

IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL JUDGE &
J.M.F.C., HUBBALLI

Present:
Sri. RAGHAVENDRA.R.
B.A.L, L.L.B.
I Additional Senior Civil Judge and JMFC.,
Hubballi.

O.S. No.76/2024

Dated this the 04th day of January, 2025

Plaintiff : Shreya D/o Shashidhargouda Patil and
others.

.Vs.

Defendant : Channabasan Gouda S/o Siddangouda
Patil and others.

PARTIES TO I.A. NO.XV

Applicant/s : Shreya D/o Shashidhargouda Patil and
others.

.Vs.

Opponent/s : Channabasan Gouda S/o Siddangouda
Patil and others.

- i. Provision under which application is filed : Under Sec.151 of CPC.
- ii. Relief sought for : To give direction to defendant No.1 to restore the electricity connections to suit schedule A property.
- iii. The date on which application is filed : 10.12.2024

- iv. Number of the : XV
application
- v. The date on which : 13.12.2024
objections are filed
by different
opponents
- vi. The date on which : 04.01.2025
orders were passed
on the said
application

ORDERS ON IA XV

This order arises out of interlocutory application No.I filed by the applicants/plaintiffs under Section 151 of Civil Procedure Code to give direction to defendant No.1 to restore the electricity connections to suit schedule A property.

2. The brief facts of the affidavit annexed to application is that, the plaintiffs have filed the suit for declaration, partition and separate possession of their legitimate share in the suit schedule properties against the defendants. The plaintiffs have been in possession and enjoyment of the suit schedule A-property at serial No.1. The Court has been pleased to pass the order of Ad-interim temporary injunction against the defendants from alienating or transferring the suit schedule properties. That now the defendant No.1 being the head of the family, just with an intention to cause harassment and inconvenience to plaintiffs has got disconnected the electricity supply to the suit Schedule A property by colluding with HESCOM

authorities from 06.12.2024 and since then the plaintiffs have been suffering every day without having electricity in the said building. The plaintiff No.1 to 3 are school going and they have put to every day hardship and inconvenience. That on account of the disconnection of the electricity to the said property, the plaintiffs have also not getting water supply to the said building. The defendant No.1 is causing such high handed and illegal act just because of taking revenge against plaintiffs. Hence, plaintiffs have filed supra application.

3. The defendants have resisted the application by filing counter to application. They have denied all allegation made in the affidavit annexed to application. They contended that, the suit schedule A-1 property consist of seven houses but he plaintiff have suppressed the said fact and have filed this application. That the plaintiffs are claiming the right over the suit properties and also they are claiming that they are in joint possession of the suit properties. If it so the one co-owner is not entitle for any injunction against another owner. Hence, prayed to dismiss the application with costs.

4. I have heard the arguments canvassed by learned counsel for parties.

5. The following points are for my consideration.

- Point No.1: Whether the plaintiff have made out a sufficient grounds to get the relief as sought in the application?

- Point No.2. What order?

6. My findings to the above points are as under.

- Point No.1: Partly in affirmative.
- Point No.2: As per final order, for the following;

REASONS

7. **Point No.1**: The plaintiffs have filed this suit for following reliefs

a. A decree for partition and separate possession may kindly be drawn, directing the defendants to affect partition and give separate possession of the plaintiff's 1/5th share each i.e, 4/5th share jointly, in the suit property by declaring that the alleged Registered watni Patra dated 07.01.2022 under document No.10122, registered before Sub-registrar, Hubballi (North) is illegal and null and void and not binding upon the plaintiffs and their share in the suit schedule properties and it be declared that, the alleged sale deed dated 07.04.2022 subsequently registered in favour of the defendant No.17 in respect to R.S.No.5/1A+1B/2 property at Sl.No.2(i) of the schedule-B of the suit properties, is illegal and not binding upon the plaintiffs and their share in the suit property.

b. further it be declared that the alleged registered sale deeds in respect to Schedule B properties at Sl.No.1, on 14.07.2005, registered as document No.2412, in favour of defendant No.14 and the sale deed dated 03.07.2014 in respect to Sl.No.3 property in favour of the defendant No.15 registered under document No.3705 and sale deed dated

08.04.2004 in respect of Sl.No.5 property in favour of the defendant No.16 registered before Sub-register, Hubballi. Is illegal, null and void and not binding upon the plaintiffs and their share in the respect of the suit properties.

8. It is needless to say that, the defendant No.1 has not disputed the relationship of the plaintiffs with them. It is undisputed fact that, the Sessions Case has been registered against the husband of the plaintiff No.4 ended in a conviction. The main contentions of the plaintiffs that, despite of several cases, the plaintiff No.4 has never thought to desert the company of the defendant No.8. The learned counsel for the defendant No.1 to 9, 11 to 13 have vehemently argued that the plaintiffs have filling one or other cases or complaint against them only to harass them and nothing more than. On perusal of the documents placed by the plaintiffs and these defendants are clearly demonstrated that, the parties have fighting for their best known reasons in various complaints and cases. It is pertinent note herein that, the plaintiff No.4 had deposed in the cross examination did by the counsel for the defendant No.8 in the Sessions Case No.38-2020 that, she was let one house for rent of Rs.6,000/- by obtaining the advance amount of Rs.30,000/-. She further deposed that remaining six houses were locked by the defendant No.8 or accused No.2. Apart from this, the plaintiff No.4 has pleaded in the written statement filed in OS No.39/2020 on the file of Hon'ble V Additional Civil Judge, Hubballi that, she is residing in one of the house in the suit schedule property

along with her minor children and the said house is only shelter for her residence. The version of the plaintiff No.4 in the above referred criminal Case or Sessions Case and contentions raised in the written statement filed in OS NO.39-2020, the plaintiff No.4 and her minor children are living in only one house. The Suit serial No.1 property consist more than one house. It is not the case of the plaintiffs that, they are in exclusive possession over the entire suit serial No.1 property. The counsel for the plaintiff has highlighted the orders passed by the Assistant Commissioner in ASCA/DR/26/2021-2022. The petition filed by the defendant No.1 was dismissed by the concerned forum by holding the cases are pending for adjudication between the parties. It does not mean that, the plaintiffs are in exclusive possession over the entire Suit Serial No.1 property. It can be gathered from reading of the plaint that the plaintiffs have contending about joint possession over suit properties. If it so, the one co-owner is not entitle for any injunction against another owner.

9. The endorsement given by the plaintiffs are clearly indicates that the concerned electricity board has disconnected the connection given to the schedule A property on the requisition made by the defendant No.1. As I referred above, the Suit serial No.1 property consist more than one house. It is not the case of the plaintiffs that, they are in exclusive possession over the entire suit serial No.1 property. Under such circumstances, if defendant No.1 is directed to restore the electricity connection to the entire

building, he would be put to great hardship. In other words, if the plaintiffs' prayer had been considered, defendant No.1 should have paid the electricity charges to the entire building. Hence, I answer **point No.1 partly in affirmative.**

10. **Point No.4:** As per following;

ORDER

Interlocutory Application No.XV filed by the plaintiffs under Section 151 is hereby allowed in part.

The defendant No.1 is directed to restore the electricity connection to the house where the plaintiffs reside.

No orders as to costs by considering the relationship of the parties.

For hearing on IA No.X to XIII.

(Directly typed and computerized by me in laptop and corrected, signed and then pronounced by me in Open Court on this the **04th day of January, 2025**)

(Raghavendra. R)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.