

: ORDERS ON I.A.No.I :

The applicant/plaintiff has filed **IA No.I** under Order 39 Rule 1 & 2 r/w 151 of CPC restraining the defendants not to interfere the suit schedule property till disposal of the suit.

2. In support of the said I.A, the plaintiff has filed affidavit and stated that, the plaintiff has filed a suit against the defendants for the relief of declaration and injunction over the suit schedule property. The suit schedule property is the ancestral property. The plaintiff has absolute owner and possession of the said property. The defendants not having any right over the suit schedule property. They are colluded with revenue officials and created a document in their names. Presently, RTC extracts stands in the name of defendant No.1. It will take advantage and interfered the possession of the suit schedule property. The defendants are localist and politically influenced persons. If not restrain the defendants, it will be irreparable loss to the plaintiff. The plaintiff case is a prima-facie case. Hence, prayed to allow the I.A.

3. In spite of summons, the defendants are appeared through their counsel, but the defendants are failed to file objection or written statement. Therefore objection and written statement taken nil.

4. Heard the arguments.

5. The following points that would arise for my consideration are:

1. Whether the plaintiff has made out a prima facie case?
2. Whether the balance of convenience lies in favour of the plaintiff?
3. Whether the plaintiff suffers irreparable loss and injury, if the TI is refused?
4. What order?

6. My answers 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 my final order for the following reasons

REASONS

7. **Point No.1 to 3:-** Since these pointss are inter-linked with each other, hence in order to avoid repetition of facts, they are taken up together for common discussion.

8. I have gone through the pleadings and documents placed before the court, it shows that, the plaintiff has filed this suit against the defendants for relief of declaration and injunction over the suit schedule

property. The plaintiff claims that, the suit schedule property is the ancestral property. Said property originally belongs to Madaiah. He was in absolute owners and possession of the suit schedule property. After demise of said Madaiah, said property khathas are changed in the name of his son Siddappa and mother Rajamma, and said suit schedule property RR No.518 khatha stands in the name of Siddappa and his mother Rajamma. They were absolute owners and possession of the suit schedule property. Thereafter said suit schedule property khathas are transferred in the name of plaintiff. Since 2003-04 RTC extracts of the suit schedule property stands in the name of plaintiff. The plaintiff is absolute owner and possession of the suit schedule property. On 12.12.2024, the defendant No.1 to 4 came to the suit schedule property and quarreled with plaintiff and interfered the possession of the plaintiff over the suit schedule property and also they are damaged the sugarcane crops. Thereafter, the plaintiff has filed a complaint against these defendants. Thereafter the defendants are came to the police station and gave some revenue documents.

9. Further plaintiff submit that, the police have informed to the plaintiffs that, on 06.07.1946, the defendants' father Doddachamaiah has purchased the suit schedule property under registered sale-deed. All the revenue documents, RTC extracts and MRs stands in the name of defendants. thereafter the plaintiff has enquired the documents in the revenue office, by that time, noticed that the difendants have colluded with revenue officials and created a said documents in the name of Doddachamaiah who is the father of the defendants. As per sale-deed, the defendants father has purchased Sy.No.60/2 extent 1 acre 10 guntas, but the revenue officials as per MR 17/2003-04 changed the property khathas has transferred in the name of defendants only 10 guntas continue in the name of plaintiff. After the death of Doddachamaiah, said 1 acre 10 guntas are transferred in the name of defendant No.4 in vide MR

H24/2014-15. These MRs are created by the defendants with collusion of the revenue officials, but the defendants have not any right over the suit schedule property. The defendants are created Sy.No.60/4 .

10. Further the plaintiff submits that, on enquired the sale-deed dated 06.07.2014, it clearly disclosed that, Doddachamaiah has purchased Sy.No.60/2 extent 1 acre 25 guntas from Veerabhadraiah. As per sale-deed, the defendants are purchased Sy.No.60/2 not a Sy.No.60/3. Sy.No.60/3 is originally belongs to the plaintiff's family. With intention to grab the suit schedule property from the plaintiff, they are created a documents in their names. Therefore the plaintiff's case is a prima-facie case. If not to restrain thee defendants, it will be caused irreparable loss to the plaintiff and balance of convenience in favour of plaintiff. Hence, prayed to allow the I.A.

11. In spite of given sufficient opportunity, the defendants are not filed objection to I.A., hence objection taken nil.

12. The plaintiff has produced documents that, record of rights, hissa tippani and RTC extracts. On perusal of record of rights No.517, Sy.No.60/2 which is stands in the name of M.Siddappa and mother Rajamma (ಜಂಟಿ ಖಾತೆ) R.R.No.518, Sy.No.60/3 which is stands in the name of M.Siddappa and mother Rajamma (ಜಂಟಿ ಖಾತೆ). The endorsement dated 03.06.2023 issued by the Tahasildar it is disclosed that destroy of the MR 3/1969-70 in respect of Sy.No.60/3. RTC extract in the year of 1979-80 to 1999-2000 in respect of Sy.No.60/3 extent 66 guntas stands in the name of Madaiah S/o Siddalingaiah RR 270. Thereafter said property khatha has changed in the name of M.Siddappa and his smother Rajamma vide MR 3/1969-70. The plaintiff has filed NCR copy, it is disclosed that the plaintiff has filed a complaint against the defendant No.1 to 3.

13. The plaintiff has produced the zerox copy of the sale-deed dated 06.07.1946. The recital of the said sale-deed, it is disclosed that, Veerabhadraiah has executed a sale-deed in favour of Doddachamaiah in respect of Sy.No.60/2 extent 1 acre 10 guntas out of 5 acres 22 guntas. On perusal of MR 8/385/1972-73, it is disclosed that as per Form No.20, Sy.No.60/2 extent 51 guntas, Sy.No.61/2 extent 29 guntas and Sy.No.61/3 extent 41½ guntas properties khatha are changed in the name of Doddachamaiah. On perusal of the RTC extracts in respect of Sy.No.60/2a extent 51 guntas stands in the name of Doddachamaiah S/o Chikkachamaiah mode of acquisition column No.10 reflects that, RR 558. Doddachamaiah filed an application before the Tahasildar seeking for change the khatha Sy.No.60/3 extent 51 guntas and other survey numbers.

14. On perusal of the said application, it is disclosed that, “ನನಗೆ ದಿನಾಂಕ 08.07.1946 ರಂದು ರಿ.ನಂ.63/46-47 ರಂದು ಸದರಿ ಬಳೇಅತ್ತಿಗುಪ್ಪೆ ಗ್ರಾಮದ ಹುಚ್ಚಯ್ಯನ ಮಗನಾದ ವೀರಭದ್ರಯ್ಯನಿಂದ ಕ್ರಯದಾಗಿದ್ದು 8/1385/72-73 ರಂತೆ ಮ್ಯುಟೇಷನ್ ಅಂಗೀಕಾರವಾಗಿದ್ದು ತಹಶೀಲ್ದಾರ್ ಆರ್ ಟಿ ಸಿ ಇಂಡೀಕರಣವಾಗಿರುವುದಿಲ್ಲ. ಮೇಲ್ಕಂಡ ಆದೇಶದಂತೆ ಸರ್ವೆ ನಂಬರುಗಳು ಈ ಕೆಳಕಂಡಂತಿವೆ 60/3-0.51, 61/2-0.29, 61/3-041½ ಗುಂಟೆ ಜಮೀನುಗಳನ್ನು ಆರ್ ಟಿ ಸಿಯಲ್ಲಿ ಇಂಡೀಕರಿಸಿ, ಆರ್ ಟಿ ಸಿ ಗಳನ್ನು ಕೊಡಿಸಿಕೊಡಬೇಕಾಗಿ ಅರಿಕೆ ಈ ಕೂಡ ಸಂಬಂಧಪಟ್ಟ ಕ್ರಯಪತ್ರ ಮ್ಯುಟೇಷನ್ ಕಾಪಿ ಹಾಗೂ ಆರ್ ಟಿ ಸಿ ಗಳನ್ನು ಮತ್ತು ಇ ಸಿ ಕೂಡ ಲಗತ್ತಿಸಿದೆ.” In the same MR V.A. report that that, “ವಿ ಎ ವರದಿ: ಸದರಿ ಅರ್ಜಿದಾರರ ಅರ್ಜಿಯನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ ಅರ್ಜಿದಾರರಿಗೆ ಎಂ ಆರ್ 9/72-73 ರಂತೆ ಖಾತೆ ಅಂಗೀಕಾರವಾಗಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ. ಆದರೆ 60/2 ರಲ್ಲಿ ಖಾತೆ ಅಂಗೀಕಾರವಾಗಿದ್ದು ಇತರೇ 60/3 ರಲ್ಲೂ ಅನುಭವದಲ್ಲಿ ಇರುತ್ತಾರೆ.” Said MR recitals clearly disclosed that Doddachamaiah has filed an application before the Tahasildar that, he has purchased Sy.No.60/3 extent 51 guntas, Sy.No.61/2 extent 29 guntas and Sy.No.61/3 extent 41 ½ guntas under registered sale-deed dated 08.07.1946 register No.43/46-47. As per sale-deed MR 8/1385/7273 of the property khatha has changed in the name of Doddachamaiah, but since said RTC extracts not indianization

(ಇಂಡೀಕರಣ). As per V.A.report, said Doddachamaiah is in possession of Sy.No.60/2 not 60/3, therefore said Sy no.60/2 khatha change in their names. But on perusal of the photo copy of the sale-deed dated 06.07.1946 of defendants, it is disclosed that, “ಷೆಡ್ಯೂಲ್ ಫ್ರೆಂಚ್ ರಾಕ್ಸ್ ತಾಲ್ಲೂಕು ಕಸಬಾ ಹೋಬಳಿ ಬೇಚರಾಕ್ ಬಿಟ್ಟನಾಯ್ಕನಹಳ್ಳಿ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ಪೂರ್ವಕ್ಕೆ ಬಳೆಅತ್ತಿಕುಪ್ಪೆಗೆ ಹೋಗುವ ರಸ್ತೆ, ಪಶ್ಚಿಮಕ್ಕೆ ನನ್ನ ಬಾಬು ಶಿದ್ದಲಿಂಗಮ್ಮನ ಮಾದಯ್ಯನಿಗೆ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟಿರುವ ಜಮೀನು, ದಕ್ಷಿಣಕ್ಕೆ ಹೊಸಹಟ್ಟಿ ಚಿಕ್ಕಮಾದಯ್ಯ ವಗೈರೇರ ಜಮೀನು, ಉತ್ತರಕ್ಕೆ ಮಾಜಿ ಪಟೇಲ್ ಬಸವಯ್ಯನ ಮಾದಯ್ಯನ ಮಗ ಸಿದ್ದಯ್ಯನ ಜಮೀನು, ಈ ಮಧ್ಯೆ ಇರುವ ಸರ್ವೆ 60 ನೇ ಎರಡನೇ ಪೋಡು ಖುಷ್ಕಿ 5 ಎಕರೆ 22 ಗುಂಟೆ ಆಕಾರ ಆರು ರೂಪಾಯಿ ಮೂರಾಣೆ ಉಳ್ಳದ್ದರ ಪೈಕಿ ರಸ್ತೆಗೆ ಮಗ್ಗಲಾಗಿ 1 ಎಕರೆ 10 ಗುಂಟೆ ಆಕಾರ ಒಂದು ರೂಪಾಯಿ ಏಳಾಣೆಉಳ್ಳ ಸ್ವತ್ತು ಮೇಲ್ಕಂಡ ಕ್ರಯಕ್ಕೆ ಒಳಪಟ್ಟಿರುತ್ತೆ.” As per recital of the schedule sale-deed, it is clearly disclosed that Doddachamaiah has purchased the property Sy.No.60/2 extent 1 acre 10 guntas out of 5 acres 22 guntas, but in the application filed by Doddachamaiah, and V.A. report it shows that, said Doddachamaiah has purchased Sy.No.60/2 under registered sale-deed dated 08.07.1946 and khatha as per MR 8/385/72-73. As per Form No.20 and RTC extracts are clearly disclosed that, Sy.No.60/2 extent 51 guntas stands in the name of Doddachamaiah. Said RTC extracts clearly disclosed that Doddachamaiah acquired the said property by way of sale-deed RR 271. But Tahasildar changed the property khatha Sy.No.60/3 extent 51 guntas. In what basis, the village accountant has filed a report that Doddachamaiah is in possession of Sy.No.60/3, and khathas has transferred in the name of Doddachamaiah in Sy.No.60/3. In this regarding, the defendants are not filed written statement/objection and not produced any documents. In spite of given sufficient opportunity, the defendants are not filed a objection to I.A.

15. On perusal of the hand-written RTC extract and record of rights, it is clearly disclosed that, Sy.No.60/3 extent 1 acre 25 guntas are stands in the name of Madaiah S/o Siddalingaiah. After demise of the said Madaiah, said property khatha has mutated in the name of Siddappa and

his mother Rajamma who is the husband and mother-in-law of the plaintiff. After demise of the said Siddappa and Rajamma, said suit schedule property has mutated in the name of plaintiff. At this juncture, the plaintiff has made out a prima facie case and also furnished sufficient prima facie documents to show that, he has got prima facie case and On the other hand the defendant has not placed any iota of document to disprove the plaintiff's contention. Hence the balance of convenience is also lise infavour the plaintiff. Hence, I will accept the arguments submitted by the learned counsel for the Plaintiff. **Accordingly, the Point No. 1 to 3 are answered in the affirmative.**

16. **Point No.4:-** In the light of the above discussions, I proceed to pass the following order.

ORDER

The application filed by the plaintiff/ applicant under order 39 Rules 1 and 2 of CPC- IA No.I is hereby allowed.

The defendants, their servants, agents or any other persons claiming through them are hereby temporarily restrained from interfere to the plaintiff's possession and enjoyment over the suit schedule property, till disposal of the suit.

In the facts and circumstances of the case, I pass no order as to cost.

II ACJ & JMFC,
Pandavapura.

