

KACM710014222018



IN THE COURT OF THE CIVIL JUDGE & ADDL J.M.F.C.,
AT: TARIKERE

:Present:

SMT. ROOPA M .D
B.A (L) L.L.B.
CIVIL JUDGE & ADDL JMFC COURT,
TARIKERE.

Dated this the 13th day of December 2021

O.S.NO.344/2018

Plaintiff/s:

Smt.B.Lalithamma,
W/o T.R.Eshwar,
Aged about 59 years,
Housewife,
R/o Vidya Nagar,
Kadur Town & Taluk.

(By Smt.H.Bharathi-Adv.)

V/s.

Defendant/s:

- 1. P.Krishnamurthy,**
S/o K.S.Perumal,
Aged about 70 years,
R/o Behind Mini Vidhana Soudha,
Tarikere Town,
Tarikere Taluk.
- 2. Salauddin Sab,**
Aged about 78 years,
Business,

R/o Kodigamp Circle,
Opp. S.B.I Bank,
Tarikere Town & Taluk.

(By Sri.S.Narayana Rao-Adv.)

Parties to I.A.No.5

Applicant/s: B.Lalithamma
Plaintiff

V/s.

Opponent/s: Krishnamurthy.P & Anr.
Defendants

**ORDER ON IA NO.5 FILED BY THE PLAINTIFF UNDER
SEC.151 OF CPC**

The present IA No.5 is filed by the plaintiff under Sec.151 of CPC to club the present suit along with O.S.No.379/2018.

2. Allowing the said application is not opposed by the defendants by filing objection.

3. Heard Plaintiff Counsel. Defendant counsel has not addressed his argument.

4. The following point arises for my consideration:

POINT

1. *Whether the plaintiff has made out sufficient grounds to club the present suit with O.S.No.379/2018?*

5. I have answered the above point in the Negative for the following:

REASONS

6. **Point No.1:** In the accompanying affidavit, it is contended by the plaintiff that the defendants are seeking temporary injunction in respect of the suit schedule properties. The defendants have filed one suit against the plaintiff in O.S.No.379/2018 and the plaintiff in OS.No.345/2018 has also filed a suit against Krishnamurthy and another who are the defendants in the above case. Hence, OS.No.379/2018 involves the suit schedule properties of O.S.No.345/2018 and OS.No.344/2018 and hence, all the 3 suits are common subject matter. Hence, the plaintiff to club the present suit.

7. Allowing the said application is not opposed by the defendants.

8. On perusal of the material on record, it is observed that the plaintiff in the present case has filed the present suit for permanent injunction restraining the defendants from ingress and egress to 'A' schedule property and 'B' schedule property and the suit schedule properties has been described as:

SUIT 'A' SCHEDULE

Land bearing No.49-4-440B, measuring east-west 9.144018 feet and north-south 12.192024 feet,

11.4836 meter vacant site situated at Devaraj Aras Extn., (Beside B.H Road), Tarikere Town, Tarikere Taluk and the same is bounded on East by: Property No.49-4-440C, West by: Property No.49-4-440A, North by: Property No.49-4-440(NH.206) and South by: Property No.49-517-55.

SUIT 'B' SCHEDULE

Land bearing No.49-4-440C, property situated at Devaraj Aras Extn., (Beside B.H Road), Tarikere Town, Tarikere Taluk and the same is bounded on East by: Property No.49-508-182, West by: Property No.49-4-440B, North by: Property No.49-4-440(NH.206) and South by: Suit 'A' schedule property.

9. On perusal of the contents of OS.No.379/2018, it is observed that the plaintiff of that case has filed a suit for declaration and permanent injunction and the suit schedule property has been described as:-

SUIT SCHEDULE

Land bearing Sy.No.80/2, measuring 0.05 guntas, situated at Haliyuru Village, Kasaba Hobli, Tarikere Taluk and the same is bounded on East by: Lott Hissa No.3, West by: Lott Hissa No.3, North

by: B.H Road and South by: Vacant property of the defendant No.1 and 4.

10. On perusal of the contents of OS.No.345/2018, it is observed that the plaintiff of that case has filed a suit for permanent injunction and the suit schedule properties has been described as:

SUIT 'A' SCHEDULE

Land bearing No.49-4-440C, measuring east-west 9.144018 feet and north-south 12.192024 feet, 11.4836 meter vacant site situated at Devaraj Aras Extn., (Beside B.H Road), Tarikere Town, Tarikere Taluk and the same is bounded on East by: Property No.49-508-182, West by: Property No.49-4-440B, North by: Property No.49-4-440(NH.206) and South by: Property No.49-517-57.

SUIT 'B' SCHEDULE

Land bearing No.49-4-440C, property situated at Devaraj Aras Extn., (Beside B.H Road), Tarikere Town, Tarikere Taluk and the same is bounded on East by: Property No.49-508-182, West by: Property No.49-4-440B, North by: Property No.49-4-440(NH.206) and South by: Suit 'A' schedule property.

11. On perusal of the contents of OS.No.379/2018, O.S.No.345/2018 and the present suit, it is observed that the description of the suit schedule properties in all the three suits are entirely different from each other. In OS.No.379/2018 the suit schedule property has been described as agricultural land bearing Sy.No.80/2 and in O.S.No.345/2018 and present suit, the suit schedule properties is described sites. As such, it is evident that the suit schedule properties in all the three cases are entire different from each other. In such circumstances, clubbing the suit merely for the reason that the defendants have not objected for the same, finds no justification. The defendants in O.S.No.344/2018 and O.S.No.345/2018 are same, whereas the defendants of O.S.No.379/2018 includes two other defendants from the Housing Co-operative Society. As such, clubbing of the said suits finds no justification. Therefore, I answer the above point in the Negative and I proceed to pass the following:

ORDER

*IA No.5 filed by the
plaintiff/applicant of O.S.No.344/2018
under Section 151 of CPC is hereby
dismissed.*

No order as to cost.

(Dictated to the stenographer, transcribed and typed by him, corrected, initiated and then pronounced in the open Court on this the 13th day of December 2021..)

Sd/-

(Roopa M.D)

Civil Judge & Addl. J.M.F.C.

Tarikere.