



IN THE COURT OF THE ADDL. CIVIL JUDGE AND JMFC.,
MUDIGERE.

DATED: THIS THE 8th DAY OF SEPTEMBER 2023

Present: Sri. Vishwanath A., B.B.A., L.L.B.
Addl. Civil Judge & JMFC.,
Mudigere.

ORIGINAL SUIT No: 122/2021

BETWEEN :

Smt. B.C.Shyla
W/o H.M.Ganapathigowda,
Aged about 45 years,
Agriculturist,
R/o Hadlugadde,
Idakani Village, Hemmakki
Post, Kalasa Hobli,
Mudigere Taluk.

... Plaintiff

(By Sri. B.Jagadeesh, Adv.,)

AND :

Smt. Suma @ Sumithra
W/o Late Sandeep,
Aged about 36 years,
Agricultrist,
R/o Hadlugadde,
Idakani Village, Hemmakki
Post, Kalasa Hobli,
Mudigere Taluk.

...Defendant



(By Sri.M.M.Raghavendra Adv.,)

PARTIES ON I.A.NO.I

BETWEEN :

Smt.B.C.Shyla

... Applicant

AND :

Smt. Suma @ Sumithra

...Opponent

i	Provision under which the application is filed	Order XXXIX Rule 1 and 2 of CPC
ii	Relief sought for	Temporary injunction
iii	The date on which the application is filed	28.09.2021
iv	Number of the application	I
v	The date on which the objections are filed by different opponents	28.09.2021
vi	The date on which the orders were passed on the said application	08.09.2023

ORDERS ON I.A.NO.I

The Plaintiff has filed the present application under Order XXXIX rule 1 & 2 of Code of Civil Procedure, seeking an interim order of temporary injunction restraining the defendant, her men, agents, servants or anybody claiming



through her from trespassing into, causing acts of waste or in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property till disposal of the present suit.

2. The Plaintiff has contended that, she is the owner in possession of the suit property. The said property was allotted to the share of plaintiff's husband in the family parititon and after his death the katha of suit property is mutated to the name of plaintiff. Since then she is in peaceful possession, accupation and enjoyment of the suit property. The defendant having got no manner of right, title or interest over the suit property she on 10.09.2021 along with her men tried to trespass upon the suit property towards southern side. On these averments the plaintiff has sought for allowing the present application.

3. The defendant has filed a memo adopting the written statement as objection to the present application. In the written statement, the defendant has denied the plaint averments and contended that she has got land to an extent of 2 acres in Sy.No.275 and 1.13 acres in Sy.No.24 of Idakani Village. The plaintiff having took the advantage of



fact that the defendant is a widow who has no background support, she has filed the above suit with the sole intention to grab the property belonging to the defendant. On these averments, the defendant has sought for rejection of the application.

4. In view of the above contentions, the following points arise for consideration.

1. Whether the plaintiff has made out prima-facie case in her favour to grant temporary injunction as prayed for?

2. Whether the balance of convenience lies in favour of plaintiff?

3. Whether the Plaintiff will be put to irreparable injury if the injunction is not granted in their favour?

4. What order?

5. Heard both side and perused the entire materials available on record. Now, the findings of this Court on the above points are as follows:

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

6. POINT No.1 TO 3: Since these points require common consideration of materials on record, they are taken for discussion together so as to avoid repetitions.

The Plaintiff has filed the above suit for the decree of permanent injunction against the defendant with respect to the suit schedule property. Suit property is a dry land to an extent of 1.14 acres in Sy.No. 24/6 of Idakani Village. It is her case that the said property was granted was allotted in a family partition reduced in to writting as per registered partition deed dtd: 18.04.2000 in favour of her husband and after his death the same has been mutated to the name of plaintiff. Plaintiff has produced RTC, Mutation and Tax paid receipt pertaining to the suit property which discloses that the suit property is mutated to the name of plaintiff and as per M.R.No.10/2000-01 land to an extent of 1.14 acres in Sy.No.24P is mutated to the name of H.M.Ganapathi.



7. The plaintiff has further contended that the defendant who is no way related to the suit property has on 10.09.2021, she along with her men has tried to trespass into the suit property towards southern side. On the other hand the defendant has contended that she has not trespassed the suit property and the plaintiffs have filed the false suit in order to grab the property belonging to the defendant. On perusal of the plaint schedule, it could be seen that the defendant has got land towards southern side of suit property and as per the sketch produced by the plaintiff it could be seen that the land in Sy.No.24/7 is situated towards southern side of suit property. Though the plaintiff has contended that the defendant has tried to trespass upon the suit property no materials is placed on record at this stage in support of the said contention. Thus, at this juncture it appears that the plaintiff has not made out prima-facie case and balance of convenience does not lie in their favour. If the injunction is granted in favour of plaintiff at this stage in absence of materials regarding alleged interference, then the defendant would be put to injury. Hence Point No.1 to 3 are answered in **Negative.**



8. POINT No.4: In view of the above findings on point No.1 to 3, this Court proceed to pass the following.

ORDER

I.A. No.I filed by the Plaintiff under Order XXXIX Rules 1 & 2 of Code of Civil Procedure, is rejected.

For Issues by: 19.09.2023

(Dictated to the stenographer, typed by her on computer, corrected and then pronounced by me in the open court on this the 8th day of September, 2023)

Sd/-

(Vishwanath.A)
Addl. Civil Judge & JMFC,
Mudigere.

***BSM**