

KARN320005782016



**IN THE COURT OF PRL CIVIL JUDGE AND JMFC,
KANAKAPURA**

Present:

**Sri. Suresh Annappa Savadi, B.A., LLB., (Spl.)
Prl. Civil Judge & JMFC, Kanakapura
O.S.No.134/2016**

Dated this the 8th day of February 2023

PLAINTIFF:

1. Sri. S.D. Swamy

-Versus-

DEFENDANTS:

1. Sri. Thammaiah and others

PARTIES ON I.A.V

APPLICANT:

Defendant No.1

1. Sri. Thammaiah

(By Sri. R.C. Adv.,)

-Versus-

OPPONENT:

Plaintiff

1. Sri. S.D. Swamy

(By Sri. V.S.R. Adv.,)

ORDER ON I.A.No.V

The defendant No.1 filed I.A.No.V under Order 39 rule 1 and 2 r/w Sec.151 of CPC to restraining the plaintiff from removing cut trees from the suit schedule property for pending disposal of this suit.

2. In the affidavit the defendant contended that, the vacant site property bearing Sl.No.17 it was earlier belonged to government, the then Thasildar, Kanakapura Taluk granted the same in favour of the Boramma W/o Mellalli Dasaiah under Hakkupathra dated 15.08.1972 and said Boramma was in continuous possession of the property till 28.10.1987. Thereafter the said Boramma along with her son Dasaiah sold the property bearing Khaneshumari No.495/2, new No.767/8/A, house list No.603/9 in favour of this defendant to meet the marriage expenses of granddaughter of the said Boramma, by that time the plaintiff was aged about 16 years, he was aware of the fact of the execution of the sale deed by his grandmother and his father Dasaiah. Further contended that the plaintiff is well aware of the alienation made by his grandmother and his father kept quiet till the death of his father, later started for demanding for monetary benefits and he failed to attempt, and filed this frivolous suit. After filing of this suit the plaintiff has removed the standing two Bevu trees which are situated in the suit schedule property,

that to without the knowledge and consent of this defendant. The suit is pending for consideration, the plaintiff has removed the standing trees by suppressing the true facts before this court, hence the defendant lodged complaint against the plaintiff to the jurisdictional police to render police protection to the suit schedule property and taking action against the plaintiff, and another complaint has lodged to the R.F.O. Sathanur Range for taking legal action against the plaintiff. But till today there is no any action taken by the police or by the R.F.O., Sathanur Range, to establish the such facts herewith produced the relevant documents to kind perusal and consideration. With these set of contentions prays to allow the allow the application.

3. On the other hand even after giving sufficient opportunity the plaintiff did not filed any objections, hence objections taken as not filed.

4. Heard the counsel for the defendant.

5. After going through the material available on record, the plaintiff filed this suit for declaration and possession of the property. Present defendant filed his written statement. Now the defendant contended that the plaintiff has cut the two Neem (Bevu) trees and which are in the suit schedule property and even contended he lodged the complaint before the jurisdictional police and also R.F.O., Sathanuru Range but they have not taken any action. The defendant specifically in the affidavit contended that the plaintiff has cut the trees to show the

said facts, produced the relevant documents, but the defendant did not place any document to show that the trees were cut and lying in the suit schedule property. Hence under such circumstances after going through the material this court is of the opinion that the defendant has not made out sufficient grounds to allow the application. Hence under such circumstances, this court proceed to pass the following;

ORDER

The I.A.No.V filed by the defendant No.1 U/O XXXIX Rule 1 & 2 r/w 151 of CPC is hereby rejected.

No order as to costs.

(Dictated to the Steno, transcribed by her, corrected and then pronounced by me in the open Court on this the 8th day of February 2023)

(SURESH ANNAPPA SAVADI)
Prl. Civil Judge & JMFC.,
Kanakapura.