



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

Dated on this 16th day of April, 2022.

PRESENT:

Sri. MANJUNATHA R. B.A.L. LL.B.,
Civil Judge & JMFC.,
Nagamangala.

O.S. No.107/2022

PLAINTIFF : Sri. S.C. Ramachandra.

V/s

DEFENDANTS : Sri. C.K. Kumara and another.

IA No-I

**Applicant/
Plaintiff** : Sri. S.C. Ramachandra.

V/s

**Opponents/
Defendants** : Sri. C.K. Kumara and another.

* * *

ORDERS ON IA No.I

The plaintiff has filed this application under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC., praying for an order of Temporary Injunction restrain the defendants from

interfering into the plaint schedule property by putting up of any construction over the suit schedule property until pending disposal of the suit.

2. The reasons ventilated by the plaintiff in the affidavit annexed to the application are that, one Chikkegowda was an absolute owner in possession of the land in Sy.No.33/1, measuring 37 guntas of Chinya village. The plaintiff had purchased 05 guntas of land from Chikkegowda under the registered sale deed dated 08-06-1984. After sale deed the revenue records are mutated in his name, as such he become the absolute owner in possession and enjoyment of the suit schedule property. Thereafter, the plaintiff has converted the suit schedule property for non-agricultural purpose in the year 1985. The concerned Mandala Panchayath has changed the khatha and issued building licence to the plaintiff. The E-khatha has also made in the name of plaintiff and he has been paying up-to date tax to the concern Grama Panchayath.

3. Further it is contended that, the plaintiff has constructed building in the portion of the property measuring to an extent of 55 x 30 feet and leased out the said building to the Bank of Baroda and the bank is also running ATM in the suit schedule property. The defendants are having land towards the eastern side of the plaintiff's property and they have no land abutting to Mysuru - Nagamangala road. However, the defendants proclaimed that, they are having

land abutting to Mysuru - Nagamangala road and tried to put up foundation for construction of commercial shops by laying the slabs over the public drainage. On 17-03-2022 the defendants made an attempt, but the plaintiff has resisted their illegal activities. The defendants are powerful persons and the plaintiff is not in a position to resist the illegal acts of the defendants without the aid of this court. During the life time of defendants father he made similar illegal acts, hence the plaintiff has filed the suit against him in O.S.No.572/2021 on the file of this Court and in that case this court grant temporary injunction against him. The said order was confirmed by the Senior Civil Judge and JMFC., Nagamangala in M.A.No.07/2021. After the death of defendants' father, the defendants are trying to interfere with the possession of the plaintiff over the suit schedule property. The plaintiff has got prima-facie case, since he is an absolute owner in possession and enjoyment of the suit schedule property. The balance of convenience is also lies in his favour. If the defendants are succeeded in their acts it will cause irreparable loss and injury to the plaintiff. Hence, the plaintiff has approached this court and prays to allow the application.

4. The defendants have appeared before the Court through their Counsel, but they have not filed objection to the application. Hence their objection to the application taken as nil.

5. Heard the arguments and perused the materials on record.

6. Now, the points that arise for consideration are as follows:

1. *Whether plaintiff has made out prima-facie case for grant of Temporary Injunction as sought for ?*
2. *Whether balance of convenience lies in his favour?*
3. *Whether the plaintiff will be put to irreparable loss and hardship, if I.A. is not allowed?*
4. *What order?*

7. The findings of this Court to the above points are as under:

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

Point No.4 : As per final Order
for the following:

REASONS

8. **Point No.1** : The learned counsel for the plaintiff has argued that, the plaintiff is in possession and enjoyment of the suit schedule property and same was purchased under the registered sale deed dated 08-06-1984 from its previous vendor. After purchase all the revenue records mutated in his name as per the sale deed and he converted same from

agriculture to non-agriculture purpose and constructed house in a portion of the property. The plaintiff has leased out the house to the Bank of Baroda and the bank has also installed the ATM machine in front of the said building. Earlier defendants father caused interference, then the plaintiff filed similar suit against him in O.S.No.572/2021 on the file of this Court and this Court has granted temporary injunction against the defendant and same was confirmed by the Senior Civil Judge and JMFC., Nagamangala Court in M.A.No.07/2021. After the death of defendants father, the defendants are causing similar interference to the possession of plaintiff over the suit schedule property. The plaintiff has made out prima-facie case and balance of convenience lies in his favour. If the application is allowed no prejudice or hardship would be caused to the defendants and on the other hand great injustice will be caused to the plaintiff, if the same is not allowed. Hence, prays to allow the application.

9. The plaintiff in order to prove the prima-facie case he has produced the sale deed dated 08-06-1984. As per the sale deed he is having 5 guntas land in Sy.No.33/1. As per the sale deed boundaries the vendor had retained property towards the Eastern side and Western side of 05 guntas land was sold to the plaintiff. The boundaries of the sale deed reads as follows: East by - Land of Chikkegowda, West by - Highway road, North by - Land of Mayanna and South by - Land of Channegowda. As per the sale deed boundaries the

Highway road is abutting to the western side of the plaintiff property. Further the plaintiff has produced the revenue documents, conversion order, E-khatha extract, lease agreement and building license. This documents clearly reveals that, after the sale deed the revenue records are mutated in his name and he had converted the suit schedule property from agriculture to non-agriculture purpose and constructed the house, obtained the building license from the concerned Panchayath. The E-khatha extract reflects that, the plaintiff has retained property towards the western side and he had constructed the house in the suit schedule property. Further lease deed produced by the plaintiff clearly shows that, he let-out the house to the bank. The photographs produced by the plaintiff clearly reveals that, the defendants laid the foundation towards the western side of the plaintiff house. Further the plaintiff has produced the earlier Court proceedings initiated against the father of the defendants by the plaintiff. Those documents clearly shows the interference caused by the father of the defendants. The defendants in order to rebut the plaintiff contentions as well as his documents they have not filed any objection and also they have not produced any documents before this Court.

10. It is pertinent to note that, as per the documents produced by the plaintiff it clearly reveals that, as per the registered sale deed the plaintiff got ownership and possession over the suit schedule property and all the

revenue records are standing in the name of plaintiff. The acknowledgment issued by the Nagamangala Rural Police clearly reveals that, the defendants are causing inference to the possession of the plaintiff over the suit schedule property. The boundaries mentioned in the sale deed is tallied with the plaint boundaries. The documents produced by the plaintiff, at this stage it reveals that he is in possession and enjoyment of the suit schedule property. On careful scrutiny of the reasons ventilated in the affidavit accompanying to the application and documents enclosed by the plaintiff, at this stage clearly established that, he has made out prima-facie case. Hence, considering all these aspects, this court in the touchstone of reasons ventilated above, I answered **Point No.1 in the Affirmative.**

11. **Point No.2** : The documents produced by the plaintiff clearly reveals that, he has made out prima-facie case in respect of the suit schedule property. Based on the documents placed by the plaintiff, it clearly demonstrate that the balance of convenience is lies in his favour. Hence in view of the above discussion I answered **Point No.2 in the Affirmative.**

12. **Point No.3** : The plaintiff has made out prima-facie case and also balance of convenience is also lies in his favour. In such a circumstances if the temporary injunction order is not granted in favour of the plaintiff, it will cause

great hardship and injustice to the plaintiff rather than the defendants. Hence, this Court has answered the **Point No.3 in the Affirmative.**

13. **Point No.4 :** In view of my findings on Point Nos.1 to 3, I proceed to pass the following:

ORDER

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

The defendants and their henchmen, agents, servants or claiming anybody on their behalf restrained from trespass in to the suit schedule property and putting up of any constructions over the suit schedule property till disposal of the suit.

[Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me in the open court on this day of 16th day of April, 2022]

**(Manjunatha R.)
Civil Judge and JMFC.,
Nagamangala.**