



IN THE COURT OF PRL. CIVIL JUDGE & JMFC.,
RANEBENNUR.

Dated on this the 01st day of December 2025.

Present: Sri. ADITHYAKUMAR H.R, B.A.LL.B.

Prl. Civil Judge & JMFC.,Ranebennur.

ORIGINAL SUIT NO.356/2024

Plaintiff: Yimmusab @ Imamsab S/o
Peerusab Somanakatti.

(Plitf. By Sri. S.A.K., Advocate)

V/s

Defendants:
Shekhargouda S/o Thimmanagouda
Gudisalakoppa and others.

(By Sri. K.N.D., Advocate)

I.A. NO. I CAUSE TITLE.

Plaintiffs/Applicants:

Yimmusab @ Imamsab S/o
Peerusab Somanakatti.

-Vs.-

Defendant/Opponents:

Shekhargouda S/o Thimmanagouda
Gudisalakoppa and others.



ORDER ON IA NO.1

The application under consideration is filed by the plaintiff under Order XXXIX Rule 1 and 2 R/w. Sec. 151 of CPC, seeking that the defendants or their men, agents, servants or henchmen be restrained from their interference in the possession and enjoyment of the plaintiff in the suit schedule property till the disposal of the suit.

2). Brief case of the Plaintiff is as under:

The Plaintiff has filed this suit for permanent injunction and such other reliefs. It is averred in the plaint that, he is the owner in possession of suit schedule property. Originally the suit property bearing Sy. No.46, measuring 2 acres was belong to the family of defendants and they had converted the the same into non agricultural purpose. The suit property is plot No.18 was purchased by the plaintiff through a registered sale deed dated 08.03.1982. Since then the plaintiff has been in possession and enjoyment of the same, when the plaintiff started to construct a house in the suit property, the defendants claiming their rights and interest started to interfere with his possession. Hence, filed this suit.



2.1.) In support of the application, the Plaintiff has sworn to the affidavit by reiterating the plaint averments and he has further contended that, despite having no rights or interest the defendants by taking undue advantage of innocence of the plaintiff, they are trying to obstruct the peaceful possession and enjoyment of Plaintiff in the suit property and also trying to dispossess him. If the application is not allowed, he will put to great hardship and on the other hand, no harm or prejudice will be caused to the defendants if the interim order as sought for by the plaintiff is granted. Among these grounds, the applicant seeks that this Court be pleased to allow the application as prayed for.

3). Upon due service of the suit summons the defendants have appeared through their common Counsel and filed common written statement and the same was treated as objection to the application.

It is contended in the written statement that, the suit is not maintainable in eye of law and also denied the correctness of boundaries. They have also denied the alienation and lawful possession of plaintiff in the suit property. They have also denied the conversion of suit property into non agricultural purpose. It is further contended that, the title of the plaintiff over the suit property is under cloud and the



present suit for bare injunction is not maintainable in the eye of law. It is specifically contended that, the NA order granted by the Deputy Commissioner was already cancelled and the suit property is no longer a plot as described in the plaint. Hence, the sale deeds executed on behalf of plaintiff and his vendor are null and void. Among these grounds sought to dismiss the application with cost.

4). Heard the arguments on application by the Counsel for either side. Memo with decisions relied by the both side taken on record. Perused the materials available on record.

5). After carefully analyzing and upon the perusal of the plaint, affidavit sworn to the application and the objection put forth by the defendants and other materials available on record, the following points arise for my consideration.

POINTS

- 1. Whether the plaintiff has made out a prima facie case to grant the relief as sought for in the IA-1.?**
- 2. Whether the plaintiff proves that balance of convenience lies in his favour as regards the IA-1.?**
- 3. Who will be put to irreparable loss and injury if the IA-1 is rejected or granted.?**



4. What order.?

6). After giving its anxious consideration and after carefully perusing the documents produced at this stage of the matter, this court answers the afore raised points as under:

Point No.1 : In the Affirmative.
Point No.2 & 3 : In the Affirmative.
Point No.4 : As per final order for the following;

:: REASONS ::

7). POINT NO.1:

7.1). At the very outset it is necessary to state here that, the provision that the Plaintiff seeks to invoke here is Order XXXIX Rule 1 and 2 of Civil Procedure Code. After perusal of the prayer sought in the IA-I it is needless to state that the case of the Plaintiff, as regards the IA-I falls within Clause (c) of Order XXXIX Rule 1 of Civil Procedure Code, which verbatim reads as follows:

“Where in any suit it is proved by affidavit or otherwise:- (inter alia).

(c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit.”



The reason why this court considers that the relief sought by way of this application falls within the ambit of clause (c) is because, the said clause seeks to protect the applicant from two apprehensions either dispossession or causing injury to the plaintiff's property; and because the relief sought by the plaintiff by way of this application is to restrain the defendant from interference, it becomes obvious that the apprehension of the plaintiff is that the activities of the defendant if not curtailed would cause injury to the plaintiff's possession over the suit schedule property. Needless to state in order to successfully maintain this application the plaintiffs should first demonstrate existence of *prima facie* case in his favor.

7.2). At the very outset it would be incumbent upon this court to clarify that, the rule that before the issue of a temporary injunction, the court must satisfy itself that the plaintiffs have a *prima facie* case, it does not mean that, the court should examine the merits of the case closely and come to a conclusion that the plaintiffs have a case in which they are likely to succeed. All that, the court has to see is that on the face of it the person applying for an injunction has a case which needs consideration and which is not bound to fail by virtue of some apparent defects.



7.3). Keeping the above principles in mind, let this court turn to the materials and pleadings available on record. With these aspects in mind when the records are perused, it becomes evident that the plaintiff claims *prima facie* case on the suit property based on his lawful possession through registered sale deed. However, merely because the documents are in the name of the plaintiff, he cannot maintain an application for interim injunction successfully, instead he has to demonstrate through some *prima facie* materials or documents in support of their case. In addition to this, they have to show what is the imminent threat from the defendants that prompted them to seek the relief of injunction.

7.4). On going through rival claim, it is not under dispute that, the plaintiff has been in possession and enjoyment of suit property in question. The contention of defendants is that, the NA order passed by the Deputy Commissioner was already canceled and nature of the suit plot was restored as agricultural land. Hence, the plaintiff having no rights over the suit property and description of plaint schedule is incorrect. At the time of purchasing the suit property by the plaintiff, the suit property lost its nature as a plot. Hence, the present suit is not maintainable.



7.5). During the course of arguments, the counsel for defendants has relied upon the decision of Hon'ble Apex court passed in the case of Manohar Pathima Imbran V/s Vishweshwar infrastructure Pvt. Ltd. - **Civil Appeal No.19071/2024** and Anathulla Sudhakar V/s Boochireddi- **AIR 2008 SC 2033**, wherein in both decisions it was held that, when the cloud on title is raised, the suit for bare injunction is not maintainable. He also relied upon the decision of the Hon'ble High Court of Karnataka passed in the case of R.P. Lamani V/s State of Karnataka- **2008(4) KCCR 2280 (DB) & Arjun Balaji V/s BDA- 2008 (4) KCCR 2752 (DB)**, wherein in both decisions it was held that, when the plaintiff has not approached the court with clean hands and suppressed true facts, the suit is not maintainable and liable to be dismissed.

7.6). Per contra, the counsel for plaintiff has relied upon the decision of Hon'ble Apex court passed in the case of Yogendra Prathap Singh V/s Rambachan Devi & others- **(2023) SCCR 843**, wherein it was held that, if the registered instrument containing recitals of payment of consideration amount and delivery of possession, the sale is complete. He also relied upon the decision passed by the Hon'ble High Court of Karnataka in the case of Ramasingh V/s Parashurma Singh - **HCR 2020**



KANT.177, wherein it was held that, not every denial of title would impel every person to seek declaration of title and denial should raise clear cloud on the title.

7.7). Admittedly, the decisions relied by the both side are not helpful at this stage to decide this application. The plaintiff has filed this suit for bare injunction to restrain the defendants from their interference based upon the sale deed in his favour. The defendants themselves have admitted that, the suit property was originally belong to their ancestors and they have alienated the same through a registered instrument. No counter claim is sought by the defendants. The contention of clear title or validity of execution of sale deeds are matter of trial and at this stage cannot be form any conclusive opinion. The plaintiff also having rights to seek amendment if the relief of declaration is required. Hence, I am of the humble opinion that, the decisions relied by the both side are not helpful at this stage to dispose the present application.

7.8). Though defendants denied the correctness of boundary and description of plaint schedule, they have nowhere denied the possession of the plaintiff in the suit property. The nature of suit property at the time of execution of sale deed is also matter of trial and



at this stage cannot accept the contention of defendants. On going through the materials available on record it prima faice establishes that, the Plaintiff is in possession of suit property and also proves the interference by defendants.

7.9). It is a very well settled law that, the grant of injunction is a discretionary relief, the exercise thereof is subject to the Court satisfying that there is a serious disputed question to be tried in the suit and that an act, on the facts before the Court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant and the court's interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would ensue, before the legal right would be established at the trial and further that, the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it.

7.10). Hence, at this stage, without going into the merits of the case or going through the title or holding a mini trial, this court has considered the aspect of Prima facie case. The primary purpose for granting interim relief is the preservation of the things in dispute till



legal rights and conflicting claims of the parties before the court are adjudicated. As such at this stage of the suit, without giving any expression on merits of the case, it is the firm opinion of the Court that, the plaintiff have succeed to make out a prima-facie case in his favour. Wherefore I find no hesitation in holding the Point for Consideration No. (I) in the **Affirmative**.

8). Points No.2 & 3:

8.1). The second condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. In other words, the court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

8.2). The existence of the prima facie case alone does not entitle the applicant for a temporary injunction. The applicant must further satisfy the court about the third condition by showing that they will suffer irreparable injury if the injunction as prayed is not granted and that there is no other remedy open to her by which he can protect themselves from the consequences of apprehended injury.



8.3). The learned Counsel for the Plaintiff argued before the Court that, since the plaintiff is in actual possession and enjoyment of suit property based upon previous sale deeds, he started to construct a house. But, the defendants claiming to be Lrs of deceased vendors have started to interfere to his possession and enjoyment. It is further contended that, if the application is not allowed, the defendants will obstruct the construction and also may dispossess him from the suit property. Hence the Defendants have to be temporarily restrained, otherwise the Plaintiff will be put to irreparable loss and hardship. Per contra, the Counsel for the Defendants contended that, if the defendants are restrained from the suit property, the same cause obstruction to the defendants' lawful rights.

8.4). The court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused, and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the court considers that, pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus this court



has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit. At the stage of deciding the application for temporary injunction, the Court is not required to go into the merits of the case in detail.

8.5). This court has gone through the pleadings and materials on record, as already discussed apparently it is clear that, the Plaintiff has been in the possession of the suit property and also clear that, he has started to construct a residential houses. In such circumstances, if the defendants are not restrained until disposal of this suit, the chances of causing damages to the residential houses and dispossession of plaintiff cannot be ignored. Hence, at this juncture this court feels to opinion that, if the defendants are not restrained from their interference to the possession of Plaintiff, the Plaintiff will be put to great hardship and loss more than the loss causing to the defendants. Further, the legality of sale deed and cloud on title is matter of trial and the same cannot be considered in the present application without a full pledged trial to form a conclusive opinion.

8.6). In these circumstances this Court is of the opinion that if IA No.1 is not allowed more mischief and hardship will be caused to the Plaintiff who are succeeded to prove their prima faice possession and



they will be put to great hardship. By considering all these aspects this Court is of the opinion that if the application is not allowed, the Plaintiff will be put to irreparable loss and hardship more than the defendants and the same can not be compensated in terms of money. Hence, this Court proceeds to answer these two points in the **Affirmative.**

9) POINT No.IV:

For the foregoing reasons and in view of the finding given by this court on Point No. I to III, this court proceeds to pass the following:

ORDER

“I.A. No.I filed by the plaintiff U/O 39 Rule 1 and 2 R/w. Sec. 151 of CPC is hereby allowed.

Defendants, their legal representatives, agents, servants or anybody acting on their behalf are hereby temporarily restrained from interfering with the possession and enjoyment of the plaintiff in the suit schedule property till the disposal of the suit.

No order as to cost.”

(Dictated to the Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 01st day of December 2025).

Sd/-

**(ADITHYAKUMAR H.R)
Pri. C.J. & JMFC Court
Ranebennur.**

Order on IA No. I

KAHV520013992024



15

OS No. 356/2024