



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 27th day of February 2023

Original Suit No.145/2022

Plaintiffs : 1) Smt.Sonavva Lamani W/o Late
Ramappa, Aged about 80 years
and others.

(By Sri.H.M.S.Advocate)

V/s

Defendants : 1) Sri. Komalappa Lamani S/o Late
Venkappa, Aged about 58
years and others.

(By Sri.N.V.C.Advocate for D.No.1 to 6)
(Deft No.7(a) and (b) placed exparte)

I.A.No.I

Applicants:

(Plaintiffs) 1) Smt.Sonavva Lamani W/o Late
Ramappa and others.

V/s.

Opponents:

(Defendants)

1. Sri. Komalappa Lamani S/o Late
Venkappa and others.

ORDER ON IA.No.I

The plaintiffs have filed IA.No.I U/o 39 Rule 1 and 2,
R/w Section 151 of CPC, praying to grant Ad-interim order
of temporary injunction against defendant No.1 restraining



him, his agents, his power of attorney holder or any one acting on his behalf from alienating, leasing, creating any type of charge, lien etc., or acting against to the interest of the plaintiffs over the suit schedule property till disposal of the suit.

2. Facts in brief:-

The application is accompanied with the affidavit duly sworn by plaintiff No.4. It is stated in the affidavit that originally the suit property was cultivated by the deceased Ramappa Tejappa Lamani and hence after enquiry, the land tribunal granted the suit property infavour of deceased Ramappa Lamani on 12.11.1976 after collecting necessary charges and issued Form No.10. Since then the deceased Ramappa was in possession of the suit till his death. The plaintiff No.1 is the wife and plaintiff No.2, 3, 5 and defendant No.7 are the children of deceased Ramappa Lamani. After the demise of Ramappa Lamani, plaintiff No.1, 2, 3, 5 and defendant No.7 succeeded the suit property. Such being the fact, recently they came to know that the defendants colluding with each other transferred the khata of suit property in their names without their knowledge and consent. On enquiry, the defendants given vague answer that the suit property belongs to them and threatened them with dire consequences to grab the suit property. In spite of



repeated request and demand by the plaintiffs and advise of the elders, the defendants are not ready to hand over the possession of the suit property to them. Hence the plaintiffs filed the present suit and prays to pass temporary injunction against defendant No.1 as sought for.

3. Per contra, defendant No.1 to 6 filed written statement and adopted the contents of written statement as objection to IA.No.I by filing adoption memo. In the written statement, defendant No.1 to 6 denied the allegations made against them and inter-alia contended that the plaintiffs are strangers to the suit property and they have no right, title and interest over the same. Further contended that one Tejappa Lamani is the propositus of the family who had two wives by name Dhamakavva and Ginakavva. The propositus Tejappa had son by name Venkappa through the first wife Dhamakavva. The said Venkappa and his wife Smt.Ramanavva died leaving behind defendant No.1 to 6 as their legal heirs. Except defendant No.1 to 6, there are no legal heirs to them.

4. Further contended in the written statement that the propositus Tejappa had two sons namely Sheshappa and Ramappa through second wife Ginakavva. Further contended that the plaintiffs are the children of deceased Ramappa S/o Tejappa Lamani. The father of plaintiffs the deceased



Ramappa was the manager of family and cultivating the suit property as tenant and filed Form No.7. Accordingly, the land tribunal granted the suit property infavour of the father of plaintiff deceased Ramappa under order No.LRF(A)SR.No.14474076 on behalf of entire family and accordingly ME.No.318 duly certified by the revenue authority. Thereafter, the partition has taken place between the deceased Ramappa and his brother in respect of suit property. Thereafter, the plaintiffs and deceased Ramappa submitted a vardi to the revenue authority to enter the name of defendant No.1 and 2 to the land bearing RS.No.3 measuring 5 acres and voluntarily put their signature on the 'U' Form and accordingly ME.No.329 was duly certified by the revenue authority. Hence the plaintiffs are estopped from denying the vardi. Further contended that there is inordinate delay in filing the suit and hence the suit is liable to be dismissed.

5. Further contended that defendant No.2 has availed loan by pledging the suit property and defendant No.1 has improved the suit property by investing huge amount. Further contended that the plaintiffs have not impleaded the children of Sheshappa S/o Tejappa Lamani in the suit and hence the suit is bad for non-joinder necessary parties. Hence, prays to dismiss the application.



6. Heard arguments addressed by both counsel and perused the records.

7. 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?

8. My answer to the above points are :

Point No.1: In the Affirmative,

Point No.2: In the Affirmative,

Point No.3: In the Affirmative and

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

REASONS

9. **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.

10. It is the specific case of the plaintiff that originally the suit property was cultivated by the deceased Ramappa Tejappa Lamani and hence after enquiry, the land tribunal granted the suit property infavour of deceased Ramappa Lamani on 12.11.1976 after collecting necessary charges and



issued Form No.10. Since then the deceased Ramappa was in possession of the suit till his death. The plaintiff No.1 is the wife and plaintiff No.2, 3, 5 and defendant No.7 are the children of deceased Ramappa Lamani. After the demise of Ramappa Lamani, plaintiff No.1, 2, 3, 5 and defendant No.7 succeeded the suit property. Such being the fact, the defendants colluding with each other transferred the khata of suit property in their names without their knowledge and consent. On enquiry, the defendants given vague answer that the suit property belongs to them and threatened them with dire consequences to grab the suit property. In spite of repeated request and demand by the plaintiffs and advise of the elders, the defendants are not ready to hand over the possession of the suit property to them. Hence the plaintiffs filed the present suit and prays to pass temporary injunction against defendant No.1 as sought for.

11. It is relevant to note that at page No.12, para No.(i) the defendants specifically admitted that the suit property has been granted in the name of Ramappa Lamani. But according to the defendants, the plaintiffs and the deceased Ramappa voluntarily given vardi to the revenue authority to enter the name of defendant No.1 and 2. But in the present suit the plaintiffs denied the same and contended that the defendants colluding with each got entered their names to the suit property behind their back in order to grab the suit property.



The admission of defendants regarding granting of suit property infavour of father of the plaintiffs Ramappa prima facie appears that originally the suit land belongs to the father of plaintiffs. When there is specific allegation about creating documents, without holding full pleaded trial, it cannot be said that the defendants will get absolute right over the suit property only on the ground that their names are appearing in record of rights. Therefore, in order to avoid multiplicity of proceedings, I feel it is just and proper to pass temporary injunction against defendant No.1 as sought in the application. Therefore, I am of the considered opinion that the plaintiffs have proved that they have prima facie case. The balance of convenience lies in their favour. If temporary injunction is refused much loss and hardship will be caused to the plaintiffs. On contrary no loss or hardship will be caused to defendant No.1 if temporary injunction is granted. Accordingly, I answer **Point No.1 to 3 in the Affirmative.**

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

ORDER

IA.No.I filed by the plaintiffs U/o 39 Rule 1 and 2, R/w Section 151 of CPC, is hereby allowed.

Accordingly, defendant No.1 is restrained them from alienating, leasing or creating third

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party interest over the suit schedule property till
disposal of the suit.

[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 27th day of February – 2023).

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

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