

**IN THE COURT OF II ADDL CIVIL JUDGE AND  
JMFC AT PANDAVAPURA**

**Dated this the 11<sup>th</sup> day of April 2025**

Present:-

**Smt. PADMA.M**, B.A., L.L.B.,  
II Addl Civil Judge and J.M.F.C,  
Pandavapura.

**O.S.No.186/2023**

Plaintiffs : Halegowda and Another  
v/s

Defendants : Somu & Others

**I.A.No.I**

Applicants : Halegowda and Another ---- plaintiffs  
(By Sri.BS, Adv.,)  
v/s

Opponents : Somu & Others ----- defendants  
(By Sri.TJP for D1, Sri.BKP for D2 to D4, Advs.,)

**: ORDERS ON I.A.No.I:**

The applicants/plaintiffs 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.

Sy.No.237/1 extent 2 acres 9 guntas situated at Malligere village, Chinakurali Hobli, Pandavapura Taluk, Mandya District bounded on:-

East : Land of Gururaju  
West : Land of Siddaiah and others  
North : Oni and land of Manju  
South : Land of Somu S/o Ningegowda

2. In support of the said I.A, the plaintiff No.1 has filed affidavit and stated that, on 08.05.1968, the plaintiffs father Halegowda S/o Bettgowda has purchased Sy.No.237 extent 22 guntas from one Kariyaiha and on 06.12.2018, again the plaintiffs father Halegowda has purchased Sy.No.237 extent 1 acre 25 guntas from one Bettaiah under registered sale-deed. In total, 2 acres 7 guntas property has purchased by the plaintiffs father under 2 sale-deeds. He was in possession of the said properties. As per sale-deed, all the revenue documents are changed in the name of plaintiff No.1's father. With consent of the father of the plaintiff No.1, said suit schedule property khatha has changed in the name of plaintiff No.1 in vide MR No.9/1996-97. The plaintiff No.1 is the absolute owner and possession of the suit schedule property. The defendants are not having any right and title over the suit schedule property. They are political and financial influenced persons. On 17.01.2023, they illegally interfered and destroyed the crops over the suit schedule property. The defendants are obstructed to cultivation of the suit schedule property by the plaintiffs. Plaintiff's suit is prima-facie c and If not allowed I.A it will irreparable loss to the plaintiff and balance of convenience lies in favour of the plaintiff. Hence, prayed to allow the I.A.

3. On the other hand, the defendant No.2 to 4 have filed a written statement, said written statement will be consider as objection to I.A.No.1 and stated that they are categorically denied the entire plaint averments. Further they stated that, the defendants are in possession of the 3 acre 16 guntas from their ancestors by name Donnepurushaiah and Javara. On 05.09.1928, the Government has grant said property to Donnepurushaiah and Javara. From the date of grant, they are absolute owners and possession of the total 3 acres 16 guntas. Said Donnepurushaiah and

Javara died issue-less. The defendant No.2 to 4 are joint family members of the said Donnepurushaiah and Javara. The defendants are not having any knowledge with regarding to the revenue documents. Therefore said property khathas changed in their names. It will take advantage by the plaintiff, the plaintiffs are created a documents in their names. But since the defendant No.2 to 4 are in possession of the suit schedule property. Without any interruption they are continue the cultivation over the suit schedule property. The plaintiffs not having any right over the suit schedule property, they are politically influenced persons. They are interfered the possession property of the defendants. The plaintiffs not having cause of action to file this suit. Hence, prayed to dismiss the I.A.

4. The defendant No.1 has filed a written statement alongwith memo and submits that, written statement will be consider as objection to I.A.No.1. In his affidavit, he denied the entire plaint averments. Further he submits that on 05.09.1928, the Government has grant-certificate in respect of Sy.No.2371 extent 3 acres 16 guntas in favour of Donnepurusha and Mota who are the ancestors of the defendant No.1 . During their lifetime, Donnepurusha and Mota are in possession of the said property without any interruption. One Mota not having any issues, therefore he has adopted his brother's son who is the defendant No.1. After demise of the said Mota, the defendant No.1 is in possession of the said property. The defendants are not having any knowledge of the revenue documents, therefore said property khathas are not changed in their names. It will take advantage by the plaintiffs, changed the documents of the suit schedule property in their names and interfered the possession of the defendants and filed this false case with intention to grab the said property from the plaintiffs. The defendants are convened the panchayath. The panchayathdars also advised to plaintiffs not to interfere the suit schedule property, but the plaintiffs are continue the

interference of the possession of the defendants and also they filed this false case. Hence, prayed to dismiss the I.A.

5. Heard arguments from the both side.

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

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

7. My answers to the above points are as under:-

Point No.1: In the Negative.

Point No.2: In the Negative.

Point No.3: In the Negative.

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

### **REASONS**

8. **Point No.1:-** I have gone through the application, written statement and documents placed before the court, it is disclosed that the plaintiffs claim that the plaintiffs have filed a suit against the defendants for seeking relief of permanent injunction over the suit schedule property. The defendants are not having any right, title and possession of the suit schedule property. They are obstructed to cultivation of the suit schedule property. Therefore the plaintiffs are filed a said I.A. to seeking for restrain

to the defendants and interfered the possession of the suit schedule property till disposal of the suit.

9. The plaintiffs have produced the sale-deed **dated 08.05.1968**. Said sale-deed disclosed that, Kariyaiah S/o Singraiah executed a sale-deed in favour of Halegowda in respect of Sy.No.237 extent 20 guntas. On perusal of one more sale-deed dated 06.12.1968 executed by Bettaiah S/o Singraiah in favour of Halegowda in respect of Sy.No.237/1 extent 1 acre 25 guntas. RTC extract Sy.No.237/1a extent 19 guntas for a period of 1976-77 to 1993-94 stands in the name of Halegowda S/o Bettegowda mode of acquisition column No.10 reflects that, ಕ್ರಯ **14.10.1943**. On perusal of RTC extracts in respect of Sy.No.237/1 extent 19 ares stands in the name of Somashekar S/o Halegowda mode of acquisition column No.10 reflects that, MR 9/1996-97. On perusal of MR 9/1996-97, it is disclosed that, “ಹಳೆಸಾಯಪನಹಳ್ಳಿ ಗ್ರಾಮದ ನಿವಾಸಿ ಬೆಟ್ಟೇಗೌಡಮಗ ಹಾಳೇಗೌಡರವರ ಒಪ್ಪಿಗೆ ಮೇರೆ ಅವರ ಮಗ ಹೆಚ್ ಸೋಮಶೇಖರನ ಹೆಸರಿಗೆ ಖಾತೆ ಬದಲಾವಣೆ ಕೋರಿ ಫಾರಂ ನಂ.20 ರಲ್ಲಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿರುವ ವಿಚಾರ.” These recital disclosed that, Sy.No.237/1 90 ares Sy.No.237/5pai, 85 ares, Sy.No.237/1 extent 2 acres 29 guntas stands in the name of plaintiff No.2 by name Somashekar S/o Halegowda.

10. On the other hand, the defendant No.2 to 4 are taken serious contention that, on 05.09.1928, the Government has grant Sy.No.237/1 extent 3 acres 16 guntas in favour of Doddapurushaiah and Javara who is the prepositors of the defendants family. The defendant No.1 in his written statement stated that said property has grant in favour of Doddapurusha and Mota. Mota not having issues. Therefore he is adopted his brother's son defendant No.1. After demise of the said Mota, Doddapurushaiah and Javara, the defendants are in possession of the said 3 acres 16 guntas. They are cultivating the suit schedule property without any cultivation. The defendants not having knowledge about the revenue documents.

Therefore they are not changed the revenue documents in their names. It will take advantage by the plaintiffs are created a revenue documents in their names and filed this false case.

11. In order to prove, they produced index of land, sketch and RTC extracts. On perusal of the index of land, it is disclosed that, Sy.No.237 stands in the name of Javara S/o Huluvadi Lakka and Mota, Lakka and Donnepurusha. On perusal of survey sketch pakka book, it is disclosed that Sy.No.237/1 acquired ಮೂಲಕ ಬೀಳು. On perusal of hissa survey, Sy.No.237/1, K.R.S. ಮುಳುಗಡೆ.

12. It is pertinent to note that the plaintiffs claim that the suit schedule property purchased by the plaintiffs' father under registered sale-deeds dated 08.05.1968 and 06.12.1968. On perusal of both sale-deeds, both sale-deeds executed in the year of 1968, but sale-deed dated 08.05.1968 it is clearly disclosed that, the plaintiffs' father has purchased Sy.No.237 extent 22 guntas and sale-deed dated 06.12.1968 purchased Sy.No.237/1 extent 1 acre 25 guntas. In the first sale-deed, the plaintiffs's father has purchased property in Sy.No.237. 2<sup>nd</sup> sale-deed purchased Sy.No.237/1. The plaintiffs have furnished the RTC extracts in respect of Sy.No.237/1A extent 19 ares stands in the name of **Halegowda S/o Bettgowda, said RTC's disclosed** mode of acquisition column No.10 reflects that, **sale deed dated 14.10.1943**, but the plaintiffs claims that the plaintiffs' father purchased the said suit schedule property under registered sale-deed in the year of 08.05.1968 and 06.12.1968. In both sale-deeds, survey numbers are different and boundaries are different and In the RTC it is disclosed that the plaintiffs' father purchased the suit schedule property under registered sale-deed dated 14.10.1943. These RTC extracts, sale-deeds are different survey numbers.

13. It is notice that In the both sale-deeds are executed in the same year i.e., 1968, but in the 2 sale-deeds, mentioned property survey No.237 and 237/1. It means in the year of 1968 survey numbers. 237 are phoded as a 237/1. But in the RTC extracts it is disclosed that Sy.No.237/1A. The plaintiffs have not produced hissa survey tippani and survey sketch to prove the boundaries of the suit schedule property and also the RTC extracts column No.10 it is disclosed that said property acquired by Halegowda by virtue of the **sale-deed dated 14.10.1943**. Therefore at this stage, the documents appears that, which property the plaintiffs' father has purchased the suit schedule property or other property. It will created a doubt. Therefore plaintiffs documents has not appeared prima-facie case. Hence, this court answered **point No.1 in the Negative**.

14. **Point No. 2 & 3:-** Since these points are inter-connected with each other, hence in order to avoid repetition of facts, they are taken up together for common discussion. In view of findings on point No.1 the plaintiffs have failed to prove a prima facie case. Where a party has failed to prove a prima facie case, injunction cannot be granted even. When there is no prima facie case, question of considering the balance of convenience and irreparable loss and injury that would be caused to the plaintiffs if temporary injunction is refused does not arise. Therefore, considering all these aspects, this court is of the considered view that, if the injunction is refused no irreparable loss and injury would be caused to the plaintiffs.

15. The plaintiffs have not made out prima facie case for grant of temporary injunction and balance of convenience does not lies in their favour and no injury will be caused to the plaintiffs if the application is rejected. Hence, this court answered **point No. 2 & 3 in the Negative**.

16. **Point No.4:-** In view of my findings and discussions to the above points, the court proceed to pass the following:

**ORDER**

**The application filed by the plaintiffs/ applicants under order 39 Rules 1 and 2 r/w 151 of CPC-IA No.I is hereby rejected.**

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

(Dictated to the Stenographer, transcribed and computerized by her, revised and corrected by me, then pronounced in the open court on 11<sup>th</sup> day of April 2025)

**[PADMA.M.]  
II Addl. Civil Judge & JMFC,  
Pandavapura.**



Orders pronounced in the open court  
(vide separate Orders)

**ORDER**

The application filed by the plaintiffs/  
applicants under order 39 Rules 1 and 2 r/w 151  
of CPC-IA No.I is hereby rejected.

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

II ACJ & JMFC,  
Pandavapura.