

**IN THE COURT OF PRL.CIVIL JUDGE AND PRL.JMFC,
DHARWAD**

-: PRESENT :-

**Sri.Malleshi Parashuram Mohite.,
B.A(Law).,LL.B.,
Prl. Civil Judge & Prl.J.M.F.C., Dharwad**

Dated this the 04th day of July -2024

Original Suit No.376/2015

BETWEEN

Anand Kumar H.

.....Plaintiff

(By Sri.S.S.K. Adv.)

V/s.

1. [Smt. Sarojini W/o Jayakumar Patravali]

2. Kalpana W/o Ajit Patil and others.

.....Defendants

(By.Sri.S.G.P., Adv.,for D.2 to 4)

(By.Sri.G.S.S., Adv.,for D.5)

(Defendant No.1 dead)

PARTIES TO I.A.NO.VII

Sandeepa S/o. Jayakumar Patravali

.....Applicant/defendant No.4

V/s.

Anand Kumar H.

.....Opponent/plaintiff

ORDER ON I.A.NO.VII

This application is filed by the defendant No.2 to 4 against the plaintiff seeking an order of temporary injunction restraining the plaintiff and his henchman, restraining him not to obstruct peaceful possession of defendant No.2 to 4 over the suit property till disposal of the suit.

2. In the accompanying affidavit it is stated that, the defendant No.2 and 3 are in joint possession over the suit property. They are in apprehension that, plaintiff or his henchman during pendency of the suit may obstruct/interfere in order to throw out them from the suit property. Then they will put to loss. They have prima-facie case and balance of convenience lies in their favour and also to avoid multiplicity proceedings and also to adjudicate the matter properly seek T.I order against the plaintiff. Hence, prays to allow the application.

3. On the other hand, plaintiff orally objected to the application.

4. I have heard the arguments on both sides.

Perused the materials available on record.

5. The following points would arise for my consideration;

1. Whether applicant/defendant No.2 to 4 have made out prima-facie case?
2. In whose favour the balance of convenience lies?
3. Who will be put to irreparable loss or injury if temporary injunction is not granted?
4. What order ?

6. My answer to the above points are held as under.

Point No. 1 : In the negative.

Point No. 2 : In favour of the plaintiff.

Point No. 3 : Plaintiff will be put to irreparable loss.

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

: R E A S O N S :

7. **POINTS NO.1 to 3 :-** These points are inter-linked with each other, hence they are taken together

for common consideration in order to avoid repetition of facts.

8. The present suit is filed by the plaintiff against the defendants for the relief of possession over the suit property. Now the present case is posted for cross of P.W.1. At this stage the plaintiff has come with this application seeking T.I order restraining the plaintiff from obstruction of their peaceful possession over the suit property. It is the contention of the defendants, that the plaintiff may interfere/obstruct the possession of the defendants over the suit property. Further, contended that plaintiff is submitting settlement of the suit and may obstruct the possession of the suit property. Plaintiff orally objected to the application. The present suit is posted for cross of p.w1 and further in this case the defendant No.2 to 4 have filed their written statement with permission of this court and case is posted additional evidence of plaintiff side. The suit itself is filed for possession of the suit property from the defendants. The plaintiff has to prove his case by adducing oral and documentary evidence. The present suit is filed in the year

2015 the defendant No.2 to 4 have file their written statement on 29-08-2023. Therefore, the contents made in the applications are not believable at this stage. The defendant No.2 to 4 have not made out prima-facia case and balance of convenience. The balance of convenience lies in favour of plaintiff than the defendants. Hence, I answer point No.1 in the negative and points No.2 and 3 in favour of plaintiff.

9. **POINT NO.4:-** For the reasons stated above, I proceed to pass the following.....

ORDER

I.A.No.VII filed by the defendant No.2 to 4
U/O.39 Rule 1 and 2 R/w Section 151 of CPC is
hereby dismissed.

No order as to cost.

(Dictated to the stenographer transcribed and computerized by her, then script corrected and signed by me and pronounced in the open court dated this **04th day of July 2024**).

(Malleshi.Parashuram. Mohite)
Prl.Civil Judge & Prl. JMFC,
Dharwad.