

**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE &
JMFC., HONNALI.**

Present : **Sri. Deepak Patil. B.Sc., LL.B.,**
Addl. Civil Judge & JMFC.,
Honnali.

Dated on this 9th Day of March 2015.

Original Suit NO. 272 / 2013.

Plaintiff/s:

1. Sri. Sri. Ramarao
maharaj S/o
Parahuram Baba,
Aged about 75 years, **V/s.**
R/o: Samadhi Sthana
of Sri. Sevabhaya
Pohara Devi, Manora
taluk, Vasim District.
Maharashtra.
2. Sri. Sri. Balakrishna
Maharaj S/o
Ramanaika @
Ramusad, Aged about
58 years, Sri. Sri.
Samadhi Sevabhaya
Janmasthan,
Sooragondanakoppa
which comes under
the purview of
Chinnikatte Village,
Honnali taluk.
Davanagere District.

**(By H.M.
Shrinivasamurthy.,
Advocate)**

Defendant/s:

1. Sri. K. Rooplanaik S/o
Kheerya Naika, Aged about
80 years, R/o Rajaji nagar,
Bangalore.
2. Sri. Govindanaika S/o
Thukyanaika, Aged about
70 years, R/o Ujjanipura,
Honnali taluk,
3. Sri. Dr. L Eshwaanaik S/o
Lachanaika, Aged about
65 years, R/o: Ujjanipura,
Honnali taluk,
4. Sri. Dr. Vasudevanaik S/o
Heeranaik, Aged about 65
years, R/o Hosanagara
thanda, Chanagiri taluk,
5. Sri. B.C. Yenkanaika S/o
Pathrnaik Aged about 65
years, R/o: Bidrahalli,
Chinnikatte post, Honnali
taluk.

**(By D2, D3, B.N. D1, D4, D5,
Shanmukha B. & Prashanth
D., Advocate)**

Parties to IA No. I

Petitioner/s:

1. Sri. Sri. Ramarao maharaj S/o Parahuram Baba, Aged about 75 years, R/o: Samadhi Sthana of Sri. Sevabhaya Pohara Devi, Manora taluk, Vasim District. Maharashtra.

2. Sri. Sri. Balakrishna Maharaj S/o Ramanaika @ Ramusad, Aged about 58 years, Sri. Sri. Samadhi Sevabhaya Janmasthan, Sooragondanakoppa which comes under the purview of Chinnikatte Village, Honnali taluk. Davanagere District.

(By **H. M. Shrinivasamurthy., Advocate**)

Respondent/s

1. Sri. K. Rooplanaik S/o Kheerya Naika, Aged about 80 years, R/o Rajaji nagar, Bangalore.

2. Sri. Govindanaika S/o Thukyanaika, Aged about 70 years, R/o Ujjanipura, Honnali taluk,

3. Sri. Dr. L Eshwaanaik S/o Lachanaika, Aged about 65 years, R/o: Ujjanipura, Honnali taluk,

4. Sri. Dr. Vasudevanaik S/o Heeranaik, Aged about 65 years, R/o Hosanagara thanda, Chanagiri taluk,

5. Sri. B.C. Yenkanaika S/o Pathrnaik Aged about 65 years, R/o: Bidrahalli, Chinnikatte post, Honnali taluk.

((By D2, D3, B.N. D1, D4, D5, Shanmukha B. & Prashanth D., Advocate)

ORDER ON IA NO I

The plaintiffs have filed IA-I under order XXXIX Rule 1 and 2 read with section 151 of C.P.C., praying for grant of Temporary Injunction restraining the defendants, their men, their agents, their servants or anybody claiming

through them or on behalf of them from interfering in any manner with the daily poojas and routine work of the 2nd plaintiff in discharging his duties as the Swamiji of the community, till disposal of suit.

2. The plaintiff no.2 has sworn in support of application and stated that the Banjara Community is a nomadic and gypsy community. Earlier they were not having a permanent place of living. Slowly, during the course of time the members of the community started acquiring properties and settled in some places. Thus the entire Community has spread all over India and is not confined to one place. As such though the culture of the community remains the same everywhere, there were no spiritual leaders. During the 18th century one Ramjinaik had come and settled at Sooragondnakoppa at Honnali taluk. This Ramjinaik had three sons namely Hemanaiik, Bheemanaik and Khemanaik. Bheemanaik had four sons namely Sevalal, Hapanaik, Baddunaik and Pooranaik. Then, during the eighteenth century there emerged a person by name Sevalal. He was the first son of one Bheemanaik son of Ramjinaik. This Bheemanaik had an elder brother Hemanaiik and a younger brother Khemanaik. From his childhood, the said Sevalal was a person, who was always moody and inattentive towards material world. He had developed a nature of detachment towards earthly possession and things and acts. He was

also interested in helping others and in meditating. Gradually he emerged as a sadhu and started preaching. The members of the community started listening to him. He performed miracles saved lives and did things which a normal person could not even think of. Thus he emerged as a Guru of Banjara Community. He was born at Sooragondanakoppa Village, of Honnali taluk.

3. It is further stated that after he got enlightened, the said Sevalal traveled all over India preaching, his learning to his disciples and community men. The community finally accepted him as their Swamy and followed him and practiced his teachings. The said Sevalal remained a Brammachari. Finally he settled at Pohara Devi in Maharashtra and breathed his last at Roohighad. His Samadhi is at pohradevi and it is called as Shakthipeetha. His father Bheemanaik had moved to Maharashtra with his other sons. The first plaintiff is a descendant of Hapanaika. The 1st plaintiff is now appointed as the only religious head of the Banjara Community. He is discharging his duties as such by teaching the community and is trying to bring unity in it. Hemanaika, the elder uncle of Sevalal remained in Karnataka while Khemanaik his younger uncle moved over to Andhra Pradesh preaching the teaching of Sevalal. Hemanaika had identified the place of birth of Sevalal at Chinnikatte. Hence, it was named as Janmasthan. There Hemanaika and his descendants had constructed a temple

for Sevabhaya they were performing the pooja there and this continued in the family of Hemanaiik. Plaintiff no.2 is the descendant of Hemanaiik and he is also not interested in the materialistic word, and he is interested in meditating and doing things for the welfare of the community.

4. It is further stated that during the course of time Plaintiff no.2 has gained popularity and first plaintiff came to know of it and kept him in observation. After watching him for many years, the 1st plaintiff appointed him as the Swamiji of the community at Sooragondanakoppa Village, where the said Sevalal had taken birth. Plaintiff no. 2 is entrusted with the work of looking after the welfare of the community, improve the Janmasthan and perform all other acts which are necessary and good for the Banjara Community. Plaintiff no.2 is the only spiritual head of the Banjara community in Karnataka. He is anointed with the sanyasa during the year 1998 and since then he is discharging his duties as such. He is holding annual Jathras, performing poojas at the temple in Janmasthanana of Sri. Sevalal. The Government of Karnataka during the last years started giving grants to all communities and mutts. Likewise some grant was made to the Janmasthanana at Sooragondanakoppa. With that money the Janmasthanana was improved and temple of Mariyamma Devi and Sevabhaya were also improved. Further proper approach roads were laid. The Government was granting the funds in

every budget. It appears the defendants are interested in the money. The doling out of money has made some greedy. They want to have a piece of cake by getting to manage the money. With that intention they have started saying that they have formed an association by name Sri. Sevalal Janmasthanam Jeernodhara Samithi. They are also trying to influence the Government to release the grants to the committee and allow them to spend it. When Plaintiff no.2 came to know of it he objected to it. Made a representation to the government. On his representation the process of releasing the grants to the committee was held up. This has made some vested interests in the community to grind an axe against him. Defendants are giving him pinpricks and are interfering with his daily and routine work. Further they are lodging false complaints and causing obstruction to him. Plaintiff no.2 tried to reason out with them. But they have fallen on deaf ears. The defendants are very powerful rich, politically backed and are capable of doing anything. Hence plaintiff no.2 has brought to the notice of the 1st plaintiff of the situation which was brewing. The plaintiffs together had approached the authorities requesting them to give protection and take action against the wrong doers. But the authorities have failed to take action. Plaintiff no.2 is performing pujas and administering the Sevabhaya Janmasthanam place and temples. Now the defendants and their men are trying to oust him from there. He has to perform pujas and look after

the day today affairs of the Sevabhaya Janmastana place and temples in view of the interference by defendants it is not possible to perform poojas peacefully. The defendants have no manner of right, title interest over the same. Hence, plaintiffs have filed this suit and sought for interim temporary injunction.

5. The Defendant No.3 has filed his objections and denied the entire case of the plaintiff. The defendant contended that no pattabhishek Ceremony of plaintiff no.2 is performed and the public at large have never accepted the plaintiff no.2 as Swamyji of Pitha. Further the relief claimed by the plaintiff in the suit and the application affects entire banjara community. The Jeernodhara committee is functioning since last 200 years. The plaintiffs are not related to Janmasthana of Sevalal. The Jeernodhara committee is making development in the said place. The devotees have contributed by giving donations for development of the said place and government has also given the grant. The plaintiffs have filed this suit to gain wrongfully and to administer the place of Sevalal Janmastana as per their whims and fancies. Hence, prayed for rejection of the application.

6. Heard the arguments of both sides.

7. The following points arise for my consideration:

1. Whether the plaintiffs have made out prima facie case?
2. Whether balance of convenience lies in favor of plaintiffs?
3. Whether irreparable loss or injury would be caused to the plaintiffs if the application is not allowed?
4. What order?

8. My answer to the above said points is

Point No.1 : Partly in Affirmative

Point No.2 : In Affirmative

Point No.3 : In Affirmative

Point No.4 : As per the final order for the

following:-

REASONS

9. **Point No. 1:** The Plaintiffs have filed this suit seeking the relief of declaration, declaring that the 2nd plaintiff is the religious head and Swamiji of the community at Sooragondanakoppa and for the injunction restraining the defendants or any body acting on their behalf from interfering in any manner with the daily poojas and routine work of the 2nd plaintiff in discharging his duties as the swamiji of the community. It is averred by the plaintiffs that both the plaintiffs are descendents of family of Sevalal. 1st plaintiff is the religious head of the

entire banjara community and 2nd plaintiff is spiritual head of banjara community in Karnataka. 2nd plaintiff was anointed with Sanyasa in the year 1998 and since then he is discharging his duties. In order to show that 1st plaintiff has appointed the 2nd plaintiff as Swamiji of the community at Sooragondanakoppa, the plaintiffs have produced document purporting to be the appointment letter of plaintiff no.2 as religious head. Affidavit is produced to show genealogy of family of 2nd plaintiff. Genealogy certificate and its translation are produced. Declaration letter made by 1st plaintiff in favor of 2nd plaintiff is produced. Representation given to district registrar by the 2nd plaintiff is produced. Pamphlets purporting to be invitation for Kalasarohana, invitation of executive committee of banjara samithi, invitation for Jathra Mahotsav for the year 2012, 2009, 2014 are produced, Wherein the name of the plaintiffs is shown in earlier documents and dropped in recent years. From the documents produced by the plaintiffs it will be premature to comment on the aspect of plaintiff no.2 being the religious head of the Banjara community at Sooragondanakoppa village and it can not be said at this stage that plaintiff no.2 is the religious head of the entire Banjara community at Sooragondanakoppa village, to consider the said aspect it requires full pledged trial. However as a common man every person has got a right to perform pooja and routine work for the purpose of

worshiping the god in whom he has got belief and faith. No doubt the concept of secularism is implicit in the preamble of the constitution which declares the resolve of the people to secure to all its citizens “liberty to thought, belief, faith and worship”, however the right to worship does not include the right of worship at any and every place, so long as it can be practiced effectively, unless the right to worship at a particular place is itself an integral part of that right. While the right to worship is an essential part of a religion but it does not include the right to worship at any place and every place. Hence for the reasons discussed above, plaintiffs have failed to establish a prima facie case to the effect that plaintiff no.2 is the religious head of entire Banjara community at Sooragondanakoppa Village. However plaintiff no.2 has got a right of worship. Hence, I answer Point No.1. partly in Affirmative.

10. **Point No. 2:** The contention of the plaintiffs is to the effect that the defendants are interfering in daily poojas and routine work of the 2nd plaintiff and plaintiff no.2 has stated regarding the alleged interference in his affidavit. While considering the balance of convenience the court has to look into the comparative inconvenience that would be caused to any party either by allowing or rejecting the application. In this case if the Defendants succeed in interfering with the daily poojas and routine work of 2nd plaintiff then the plaintiff no.2 will be deprived

of his alleged right to worship if any. On the other hand if the Defendants are restrained from interfering with daily poojas of the 2nd plaintiff it will protect the alleged right of the plaintiff no.2 to worship. So that it will help this court to finally and effectually decide the controversy involved in this suit. Hence, if the application is not allowed the plaintiffs will be put to more inconvenience than that of the inconvenience that will be caused to Defendants by allowing the application. Hence the balance of convenience lies in favor of the plaintiffs. Hence, I answer the point No.2 in Affirmative.

11. **Point No. 3:** If the Defendants Succeed in interfering with the daily poojas of the 2nd plaintiff definitely plaintiff no.2 will be deprived of his alleged right to worship and there will be multiplicity of proceedings. The plaintiffs will be put to untold hardship and loss, which can not be compensated in terms of money. On the other hand, if the application is allowed in part no loss or hardship will be caused to the defendants. At the most cause involved in the suit will be heard and decided on merits by protecting the right of worship of the 2nd plaintiff. Hence, I answer point No.3 in Affirmative.

12. **Point No. 4:**In view of the observations on above points, I proceed to pass the following.

ORDER

The I.A. No.1 filed by the Plaintiffs U/o. 39 Rule 1 and 2 of CPC is hereby allowed in part. The defendants their men, their agents, their servants or anybody claiming through them or on behalf of them are restrained from interfering in any manner with the daily poojas and routine work of the 2nd plaintiff in his individual capacity but not as the Swamiji of the community, till disposal of suit.

(Dictated to the Stenographer directly on the computer, typed by her, corrected, signed and pronounced by me in the Open court on this the 9th day of March 2015.)

Addl. Civil Judge & JMFC.,
Honnali.