

KACM710016292021



**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: 10<sup>th</sup> Day of January 2022**

**ORIGINAL SUIT NO.208/2021**

**PLAINTIFF/s** :

Girijabai W/o Late Rudranaika, aged 54 years, Housewife and Agriculturist, R/o Sompura Village, Halasuru Post, Lakkavalli Hobli, Tarikere Taluk.

(Reptd. By : Sri K.S.Harsha, Advocate.)

**Vs.**

**DEFENDANT/s:**

1) K.B.Chandrojirao S/o R.Basojirao, aged 61 years, Retired Teacher and Agriculturist,

2) Krishnojirao S/o R.Basojirao, aged 52 years, Agriculturist,

Both are R/o Kesarukoppa Village, Halasuru Post, Lakkavalli Hobli, Tarikere Taluk.

(Reptd. By : Sri K.L.Lingaraju. Advocate.)

\*\*\*\*

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

KACM710016292021



Applicant : Girijabai

Vs.

Opponent : K.B.Chandrojirao and another

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

The plaintiff has filed present I.A. seeking temporary injunction against the defendants to restrain them from interfering in her peaceful possession over the suit schedule property.

2. In the annexed affidavit, the plaintiff has stated that she is the absolute owner and in possession of the suit schedule property. The same was originally belongs to Sidlingappa S/o Mallegowda. The said Sidlingappa had sold the suit property to one T.Hanumanthappa S/o Thimmaiah on 07.08.1989. After death of said Hanumanthappa, the khata of the suit property changed in the name of his wife Smt.Lakshmiddevamma as per M.R.No.5/2000-01. The said Lakshmiddevamma along with her children H.Latha and H.Prasannakumar sold the suit property to her and her

KACM710016292021



husband Rudranaika on 15.01.2001 as per sale deed S.R.No.335/2000-01. As per sale deed, the khata of the suit property changed in favour of her and her husband as per M.R.No.19/2000-01. After death of her husband, the khata was changed in her name as per M.R.No.4/2013-14. She has moved an application on 18.04.2007 before the Assistant Commissioner, Tarikere to make durasth of the suit property and filed an application for crop relief on 26.11.2009 before the Tahasildar, Tarikere. She has growing arecanut crop in 30 guntas of land out of suit property and growing paddy crop in remaining land. She has obtained loan on suit property from Canara bank, Lakkavalli and repaid the same by receiving mortgage release deed.

3. The defendants have their property on the eastern side of the suit property and trespassed into the same on 15.05.2021 and tried to encroach the suit property by interfering in her possession. Again on 05.06.2021 the

KACM710016292021



defendants have tried to interfere in her possession of the suit property. She has got prima facie case and the balance of convenience in her favour. If I.A., is not allowed, she will be put to great hardship and loss. Hence, prays for grant the temporary injunction against the defendants till disposal of the suit.

4. in the objections, the defendants have denied the averments of the I.A and stated that the boundaries of the property mentioned in the sale deed dated 07.08.1989 and 15.01.2001 and plaint are different. The plaintiff has mentioned false boundaries to the suit property by creating the same. There is no pakka podi in Sy.No.26 and the same was mentioned as Mugalikatte in the index of lands. On the instigation of Someshnaika S/o late Rudranaika, the plaintiff has filed this false case. The defendants are law abiding citizens and never interfered in the suit property. Hence, prays for reject the I.A.

KACM710016292021



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

6. 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 her favour?**
- 3) **Whether the plaintiff has made out that irreparable loss to her if temporary injunction refused?**
- 4) **What order?**

7. 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**

KACM710016292021



8. **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.

9. 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, she is the absolute owner and in peaceful possession of the suit property. The same was purchased by her and her husband. After death of her husband, the khata of the suit property was changed in her name and she was in possession by growing arcanut and paddy crops.

10. According to the defendants, the boundaries of the property mentioned in the sale deeds and plaint are different. There is no interference from them in the suit property. There was no pakka phodi in Sy.No.26. The same was

KACM710016292021



mentioned as Government lake, Mugalikatte in the index of land.

11. Upon perusal of documents placed by the plaintiff, the notarized copy of the sale deeds shows that Sidlingappa has sold the suit property to Hanumanthappa S/o Thimmaiah on 07.08.1989. The said property was purchased by the plaintiff and her husband jointly from the wife and children of Hanumanthappa by name Lakshmiddevamma, Latha and Prasannakumar on 15.01.2001. The copies of RTC and mutation shows the name of plaintiff as a possessor to the suit property for the year 2014-15 and 2020-21 and mutation was made on 24.02.2014 in favour of the plaintiff on the basis of pavathi varasu from her husband Rudranaika. The death certificate shows that said Rudranaika died on 14.12.2013. The copy of mortgage release deed shows that the plaintiff has repaid the borrowed loan amount and Canara Bank, Lakkavalli Branch has executed mortgage

KACM710016292021



release deed in favour of plaintiff in respect of suit property on 06.02.2021. The acknowledgment of Lakkavalli Police shows that the plaintiff has given complaint against the defendants in respect of their interference in the suit property.

12. The documents placed by the defendants, the index of lands shows that the suit property survey number mentioned as a Government lake, Mugalikatte as stated in the objection, but date and year was not mentioned. The RTC shows that the name of defendant No.1 mentioned as possessor to the property in Sy.No.18/1 of Kesarukoppa village measuring 2.10 acres.

13. By considering the documents placed by both parties, it shows that the plaintiff has purchased the suit property and in possession of the same. The documents placed by the defendants shows that their property is situated

KACM710016292021



in Sy.No.18 of Kesarukoppa village which is situated in different place from the suit property as suit property is situated in Sompura village. The police acknowledgment shows that prima facie there was an interference of the defendants in the suit property. Therefore, by considering the documents placed by both parties, opinion of this court is that, at this stage, the plaintiff has made out prima-facie case and balance of convenience lies in her favour and if temporary injunction is not granted, irreparable loss will be caused to her. Hence this court answered Point No.1 to 3 in the Affirmative.

14. **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 of CPC is hereby allowed.

KACM710016292021



The defendants are restrained from 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 10<sup>th</sup> day of January 2022.)

Sd/-

**(RAMAMURTHY N.)**  
**ADDL.CIVIL JUDGE &**  
**J.M.F.C., TARIKERE.**