

IN THE COURT OF ADDL. SENIOR CIVIL JUDGE & JMFC.,
AT RAMANAGARA

:PRESENT:

Smt.Anupama Lakshmi.B., B.A., LL.B.,
Addl. Senior Civil Judge & JMFC.,
Ramanagara.

O.S. No.256/2010

DATED : THIS THE 26th DAY OF FEBRUARY 2020

Plaintiffs : Sampangaiah and Other

-V/s-

Defendants : Doddaputtaiah and Others

* * * *

I.A

Applicant s : Doddaputtaiah & Others

(Defendant No.1(a) to (f))

-V/s-

Opponent : Smt.Akkachamma

(Defendant No.3/Transposed Plaintiff No.8)

Orders on I.A filed under XXXIX Rules 1 and 2 R/w
Section 151 of CPC.,

The applicant/defendant No.1 filed the present application to pass an order of mandatory injunction directing the defendant No.3 to deposit the compensation amount in the Court in respect of the properties bearing Sy.No.99/8, 101/2, 101/3, 104/1, 102/1, 102/2, 142/5 and 142/9 of Shanumangala Village, Bidadi Hobli, to the tune of Rs.3,60,00,000/- till the disposal of the suit.

2. The defendant No.1(f) has sworn to an affidavit annexed to the application and prayed to read written statement as part and parcel of the affidavit.

The case of the applicant is that, the suit is for partition and separate possession of the suit schedule properties. The applicants have made counter claim and prayed for their 1/8th share in the entire properties mentioned in the written statement. The defendant No.3 has also made counter claim and she is claiming share in

the suit schedule properties. That the properties detailed in the written statement of the applicants are their ancestral properties, which have been transferred behind the back of the applicants by the defendant No.3.

That the defendant No.3 in collusion with KIADB authorities has illegally received Rs.4,87,00,000/- in respect of acquisition of the properties bearing Sy.Nos.99/8, 101/2, 101/3, 101/4, 102/1, 102/2, 142/5 and 142/9 and other properties. The defendant No.3 has received the compensation amount in respect of items No.24 to 31 of written statement schedule properties.

That above said properties are the ancestral properties of the family of Late Ramegowda and the LRs of the defendant No.1 and 3 claiming their respective share by way of counter claim. Therefore, equity demands that, the one party receiving the amount and very same party is objecting the other party in receiving the compensation amount in respect of the property standing in the name of Late

Sanjeevaiah, that has been deposited before the Court in LAC No.58/10 does amount to injustice. Hence, the application.

3. The opponent/defendant No.3 filed detailed statement of objections and submitted that, the propositus Late Ramegowda owned certain properties, out of which 4 acres each had been given to the 3 sons of Late Ramegowda through oral partition. That application schedule properties had been purchased by the 3rd son of Ramegowda namely Ramaswamaiah.

That the son of Ramaswamaiah by name Chikkaputtaiah had purchased land bearing Sy.Nos.99/8, 101/2, 101/3, 102/1, 102/2, and 104 on 27-11-1963 as such the said properties are the self acquired properties of Chikkaputtaiah and 3rd defendant/opponent is wife of Chikkaputtaiah.

That the above said self acquired properties of Ramaswamaiah and Chikkaputtaiah had been acquired by

the defendant No.5 and in the compensation amount awarded the defendants No.2 to 4 and the LRs of the 1st plaintiff have no share. Therefore, it is not necessary to deposit the compensation amount in the Court.

Apart from that, the LRs of the defendant No.1 have received compensation from the 5th defendant to the tune of Rs.1,13,00,0000/- for acquisition of land bearing Sy.Nos.118, 119 and 105 of Shanumangala Village. The 2nd defendant has also received Rs.39,00,000/- towards compensation for acquisition of land bearing Sy.Nos.142/1 and 142/2 of Shanumangala Village. Likewise, the defendant No.4 has also received compensation for acquisition of his land. Therefore, the defendants No.2 and 4 shall deposit the compensation amount received by them in the Court. Therefore, the opponent/defendant No.3 prayed for dismissal of the application with costs.

4. Heard and perused.

5. The following points arise for my determination:

- (1) *Whether the application deserves to be allowed?*
- (2) *What order ?*

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

Point No.1 : *In the Negative*

Point No.2 : *As per final order
for the following :*

REASONS

7. **Points No.1** : The plaintiffs have instituted the suit for partition and separate possession of the suit schedule properties. During the pendency of the suit the plaintiffs by filing a Memo got the suit dismissed as not pressed. Thereafter, the Court provided an opportunity for the defendants to proceed with the suit. Accordingly, the defendant No.3 filed application and she got transposed herself as the plaintiff No.8. Meanwhile, the applicants have filed the present application to direct the opponent to

deposit the compensation amount awarded for acquisition of the application schedule properties in the Court.

It is not in dispute that, the opponent has been awarded compensation amount and xerox copy of receipt is produced before the Court for having received Rs.4,87,00,000/- by the opponent from the concerned authority. The applicants/defendants claimed partition in the properties which have been acquired by the concerned authority but, for the adjudication of the suit the opponent need not be directed to deposit the compensation amount awarded in her favour. Because, whether the defendants have share in the application schedule properties or not will be decided in the full dressed trial. Therefore, at this juncture, the opponent need not be directed to deposit the said amount before the Court. Hence, I answer **Point No.1 in the Negative.**

8. **Point No.2** : Based on findings in Points No.1, this Court proceeds to pass the following:

ORDER

I.A filed by the applicant/defendant
No.1 under Order XXXIX Rules 1 and 2
R/w Sec.151 of CPC is rejected.

(Dictated to the Stenographer in part and dictated directly on the computer and computerized by him, corrected, signed and then pronounced by me in the Open Court on this the 26th day of February 2020.)

(Anupama Lakshmi.B)
Addl. Senior Civil Judge & JMFC.,
Ramanagara.