

IN THE COURT OF THE PRL. CIVIL JUDGE AND JMFC.,
AT SRINIVASPURA.

Dated this **12th** day of **November 2020**

Present : H.R. Devaraju, B.A.LL.B.,
Prl.Civil Judge and J.M.F.C.,
Srinivaspura.

O.S.No.205/2018

PLAINTIFF/S:

Smt. M.C. Susheelamma D/o M.C. Chennappa,
Aged about 60 years,

R/o Muthakapalli Village and Post,
Yelduru Hobli, Srinivaspura Taluk.

(By Sri. K.P., Advocate)

-V/s-

DEFENDANT/S:

Smt. B.P. Bhagyalakshmi W/o Narayana Swamy,
Aged about 31 years,

R/o Vallabhai Road,
Kere Kate Area, Ward No.5,
Srinivaspura Town.

(Defts. by Sri. K.S.P., Advocate)

I.A.NO.1

Applicant/Plaintiff :

Smt. M.C. Susheelamma D/o M.C. Chennappa.

-V/s-

Opponents/Defendants :

Smt. B.P. Bhagyalakshmi W/o Narayana Swamy.

ORDERS ON I.A.NO.1

This is an application filed by the plaintiff/applicant under Order 39 Rule 1 and 2 R/w Section 151 of C.P.C., seeking for an order of temporary injunction against the defendant and her agents, servants, or her family members or anybody on her behalf etc., restraining them from cut and remove the standing mango trees in the suit schedule property till the pending disposal of the present suit.

SCHEDULE

Property bearing Sy.No.S/P measuring 2 acres 10 guntas consisting of mango garden and bounded on East by: Another property of plaintiff's family, West by: Road, North by: Property of Mahesh and South by: Property of Gurappa and his family. The property is situated at Peddapalli Village, Yelduru Hobli, Srinivaspura Taluk.

2. Case of the plaintiff in brief is as under:

The plaintiff in her affidavit accompanying to this I.A has stated that she is the absolute owner in peaceful possession of the suit schedule property. She has acquired the said property through registered sale deed dated 25.06.1998 from its previous owner Sri. P.V. Reddappa S/o

Peddapaiah, Peddapalli Village for valuable consideration. As per sale deed katha of the schedule property got mutated into her name, she has harvested the mango crops in the suit schedule property. Further she submits that the defendant has no rights over the suit schedule property.

3. The plaintiff further stated that defendant is trying to interfere with her possession over the suit schedule property without having any rights. Therefore, she has filed present suit for declaration and permanent injunction against the defendant along with this application.

4. The plaintiff further submits that *prima facie* case and balance of convenience lies in her favour. If court has not granted temporary injunction order against the defendant, it would cause hardship to her. Therefore, prays for allow the application.

5. Per contra the defendant has filed detailed objection to the present application and contended that the plaintiff has filed false suit against her by creating documents to grab the suit schedule property. Further she

contended that during the year 1973-74 her maternal grandfather namely Sri. Thimmaiah S/o Obalappa had acquired the property to an extent of 2 acre 36 guntas in Sy.No.5 of Peddapalli Village, Yelduru Hobli, Srinivaspura Taluk by way of grant. The said property subjected to the durasth. Hence, new Survey number has been given to the said property as Sy.No.80. As per the saguvali chit name of the her maternal grandfather incorporated into the revenue records.

6. After the demise her maternal grandfather namely Sri. Thimmaiah, his son Sri. Obalappa S/o Thimmaiah has succeeded the suit land on the basis of pavathi varasu and he was in possession of the suit schedule property. He was died intestate in the year 2013 leaving his wife Smt.Munivenkatamma and his two married daughters namely Smt.Gowramma and Smt.Padmamma has legal heirs to succeed his suit land. The defendant is the daughter of Smt.Padmamma. The material grandmother Smt. Munivenkatamma has sold the suit schedule land in favour of defendant in the year 2018. On the basis of said sale deed katha of the suit schedule

property got mutated into the name of the defendant herein. The plaintiff has claiming property of the defendant herein. Hence, application filed by the plaintiff is not maintainable.

7. The defendant further contended that the plaintiff has filed false suit against her. Therefore, plaintiff is not entitled for any relief as claimed by her. *Prima facie* case is not made out by the plaintiff and balance of convenience and irreparable injury and hardship causes to the defendant. Therefore, prays for dismiss the application filed by the plaintiff with exemplary cost.

8. Counsel for the plaintiff has canvased his arguments. While argue on I.A.No.1 counsel for the defendant submits that court may direct the both the parties to maintain *status quo* of the suit schedule property to preserve the mango trees in the suit schedule property till the pending disposal of the suit. On the other hand counsel for the plaintiff has gave his consent to pass an order as *status quo* of the suit schedule property.

9. The following points arise for the consideration of this Court;

1. Whether the plaintiff/applicant has made out *prima-facie* case?

2. Whether the balance of convenience lies in favour of the plaintiff?

3. Whether the plaintiff will be put to great hardship and irreparable loss if temporary injunction is not granted, as prayed?

4. What Order?

10. My findings on the above points are as follows:

Point No.1 : **Does not survive for consideration.**

Point No.2 : **Does not survive for consideration**

Point No.3 : **Does not survive for consideration**

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

REASONS

11. Point No.1 to 3:- It is the case of the plaintiff that, she has acquired the suit schedule property through registered sale deed dated 25.06.1998. The defendant is trying to cut and remove the standing mango trees in the suit schedule property. Hence, the plaintiff has filed present application for seeking temporary injunction to restrain the defendant from cut and remove the standing mango trees in the suit schedule property. On the other hand as already stated above counsel for the defendant has

filed memo on 07.11.2020 and prays for issuance of directions to both the parties to maintain *status quo* of the standing mango trees. Further counsel for the plaintiff has also gave his consent to pass *status quo* order as prayed by the defendant.

12. On perusal of the documents of both the parties have claiming that they are the owners of the suit schedule property. Declaration of title of the party to the suit is needs enquiry. Further the defendant has furnished photos of the suit schedule property to show the status of the suit schedule property on 09.11.2020. On perusal of the photos the mango trees are standing in the suit schedule property. It is just and necessary to preserve the mango trees till the pending disposal of the suit. If court direct the both the parties to maintain *status quo*, it would not cause any injury, damages and hardship to them. Therefore, as per submission made by the both the parties, it is just and necessary to order for directions to both the parties to maintain *status quo* of the suit schedule property. Hence, I answer point No.1 to 3 **does not survive for consideration.**

13. Point No.4: In view of my above discussions, I proceed to pass the following;

ORDER

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 dismissed.

Consequently the both the parties are hereby directed to not to cut and remove the standing mango trees and maintain status quo of the standing mango trees as it stood on 09.11.2020 till further order.

(Dictated to the Stenographer directly on the computer, typed by him, corrected and then pronounced by me in open court, this the **12th** day of **November 2020**)

(H.R. Devaraju)
Prl.Civil Judge and J.M.F.C.,
Srinivasapur.