

KADG520009422024



**IN THE COURT OF THE ADDL. CIVIL JUDGE AND J.M.F.C.,
AT Honnali**

:PRESENT:

Sri. Punyakoti S N
B.A., LL.B.,
ADDL. CIVIL JUDGE & JMFC,
HONNALI

DATED THIS THE 28th DAY OF APRIL 2025

O.S. No. 204/2024

PLAINTIFFS : Yashodamma and another
V/s

DEFENDANTS : Chandribai and another

IA No-V

Applicant/ : Chandrashekharappa
Plaintiff No.2
V/s

Opponents/ : Chandribai and another
Defendants

ORDERS ON I.A.No.V

This is an application filed by the plaintiffs under Section. 151 of C.P.C for an order from the court directing the police to give protection to the plaintiff for implementation of an order passed by this court on I.A.No.I dated 22.11.2024.

2. In support of the application, plaintiff has filed sworn affidavit, wherein, he has stated that, the present suit was filed for the relief of permanent injunction. Defendants are strangers to the suit property, have no right, title or interest over the suit schedule property caused interference to the plaintiff's peaceful possession and enjoyment over the suit schedule property. Therefore, they have filed I.A.No.1 for an order of temporary injunction against the defendants restraining them from causing interference to the plaintiff's peaceful possession. After hearing the matter on merits this court granted the temporary injunction infavour of plaintiffs. Further submits that even though the continuance of order, defendants again caused interference into the suit schedule property by trying to lock the room in which water pump set/ borewell is in by tress passing into the same. In this regard plaintiffs filed a complaint against the defendants before Nyamathi police station but the police have not taken any action but issued an endorsement. Therefore, the plaintiffs constrained to file the present application and sought for police protection for implementation of the order passed on I.A.No.1.

3. On the other hand, this application is contested by the defendants by filing objection and denied all the averments of the affidavit of the plaintiff. Interalia, contended that plaintiffs filed this application only to take advantage of the order passed on IA No.1. Plaintiffs are no where in possession over the suit

schedule property they obtained katha behind back of the defendants. Defendant No.1 purchased the suit schedule property in SR.No.2101/01-02. Such being the case plaintiffs obtained final decree in FDP No.2/12 behind back of the defendants. Defendants preferred appeal against the judgment and decree in OS.No.209/98 before the Hon'ble Court of Senior Civil Judge, Harihara. Such being the case the present application filed by the plaintiffs is not maintainable. Hence prays to dismiss the application.

4. Heard, perused the materials on record, the followings points raised for my consideration:

1. Whether the plaintiff has made out sufficient grounds to issue police protection for implementation of the order passed on I.A.No.I dtd: 22.11.2024?

2. What order?

5. My findings to the above points as hereunder:

Point No.1: In the Affirmative

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

:REASONS:

6. **Point No.1:-** Basically the suit is filed by the plaintiffs against the defendants for the relief of permanent injunction to restrain the defendants from causing interference to their peaceful possession over the suit property along with IA No.I. After registration of the suit, summons issued to the

defendants. In response to the suit summons, defendants have appeared and filed their objections to IA No.I. After considering the merits on the application, this court passed an order on I.A.No.I on 22.11.2024 and allowed the application filed by the plaintiffs and restrained the defendants from causing interference to the plaintiffs' peaceful possession and enjoyment over the suit schedule property till disposal of the suit. Thereafter the matter was proceeded for further stage.

7. Now, the plaintiffs have filed the present application seeking police protection for implementation of the order passed on I.A.No.I. On the ground that the defendants again causing interference to the suit property and trying to lock the room in which water pump set/ borewell was in. Defendants' counsel argued that plaintiffs are no where in possession over the suit schedule property, hence present application is not maintainable.

8. Learned counsel for the plaintiffs furnished copy of the complaint dtd:31-12-2024 filed before Nyamathi police station, acknowledgment and endorsement issued by them and photo. On perusal of these documents it reveals that during the continuance of orders on IA.No.I defendants have again alleged to be causing interference to the plaintiffs. Hence the plaintiffs have filed the complaint before the Nyamathi police station.

9. At this juncture it is helpful to rely on decision of Our Hon'ble High Court of Karnataka decision reported in I.L.R. 1996 KAR 1271 (PAPANNA VS- NAGACHARI) in the said decision it is held as follows:-

CIVIL PROCEDURE CODE, 1908 (Central Act No.5 of 1908)- Order 39 Rules 1 & 2 : Section 151 Enforcement of order : direction can be given to Police.

HELD: When the Court has prima facie considered the matter and has granted a temporary injunction in favour of the plaintiff after hearing the defendant, the Court has to enforce the same and the contention of the defendant that he is in possession, cannot be accepted at this stage If the Court had no power to implement its own orders, then there is no purpose in the Courts passing orders in matters coming before them. The remedy under Order 39 Rule 2 (a) is not exhaustive and Court can pass appropriate orders to see that its orders are enforced. In necessary cases, even the Police can be directed to enforce the orders of the Court.

10. Our Hon'ble High Court of Karnataka held in the above decision that, if the court has no power to implement their own orders, no purpose for the courts passing orders in matters giving before the courts. In a necessary case, the

police can be directed to enforce the order of the court. Under these circumstances, there are sufficient grounds to give police protection to the plaintiffs as prayed in the application. Hence, I answer Point No.1 in the **Affirmative.**

11. **Point No.2:-** For the foregoing reasons this court proceed to pass the following:

ORDER

I.A.No.V filed by the plaintiffs under Section.151 of C.P.C is hereby allowed.

The SHO of Nyamathi Police Station is hereby directed to give police protection for implementation of an order passed by this court on I.A.No.I.

No order as to costs.

[Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this 28th day of April 2025].

(Punyakoti S.N.)
Addl. Civil Judge & JMFC.,
Honnali.

(Order pronounced in the open
Court, vide separate order)

ORDER

I.A.No.V filed by the plaintiffs
under Section.151 of C.P.C is
hereby allowed.

The SHO of Nyamathi Police
Station is hereby directed to give
police protection for
implementation of an order
passed by this court on I.A.No.I.

No order as to costs.

ACJ.,Honnali.