

KAMS410016072024



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

PRESENT

Sri. Chandan S, B.Com., LL.B
Prl. Civil Judge & JMFC, Krishnarajanagara.

DATED 01ST DAY OF AUGUST 2025

O.S./441/2024

Plaintiffs : **Sri. Doddegowda and another**
-V/s-

Defendants : **Chief Executive Officer and others**

I.A. No.1

Applicant : **Sri. Doddegowda**
--- 1st Plaintiff
-V/s-

Opponents : **Chief Executive Officer and others**
--- Defendants

I.A. No.4

Applicants : **Panchayath Development Officer,**
Doddekoppalu,
--- 4th defendant
-V/s-

Opponents : **Sri. Doddegowda and another**
--- Plaintiffs

ORDER ON IA Nos.1 AND 4 FILED U/O 39 R-1 AND 4 OF
C.P.C

This present application No.1 being submitted and came to be registered before this court by the plaintiffs/applicants

seeking an order of temporary injunction to restrict and prohibit the defendants from putting up, installing, setting and constructing any water tank towards the eastern side of the plaint 'A' and 'B' schedule properties till the disposal of the suit.

2. Further in order to exacerbate, augment, bolster, anecdotal, enhance and to support the application, an affidavit is also inlaid and presented before this court. Wherein it has been postulated, submitted, proposed and adverted by the plaintiffs that, one Smt. Jayanthi and Mallegowda jointly purchased the land bearing Sy.No. 64/4 measuring 10 guntas of land situated at Kalenahalli Village, Kasaba Hobli, K.R.Nagar Taluk, from Dinesha by virtue of the sale deed dated 10.11.2022 for valuable sale consideration and thereafter, the katha has been recorded, transferred and effected in their names and they were in peaceful possession and enjoyment over the said property.

3. Thereafter, the partition was held proposed and taken place between the plaintiffs and in the said partition, schedule 'A' property has been fallen, apportioned, allocated and conceded in favour of the 1st plaintiff and the schedule 'B' property was similarly, left and apportioned in favour of the plaintiff No.2, the revenue records were also mutated, got entered, effected and changed in the name of the plaintiffs as per the partition deed and the plaintiffs are in blissful, serene, pleasant, delectable and peaceful possession and enjoyment over the schedule properties. Further all of sudden, the defendants initiated and started to

construct a massive, cimmerian, bulky and heavy water tank in front of the plaint schedule properties towards eastern side of the plaint 'A' and 'B' schedule property without following the rules and regulations. When the plaintiffs inquired the defendants, they have given evasive, sprint, breeziness and unprovable bluff reply and reasons.

4. Further the defendants without making any endures, attempts and efforts, in order ascertain, find out and identify the suitability and appropriate land for the purpose of erecting, construction and to form the intend water tank without effecting, damaging, deteriorating, impairing, defloration, flub, fordo and infringing the fundamental rights of the plaintiffs, the defendants are rapidly, hastily and sprint they are looking and intending to build, put up, erect and form the intend water tank towards the eastern side of the plaint 'A' and 'B' schedule properties. If the defendants succeeded to construct, lay, install, set and forms the said water tank in the place which is intended to be constructed, it is having serious implications, prejudice, flub, greater, grave, massive, repercussion, fordo and it will certainly infringe and eject the fundamental rights of the plaintiffs herein. The proposed water tank is very vast, massive, huge, cimmerian, bulky and it is very big and it has to be build where there are no residential structures and the people movements.

5. Further there is a bulky, vast, aplenty, wide and sufficient space, land is available in Sy.No.101, where the defendants can

put up form, build and lay the intend water tank without any hazardous, harm and destruction to the human beings as well as their properties. If the defendants are successful in completing the said water tank, the plaintiffs and their family members undergo ineffable, irreparable, indescribable, indefinable loss and hardship which cannot be compensated, suitably and adequately in favour of the plaintiffs. Further, the plaintiffs approached the defendants who requested not to put up the water tank in the identified and selected place, but the defendants least, cared, respected, honored, accepted and heeded the appeal of the plaintiffs. Hence, the plaintiffs are before this court and preferred this application to thwart, prevent, oppilate, obtest, injunct and restrain the defendants from forming constructing, building, laying and erecting any water tank towards the eastern side of the plaint schedule properties by allowing the application.

6. Further the defendant No.4 through his advocate, in order to retort, repel, reprieve, conflict, remonstrating and challenging the application, his statement of objections, defence and perpetration being adduced laid and submitted before this court. Wherein all the panning, incrimination, description, statements and averments of the plaint has been hermetically, zippily, and firmly with precision and outright, denied, defied, despised by the defendants. Further according to the defendant No.4, the plaintiffs are not the true owners of the schedule properties and they are not in possession and enjoyment over the suit schedule properties.

7. Further as per the stature and contemplation made, revealed and enunciated in the written statement in Sy.No.101, there exists, persists, prevail and situates 14 acres and 14 guntas of Government Gomala land, where the Government in order to uplift, empower, strengthen, develop, augment, heighten and ameliorate the poor, indigent persons vulnerable and waif people and in order to strengthen, empower, bolster, uplift and for the benefit of the said backward class of people and community, they have formed and created 119 sites. Further out of the said sites, 80 houses were already being put up, constructed, formed and built in the said sites. The Government of Karnataka in order to facilitate, provide, supply the pure and healthy water for the benefit of the said people and community in the name which is given by the Karnataka State Government as “Mane Mane Ganga” meant by “door to door water” and “house to house” has been launched and the said proposed mission under the scheme proposal, project of Central Government “Jal Jeevan Mission” has been implemented to the citizen, public and residents of the Marigudi Koppalu Village, in the name and style of “Mane Manege Gange” scheme, project mission and program under the Jal Jeevan Mission.

8. The defendants are planing to provide pure and healthy water supply through the functional house hold tap connections ingest to each houses, where the people of Marigudi Koppalu Village cannot starve, pant, to quench, quell and thirsty from

being fulfilled and satisfied. Hence, the Government has intended to put up form, construct the said water tank with a divine, sacrosanct, majesty, revered, noble and superlative intensity and purport, in order to help and reach out the needy, they are constructing intended water tank in the schedule property and it is 4 feet away from the agricultural property of the plaintiffs and they are having sufficient ample, bulky, overwhelming, width, space and area in order to access, reach their destiny, lands and their targets through the said available immense and massive space which is very much prevail and in existence which is very suitable for their access to carry out their agricultural operations and activities. Therefore, according to the defendants, the suit has been filed with malicious, dishonest, oblique and illegal motive and intensity in order to restrict, obstruct and prevent and thwart the divine function of the Government. Hence, prays for dismissal of the application.

9. Further the application No.4 being submitted and came to be registered before this court by the 4th defendant on the contrary against, adverse and in repugnance to the order of ex-parte injunction which has been passed by this court, preferred, brought and enrolled this application, where it has been appealed sought prayed and obsecration to evacuate, stop, cancel and vacate the order of ex-parte injunction which has been passed by this court.

10. Later, the PDO of Doddekoppalu Village Panchayath, in an affidavit which was submitted along with the application it has been proposed, etched, divulged, patronage and auspice that, the plaintiffs filed the false, frivolous and untenable suit against the defendants seeking their relief of injunction pertaining to the suit schedule properties. The defendant No.4 further states, adverts and postulates that, the plaintiffs is not at all in possession and enjoyment of the suit schedule properties and the plaintiffs with malafide, dishonest, illegal, lawless, unlawful, malicious, oblique, intention and motive, suppressing, concealing, hiding the real material facts, they have obtained an order of injunction. Hence, the applicant defendant No.4 submitted and proposed this application, yearning, seeking and claiming to vacate the said order of injunction by dismissing the application of the plaintiffs.

11. Thereafter, the plaintiffs challenging, countering and disputing the said application, he has filed, proposed and adduced his statement of objections, where the plaintiffs submits and suggested that, the defendant No.4 in his written statement, he has admitted there exists, massive, huge, bulky, abound, wide, aplenty abound, whopping and large, vacant, esplanade land, which is still available in Sy.No. 101 where the defendants can appropriately, suitably and conveniently set up, form, build, lay and construct the proposed water tank without any damages, hazardous and hector to the human beings and their properties. The defendants without making any endures, the attempts and efforts to ascertain the suitable place and land for the purpose of

construction of the water tank, they are hastily, sprint and rapidly they are attempting to put up, construct and forming, intending the water tank.

12. Further the plaintiffs are having greater concern, the lives of the plaintiffs will be endangered, hazardous, defloration and dejected if the alleged intended water tank is erected, built and installed in the eastern side of the plaintiffs 'A' and 'B' schedule properties. Therefore, it is a threat to the lives of the plaintiffs, if the proposed water tank is constructed in the place which is planned for the layout and formation of the water tank towards the eastern side of the plaint 'A' and 'B' schedule properties. The plaintiffs are justified, filing the suit against the illegal, unlawful and lawless construction of the defendants without following the norms, guidelines and law of the land.

13. Therefore, in the event if the defendants successfully completed the said water tank, the plaintiffs and their family members will definitely suffer undergo ineffable, indefinable, unjustifiable, indescribable and irreparable loss and injury which cannot be compensated, rewarded, revamped and restored suitably and justifiably. The defendant No.4 being the responsible Officer, he has to take care of the welfare of the all the villagers comes under the jurisdiction. Hence, according to the plaintiffs/opponent, the application filed by the defendant No.4 is not tenable, not maintainable, unsustainable and it is lacks merits. Hence, prays for dismissal of the application.

14. Heard the counsel appearing for plaintiffs and also the opponents/defendants herein. Upon considering the pleadings and also verifying the pleadings, materials available on records.

15. The following points arise for this court's consideration in respect of IA No.1 which is filed U/o 39 R-1 of C.P.C.

1) Whether the applicants have made out that, they have got a prima-facie case on hand?

2) Whether the applicants further made out that, the balance of convenience lies in their favour?

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

16. The following points arise for this court's consideration in respect of IA No.4 which is filed by the defendant No.4 U/o 39 R-4 of C.P.C.

4) Whether the applicant/4th defendant has made out sufficient grounds in order to allow the application?

5) What order?

17. This court findings on the above points for consideration are as under:

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative

Point No.4 : Partly in the Affirmative

Point No.5 : As per final order
for the following:

REASONS**18. POINT NO.1 TO 4:**

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.

19. 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.

20. 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.

21. Further briefing looking and expurgating the statement and also objections, keenly, cautiously, leerily, thoroughly, admittedly the “Mane Mane Gange” Scheme, project and mission is the name which has been given by the Karnataka State Government to the “Jal Jeevan Mission”, a Central Government program which was implemented and enforced in the state of Karnataka. Further, the primary, solvent, primal and the main, aim, object and purport of the scheme is to provide, supply and align the pure and safe drinking water to every citizen and rural household families through the functional household tap connections in the State of Karnataka.

22. Further, the essence of “Mane Mane Gange” translates to Ganga to every house and door to door water and it reflects the commitment of the Government to ensure access to a clean, safe, healthy and purified tap water supply for all households in the rural areas of Karnataka. This initiates, align, proposes and postulates broader goals of “Jal Jeevan Mission” a Central project ambition, aiming to improve, augment and enhance the public health and to reduce the waterborne deceases and to empower the communities providing readily available and safe drinking water.

23. Taking note of the pleadings, narrations, descriptions and the entries which were proposed and suggested by the plaintiffs

and the defendants, admittedly, the defendants are proposing, planning and intending to lay, set up, formulate, build, install and erect a huge, massive, bulky, cimmerian and whopping water tank in order to suppl, provide and align the purified, safe and readily available water to the citizen and household families around the locality and in the household rural areas of the Karnataka. Further admittedly the place which has been notified, identified, marked and fixed for the purpose of construction of the water tank is existed, situates and its prevail towards the eastern side of the suit schedule 'A' and 'B' properties.

24. Further as could be seen, verified, noticed and noted above that, the said Government aim, object, intensity and primary object of the Government in laying and installation of the said water tank is with a solemn, divine, sacrosanct, noble, venerate, revered and majesty of purpose which is behind the intensity in order to provide and supply the safe and purified water to the local inhabitants and the households of the villagers and remote areas.

25. Taking note of the very fact that, the functionaries of the state has devised and launched the present scheme, project and mission which is with a divine, sacrosanct, adorable, admirable, revered and superlative purport, aim and object to supply, provide, align, deliver and unleash the purified, pure, safe and healthy water towards the local inhabitants citizen and public at

large within the vicinity, area, diluvial and locality, where the intended proposed mission is going to set, lay, install and project in the form of the water tank in order to supply the water to the public and household citizen in the form of functioning tap connections to the door to door in the name and style as “Mane Mane Gange” which is the name given by the Karnataka State to a Central renowned and popular Central Government Project called “Jal Jeevan Mission”.

26. Further it is seen, noticed, watched and witnessed that, admittedly the proposed intended project of water tank formation, construction of the massive, cimmerian, huge and very whopping water tank, which is going to be built, erect and constructed towards the eastern side of the schedule ‘A’ and ‘B’ properties. Since the very aim object and the very purport being installation of the water tank to supply water and to provide functioned and active water connections through the taps to each houses, the said purpose is being implemented and launched for the purpose of divine, sacrosanct, revered, adorable and noble intent, certainly this this court cannot restrict, disrupt, obtest, prevent, thwart, injunct and stop the said construction work which is intended and proposed for the installation of the water tank in the place where it is notified, identified and fixed for the purpose of involving public interest at large.

27. Further if this court passes an order to injunct the construction work, it is certainly going to effect, disturb, impair,

flub it is having greater repercussion and direct massive effects towards the public who are going to be benefited, helped and supplied the purified and safe water through the said proposed water tank. Hence, this court is of the anecdotal and very candid view and opinion that, since the proposed installation of the water tank is going to be built in a place, land and area within the vicinity, locality and territory of the land which is belongs to the Government, the said constructions, erection and setting up the process of the installation of the water tank cannot be avoided, restricted, prevented, obtest, embargo and stopped.

28. Further taking note fact that, view and reviewing from all angles and directions, it is well admitted by the very defendants in their statements that, they have left the 4 feet of space, vacant land towards the western side of the alleged proposed intended water tank, considering the very fact and also viewing and pursuing from all the angles since the very proposed water tank is a massive, very huge, wide, whopping and cimmerician one, the 4 feet of gap, area and space from the agricultural land of the plaintiffs cannot be suitable, advisable and considerable. Hence, it is just and pertinent to note and observe that, the defendants may be directed and they may be suggested to process initiate and ingest their construction work by leaving at least minimal of 8 to 10 feet towards the eastern side of the agricultural land of the plaintiffs. Therefore, the defendants are allowed and permitted to put up lay, install, construct and build the said intended proposed water tank in the remaining area of the

defendants by leaving at least minimum 8 to 10 feet space towards the property of the plaintiffs. Hence, with the above discussed observations, articulations and deliberations, the applications are to be disposed to that effect. Hence, this court without further discussion proceeds to answer **point No.1 to 3 in the Negative and point No.4 Partly in the affirmative.**

29. POINT NO.5:

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

ORDER

I.A No.I filed by the plaintiffs under Order 39 Rule 1 of C.P.C is hereby dismissed.

Further the IA No.4 filed U/o 39 R-4 of C.P.C. is hereby accepted in part.

However further it is made clear that, the defendants are allowed and permitted to put up lay, install, construct and build the said intended proposed water tank in the remaining area of the defendants by leaving at least minimum 8 to 10 feet space towards the property of the plaintiffs.

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 01st day of August 2025]

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

