

ORDER ON I.A.No.16

IA No.16 is filed by the defendant No.2 U/Sec.151 of CPC seeking direction by directing the jurisdictional police i.e., Sub-Inspector of police, Hirisave to give protection by enabling the defendant No.2 to renovate the old house situated in southern side of counter claim schedule property abutting to the National Highway.

2. In the accompanying affidavit it is stated that the plaintiff has filed this suit against the defendants for the relief of permanent injunction and along with other reliefs. This defendant has filed written statement along with counter claim and also I.A No.2 for vacating status quo and I.A 3 and 4 U/o. 39 Rule 1 and 2 of CPC restraining the plaintiff and defendant No.1 from interfering with the peaceful possession and enjoyment of counter claim schedule property and also restraining them from putting up any further construction over the counter claim schedule property. Orders was passed by this court by dismissing the IA No.1 and allowing the IA No.2 to 4 vide order dtd: 13.06.2012 by restraining the plaintiff and defendant No.1 from interfering and putting up further construction over the counter claim schedule property.

The plaintiff has preferred an appeal by challenging the same before Senior Civil Judge at Channarayapatna the same was also dismissed on 30.08.2013. The plaintiff has not preferred any appeal against that order. It is further contended that the house situated on the southern side of the counter claim

schedule property is old house, in the rainy season it was leaking and hence the defendant No.2 is storing the building materials to renovate the house, the plaintiff by colluding with the defendant No.1 and his wife with dishonest intention preventing the defendant No.2 to carryout renovation work and also quarreling with workers in filthy and vulgar language. This defendant is unable to resisting the illegal and high handed acts of the defendant and his wife who are violating order of injunction passed by this court. Hence prays for an order of direction to The PSI, Hirisave Police station, C.R.Patna to give protection to enable the 2nd defendant to carry renovation work. Hence, prays to allow the application.

3. On the other hand the plaintiff has filed objections contending that, the property mentioned in the counter claim schedule property is not in the possession and ownership of defendant No.2 and the said property is not at all abutting to the road towards southern side of suit schedule property. There is a residential house and commercial building belongs to the plaintiff which was acquired by the Government for NH-75. The plaintiff has obtained compensation amount as the plaintiff has constructed house as he has no alternative for residence. The same was within the knowledge of defendants No.1 and 2. If the court permits the defendant No.2 to renovate or construct building it will cause injustice to the plaintiff. The plaintiff is in possession of suit schedule property since 1990. No property of defendant No.2 is in existence towards National Highway. The

same was acquired by the Government as the suit schedule property is abutting to the National Highway. The defendant No.2 has trying to get unlawful gain hence, prays to dismiss the application.

4. Heard counsel for both parties and perused the materials available on record.

5. Based on the materials placed on record the following points arise for consideration:

1. Whether the defendant No.2 has made out sufficient grounds to allow the application ?

2. What order ?

6. The findings of this court on the above points are as under:

Point No.1 : In the Negative

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

REASONS

7. **Point No.1:-** The present suit has filed by the plaintiff against defendants for the relief of permanent injunction. When the case was posted for cross examination of PW.1, the defendant No.2 has filed this application.

8. The counsel for plaintiff has produced photos along with CD on which there is existence of old house.

9. The counsel for defendant No.2 has relied upon above said judgments as follows:

1. W.P.No.51712/2019, NC 2025: KHC:24360
between Balakrishna K.P. & Another V/s K.P.Puttaraju & Ors.

2. W.P.No.62970/2015 dtd: 27.02.2017
between Siddaramappa & Ors V/s Talavara Rangappa & Ors.

3. ILR 2010 KAR 1197 *between Smt. Karisiddamma & Ors V/s Smt. Kenchamma.*

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10. On perusal of same in which the Hon'ble High Court of Karnataka held that, *when temporary injunction order is made absolute after hearing both sides, there are no legal impediments in granting the police assistance for enforcing the temporary injunction order depending upon the gravity of the situation.*

11. In this case the defendant No.2 has filed IA No.2 to vacate status quo on IA.No.3 for restraining the plaintiff from the peaceful possession and enjoyment of schedule property and IA. No.4 restraining the plaintiff from putting up further construction in the counter claim schedule property.

12. In this case the order of temporary injunction has been granted in favour of plaintiff from interfering with the counter claim schedule property and from putting construction from the counter claim schedule property. No order has been passed by this court in favor of defendant No.1 to continue with

construction proceedings. The suit has been filed by the plaintiff for permanent injunction and the defendant No.2 is claiming counter claim. The defendant No.2 has filed IA.No.4 seeking to restrain the plaintiff from constructions in the counter claim schedule property. Now, the defendant No.2 is seeking police protection to renovate the counter claim schedule property. At this stage if the court police protection to defendant No.2 to renovate the property as prayed in the application it will cause hardship to the plaintiff. At present the case is for cross examination of PW.1. The core issues of the case will be decided along with merits after conclusion of evidence. Accordingly, point No.1 answered **Point No.1 in the Negative.**

13. Point No.2:- For the aforesaid reasons, this court proceeds to pass the following:

ORDER

IA.No.XVI filed by the defendant No.2

U/Sec.151 of CPC is hereby dismissed.

No order as to costs.

*(Dictated to the stenographer on-line to the computer and typed by her, corrected, signed and then pronounced by me in open court on **27th day of June 2026.**)*

**III Addl. Civil Judge & J.M.F.C.
Channarayapatna**

ORDER ON IA No.17

The counsel for defendant No.2 has filed IA No.17 seeking to correction of order dtd: 13.06.2012.

In the accompanying affidavit it is stated that, while passing the orders on IA No.1 to 4, this court has mentioned defendant instead of defendant No.2 at para No.2 at page No.11 and plaintiff instead of 2nd defendant at Page No.12 in the order portion of IA No.1 to 4.

The counsel for plaintiff filed objection stating that the defendant No.2 has filed this application to drag on the proceedings. An appeal challenged order dtd: 13.06.2012 was also disposed by the appellate court. The defendant No.2 has filed this application to cause delay.

Perused the application, objections and order passed by this court dtd: 13.06.2012. At page No.7 and 13 in the order portion at para No.2 it is mentioned as defendant instead of defendant No.2 and page No.12 at para No.3 and 4 it is mentioned as plaintiff instead of defendant No.2. Though the defendant No.2 has filed this application with delay of 13 years, in the interest of justice it can be allowed. Accordingly

this court proceeds to pass the following:

ORDER

By acting U/Sec.152 of CPC the same errors are hereby rectified.

Office is hereby directed to amend the same. By: 14.07.2026.

**III Addl. Civil Judge & J.M.F.C.
Channarayapatna**