

**IN THE COURT OF CIVIL JUDGE AND JMFC., JEWARGI
AT JEWARGI.**

**Present:- Sri.D.Ramesh, B.AL., LL.B.,
Civil Judge and JMFC, Jewargi.**

Dated : This the 29th day of July, 2021

O.S.No.48/2021

Between:

Manjula : **Plaintiff**

(By Sri.J.V.H., Adv.,)

And

Shantamma : **Defendant**

(Ex-Parte)

I.A.No.1

Manjula : **Applicant/Plaintiff**
W/o Naganna Sutar
(D/o Vithal Rao),
Aged about : 34years,
Occ: Agriculture and Household,
R/o Janiwar, Tq: Jewargi,
Dist: Kalaburagi.

V/s.

Shantamma : **Opponent/Defendant**
W/o Shivappa Bachimathi,
Aged about : 52 years,
Occ: Agriculture and Household,

R/o Janiwar, Tq: Jewargi,
Dist: Kalaburagi.

ORDERS ON IA No.1

The plaintiff has filed the application U/o 39 rule 1 and 2 R/w 151 of CPC and prayed to restrain the defendant from interfering over the suit schedule property.

2. The brief averments of the affidavit are as follows;

That, the plaintiff is the absolute owner and in possession of suit property as she purchased through registered sale deed bearing document No.3432/2017-18 dated 25-07-2017 for valuable consideration amount. The name of plaintiff is mutated and corresponding entries have been taken place in the ROR. The defendant was the earlier owner of the suit property and she had sold it for her family and legal necessity to the plaintiff, and she had put the plaintiff in possession of the suit property. The plaintiff is in peaceful possession and enjoyment of the suit property as its absolute owner. The defendant has no right in any manner whatsoever after selling the suit property to the plaintiff. The defendant without having any right, title or interest is bent upon to deny the title of the plaintiff, and trying to interfere into possession and enjoyment of the plaintiff. The defendant actually

came upon the suit property on 20-05-2021 and try to interfere into possession and enjoyment of the plaintiff over the suit property and denied the title of plaintiff. However the plaintiff succeeded in resisting the illegal interference of the defendant with the aid of neighbors. The defendant went away saying that she will come back along with her supporters and threatened to disposes the plaintiff. The plaintiff has got prima-facie case, balance of convenience lies in her favour. If injunction is not granted the plaintiff would be put heavy and irreparable loss which cannot be compensated in terms of money and involved into multiplicity of judicial proceedings. Hence, prays to grant temporary injunction.

3. After registering the suit, the suit summons and emergent notice have been issued on defendant. But as per the report of bailiff the defendant has refused to receive the summons and notice. Hence service of summons held sufficient and defendant is placed exparte.

4. Heard the counsel for plaintiff and perused the record.

5. The following points arise for my consideration.

Point No. 1:- Whether the plaintiff has made out prima-facie case?

Point No.2:- Whether the plaintiff has made out balance of convenience lies in her favour?

Point No.3:- Whether the irreparable injury caused to the plaintiff, if the I.A is not allowed?

Point No.4:- What Order?

6. I answer the above points as follows:-

Point No.1 :- In the Affirmative.

Point No.2 :- In the Affirmative.

Point No.3 :- In the Affirmative.

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

REASONS

7. **POINT NO.1 TO 3:-** These points are interlinked to each other, hence they taken up together for common discussion to avoid the repetition of facts.

8. It is the case of the plaintiff that the defendant was the earlier owner of the suit property and she had sold it in favour of plaintiff under registered sale deed dated 25-07-2017. Accordingly the plaintiff is absolute owner and in peaceful possession and enjoyment of the suit property. The defendant has no right in any manner whatsoever after selling the suit property to the plaintiff. The defendant came upon the suit property on

20-05-2021 and try to interfere into possession and enjoyment of the plaintiff over the suit property and denied the title of plaintiff. However the plaintiff succeeded in resisting the illegal interference of the defendant with the aid of neighbors.

9. To substantiate the case of the plaintiff, she has produced the original sale deed dated 25-07-2017, mutation extract MR.No.H10/2018-19 and RTC for the year 2020-2021.

10. A careful perusal of sale deed dated 25-07-2017 it shows that the defendant herein has sold the suit schedule property in favour plaintiff for valuable sale consideration amount of Rs.3,62,000/-, and she has handed over the possession of suit schedule property in favour of plaintiff on the date of sale deed itself. Further the mutation MR.No.H10/2018-19 shows that the katha of the suit schedule property has been transferred in the name of plaintiff based on above said sale deed. The RTC also shows the name of the plaintiff as owner and possessor. Therefore the documents produced by the plaintiff established the prima-facie that the plaintiff has been in possession and enjoyment of the suit schedule property from the date of its sale. As discussed above though the suit summons is severed on the defendant she did not appear and challenge the case of plaintiff.

Therefore at this stage there is no impediment to disbelieve the say of the plaintiff and her documents. Therefore as discussed above the documents produced by the plaintiff goes to show the prima-facie that she has been in possession and enjoyment of the suit schedule property. Under such circumstance her lawful possession is to be protected. If injunction is not granted she will be put irreparable loss which cannot be compensated in terms of money, therefore balance of convenience also lies in favour of the plaintiff. Accordingly, I answer the Point No.1 to 3 are in the Affirmative.

11. Point No.4 :- In view of the above discussion, I proceed to the pass the following :-

ORDER

The I.A.No.1 filed by the plaintiff under Order 39 Rule 1 and 2 R/w section 151 of C.P.C is hereby allowed.

Consequently the defendant or any person claiming through her are hereby restrained from interfering into peaceful possession and enjoyment of the plaintiff over the suit schedule property by way of temporary injunction till further orders.

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

(Dictated to the stenographer, transcribed by him and corrected by me, then pronounced in the open court dated this the 29th day of July, 2021)

**(D.RAMESH)
Civil Judge & JMFC,
Jewargi.**