

KAMS410037442021

O.S./402/2021

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

PRESENT

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

DATED 07TH DAY OF JUNE 2023

O.S. No.402/2021

Plaintiffs : **Sri. Kemparaju and Another**

-V/s-

Defendants : **Sri. Dibbanegowda and others**

I.A. No.I

Applicant : **Sri. Kemparaju**

--- Plaintiff

-V/s-

Opponents : **Dibbanegowda and others**

---Defendants

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

The plaintiff has filed this I.A. No.1 against the defendants seeking to restrain the defendants, their agents, servants or any body claiming through them from interfering with the suit schedule property in any manner till disposal of the suit.

2. The plaintiff No.1 has filed his affidavit in support of his application and submitted that, they have purchased the schedule property on 12.03.2013 from Swamygowda, his wife Renukamma and Puttalakshmmamma. From the date of the sale deed, they have been in possession over the property by changing the revenue documents in their name. Further, the suit schedule property originally belongs to the father of the defendant No.1 by name Chikkuppagowda. During the lifetime of Chikkuppagowda, they entered into partition and all the persons are enjoying the property to that extent of share. Further the plaintiff has purchased the suit schedule property on 12.03.2013 and though the defendants are having no manner of right title or interest over the schedule property, they are trying to trespass into the suit schedule property illegally. In spite of complaint has been lodge before the K.R.Nagara Police Station, the defendants appeared and executed a bond before the Police. Hence, plaintiff prays to allow the application.

3. Per contra, defendants have denied the plaint and averments and they have submitted that they are in peaceful possession over the suit schedule property. Further, they have denied the possession of the plaintiff's over the property or they have also denied the title of the plaintiff. Further, according to the defendants the vendor of the plaintiffs was not having any

right over the suit property to execute the any documents in favour of the plaintiff. Further the plaintiffs are not in possession of the suit schedule property and the question of interference from the defendants does not arise. Hence, prayed to dismiss the application.

4. Heard and perused.

5. The following points arise for this court's consideration.

1) Whether the applicant/plaintiff proves that she has got a prima-facie case on hand?

2) Whether the applicant proves that the balance of convenience lies in his favour?

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

4) What order?

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

Point No.1 : In the **partly Affirmative**

Point No.2 : In the **partly Affirmative**

Point No.3 : In the **partly Affirmative**

Point No.4 : As per final order
for the following :

REASONS

7. 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.

8. On perusal of the documents placed before this court and hearing the arguments and canvased by the counsel for the plaintiff and defendants. It is clear that, presently the revenue documents in respect of the suit schedule property is standing in the name of the plaintiffs on the strength of the registered sale deed dated 12.03.2013. According to the plaintiff the defendants are trying to interfere with their possession over the suit schedule property. Wherein the same denied by the defendants and according to them the vendor of the plaintiff having no right over the property to execute the sale deed in favour of the present plaintiff. Further, the defendants also denied the possession of the plaintiff over the suit schedule property and according to the defendants they are in possession of the suit schedule property. Hence, this court is of the opinion that, since both the plaintiff and defendants are claiming possession over the suit schedule property, it is for them to prove the same at the full pledge trial. Till then if this court directs both the plaintiff and defendants to maintain the property intact and as it is till the disposal of the suit it would

be just and appropriate,. Hence, the court answered Point No.1 to 3 in the partly Affirmative.

10. POINT NO.4:

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

ORDER

Application filed by plaintiff U/o 39 R-1 and 2 R/w Sec. 151 of C.P.C. is hereby partly allowed.

Both the plaintiffs and defendants are directed to maintain the status-quo till the disposal of the suit.

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 07th day of June 2023]

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