

KAMS410001562025



IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR

PRESENT

Sri. Chandan S, B.Com., LL.B

Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 28TH DAY OF FEBRUARY 2025

O.S./51/2025

Plaintiffs : Sri. Anjum Sharif

-V/s-

Defendants : Sri. Nasir Ahamad and 2 others

I.A. No.I

Applicant : Sri. Anjum Sharif

--- Plaintiff

-V/s-

Opponents : Sri. Nasir Ahamad and 2 others

---Defendants

ORDER ON IA NO.1 FILED U/O 39 R-1 AND 2 R/W SEC. 151
OF C.P.C

This application has been presented by the applicant/plaintiff herein through his counsel seeking for the relief of injunction temporarily to restrain the defendants or anybody acting on their behalf from causing any snagging or interception on and over the application schedule property in any manner till the disposal and pending adjudication of the suit.

2. Further the applicant filed his affidavit with application to buttress and to support his application and therein he has submitted that, he himself is the absolute owner having and continued with the possession of the suit schedule property bearing Sy.No. 170 to an extent of land measuring 02 acres and 37 guntas of land located and situated at Matadakavalu Village, Mirle Hobli and Saligrama Taluk. According to the applicant, the said landed property measuring 3 acres under survey number 94 originally sanctioned and granted in the name and favour of one Smt. Shahazadiamma on 18.08.1961. Later it was bifurcated with new survey numbers among the joint owners. Therefore old survey number bifurcated and divided into sub-new survey numbers and it was newly phoded and numbered as survey number 170. Thereafter the successors of the said Smt. Shahazadiamma have been continued with possession over the schedule property ever since from timelines of 30 years.

3. Further although and notwithstanding 3 acres of land in survey number 170 is allotted and sanctioned in favour of Smt. Shahazadiamma due to kink, error and omission on the part of the Revenue Department, it was falsely mentioned and denoted as fallow land of Government (Sarkari Beelu). Thereafter as per the order dated 20.11.2024 passed by the Assistant Commissioner, Hunsur in 260/2024, directed the Tahsildar Saligrama, to change the khata and enter the name of allottee in favour of Smt. Shahazadiamma as per the grant and allotment. From thereafter, as per the direction of the Assistant Commissioner, Hunsuru, in the place of fallow land of

Government (Sarkari Beelu), the khata was effected in the name of Smt. Shahazadiamma. Thereafter through, on account of and by virtue of the partition deed dated 18th of December 2024 which was taken place and held among the family members of the plaintiff, the suit scheduled disputed property has been apportioned, appropriated and distributed towards the share of the plaintiff herein. Thereafter the revenue documents continued and followed in the name of plaintiff and he continued with the settled undisputed, uninterrupted possession over the schedule property by effecting and transferring the entries of the revenue department into his name.

4. Further, in the remaining pleadings and paragraph of the affidavit annexed along with the application it was further urged and professed that be the things stood thus, the defendants who are utterly strangers, unfamiliar or unknown to the plaintiff unlawfully with ill intent, motive and to dolose they started hindering, clogging, snagging and cumbering the activities of the plaintiff doing agricultural operation. Despite the request of the plaintiff, the illegal acts of the defendants were not restricted or prohibited. Further, the defendants in spite of the request and pleadings of the plaintiff herein repeatedly, they continued their unlawful activities and the said activities were time and again augment and gradually surpassed and exceeded.

5. Further on 07.01.2025 when the surveyor attached to the office of the ADLR, K.R.Nagar, as per the petition and application of the plaintiff herein went near the schedule property for the

purpose of measuring the schedule property to lay and fix boundary stones, the defendants caused obstruction and hindrance in discharging duties of the public servant and the work deployed and entrusted upon him.

6. Further, Despite and in spite of the written complaint has been registered and lodged before of the Jurisdictional Police Station, the plaintiff was asked and advised to approach Civil Court to address and redress his grievance. Further it has been incubated and also alleged in the affidavit of the applicant herein that, on 15.01.2025 the surveyor who was entrusted the work of survey has write upon letter addressing to the Jurisdictional Police Station, seeking and claiming for necessary assistance of the Police so as to smooth and to carry out the activities that were deployed and entrusted upon him. Therefore according to the applicant the acts of interference made by the defendants is unlawful and same has been intercalated with ill motive and intention. Therefore the applicant/plaintiff herein seeking for restraining the defendants from doing so till the adjudication of the suit and decision of this court by allowing the application.

7. On the other hand contesting and challenging the application of the applicant/plaintiff herein, the defendants through their counsel the statement of objections came to be registered and instilled. Further upon verifying, expurgating and winnowing the entire statement of the defendants grittily, it would reflect and reveals that, the entire pleadings and averments of the plaint and application were specifically,

candidly and with precision denied refuted and the same has been defied by the defendants. Further averments of the statements of objections would indicate and suggest that, the plaintiff in wrongful conspiracy, intriguing and in collusion with the department of the revenue, they could succeed in creating and concocting the documents of the revenue department unlawfully and illegally.

8. Whereas further avarements contemplated and tabulated in the statement would show that, the defendants and their members of the family who are in actual and real possession of the property which is described and annexed along with plaint uninterruptedly and without there being any disruptions what so ever from any body in any manner from the time immemorial and reminisce and from their ancestors. Further it has been contemplated and contended by the defendants that, as per the plaintiff, they have no connections proximity nexus or relationship with the one Shahazadiyamma. Further, it has been inculpated and it has been vilified in the statement that, the plaintiff without there being any possession over the suit schedule property as described and falsely contended by him in the application, the suit and applications were moved, initiated and presented with created imaginary and fictitious story on a cinematic and in an enigmatic manner with false story.

9. Further according to the defendants as per their statements of objections, the schedule property has been belonged and owned by the defendants and one Abdul Rasheed who are in

actual true and real possession and enjoyment over the schedule property where upon neither the applicant/plaintiff herein nor the family members of the plaintiff are the owners or having the possession of the schedule property. Though and except for owning the property or nor having possession pertaining to the schedule property they are relentlessly and resolutely, they are trying to cause obstructions and interceptions on and over the continued settled possession of the defendants over the schedule property and by creating and formulating the documentary in controversy and against to the norms and the same has been in conspire collaboration. Further the said documents were created in collusion and collaboration with the Revenue officials. Hence, from all these reasons coated, contemplated and perpetrated in the statement of the objections, the defendants craves to plead, canvas and urged before this court that the application of the plaintiff is sans merit and therefore sought dismissal of the application.

10. Heard the counsel representing and contesting the rival litigants and parties regarding the merit of the application.

11. The following points that would arise for the consideration of this court for the purpose of proper adjudication and to decide the application.

1) Whether the applicant/plaintiff has made out that, he has got a prima-facie case on hand?

2) Whether the applicant further made out that, the balance of convenience is lies in his favour?

3) Whether the applicant further made out that, it will cause untold hardship and irreparable damages to him, if the present application is not allowed?

4) What order?

12. This court findings on the above points for consideration 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 final order
for the following:**

REASONS

13. POINT NO.1 TO 3:

For the facts and circumstance of the application are concern these three points are interlinked and to avoid the repetition of facts these points are taken up together for common discussion.

14. Upon appreciating the pleadings along with the materials placed before this court, while adjudicating and deciding the application which is filed U/o 39 R-1 and 2 of C.P.C., the relevant factors to be considered by the court is regarding existence of prima-facie factors and case which involves finding of facts as to whether a case for trial is made out and also whether other factors requisite for grant of injunction exists.

Further, the court has to consider the balance of convenience in respect of the parties and irreparable injuries or loss if any, that may be suffered by the plaintiff in the case of refusal to grant injunction.

15. Further, admittedly there is no evidence on record to consider the applications on the basis of the evidence. Further, the parties to the suit are yet to lead their evidence. Accordingly, in the absence of any evidence to discuss the applications, this court has to consider only the available materials which are presented before this court by the respective parties to the suit.

16. As per the averments and contentions of the very applicant submitted in his pleadings annexed along with the plaint and the affidavit, it has been specifically canvassed and submitted before this court that, originally the land bearing Sy.No. 94 ad-measuring and to an extent of 3 acres of land has been sanctioned and granted towards and in favour of one Smt. Shahazadiamma, the said 3 acre of land is located and situated at Matadakoppalu Village, Hosaagrahara Hobli, Saligrama Taluk, Mysuru District. Further out of the entire extent of 3 acres, 3 guntas of land is the Kharab land. Hence, the remaining outstanding land of 2 acres and 27 guntas of land is cultivable land belongs to the said Smt. Shahazadiamma on account of the allotment and grant made in her favour on 18.08.1961.

17. Thereafter, the said Smt. Shahazadiamma the person towards whom the grant was made and effected has paid the

entire revenue arrears and outstanding amount towards the Government. Accordingly, it is the family property of the plaintiff and her ancestors from timelines immemorial, they are in constructive and joint possession of the property without there being any hinder, clog or snagging on and over the schedule property for more than 30 years. Further the affidavit of the applicant/plaintiff herein would reveal and suggested that, despite the schedule property described in schedule explained and annexed along with the plaint is a granted property in favour of original allottee, grantee Smt. Shahazadiamma, due to kink omission and mistake on the part of the Revenue Department, rather to enter and to incorporate the name of the Smt. Shahazadiamma due to inadvertence and mistake it was described and stated as fallow land of Government (Sarkari Beelu) in the records of the revenue. Further when the applicant requested the same to be rectified, an account of the order passed by the Assistant Commissioner, Hunsuru, dated 20.11.2024 directed the Tahsildar of Saligrama to replace, correct and to cancel the entries reflected as fallow land (Sarkari Beelu) and to replace the same with the name of Smt. Shahazadiamma as per the grant and Durasth work which was carried out.

18. Therefore further the applicant contended in the affidavit that, after the death of Smt. Shahazadiamma on account of the partition and division which was taken place on 18.12.2024, the khata pertaining to the schedule property has been transferred and effected in the name of the plaintiff since the schedule

property annexed along with the plaint has been distributed and allocated towards the share of the plaintiff herein. Further the applicant has been specifically inhibited and also alleged in his affidavit that, the defendants being strangers without having righteous ownership, right and much less possession over the schedule property, they are causing heavy hindrance, cumbering and also snagging on and over the schedule property and the agricultural activities of the plaintiff were abstained and the same was restricted unlawfully and illegally by the defendants.

19. In spite of the request and although the plaintiff has craves and pleaded several times to keep away from the schedule property, the defendants without listening or honoring the words of the plaintiff, they went on with their unlawful activities, the said activities were gradually increased and augment. Therefore, in order to restrict curtail and prohibit the defendants activities, it has been on the part of the applicant to approach the civil court as a last resort and remedy.

20. Therefore, it is according to the applicant despite and in spite of the complaint being registered before the jurisdictional police station, they could not initiate and process upon the written complaint of the plaintiff herein, rather the plaintiff himself was asked and advised to approach the competent civil court in order to redress his grievance. However, the said material assertions averments and propositions as captioned and pleaded in the plaint has been declined opposed and the same was challenged by the defendants who intern in their objection

filed against the plaintiff, they have denied all the pleadings recitals, contents and averments coated and captioned in the plaintiff.

21. Further according to the very stand and defence set up by the defendants in their statement that, the revenue entries which were alleged to be claimed and contended by the plaintiff has been created in collusion collaborating and intriguing with the department of the revenue. Further as per the defendants statement which would further indicate and explicit that, it is the defendants and one Abdul Rasheed are in settled possession and occupation of the schedule property and it is not the plaintiff or any of his ancestors who are having any kind of right what so every in any manner. Therefore it is according to the statement, they have specifically denied the right, title, possession and interest of the plaintiff as alleged urged and claimed by the plaintiff in his plaintiff.

22. Based upon which on the basis of the contrary, agitating and rivalry between the litigants, the counsel appearing for the respective litigants have vehemently, tenaciously, redressed and argued before this court in support of their pleadings con-tabulation and averments of the respective plaintiff and the statements. In this background and backdrop, if this court throws its attention towards the pleadings and the material documents which have been adduced and presented before this court for the limited purpose, scope and object to decide, determine and adjudicate upon the application.

23. The plaintiff herein has furnished and he has also presented the genealogical tree which was issued by the Tahsildar, Mirle. Wherein as per the said RD genealogical tree one Smt. Shahazadiamma the alleged grantee and allottee of the property bearing Sy.No. 94 to an extent of 3 acres is the grand-mother of the Anjum Sharif the plaintiff herein, the same is clearly envisages, evinces and portrayed from the genealogy which has been presented and available before this court in the form of a document. Notably as could be seen and perceived from the documents that, the family of the Smt. Shahazadiamma including the plaintiff herein have succeeded the property as per the MRH 3/2024-25 and thereafter the RTC pertaining to the schedule property measuring to an extent of 2 acres 37 guntas of land in Sy.No. 170 has been standing and the same has been entered effected and reflected in the joint constructive names of the plaintiff along with her family members, it could be safely seen, denoted and observed from in the RTC that has been placed and presented before this court.

24. Further upon expurgating and examining the other available material copies documents which are produced before this court, the Sy.No. 170 to an extent of 2 acres 37 guntas of land was previously and erstwhile to the entries in the name of Shahazadiamma it was clearly explained, denoted and mentioned as fallow land of Government (Sarkari Beelu). Thereafter as per the order passed by the Assistant Commissioner, Hunsuru, dated 20.11.2024 direction was issued against the Tahsildar of

Saligrama to effect, mutate and change the khata in the name and favour of one Smt. Shahazadiamma on account of the grant allotment and Durasth made towards the Smt. Shahazadiamma. Thereafter, the said order of the Assistant Commissioner has been stayed by the Special District Collector as per the order passed in RP No. 65/2025 dated 18.02.2025, which is evident from the documents which has been submitted before this court by the advocate for the defendants.

25. Further as per the directions issued therein under the order of the Assistant Commissioner, the Tahsildar, Mirle has processed the direction complying the warrant of remand, thereby the entries in the revenue records were specifically changed, mutated and transferred in the name of the family of the plaintiff. Thereafter, the plaintiff has approached the Inspector of Police, Saligrama Police Station, so to initiate suitable action against the defendants which is also presented before this court. Further one Surveyor attached to the office of the ADLR has also write upon a letter addressing the Inspector of Saligrama Police Station, where he has solicited and sought for the assistance of the police in effecting, bifurcating and to conduct the phodi, Durasth work to lay and fix the boundary stones on 15.01.2025 which is also available on record in the compilation which is submitted before this court. Further the defendants in prevalence and in support of his claim and contention, he has produced photographs of the property. Further while adjudicating the application U/o 39 R-1 and 2 of C.P.C. and initiating any process or adjudicated upon the

application, the court should be very vigilant cautious in granting the injunction in any cases particularly which are involving the land of agricultural properties. Where it may effect adversely and negatively on the livelihood of the farmers.

26. Therefore, upon thoughtful consideration and keeping attention and looking into the facts of the case and the material documents which are presented and produced before this court, as per the sketch, survey report and the revenue documents which are available and produced before this court, it is the family of the plaintiff are in occupation, cultivation and settled possession over the 2 acres 37 guntas of land in Sy.No. 170. Further the said entries were effected, mutated and changed as per the directions which was issued by the Assistant Commissioner, Hunsuru, and the property which was wrongly entered and effected as Sarkari Beelu the fallow land of the Government on account of the default, violations which has been caused. The same was again as per the directions issued therein in the order of the Assistant Commissioner, Hunsuru, the Tahsildar, Mirle intern it has been reinstated, regained and restored the property in the name of the family of the plaintiff herein. Notably, the said entries were challenged and appealed before the Special District Commissioner, where the order passed by the Assistant Commissioner, Hunsuru, has been stayed temporarily as per the order dated 18.02.2025.

27. Further taking note of the pleadings, the dispute and the counter allegations canvased and pleaded before this court, there

is a serious and pivotal dispute, ambiguity and gloomy which is covered pertaining to the title, possession and also the rights of the parties on and over the schedule property. However, at this movement and juncture, the revenue documents along with the sketch, report produced before this court, they are standing and reflecting in the name of the plaintiff supporting their contentions and views. Therefore, it is prima-facie materialistic to hold, prevalence, discloses and apparent that, the name of the plaintiff's family has been deployed and was occupied entered in the revenue entries which could be perceived, pursuit the occupation and settled with the possession of the property under dispute.

28. Upon verifying and gone through the pleadings contended in the plaint, affidavit and written statement, the revenue entries and documents pertaining to the schedule property were issued and standing in the name of the family of the plaintiff herein which is clearly implicit and apparent from the documents which are available before this court.

29. Wherein the constraints, differences, ambiguities, dispute and gloomy is in respect of the title pertaining to the schedule property, where the version and the stand of the plaintiff is, he is the owner of the schedule property having succeeded the same from his ancestors in a partition which was taken place and effected in the family. Further, according to the applicant/plaintiff he has been in occupation and using the said property uninterruptedly without there being any hindrance,

interceptions or interference by anybody in any manner. However according to the defendants, the said property is belongs to the them and they are in possession over the said property. Due to the acts of the plaintiff it has been caused heavy implications and hindrance in respect of the property of the defendants to perform and conduct the agricultural operations and proceeds. Since the clouds, haziness and gloomy is covered pertaining to the title, the dispute which is involved between the parties, whether the plaintiff is in lawful possession of the possession of the plaint schedule property is unjustified, illegal and unlawful the same cannot be decided and adjudicated during while deciding on interlocutory application and it can be decided during the course of trial.

30. Further, though the revenue documents cannot confer or create any right and title over the schedule property, the revenue documents are only to collect the revenue. However since the suit is only for bare injunction simplicitor and since we are adjudicating upon the application, at the stage the court cannot go through the merit of the case and hence certainly not possible to pass any order having direct impact on the schedule property and the same is nascent.

31. However the court has to consider only the prima-facie factors and balance of convenience and irreparable loss. Considering pleadings and documents the plaintiff has got prima-facie case and established his possession over the schedule property by producing the documents and the revenue

records are presently standing in the name of plaintiff's family. Further, the defendants are always at liberty to prove their pleadings at the full pledged trial by leading evidence. However since the application is to restrain the defendants from causing interference, till the final adjudication is made in respect of the main issue, in order to avoid the irreparable loss and considering the interest of the parties it is necessary to direct the defendants not to cause any interruption and interference in respect of the plaintiff's possession over the schedule property till the disposal of the suit and final adjudication is made. Hence the **point No.1 to 3 are answered in the Affirmative.**

32. POINT NO.4:

In view of the above discussions and the reasons mentioned therein this court proceeds to pass the following:-

ORDER

I.A No.I filed under Order 39 Rule 1 and 2 of C.P.C is hereby allowed.

The defendants are hereby restrained from causing any interference in respect of the application schedule property in any manner till the disposal of the suit.

However it is made clear that, the view expressed by this court in adjudicating the application is only limited for the purpose of consideration and deciding the application

and it will not come in the way of
adjudicating the suit on merit.

No orders as to cost.

[Dictated to the Steno, transcribed by her. Corrected and then pronounced by me
in the Open Court on this the 28th day of February 2025]

(Chandan.S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.

For compliance of 89 of CPC
Call on: 23.04.2025.

(Chandan.S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.