

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

**PRESENT**

Sri. KESHAVA.K, B.A. L.L.B.,  
Addl. Civil Judge & JMFC.,  
Heggadadevanakote.

Dated this the 13<sup>th</sup> day of June 2018

**O. S. No. 30 of 2018**

PLAINTIFF : Sri. R. Siddappaji

V/s

DEFENDANTS : Smt. Ningamma and another

**I. A. No.I**

APPLICANT : Sri.R.Siddappaji .....(*Plaintiff*)

V/s

OPPONENTS : Smt. Ningamma & another  
.....(*Defendants*)

**ORDERS ON IA No. 1**

The plaintiff has filed I.A.No. 1 under Order XXXIX Rule 1 and 2 of CPC. praying to grant ad-inter temporary injunction order against the defendants restraining them from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property till disposal of the suit.

2. The brief facts of the application is as follows:-

It is the specific case of the plaintiff that, in the accompanying affidavit filed in support of above said application is that, he has filed the present suit against defendants for the relief of Permanent Injunction in respect of the suit schedule property. He further contended that, he is the absolute owner in possession and enjoyment of the suit schedule property. He has purchased the same from the defendants through registered sale deed dated 5.3.2013. Since then he was in peaceful possession and enjoyment of the suit schedule property. All the revenue documents in respect of suit schedule property were changed into his name and he has paid upto date tax to the concerned authority. The matter being stood thus, on 4.11.2017 the defendants were restrained the plaintiff not to use eastern and southern road to reach his schedule property. In this connection the plaintiff has lodged a complaint against the defendants before H.D.Kote police station. On 6.11.2017 the concerned police have undertaken from the defendants not to trouble the plaintiff. But again on 5.1.2018 the defendants restrained the plaintiff to move towards his property. Without any alternative remedy, the plaintiff has filed present suit along with the present application and prayed to allow the same, otherwise he will be put to great hardship and inconvenience.

3. On the other hand, the defendants filed objections to the present application stating that the suit filed by the plaintiff against them for the relief of Permanent Injunction in respect of the suit schedule property. The reasons mentioned in the above said application is not maintainable either on law or on facts. They further contended that, on 5.3.2013 the

defendants have executed a sale deed in favour plaintiff by receiving a valuable consideration. Further it is state that there is no road towards east and southern side of the suit schedule property. In this regard, 11E sketch was prepared, wherein it is very clearly mentioned that there is no road towards east and southern side of suit schedule property. Since the defendants were illiterates, the plaintiff was misused their illiteracy, he got purchased a suit schedule property through registered sale deed by mentioning east and southern side 15 feet road. It is further contended that, towards northern side, public road is existing to reach his property. He intentionally in order to harass the defendants filed a false suit by creating a concocted story. Under such circumstances the defendants prayed to reject the above said application with cost.

4. Heard the arguments of both the sides and perused the pleadings and the materials on record.

5. The following points would arise for my consideration:-

1. Whether, at this stage the plaintiff has made out a *prima facie* case in his favour?

2. Whether the plaintiff proves the balance of convenience lies in his favour?

3. Whether the plaintiff proves that in event of not allowing I.A. 1 he will be put to irreparable loss and injury?

4. What Order?

6. My answers to the above points is as follows:-

- 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**

7. **Point No.1 to 3**:- These three points are taken into together for common discussion to avoid the repetition of the facts.

8. The plaintiff has filed the above said suit against the defendants for the relief of Permanent Injunction along with above said application seeking restrained them from interfering in the suit schedule property. In support of his contention he has filed several documents for the perusal of this Hon'ble Court. Among them, copy of sale deed 5.3.2013, copy of RTC bearing Sy.No.97/26, copy of mutation register extract, copy of tax paid receipt, copy of demand register, copy of electricity bill, copy of endorsement issued in NCR No.747/2017 and copies of photographs.

9. Per contra, the defendants contended that, they did not interfere in the suit schedule property and they were admitted that the suit schedule property was sold to the plaintiff, Since then the defendants were never and ever either interfered or threatened him to vacate the suit schedule property. The plaintiff intentionally and in order to harass them to knock of the remaining property with surrounding the suit schedule property. However, he has filed present suit by creating

false story. In support of their contention they have filed several documents, among them, copy of sale deed dated 23.9.2013, copy of 11e sketch, copy of sale deed dated 30.9.2013, copy of sale deed dated 11.12.2012 and copy of 11 e sketch.

10. On going through the entire documents produced by the plaintiff on 5.3.2013 the plaintiff has purchased the suit schedule property measuring an extent of 3 guntas of land through a registered sale deed dated 5.3.2013 and he was paid kandayam to concerned revenue authority. The plaintiff further contended that, as per sale deed, towards east and southern side 15 feet space was left for the use of road. But the defendants were did not heed their words to use the road which was left for the purpose of reach towards plaintiff's property. As per 11 E sketch it is very clear that, towards eastern and southern side of suit schedule property, the remaining property belongs to defendants and towards northern side road is existing to reach plaintiff's property. The plaintiff's counsel Sri. S.S.B. Advocate argued that, there is a road bounded by suit schedule property towards east and southern side. The defendants were intentionally obstructed the plaintiff for make use of said road. If the act of defendants would not stop, they will be knock of the said property which was left to the usage of public at large and they will be trying to lost the life of plaintiff by using political and economical power, for which he prayed to allow the above said application.

11. On the other hand, Sri. H.K.P. Advocate for defendants argued that, the defendants were admitted that they

were executed the sale deed in favour of plaintiff by receiving a valuable consideration. Thereafter, the plaintiff is in possession and enjoyment of the said property. With regard to ownership of suit schedule property there is no dispute between them. He further argued that, the question would arise before this Hon'ble Court is that, whether the defendants were obstructed or interfered in the suit schedule property is concerned only. In this regard, he argued that, towards eastern and southern side of the suit schedule property, the remaining property which belongs to defendants. They are entitled to make any improvements in the said property. During the course of execution of said sale deed, the defendants being illiterates they were misused and the plaintiff himself written the above said sale deed by mentioning a wrong boundary in order to knock of the remaining property of defendants. Of course, the said portion of land which not belongs to government. However, they are having right, interest and possession over the said property, the plaintiff is no way concerned to interest or right over said property, much less possession. It is further argued that, towards northern side, the public road is existing, which is left to make use of plaintiff. Except that, there is no government road was existing surrounding the plaintiff's property. Further he prayed that if this Hon'ble Court is granted any ad-interim order, for that land the defendants would be put to great hardship and inconvenience. In addition to that, the defendants undertake to not to interfere in the suit schedule property, which was already sold to plaintiff.

12. In view of above facts and circumstances, the question would arise for consideration in two breaths, among them, one is whether the defendants were interfered in the suit schedule property and another one is whether defendants were obstructed the plaintiff with respect to land which mentioned in the sale deed bounded towards east and southern side left it 15 feet of road. On perusal of entire documents, it appears that since defendants were executed sale deed in favour plaintiff, while execution of sale deed it is mentioned that there is a road towards east and southern side. In this regard, the plaintiff is also not produced any documents to showing which property is used for the purpose of public road. If so, there is no reliable documents the property which belongs to government. However, it is admitted that, the remaining portion which adjacent to suit schedule property, except northern side, the entire property belongs to defendants. Among them, some extent of property was sold to the another persons, those who are not made in the parties to the suit and there is no dispute arise between them. On that context, this Hon'ble Court considering that the plaintiff is also not having any right and interest to the land which shown in the sale deed an extent of 15 feet road, which was taken for adjudication after having full-fledged trial. The remaining question is for consideration that, for having enmity with respect to 15 feet road, the defendants would not counter the suit schedule property which already been sold. So far as protecting the interest, right and possession of the plaintiff over the suit schedule property, this Hon'ble Court without going any reasons and keeping in mind above facts and circumstances it is just and necessary to pass an order with respect to suit

schedule property. Hence, I answer Point No.1 to 3 in affirmative.

13. **POINT No.4**:- In view of the findings on points No.1 to 3, this Court proceeds to pass the following:-

**ORDER**

IA No.1 filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby **allowed**.

Accordingly, the defendants are hereby restrained from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property only until further orders by way of temporary injunction.

*(Dictated to the Stenographer directly on the computer, corrected, signed and then pronounced by me in open court on **13<sup>th</sup> day of June 2018**)*

(KESHAVA.K)  
Addl.Civil Judge & JMFC  
Heggadadevanakote.