

**ORDERS ON IA NO.5 FILED UNDER**  
**SECTION 151 OF C.P.C**

The learned counsel for the plaintiffs has filed this IA direct the Circle Inspector of police, Santhebennuru Police Station to assist the plaintiffs to implement the order of injunction passed by this court on 07.11.2023 and thereby to give protection to these plaintiffs in this case.

2. In support of this application the plaintiff No.2 has filed affidavit. In his affidavit he stated that they have filed this case against the defendants by seeking the relief of declaration and injunction and also for such other reliefs. He further stated that, interalia they have also filed an application seeking interim injunction against the defendants. He further stated that since the suit schedule property is an agricultural land emergent notice was ordered and thus after service of summons and notice from the hands of this court, the defendants have appeared and resisted their claim by filing their written statement and also an objections to interim application. Further stated that, after hearing both the sides, predecessor of this court has allow their application vide order dated 07.11.2023. Since the defendants have not challenged the said order, the said order passed by this court attains finality. Further stated that, even though the order

dated 07.11.2023 passed and remained unchallenged, the defendants have keep on obstructing them from enjoying the suit schedule property in one way or the other. He is being law abiding citizen try his level best to convince the defendants. But in vain. Since the defendants are not heeded to his request and also the request of elders, he knocked the doors of Santhebennur Police and appealed his grievance by furnishing the order passed by this court. The said police have registered his grievance in their station DPT No.195/2025. Later the said authority have not taken any action against the defendants. But on the other hand, the officer incharge of the police station has orally directed him to get a direction from the Civil Court and than they will going to give protection to their land.

**3.** Further stated that the defendants are well aware of the fact that the application filed by them came to be allowed. The said application is not questioned before any Appellate Court. Despite the same, the defendants being illminded persons are causing hindrance in and around the schedule property and thereby obstructing their peaceful possession and enjoyment over the suit schedule property. Further stated that though the act of the defendants is clear violation of law and despite of the request made by him, the police have decline to register a case against the

defendants. Besides that the police have pretended that there is direction from the court to give protection or to Implement the order of injunction through them. Further stated that the defendants are the arrogant persons, have backed by men and muscle power. They are also supported with local police stations. Even though the defendants are having knowledge about the orders passed by this court dated 07.11.2023, they have no scant respect towards the orders passed by this court. Further stated that the above said act of the defendants is not only illegal but also condemnable in the eye of law. They are being law abiding citizens though there is an order from the hands of this court in their favour, they cannot enjoy the fruits. Hence, he prays to allow the application.

4. The learned counsel for the defendant No.2 to 6,10 and 11 has filed detail objections. In the objections he has denied the entire facts pleaded in the application. Further contended that the application filed by the plaintiffs is not maintainable both in law and also on facts of this case and is liable to be rejected. Further the entire facts pleaded in the written statement may be read as part and parcel of this objections. Further it is the specific defense of the defendants that the suit property is one of the joint family

properties of the defendants and also pleaded in the written statement that the defendants have filed the O.S.No.22/2011 on the file of this court against the defendant No.1 and others claiming the relief of partition and separate possession of their shares in the suit properties of the said suit. The present suit property is also one of the suit property of that case. In the said suit, it was pleaded that the plaintiffs of O.S.No.22/11 and the defendants of the said suit are originated from a common ancestor and all the properties of the said suit are their joint family properties and are in joint possession of the said properties. Further the said suit was contested by the defendant No.1 of this case and claimed that the suit are the self acquired properties of properties himself and his father and denied the rights of plaintiffs of the said suit. This court on contest decreed the suit claim of plaintiff in O.S. No.22/11 and granted the relief of partition awarding shares to the plaintiffs of the said suit.

**5.** Further stated that this court on contest decreed the suit claim of the plaintiff in OS.No.22/11 and granted the relief of partition awarding shares to the plaintiffs of the said suit. As against the said judgment and decree two applications filed in R.A No.5/2015 and 6/2015 on the file of Hon'ble District Judge Court, Davanagere. The R.A No.5/2015 was filed by the

purchasers of the joint family properties and RA No.6/2015 filed by defendant No.1 of this case. The said appeals clubbed together and a common Judgment was passed by the Hon'ble District Judge, Davanagere by party allowing the said appeal modifying the judgment and decree of O.S.No.22/2011 on 30.12.2020 in which the decree of this court was affirmed in respect of the suit schedule item no.1 to 5, 9 and 10 properties by and the claim for partition regarding the remaining properties was dis-allowed. Further the said judgment and decree of regular appeals was challenged by the defendants in RSA No.717/21 and 719/21 on the file of Hon'ble High Court of Karnataka and in the said appeals the interim application was filed by the appellants praying for stay the operation and execution of the judgment and decree passed in R.A.No.5/15. Further the Hon'ble High Court of Karnataka considering the prayer of the appellants passed the interim orders directing the parties to maintain the status-quo regarding possession and title existing as on today during the pendency of the appeal.

**6.** Further infact it is the defence of the defendant No.2 to 6, 10 and 11 that their fathers and one Sakrya Naik are the direct brothers and the suit properties in O.S. No.22/11 are all joint family properties of the said Sakrya Naik and his 3 brothers and in joint possession of the said

properties and no partition was effected amongst those brothers and after their death amongst their legal heirs. As such the possession of the property involved in this suit is also a joint family property of the aforesaid 4 brothers and their legal heirs. Further contended that during the pendency of the regular appeal the defendant No.1 in whose name the khatha and pahani was stood on that guise, though he was not in actual possession of the suit property having no absolute right to deal with the suit property colluding with plaintiff of this created a false sale deed in favour of the plaintiff of this suit, but as the possession of the suit property was within the defendant No.2 to 6, 10 and 11. The question of handing over the possession of the suit property in favour of the plaintiffs of this suit does not arise at all and as such the said defendants are in actual possession of the suit property even now also only on the basis of the RTC entries made in the name of the plaintiffs, the plaintiffs is protruding that she was put in possession of the suit property by the defendant No.1, but as on the date of the alleged sale deed, the defendant No.1 was not at all in possession in suit property but revenue entries stood in his name. Now on the guise of the temporary injunction order passed by this court, the plaintiff is now trying to occupy the suit property by forcibly dispossessing the

defendants from suit property with the force of police. Further now the defendant No.2 to 6, 10 and 11 are in possession of the suit property and also the Hon'ble High Court of Karantaka was pleased to grant the status-quo order relating to the suit property and as such in the circumstances, he prays to reject the application.

**7.** Heard the arguments on both the sides and perused the material placed on record. The following points arise for my consideration:

1. Whether the plaintiffs have made out a sufficient ground to allow the IA No.5 filed under section 151 of C.P.C?

2. What order?

**8.** My answers to the above points are as follows;

Point No.1: In the Negative.

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

**:REASONS:**

**9. POINT NO.1:** The present suit is filed by the plaintiffs for the relief of declaration and injunction. When the case is posted for cross of PW.1, in the mean time the plaintiffs have come up with the present application seeking issuance of police protection and directing the CPI, Santhebennuru P.S. to give a police protection to the plaintiffs as per the order

07.11.2023, in order to protect the possession and enjoyment of the plaintiffs over the suit property.

**10.** The learned counsel for the plaintiffs has argued that if the application is not allowed the plaintiffs will face lot of inconvenience. So also no injustice will be caused to the defendants if the application is allowed. Hence, he prays to allow the application.

**11.** Taking into consideration of facts and circumstances of the case and all the materials placed on record this court considers that ordering police protection has got serious consequences, impinging on the right of the parties. Generally, at the stage of granting interim injunction, police protection is not be ordered simultaneously while granting interim injunction. The reason being the application is before the court in the initial stages. The court is granting interim injunction only on the satisfaction of prima facie case and balance of convenience. Since, the entire material are not before the court and the defendants have not adduced their evidence, the court is not apprised of the realities. When the court is not apprised of the full situation, it would not be proper to pass an order granting police aid. If

such orders are being passed, there is every possibility that the party to whom the interim injunction was granted, armed with the order of police protection, might try to take advantage of the order and there is every possibility of dispossessing the person who is in actual possession. This situation could be avoided by not simultaneously granting police protection along with the interim injunction. This court use discretionary power in some special case, not all the case. In this case also very defendant is denied the possession of the plaintiffs over the suit property. Further the plaintiffs have stated that they are in possession over the suit property. It is not a stage for granting police protection. It is required full fledged trial. Further the defendants have produced copy of order passed in RSA No.717/2021 and 719/2021 by the Hon'ble High Court of Karanataka. In that appeal the suit schedule property is also one of the suit schedule property. Further the Hon'ble High Court of Karanataka passed the interim orders directing the parties to maintain the status-quo regarding the possession and title existing as on today during the pendency of the appeal. Hence, the plaintiffs have not made out any grounds to allow the application. With

these reasons I answer Point No.1 in the Negative.

**12.POINT NO.2:** In view of the above point No.1 discussed, I proceed to pass the following;

**ORDER**

I.A.No.5 filed by the plaintiffs under section 151 of CPC is hereby dismissed.

No order as to costs.

Hence, case is posted for cross of PW.1 finally as last chance.

Call On:

**Sd/-**

**Sr. Civil Judge & J.M.F.C  
Channagiri**