

KAMS400004292019



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC**  
**AT K.R.NAGAR**

**PRESENT:** **Sri. Aravindra.B.C., B.A., L.L.B.,**  
**Senior Civil Judge & JMFC**  
**K.R. Nagar.**

Dated this the 11<sup>th</sup> day of June, 2024

**O.S./14/2019**

**1. Smt. Jainabee,**  
W/o Late Ahmed Jaan,  
Aged about 84 years.

**2. Sri. Abdul Waheed,**  
S/o Late Ahmed Jaan,  
Aged about 66 years.

**3. Sri. Wajid,**  
S/o Late Ahmed Jaan,  
Aged about 63 years.

Plaintiff No.1 to 3 are  
R/at: Ward No.21,  
D.No.21/36, Muslim block,  
Kallaiahana Halli,  
K.R.Nagar Town-571602.

**4. Sri. Khaleel Ahmed,**  
S/o Late Ahmed Jaan,  
Aged about 56 years,  
R/at: Door No.21/51,  
Khader Saw Mill road,  
Muslim Block,  
K.R.Nagar Town-571602.

**Since dead by LRs.**

**4(a). Sri. Dilshad Begum,**  
W/o Late Khaleel Ahmed,  
Aged about 50 years.

**4(b). Smt. Nishad Banu,**  
D/o Late Khaleel Ahmed,  
Aged about 33 years.

**4(c). Sri. Kalifulla,**  
S/o Late Khaleel Ahmed,  
Aged about 30 years.

**4(d). Smt. Sadiya Kaisar,**  
D/o Late Khaleel Ahmed,  
Aged about 28 years.

Plaintiff No.4(a to d) are  
R/at: Door No.21/51,  
Khader Saw Mill road,  
Muslim Block,  
K.R.Nagar Town-571602.

**5. Sri. Nazeer Ahmed,**  
S/o Late Ahmed Jaan,  
Aged about 55 years.

**6. Sri. Farooq,**  
S/o Late Ahmed Jaan,  
Aged about 53 years.

Plaintiff No.5 & 6 are  
R/at: Muslim Block,  
Kallaiahna Halli,  
K.R.Nagar Town,  
K.R.Nagar-571602.

**.....Plaintiffs**

(By Sri. A.G.T., Advocate)

**-Versus-**

**1. Smt. Savithramma Shetty,**  
W/o Late Dooli Satyanarayana Shetty,  
Aged about 80 years,  
R/at: K.R.Nagar Town,

Mysuru District.

**Since dead by LRs.**

**1(a). Smt. Kanaka @ Babe,**  
D/o Savithramma Shetty,  
Aged about 37 years,  
R/at: Basavanagudi,  
Bengaluru.

**1(b). Smt. Shashikala,**  
D/o Savithramma Shetty,  
Aged about 35 years,  
R/at: Shanthinagar,  
Bengaluru.

Now both are R/at:  
K.R.Nagar Town,  
Mysuru District.

**2. Sri. Manjunatha Babu,**  
S/o Late Dooli Satyanarayana Shetty,  
Aged about 55 years,  
R/at: K.R.Nagar Town,  
Mysuru District-571602.

**3. Sri. Chennappa Shetty K.N.,**  
S/o Siddalingappa,  
Aged about 45 years,  
(Purchaser of Sy.No.46  
measuring 1 acre 17 guntas).

**4. Sri. K.N.Manjunatha Shetty,**  
S/o Late Dooli Satyanarayana Shetty,  
Aged about 50 years,

**5. Smt. K.M.Bharati,**  
W/o K.N.Manjunatha Shetty,  
Aged about 45 years.  
Since dead by LRs.

Defendant No.3 to 5 are  
R/at: Madhuvanahalli,  
K.R.Nagar Town,  
Mysuru District-571602.

**5(a). Sri. Manjunatha Shetty,**

Aged about 60 years.

**5(b). Sri. Karthik Shetty,**

S/o Manjunatha Shetty,

Aged about 24 years.

Both are R/at: Near Government  
KSRTC Bus stand,  
Kamakshamma Auto Mobiles,  
K.R.Nagar.

**6. Sri. R.Rafeeq Ahmed,**

S/o Late Shafee Ulla Khan,

Aged about 65 years,

R/at: SKS Farm, Hunsur road,  
K.R.Nagar Town, Mysuru District,  
(Purchaser through sale deed  
dated 02.03.2017).

**7. Sri. Manjunatha,**

S/o Ssajji Gowda,

Aged about 47 years,

R/at: Devanga Beedi,  
Holenarasipura Town,  
Hassan District.

**8. Sri. Prakash,**

S/o Mani,

Aged about 42 years.

**9. Sri. Mallikarjuna,**

S/o Bar Krishnappa,

Aged about 55 years.

**10. Sri. Srinivasa,**

S/o Bar Krishnappa,

Aged about 53 years.

**11. Sri. Loki,**

S/o Bar Krishnappa,

Aged about 50 years.

**12. Sri. Mehabood Khan,**

Aged major.

Defendant No.8 to 12 are  
R/at: K.R.Nagar Town,  
Mysuru District.

**13. Sri. Devilal Chawat**

@ **Bhojaraj Chawat,**  
S/o Dharmachand Jain,  
Aged about 50 years,  
R/at: Madhuvanahalli,  
K.R.Nagar Taluk,  
Mysuru District.

**14. Sri. Srikanth,**

Gas agent,  
Aged about 48 years,  
R/at: K.R.Nagar Town,  
Mysuru District.

**15. The Under Secretary of  
Revenue Department,**

Vidhana Soudha, Bengaluru.

**16. Deputy Commissioner,**

Mysuru.

**17. Assistant Commissioner,**

Hunsur.

**18. Tahsildar, K.R.Nagar.**

.....**Defendants**

(LRs of D1(a) & (b) absent)  
(By Sri. B.K.K. Adv. for D.2, 8, 12, 13)  
(By Sri. J.M.A, Adv. for D.3, 4 & 5(b))  
(LRs of D5(a) absent)  
(By Sri. K.C.S., Adv. for D.6)  
(By Sri. K.K.R., Adv. for D.7)  
(D9 to 11 Exparte)  
(By Sri. A.G.P., Adv. for D.15 to 17)  
(By Sri. K.S.D., Adv. for D.18)

**Parties to I.A.No.XXXI**

**Applicant** : Sri. Farooq

..... **6<sup>th</sup> Plaintiff**

-V/s-

**Opponent** : Sri. Manjunatha,  
S/o Sajji Gowda,  
Aged about 51 years,  
R/at: Deaniga Beedi,  
Holenarasipura Town,  
Hassan District.

..... **7<sup>th</sup> Defendant**

Provision under which the application is filed	Under Section 151 of CPC.
Relief Sought For	Seeking the relief of grant prohibition order.
The date on which the application is filed	10.10.2023
Number of the application	IA No.XXXI
The date on which the objection is filed by the different opponents	16.01.2024
The date on which the orders was passed on the said application	11.06.2024

### **ORDER ON IA.No.XXXI**

This is an application filed by the 6<sup>th</sup> plaintiff/ applicant under Section 151 of Code of Civil Procedure for seeking the relief of grant prohibition order against defendant No.7 restraining him, his agents, servants, power of attorney holders or any authorized persons from interfering, proceed or put up or middle with the portion

of the share claimed by the plaintiff in the application schedule property till disposal of the suit.

2. In the affidavit which is enclosed to I.A. No.XXXI it is stated that, the father of plaintiff was the owner of the property bearing Sy.No.46 to an extent of 5 acres 16 guntas. His father was filed an application for bifurcation of agriculture land into two extents by Sy.No.46/1 measuring 3 acres 6 guntas and Sy.No.46/2 measuring 2 acres 2 guntas. On the basis of application the land was bifurcated for convenience.

3. Further it is stated that, on 08.03.1976 there was a sale deed being executed by some of the owners of the land even though not admitted in para No.12 of the plaint, but as per the reference of the plaint on 08.03.1976 and 16.11.2021, the reference of sale deed are not available to Sy.No.46/1 which was made in favour of Late Dooli Satyanarayana and his wife Savithramma. The defendant No.6 was executed

fraudulent sale deed on 16.04.2011 without consent from the owners of the schedule property and defendant No.6 and 7 have not perfected their title either from Dooli Satyanarayana or from LRs of defendant No.2.

4. Further it is stated that, the sale deed dated 02.03.2017 and another sale deed dated 16.11.2011 which was between S.Rafeeq Ahamed and Smt.Savithramma is a fraudulent transfer. On verification from the Sub-Registrar, K.R.Nagar there is no transfer of title of sale for valuable consideration as per Transfer of Property Act. Further it is stated that, during lifetime of his father and after death of his father, the plaintiff or his father not executed any deed with respect to Sy.No.46/1 measuring 3 acres 6 guntas. Further the plaintiffs have denied the contents of the written statement filed by the defendant No.1 to 8, and 12 to 14. Further the plaintiffs have denied the sale deed dated 02.03.1976 in favour of the Dooli Satyanarayanashetty who is husband of defendant No.1.

5. Further it is stated that, the defendant No.7 who is politically strong and the land grabber of minorities land and he has obtained a sale deed by fraudulent manner and trying to interfere with the possession of plaintiffs with respect to land bearing Sy.No.46/1. Further the defendants have not produced any sale deeds in the year 1944 and 1976 and subsequent to legal transfers of all original deed along with written statement. Therefore, the plaintiffs prays for allowing the application as prayed for.

6. On the other hand, the defendant No.7 has appeared before the Court through his counsel and filed objection to IA No.XXXI. In the objection statement, he has contended that, the application is not maintainable either in law or on facts and it is definite case of the defendant No.7 is that, he has purchased the property in question under registered sale deed dated 02.03.2017 and from the date of sale deed he is in possession and enjoyment of the schedule property. On the basis of sale

deed, the revenue documents pertaining to the property in question stands in his name. The plaintiffs have no manner or right, title over the schedule property. Further it is contended that, the suit of the plaintiffs is barred by limitation. Hence, he prays for reject the application.

7. Heard the learned counsel appearing for the parties and perused the material on record.

8. Now the following points arise for consideration of this Court:

- 1. Whether the plaintiff No.6 has made out prima-facie case for grant of prohibitory injunction as sought for?**
- 2. Whether the balance of convenience lies in favour of the plaintiff No.6?**
- 3. Whether the plaintiff No.6 will be put to irreparable loss and injury if I.A. No.XXXI is not allowed?**
- 4. To what order?**

9. The findings of this Court on the above said point 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 final order  
for the following;**

**REASONS**

10. **Point No.1:** The plaintiffs have filed the suit for the relief of declaration that, they are the absolute owners having succeeded to the estate of deceased Ahmed Jaan. Hence, the sale deed dated 05.08.1944 is perfect and valid and the sale deeds dated 07.03.1976, 02.03.2017 and 16.11.2016 are not valid sale deeds. Further to declare that, the defendant No.1 to 14 including Dooli Satyanarayanashetty have no right to alienate the property and directing the defendant No.15 to 18 remove the all entries from the revenue records and mandatory directions to Tahsildar to enter plaintiff's name and also seeking relief of permanent injunction against the defendants.

11. Per contra, on the other hand, the defendants have denied the case of the plaintiffs and contended that, the Dooli Satyanarayanashetty was purchased the property bearing Sy.No.46/1 to an extent of 3 acres 6 guntas from father of plaintiffs and plaintiff No.1 to 6. From the date of sale deed, he was in possession and enjoyment of the schedule property. After purchasing the said property he was sold the portion of the schedule property to the other defendants as contended in the written statement. The defendant No.7 has purchased the portion of the schedule property from one Rafeeq Ahmed under registered sale deed dated 02.03.2017 and the vendor of the defendant No.7 was purchased the said property under registered sale deed dated 16.11.2016. He was verified the documents prior to sale deed dated 02.03.2017 and confirming the rights of the vendor he has purchased the portion of the schedule property. On the basis of sale deeds, the revenue documents stands in

his name and he contended that, the suit of the plaintiffs is barred by limitation.

12. Keeping in view the rival contentions raised by the parties, now this Court proceed to discuss that what is meaning of the word prima-facie case. It is well settled that the plaintiffs have to make out a prima-facie case to get the relief of injunction. In other words, the Court must be satisfied that there is a bona-fide dispute raised by the plaintiffs and there is a strong case for trial which needs investing also and decision on merits and on the facts before the Court there is a probability of the plaintiffs being entitled to the relief claimed by the plaintiffs. This view of this Court receives support from the law declared by the **Hon'ble Apex Court in the decision reported in AIR 1993 SC 276 between Dhalpath Kumar Vs. Prahalad Singh**. Keeping in view this meaning of the word 'prima-facie case' once again this Court perused the entire case of the plaintiffs. It must be noted that this Court have already stated about

the contention raised by the plaintiffs in the preceding paragraph of this order itself. In the view of this Court when the plaintiffs allege that the suit schedule properties are the joint family properties, and when the defendants denies the contention of the plaintiff, then it becomes clear that dispute has to be investigated by this Court. Keeping in view this fact, this Court proceed to discuss the documents produced by the plaintiff.

13. In the light of the arguments canvased by the learned counsel for the parties, their Court as carefully perused the documents produced by the parties to the suit. The plaintiff has produced the certified copy of the sale deed dated 05.08.1944. The said sale deed reveals that, the late Ahmed Jaan has purchased property bearing Sy.No.46 measuring 5 acre 16 guntas from Puttakoregowda. He has also produced the copy of the settlement registered copy, RTC extract pertaining to the Sy.No.46/1 from the year 1971 to 2001. This court perused the RTC extracts it reveals that upto 1980 the

name of Ahmed Jaan mentioned in the column No.9 and 12. Thereafter, in the said column the name of Dooli Satyanarayanashetty was mentioned upto 2018-19 to Sy.No.46/1(a), 46/1(b).

14. Further, the documents reveals that in Sy.No.46/1a1 it stands in the name of Manjunatha S/o Sajjegowda based on the sale deed. Further the present entries made in the name of 7<sup>th</sup> defendant with respect to the portion of the schedule property. The documents available on record it appears that, after the sale deed executed by Sri.Late Ahmed Jaan in favour of Dooli Satyanarayanashetty. Several transactions held in Sy.No.46/1 part by part. Therefore, the defendant No.1 to 6 have acquired the property after executing the sale deed in favour of Dooli Satyanarayanashetty.

15. On the other hand, the defendant No.7 has produced the certified copy of the sale deed dated 02.03.2017 it appears that he was purchased the

property bearing Sy.No.46/1a1 to an extent of 26 guntas bounded on East by: property of Nanjundashetty, West by: property of Ameer Sab, North by: property of Channappashetty and South by: Road. Further it appears that, the vendor of defendant No.7 has acquired the property under registered sale deed dated 16.11.2016. He has also produced xerox copy of the sale deed dated 16.11.2016. It appears that, the vendor of the defendant has purchased the property from defendant No.1 who is none other than wife of Dooli Satyanarayanashetty. The certified copy of the sale deed dated 02.03.1976 it reveals that the plaintiffs and their father have sold the property in favour of Dooli Satyanarayanashetty. On perusal of the record it appears that, the plaintiff or his father were not challenged the said sale deeds during lifetime of Ahmed Jaan. After the death of Ahmed Jaan, the plaintiff has also not challenged the sale deeds standing in the name of defendant No.7 or his vendor.

16. The plaintiff alleged that, the defendant No.7 has trying to interfere or put up constructions over the portion of the schedule property. Admittedly, prior to filing of the suit, the defendant No.7 was purchased the portion of the schedule property under the sale deed dated 02.03.2017. The suit was instituted in the year 2019 and present application was filed on 10.10.2023. Further the plaintiff has not produced any documents to show that, the defendant No.7 has trying to put up constructions over the schedule property. Even though there is a serious question with regard to the limitation. Further it is noticed that, the trial is not yet commenced. According to plaintiffs, they are the absolute owners of the schedule property. On the other hand, the defendant No.7 states that he is in owner and in possession of the portion of the schedule property. At this stage cannot possible to say that, the plaintiffs are in possession over the schedule property. It requires full pledged trial. Admittedly, the defendants who are the purchasers of the

portion of the schedule properties under the registered document and it cannot be restrained by way of injunction. Moreover, the prima-facie shows that the plaintiffs have not challenged the sale deeds as stated above. Therefore, the plaintiff has failed to made out a prima-facie case in their favour. Thus, to obtain relief of injunction, the plaintiff foremost has to establish a prima facie case which means prima-facie existence of right and infringement by the opposite party. On perusal of materials before this Court it appears that, the plaintiff has failed to establish the prima-facie case that they are in possession and enjoyment of the schedule property.

**Hence, this Court answered to Point No.1 in the Negative.**

17. **Point No.2 and 3:** When the plaintiff has failed to establish prima facie case, the other two ingredients does not arise for consideration. In **Kashi Math Samsthan and another Vs. Shrimad Sudhindra Thirthaswamy and another** reported in **(2010) 1 SCC**

**689**, it is held by Hon'ble Apex Court at para 16 which reads under;

**“It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima facie case to go for prayer, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well settled that when a party fails to prove prima facie to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima facie case to go for trial, it is not opened to the Court to grant injunction in his favour even if, he has made out case of balance of convenience being in his favour and suffer irreparable loss and injury if no injunction order is granted.**

18. In the present case on hand the plaintiff has not made out prima-facie case, hence the question of considering balance of convenience and irreparable loss and injury does not arise. **Accordingly Point No.2 and 3 are answered in the Negative.**

19. **Point No.4** : For the above discussion on point No.1 to 3, this court proceed to pass the following:

**ORDER**

I.A.No.XXXI filed by the plaintiff No.6 under Section 151 of CPC is hereby rejected.

No order as to cost.

*[Dictated to the Stenographer directly on computer, typed by her corrected and then pronounced by me in the Open Court on the **11<sup>th</sup> day of June, 2024**]*

**(ARAVINDRA B.C.)  
SENIOR CIVIL JUDGE & JMFC,  
K.R.NAGAR.**