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**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT TARIKERE**

Present: Sri.Ramamurthy N. B.A. LL.B.,
Addl. Civil Judge & JMFC, Tarikere.

Dated: 4th Day of March 2022

ORIGINAL SUIT NO.234/2021

PLAINTIFF/s :

B.Veerabhadrappe S/o Basappa, aged 62 years, Agriculturist, R/o Beeranahalli Village, Shivani Hobli, Ajjampura Taluk.

(Reptd. By : Sri Umesh.G, Advocate.)

Vs.

DEFENDANT/s:

1) Muniswamy S/o Chidambara @ Sidramanna, aged 50 years, Agriculturist, R/o Burudekatte Village, Hosadurga Taluk, Chitradurga District.

2) S.C.Chandrappa S/o Chidambara @ Sidramanna, aged 60 years, Agriculturist, R/o Muddenahalli Village, Agarabannihatti Post, Channagiri Taluk, Davanagere District.

(Reptd. By : Sri T.R.Srinivas, Advocate.)

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**PARTIES TO I.A.NO.I**

Applicant : B.Veerabhadrappa
Vs.

Opponent : Muniswamy and others

**ORDER ON I.A.NO.I FILED U/O XXXIX RULE 1 AND 2 R/W
SECTION 151 OF CPC**

The plaintiff has filed present I.A. seeking temporary injunction against the defendants and their supporters from interfering or trespassing in to the petition schedule properties till disposal of the suit.

2. In the annexed affidavit, the plaintiff has stated that, he is the absolute owner and in possession of the suit schedule properties. He has purchased the same through registered sale deeds dated 27.10.1993 and 19.11.1993 from the father of defendants by name Chidambara @ Sidramanna and his brother P.S.Ramu @ Ramachandra. The khata of the suit property also changed in his name as per M.R.No.7/1993-94 and 6/1994-95. From the date of

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purchase, he is in peaceful possession of the suit properties. On 30.06.2011 the defendants tried to dispossess him from the suit properties by interfering in the same. With great difficulty he has resisted the illegal act of the defendants. He has lodged complaint before Ajjampura Police and the police have not taken any action. If the I.A., is allowed, no hardship will be caused to the defendants. If it is not allowed, he will be put to untold hardship. The balance of convenience lies in his favour and he has got prima facie case. Hence, prays for allow the I.A.

3. In the objections, the defendants have denied the averments of the I.A., and stated that the suit properties are originally belongs to Government and same was granted to the defendants family by imposing condition that the grantees shall not alienate the properties for a period of 15 years. After commencement of PTCL Act, the plaintiff has purchased the suit properties without prior permission of the Government.

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Hence, the alleged sale deeds are illegal. Even today the defendants are in possession and enjoyment of the suit properties. Hence, the question of interference by the defendants over the suit properties does not arise. The plaintiff is not entitled for any relief. Hence, prays for reject the I.A.

4. Heard arguments of both counsels and perused the materials in file.

5. The following points that arise for consideration are :

- 1) Whether the plaintiff has made out prima-facie case ?**
- 2) Whether the plaintiff has made out balance of convenience in his favour?**
- 3) Whether the plaintiff has made out that irreparable loss to him if temporary injunction refused?**
- 4) What order?**

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6. My findings on the above points are as follows:-

Point No.1 : In the Affirmative,

Point No.2 : In the Affirmative,

Point No.3 : In the Affirmative,

Point No.4 : As per the Order,

for the following:

REASONS

7. **POINT NO.1 TO 3** : These points are interrelated with each other. To avoid repetition of facts, these points are taken up together for common discussion.

8. The suit of the plaintiff is for permanent injunction and the present I.A., is for temporary injunction against the defendants. According to the plaintiff, he is the absolute owner and in peaceful possession of the suit properties. The same was purchased by him from the father and uncle of defendants in the year 1993 and since the date of purchase, he is in peaceful possession and enjoyment of the suit properties. On 30.06.2011 the defendants have interfered in

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his possession over the suit properties. The defendants have denied the contention of the plaintiff.

9. Upon perusal of certified copy of sale deeds, MR and RTC placed by the plaintiff, shows that the plaintiff has purchased the suit properties from one P.S.Ramu and Chidambara @ Sidramanna on 27.10.1993 and 19.11.1993 and khata of the said properties mutated in his name as per M.R.No.7/1993-94 and 6/1994-95 as stated in the plaint. The RTC shows that he is in possession of the suit properties at the time of filing the suit. The defendants have not placed any documents in support of their contention. Such circumstances, by considering the documents placed by the plaintiff, which clearly shows that he was in possession of the suit properties at the time of filing suit, opinion of this court is that, at this stage, the plaintiff has made out prima facie case and balance of convenience in his favour and if temporary injunction is not granted, there is an irreparable

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loss to him. Hence this court answered Point No.1 to 3 in the Affirmative.

10. **POINT NO.4** : For the above reasons and answer given to the Point No.1 to 3, this court proceed to pass the following

ORDER

I.A.No.I filed by the plaintiff under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC is allowed.

The defendants are restrained from trespassing and interfering in the peaceful possession of the plaintiff over suit property till further order.

Cost shall follow the event.

(Dictated to the Stenographer, transcribed by her, corrected by me and then pronounced in the open Court, on this the day of 4th day of March 2022.)

Sd/-
(RAMAMURTHY N.)
ADDL.CIVIL JUDGE &
J.M.F.C., TARIKERE.