

KAMS510032682024



**In the court of the I Addl. Civil Judge & JMFC., at
Nanjangud**

**Present: Smt.Saritha Kumari.A.M, B.A., LL.B.,
I Addl. Civil Judge & J.M.F.C.,Nanjangud**

Dated this the 12th day of September- 2025

O.S.No.372/2024

PLAINTIFF:-

Sri.Shivannegowda

(By Smt.N R P.- Adv.,)

[
-V/s-

DEFENDANTS:-

Smt.Rathnamma & others

(By Sri.N M H.- Adv.,)

I.A. No.I

Applicant

: Sri.Shivannegowda

-V/s-

Opponents

: Smt.Rathnamma & others

ORDERS ON I.A.No.1

I.A. No.I filed under Order 39 Rule 1 and 2 of C.P.C., by the plaintiff praying an order of temporary injunction restraining the defendants from interfering and disturbing the suit schedule property in any matter, till pending disposal of he

suit.

2. The suit schedule property is my ancestral property and he has been in possession of the suit schedule property, when his father was alive he was in possession of the suit schedule property after his death he has been in possession of the suit schedule property, the katha of the suit schedule property stands in the name of the plaintiff father who is Siddegowda, the said Siddegowda is no more hence I am in possession of the suit schedule property, the defendants have no rights, title or possession over the suit schedule property, but the defendants internationally interfere and disturb the suit schedule property and made galata against himself and his family members and made assault to himself and his daughter and his my family members then he lodged the complaint before the police then the police peoples were not taken any complaint from him and instead of that they supported to the defendants then his daughter admitted to the Government Hospital then they referred to the K.R. Hospital Mysore, regarding to that he furnished the documents before this court and he is aged person and his family members are very less and they are helpless peoples and instead of that the defendants are very strong and his family is big one hence the plaintiff lodged the complaint before the elders of the villagers, then the elders of the villagers advised to the defendants not to disturb his possession but they did not cared the advise of the elders then, there after the defendants were came to the suit schedule property along with his peoples interfere and disturb his possession and they made assault him and his daughter on 08.08.2024, Now, the defendants are not in possession of the

suit schedule property at any point of time, the defendants are very powerful persons in the village, and they are very sound in politically and financially they can up to do anything.

3. The plaintiff further submits that, the defendants are not having any rights, title or interest over the suit schedule property, but now they are going to try to interfere and disturb at the time of agriculture operation.

4. The plaintiff further submits that, he has been paying kadayam and other taxes to the concerned authority regularly, The defendants are very powerful persons in the village, and they are very sound in politically and financially because after filing the F.I.R by the police people the defendants again and again they are going to interfere and disturb the suit schedule property, and also threatened him and dangerous to his property from the defendants, and he has no other alternative except to seek the necessary relief from a court of law preventing the defendants from interfering with the peaceful possession and enjoyment of the plaint schedule property.

5. The plaintiff further submits that, the defendants don't have any rights title or interest over the suit schedule property, and they are not the relative to him but now they are going to try to interfere and disturb the suit schedule property, the suit schedule property is the agricultural land, the defendants are interfere and disturb to his peaceful possession and enjoyment of the suit schedule property. Hence this application.

6. On the other hand, after appearance in the above suit, the defendant No.1 to 7 have filed their written statement and filed memo to consider the written statement as objections to IA

No.I. In the written statement they stated that, the suit schedule property is the ancestral property of the plaintiff and defendants. The suit schedule property originally belongs to the father of the plaintiff and grand-father of the defendant No.1 to 4 by name Siddegowda. The Siddegowda and Siddamma have 2 childrens namely Puttasiddamma who is mother of the defendant No.1 to 4 and the 2nd child is the plaintiff. During the life time of Siddegowda was in possession and enjoyment of the suit property till his death, and when he was alive, he orally advised their children to take equal share in the suit schedule property. Hence, the mother of the defendant No.1 to 4 took northern side of the suit property and she is in possession and enjoyment of her share of the suit property and also the plaintiff is in possession and enjoyment of southern side of the suit property in his share.

7. The defendants further submits that, during the pendency, after the death of Siddegowda and his wife Siddamma, the plaintiff and his family members started quarrel with mother of defendant No.1 to 4 for her lifetime to cultivate the suit property and also tried to grab the shares of the mother of the defendant No.1 to 4 in the suit schedule property. But, mother of defendant No.1 to 4 and the plaintiff have equal in the suit schedule property.

8. The defendants further submits that, after that, the Mother of the defendant No.1 to 4 i.e., Puttasiddamma filed a suit against the plaintiff for the relief of partition and separate possession in respect of the suit property in O.S No.40/2022 before the Senior Civil Judge at Nanjangud. The suit is till

pending before this Hon'ble court. After the death of the mother of the defendant No.1 to 4 i.e., Puttasiddamma the defendants are in continuous possession and enjoyment of their share in the suit schedule property. After that the said plaintiff and his family member trespassed into the property and interfered with the peaceful possession and enjoyment of defendant's mother over suit schedule property.

10. The defendants further stated that, On 08/08/2024 the plaintiff and his family members interfered with the defendants property and started the quarrel and assaulted the defendants, then the defendants took treatment in KR Hospital at Mysore and after their discharge, the defendants No.1 & 3 informed the village elders to advise the plaintiff and his family members to not to interfere and disturb the share of the defendants property. But they did not care the advice of the village elders. After that the defendants lodged a complainant in concerned police station against the plaintiff and his family members in Cr.No.157/2024 and the police advised the plaintiff and his family but the plaintiff did not care for police advice also. The plaintiffs have not come to the court with clean hands and they have filed a false against the defendants. Hence prayed for this court to dismiss the application filed by the plaintiff.

10. Heard and perused the materials on record.

11. The Points for consideration are as follows;

1. Whether plaintiffs have made out prima facie case?

2. Whether the balance of convenience lies in favour of the

plaintiffs?

3. Whether irreparable loss and injury would be caused to the plaintiff, if the application is not allowed ?

4. What order?

12. Answers to the above points are as follows;

Point No.1 :- In the Negative
Point No.2:- In the Negative
Point No.3:- In the Negative
**Point No.4:- As per the final order
for the following;**

-:REASONS:-

13. Point No.1 to 3 :- These three points are taken together for common discussion, since they are interconnected with each other and so also they requires common discussion.

14. This is the suit filed by plaintiff against the defendants for the relief of permanent injunction against the defendants not to interfere with the peaceful possession and enjoyment over the suit schedule property. Further it is the say of the petitioner that, the suit schedule property is the ancestral property of the plaintiff he has been in possession of the suit schedule property, he is cultivating the same when his father was alive he was in possession of the suit schedule property after death of his father. Khatha of the suit schedule property stands in the name of the Plaintiff father by name Siddegowda. The said Siddegowda is no more hence the plaintiff is in possession of the suit schedule property, the defendants having no rights, title or possession over the suit schedule property had interfered with

the plaintiffs peaceful possession and enjoyment over the suit schedule property and made galata against the plaintiff and his family members and made assault to the plaintiff and his family members then the plaintiff lodged the complaint before the police then the police were not taken any complaint from the plaintiff hence this application.

15. On the other hand, the defendant filed memo and adopted written statement as objections to I.A No.I. In the written statement the defendant contended that, the suit schedule property is the ancestral property of the plaintiff and the defendants. The suit schedule property originally belongs to the father of the plaintiff and grand father of the defendant no.1 to 4 by name Siddegowda. The Siddegowda and Siddamma have a two children namely Puttasiddamma who is the mother of the defendant no.1 to 4 and the plaintiff. During the life time of Siddegowda is in possession and enjoyment of the suit schedule property till his death, when he is alive, he orally advised their children to take equal share in the suit schedule property, hence the mother of the defendant no.1 to 4 taken northern side of the suit property and she is in possession and enjoyment of her share of the suit property and also the plaintiff is in possession and enjoyment of southern side of the suit property in his share. After the death Siddegowda and Siddamma, the plaintiff and his family members were started quarrel with the mother of the defendant no.1 to 4. The mother of the defendant no.1 to 4 i.e., the Puttasiddamma have filed a suit against the plaintiff for the relief of partition and separate possession in respect of the suit property in O.S No. 40/2022 before the Senior civil Judge at Nanjangudu. The said suit is

still pending for adjudication. After the death of the mother of the defendant no.1 to 4 i.e., Puttasiddamma the defendants are in continuous possession and enjoyment of the their share in the suit schedule property. Later the plaintiff and his family members have trespass the mother of the defendant share property and try to interfere peaceful possession of the suit schedule property. On 08.08.2024 the plaintiff and his family members are interfere with the defendants property and started the quarrel and assault the defendants.

16. It is very relevant to note here that Hon'ble Apex court in the case of **M/S Gujarat bottling Co. Ltd. & others V/s The Coca Cola Co. & others reported in AIR 1995 SC 2372**

“ 50. In this context, it would be relevant to mention that in the instant case GBC had approached the High Court for the injunction order, granted earlier, to be vacated. Under Order 39 of the C.P.C., jurisdiction of the Court to interfere with an order of interlocutory or temporary injunction is purely equitable and, therefore, the Court, on being approached, will, apart from other considerations, also look to the conduct of the party invoking the jurisdiction of the Court, and may refuse to interfere unless his conduct was free from blame. Since the relief is wholly equitable in nature, the party invoking the jurisdiction of the court has to show that he himself was not at fault and that he himself was not responsible for bringing about the state of things complained of and that he was not unfair or inequitable in his dealings with the party against whom he was seeking relief. His conduct should be fair and honest. These considerations will arise not only in respect of the person who seeks an order of injunction under order 39 Rule

1 or Rule 2 of the Code of Civil Procedure, but also in respect of the party approaching the Court for vacating the ad-interim or temporary injunction order already granted in the pending suit or proceedings.”

17. As per aforesaid proposition of Law under Order 39 Rule 1 and 2 of C.P.C., the court exercise an equitable jurisdiction and can not over look the conduct of the party. The party seeking discretion relief has to approached the court with clean hands and he is required to discuss all material facts.

18. In the case on hand, the plaintiff has not approached this court with clean hands. The plaintiff has suppressed the material facts that already suit entered in the suit schedule property by the mother of the defendant for the relief of partition and same is not disclosed by the plaintiff. Further the plaintiff suppressed the relationship between the plaintiffs and the defendants. On prima-facie shows that the plaintiff has not appeared before this court with clean hand.

19. More over as stated by the defendant suit for partition pending. Such being the case it would not be correct to issue injunction to the plaintiff, it may lead multiplicity of proceeding. When the plaintiff is not prove prima facie there is no question of proving balance of convenience and irreparable loss and injury. It shows plaintiff is not entitled for the relief of temporary injunction against the defendants.

20. As discussed above the plaintiff not establish prima-facie to allow application filed by plaintiff. There is no question of proving balance of convenience and irrecoverable loss and

injury, accordingly plaintiffs are not entitled for the relief of injunction against defendants. The contention taken by the plaintiff and the defendants are need full pledged trial and not considering at this juncture. Accordingly, Point No.1 to 3 are answered in the **Negative**.

21. However, it is made clear that this court has expressed the said opinion only for the adjudication for the present application filed under Order 39 Rule 1 and 2 of C.P.C by plaintiff ad defendants and said expression can not be expression on merits of this case. In view of aforesaid reasons, this court held that plaintiff are not entitled for the relief of Temporary Injunction on I.A No.I.

22. Point No.7:- In view of the above said discussion, this court proceeds to pass the following;

ORDER

***IA No.1 filed under Order 39 Rule 1
and 2 of C.P.C., filed by the plaintiff is
hereby Rejected.***

(Dictated to the Stenographer, transcribed by her, corrected and signed by me and then pronounced in open court on **12th day of September-2025**)

(Saritha Kumari A.M)
I Addl. Civil Judge & JMFC.,
Nanjangudu