

KARN320026982024



Presented on : 29-10-2024

Registered on : 29-10-2024

IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,
KANAKAPURA

Present: Smt. Radha S, *B.A., LL.M.*,
C/c Prl. Civil Judge & JMFC.,
Kanakapura.

O.S./380/2024

Dated this the 15th day of March 2025

Plaintiff: Smt. M.N.Padma
W/o N.Lakshmikantha
Aged about 62 years,
R/o: No.140/2, 19th A Cross,
18th Main Road,
5th Phase, J.P.Nagara,
Bengaluru-560078.

(By Sri. S.R, Advocate)

.Vs.

Defendants: 1. Smt. Sundaramma
W/o Late Chikkanna,
Aged about 66 years,

2. Sri. K.C.Murthy
S/o Late Chikkanna,
Aged about 49 years,

3. Smt. Sujatha
W/o K.C.Murthy,
Aged about 46 years,

4. Sri. K.C.Kanthappa
S/o Late Chikkanna,
Aged about 47 years,
5. Smt. Prema.M
W/o K.C.Kanthappa,
Aged about 41 years,
6. Smt. K.P.Sharmila
D/o K.C.Kanthappa,
Aged about 21 years,
7. Smt. Dhanalakshmi
W/o K.B.Rajanna,
D/o late Chikkanna,
Aged about 45 years,

All are R/o:
Edamadu Village,
Harohalli Hobli,
Harohalli Taluk,
Ramanagara District.

**(By Sri. J.P, Adv., for D1 & D7
Sri. K.N.T, Adv., for D2 to D6)**

PARTIES TO IA No.II

Applicant / plaintiff : Smt. M.N.Padma

Vs.

Opponents/defendants : Smt. Sundaramma
and Others

(Smt. Radha.S)
C/c Prl. Civil Judge & JMFC.,
Kanakapura.

**ORDERS ON I.A.NO.II FILED BY THE PLAINTIFF
UNDER ORDER XXXIX RULE 1 AND 2 R/W
SECTION 151 OF CPC.**

This is an application filed by the plaintiff requesting the court to pass an order of temporary injunction against defendants, to restrain them, their agents, servants or anybody acting on their behalf from alienating the suit schedule properties in favour of anybody or creating any kind of encumbrances on the suit schedule properties in any manner till the disposal of the suit.

2. On the other hand the defendant No.1 to 6 have filed their separate objections to the present application.

3. On the basis of application and objections filed by either party, the following points would arise for the consideration of this court.

1. Whether the plaintiff has made out prima-facie case?
2. Whether balance of convenience lies in favour of plaintiff?
3. Whether irreparable loss and injury would be caused to plaintiff if temporary injunction is not granted?
4. What order ?

4. Heard the arguments canvased by the learned Sri.S.R Advocate for plaintiff and Sri.J.P advocate for defendant No.1 at length in great detail on IA No.2. The learned counsel for the defendant Nos.2 to 6 filed written arguments on I.A.No.2. Scrutinized the records of the case.

5. On scrutiny of records of the case and having heard the arguments, my answer to the above points are as under;

Points No.1 to 3 : In the Affirmative

Point No.4: as per the following reasons.

REASONS

6. **Point Nos.1 to 3** : Since these points are interlinked to each other as such they are taken together for common discussion to avoid repetition of facts. Admittedly, the plaintiff has filed this suit against the defendants for the relief of permanent injunction in respect of land bearing old Sy.No.74/7 and present Sy.No.74/36 measuring 00 acres 04.12 guntas and 1 gunta Kharab land attached to it and old Sy.No.74/6 and present Sy.No.74/37 measuring 00 acres 05.12 guntas and 1 gunta Kharab land attached to it both the lands are situated at Edamadu Village, Harohalli Hobli, Harohalli Taluk and Ramanagara District. The description of the above properties are clearly described in application and plaint schedule and the same will be herein after referred as the suit schedule properties.

7. The present application is supported by the affidavit of the plaintiff, wherein she deposed that she is in possession and enjoyment of the suit schedule properties. The defendants have offered to sell the suit schedule properties to the plaintiff for total sale consideration amount of rupees 50 lakhs. The plaintiff has also agreed to purchase the same for the said sale consideration amount. In pursuance of said sale talk, a sale deed was prepared for registration. The plaintiff has also paid agreed sale consideration amount of rupees 50 lakhs to the defendants through cheques. The defendants have also received the said cheques from the plaintiff and executed the sale deed dated 23-08-2024 in respect of the suit schedule properties. On 29-08-2024 the plaintiff and defendants have presented the sale deed before the Sub-Registrar Kanakapura for registration. Accordingly, the plaintiff has also paid stamp duty of Rs.2,82,500/- for registration. On 29-08-2024 except the defendant Nos.1 and 7, other defendants were present before the Sub-Registrar. Since all the executants did not appear before the Sub-Registrar for registration, the said sale deed kept pending for want of other executants thumb impressions and photographs. The registration process was kept pending for 7 days for admission. But on 18-09-2024 the defendants moved a letter to the Sub-Registrar declining to admit the execution of the sale deed by raising untenable pleas.

8. Further the plaintiff deposed that except defendant Nos.1 and 7, the other defendants have assured that they will present before the Sub-Registrar, Kanakapura to complete the registration process. On 29-08-2024, the defendant Nos.2 to 6 were present before the Sub-Registrar and performed their part of duty. The defendant Nos.1 and 7 didn't appear before the Sub-Registrar, Kanakapura to perform their part of agreed acts. The defendant Nos.2 to 6 have admitted the execution of sale deed in the Sub-Registrar's office. The defendant No.1 and 7 went away from the Sub-Registrar's office without giving any intimation and thus their thumb impression and photographs were not taken to complete the registration. Under the aforesaid circumstances, the Sub-Registrar, Kanakapura has passed an order on 08-10-2024 by refusing the registration of the sale deed so far as related to the defendant Nos.1 and 7. Hence the aforesaid sale deed is partially admitted and partially refused.

9. Further it is deposed by the plaintiff that the plaintiff has also moved an application Under section 73 of the Registration Act before the District Registrar, Ramanagara District seeking a direction to the Sub-Registrar, Kanakapura to complete the registration of the sale deed so far as it relates to the defendant Nos.1 and 7. The defendants have also been put the plaintiff in possession of the suit schedule properties. The plaintiff is in possession

and enjoyment of the suit schedule properties. The defendant Nos.1 and 7 have failed to appear before the Sub-Registrar to complete the registration of the sale deed, now the defendants are trying to alienate the suit schedule properties to others and also trying to dispossess the plaintiff from the suit schedule properties. The defendants are making hectic efforts to accomplish the said desire and thus, dispossess the plaintiff and create a sale deed in favour of the third parties to cause irreparable loss and injury to the plaintiff. If the defendants alienated the suit schedule properties to others, the plaintiff will be put into greater hardship and loss. As such without having any other go the plaintiff has filed this suit along with present application. On these grounds the plaintiff sought to allow the present application.

10. On the other hand the defendant No.1 has filed detailed objections. In the objections the defendant No.1 has denied the entire contents of affidavit except her ownership on the suit schedule properties. It is the specific defence of the defendant No.1 that the defendant No.1 never agreed to sell the suit schedule properties to the plaintiff. The defendant No.1 never agreed to receive the sale consideration amount from the plaintiff as alleged by her. The alleged sale deed is till pending as such the plaintiff can't project herself as a lawful owner or lawful possessor of the suit schedule properties as the same is also against to

the sections 17 and 49 of the Registration Act. The defendant No.1 is cultivating on the suit schedule properties for her livelihood. The plaintiff is not in possession of the suit schedule properties as such she is not entitled for any equitable relief. The suit schedule properties are the exclusive and absolute properties of the defendant No.1 and she only developed the same. The remaining defendants are not having any manner of right, title and interest on the suit schedule properties. The plaintiff by colluding with one V.D Ramu got prepared the sale deed and might have presented the same before the Sub-Registrar for registration in order to knock off the properties belongs to the defendant No.1. The defendant No.1 never agreed to sell the suit schedule properties to the plaintiff as alleged by her. Except the defendant No.1, other defendants have no manner of right, title, interest and possession on the suit schedule properties as such they can't execute any documents for convenience in respect of the suit schedule properties. The acts of the defendant Nos.2 to 6 are illegal under the law. The defendant No.1 has not delivered the possession of the suit schedule properties in favour of the plaintiff. The plaintiff is the utter stranger to the suit schedule properties of the defendant No.1. The defendant No.1 is the absolute owner of the suit schedule properties and she is in possession and enjoyment of the same. There is no prima-facie case in favour of the plaintiff

and balance of convenience is also lies in favour of the defendant No.1. If the present application is allowed, the defendant No.1 would be put into greater hardship and loss. Since the defendant No.1 never executed any sale deed in favour of the plaintiff as such the plaintiff is not entitled for any relief as sought under the suit. On these grounds the defendant No.1 prayed to dismiss the application.

11. On the other hand the defendant Nos.2 to 6 have also filed detailed objections. In the objections the defendant Nos.2 to 6 have denied the entire contents of affidavit except the ownership of the defendant No.1 on the suit schedule properties. It is the specific defence of the defendant Nos.2 to 6 that they have never agreed to sell the suit schedule properties to the plaintiff. The defendant Nos.2 to 6 never agreed to receive the sale consideration amount from the plaintiff. The suit schedule properties is the absolute and self acquired properties of the defendant No.1 as she got the same from her parents. The defendant Nos.2 to 6 have never intended to sell the suit schedule properties in favour of the plaintiff and they have not even received a single rupee from the plaintiff. The plaintiff by colluding with one V.D Ramu had played a fraud with the defendant Nos.2 to 6 as such the defendant Nos.2 and 4 have filed a complaint against the plaintiff and said V.D Ramu. The defendants have never handed over the possession of the suit schedule properties to the plaintiff. The alleged sale deed is till

pending as such the plaintiff can't project herself as a lawful owner or lawful possessor of the suit schedule properties as the same is also against the sections 17 and 49 of the Registration Act. The defendant No.1 is cultivating on the suit schedule properties for her livelihood. The plaintiff is not in possession of the suit schedule properties as such she is not entitled for any equitable relief. The suit schedule properties is the exclusive and absolute properties of the defendant No.1 and she only developed the same. The defendants Nos.2 to 6 are not having any manner of right, title and interest on the suit schedule properties. The plaintiff by colluding with one V.D Ramu got prepared the sale deed and might have presented the same before the Sub-Registrar for registration in order to knock off the properties belong to the defendant No.1. The defendant Nos.2 to 6 never agreed to sell the suit schedule properties to the plaintiff as alleged by her. Except the defendant No.1, other defendants have no manner of right, title, interest and possession on the suit schedule properties as such they can't execute any documents for convenience in respect of the suit schedule properties. The defendant No.1 never delivered the possession of the suit schedule properties in favour of the plaintiff. The plaintiff is the utter stranger to the suit schedule properties of the defendant No.1. The defendant No.1 is the absolute owner of the suit schedule properties and she is in possession and enjoyment of the

same. There is no prima-facie case in favour of the plaintiff and balance of convenience is also lies in favour of the defendant Nos.2 to 6. If the present application is allowed, the defendant Nos.2 to 6 would be put into greater hardship and loss. Since the defendant Nos.2 to 6 never executed any sale deed in favour of the plaintiff as such the plaintiff is not entitled for any relief as sought under the suit. On these grounds the defendant Nos.2 to 6 prayed to dismiss the application.

12. The plaintiff in support of her contention has produced Photostat copy of sale deed dated 23-08-2024, RTCs pertaining to the suit schedule properties standing in the name of defendant No.1 and Mutation extract. Per contra the defendants have also produced RTCs, Photostat copy of mutation extract, Photostat copy of medical documents, Photostat copy of complaints, Photostat copy of notices, legal notices and photographs. I have carefully gone through the documents produced by both the parties. The documents produced by the plaintiff are made out prima facie case in her favour at this stage to grant temporary injunction as prayed for as the suit schedule properties is till today standing in the name of the defendant No.1. On perusal of the sale deed it reveals that it is partially admitted and partially refused as the defendant Nos.1 and 7 didn't appear before the Sub-Registrar to complete the registration process but the signature of the defendant No.1

and 7 are very much available on the said document. Under what circumstances the defendant Nos.1 and 7 have put their signature on the sale deed has to be ascertained and the same can't be decided at this pre-trial stage as the same is the matter of trial. More over the genuineness of the documents cannot be seen at this stage as that can be seen at the time of trial. If defendants alienated the suit schedule properties, the rule of lis-pendense will apply and it leads to multiplicity of proceedings.

13. The learned counsel for the defendant Nos.1 to 7 in support of their arguments have relied the following decisions:-

a) Judgment of the Hon'ble Supreme Court of India passed in Civil Appeal No.1573/2023 in between Kaushik Premkumar Mishra Vs. Kanji Ravaria @ Kanji & another.

2) Judgment of the Hon'ble Supreme Court of India reported in (2022) 3 S.C.R 736 between Veena Singh (Dead) Through Lr Vs The District Registrar/Additional Collector (F/R) & another.

3) Judgment of the Hon'ble High Court of Karnataka reported in ILR 2007 KAR 4020 between Sri.N.M. Ramachandraiah and another versus the state of

Karnataka Represented by its
Secretary and Others.

14. I have carefully gone through the above judgments relied by the defendants. With due respect to the above judgments the same are not applicable to the present case on hand. Since the defendant Nos.1 to 7 have put their signatures on the sale deed as such this court inclines to grant temporary injunction in favour of the plaintiff as sought for. If the defendants are restrained from alienating the suit schedule properties till disposal of suit no injustice would be caused to defendants, otherwise it causes irreparable loss and injury to the plaintiff. The merit of the case cannot be decided at this stage. The defendants have not explained any valid reasons to disbelieve the version of the plaintiff with regard to the signatures of the parties available on the sale deed. Considering the nature of the suit and materials available on record I am of the opinion that plaintiff has made out prima-facie case and balance of convenience is also lies in her favour. Therefore, if order of injunction is not granted, irreparable loss and injury would be caused to the plaintiff rather than the defendants. For these reasons this court answers point Nos.1 to 3 in the Affirmative.

15. Point No.4 : For the above said reasons I proceed to pass the following order;

ORDER

I.A.No.II filed by the plaintiff Under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC is hereby allowed.

Defendants, their agents, servants or anybody acting on their behalf are hereby restrained by way of temporary injunction from alienating the suit schedule properties to anybody in any manner till the disposal of the present suit.

Cost of this I.A. shall follow the final result of the suit.

(Dictated to the stenographer directly on computer, corrected by me then the Stenographer has taken print out, after taking printout corrected, signed and then order pronounced by me in open court on **15th day of March 2025.**)

(Smt. Radha.S)
C/c Prl. Civil Judge & JMFC.,
Kanakapura.