

KAMS500005482024



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC
NANJANGUD**

Present : **Sri. Kamalaksha D., B.A., LL.B.,**
Senior Civil Judge & J.M.F.C.,
Nanjangud.

Dated this the 10th day of September 2025

O.S./116/2024

Plaintiffs

1. B.Shivanna
S/o late Basavegowda,
aged about 54 years,
2. B.Shivaraju S/o late Basavegowda,
aged about 50 years,
3. Thayamma W/o B.S.Basavaraju,
D/o late Basavegowda,
aged about 52 years,

Defendants No.1 to 3 are
residing at
Banchallihundi Village,
Chikkaiahnachathra Hobli,
Nanjangud Taluk.

4. Sakamma W/o M.Raju,
D/o late Basavegowda,
aged about 47 years,

residing at
Chamalapuradahundi Village,
Kasaba Hobli,
Nanjangud Taluk.

5. B.Manjula W/o S.Mahalingegowda,
D/o late Basavegowda,
aged about 40 years,
residing at Muttige Village,
Chamarajanagara Taluk and District.

-V/s-

Defendants:

1. B.Mahadevu S/o late Basavegowda,
aged about 57 years,
residing at
Banchallihundi Village,
Chikkaiahnachathra Hobli,
Nanjangud Taluk.
2. The Special Land Acquisition Officer,
Karnataka Industrial Area,
Development Board Regional Office,
Mysuru.
3. The Managing Director,
K.I.A.D.B.,
No.49, East Wing,
4th and 5th Floor,
Khanija Bhavan,
Race Course Road,
Bengaluru.

I.A. II

Applicant : B.Shivaraju
.... 2nd plaintiff
(By Sri. H.P.S., Adv.)

-V/s-

Opponent : B.Mahadevu and others
...defendants
(By Sri. B.P., Adv. for D.1
Sri. S.S. Adv. for D.3)

**ORDER ON I.A. II UNDER ORDER XXXIX
RULES 1 & 2 OF CPC**

The application is filed for the relief of temporary injunction restraining the 1st defendant or his agents, servants or anybody acting on his behalf from receiving compensation of 1/6th share of each plaintiffs from the hands of defendants No.2 and 3 in respect of item No.1 schedule property, till disposal of the suit.

2. In the affidavit the 2nd plaintiff sworn that, the plaintiffs have filed the suit for the relief of partition and separate possession. The plaintiffs and defendants are in common possession of the suit schedule properties. But the defendants especially the 1st defendant persistently

denying to give share to the plaintiffs though the plaintiffs are having 1/6th share in the suit schedule properties. It is further sworn in the affidavit that recently the 2nd defendant acquired the application schedule property for the purpose of formation of industrial area. The 1st defendant is trying to receive compensation amount in respect of item No.1 property which has been acquired by the 2nd defendant. Recently the plaintiffs have received information that the 1st defendant proclaiming in the village that he is only the absolute owner of all the properties shown in the schedule of the plaint and anybody including the plaintiffs are not having right to share in the compensation as well as in the landed property. Suppose injunction is not granted, it will facilitate the 1st defendant to receive the compensation amount which has been deposited by the 2nd defendant. Hence, the 2nd plaintiff being the applicant filed this application.

3. Per contra, the 1st defendant filed written statement along with one memo to consider the said

written statement as objections to I.A.II. According to the 1st defendant the suit is suffering from lack of cause of action. It is further submitted that, item No.1 property is his absolute property and the 2nd defendant acquired the said property for formation of industrial area. The compensation amount is to be released to the 1st defendant only, because according to the 1st defendant nobody including the plaintiffs are having any sort of right in the compensation amount.

4. The 2nd defendant also filed separate objection to I.A.II. According to the 2nd defendant item No.1 property was acquired by K.I.A.D.B. under gazette preliminary notification under Section 28(1) of KIAD Act in CI NO.47 SPQ (e) 2023 dated 15.05.2023. The plaintiffs have filed the suit against the defendants for the relief of partition and separate possession of the suit schedule properties. The 2nd defendant has acquired the application schedule property, but not passed final notification for the said land. Hence, the application is not maintainable.

5. Heard the arguments. Perused pleadings and materials placed on record. The points that arise for my consideration are:

1. Whether the plaintiffs prove prima-facie case to grant temporary injunction ?
2. Whether the plaintiffs further prove that balance of convenience lies in their favour?
3. Whether irreparable injury will cause to the plaintiffs if temporary injunction is rejected?
4. What order ?

6. The above points are answered as follows :-

Points No.1 to 3 : In the affirmative

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

REASONS

7. **Point No.1** :- Prima-facie case has to be proved for grant of temporary injunction. Suppose the plaintiffs are applicants made out prima-facie case, then the court has to look for balance of convenience and irreparable injury. Therefore, prima-facie case is always fundamental for grant

of temporary injunction. The contention of the plaintiffs that, item No.1 property has been acquired by the 2nd defendant for formation of industrial area. The 2nd defendant then deposited the compensation amount and the 1st defendant now making hectic attempt to release or disburse the said amount only on his behalf.

8. On the other hand, the 1st defendant objected the said application stating that item No.1 property is his absolute property and the 2nd defendant deposited the amount to release in favour of the 1st defendant. The 2nd defendant filed objections stating that only the preliminary notification has been issued, but final notification is not issued yet and compensation amount is deposited only after final notification.

9. The learned counsel for the plaintiffs furnished many documents. Since the application is filed only for grant of temporary injunction to be issued against the 1st defendant, preventing him to receive the compensation

amount, I would like to consider only relevant documents as to know the acquisition of property or not. The plaintiff furnished endorsement dated 06.05.2025 issued by the K.I.A.D.B. On perusal of the endorsement shows that 2nd defendant planning to acquire item No.1 property for public purpose. The second document is the preliminary notification issued by the 2nd defendant as to acquire many properties including the properties of the plaintiffs and defendants. Apart from that, the defendants No.1 and 2 have categorically admitted that the acquisition of the land for the public purpose and the said acquired land exclusively belonged to the 1st defendant and according to the 2nd defendant only the preliminary notification is published and final notification yet to be published. It is worth to refer the reply notice issued by the counsel by name Sri. U.Nagaraju to the notice issued by the plaintiffs. The reply notice dated 22.06.2024 it is mentioned as below:

ಕಂಡಿಕೆ 6 ಮತ್ತು 7 ರಲ್ಲಿ ಸರ್ವೆ ನಂ.51 ರ ಗೋಮಾಳದ ವಿಸ್ತೀರ್ಣದ ಪೈಕಿ
4 ಎಕರೆ ಮಂಜೂರಾತಿ ಆದ ಜಮೀನಿಗೆ ಭೂ ಪರಿಹಾರ ಪಡೆಯಲು ನಮ್ಮ ಕಕ್ಷಿದಾರರು

ಸ್ವತಂತ್ರರು. ಯಾವುದೇ ಅಡತಡೆ ಮಾಡಲು ನಿಮ್ಮ ಕಕ್ಷಿದಾರರಿಗೆ ಹಕ್ಕು, ಅಧಿಕಾರ ಇರುವುದಿಲ್ಲ. ಮತ್ತು ಕೆ.ಐ.ಎ.ಡಿ.ಬಿ. ಕಛೇರಿಯಿಂದ ದಾಖಲೆ ಸಲ್ಲಿಸಿ, ನ್ಯಾಯಬದ್ಧವಾಗಿ ಭೂ ಪರಿಹಾರ ಪಡೆಯುತ್ತಾರೆ. ನಿಮ್ಮ ಕಕ್ಷಿದಾರರ ತಕರಾರುಗಳಿಗೆ ಯಾವುದೇ ದಾಖಲೆ ಹಾಗೂ ಮಾನ್ಯತೆ ಇಲ್ಲ.

10. So, the above referred portion of the reply notice indicates the intention of the 1st defendant, because he making attempt to establish that he is the sole person to claim the compensation deposited by the 2nd defendant. On the other hand, the 2nd defendant says that final notification yet to be issued. But the above noted reply notice clearly indicates the intention of the 1st defendant to exclude all family members including the plaintiffs and other defendants from entitlement of compensation amount. In conclusion it may be said that the process of acquisition of property is not admitted. Similarly the intention of the 1st defendant to establish himself to be the absolute owner of item No.1 property is also not ruled out. Suppose injunction is not issued, it would definitely help the 1st defendant to release the compensation amount if it is deposited in future. Suppose the amount is released by

the 2nd defendant then it will cause hardship to the plaintiffs to recover the compensation amount. The right of the parties to get share in the suit schedule properties is to be proved in evidence, till then it is proper to grant temporary injunction against the 1st defendant or any person on his behalf from receiving the compensation amount. Therefore, **point No.1** is answered **in the affirmative**.

11. **Points No.2 & 3:** These points are interlinked with each other, hence they are taken up together for discussion to avoid repetition of facts. As discussed above, suppose temporary injunction is not ordered it will definitely help the 1st defendant to release the compensation amount. Though the 2nd defendant stated that the final notification yet to be issued, but in case of issuance of final notification then process of deposit of compensation amount will be proceeded. Therefore, injunction is definitely required. Suppose injunction is rejected, it would definitely cause hardship and that hardship cannot be compensated by

terms of money. Hence, **points No.2 and 3** are answered **in the affirmative.**

12. **Point No.4:-** In view of the findings on the above points, this Court proceeds to pass the following:

ORDER

I.A.II filed by the plaintiffs under Order XXXIX Rules 1 and 2 CPC is allowed.

Issue ad-interim temporary injunction against the 1st defendant, his men, servants or any other person acting on his behalf from receiving the compensation amount relates to item No.1 property in case of its deposit by the 2nd defendant till disposal of the suit.

No order as to cost.

(Dictated to the stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in open Court on this the 10th day of September 2025).

(Kamalaksha D.)
Senior Civil Judge & J.M.F.C.,
Nanjangud.