

IN THE COURT OF III ADDL. SR. CIVIL JUDGE & JMFC,

AT : RAICHUR

**PRESENT: - Sri. MAHAJAN RAMESH APPASAB,
B.A., LL.B.,(SPL)
II-Addl. Sr.Civil Judge, Raichur,
c/c III Addl. Sr. Civil Judge & JMFC
Raichur.**

OS.No.131/2022

DATED THIS THE 15th DAY OF SEPTEMBER 2022

PLAINTIFFS:-

1. Urkundamma Ganamur
D/o Late Earanna Buvanappagar
and W/o G. Hanumanta Reddy,
Aged about : 66 years,
Occ: Agriculture and Household,
R/o H.No.10-7-77, Maktal pet,
Raichur.
2. Earamma D/o Late Earanna
Buvanappagar & W/o Muniyappa,
Aged about : 54 years,
Occ: Household and Agriculture,
R/o H.No.10-7-81, Maddipete,
Raichur.
3. Narasingamma D/o Late Earanna
Buvanappagar & W/o Rangareddy,
Aged about : 52 years,
Occ: Household and Agriculture,
R/o H.No.10-7-43, Maddipete,
Raichur.

(By Sri. B.G.K., Advocate for plaintiffs)

- VERSUS -

DEFENDANTS:- 1. Anjanamma W/o Late Gopalareddy, Aged

about: 65 years, Occ: Household and Agril,
R/o H.No.9-17-36, Maddipete, Raichur.

2. Sridhar S/o Late Gopalareddy S/o Late Gopalareddy, Aged about: 35 years, Occ: Agriculture, R/o H.No.9-17-36, Maddipete, Raichur.
3. Meghana D/o Late Gopalareddy and W/o Suresh, Aged about: 30 years, Occ: Household and Agril, R/o H.No.9-17-36, Maddipete, Raichur.
4. Rajesh S/o Late Gopalareddy, Aged about: 28 years, Occ: Agril, R/o H.No.9-17-36, Maddipete, Raichur.
5. Lakshmi W/o Late Srinivas Reddy, Aged about: 60 years, Occ: Agril, R/o H.No.9-17-36, Maddipete, Raichur.
6. Veeresh S/o Late Srinivas Reddy, Aged about: 30 years, Occ: Agril, R/o H.No.9-17-36, Maddipete, Raichur.
7. Anitha D/o Late Srinivas Reddy, & W/o Vinod, Aged about: 27 years, Occ: Household & Agril, R/o H.No.9-17-36, Maddipete, Raichur.
8. Suresh S/o Late Srinivas Reddy, Aged about: 25 years, Occ: Agril, R/o H.No.9-17-36, Maddipete, Raichur.
9. M/s Sairam Enterprises, represented by its partners:-
 - 9(a) G. Sudarshan Reddy S/o G. Ramareddy, Aged about: 70 years, Occ: Agriculture, R/o Plot No.166, Road No.76,

Jubili Hills, Hyderabad, (T.S).

- 9(b) G. Janardhan Reddy S/o G. Ramareddy,
Aged about: 72 years, Occ: Agriculture,
R/o H.No.108/A MLA Colony, Banjara Hills,
Road No.12, Hyderabad, (T.S).
- 9(c) G. Govardhan Reddy S/o G. Ramareddy,
Aged about: 69 years, Occ: Agriculture,
R/o Plot No.231/A/E MLA Colony,
Banjara Hills, Hyderabad, (T.S).
- 9(d) G. Madhusudhan Reddy S/o G. Ramareddy,
Aged about: 64 years, Occ: Agriculture,
R/o H.No.196/A MLA Colony,
Banjara Hills, Hyderabad, (T.S).
- 9(e) T. Chandrabhanureddy S/o T.V. Subbareddy,
Aged about: 75 years, Occ: Agriculture,
R/o Plot No.10-11, Achuta Co-operative
Society, Road No.10, Banjara Hills,
Hyderabad, (T.S).
- 9(f) V. Sudarshan Reddy S/o Siddareddy,
Aged about: 71 years, Occ: Agriculture,
R/o Plot No.53-B, MLA Colony,
Banjara Hills, Hyderabad, (T.S).
- 9(g) K. Sunil Kumar Reddy S/o K. Damodar
Reddy, Aged about: 52 years,
Occ: Agriculture, R/o H.No.17-1-383/42/A,
Vijayanagara, 5th Cross, Saidabad,
Hyderabad, (T.S).
- 10. G. Goutam Reddy S/o G. Govardhan Reddy,
Aged about: 46 years, Occ: Agriculture,
R/o H.No.231/A/E MLA Colony,
Banjara Hills, Road No.12, Hyderabad, (T.S).

(By Sri. V.S.K. Advocate for Def 9(e) & 10)
(D1 to D8 Exparte)

PARTIES ON I.A.NO.II

APPLICANTS/ : Urkundamma Ganamur & Others
PLAINTIFFS

- VERSUS -

OPPONENTS/ : Anjanamma & Others
DEF NO.9(e) & 10

ORDERS ON I.A.NO.II

The plaintiffs filed this application U/o XXXIX Rule 1 & 2 R/w Sec.151 of CPC and prayed for injunction restraining the defendants No.9(e) and 10 from alienating, mortgaging or creating charge over the suit items No.1 and 2 properties till disposal of the suit.

2. In the supporting affidavit of IA No.II, it is averred that the plaintiffs and defendants No.1 to 8 are the members of joint family. The suit properties are ancestral and joint family properties inherited through propositus Earamma Bonnappagaru, after the death of propositus of joint family, plaintiffs and defendants No.1 to 8 succeeded the suit properties. The defendants No.1 to 5 without consent and knowledge of the plaintiffs got mutated their names to suit

schedule item No.1 and 2 properties and sold the same in favour of defendants No.9(a) to 9(g). Further the said purchasers again executed the sale deeds in the name of defendant No.9(e) and defendant No.10. It is averred that in order to protect the rights of the plaintiffs and to keep the suit properties intact it is necessary to restrain the defendants No.9(e) and defendant No.10 by way of injunction. Accordingly, plaintiffs prayed for allowing the IA No.1.

3. The defendants No.9(e) and 10 filed objections denying the grounds urged by the plaintiffs. It is contended that the husband of defendant No.1 and husband of defendant No.5 have sold the suit items No.1 and 2 properties in favour of defendant No.9 (a) to 9 (g) through registered sale deeds on 12.06.1986. The said defendants in turn sold the said properties in favour of defendant No.9(e) and defendant No.10 through registered sale deeds. The defendant No.9(e) and defendant No.10 have duly converted the suit item No.1 and 2 properties as non agricultural lands and developed the same. It is contended that they have formed the plots and have already sold about 50 open plots through registered sale

deeds. It is also contended that these defendants have received advance consideration amount from different individuals. Whereas the plaintiffs filed this application on false grounds and prayed for dismissing the application.

4. I have heard learned counsel for plaintiffs & defendants.

5. The following points would arise for my consideration;

1. Whether plaintiffs have made out prima-facie case to grant an order of temporary injunction?
2. Whether plaintiffs prove that, balance of convenience lies in their favour?
3. Whether the plaintiffs will be put to irreparable loss if an order of temporary injunction is not granted?
4. What order ?

6. Based on the pleadings, having heard the arguments on both sides, my answer to the above said points are as under:

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

7. Point No.1 to 3:- Since these points are interconnected, they are taken together for common discussion to avoid repetition of facts of the case.

In nutshell it is the claim of the plaintiffs that husband of defendant No.1 and 5 illegally behind their back got mutated their names and alienated the suit items No.1 and 2 properties in favour of defendant No.9 (a) to 9(g) and later the said purchasers transferred the said properties in favour of defendant No.9 (e) and defendant No.10. Admittedly, the suit items No.1 and 2 were came to be sold by the brothers of plaintiffs through registered sale deed way back on 12.06.1986 through different registered sale deeds. The copies of registered sale deeds are placed on record. These documents manifestly reveal handing over the possession of suit items No.1 and 2 properties in favour of defendant No.9 (a) to 9 (g) by the husband of defendants No.1 and 5. It is also not in dispute that the defendants No.9 (a) to 9 (g) have sold the item No.2 property in favour of defendant No.10. The said fact is evident from the registered sale deed dated:-

29.09.2015. Further, the defendant No.9 (e) has purchased the suit item No.1 as per registered sale deed dated: 29.09.2016 is also evident from the registered sale deed placed on record. These transactions are not in dispute. However, it is claim of the plaintiffs that they were unaware about these transactions and the same are illegal.

8. It is pertinent to note that the defendant No.9(e) and defendant No.10 have produced bunch of documents which at this stage manifestly reveal development of purchased property and also alienating the plots formed in the suit item No.1 and 2 in favour of 3rd parties for valuable consideration. The defendant No.9 (e) and defendant No.10 have also produced the photographs of the suit item No.1 and 2 properties along with C.D. On perusal of these documents it reveals development undertaken by defendant No.9(e) and defendant No.10 over the said properties. Laying of road, plantation appearing in the said photographs would reveal that the said developments are taken considerable time. These developments cannot be done over night. It is also pertinent to note that, the vendors of defendants No.9 (a) to 9 (g) are no

more now. The plaintiffs all along kept silent and filed the suit after developing the properties, laying plots and keeping plots open for sale by the developers i.e. defendant No.9 (e) and defendant No.10

9. It is trite that the litigant who try to touch the pure fountain of justice with tainted hands are not entitled to interim or final equitable relief. In the instant case, the conduct of the plaintiffs is not free from doubt. They have not sought for injunction against all the suit item properties. They are very much particular about sold out the properties which are alienated way back in the year 1986 for valuable consideration.

10. The argument of learned counsel for the plaintiffs that the suit properties are granted lands and alienation are hit by Karnataka Land Revenue Act etc., cannot be considered at this stage, since there is no material placed on record. Even otherwise at this stage in order to ascertain the prima-facie case the court is required to ascertain flow of title and actual possession of the party as on the date of the suit. In the instant case, from the recitals of registered documents it is

manifestly clear that the family of plaintiffs lost their possession as well as title over the suit items No.1 and 2 properties in the year 1986 itself. Even the purchaser of items No.1 and 2 have already sold the suit properties and now it reached the hands of 3rd person, who has developed the properties by investing considerable money. These facts cannot be ignored by this Court while considering equitable relief.

11. It is settled law that, the party seeking equitable relief must come before the Court with clean hands. He must do equity once he intends to seek equity. Whereas, the conduct of the plaintiffs reveal mischievous intent. At this juncture without discussing other aspects suffices to say that, material placed on record supports the defence of defendant No.9 (e) and defendant No.10. So, the plaintiffs have failed to make out prima-facie case. Furthermore, since the defendant No.9 (e) and defendant No.10 have developed the properties by investing money at this stage and if the application is allowed literally they will be put to untold hardship and irreparable loss. On the other hand, even if the application is rejected the rights

of the plaintiffs will not be affected has there are other family properties wherein the claim of the plaintiffs can be adjusted in the event of decretal of the suit. In view of my observation above, I answer **points No.1 to 3 in Negative.**

12. Point No.4: For the above said reasons on points No.1 to 3, I proceed to pass the following:-

ORDER

I.A.No.II filed by the plaintiffs under Order 39 Rule 1 and 2 R/w Section 151 of CPC is rejected.

(Dictated to the Stenographer, transcript by him, corrected, signed and then pronounced in the open court by me on this the 15th day of September- 2022).

SD/-
(Mahajan Ramesh Appasab)
c/c III-Addl.Sr.Civil Judge,
Raichur.