

**IN THE COURT OF THE PRL. CIVIL JUDGE & JUDICIAL
MAGISTRATE FIRST CLASS AT HIRIYUR**

Present: - Smt. Shilpa G. Timmapur,
(B.A. LL.B (HONS) LL.M.)
Prl. Civil Judge & J.M.F.C.,
Hiriyur, Chitradurga.

Dated: - This the 22nd day of April, 2025.

Original Suit No. 262/2023

PLAINTIFF:- Bhagyamma

-Versus-

DEFENDANTS:- Bheemanna and another

PARTIES TO I.A. No.I AND II

Applicant/Plaintiffs : Bhagyamma

V/S

Opponents/Defendants : Bheemanna and another

ORDER ON I.A. No.I

The G P A holder of plaintiff has filed the present I.A No.I, U/O 39 Rule 1 and 2 of C.P.C., praying this court to grant an Ad-interim temporary injunction against the defendants, in the interest of justice and equity.

2) After appearance of defendants, the defendant no. 1 has filed objections to I.A No.I. The defendant no. 1 contend that the application filed by the plaintiff is not maintainable in law or on

facts. Hence, the defendants prayed to reject the I.A. No.I. with cost, in the interest of justice and equity.

3) Heard both the counsels on I.A. No.I. Perused the I.A. No.I objections and records available before this Court.

4) The following points arise for consideration of this Court:-

- 1) Whether the plaintiff has made out a prima-facie case ?
- 2) Whether the plaintiff has balance of convenience in their favour ?
- 3) Whether irreparable loss or injury would be caused to the plaintiff, if temporary injunction is not granted?
- 4) What order?

5) The findings of this Court to the above points are 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 the final order,
for the following:-

REASONS

6) Point No.1 to 3 :- Since these points are interconnected to each other to avoid repetition of facts and reasons they have been taken together for common discussion and consideration.

7) The plaintiff has filed this suit for the relief of permanent injunction against the defendants. Along with the suit plaintiff has

filed I.A. No.I. In the affidavit accompanying the I.A. No.I, plaintiff states that, Government is owner of suit schedule property. Plaintiff is in peaceful possession and enjoyment of suit schedule property. Suit schedule property is portion of agricultural land bearing Sy. No.111 totally measuring 48 acres 39 guntas situated at Beerenhalli village of Hiriyr Taluk. Out of the said land 02 acre 38 guntas of land is granted in favour of plaintiff by the state Government and issued Saguvali chit under ULND Cr No.127/1999-2000 and handed the possession of the said land on 13/04/2017 with boundaries. Mutation to the said land in the name of is accepted under MR No. 177/1999-2000 and on 21/08/2018 katha of the suit schedule property is transferred in the name of the plaintiff.

8) From the date of grant plaintiff is in peaceful possession of suit schedule property as absolute owner without anybody's interference. Suit schedule property is fertile land having higher market value in the village. Suit schedule property is the only property to the family of plaintiff for the livelihood. The defendants without having any manner of right title in the suit schedule property is trying to interfere in the possession of plaintiff over suit schedule property. Defendants are trespassing in the southern side of suit schedule property for construction of cow and sheep yard.

9) The act of the defendants is illegal and they are having power in their favour. Plaintiff being the lawful owner of suit schedule properties is in possession of suit schedule property as

owner. The aid of this Court is necessary to restrain the defendants from doing the illegal act. Because the defendants are not listening to the advise of the elders of the village. As such, the plaintiff has approached this court for an order of injunction against the defendant to protect valuable right of plaintiff. Hence, plaintiff has filed this suit along with this application.

10) On the other hand the defendant no. 1 has filed objections to the application through his counsel and contended that, the plaintiff is not in possession of suit schedule property. Plaintiff is not the resident of Beerenahalli village. The defendant is not having the adjacent land to the suit schedule property. So there is no question of interference. Only to trouble this defendant plaintiff approached this Court with this suit on false facts. The plaintiff has filed this case only to harass the defendant. There is no prima-facie case in favour of the plaintiff. Hence, prays to reject the application.

11) Along with the suit plaintiff has filed copies of RTC extract, Saguvali chit, mutation order and tax paid receipt. Per contra defendant no. 1 has not produced any documents.

12) It is the case of the plaintiff that, she being the owner of the suit schedule property she is in possession of suit schedule property. She states that, defendants are the adjacent owner and is encroaching her portion of suit schedule property from the southern side. The documents produced by the plaintiff does not prima-facie show any alleged encroachment at this stage. But, she

is in possession of suit schedule property as per documents available on record. The defendant No.1 is denying possession of plaintiff over suit schedule property. The said fact is a matter of trial. Till then an order of injunction is necessary. As such, in the absence of contrary materials, plaintiff is entitled for the relief sought for. Hence, point No.1 to 3 are answered in Affirmative.

13) Point No.4:- In view of the above reasons stated and findings to the point No.1 to 3, this Court proceed to pass the following:

ORDER

The I.A No.I, filed U/O.39 Rule 1 and 2 R/W Sec.151 of C.P.C, by the plaintiff, is hereby allowed.

The defendants their agents, servants, men etc., are hereby restrained by way of temporary injunction from interfering, encroaching the southern side of suit schedule property and form cow and sheep yard till further orders.

Any observations made above are only with respect to the disposal of this application.

(Directly dictated to Typist in the open court and is corrected by me and then signed by me and pronounced in open court on this 22nd day of April, 2025)

(Smt. Shilpa G. Thimmapur)
Prl. Civil Judge & J.M.F.C.,
Hiriyur, Chitradurga.