



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.  
AT RANEBENNUR.**

**PRESENT: Smt. Anitha O.A., B.A., L.L.M.,  
Prl. Civil Judge & JMFC,  
Ranebennur**

**Dated 22<sup>nd</sup> day of May 2023**

**O.S. No.100/2022**

Plaintiffs:-

1. Nooreppa S/o Manappa Lamani,  
Age: 79 years, Occ: Agriculture,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
2. Smt. Paravva W/o Manappa Lamani,  
Age: 52 years, Occ: Agriculture,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
3. Smt. Yankavva W/o Bhojappa Lamani,  
Age: 48 years, Occ: Agriculture,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
4. Smt. Hemavva W/o Feerappa Lamani,  
Age: 44 years, Occ: Agriculture,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
5. Dyamappa S/o Nooreppa Lamani,  
Age: 43 years, Occ: Agriculture,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
6. Ramappa S/o Nooreppa Lamani,  
Age: 36 years, Occ: Agriculture,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.

[By Sri. N.S.J., Advocate]



**-V/s-**

- Defendants:-
1. Rupalevva Sulle W/o Nureppa,  
Age: 72 years, Occ: Coolie,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
  2. Gangavva W/o Takareppa Lamani,  
Age: 42 years, Occ: Coolie,  
R/o. Hanumapur Tanda, Tq: Ranebennur,  
Dist: Haveri.
  3. Shantavva W/o Guddappa Lamni,  
Age: 38 years, Occ: Coolie,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
  4. Subhas S/o Nooreppa Lamani,  
Age: 36 years, Occ: Coolie,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
  5. Puttappa S/o Nooreppa Lamani,  
Age: 35 years, Occ: Coolie,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.
  6. Gouramma D/o Nureppa Lamani,  
Age: 32 years, Occ: Coolie,  
R/o. Kakola Tanda, Tq: Ranebennur,  
Dist: Haveri.

[Dft. By Sri. S.A.K., Advocate]

**I.A. No. II**

Plaintiff/Applicant :- Nooreppa S/o Manappa Lamani,

V/s

Opponent:- Rupalevva Sulle W/o Nureppa,

**I.A. No. III**

deft./Applicant :- Rupalevva Sulle W/o Nureppa,

V/s

Opponent:- Nooreppa S/o Manappa Lamani,

**ORDERS ON I.A. NO.2 & 3**

The applicants/plaintiffs have filed I.A. No.2 U/O.39 Rule 1 and 2 R/w Sec.151 of CPC for the relief of temporary injunction restraining defendants, their agents, servants, attorneys or anybody on behalf of them from obstructing the plaintiffs' peaceful possession and enjoyment over the suit schedule property till pending disposal of the O.S. No. 86/2018 pending on the file of Hon'ble I Addl. Senior Civil Judge and JMFC, Ranebennur. Intern defendants have filed IA No. 3 U/o 39 rule 4 R/w 151 of CPC to vacate ex-parte order passed against them on IA No. 1.

2. In the accompanying affidavit, it is submitted that, plaintiffs are absolute owners in possession of suit schedule properties. The defendant No. 1 who is no concern to the plaintiffs' family, stating her to be wife of plaintiff No. 1 and defendant No. 2 to 6 are his children filed partition suit before this court in O.S. No. 271/2011, which is transferred to the Hon'ble I Addl. Senior Civil Judge, Ranebennur and numbered as O.S. 86/2018. In which, the dispute with regarding marital status and parental status are disputed, the order pertaining to DNA



test has been challenged before Hon'ble High Court of Karnataka(Dharwad Bench) in WP No. 106085/2018, wherein the proceedings in O.S. No. 86/2018 is stayed. Such being the situation, the defendants who are not having any right or interest over the suit schedule properties trying to interfere with the plaintiffs' peaceful possession and obstructing to agricultural works by threatening with dare consequences. The suit schedule properties are agricultural land on which the plaintiffs are depending. If the defendants continuously obstruct the plaintiffs, there is very chance to become the said land as waste and plaintiffs may suffer hardship. Hence, this suit and application.

3. On the other hand, the defendant No. 4 filed objections, defendant No. 1 to 3 and 5 and 6 adopted the same. Further filed IA No. 3 U/o 39 rule 4 to vacate order of exparte temporary injunction passed on IA No.1. By denying the plaint averments, the defendants submitted that the defendant No. 1 is first wife plaintiff No.1 and defendant No. 2 to 6 are legitimate children of plaintiff No.1 and defendant No. 1. The plaintiff No. 1 illegally got married to plaintiff No. 2, begotten plaintiff No. 3 to 6. Since the suit schedule properties are ancestral properties of plaintiff No. 1 and there is no partition between them, without intimating to the defendants, the name of plaintiff No. 5 and 6 and deceased Laxmanappa are included in the revenue documents. In the said O.S. No. 86/2018 the plaintiff No.1 has



admitted the possession of the defendants over the suit schedule properties, now the question of interference does not arise at all. Prior to filing of said original suit the defendants along with plaintiff No. 1 are in joint possession of the suit schedule properties. Suppressing the same, filed this frivolous suit only to harass the defendants on instigation of plaintiff No. 2 to 6, the plaintiff No. 1 denying the relationship of defendants. Further, the sisters of plaintiff No. 1 have filed O.S. No. 111/2018, for the relief of partition, the advocate representing plaintiff herein is also representing plaintiff's sisters in the said suit. Knowing that, these defendants impleaded in the said suit as defendant No. 5 to 10. Further the defendants being wife and children of plaintiff No. 1 are having right and interest over the suit schedule properties. Hence, prayed for dismissal of the application.

4. I have heard the arguments of both sides and perused the entire records. Based on the averments of the application and written statement, the points that arise for consideration of this court are:

### **POINTS**

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 would suffer irreparable loss and injury if the temporary injunction is not granted as prayed by them ?

4. Whether the defendants have made out sufficient grounds to vacate exparte temporary injunction ?

5. What order ?

5. My answer to the above points are as under:-

|                    |                             |
|--------------------|-----------------------------|
| <b>Point No. 1</b> | <b>: In the Affirmative</b> |
| <b>Point No. 2</b> | <b>: In the Affirmative</b> |
| <b>Point No. 3</b> | <b>: In the Affirmative</b> |
| <b>Point No. 4</b> | <b>: In the Negative</b>    |
| <b>Point No. 5</b> | <b>: As per final order</b> |

**for the following:**

**::REASONS::**

6. **Points No.1 to 3**:- As these points are interlinked with each other to avoid repetition of facts, they are taken together for discussion.

7. It is specific contention of the plaintiffs that, they are in peaceful possession and enjoyment of the suit schedule properties. The defendants who are not at all concern to the plaintiffs, by virtue of pending litigation pertaining to the suit schedule properties are trying to obstruct the plaintiffs from peaceful possession and enjoyment over the suit properties. On the other hand, the defendants contended that defendant No. 1 is legally wedded wife and defendant No. 2 to 6 are his legitimate children they are in possession of suit schedule properties



along with plaintiff No. 1, suppressing pending litigation pertaining to suit schedule properties, the plaintiffs filed frivolous suit.

8. To substantiate plaintiffs' version they have furnished documents such as certified copy of order passed on DNA test in O.S. No.86/2018, RTC extract bearing Re.Sy. No. 62/1, and 42/1 and one C.D. On the other hand, the defendants have furnished documents such as certified copies of entire order sheet, pleadings, issues, depositions and exhibits pertaining to O.S. No. 111/2018 and in O.S. 86/2018.

9. On keen perusal of documents furnished by the both the parties. it is found that, there is no dispute with regarding pending litigation between them pertaining to suit schedule properties for the relief of partition. On perusal of documents furnished by the plaintiffs i.e., RTC extracts pertaining to suit schedule properties i.e., suit schedule item No. 1 bearing Re. Sy. No. 62/1 measuring 4 acres 25 guntas and suit schedule item No. 2 property bearing Sy. No. 42/1 measuring 1 acre 22 guntas are standing jointly in the name of plaintiff No. 1, 5 and 6. The name of plaintiff No. 1, 5 and 6 mutated as per MR No. H55/2013-14 dated 19.04.2014 by way of relinquishment and partition. Though the defendants contended that they are in joint possession of suit schedule properties as co-sharers but not furnished single documents to show that they are in possession of the suit schedule properties along with plaintiff No. 1.



10. Admittedly, O.S. No. 86/2018 is pending on the file of Hon'ble I Addl. Senior Civil Judge and JMFC, Ranebennur. The right, interest of the defendants over the suit schedule properties and marital and parental status of defendants with plaintiff No. 1 is yet to be decided. The revenue documents clearly show that plaintiffs are in possession of the suit schedule properties.

11. Further, plaintiffs have sought temporary injunction against the defendant til pending disposal of the O.S. No. 86/2018 on the file of Hon'ble I Addl. Senior Civil Judge and JMFC, Ranebennur, but this suit is filed for relief of bare injunction, at this stage court has to consider whether the plaintiff has made out prima - facie case and balance of convenience in their favour. On the other hand, the O.S. No. 86/2018 is p filed by the defendants for the relief partition and separate possession. The nature of the both the suits are different. Hence, restraining the defendants till disposal of O.S. No.86/2018 does not arise at all.

12. By furnishing relevant documents, the plaintiffs have made out prima-facie case and balance of convenience in their favour. Further, they made out that if the defendants continues in attempting to obstruct plaintiffs' peaceful possession over the suit schedule properties, they will suffer irreparable loss and injury. Hence, I answer **Point No.1 to 3** in the **Affirmative**.



13. **Point No. 4:-** The defendants filed IA No. 3 U/o 39 rule 4 of CPC to vacate exparte order passed against them. Though the defendants contended that the plaintiff No. 1 has admitted their possession over the suit schedule properties, in written statement filed in O. S. No. 86/2018, but nowhere in the written statement the plaintiff No. 1 has neither admitted their possession nor their relationship. Further, except certified copies of pending litigation, the defendants not furnished any documents to show that, they are in possession of the suit schedule properties as co-sharers. Hence, the defendants have failed to make out sufficient grounds to vacate exparte temporary injunction as sought for. Hence, I answer **Point No.4** in the **Negative**.

14. **Point No. 5:-** Based on the above reasons and discussions, I proceed to pass the following—

**:ORDER::**

IA No.2 filed by the plaintiff U/o 39 rule 1 and 2 is hereby allowed.

The defendants and their agents, servants attorneys or anybody acting on behalf of them are hereby restrained by way of temporary injunction from obstructing the plaintiffs peaceful possession and enjoyment over the over suit schedule properties, till disposal of the suit.



IA No.3 filed by the defendants U/o 39 rule 4 of  
CPC is hereby dismissed.

No order as to costs.

(Dictated to the stenographer directly on the computer, typed, printout taken by him  
and corrected and then pronounced by me in the open court on this the 22<sup>nd</sup> of May  
2023.)

Sd/-

(Anitha O.A.)  
Prl. Civil Judge & JMFC.,  
Ranebennur.