

IN THE COURT OF PRL. CIVIL JUDGE, & JMFC., AT
CHAMARAJANAGARA

Dated this 23rd day of January 2024

: **PRESENT:**

SRI. VENKATESHA.N., B.A.LL.B, LL.M.,
PRL. CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA

O.S.280/2023

PLAINTIFF/s : Gopalanayaka

V/s

DEFENDANT/s: The Manager & Another

I.A.No.I

APPLICANT/s : Gopalanayaka
S/o Late Ranganayaka,
Aged about 45 years,
R/at Badanaguppe Village,
Kasaba Hobli,
Chamarajanagar Tq & District.

(By Sri. B.N.R., Advocate)

V/s

OPPONENTS/s: 1. The Manager,
K.I.A.D.B
Special Land Acquisition Officer,
Mysore Branch,
K.R.S.Road,
Mysore.

2. The Manager,

Everest Industries Ltd.,
 Badanaguppe-Kellamballi
 Industrial Area,
 Kasaba Hobli,
 Chamarajanagar Taluk.

(D1 by Sri. S.S, Advocate)
(D2 by Sri. M.R.S.K., Advocate)

i.	<i>Provision under which the application is filed</i>	<i>XXXIX Rule 1 & 2 r/w Sec.151 of CPC</i>
ii.	<i>Relief sought for</i>	<i>Temporary Injunction</i>
iii.	<i>The date on which the application is filed</i>	<i>15.09.2023</i>
iv.	<i>Number of the application</i>	<i>IA.No. I</i>
v.	<i>The date on which the objections are filed by different opponents</i>	<i>12.10.2023 06.12.2023</i>
vi.	<i>The date on which the orders were passed on the said application</i>	<i>23.01.2024</i>

ORDER ON I.A. I

The Applicant/Plaintiff has filed I.A.No.1 under Order 39 Rule 1 & 2 R/w Sec.151 of CPC., seeking an order of Temporary injunction restraining the Defendants from interfering with the Plaintiff's peaceful possession and enjoyment of the suit schedule property till disposal of the suit.

2. In the Affidavit annexed to IA it is stated that, the plaint averments may be read as part and parcel of this affidavit. It is the case of the Plaintiff that, the suit schedule property bearing Sy.No.231, measuring to an extent of 03 acre 20 guntas, situated at Badanaguppe Village, Kasaba Hobli, Chamarajanagar Taluk, bounded on East by Shankarana Katte, West by Govt. Oni, North by Land of Venkataranganayaka, South by Land of Puttaranganayaka originally granted in favour of Plaintiff's father one Ranganayaka. The said land was granted in favour his father in the year 1975. From the date of Grant, the Plaintiff's father was in peaceful possession and enjoyment of the suit schedule property. After the death of Plaintiff's father, the Plaintiff is in peaceful possession and enjoyment of the suit schedule property. It is stated that, the Plaintiff did not change the katha in his favour due to the illiteracy. The Plaintiff has paid Taxes in respect of suit schedule property and he is in possession.

3. The 1st Defendant has not acquired the suit schedule property lawfully. The 1st Defendant has not paid any compensation to the Plaintiff in respect of suit schedule property. The Defendants are trying to trespass into the suit schedule property. The Defendants have no manner of right, title or interest over the suit schedule property. Hence Plaintiff has filed this suit. The Plaintiff has made out a prima-facie case. The balance of convenience is also lies in favour Plaintiff. If the Temporary Injunction order is not granted, it will cause irreparable loss and injury to the Plaintiff. Hence prays to allow the IA.

4. The 1st Defendant filed Written Statement and objection to the IA.No.1. In the objection it is stated that, the Written Statement averments may be read and parcel of the objection. It is the contention of the 1st Defendant that, the suit schedule property belongs to the Government. The State Government has granted the suit schedule property and other properties in favour of 1st Defendant for the Industrial

establishments. The 1st Defendant has taken possession the total extent of 24.38 acres in Sy.No.231. The Plaintiff is not in possession of the suit schedule property. The Plaintiff averments are denied by the 1st Defendant. The suit schedule property belongs to Government. Hence the award of compensation in favour of Plaintiff does not arise. All the allegation made by the Plaintiff are denied. The 1st Defendant has handed over the suit schedule property in favour of 2nd Defendant. Hence prays to reject the application.

5. The 2nd Defendant also filed Written statement and objection. In the objection it is stated that, the Written statement may be read as part and parcel of the affidavit. It is the contention of the 2nd Defendant that, the Plaintiff never in possession of the suit schedule property. The 1st Defendant executed an Agreement of Lease cum Sale Agreement in favour of 2nd Defendant. The 2nd Defendant has got properties bearing S.No.231, 232/1, 232/2, 232/3, 232/4, 232/5, 233/1B, 233/2, 233/3, 233/4, 233/7, 360/1, 385/1 and 385/2

situated at Badanaguppe Village, Kasaba Hobli. Hence the 2nd Defendant is in peaceful possession of above said lands including the suit schedule property. The 2nd Defendant has invested huge amount for establishment of Industry in the suit schedule property. The 1st Defendant has issued confirmation letter of Allotment and also executed Lease cum Sale Agreement in favour of 2nd Defendant. The Plaintiff has filed the suit only to harass the 2nd Defendant. The Plaintiff has no right, title or possession over the suit schedule property. The 2nd Defendant is in peaceful possession of the suit schedule property. Hence prays to reject the application.

6. Heard both side arguments.

7. The following points arise for my consideration:

1. Whether the Plaintiff has got prim-facie case to grant TI Order ?

2. Whether the balance of convenience lies in favour of Plaintiff?

3. Whether the Plaintiff will be put to irreparable loss and injury, if the order of T.I. is not granted?

4. What order?

8. My answers to the above points are as follows:

Point No.1 : in the **NEGATIVE**

Point No.2 : in the **NEGATIVE**

Point No.3 : in the **NEGATIVE**

Point No.4 : As per the final order,
for the following: -

REASONS

9. Point No.1 to 3 :- The facts involved in Point No.1 to 3 are same. Hence they are taken up together for common discussion to avoid repetition.

It is the case of the Plaintiff that, the suit schedule property granted in favour of his father in the year 1975. From the date of grant, during the life time of his father, his father was in peaceful possession and after the death of his father, the Plaintiff is in peaceful possession. The Defendants contention is that, the suit schedule property belongs to Government and the Government has granted the said land in favour 1st Defendant for development of Industries. The 1st

Defendant has executed Lease cum Sale Agreement in favour of 2nd Defendant and handed over the possession of the suit schedule property.

10. The Plaintiff has produced the copy of Grant Certificate dated 09.12.1975, the said document shows that, in Sy.No.231 situated at Badanaguppe Village, the property measuring 3.20 acres was granted in favour of one Ranganayaka S/o Dasanayaka. The Plaintiff has produced notarized Genealogical Tree, Death Certificates of Plaintiff's Father and Mother, the copy of MR and RTCs in respect of Sy.No.231. In the said RTCs neither the name of Plaintiff nor the Plaintiff's father is mentioned. The Plaintiff at this stage except the copy of Grant Certificate, no other documents is produced. According to the Plaintiff, he is in possession of the suit schedule property. But katha is not transferred in favour of Plaintiff. The Plaintiff has not produced any documents to show that he has paid taxes till today. Hence the Plaintiff has not made out prima facie case.

11. On the other hand the Defendants have produced documents i.e., Notification issued by the State Government and Lease Cum Sale Agreement. These documents prima facie shows that, the 1st Defendant has executed Lease deed in favour of 2nd Defendant. The Notification issued by the State Government proves that, in Sy.No.231 total 24.38 acres were granted in favour of KIADB. It is the contention of the Plaintiff that, the Defendants have not acquired the suit schedule property. The Plaintiff has to prove that, he is the absolute owner of the suit schedule property. But at this stage, the balance of convenience not lies in favour of Plaintiff. The Defendants have made out a prima facie case that, the suit schedule property has been granted in favour of Defendant No.2. Admittedly the suit schedule property has been acquired by the KIADB. Hence at this stage, if the Temporary Injunction order is granted, it will cause more hardship to the 2nd Defendant than the Plaintiff. If at all the Plaintiff proves that, he is the owner of the suit schedule property, he is entitled to

compensation. But admittedly the Defendant No.2 has invested huge amount for the Development of Industry. Hence at this stage, if the Temporary Injunction is granted, it will cause more hardship to the Defendant No.2 than the Plaintiff.

Hence **Point No.1 to 3** are answered in **NEGATIVE**.

12. Point No.4:- For the aforesaid reason and discussion, I proceed to pass the following: -

O R D E R

**I.A.No.1 filed by the Plaintiff/
Applicant under Order 39 Rule 1 & 2
R/w Sec.151 of CPC is hereby
dismissed.**

Parties to bear their own costs.

(Dictated to the Stenographer on computer and computerized by her, corrected by me and then pronounced in the open court on this the **23rd day of January 2024.**)

(VENKATESHA.N)
PRL. CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA