



IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
DEVADURGA

Present:
Sri.Suresh Annappa Savadi., B.A., L.L.B, (Spl).,

Senior Civil Judge & JMFC, Devadurga.

O.S.No.93/2024

DATED : THIS THE 14th DAY OF OCTOBER 2024.

Plaintiffs: Sharanappa S/o. Late Shivappa @ Shivanna
and others.
(By Sri.H.L.C., Advocate)
--V/s--

Defendants: Shantappa S/o. Bhimappa Vandal
and another.
(By Sri.C.S.V. advocate)

Provision under which the application is filed	U/o.XXXIX rule 1and 2 C.P.C.
Relief sought for	Temporary injunction.
The date on which the application is filed	15.07.2024
Number of the application	IA.No.I
The date on which the objections are filed by different opponent	04.09.2024
The date on which the orders were passed on the said application	14.10.2024

**ORDER ON IA NO.I**

The plaintiff filed IA No.I, U/o.39 Rule 1 and 2 of C.P.C., to restrained the defendant from getting mutation and transfer of suit land in his name on the strength of the illegal compromise decree passed in O.S.No.79/2023 dated 05.09.2023.

2. In the affidavit the plaintiff contended that, the defendants are not the owners and possessors of the suit schedule land in any manner and any point of time. The defendant are trying to get mutations and transfer of suit schedule land in to their name on the strength compromise decree in O.S.No.79/2023 dated 05.09.2023. The defendants already given application to the Tahasildar Devadurga and if defendants are not restrained as prayed in the application, the plaintiff will be in great injustice and cause harm and it cannot be compensated in terms of money. On the other hand no injustice will cause to the defendants. Hence prays to allow the application.

3. On the other hand, the defendant filed the objection in the objection the defendant contended that the application it self is not maintainable as the plaintiff seeking for the relief that the defendant should be restrained from getting mutation but it is not the defendants work. As the mutation work is to be done by revenue authorities. The plaintiff prays in the suit about declaration by way adverse possession it means plaintiff admitted the ownership of the defendants over the schedule



property. The suit of the plaintiff is vague and indefinite about their reliefs. Hence with these set of contention prays to reject the application.

4. Heard both the sides.
5. The following points arises for my consideration;
 1. Whether the plaintiffs have made out the prima-facie case ?
 2. Whether the plaintiffs show that the balance of convenience lies in their favour?
 3. Whether the plaintiffs show that, application is not allowed irreparable loss will caused to the plaintiff ?
 4. What order ?
6. My answered to the aforesaid points are as under;
 - Point No.1 to 3 : In the negative;
 - Point No.4 : As per final order
for the following

R E A S O N S

7. **POINT NO.1 to 3:** These points are interlinked with each other and to avoid the repetition of facts and separate discussion taken together for common consideration.



8. The plaintiffs filed this suit for the relief of declaration and permanent injunction and also cancellation of court decree. The plaintiffs claiming title over the property on the strength adverse possession as the plaintiff came in possession on the strength of the agreement of sale. The plaintiff also sought for cancellation of the decree passed in O.S.No.79/2023 dated 05.09.2023 and also filed the present application to restrained the defendant from getting mutation and transfer of the suit schedule land in to their names on the strength of the illegal decree. On the other hand, the defendant specifically denied the plaint averments and contended that it is the specific domine of the revenue authority to effect the mutation and also the plaintiff filed the suit for declaration of title on the basis of adverse possession it means the plaintiffs have admitted the ownership of the defendant. After the considering the entire materials the plaintiff sought for the relief to restrain the defendant from getting the mutation. As per law it is the revenue authority to effect the mutations on the strength of the documents. The defendant being the private party he has nothing to do with the mutation orders. Hence the defendant cannot be restrain from getting the mutations. The plaintiff claiming adverse possession on the strength of the agreement of sale. Considering the material this court is of the opinion that the plaintiffs have failed to show the prima-facie case and also failed to show that the balance of convenience lies in their



favour. Hence this court answered the Point No.1 to 3 in the “Negative”.

9. **POINT NO.4:** For the reasons stated in the Point No.1 to 3, this court proceed to pass the following;

ORDER

I.A.No.I filed U/O XXXIX Rule 1 & 2
r/w Sec.151 of CPC is hereby rejected.

(Dictated to the stenographer directly on the computer,
typed by him, corrected by me and then pronounced in the
open court on this the 14th day of October 2024.)

(Sri.Suresh Annappa Savadi)
Senior Civil Judge & JMFC.,
Devadurga.