

ORDER

Vide this order , I shall decide the application filed by the plaintiffs U/O 40 rule 1 of CPC for appointment of receiver to harvest the standing crops and realize the sale proceeds and to deposit the same in the Court.

2. The plaintiff has filed the suit for recovery of possession of the suit schedule property. According to the suit property belongs to them and the defendants have illegally encroached the suit property and despite requests they failed to vacate and hand over the same to the plaintiffs. Hence the present suit.

3. Learned counsel for the defendants would contend that the defendants have been cultivating the lands as they are in possession of the said lands. They have grown the sugarcane and Banana crops. They are entitled to harvest the said crops.

4 The contention of the learned counsel for the plaintiffs are the owners of the suit property and the defendants being the encroachers cannot be permitted to harvest the crops, in that event the plaintiffs will be put great hardship.

5. I have carefully considered the arguments of the learned counsel for the parties made at the bar and perused the material placed on record.

6. In a suit for recovery of possession at this juncture when the rights of the plaintiffs are being seriously disputed by the defendants, the appointment of the receiver to harvest the sugarcane and banana crop, to realize the sale proceeds and to deposit the same in the Court, in any event it would not be justified. The sugarcane and Banana grown in any event would be assigned to a particular sugar factory and market and all

the details would be available and this court direct an enquiry to assess the mesne profits payable to the plaintiffs if ultimately a case is made out in the suit.

7. In view of the above discussions, this court is the considered opinion that the application is meritless and liable to be dismissed. Consequently, I proceed to pass the following;

ORDER

**IA No.II filed by the plaintiff U/O 40 rule 1 of
CPC is hereby dismissed.**

No order as to costs.

Put up for P/E on 23.03.2022.

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court on this the day of 4th day of March 2022)

(NATARAJ YADAV.S)
Senior Civil Judge & JMFC
H.D.Kote