



IN THE COURT OF THE III ADDL.SEINOR
CIVIL JUDGE & J.M.F.C, RANEBENNUR

Present:Smt.Nivedita M.Munavallimath.,
B.Com.,LL.M
III Addl.Senior Civil Judge & JMFC,
Ranebennur.

Dated this the 08th day of February 2023

Original Suit No.175/2018

Plaintiffs : 1) Smt.Durugamma Mayammanavar
and others.

V/s

Defendants : 1) Beerappa S/o Maradeppa
Devaragudda and others.

I.A.No.III

Applicant:

(plaintiff) 1) Smt.Durugamma W/o Fakkirappa
Mayammanavar, Age: 60 years,
Occ: Agriculture, R/o: Kajjari,
Tq: Ranebennur.

V/s.

Opponents:

(Defendants)1) Sri.Beerappa S/o Maradeppa
Devaragudda, Age: 40 years,
Occ: Business, R/o: Kurubageri
Doddakalla near Ranebennur.

ORDER ON IA.No.38

The plaintiffs have filed IA.No.38 U/o 39 Rule 1 and
2 R/w Section 151 of CPC, praying to restrain defendant
No.12, defendant No.1(f) and one Beerappa S/o Maradeppa



Devaragudda from interfering with the peaceful possession and enjoyment over the suit schedule properties.

2. Facts in brief:-

The application is accompanied with the affidavit duly sworn by plaintiff No.2. It is stated in the affidavit that defendant No.11 and 12 have purchased the property bearing RS.No.182/2 and 182/4 of Kajjari village in the year 2018 during the pendency of this suit and tried to dispossess them from the said properties. In this regard, they filed IA.No.7 and 8 to protect their possession and this Court allowed the said applications. Such being the fact, defendant No.11 and 12 and defendant No.1(f) are trying to interfere with their peaceful possession and enjoyment over the suit properties and threatened with dire consequence. In this regard, they tried to lodged complaint before Rural Police Station, but they failed to register the case against defendant No.11 and 12 and defendant No.1(f). Hence prays to allow the application.

3. Per contra, defendant No.11 and 12 have filed objection stating that the plaintiffs have already obtained order of temporary injunction against them under vide order dated 20.04.2018. Inspite of said order, the plaintiffs have filed similar application which is not maintainable and prays to dismiss the same.



4. Heard the arguments of both the sides and perused the records.

5. The points that arise for my consideration are:

1) Whether plaintiffs prove that they have got prima-facie case?

2) Whether the plaintiffs prove that the balance of convenience lies in their favour?

3) Whether the plaintiffs prove that much loss and hardship will be caused to them, if TI is refused?

4) What order?

6. My answer to the above points are :

Point No.1: In the Negative,

Point No.2: In the Negative,

Point No.3: In the Negative and

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

REASONS

7. **Points No.1 to 3:-** All the points are inter-related to each other, hence I have taken above point No.1 to 3 together for my discussion.

8. The plaintiffs have filed suit for declaration and permanent injunction. It is specifically alleged in the affidavit that defendant No.1(f), 11 and 12 are interfering with their peaceful possession and enjoyment of the suit properties and threatened with dire consequence. Therefore, granting of temporary injunction is just and necessary.



9. On going through the records, it is noticed that the plaintiffs already obtained order of injunction against defendant No.11 and 12 under vide order dated 20.04.2018. It is relevant to note that Under Order 39 of CPC, jurisdiction of the Court to interfere with an order of interlocutory or temporary injunction is purely equitable in nature. Therefore, the party invoking the jurisdiction of the court has to show that he himself was not at fault and that he himself was not responsible for brining about the state of things complained of and that he was not unfair or inequitable in his dealings with the party against whom he is seeking the relief of injunction. In the instant case, the records clearly discloses that this Court already granted temporary injunction against defendnat No.11 and 12 as sought in IA.No.8.Inspite of order, the plaintiffs have filed similar application which is not sustainable. Hence the plaintiffs have not shown prima face case and balance of convenience is not lies in their favour. Therefore, no loss or hardship will be caused to the plaintiffs, if the application is rejected. Accordingly, I answer **Point No.1 to 3 in the Negative.**

10. Point No.4:- For the foregoing reasons, I proceed to pass the following :-

ORDER

IA.No.38 filed by plaintiffs U/o 39 Rule

KAHV510008262018



5 OS.No.175/2018
1 and 2 R/w Section 151 of CPC, is hereby
dismissed with cost of Rs.1000/-.

Cost shall pay to TLSA, Ranebennur.

[Dictated to the Stenographer directly on computer typed by her, after transcription, the same is corrected and then pronounced by me in the open court on this 08th day of February – 2023).

[Smt.Nivedita M.Munavallimath]
III Addl. Senior Civil Judge,
& JMFC., Ranebennur.

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