

KARN020011972019



**IN THE COURT OF THE 1st ADDITIONAL SENIOR CIVIL
JUDGE AND JMFC, RAMANAGARA**

Dated This 10th day of October 2023

PRESENT:

Sri. Mahesh B.T.,

B.Com., LL.M.,

**1st Addl., Senior Civil Judge and JMFC,
Ramanagara.**

OS.No.306/2019

Plaintiff :- Sri.Lingaiah

V/s

Defendants :- Sri.Nagaraju and Others

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I.A No.2

Applicants :- Sri.Lingaiah

- - (Plaintiff)

V/s

Opponents :- Sri.Nagaraju and Others

- - (Defendants)

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Orders on I.A.No.2 filed by the plaintiff
U/o XXXIX Rules 1 & 2 r/w Sec.151 of CPC.,

The plaintiff has filed the present application for temporary injunction restraining the defendant No.7 from disbursing the compensation amount in favour of the defendants No.1 to 6 anybody claiming under them in respect of the suit schedule property or any portion thereof, till disposal of the suit.

2. As per the affidavit of the plaintiff, it is stated that he is the absolute owner and is in peaceful possession and enjoyment of the suit schedule property. The suit schedule property is his ancestral property and belonged to his father Siddaiah S/o. Lingaiah, khatha stood in his name, he was in possession and enjoyment in his own right. The defendants No.1 to 5 have no manner of right, title or



interest nor possession over any portion of the suit schedule property they got mutation in MR.No.12/1984-1985 accepted behind his back in respect of the suit schedule property. Further it is stated that, he had preferred appeal before the Assistant Commissioner, Ramanagara Sub Division in R.A.(LKP) No.466/2012-2013 questioning the said mutation in MR.No.12/1984-1985. The said appeal has been allowed on 17.03.2017 by setting aside the mutation in MR.No.12/1984-1985 and matter was remanded to the Tahsildar, Ramanagara Taluk to conduct fresh enquiry and to pass appropriate orders after giving opportunity to the parties. The learned Tahsildar registered case in RRT (DIS).252/2017-2018 and after issuing notices to parties, obtaining their statements and also getting report from the revenue officials, passed orders on 25.08.2018 and ordered khatha into his name. Accordingly, pursuant to the order of



the Tahsildar, a mutation in MR.H62/2018-2019 is accepted in his favour. The orders of the Assistant Commissioner and Tahsildar are final and conclusive, they are not challenged or questioned the same.

3. Further it is stated that, the defendants after the orders of the Assistant Commissioner and Tahsildar have colluded and got a suit filed through defendant No.1 Nagaraju in O.S.No.89/2019 on the file of the Principal Civil Judge and J.M.F.C., Ramanagara against other Defendants, allegedly for partition, only in respect of the suit schedule property. The suit is alleged to have been filed on 27.03.2019 and have entered into compromise on 25.04.2019 itself wherein all other Defendants herein have agreed that the suit schedule property is allotted to the defendant No.1 and on 27.05.2019 got the decree on stamp paper and got it registered on 03-09-2019, it may be noticed



as on the date of the said suit, khatha stood in his name and he has not made party. Even the court accepting the compromise and granting the decree has not verified the records and has accepted the compromise which is highly prejudicial and detrimental to his right, title and interest in the suit schedule property. The said suit, the compromise and compromise decree are collusive, behind his back, he has not at all party and therefore the compromise decree is null, void and does not bind him or affect his right, title or interest over the suit schedule property.

4. It is further stated that, the defendants by virtue of the collusive decree have been interfering with plaintiff's peaceful possession and enjoyment of the suit schedule property and now only the plaintiff learnt about the suit, compromise and compromise decree. The defendants have been making very serious and hectic attempts to dispossess



the plaintiff from his lawful settled possession of the suit schedule property. If the Defendants were to in anyway interfere or dispossess the plaintiff, the Plaintiff would suffer irreparable loss. The Defendants are very powerful and influential persons both politically and financially. The Plaintiff is a helpless and innocent person and cannot resist or restrain the defendants. The Defendants are also trying to assert false title over the suit schedule property by virtue of the collusive compromise decree.

5. It is further stated that, the defendant No.7 has proposed to acquired portion of the suit schedule property. The plaintiff has immediately petitioned that he is the owner and entitled to compensation in the event of acquisition. Accordingly, the defendant No.7 has passed orders that in the event of acquisition the compensation would be disbursed to the plaintiff alone. But, the Defendants having



obtained collusive decree have approached the revenue authorities for transfer of khatha and after getting khatha they would approach the defendant No.7 for compensation. If the Defendant No.7 were to disburse compensation in favour of Defendants No.1 to 6, he would suffer irreparable loss, as it would lead to multiplicity of litigations. Therefore, it is just and necessary that the defendant No.7 would be restrained from disbursing the compensation in favour of the defendants No.1 to 6 by an order of temporary injunction. If the application is allowed no loss or prejudice will be caused to the defendants, if the same is refused, he would be put to great loss and injury which cannot be compensated by any means. Further he has stated that, he has made out a prima-facie case and balance of convenience lies in his favour. Hence, the application.

6. The defendant No.1 has appeared before the court and



filed his statement of objection to the instant IA.No.2.

7. The defendant No.2 in his objection contended that, the said application is not maintainable either in law or on facts. Further it is contended that, the suit schedule property is the ancestral property of defendant No.1, wherein that property was granted in year 1931-32 during the regime of Maharaja of Mysuru. Even the index of land and I.L. also standing in the name of defendants No.1 grandfather Lingaiah. Even in the survey resettlement records also to the grandfather name of Lingaiah is effected on 14.10.1930 survey documents shown as Linga S/o. Matakana Sidda. Even the revenue documents clearly demonstrates a column No.09 and 12(2) the name of grandfather of defendant No.1 as an owner and cultivator of the Sy.No.388 of Harisandra village to an extent of 3 acres



33 guntas excluding 13 guntas of karab land. The defendants being the absolute owner and possessors of suit schedule property which they have inherited from their ancestor they are entitled for compensation from the office of defendant No.7.

8. It is further submitted that, the plaintiffs, misusing the similarity of the name, he has filed false case with a interim application not to disburse the land compensation amount. Actually, defendant's grandfather being the absolute owner, after his death the defendants have succeeded to the suit schedule property as the sole legal heirs. Now, the suit schedule property has been acquired by the defendant No.7 for formation of National Highway, wherein a portion of the suit schedule property has been acquired for which defendants are entitled to receive the compensation towards the land acquisition. Absolutely, the plaintiff have no right



to file any interim application, restraining the defendant No.7 not to disperse the compensation amount. Even, the plaintiffs by misrepresenting the real facts filed revenue appeal beyond back of defendants and also by colluding with a 3rd party, who is nowhere concerned got the appeal disposed off in the absence of defendants and also by suppressing the true facts without serving advance copy to the defendants, the case got advanced beyond back of the defendants. If the present IA is allowed the defendants would put to great injury which cannot be compensated by any means, on the other hand if same application will be rejected no hardship or injury will be caused to the plaintiff. Hence, pray to dismiss the application.

9. Heard and perused materials on record.

10. The following points arise for my determination:



- (1) Whether the plaintiff has made out a *prima-facie* case to allow the I.A ?
- (2) Whether the plaintiff has got balance of convenience in his favour ?
- (3) Whether the plaintiff would be put to loss and injury if the I.A is not allowed ?
- (4) What order ?

11. My findings on the above points are as under:

Point No.1 to 3 : *In the Affirmative*
Point No.4 : *As per final order
for the following:*

REASONS

12. **Point No.1:** I have already set out in brief as to what the case of the plaintiffs and as to what the stand taken by the defendants. It is well settled principles of law that the following propositions are to be established in order to invoke the jurisdiction of the court to get an interlocutory order of injunction U/o.39 Rule 1 and 2 of CPC. (1) Plaintiff



has to establish a prima-facie case, (2) the balance of convenience is in favour of the plaintiff and (3) that the plaintiff will suffer irreparable injury if an injunction is refused. The ingredients are to be established by the party, who seeks injunction in his favour. The grant of injunction being a discretionary relief, the party should come with clean hands and place all the materials before the court so that the court will be satisfied about the prima-facie case in favour of the party seeking the order. It is no part of courts function at this stage of the litigation to try to resolve difficult question of facts and law, which require elaborate evaluation of evidence to be recorded at the trial. The conduct of the parties is also plays an important and vital role in considering the application of this nature.

13. The plaintiff has filed the present suit for the relief of declaration and permanent injunctions against the



defendants. To substantiate the case of the plaintiff has have produced the photo copies of Genealogy Tree, Voter List, Notices from the Special Land Acquisition Office, Ramanagara District, Endorsement, RC Extracts, Plaint and Applications in OS.No.333/2023, RTC extracts, Petition and Order in RA(LKP)No.466/2012-2013, Order in RRT(Dis)252/2017-2018, Mutation Register Extracts, Order Sheet, Plaint, Compromise Petition and Decree in OS.No.89/2019 and Sketches.

14. Per contra, defendant No.2 has filed his statement of objection denying the case of the plaintiffs and to substantiate the case of the defendants have produced Photo Copies of RTC Extracts, Endorsement, Akarband, Order in MA.No.5/2020, Letter from The Special Land Acquisition Officer, Ramanagara District, Mutation Register Extract, Voter List, Order in RA(LKP)No.466/2012-2013,



Order in RRT(Dis)252/2017-2018 and Order Sheet, Plaint, Compromise Petition and Decree in OS.No.89/2019 and Sketches.

15. Further, the plaintiff stated that in his application that, the suit schedule property is the ancestral property of the plaintiff and khatha have stood in his name and he is in possession and enjoyment of the suit schedule property but defendants have no manner of right, title or interest over the suit schedule property they have collusive got compromise decree and revenue records were changed in the defendant No.1. Per contra, the defendant No.2 has contended that, the suit schedule property is the ancestral property of the defendants and the name of the grand father is one and the same of the plaintiff's father and taken the advantage of the same he has filed false suit and present application against the them is not maintainable.



16. Perused the application, affidavit, objection and documents produced by the plaintiffs. The contention of the plaintiff is that, he has preferred appeal before the Assistant Commissioner, Ramanagara. After enquiry the said appeal was allowed and the case was remanded to the Tahsildar, Ramanagara for fresh enquiry. The Tahsildar after issuing notice to both the parties passed order to change khatha in the name of the plaintiff. Therefore, as per documents, the plaintiff has made out a prima-facie case in his favour. Since, the defendants have entered into a compromise decree leaving behind the plaintiff, then if the apprehension of the plaintiff that the defendant No.7 will disburse the compensation amount in favour of the defendants No.1 to 6, the defendants No.1 to 6 will succeeded in their way, it will lead to multiplicity of proceedings and cannot compensated any means, then the plaintiff will suffer hardship. At this



At this juncture, this court opines that whether plaintiff or the defendants No.1 to 6 owners of the suit schedule property or not it has to be decided in the full pledged trial. Therefore, at this juncture the plaintiff has proved the prima-facie case in his favour. Therefore, the plaintiff has made out prima-facie case and accordingly, the point under consideration is answered in the “Affirmative”.

17. **Point No.2 and 3:-** Both points are interlinked with each other, hence taken up together for common discussion.

The plaintiff has already made out the prima-facie case in his favour. Further, the plaintiff has also taken the same contention that, the defendants No.1 to 6 are trying to get the compensation amount from the defendant No.7 in respect of the suit schedule property, if the compensation amount disbursed from the defendant No.7 in favour of the defendants No.1 to 6, definitely the plaintiff will be put to



hardship and there will be multiplicity of proceedings and the rights of the plaintiff will be curtailed. Accordingly, the points under consideration are answered in the “Affirmative”.

18. **Point No.4** : Based on findings in Points No.1 to 3, this Court proceeds to pass the following:

ORDER

I.A.No.II filed by the plaintiff U/o 39 Rules 1 and 2 R/w Sec.151 of CPC is allowed.

The defendant No.7 is restrained from disbursing the compensation amount in favour of the defendants No.1 to 6 in respect of the suit schedule property, till disposal of the suit.

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No order as to costs.

*(Dictated to the Stenographer in-part and directly on computer, corrected by me and then pronounced in the Open Court on this the **10th day of October 2023**).*

(Sri.Mahesh.B.T)
1st Addl. Senior Civil Judge & JMFC.,
Ramanagara.