

KARN320030242022



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.241/2022

Dated this the 04th day of April 2024

PLAINTIFF:

Sri. Kashinath

-Versus-

DEFENDANTS:

Smt. Mahadevamma and others

PARTIES ON I.A.I

APPLICANT:

Plaintiff

Sri. Kashinath

-Versus-

OPPONENTS:

Defendants

Smt. Mahadevamma and others

ORDER ON I.A No.1

The Plaintiff filed this application U/o 39 Rule 1 and 2 r/w Section 151 of CPC to restrain the defendants from interfering the peaceful possession and enjoyment of the suit schedule property of the plaintiff.

2. In the affidavit the plaintiff contended that, the plaintiff is in peaceful possession and enjoyment of the schedule property since 19.02.2005 as he has acquired the schedule property under registered sale deed dated 19.02.2005 from his vendor Mr.Nazeerullah Khan and at the time of purchase the vendor of the plaintiff had dug the bore well and open well and obtained the electricity connection and installed the pump set as well as constructed the small shed. After acquiring the schedule property, the plaintiff transferred all the revenue records in his name and after phodi dhurasth assigned the new Sy.No.208/3. The defendants being the strangers to the schedule property and they are nothing to do with the schedule property. But on the guise of concocted and

created documents by saying some unbelievable stories, the defendants and their agents came near the schedule property several times and attempted to interfere the possession of the property of the plaintiff. The defendants have no any semblance of right, title or interest with an intention to grab the property and to extract some money from the plaintiff unnecessarily colluding with the police authorities and local rowdy elements interfering the possession of the property. Hence, the plaintiff filed this suit along with present application to restrain the defendants from interfering the possession of the property.

3. On the other hand, inspite of service of summons, the defendants did not appeared and placed exparte.

4. Heard the counsel for the plaintiff.

5. The following points arises for my consideration;

1. Whether the plaintiff has made out sufficient grounds to allow the application?

2. What order ?

6. My answered to the aforesaid points are as under;

Point No.1 : In the Affirmative;

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

REASONS

7. **POINT NO.1:** The plaintiff contended that, the plaintiff is in peaceful possession and enjoyment of the schedule property since 19.02.2005 as he has acquired the schedule property under registered sale deed dated 19.02.2005 from his vendor Mr.Nazeerullah Khan and at the time of purchase the vendor of the plaintiff had dug the bore well and open well and obtained the electricity connection and installed the pump set as well as constructed the small shed. After acquiring the schedule property, the plaintiff transferred all the revenue records in his name and after phodi dhurasth assigned the new Sy.No.208/3. The defendants being the strangers to the schedule property and they are nothing to do with the schedule property. But on the guise of concocted and

created documents by saying some unbelievable stories, the defendants and their agents came near the schedule property several times and attempted to interfere the possession of the property of the plaintiff. The defendants have no any semblance of right, title or interest with an intention to grab the property and to extract some money from the plaintiff unnecessarily colluding with the police authorities and local rowdy elements interfering the possession of the property. Hence, the plaintiff filed this suit along with present application to restrain the defendants from interfering the possession of the property.

8. The plaintiff along with plaint furnished the original sale deed, record of rights, patta book, revision settlement Aakarbandh, survey document and photocopies.

9. After going through the documents, at this stage prima-facie shows that, the plaintiff has purchased the schedule property to the extent of 02.32.12 acres and

now the plaintiff contended that, in view of phodi the Sy.No.208 changed as Sy.No.208/3 and the record of rights shows his name and the sale deed was taken place on 19.02.2005 and also contended that, the vendor of the plaintiff has dug the borewell and open well and also the plaintiff is in possession of the same.

10. As per the plaintiff, the defendants interfering the possession of the plaintiff. But after service of summons, the defendants did not appeared and placed them as exparte. Hence, under such circumstances, this court is of the opinion that, the version of the plaintiff is unchallenged or undisputed. The plaintiff has placed prima-facie material documents to show that, the plaintiff has purchased the schedule property and he is in possession of the same. Hence, under such circumstances, this court is of the opinion that, the plaintiff has made out prima-facie case and balance of convenience lies in favour of the plaintiff. Hence this court answered the Point No.1 in the "Affirmative".

11. **POINT NO.2:** For the reasons stated in the Point No.1, this court proceed to pass the following;

ORDER

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

The defendants are restrained
from interfering the possession of
the suit schedule property, till the
disposal of the suit.

(Dictated to the Stenographer, transcribed by him, corrected and then pronounced by me in the open Court on this the **04th day of April 2024**)

(SURESH ANNAPPA SAVADI)

Prl. Civil Judge & JMFC.,
Kanakapura.