



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC AT N.R.PURA, ITINERATE AT KOPPA**

Present: Smt.B.S.Rayannawar, B.A., L.L.B,
Senior Civil Judge & JMFC.,
N.R.Pura, Itinerate at Koppa.

Dated this the 24th day of March, 2023

OS No.10/2021

BETWEEN:

Sri.K.A.Satheesha and another

...Plaintiffs.

V/s.

AND:

Smt. Jayamma and others

...Defendants.

IA.NO.V

BETWEEN:

Sri.K.A.Satheesha and another

...Applicants/Plaintiffs.

V/s.

AND:

Smt. Jayamma and others

...Opponents/Defendants.

**ORDER ON IA NO.V**

Learned counsel for the Applicants/Plaintiffs filed I.A No.V under Section 151 of CPC to direct Dy.S.P Koppa or to S.P.Chikkamagaluru to enforce the T.I. Order.

2. Application supported with affidavit of plaintiff, stating that this court has allowed the application filed by plaintiff and directed the PSI Hariharapura police station to render assistance in enforce the T.I order granted in favour of plaintiff, hence in view of the same the plaintiff submitted his requisition to the concerned police station on 22.09.2022 for assistance of police, but instead of assistance on the said date the police have issued only endorsement, hence the plaintiff again submitted his requisition on 24.09.2022 to the concern police, but the police colluded with the defendant have already given intimation to the defendants, when plaintiff along with police and his vehicle tried to got to his land, infront of



defendants house, already the defendant along with their followers present at the spot, and they already dumped the mud on road, and they not allowed the plaintiff to proceed towards his land. When the plaintiff discussed with the PSI, the said officials also not allowed the plaintiff to proceed towards his land. The police people not allowed plaintiff go to his land. The PSI who ought have assist the plaintiff to proceed towards his land and restrain the defendants from obstruction, but the police threatened the plaintiff and police not allowed him to proceed towards his land, and threatened him to lodge case against him.

3. The police and defendants have violated the court order, the local police supported the defendants in violation of court order. The defendants and their followers, abused the plaintiff, but the police have not taken any action against them, and not given protection to the plaintiff. The police have drawn mahazar as per the



direction of political leader by name Karuvane Naveen, and forcibly obtained the signature of the plaintiff to the mahazar, hence the plaintiff has no faith in local police, hence prays to allow the application as prayed.

4. I.A, opposed by defendants by filing written objections, contending that, the defendants are in possession and khathdars in land sy.No.222 Bilgadde village, the there is fence between the property of plaintiff and defendant, the plaintiff is trying to form new road in the land of defendants, as per the order of the court the police came to the spot on 24.09.2022, and drawn mahazars and police have submitted to the court, it is not possible to enforce the order without survey. The plaintiff submitted wrong thing before the court, the defendants never restrained the plaintiff from using the road in Ay.No.137 and 223, they have not dumped the mud in the road as stated by the plaintiff. The plaintiff by misusing the



order of the court, trying to form new road, in sy.No.222,the police have not supported the illegal act of the plaintiff hence the plaintiff filed this false application, on these grounds plaintiff prays to dismiss the application.

5. Perused IA, objection, annexed affidavit and other material on record. After hearing the arguments and on perusal of the case papers the points that arise for consideration are as hereunder:

POINTS

1. Whether the Applicant/plaintiff made out sufficient grounds to allow the application?
2. What order ?

6. The findings on the above points are as hereunder:

Point No.1: In the Affirmative

Point No.2: As per the final order
for the following:

**REASONS**

7. **Point No.1:** This is the suit filed by the plaintiff for declaration and consequential relief of permanent injunction. There is dispute between the plaintiff and defendant, with respect to the road leading to the agricultural lands of the plaintiff from Government Sy.Nos.137/223 of Bilagadde village from their residential house. Hence plaintiff filed the suit for the relief of declaration and permanent injunction concerning suit schedule property. Because the defendants have prevented them from using the road by dumping mud from their residence to reach suit lands. Plaintiff filed application to grant T.I order in their favour to remove the mud illegally get dumped by the defendants by/ through hired JCB, this court did not grant them T.I. order. Consequently, they had preferred a miscellaneous appeal before the District Court which later came to be transferred to the Family Judge of Family Court, Chikkamagaluru which has been pleased to



allow the appeal and granted T.I. order as prayed for.

8. The appellant court has specifically granted T.I. order, against the defendants, restraining them from causing obstructions during the course of removing the mud got dumped by the defendants. After allowing M.A.No.11/2022 the plaintiff filed application for police protection, hence this court allowed the application filed by the plaintiff and directed the PSI Hariharapur Police Station to enforce T.I order, hence the plaintiff approached local police to render them their assistance, on 24.09.2022 though Psi Hariharpura police station, but police have not rendered them the help, and instead of giving protection the plaintiff, they not allowed the plaintiff to remove the gate placed by the defendant on road.

9. Learned counsel for defendant submits that, already Tahasildar with the help of local police visited the disputed spot and drawn the mahazar about the actual



fact. Said mahazar was drawn in the presence of plaintiff. The road is in existence which is leading to the House of defendant as well as Manjunath S/o Duggappa Gowda. Said Road is not at all connecting to the properties of plaintiff. These facts are very much clear as per the mahazars drawn by Revenue Authorities in the presence of police as well as Survey Authorities. Road is kept open in Sy.No.137 and 223. but the intention of the plaintiff is to destroy the fence in the boundary of Sy.No.222 which is in the possession of these defendants. The plaintiff intention is to form a new road in Sy.No.222.

10. But as the appellate court restrained defendants from causing obstruction to the plaintiffs to use the mud road of width of about 12 feet and the length of 200 meters running in Government Sy.No.137 and 223 of Bilagadde Village, Hariharapura Hobli, Koppa Taluk, branching of from Sringeri-Shanuvalli main road to reach



the plaint schedule lands from the plaintiffs residence and also to draw the water from the government channel etc., and from obstructing the plaintiffs in the course of clearing the mud illegally dumped over the road being used by the plaintiffs, during the pendency of the suit. Though T.I is granted the defendant not obeyed the order of the court. It is the contention of the plaintiff that, though this court directed the PSI to render assistance to plaintiff for using the road, but the said PSI colluded with defendants, and not rendered assistance for enforce order of temporary injunction. Hence if the application is not allowed hardship caused to the plaintiff. Accordingly, in view of the above discussions **point No.1 answered in the affirmative.**

11. **Point No.2:** In view of the reasons discussed above this court proceeds to pass the following:



ORDER

I.A.No.V filed by the plaintiffs under Section 151 of CPC is hereby allowed. The Dy.S.P Koppa is hereby directed to enforce the T.I Order dated 16.06.2022. Office to sent the copy of the order to Dy.S.P Koppa PS.

(Dictated to the Stenographer directly on the computer, same is corrected by me and then pronounced in the open Court on this the 24th day of March, 2023)

Sd/-

(B.S.Rayannawar)

Senior Civil Judge and JMFC.,
N.R.Pura, Itinerate at Koppa.