

ORDER ON PRELIMINARY ISSUE

This is a suit for the relief of permanent injunction.

2. The case of the plaintiffs' is that :-

(a). The land bearing Sy.No.33/2 measuring 2 acres 11 guntas situated at Kolur Village, Banakal Hobli, Mudigere Taluk belonged to the plaintiff's father Bhadregowda and one Manjegowda. The defendant without knowledge of the either the plaintiff or other LR's of late Bhadregowda and Manjegowda got changed the khatha of the suit schedule property in his name colluding with the revenue officials. The defendant is not in a family members of plaintiff and also late Manjegowda.

3. Further affirm that, the defendant with advantage of the civil vacation, attempting to sell the suit schedule property and on 22.05.2025, at about 10.00 AM, the defendant came along with some buyers and inspected the suit schedule property. The plaintiff will file declaration suit by making all LR's of Bhadregowda and Manjegowda in proper Court. Since the matter is very urgent in nature. Hence, this suit for injunction against the defendant not to sell or alienate the suit schedule property till the declaration suit is filed. *Hence, plaintiff filed this suit.*

4. On service of summons, the defendant appeared through his counsel and filed written statement. The defendant

denied the averments of the plaint thereby prayed to dismiss the suit with exemplary cost.

5. On the basis of pleadings, on 16.06.2026 this Court has framed preliminary issue. The said issue reads as follows;

1. Whether this suit is maintainable in the present form?

2. What order or decree?

6. Heard the counsel for the plaintiffs and defendant on preliminary issue and perused material available on record.

7. This Court answer to the above issue is as follows;

Preliminary Issue No.1: In the **Negative**,
Issue No.2 : As per the final order,
for the following;

-: R E A S O N S :-

PRELIMINARY ISSUE NO.1:-

8. It is pertinent to note that, the plaintiff filed the present suit against the defendant for permanent injunction restraining the defendant not to alienate the suit schedule property till declaration suit is filed.

9. The plaintiff in the plaint prayed for the following reliefs.

(I) For permanent injunction restraining the defendant, his men, agents, servants or anybody shall not to sell or alienate the suit schedule property in any manner till the declaratory suit is filed.

(ii) For court costs and such other reliefs as this Court deems fit to grant under the circumstances of the case.

10. Now coming to the fact of the case, the land bearing Sy.No.33/2 measuring 2 acres 11 guntas situated at Kolor Village, Banakal Hobli, Mudigere Taluk belonged to the plaintiff's father Bhadregowda and one Manjegowda. The defendant without knowledge of the either the plaintiff or other LR's of late Bhadregowda and Manjegowda got changed the khatha of the suit schedule property in his name colluding with the revenue officials. The defendant is not in a family members of plaintiff and also late Manjegowda.

11. Further affirm that, the defendant with advantage of the civil vacation, attempting to sell the suit schedule property and on 22.05.2025, at about 10.00 AM, the defendant came along with some buyers and inspected the suit schedule property. The plaintiff will file declaration suit by making all LR's of Bhadregowda and Manjegowda in proper Court. Since the matter is very urgent in nature. Hence, this suit for injunction against the defendant not to sell or alienate the suit schedule property till the declaration suit is filed.

12. It is pertinent to note that, the plaintiffs without seeking the relief of declaration over the aforesaid property filed the present suit for permanent injunction. Infact, in the first instance itself, the plaintiff has to prove that, the aforesaid property originally belonging to one Bhadregowda and Manjegowda. However, the plaintiffs have not filed the present suit for the relief of declaration over the suit schedule property. Without deciding the title of the property, this court cannot come to the conclusion that, the plaintiff is the lawful owner of the aforesaid property.

13. It has been categorically held by the Hon'ble Supreme Court in a decision reporting in Vigro Industries (Eng.) P.Ltd., -Vs.- Venturtech Solutions P.Ltd., 2012(5) CTC 359, that the cause of action in the later suit must be the same as that in the first suit and the rule engrafts on a laudable principle that discourages/prohibits vexing the defendant again and again by filing multiple suits, except in a situation where one of the several reliefs, though available to the plaintiff, may not have claimed for a good reason for the plaintiff for not filing the suit, seeking specific performance of the contract. Merely filing a suit seeking bare permanent injunction, not to alienate the property based on an agreement for sale would not be legally maintainable, as it would show that the plaintiff is interested in gaining time without being ready and willing to perform his part of the contract.

14. In *Anathula Sudhakar v. P. Buchi Reddy (dead) by L.Rs. and others[ii]*, the Hon'ble Apex Court had decided that, when

plaintiff is dispossessed of his property, suit for injunction simpliciter shall succeed only if the title of the plaintiff is not disputed. In case the title of suit property is in dispute, the plaintiff shall have to resort to the remedy of filing a suit for declaration of title. Only then, shall the suit for injunction be decided, once the title has been crystallized.

15. As per the decision of the Hon'ble Apex court, it is clear that, when the title of the suit property is in dispute, the plaintiff has to sought the relief of declaration of title. In the present case on hand, without deciding the title of the property, this court unable to restrain the defendant from alienate the suit schedule property. Moreover, defendant contended that on 21.05.2025, the defendant is executed the sale deed in favour of G.S.Vasanth W/o Manjunatha.K.B, Kolur Village. The khatha of the suit schedule property also transferred to the same.

16. Now coming to the other aspect, the plaintiffs prayed to restrain the defendant from alienate the suit schedule property. All the persons who got interest in the subject matter of the proceedings must be parties, so that dispute can be resolved completely, or to avoid multiplicity of litigation. — That the decision of a judicial proceeding is not binding on a person who is not a party to the said proceedings, since he was unheard and it is against to the principles of natural justice. Therefore, all the persons who may be effected by the consequences of the decision or judgment of a civil court should be heard. The plaintiff is the

architect of his plaint and he has right to choose his own opposing parties. Same is based on the doctrine of DOMINUS LITUS.

17. The word Dominus is a Latin word which means Master or Owner or Sovereign. The word Litus means the suit (litigation). The Dominus Litus means, who is the person to whom a suit belongs, or the person who has real interest in the decision of a case or the person who derives benefit or suffer the consequence of an adverse decision. The plaintiff has to prove his title over the aforesaid land and he must have also to prove that, the defendant without any right and title interfering the suit schedule property. Hence, the plaintiff instead of seeking the declaration of the title along with consequential reliefs, filed a suit for bare injunction, which is against the settled principle of law.

18. The above cited decision is aptly applicable to the case on hand. When the main relief should be for seeking of declaration with respect title of the aforesaid land, seeking only not to alienate the same, certainly is against the laudable principle of preventing vexatious litigation again and again. Hence, the Court is of view that, the present suit is not maintainable without seeking main relief of declaration of title. *Accordingly, this Court answered preliminary issue No.1 in the **Negative.***

ISSUE NO.2:-

19. In the light of the aforesaid findings, on the above said issue, this proceed to pass the following;

ORDER

The plaint is rejected as not maintainable in the present form.

Draw decree accordingly.

Sd/-

(YOGESHA M.R.)
PRL. CIVIL JUDGE & JMFC.,
MUDIGERE.