

**IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC.,
AT NAGAMANGALA.**

Dated this 05th day of December, 2020.

Present :

Sri. Devaraddy B.A., LL.M.
Addl. Civil Judge & JMFC.,
Nagamangala.

O.S. No.210/2020

Plaintiffs : Basavaraju @ Basavarajappa
and another.

V/S

Defendant : Nanjundaswamy.

I.A. No.I

Applicant/

Plaintiff No.1: Basavaraju @ Basavarajappa,
S/o Late Sadashivappa and another.

(Pleader By Sri. P.C.M. Advocate)

- V/S -

Opponent/ : Nanjundaswamy

Defendant S/o Late Siddananjappa.

(Pleader By Sri. TKRG Advocate)

* * *

ORDERS ON I.A. No.I

Plaintiffs have filed this suit for Permanent injunction in respect of suit schedule temple. The applicants/plaintiffs filed IA No.I Under Order XXXIX Rule 1 and 2 of CPC, to

grant temporary injunction order for restraining the defendant and his agents, servants, supporters from interfering with the performance of Pooja by rendering the Archakaship by the plaintiffs to the suit schedule temples till disposal of the suit.

2. IA No.I filed along with affidavit. In the affidavit, has stated that, they have filed the suit against the defendant for the relief of permanent injunction to protect his right to perform the Pooja by offering Archakaship to the suit schedule temples. Further stated that, they are offering Archakaship to the suit temple since long time. In fact the government also paying the Thasthik amount recognizing their service to the suit schedule temples. Their ancestor also the Archakas of temples since undisputed point of time.

3. Further stated that, such being the fact no other person is/has been authorized to offer Archakaship to the suit schedule temples. In spite of it the defendant is claiming with some other persons are trying to cause abstraction to

the rendering of Archakaship to the suit deities. The defendant being unruling elements are having men and material and also local political clout in their favour. Thus, may be exploring physical force and threat him interfere with his right to render pooja and Archakaship. Further stated that, the documents produced by him are showing his prima facia for entitling to render Archakaship and his prima-facia case. He is a poor restrict Archaka, moreover aged and with the support of him the plaintiff no.2 is performing the functions which are to be conducted traditionally to the suit deities. If the temporary injunction is not granted they will be put great hardship and injustice. Further stated that, balance of convenience also lies in their favour. If the application is allowed, no prejudice will be caused other side. Hence, he prays to this application.

4. The defendant filed objection by denying the averments of the application filed by the plaintiffs and submits that, the application filed by the plaintiffs is not maintainable either in law or on facts. Further submits that,

there are no bonafide grounds in their application and affidavit. They have filed this application with an intention to get wrongful order from this court.

5. Further submits that, the plaintiffs are not the Archaka of the suit schedule temples and they have been removed by the village temple committee. The plaintiffs already handed over the key to the villagers of Begamangala. The conduct and behavior of the plaintiffs was not good and doing illegal and immoral activities in the temple, there are so many complaints against the plaintiffs by the village people and devotees of the across the state since from 2 years. There is a criminal case pending against the plaintiffs before the court. Now, the village temple committee appointed a defendant as Archaka of the suit temples. The plaintiffs are having the bad elements in the locality and they are not fit for Archakship of temple. The plaintiffs already lost their faith on confidence from the public as well as devotees in the locality. The alleged documents of plaintiffs have been created and concocted by them with in the collusion of some persons, in

case if the plaintiffs produced the documents before the court which are not binding upon the defendant or devotees in the high of public.

6. Further submits that, originally the temple of Byraveshwara is situated within the ambit of Begamangala Village, Kasaba Hobli, Nagamangala Taluk bearing Sy.No.113/p1 measuring 4 acre 0.13 gunts. The temple of Basvanna Devaru is situated within the ambit of Gramatana of Begamangala Village. The above said temple have got lakhs of devotees across the state. The devotees of the above temple made a complaint to the village people and Panchayathdars about the illegal activities of plaintiffs. The plaintiffs were not doing Archakaship and they were irregular in the performing the Pooja of temple. The plaintiffs have involved in immoral activities with the ladies and publics. The entire village people came to know that, the plaintiffs are unfit to performing the Pooja of above said temples. As such the village people and around the village people made complaint to the Tahsildar, Nagamangala and Deputy Commissioner, Mandya and

concern authorities for illegal activities of plaintiffs in the temple. In the meanwhile, the plaintiffs demolished the compound wall of above said temple through J.C.B on 13-08-2020. For which the village people gave a complaint to the Bellur Police and Tahshildar, Nagamangala. The concerned police have registered a case against the plaintiffs for the offences punishable U/s.427 of IPC in Crime No.122/2020, now the plaintiffs are on bail. Subsequently, the plaintiffs Archakaship have been removed from the village people with the permission of Mularayi office. The act and conduct of the plaintiffs during Archakaship cannot be explained in the words by the defendant. The plaintiffs have not legal and moral rights to performing the pooja of above said temples since the plaintiffs have lost their faith confidence in the public and the devotees of temple across the state. Such being the case, the question of performing the pooja of the above said temples by the plaintiffs does not arise at all.

7. Further submits that, subsequently the village people of Begamangala and devotees of around the village have taken a decision with regard to Archakaship of above said temples and above said villages newly appointed the defendant as Archaka of Byraveshwara and Basavanna Devara temple. Now the defendant has been performing the pooja of the temple with the permission of the concerned department. The defendant is legally appointed by the people as Archaka of temples to perform the pooja. The defendant has got good reputation in the locality and he his doing pooja very well in the temple. Further submits that, the plaintiffs have not made out any prima facie case against the defendant. On the other hand, the defendant has made out prima-facia case and balance of convenience also in his favour. If the injunction is granted the defendant will put great hardship and injustice. Hence, he prays to dismiss the application with cost.

8. Heard hearing on IA No.I by both sides. Perused the records.

9. On the basis of above contention, the following points arise for my consideration.

- 1. Whether the applicant/plaintiff no.1 proves that he has made out a prima facie case?*
- 2. Whether the applicant/plaintiff no.1 proves that the balance of convenience lies in his favour?*
- 3. Whether the applicant/plaintiff no.1 proves that he would suffer irreparable injury if temporary injunction is not granted in his favour?*
- 4. What order?*

10. The findings 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**Point No.1 :**

11. It is the contention of the plaintiffs that, they are offering Archakaship to the suit temples since long time, for which the government also paying the Thasthik amount recognizing their service to the suit schedule temples and their ancestor also the Archakas of temples since undisputed point of time. Further contended that, no other person has been authorized to offer Archakaship to the suit schedule temples except them. Further contended that, the defendant is trying to cause abstraction to the rendering of Archakaship to the suit deities. He is doing pooja of suit schedule temples with the support of plaintiff no.2 as he is old age person.

12. It is the contention of the defendant that, the plaintiffs have filed this application with an intention to get wrongful order from this court. Further contended that, the plaintiffs have been removed by the village temple committee with the permission of Mularayi office as they were involved in the immoral and illegal activities with devotees, the village

temple committee also appointed the defendant as Archaka of the suit temples. Further contended that, the alleged documents of the plaintiffs are created and concocted by them. Further contended that, the village people made complaint to the Thasildar, Nagamangala and Deputy Commissioner, Mandya and concerned authorities for illegal activities of plaintiffs in the temple.

13. The learned counsel for the plaintiffs submits that, the plaintiff no.1 being the Archaka has been performed Pooja to the suit schedule temples since long time, the Government also has been paying Thasthik to plaintiff no.1 being considering his Archakaship with regard to suit schedule temples. Further submits that, the livelihood of entire family members of the plaintiffs have been depending upon income of Archakaship of the plaintiffs since long time. Further submits that, the plaintiffs have made out prima-facia case and balance of convenience lies in their favour. If the application is not allowed, the irreparable loss will be caused

plaintiffs than defendant. Hence, prays to allow the application.

14. The learned counsel for the defendant submits that, the plaintiff no.1 was removed from his Archakaship to perform the pooja of suit schedule temples from the village temple committee with consent of concerned department since he was involved in the immoral and illegal activities, for which, the defendant has been newly appointed as Archaka to perform the pooja with regard to suit schedule temples. Further submits that, the identity of the suit schedule properties are in dispute, because the plaintiffs have not stated in their pleading and in the present application that, where the suit schedule temple situated. Further submits that, the plaintiffs have not made out any prima-facie case and balance of convenience also not lies in favour of the plaintiffs. If the application is allowed, the defendant will be caused irreparable loss than plaintiffs.

15. It is the plaintiffs to prove that, they have made out prima-facie case in respect of performing pooja of suit schedule temples. In order to prove the said contention, the plaintiffs have produced documents such as two original identity cards issued in the name of plaintiff no.1 by the Thashildar, Nagamangala, Certified copy of Mahazar drawn by Revenue Inspector, Kasaba Hobli with regard to Thasthik of suit schedule temples, Application given by the plaintiff no.1 to the Thashildar with regard to release the Thasthik amount, two Hakkupatra issued by Mujarayi Department in the name of Boredevaru and Basavannadevaru dated 22-03-1988, Copy of application given to the Thashildar by plaintiff no.2 dated 07-11-2020, Application given to the Thashildar by plaintiffs and family members dated 05-11-2020, Endorsement issued by Regional Commissioner, Mysuru dated 06-10-2020, Endorsement issued by the Thashildar, Nagamangala dated 12-11-2020, RTC extract in Sy No.121/10 measuring 16 gunta, Copy of LCR issued by the PSI, Bellur dated 26-08-2020, Photos and CD.

16. The defendant also produced the documents such as Invitation card as to suit schedule temples dated 18-11-2018, Certified copy of RTC for the year 2020-21, Certified copy of order passed by the Deputy Commissioner, Mandya in appeal no.23/1968-69, Certified copy of FIR along with complaint, Endorsement issued by the Thashildar dated 20-08-2020, Two photos of temple, Copy of complaint given to the Thashildar by the villagers dated 29-10-2020, Copy of the petition given to the Thashildar for change of Archaka dated 06-11-2020, Endorsement issued by the Thashildar dated 20-11-2020, Endorsement issued by the Thashildar, Nagamangala along with Gazette notification, Copy of proceedings recorded by the Thashildar, Nagamangala dated 19-08-2020, Copy of application filed by the defendant to the Thashildar, Nagamangala dated 20-11-2020, Copy of electric bills of the year 2010 to 2020, 4 tax receipts, 2 computerized RTCs for the year 2020-21, Affidavit dated 23-6-1968, Photos, CD and DVD.

17. It is pertinent to note that, the learned counsel for the defendant submits that, there is dispute with regard to identification of suit schedule properties, because the plaintiffs never stated in their pleading and present application as to show that, in which survey number the suit schedule temples are situated. It is undisputed fact that, the suit schedule properties are the temples. Hence, temple itself is the identification of the suit schedule properties.

18. It is also undisputed fact that, the suit schedule temples are coming under the Mularayi Department from 2003. It is pertinent to note that, the defendant has stated in the written statement and objections that, the plaintiff no.1 was removed by the village temple committee with the permission of Mularayi office as he was involved in the immoral and illegal activities with devotees and also appointed the defendant as Archaka of the suit temples. On perusal of entire records adduced by the defendant at this stage it is noticed that, the villagers have addressed to the Thashildar dated 06-11-2020 that, the plaintiff no.1 was

removed from his Archakaship since he was involved in immoral and illegal activities with devotees and the defendant has newly appointed as Archaka of suit schedule temples. Hence, at this stage except that letter there is no materials in order to show that, the plaintiff no.1 was removed from his Archakship by the village temple committee with permission of Mularayi Department.

19. The learned counsel for the defendant has specifically submitted that, villagers have the authority to remove and appoint the Archaka for the suit schedule temples, the said contention can be decided only after completion of trial. Hence, it is not the stage to decide as to whether the villagers have authority to remove the plaintiff no.1 from his Archakaship of the suit schedule temples unless complete the trial of the case.

20. As already stated above that, the plaintiffs have produced the documents in order to prove their contention. It is pertinent to note that, Thashildar has issued two ID

cards in the name of plaintiff no.1 with regard to suit schedule temples. On perusal of two ID cards at this stage it reveals that, the said ID cards issued in the name of plaintiff no.1 by Mujarayi Department, Government of Karnataka with regard to Sri Boredevaru and Sri Basavanna Devaru, Begamangala and mentioned the name of plaintiff no.1 as Archaka of said temples. The R.I of Kasaba Hobli has drawn the mahazar with regard to Thasthik of suit schedule temples on the application given by plaintiff no.1 in the year 2007 and submitted report to the Government for granting Thasthik to plaintiff no.1 as he has been performing pooja of suit schedule temples. Thashildar has issued endorsement to the plaintiff no.1 dated 12-11-2020 and in the said endorsement has stated that, till the date Thasthik has been receiving by plaintiff no.1 with regard to suit schedule temples and has not been newly appointed anyone as Archaka to the suit schedule temples.

21. From considering above said reasons and discussions and also materials available on the hand, at this

stage this court has come to conclusion that, the plaintiff no.1 placed sufficient materials in order to prove that he has made out prima-facie case in his favour. Hence, point No.1 is answered in the **affirmative**.

Point No.2:

22. The plaintiffs have produced the documents in respect of suit schedule properties to show that, they have made out prima-facie case. Based on documents adduced by the plaintiffs, it shows that, the balance of convenience also is in favour of the plaintiff no.1. Hence, in view of the above discussion, the point no.2 is answered in the **affirmative**.

Point No.3 :

23. On the basis of contention taken by the plaintiffs and defendant and also based on the documents produced by the parties and as the plaintiff no.1 made out prima – facie case and also balance of convenience lies in his favour, it is very clearly shows that, if the temporary injunction order is not granted it is the plaintiffs who will be caused great

hardship and irreparable loss than the defendant. Hence, the point No.3 is answered in the **affirmative**.

Point No.4 :

24. In view of discussion of point No.1 to 3, this court proceed to pass the following;

ORDER

I.A. No.I filed by the applicant/ plaintiff no.1 Under Order 39 Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

Defendant, his agents, servants or anybody claimed under him are hereby restrained from interfering with the performance of Pooja by rendering the Archakaship by the plaintiff no.1 to the suit schedule temples till disposal of the suit.

No order as to costs.

*(Dictated to Stenographer in the computer, typed by her, corrected and then pronounced by me in Open Court, on this the **5th day of December 2020**)*

(Devaraddy)
Addl. Civil Judge & JMFC.,
Nagamangala.

Order pronounced in the open court
(Vide separate order)

ORDER

I.A. No.I filed by the applicant/ plaintiff no.1 Under Order 39 Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

Defendant, his agents, servants or anybody claimed under him are hereby restrained from interfering with the performance of Pooja by rendering the Archakaship by the plaintiff no.1 to the suit schedule temples till disposal of

the suit.

No order as to costs.

Addl. Civil Judge & JMFC.,
Nagamangala.