to 84-85-86 to 90, 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, certificate copy of the original representation dtd.10-1-2020, certificate copy of the award notice, copy of the Caveal petition pertaining to the suit schedule properties.

The defendants filed memo to consider their written statement as objection to the IA.no.2 and in the written statement, they contended that the suit schedule item no.1 property, is the ancestral joint Hindu family properties of the plaintiff and defendants. Item no.2 property is self acquired property, of defendant no.1, who acquired same by dewing a Kirani shop, job, put up a Kirani shop, in front of her maternal home, and by the profits of the said shop, she purchased the same, moreover is the Stridhana property, of defendant no.1. The entire Rs.40,90,790/- is not the awarded only to defendant no.1, it is granted to 15 members who are having their names in the said Sy.Number, the quantum of the compensation, yet to be determined, under such circumstance, the application of the plaintiff is not

maintainable either law or on facts. Hence prayed to be rejected the same.

The defendant's side original sale deed dtd.4-12-1980 and certified copy of the said sale deed, and original will deed dtd.6-1-2018, mutation copy, RTC pertaining to the suit schedule item no.2 property, and medical treatment certificates of defendant no.1.

The relationship is considered defendant no.1 is the mother of plaintiff & defendant no.2 and 3.

By looking into the documents produced it is clear that the portion of the suit schedule item no.2 property is acquired by the national highway authorities, compensation Rs.40,90,790/- is awarded to the whole Sy.No.9, only a portion of the said amount is entitled by the defendant no.1.

The specific contention of the plaintiff that the suit schedule item no.2 property, purchased in the name of the defendant no.1, by his father. It is not self-acquired property of the defendant no.1, it is the joint family property of plaintiff and defendant. Same time the defendant by producing the original registered sale deed dtd. 4-12-1980, stated that, it is the self-acquired property of the defendant no.1, she was running a Petty Kirani shop or Denashi shop, at the Sannikere village, out of the earnings of the said shop she purchased the same, and it is self-acquired property of defendant no.1, the plaintiff side produced the article in Hindu Succession Act, 1956, pertaining to Section 14 of Hindu Succession Act, reads as follows:-

He also relied on one citation reported in 1962, Mysore LJ short notes, GP-4, 1963 part-1, Mysore law general, 215 between B.C.Kempanna, Vs.Rangamma which reads as follows;-Section 14 deposit made in court the compensation deposited under the land acquisition Act, must to be held to be properly possessed by the Veedo under section 14 of the Act, before the Act, come into force, if an order was passed holding that the Veedo being a limited owner, he is entitled to be paid the compensation amount and the

amount was deposited in the bank, in the name of the district judge the Veedo being given the interest on it. All though the physical possession of the deposit was in the court, the juristic possession was in the possession of the limited owner and Veedo is entitled to the benefit U/s 14. The said citation is not helpful to the plaintiff, by plaint pleading of the Section 14 of Hindu Succession Act, is quite clear that any property acquired by the woman in her name by purchase amount to her, self acquired property, she is the absolute owner of the same, thus the plaintiff failed to prima-facie there is a case, pertaining to suit schedule item no.2 property, and balance of convenience in is favour and if injunction is not granted, he will be put to great hardship and irreparable loss and point no. 1 to 3 answered negatively.

**Point.no.4-** In the result, I pass the following;\_

**: O R D E R :**

IA.no.2, filed Under Order 39 Rules 1 & 2 CPC, by the plaintiff is rejected.

Stage restored.

Heard and peruse, no elements of settlement found to compliance Section 89 of CPC. Hence for issues.

Call on 27-5-2021.

(Dictated to the stenographer, transcribed by him, corrected, signed and pronounced by me in the open court, on the 21<sup>st</sup> day of April 2021)

**(Devendra Pandith )**  
Senior Civil Judge, and JMFC,  
Challakere.

Sri G.S advocate filed  
memo with document  
Sri C.K.S advocate filed  
memo with photos  
Heard on IA.2  
For order  
Call on :- 21-4-2021

Pronounced in the open court.

**: O R D E R :**

IA.no.2, filed Under Order 39 Rules 1 & 2 CPC, by the  
plaintiff is rejected.

Stage restored.

Heard and peruse, no elements of settlement found to  
compliance Section 89 of CPC. Hence for issues.

Call on 27-5-2021.

Senior Civil Judge, and JMFC,  
Challakere.