

KAKL400051262022



**IN THE COURT OF THE PRL. CIVIL JUDGE & J.M.F.C.**

**AT : MULBAGAL**

DATED THIS THE 2<sup>ND</sup> DAY OF NOVEMBER, 2023

**:PRESENT:**

**SRI.NARASIMHA MURTHY M.**

B.A.LLM., UGC – NET, JRF,  
PRL. CIVIL JUDGE & JMFC, MULBAGAL

**O.S.No.480/2022**

**PLAINTIFF/s : 1. Sri. Mangamma**  
W/o late Venkataramappa,  
Aged About 80 years,

**2. Sri. V.Shivalingaiah**  
S/o late Venkataramappa,  
Aged About 42 years,

Both are R/at Doddamadenahalli Village,  
Avani Hobli, Mulbagal Taluk.

(By Shri. **C.S. Nagaraja.,**  
Advocate )

**Vs**

**DEFENDANT/s : 1. Sri. Vijay Kumar** S/o Muneppa,  
Aged About 50 years,

**2. Sri. Raju** S/o Muneppa,  
Aged About 42 years,

Both are R/at Doddamadenahalli Village,  
Avani Hobli, Mulbagal Taluk.

(By Shri.**K.T. Venkataramanappa.**,  
Advocate )

**PARTIES TO THE I.A. NO.I**

- BETWEEN :**
- 1. Sri. Mangamma**  
W/o late Venkataramappa,  
Aged About 80 years,
  - 2. Sri. V.Shivalingaiah**  
S/o late Venkataramappa,  
Aged About 42 years,

Both are R/at Doddamadenahalli Village,  
Avani Hobli, Mulbagal Taluk.

**.....APPLICANT/PLAINTIFFS.**

**Vs**

- AND :**
- 1. Sri. Vijay Kumar** S/o Muneppa,  
Aged About 50 years,
  - 2. Sri. Raju** S/o Muneppa,  
Aged About 42 years,

Both are R/at Doddamadenahalli Village,  
Avani Hobli, Mulbagal Taluk.

**.....RESPONDENTS/DEFENDANTS.**

## **ORDERS ON I.A.NO.I**

The plaintiffs have filed present I.A. No.I under order 39 Rule 1 & 2 read with Section 151 of *Civil Procedure Code.*, seeking an ad-interim order temporary injunction restraining the defendants, their agents, servants, coolies, workers, PA holders, representatives, their family members, or any person or persons claiming through them from interfering with the plaintiffs peaceful possession and enjoyment of the suit schedule property, till pending disposal of the suit.

**2.** The plaintiffs averred in the affidavit annexed to the application that, one Venkateshappa S/o Venkataramanna was the common ancestor of their family. The said Venkateshappa married with Hanumakka and they got two children by name Venkataramappa and Narayanamma. The said Venkataramappa married with Mangamma (plaintiff no.1) and they got four children by name Subhadramma, Venkateshappa, V.Shivalingaiah (plaintiff no.2), and Nagesh. The common ancestor Venkateshappa S/o Venkataramanna, Hanumakka, Venkataramappa are no more. The common ancestor Venkateshappa was acquired the suit schedule property and

katha stands in his name. After the death of said Venkateshappa the suit Sy.no.22/3 measuring 0.18 guntas katha was transferred in the name of plaintiff no.1 by way of Pavathivarasu and she is paying taxes to the government. The plaintiffs are in peaceful possession and enjoyment of the suit schedule property by raising crops. The defendants are western side bajudhars of the suit schedule property and on 20.11.2022 at about 10.00 am when the plaintiffs are in the suit schedule property, the defendants and their supporters came near the suit schedule property and tried to interfere with the plaintiffs peaceful possession and enjoyment of the suit schedule property. The plaintiffs have resisted the illegal acts of the defendants. The plaintiff got prima-facie case. If the present application is allowed, no prejudice will be caused to the other side, if the present application is not allowed, they will be put to greater injustice and hardship. Hence, the plaintiffs pray to allow I.A.No.I.

**3.** On the other hand, the defendants have appeared before the Court through their counsel and filed objection to IA No.1, wherein, they have submitted that, the suit of the plaintiffs is

not maintainable and there is no reasonable and valid grounds made by the plaintiffs and the present application needs to be dismiss. The defendants have submitted that, no prima-facie case and balance of convenience lies in favour of plaintiffs. If this Court granted an order of Temporary Injunction in favour of plaintiffs, the defendants will be put to irreparable loss, injury and great hardship. Hence, the defendants pray to dismiss the IA No.1 filed by the plaintiffs.

**4.** Heard the arguments and the defendants have filed Written Arguments and perused the materials available on record.

**5.** The following points arise for my consideration:

- 1. Whether the plaintiffs have established the existence of prima-facie case in their favour at this stage of the suit?**
- 2. Whether the plaintiffs have established the existence of balance of convenience in their favour?**
- 3. Whether the plaintiffs further prove that, if the order of temporary injunction is not granted they will be put to irreparable loss and hardship?**
- 4. If so, what order?**

**6.** My answer to the above points are as under:

Point No.1 : In the **AFFIRMATIVE**

Point No.2 : In the **AFFIRMATIVE**

Point No.3 : In the **AFFIRMATIVE**

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

### **REASONS**

**7. POINT NO.1 TO 3 :-**

The finding of Point No.1 will have bearing on point No.2 and 3. Hence to avoid repetition, both these points are taken together for common discussion.

The plaintiffs have filed the present suit against the defendants for the relief of permanent injunction with respect of suit schedule property. The plaintiffs have filed the present application seeking temporary injunction restraining the defendants, their agents, servants, coolies, workers, PA holders, representatives, their family members or any person or persons claiming through them from interfering with the plaintiffs peaceful possession and enjoyment of the suit schedule property.

**8.** The specific case of the plaintiffs is that, one Venkateshappa S/o Venkataramanna was the common ancestor of their family. The said Venkateshappa married with Hanumakka and they got two children by name Venkataramappa and Narayanamma. The said Venkataramappa married with Mangamma (plaintiff no.1) and they got four children by name Subhadramma, Venkateshappa, V.Shivalingaiah (plaintiff no.2), and Nagesh. The common ancestor Venkateshappa S/o Venkataramanna, Hanumakka, Venkataramappa are no more. The common ancestor Venkateshappa was acquired the suit schedule property and katha stands in his name. After the death of said Venkateshappa the suit Sy.no.22/3 measuring 0.18 guntas katha was transferred in the name of plaintiff no.1 by way of Pavathivarasu and she is paying taxes to the government. The plaintiffs are in peaceful possession and enjoyment of the suit schedule property by raising crops. The defendants are western side bajudhars of the suit schedule property and on 20.11.2022 at about 10.00 am when the plaintiffs are in the suit schedule property, the defendants and their supporters came near the suit schedule property and tried to interfere with the plaintiffs

peaceful possession and enjoyment of the suit schedule property. The plaintiffs have resisted the illegal acts of the defendants.

**9.** On the other hand, the defendants have filed objection to the said IA No.1, wherein, they have submitted that, the suit of the plaintiffs is not maintainable and there is no reasonable and valid grounds made by the plaintiffs and the present application needs to be dismiss. The defendants have submitted that, no prima-facie case and balance of convenience lies in favour of plaintiffs. If this Court granted an order of Temporary Injunction in favour of plaintiffs, the defendants will be put to irreparable loss, injury and great hardship.

**10.** At this stage, the plaintiffs have produced the documents i.e. RTC Extract of Sy.no.22/3, Mutation Register Extract,

**11.** At this stage, the defendants have produced the documents i.e. survey sketch, Aakarbandh,

**12.** I have carefully perused the materials available on record. At this stage, the plaintiffs have produced RTC Extract of Sy.no.22/3 for the year 2022-2023, wherein, it appears that,



the plaintiff no.1 is in possession of the suit schedule property. The contention of the defendants is that, the property measuring Sy.no.22/3 measuring 0.18 guntas and the property bearing Sy.no.57 measuring 0.23 guntas have been exchanged between the the plaintiffs and defendants. At this stage, the defendants have not produced any documents to show that the properties have been exchanged between the the plaintiffs and defendants. At this stage, the contention of the plaintiffs is that, they are in peaceful possession and enjoyment of the suit schedule property cannot be ruled out.

**13.** The very object of granting temporary injunction in favour of the parties is to protect the property until the rights of the parties are adjudicated by full-fledged trial. In this suit, the apprehension of the plaintiffs that, the defendants tried to interfere over the suit schedule property. As such, if injunction is not granted to the plaintiffs, it will affect the interest of the plaintiffs and it may lead to multiplicity of proceedings and cause hardship to the plaintiffs. At this stage, the plaintiffs have made out *prima-facie* case. Hence, I answer Point No.1 in the **AFFIRMATIVE.**

**14. POINT NO.2:**

At this stage, if the injunction is not granted to the plaintiffs, they will be put to more inconvenience than the defendants. At this stage, the balance of convenience lies in favour of the plaintiffs. Accordingly, I answer Point No.2 in the **AFFIRMATIVE**.

**15. POINT NO.3 :**

If the defendants are restrained from interfere over the suit schedule property, no hardship or prejudice will be caused to them. But, if the defendants are not restrained, the plaintiffs will be put to more loss and hardship which cannot be compensated in terms of money. The materials available on record and the facts and circumstances of the case, it is just and proper, the defendants have to be restrained from interfering over the suit schedule property, the rights of parties are adjudicate by full-fledged trial. Hence, I answer Point No.3 in the **AFFIRMATIVE**.

**16. POINT NO.4:** In view of the findings on Point No.1 to 3, I proceed to pass the following:-

**ORDER**

I.A.No.I filed by the plaintiff under Order 39 Rule 1 and 2 read with Section 151 of *Civil Procedure Code*, is hereby allowed.

The defendants, their agents, servants, coolies, workers, PA holders, representatives, their family members, or any person or persons claiming through them are hereby temporarily restrained from from interfering with the plaintiffs peaceful possession and enjoyment of the suit schedule property.

*(Dictated to the Stenographer, transcribed by him, Order corrected and signed by me, then pronounced by me in the Open Court on this the 2<sup>ND</sup> day of November, 2023).*

**(NARASIMHA MURTHY. M)**  
PRL. CIVIL JUDGE & JMFC.,  
MULBAGAL.

ssm\*/-