

**IN THE COURT OF THE CIVIL JUDGE AND J.M.F.C.
NAVALGUND**

O.S. No.239/2021

Dated this the 25th day of March, 2023

Present : Sri. Santhosh M.S.
B.A., LL.B., (Hons); LL.M.,
Civil Judge and JMFC., Navalgund.

Plaintiff :1. Sri. Mallappa
Adopted father Rudrappa Talawar
Age: 62 years, Occ: Agriculture,
R/o. Gobbaragumpi, Tq: Navalgund,
Dist: Dharwad.
(By Sri. M.S.H, Advocate)

Versus

Defendants :1. Sri. Amrutappa
S/o. Hanamantappa Talawar
Age: 67 years, Occ: Agriculture,
R/o. Gobbaragumpi, Tq: Navalgund,
Dist: Dharwad and another.
(By Sri. V.T.K.,Advocate)

PARTIES TO I.A.

Applicant : 1. Sri. Mallappa
Adopted father Rudrappa Talawar

Versus

Opponents : 1. Sri. Amrutappa
S/o. Hanamantappa Talawar and another

**ORDERS ON I.A., FILED UNDER SECTION 151 OF CPC BY
PLAINTIFF**

The present application is filed seeking for the relief of extension of the order of temporary injunction granted by this Court through order dated 23.11.2021.

2. In the affidavit accompanying the application the plaintiff has contended that the order of temporary injunction was granted by this Court on 23.11.2021 for a period of 6 months. The said period has expired. When the matter was posted for plaintiff evidence, the plaintiff sought time. Accordingly, the present suit was adjourned from 19.03.2022 to 16.06.2022. During the said period the order of temporary injunction has expired. The order of temporary injunction granted against defendants is liable to be extended till disposal of case as refusal of such extension would cause severe prejudice and hardship to the plaintiff. If the application is rejected then irreparable loss will be caused to the plaintiffs. On the contrary no inconvenience will be caused to defendants. Hence, it is prayed for extension of temporary injunction.

3. The application filed by plaintiff is opposed by defendants contending that the application is false, frivolous and not maintainable. The plaintiff has not assigned good reason for extension of temporary injunction. The plaintiff has not complied order dated 16.12.2021. Issues are framed on 23.11.2021 and ever since then the plaintiff has been seeking time to adduce evidence. Sufficient opportunity has been granted to the plaintiff to lead evidence. But adjournment is sought without justifiable reasons. The plaintiff was present before Hon'ble Appellate Court on all dates of hearing. But the plaintiff has failed to adduce evidence in this suit. Hence, it is contended that the present application is filed to cause inconvenience and hardship to the defendant. As such it is prayed for rejection of the application with cost.

4. Having heard both sides, the following points arise for my consideration which are as under;

POINTS

1. Whether the order of temporary injunction dated 23.11.2021 deserves to be extended?
2. What Order?

5. My findings on the above said Points are as hereunder:-

Point No.1 : In the **Affirmative**,

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

REASONS

6. **Point No.1:-** After institution of this suit through order dated 26.08.2021 exparte temporary injunction was granted to plaintiff restraining defendants no.1 and 2 from interfering or causing obstruction in the plaintiffs possession over suit property. On appearance the defendants were heard and through order dated 23.11.2021 the order of temporary injunction was granted for a period of 6 months directing both the parties to co-operate in expeditious disposal of the suit. Immediately thereafter issues are framed on 23.11.2021. On 19.03.2022 the plaintiff sought time to adduce evidence. As such this suit was posted on 16.06.2022. On the said date the present application is filed for extension of temporary injunction.

7. It is relevant to note that the order of temporary injunction granted for a period of 6 months has elapsed before filing the application. However, the order of temporary injunction granted by this Court was subject matter of appeal preferred by defendants no1 and 2 in M.A. No.3/2021 before Hon'ble Senior Civil Judge and J.M.F.C., Navalgund and the said appeal came

to be dismissed with cost Rs.500/- as per judgment dated 30.06.2022 i.e., after filing the present application. Hence, the order of temporary injunction passed by this Court has been confirmed in appeal and before said order could be passed the present application is filed for extension of temporary injunction. The defendants have not pleaded any change of circumstances which requires modification of order of temporary injunction. The only contention is raised the plaintiff has not adduced evidence despite grant of sufficient time.

8. It is germane to mention that due to the ensuing vacation in the month of April and May of 2022, this matter was posted in the month of June-2022. During the said period the order of temporary injunction has expired. No doubt there is delay on the part of plaintiff to diligently prosecute the present suit. But the said delay can be compensated by imposing suitable cost. If the order of temporary injunction is not granted then the very purpose of filing the present suit is likely to be frustrated. In such event the plaintiff, who has been granted order on hearing both sides, would be condemned unheard. Hence, this Court is of the considered view that by allowing the application and imposing suitable cost, ends of justice will be met. Hence, I answer Point No.1 in the **affirmative**.

9. **Point No.2:-** For the reasons discussed above, I proceed to pass the following;

ORDER

The application filed under Section 151 of C.P.C., by the plaintiff on 16.06.2022 is allowed on cost of Rs.3,000/-.

The order of temporary injunction granted by this Court on 23.11.2021 is extended for a period of one year from today.

The plaintiff is directed to pay cost imposed by this order to the defendants.

To hearing on I.A., filed under Order VI Rule 17 of CPC and compliance by plaintiff, call on 12.04.2023.

(Dictated to the stenographer, transcribed and typed by him, the transcript revised, corrected and then pronounced by me in the Open Court on this **25.03.2023**).

(Santhosh M.S.)
Civil Judge and J.M.F.C.,
Navalgund.
