



IN THE COURT OF ADDL THE CIVIL JUDGE & JMFC.,
SAKALESH PURA

-.PRESENT:-

Sri. Lakshmi Narasimha R.V. B.A.L., LL.B.,
Addl. Civil Judge & JMFC., Sakaleshpura.

Dated this the 4th day of April, 2025

O.S. No. 8/2024

Plaintiffs : **Sri. Subramanya Bhat**
and another

V/s.

Defendants : **Sri. Ravi P and others**

I.A. No.II

Plaintiffs/Applicants : **Sri. Subramanya Bhat**
and another

V/s.

Defendants/Opponents : **Sri. Ravi P and others**



ORDERS ON APPLICATION FILED BY THE PLAINTIFFS
UNDER ORDER XXXIX RULE 1 AND 2 OF C.P.C.

The plaintiffs have filed this application under order XXXIX Rule 1 and 2 of CPC praying this court to pass an order of an ad-interim temporary injunction restraining the defendants their agents, men or anybody claiming through them from interfering with the possession and encroaching suit schedule 'C' property till the disposal of the suit.

2. In the affidavit annexed along with the application, plaintiff No.1 has averred that, they have filed the present suit for the relief of permanent injunction. Plaintiff No.1 has purchased suit schedule 'A' and 'B' properties through a registered sale deed dated 27.04.2007 through one K.T.Kamalakshi and Devaraj. Plaintiff No.2 is in possession of suit schedule 'C' property by way of Bagarhukum Saguvalidar and constructed a farm house thereon. Thus, the plaintiffs are the absolute owners in possession and enjoyment of the suit



schedule properties. Plaintiff No.1 has sold the land bearing Sy No.478/2, 478/3, 654, 672/1, 672/2 and 672/3 in favour of defendant No.1 to 3. The defendants have no any right, title or interest over the suit schedule properties. That on 28.12.2023, the defendants have tries to interfere with the possession and tried to encroach suit schedule 'C' property. Inspite of approaching the jurisdictional police, went in vain. The plaintiffs have got prima-facie case and balance of convenience in their favour. If the application is not allowed, they will be put to irreparable loss and injury. Accordingly, prayed to allow the application.

3. Upon the service of summons, the defendants have appeared before the court through their counsel. Defendant No.4 has filed written statement cum objections. Defendant No.1 to 3 have adopted the written statement of defendant No.4. It is their contention that, Plaintiff No.1 has purchased suit schedule 'A' and 'B' properties. The plaintiffs are not



known to the defendants. The plaintiffs are not in possession of suit schedule 'C' property. The land bearing Sy No.404/P of Heggade village is measuring more than 206 acres. The plaintiffs have not produced any documents to show their possession over suit schedule 'C' property. A person cannot hold more than 4 acres 20 guntas as Bagarhukum Saguvalidar. Hence plaintiff No.2 cannot hold land to an extent of 9 acres 20 guntas. The plaintiffs have not produced any documents to show that E-Khata has been issued in their favour in respect of the house. They got created the documents filed the present suit.

4. They have further contended that suit schedule 'B' property is measuring only 1 acre 10 guntas. Whereas, the plaintiffs have filed this suit for 02 acres 30 guntas by showing wrong boundaries. Plaintiff No.1 has sold the land to an extent of 1 acre 28 guntas in Sy No.478/1 in favour of defendant No.2 and 3. The plaintiffs have filed this suit by suppressing the



material facts. By taking advantage of the suit, the plaintiffs are trying to dispossess defendant No.4 from the suit schedule property. Accordingly, prayed to dismiss the application.

5. On basis of the application, plaint, written statement and documents on record, the following points that arise for the determination of this court.

- 1.** Whether the plaintiffs have made out prima-facie case in their favour?
- 2.** Whether the balance of convenience lies in favour of the plaintiffs?
- 3.** Whether the plaintiffs will be put to great hardship and irreparable loss if, order of temporary injunction is not granted?
- 4.** What order?

6. Heard arguments. Perused the application, affidavit, objections and records placed before this court.



7. My finding on above points are as follows:-

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative

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

::REASONS::

8. **Point No.1 to 3:** Since these points are inter connected with each other, they are taken together for the discussion in order to avoid the repetition of the facts and circumstances.

9. The plaintiffs have filed the present suit for the relief of permanent injunction in respect of suit schedule properties. They have mainly contended that, plaintiff No.1 has purchased suit schedule 'A' and 'B' properties through a registered sale deed dated 24.04.2007. Further, they have contended that plaintiff No.2 is in unauthorized cultivation of



suit schedule 'C' property by way of Bagarhukum Saguvalidar.

It is to note here that suit schedule 'C' property is measuring 09 acre 20 guntas of Heggade village. As per the documents produced by the plaintiffs themselves, it appears on prima-facie that plaintiff No.2 alleged to have been subitted form only to an extent of 04 acres 30 guntas in Sy No.404 of Maranahalli village. Whereas, the plaintiffs have claimed this suit to an extent of 09 acres 20 guntas. As per their contention, they possess suit schedule 'A' and 'B' property totally measuring 06 acre 10 guntas. Under such such circumstances, on what basis plaintiff No.2 is in unauthorized cultivation of 09 acre 20 guntas has not been explained.

10. Moreover, at this stage, the plaintiffs have not produced any documents to show that they are in possession of entire extent of suit schedule 'C' property.



11. On perusal of the documents, it appears on prima-facie that, the revenue records in respect of suit schedule 'C' property appears in the names of government as Hullubanni Kharab. Mere production of photograph does not suffice to hold that the plaintiffs are in possession of entire extent of suit schedule 'C' property. In the absence of the material documents, at this stage, the plaintiffs have failed to prove prima-facie case and balance of convenience in their favour. The plaintiffs have also failed to show the loss and injury if the application is not allowed. Accordingly Point No.1 to 3 are answered in the ***Negative***.

12. **Point No.4::** For the above discussed reasons, this court proceeds to pass the following:

::ORDER::

Application No.3 filed by the plaintiffs under order XXXIX Rule 1 and 2 of C.P.C. is hereby dismissed.

KAHS810000582024



No order as to costs.

[Dictated to the stenographer directly on computer and then corrected by me
and thereafter pronounced in the open court on this the 4th day of April, 2025]

[Lakshmi Narasimha R.V,]
Addl. Civil Judge and JMFC,
Sakaleshpura.