

IN THE COURT OF CIVIL JUDGE & JMFC., BYADGI

Present: Dhanuraj S.M
B.A.,LLB.
Civil Judge and J.M.F.C.,
Byadgi.

ORIGINAL SUIT No. 114 / 2021

Dated on this the 25th Day of February - 2022

PLAINTIFF : Smt. Gouravva W/o; Rudragouda
Mudigoudra, Age: 80 yrs, Occ:
Agriculture, R/o: Kaginele, Tq: Byadgi,
Dist: Haveri.

(By Sri. Y.H. Kudapali, Advocate)

V/s

DEFENDANTS : 1. Fakkirappa S/o: Channakeshappa
Pujar, Age: 52 yrs, Occ: Agriculture.
2. Murareppa S/o: Channakeshappa
Pujar, Age: 50 yrs, Occ: Agriculture.
3. Gopal S/o: Channakeshappa Pujar,
Age: 48 yrs, Occ: Agriculture.
4. Jagadish S/o: Channakeshappa Pujar,
Age: 46 yrs, Occ: Agriculture.
5. Bheemanna S/o: Channakeshappa
Pujar, Age: 43 yrs, Occ: Agriculture.
6. Govindappa S/o: Channakeshappa
Pujar, Age: 41 yrs, Occ: Agriculture.

7. Praveen S/o: Fakkirappa Pujar, Age: 22 yrs, Occ: Agriculture.
All are R/o: Kaginele, Tq: Byadgi, Dist: Haveri.

(Sri. S.V.Banakar, Advocate)

PARTIES TO I.A.No.I

APPLICANT : Smt. Gouravva W/o; Rudragouda
(Ori.Plitff) Mudigoudra, Age: 80 yrs, Occ:
Agriculture, R/o: Kaginele, Tq: Byadgi,
Dist: Haveri.

V/s

OPPONENTS : 1. Fakkirappa S/o: Channakeshappa
(Ori.Defnds) Pujar, Age: 52 yrs, Occ: Agriculture,
R/o: Kaginele, Tq: Byadgi, Dist: Haveri
and others.

ORDER ON I.A.NO.I

The plaintiff has filed the instant IA.No.I U/O XXXIX Rule 1 and 2 R/w Sec.151 of CPC seeking an order of ad-interim Temporary Injunction restraining the defendants or any persons acting on his behalf from obstructing and interfering with the peaceful possession and enjoyment of the plaintiff over the suit property till pending disposal of the suit.

2. The defendants have filed objections to the I.A.No.I.

3. I have heard the arguments of both the sides and perused the entire record, in the facts and circumstances of the case, the following points arise for consideration:

POINTS

1. ***Whether the plaintiff has made a prima-facie case in her favour to grant the interim order as prayed for in I.A.No.1?***
2. ***Whether the balance of convenience lies in favour of the plaintiff?***
3. ***Whether the plaintiff will be put to irreparable loss and hardship if I.A.No.1 is not allowed as prayed for ?***
4. ***What order ?***
5. My finding to the above points are as follows:
Point Nos. 1 to 3 : In the Affirmative.
Point No.4 : As per final order for the following:

REASONS

6. **Point No.1 to 3:** These points are interrelated, hence I have discussed them together for the sake of brevity and to avoid the repetition of facts and evidence.

As could be seen from the pleadings pleaded in the plaint and affidavit filed in support of the application in question, it is the specific case of the plaintiff is that, the property comprised in Re.Sy.No.24 measuring 03-00 acres

00-12 guntas of land originally owned and possessed by her mother namely Channabasavva W/o: Bheemappa Pujar and her father namely Bheemappa S/o: Murareppa Pujar jointly. After the death of her father and mother, she acquired the right over the property as per right of inheritance and accordingly, mutation was certified in her name as per M.E.No.352 dtd: 20-05-2002. Eversince then, she is in actual possession and enjoyment of the suit property as absolute owner thereof by cultivating the same. However, the defendants have no way connected to the suit property and they have no manner of right, title and interest of whatsoever nature in the suit property. It is further contended that, the defendants are politically influential persons and inorder to engulf the suit property, they have interfered and obstructed to the plaintiff on 14-06-2021 while she was cultivating the suit property. It is further contended that, the defendants are on one or other way, interfering and obstructing with the peaceful possession and enjoyment of the plaintiff over the suit property. Hence, she filed the present application and sought for allowing the same.

7. After service of summons to the defendants, they appeared before the court and filed their written statement and also filed memo treating the written statement as objection to I.A.No.I. They have denied the plaint averments

and contended that, the suit of the plaintiff is false, frivolous, vexatious and not maintainable either on law or on the facts of the case. It is the specific contention of the defendants is that, the plaintiff is the daughter of deceased Bheemanna Murareppa Pujar and she is the resident of Timmenahalli village. That one Smt. Iramma Pujar is the first wife of said Bheemanna Murareppa Pujar. It is further contended that, since there was no issues from his marriage with the first wife, he got married the younger sister of said Iramma and due to his wedlock with the said sister of Iramma, they begotten the plaintiff as his only daughter. It is further contended that, the said Bheemanna Murareppa Pujar performed the marriage of the plaintiff with one Mr. Rudragouda Mudigoudra of Timmenahalli village. It is further contended that, due to the wedlock of the plaintiff with the said Rudragouda Mudigoudra, they begotten nine children namely Puttanagouda, Satish, Keshav, Iranagoudra, Bheemanagoudra, Hanumanthagoudra, Sanganagoudra, Manjanagouda and Uma. It is further contended that, the second son of the plaintiff namely Satish was looking after the suit property. It is further contended that, the plaintiff and defendants are the relatives, that the father of the plaintiff and defendant Nos.1 to 6 and grandfather of the defendant No.7 namely Channakeshappa S/o: Bheemanna were performing pooja pertaining to the Shree Laxmi Narasimha Adikeshava Temple at Kaginele. It is further

contended that, the said temple owned and possessed agricultural lands at Dasanakoppa and Kaginele villages. That the father of the plaintiff and father of the defendant Nos.1 to 6 were formed committee / trust in respect of the said temple in order to avail Government facilities and the said committee was consisting seven members.

8. It is further contended that, the suit property and the property comprised in Re.Sy.No.113/2021 and Re.Sy.No.44 originally belongs to Shree Laxmi Narasimha Adikeshava Temple and that, the father of the plaintiff and defendant nos.1 to 6 and grandfather of the defendant No.7 and others were tenants in respect of the said properties. It is further contended that, the father of the plaintiff died in the year 1982 and thereafter the husband of plaintiff namely Rudrandagouda by suppressing the material facts got created some false documents before the Land Tribunal, Byadgi and subsequently effected the name of the plaintiff in the revenue records as per right of inheritance and obtained M.E.No.352 dtd: 20-05-2002 in collusion with the revenue officials.

9. It is further contended that, after the death of the father of the plaintiff, defendant Nos.1 to 6 and grandfather of defendant No.7 and other members of the trust pertaining to the temple are in actual possession and

enjoyment of the suit properties and cultivating the same. However, with the help of the concocted documents, the plaintiff is claiming right, title and interest over the suit property though she has no manner of right, title and interest of whatsoever nature in the suit property. Hence, they prayed for dismissal of the application in question with cost.

10. In support of the case of the plaintiff, she has filed Record Of Rights standing in her name, hand written RTCs standing in the name of plaintiff, mutation register in respect of M.E.No.132, dtd: 21-08-1982, mutation register in respect of M.E.No.352 dtd: 16-04-2002, Form No.10 standing in the name of Bheemappa Murareppa Pujar, certified copy of hand written RTC for the year 1997-98 standing in the name of plaintiff and copy of sketch.

11. On the other hand, the defendants have produced certificate of registration of Shree Laxmi Narasimha Adikeshava Temple of Kaginele along with register, order sheet in respect of proceedings No. TEN:DVS-CR-2/1987-88/Dasanakoppa, order of Land Tribunal in respect of proceedings No. TEN:DVS-CR-2/1987-88/Dasanakoppa, dtd: 10-10-1987, copy of application for registration of occupancy right, hand written RTCs for the year 1986-87 standing in the name of Shree Laxmi

Narasimha Adikeshava Temple, order passed by Land Tribunal, Byadgi in its proceedings No.TEN SR-21+959+189-190/ Dasanakoppa dtd: 25-06-1981, copy of proceedings U/Sec. 23 of Inam Abolition Act, 1977, copy of death certificate of Chennakeshava @ Keshava, mutation register in respect of MR No. 151.

12. On going through the pleadings and documents produced by the plaintiff, it reveals that, originally the suit property along with other properties belongs to Shree Laxmi Narasimha Adikeshava Temple, Kaginele. Further prima facie from the perusal of the documents placed before this court it appears that, the father of the plaintiff namely Bheemappa Murareppa Pujar has filed application before the Land Tribunal seeking occupancy right in respect of the suit property. Further it could be seen that, after holding the inquiry, the Land Tribunal conferred occupancy right in favour of the said Bheemappa Murareppa Pujar as per its proceedings No.TEN SR-51/ Dasanakoppa. Subsequently, occupancy patta in Form No.10 was issued in the name of said Bheemappa Murareppa Pujar by the Tahashildar, Byadgi after collecting necessary fees pertaining to the same with a non-alienation condition of the said property for 15 years. Further from the perusal of the Record Of Rights for the year 1997-98 it could be seen that, the name of the plaintiff got entered in the Record Of Rights as per right of

inheritance after demise of said Bheemappa Murareppa Pujar. Prima facie from the careful perusal of the mutation register in respect of M.E.No.352 pertaining to the suit property it could be seen that, the revenue authority effected the name of the plaintiff in the revenue records on 16-04-2002 as per right of inheritance and from the careful perusal of the said mutation register, prima facie it appears that , the mother of the plaintiff died on 25-01-1996 and the father of the plaintiff died on 17-06-1982 leaving behind the plaintiff as their only legal heir. Prima facie from the careful perusal of the documents produced by the defendant, it could be seen that, they have not challenged the said order of the Land Tribunal before the Hon'ble High Court of Karnataka and the said revenue entries standing in the name of plaintiff is also not challenged by the defendants before any appropriate authority till today. Prima facie from the documents placed before this court, it reveals that, the suit property was granted land by the Land Tribunal in favour of the father of the plaintiff and after the death of her father and mother, the plaintiff is in actual possession and enjoyment of the suit property as absolute owner thereof by cultivating the same and she has acquired the right over the property as per right of inheritance. Though the defendants contended that, they are in actual possession and enjoyment of the suit property by cultivating the same, they have not produced any document to substantiate their

contention, hence prima facie it appears that, the plaintiff is the owner in possession and enjoyment of the suit property on going through the documents placed before this court by the plaintiff. However, in order to ascertain that, whether the defendants are legally entitled to claim right, title and interest over the property, it requires full pledged trial and at this stage, prima facie it appears that, the plaintiff has made out prima facie case to pass interim order on IA No. 1.

13. Hence, I am of the view that, the plaintiff has made out prima-facie case in his favour, the balance of convenience lies in favour of plaintiff and if the interim order as prayed in I.A No.1 is not granted, the plaintiff will be put to greater hardship than the defendant for the reasons that, the plaintiff is enjoying the suit property absolutely. Moreover since the matter is posted for an order on I.A No.1, at this stage, no opinion can be expressed on the documents produced by the plaintiff and the defendants and this court cannot hold mini trial at the time of deciding the interim application for granting injunction. Accordingly, I answer point Nos.1 to 3 under consideration in the **Affirmative.**

14. **Point No.4:** In view of the foregoing reasons, observations and discussions, I proceed to pass the following:-

ORDER

The IA.No.I filed by the plaintiff U/O XXXIX Rule 1 & 2 of CPC is hereby allowed.

The defendants/ agents/ servants or anybody claiming through or under them are hereby restrained by way of temporary injunction to not to interfere and obstruct with the peaceful possession and enjoyment of the plaintiff over the suit schedule property till pending disposal of the suit.

Call on for Compliance of Sec.89 of CPC by: 16-02-2022.

(Directly dictated to the stenographer on computer, typed by her, corrected and then pronounced by me in the open court on this **25th day of February - 2022**).

**Civil Judge & JMFC,
Byadgi.**

(Orders pronounced in open Court vide separate)

ORDER

The IA.No.1 filed by the plaintiff U/O XXXIX Rule 1 & 2 of CPC is hereby allowed.

The defendants/ agents/ servants or anybody claiming through or under them are hereby restrained by way of temporary injunction to not to interfere and obstruct with the peaceful possession and enjoyment of the plaintiff over the suit schedule property till pending disposal of the suit.

Call on for Compliance of Sec.89 of CPC by: 16-02-2022.

**Civil Judge and J.M.F.C,
Byadgi.**