

KAKL300001912020



IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
AT MALUR

: PRESENT :

Smt. **Lathadevi, G.A.**, B.A.L., LL.B., LL.M.,
Senior Civil Judge & JMFC., Malur.

Dated this 24th day of August, 2023.

:: **O.S. No.95/2020** ::

Plaintiff/s

: **Smt. Parvathamma,**
W/o Keshava Reddy,
D/o late Nanjunda Reddy @
Gunda Reddy,
Aged about 38 years,
R/a. Gunjuru Village,
Varthur Hobli,
Bengaluru east taluk,
Bengaluru.

*(Reptd., by Sri.**B.V.C**, Advocate)*

- **V/s.-**

Defendant/s

: **1. Smt. Nagamma,**
D/o late Nanjunda Reddy @
Gunda Reddy,

Aged about 73 years.

2. Chennakeshava Reddy,
S/o late Nanjunda Reddy @
Gunda Reddy,
Aged about 58 years.

3. Smt. Lakshmamma,
W/o H.C. Chandra Reddy,
D/o late Nanjunda Reddy @
Gunda Reddy,
Aged about 42 years.

D.1 to 3 are residing at;
H. Hosakote Village,
Lakkur Hobli, Malur taluk,
Kolar District.

(D.1 Dead)

(D.2 Reptd., by Sri.S.K.R, Advocate)

(D.3 Reptd., by Sri.R.C.A, Advocate)

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ORDERS ON IA No.I FILED BY THE PLAINTIFF
U/o 39 Rule 1 & 2 r/w Sec.151 CPC., DATED 16.06.2020

The plaintiff has filed the above interim application, along with supporting affidavit, seeking to pass an ad-interim order of temporary injunction, **restraining the defendants No.1 and 2 from not to alienate the suit schedule property in favour of third parties**, till disposal of the above suit.

2. ***In the supporting affidavit, the plaintiff has deposed that;*** the original propositus- Nanjunda Reddy is the father of plaintiff, defendants No.2, 3 and husband of defendant No.1. That the plaintiff and defendants constitute Hindu undivided joint family property. That during the lifetime of Nanjunda Reddy, during the existence of joint family had acquired land bearing Sy.No.23/1, measuring 1 acre 6 guntas, situated at Byalahalli Village, Kasaba Hobli, Malur taluk, Kolar district. That another property bearing Sy.No.20/1, which was also the joint family property was acquired by KIADB. That at the time of acquisition, the father of the plaintiff had paid Rs.4,00,000/- to the plaintiff and had assured that, the plaintiff would be given more share in the suit schedule property.

3. That after the death of Nanjunda Reddy, plaintiff and defendants constituted joint family members and are in joint possession and enjoyment of the suit schedule property, partition has not taken place, though plaintiff has demanded her share. That defendants are trying to alienate the suit schedule property, if it is alienated right of plaintiff will be effected. Hence contends that, the plaintiff has made out prima-facie case and balance of convenience lies in her favour and if the temporary injunction is not granted, the plaintiff will be put into irreparable loss and injury. Hence, ***prays to allow the above IA.***

4. The defendant No.2 has filed the written statement and has adopted the written statement as objections to the above IA., and contended that, in the year-2010, KIADB had acquired the land bearing Sy.No.20/1, measuring 1 acre 36 guntas, compensation was awarded, the plaintiff has received Rs.15,00,000/- and the defendant No.3 has received Rs.8,00,000/-, out of the total compensation amount and have executed registered release deed in favour of defendant No.2 and his father – Nanjunda Reddy by virtue of registered release deed, dated 14.05.2010.

5. That the plaintiff has released all her right, title with respect to other suit schedule property. Hence contends that, after the execution of the release deed, defendant No.2 and his father- Nanjunda Reddy are in possession and enjoyment of other suit schedule property. In view of above contentions, the defendant No.2 contends that, the plaintiff has no right over the suit schedule property, as she has executed registered relinquishment deed. Hence, *prays to dismiss the above IA.*

6. Heard both sides and perused the materials available on record.

7. In view of the above rival pleadings, the following points that would arise for my considerations are;

1. Whether plaintiff has made out a prima-facie case?
2. Whether plaintiff proves that, the balance of convenience lies in his favour?
3. Whether plaintiff proves that, if the temporary injunction is not granted as prayed in **IA No.I**, he will be caused irreparable loss and injury?
4. What order?

8. My findings to the above points are as follows;

Points No.1 to 3: In the **Affirmative**

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

REASONS

9. **Points No.1 to 3:** are interconnected to each other, hence, they have been taken up together for consideration, in order to avoid repetition of facts.

10. This is a suit filed by the plaintiff being the daughter against her brother, sister and mother.

11. The case of the plaintiff is that, the suit schedule property is the joint family property of plaintiff and defendants, has contended that, the suit schedule property is purchased by her father, during existence of joint family, to that effect has produced copy of registered sale deed, dated 13.03.1968, which

reveals the suit schedule property is acquired by virtue of registered sale deed by deceased Nanjunda Reddy, who is the father and original propositus of plaintiff and defendants' family and also produced RTCs standing in the name of Nanjunda Reddy for the year-1985-86 and subsequent RTCs are also produced. RTCs' of the year-2018-19, which stands in the name of defendants No.1 and 2 and deceased Nanjunda Reddy by virtue of pavathivarasu.

12. In the present case, the plaintiff contends that, partition has not been effected with respect to suit schedule property and are in possession and enjoyment of the same, contend that, another property, wherein, Sy.No.20/1 has been acquired by KIADB, part of compensation has been paid to the plaintiff as her share as stated in objections and having released all her rights with respect to joint family property by executing registered release deed, dated 14.05.2010, but have not produced any document to that effect. If the suit schedule property is alienated, the rights of the plaintiff with respect to suit schedule property will be effected. Hence, this court is of the opinion that, the plaintiff has made out prima-facie case and balance of convenience in her favour. In view of the discussions made above, *I answer points No.1 to 3 in the **affirmative**.*

13. **Point No.4:** In view of the above discussions and findings to point Nos.1 to 3, I proceed to pass the following;

ORDER

IA No.I filed by the plaintiff U/o 39 Rule 1 & 2 r/w Sec.151 of CPC., is hereby ***allowed.***

The **defendants No.1 & 2** are hereby temporarily injuncted, **not to alienate the suit schedule property in favour of third parties**, till disposal of present suit.

*(Dictated to the Stenographer, transcribed by him, transcript corrected by me and then pronounced in the Open Court on this **24th day of August, 2023**)*

(LATHADEVI G.A.)
Senior Civil Judge & JMFC.,
Malur.