

IN THE COURT OF THE CIVIL JUDGE & JMFC.,

AT: JEWARGI

**Present : Shri.D.RAMESH, B.AL., LL.B.,
Civil Judge & J.M.F.C., Jewargi**

DATED:THIS THE 15th DAY OF APRIL, 2023

O.S.No.131/2021

Between:

Sanganna : **Plaintiff**

(By Sri.B.B., Adv.,)

And

Ninganna and Anther : **Defendants**

(By Sri.B.S.K., Adv.,)

I.A.No.2

Sanganna : **Plaintiff/applicant**

V/s

Ninganna and Another : **Defendants/Opponent**

ORDERS ON I.A.No.2.

This is an application filed by the plaintiff under section 151 of CPC, seeking police protection against the defendants to implementing the temporary injunction granted by this court.

2. In support of the application plaintiff sworn to an affidavit and stated that, plaintiff has filed this suit against the defendants seeking

relief of perpetual injunction along with an interim application seeking relief of ad interim relief of injunction. Hon'ble court considering the prima facie case was pleased to allow the I.A.No.1 restraining the defendants from interfering into his peaceful possession of suit property. Despite of injunction order, defendants are causing interfere over the suit property by obstructing his agricultural work with an intention to dispossess him from suit property. That on 20-02-2023 and 15-03-2023 when plaintiff along with labors were in the suit land, the defendants together along with their henchmen came to the suit land and obstructed his agricultural work over the suit land stating that they would bring stay till then they would not allow him to cultivate the land. Hence he approached the police official seeking aid but they did not assist him stating that it is civil matter unless direction from the Hon'ble court is received, they could not assist him, That under these circumstances, he could not protect his possession and enforce the order of injunction without the aid of police. Hence pray to the Hon'ble court to grant police aid to enforce the order of injunction. Hence this application.

3. The defendants filed objections to the application and denied all the averments made in the affidavit and contended that the above said I.A is based on misconception of facts and law as the order passed by this Hon'ble court is not disobedience or breach of injunction by the defendant No.1. The plaintiff with oblic motive filed the instant application to just harassed to the defendant No.1. If the defendant disobedience of injunction granted the only option to the plaintiff filed an appropriate application U/o 39 rule 1 and 2 of CPC and not U/Sec.151 of CPC. Therefore the application filed by the plaintiff is not

maintainable. The plaintiff is the father of the defendant No.1 mother of defendant and wife of plaintiff is also filed suit in O.S.No.12/2021 for partition and separate possession, the plaintiff who is the defendant No.8 in the partition suit and same is pending. Hence the application is liable to be dismissed.

4. Heard both side. Perused the record.

5. Upon hearing arguments and on perusal of materials placed on record, the following points that would arises for my consideration:

1. ***Whether the applicant/plaintiff has made out grounds for allowing the application?***

2. ***What order?***

6. My answer to the above points are as follows:

Point No.1 : In the affirmative.

Point No.2 : As per the final order for the following:

REASONS

7. **Point No.1:-** This is a suit filed by the plaintiff for permanent injunction against the defendants in respect of the suit schedule properties. This court ordered temporary injunction on 18.07.2022 that restrained the defendants from interfering the peaceful possession and enjoyment of the suit schedule property.

8. Now the plaintiff has filed present application to seek direction to the police to give aid to him for enforcement of the order, contended that even after the said order on I.A.No.I, the defendants are not obeying the order of court, and making illegal attempts to disposes

the plaintiff from the suit schedule property by interfering the possession of plaintiff over the suit schedule property. Hence the plaintiff has approached the police station to give police aid to the plaintiff in respect of the suit schedule properties, but they have stated that they required specific directions from this court.

9. On the other hand the defendants contended that the above said I.A is based on misconception of facts and law as the order passed by this Hon'ble court is not disobedience or breach of injunction by the defendant No.1. The plaintiff with oblic motive filed the instant application to just harassed to the defendant No.1. If the defendant disobedience of injunction granted the only option to the plaintiff filed an appropriate application U/o 39 rule 1 and 2 of CPC and not U/Sec.151 of CPC. Therefore the application filed by the plaintiff is not maintainable. The plaintiff is the father of the defendant No.1 mother of defendant and wife of plaintiff is also filed suit in O.S.No.12/2021 for partition and separate possession, the plaintiff who is the defendant No.8 in the partition suit and same is pending.

10. On perusal of the record the considered order has been passed by this court on I.A.No.I. Therefore the question of considering the side objection of the defendants at this stage does not arise at all. At this juncture it is profitable to relay the judgments reported in

*ILR 2010 KAR 1197 – Smt.Karisiddamma and others V/s.
Smt.Sanna Kenchamma – Code of Civil Procedure, 1908 –
Order 39 Rule 1 and 2 – Grant of Temporary Injunction under: -
Subsequent Interlocutory Application filed seeking police*

protection to enjoy the suit schedule property – Direction issued to the jurisdictional Police to give necessary police protection.

2016(5) KCCR 226 – Rudrappa Layappa alias Harijan Kamble V/s. Riyaz Ahamed and Another – Civil Procedure Code, 1908 – Section 151 and Order 39, Rules 1 and 2 – Injunctory orders – Trial Court can direct implementation with police help. Held: The Trial Court has inherent power under Section 151 of CPC, to ensure that its injunctory orders are duly implemented. Thus, the Trial Court can direct the police to ensure that the injunction order is carried out.

11. As per the above said citations this court has jurisdiction to direct the police to enforcement order of this court. Hence, the plaintiff is entitled to get the said relief. Hence, I answer above point in the affirmative.

12. Point No.2 :- For the above reasons, I proceed to the pass the following :-

ORDER

I.A. filed by the plaintiff under Section 151 of C.P.C. is hereby allowed and directed the Yadrami police to give police aid to the plaintiff for implementing the temporary injunction order dated 18.07.2022 on I.A.No.I to till disposal of the suit.

**In the facts and circumstances of
the case no order as to cost.**

(Dictated to the Stenographer directly on Computer corrected and then pronounced by me in the open court on the 15th day of April 2023)

**(D.RAMESH)
Civil Judge and J.M.F.C,
Jewargi.**