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Presented on : 16-07-2025

Registered on : 16-07-2025

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

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

Dated this the 02nd day of December 2025

O.S./279/2025

Plaintiff/s :- Smt. Girijamma
W/o late Kalabhovi
Aged about 70 years,
R/o: Marale Village,
Marale Mata Post,
Uyyamballi Hobli,
Kanakapura Taluk,
Bangalore South District.

(By Sri. A.G.R, Advocate)

.Vs.

Defendant/s :- 1. Sri. Doddonu @ Naga Rudra
S/o late Thammegowda
Aged about 70 years,

2. Sri. B.T.Nagaraju
S/o late Thammegowda
Aged about 60 years,



Both are R/o:
Marale Bekuppe Village,
Marale Bekuppe Post,
Uyyamballi Hobli,
Kanakapura Taluk,
Bangalore South District

(By Sri. R.C., Advocate)

PARTIES TO IA No.I

Applicant / plaintiff: Smt. Girijamma

Vs.

Opponents/ defendants : Sri. Doddonu @ Naga Rudra
and Another

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

**ORDERS ON I.A.NO.I FILED BY THE PLAINTIFF
U/O XXXIX RULE 1 & 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 the defendants to restrain them, their agents, servants or anybody acting on their behalf from interfering into the peaceful possession and enjoyment of the plaintiff in respect of land bearing Sy.No.695/P6 (its old Sy.No.695) measuring 3 acres 00 guntas situated at Marale Bekuppe



Village, Uyyamballi Hobli, Kanakapura Taluk and Ramanagara District in any manner during the pendency of the suit. The description of the above property is clearly described in application and plaint schedule and the same will be herein after referred as the suit schedule property.

2. The defendants have appeared before the court through their counsel and filed written statement and memo to consider their written statement as objections to present application.

3. On the basis of application and written statement 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 canvassed by the learned counsels for plaintiff and the defendants at length in great detail on IA No.I. Scrutinized the records of the case.



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

Point No.1 : In the Negative
Point No.2 : In the Negative
Point No.3 : In the Negative
Point No.4 : As per final Order, for
the following :

REASONS

6. Point No.1: While granting interim injunction, the court must be satisfied that, the applicant has raised a bona-fide dispute which needs investigation and decision on merit and that there is a probability of the applicant being entitled to the relief claimed by them under the suit. The burden is on the plaintiff to establish that, there is prima-facie case in his favour. While considering the said application, the court must be satisfied that, there is a serious question to be tried.

7. Admittedly, the plaintiff has filed this suit against the defendants for the relief of permanent injunction. The present application is supported by the affidavit of the plaintiff wherein she deposed that she is the absolute owner in possession and enjoyment of the suit schedule property. The katha of the suit schedule property was standing in the



name of plaintiff's father-in-law viz Guruva Bhovi and he was in possession and enjoyment of the same. After the death of said Guruva Bhovi, the katha pertaining to the suit schedule property is transferred in the name of plaintiff on the basis of pavathi varasu under M.R.No.H91. The plaintiff is in possession and enjoyment of the suit schedule property without anybodies interruptions. The defendants are strangers and they are nowhere concerned to the suit schedule property even though they are trying to interfere into the peaceful possession and enjoyment of the plaintiff over the suit schedule property in order to grab the suit schedule property. However, the plaintiff tried to resist the illegal acts of the defendants, but his all efforts are went in vain as the defendants are influential and powerful persons in the locality. As such, in order to stop the illegal acts of the defendants, the plaintiff without having any other go has filed this suit along with present application. On these grounds the plaintiff sought to allow the present application.

8. Per contra the defendants have filed their written statement wherein they denied the entire contents of plaint. It is the specific defence of the defendants that the plaintiff has not disclosed the fact of O.S.No.147/1995 which was dismissed by the I Addl., Civil Judge and JMFC,



Kanakapura dated 30-10-2014. The suit of the plaintiff is not maintainable without seeking the relief of declaration and possession. The defendant No.1 and his family members are the owners in possession of the suit schedule property since 04-04-1949 and 10-07-1961. On the other hand the plaintiff or her husband viz Kalabhovi are not in possession and enjoyment of the suit schedule property. The original propositus of defendant No.1 viz Thimmabovi had two sons viz Kalabovi and Guruvabovi. The said Guruvabovi was having two sons viz Kalabovi i.e the husband of the plaintiff and Ramadasaiah. Both Kalabovi and Ramadasaiah were filed a suit under O.S.No.147/1995 for permanent injunction. During the pendency of the said suit, the husband of the plaintiff viz Kalabovi was dead. Accordingly the Lrs of said Kalabovi are brought on record. The plaintiff was also brought on record in the said suit as one of the Lrs of late Kalabovi. The said O.S.No.147/1995 was came to be dismissed on merits on 30-10-2014. The plaintiff and her children have challenged the said Judgment and Decree under R.A.No.4/2015 and the said appeal was also dismissed on 26-05-2020. The plaintiff has not disclosed anything about the said proceedings and filed this false and frivolous suit by suppressing the real facts. The suit of the plaintiff is hit by law of res-judicata and liable to be dismissed as per law.



9. Further it is contended by the defendants that one Basavegowda is the ancestors of the defendants. On 01-05-1945 the father-in-law of the plaintiff viz Guruvabovi and his brother Kalabovi were mortgaged the suit schedule property in favour of said Basavegowda. There after on 04-04-1949 the first son of said Kalabovi had sold 2 acres of land in suit survey number in favour of said Basavegowda. There after on 10-07-1961 the said Guruvabovi and his son viz Kalabovi i.e the husband of the plaintiff have sold the remaining 2 acres of land in suit survey number in favour of one N.C.Subbanna. The said N.C Subbanna was in possession and enjoyment of the said 2 acres of land. After the death of said N.C.Subbanna, his son viz Rajashekaraswamy sold 2 acres of land in favour of one Basavegowda on 07-06-1986. Hence the said Basavegowda had purchased 4 acres of land in suit survey number and he was in possession and enjoyment of the same till his death. After the death of said Basavegowda, his sons have succeeded the suit schedule property and they continued in possession and enjoyment of the suit schedule property. The sons of said Basavegowda viz Basalingegowda @ Thammegowda got 2 acres and 2nd son viz Lingegowda @ Moogegowda got 2 acres of land. The present defendants are in possession to the extent of 2



acres of land and the Lrs of late Lingegowda @ Moogegowda are in possession of remaining 2 acres of land. The plaintiff has not brought the legal heir of said Lingegowda @ Moogegowda in this suit as parties. As such the suit of the plaintiff is suffering from non-joinder of necessary parties. Hence the suit of the plaintiff is not at maintainable. The plaintiff is not in possession of the suit schedule property even though she has filed the present suit for permanent injunction simplicitor. When the plaintiff is not in possession of the suit schedule property then the suit for permanent injunction is not maintainable. The plaintiff is well aware of these facts, even though by suppressing real facts has filed this false and frivolous suit only in order to grab the suit schedule property and harass the defendants. As such the plaintiff is not entitled for any relief as sought in the application. On these grounds the defendants prayed to dismiss the application.

10. I have gone through the pleadings of plaintiff and documents available on record. The plaintiff in support of her contention has produced the RTCs pertaining to the suit schedule property, acknowledgment dated 07-07-2025 issued by SHO Sathanoor Police Station, endorsement dated 07-07-2025 issued by SHO Sathanoor Police Station, death certificate of one Guruvabhovi, Photostat copy of



order passed by the Assistant Commissioner, Ramanagara. I have carefully gone through the documents produced by the plaintiff in support of her case. It is the case of the plaintiff that she is in possession and enjoyment of the suit schedule property but at this stage she has not produced any documents to show her possession on the suit schedule property. The RTCs produced by the plaintiff are clearly established that the plaintiff is not in possession and enjoyment of the suit schedule property at this stage to consider the present application. The defendants are claiming their independent right and title on the suit schedule property. It is the contention of the defendants that the suit filed by the husband of the plaintiff under O.S.No.147/1995 was already decided on merit by passing Judgment and Decree. Wherein it was already decided that the husband of the plaintiff was not having any manner of right, title and possession on the suit schedule property. In support of this contention the defendants have also produced Photostat copy of plaints in O.S.No.147/1995, Photostat copy of Judgment and Decree passed in O.S.No.147/1995, Photostat copy of hand written RTCs, Photostat copy of mortgage deeds dated 01-03-45, 30-10-45, Photostat copy of endorsement dated 20-03-1985, Photostat copy of sale deed dated 07-06-1986 and Photostat copy of encumbrance certificate. I have carefully



gone through the Judgment and Decree passed in O.S.No.147/1995, on perusal of the same it reveals that the lis between the parties with regard to the suit schedule property was already decided by the Court by its Judgment and Decree. Whether in view of the Judgment and Decree passed in O.S.No.147/1995 the plaintiff has right to file the present suit for second time has to be considered in this suit. The plaintiff has not produced any documents at this stage to show her possession on the suit schedule property. Hence there are no reasons to disbelieve the version of the defendants with regard to the possession of the plaintiff on the suit schedule property. The plaintiff has not produced any documents to establish her possession on the suit schedule property at this stage to grant temporary injunction as prayed for.

11. Though the plaintiff in the plaint has averred that she is in possession and enjoyment of the suit schedule property, but at this pre-trial stage there are no documents to show that the plaintiff is in possession over the suit schedule property as on the date of the suit. It is pertinent to note that the defendants have specifically denied the possession of the plaintiff on the extent as mentioned in the plaint. The plaintiff has completely failed to prove her possession over the suit schedule property as on the date of



the filing of the suit. Therefore, this court is of the considered opinion that plaintiff has not made out prima-facie case for granting of temporary injunction at this stage as prayed for. Accordingly, this court answers Point No.1 in the Negative.

12. Point No.2 and 3:- Both points are taken together for common discussion in order to avoid repetition of reasoning. While considering the question of granting an order of temporary injunction one way or the other, the court, apart from finding out a prima-facie case would consider the question with regard to balance of convenience of the parities as also irreparable injury which might be suffered by the parties.

13. As discussed supra, the plaintiff has utterly failed to prove her possession over the suit schedule property by producing cogent documents to grant temporary injunction at this stage. In the present case trial has to be conducted to prove the case of plaintiff. Validity and genuineness of the documents cannot be seen and discussed at this stage and that can be seen at the time of deciding the case on merits. If order of temporary injunction is granted it will cause injustice, irreparable loss and injury to the defendants rather than the plaintiff. Moreover the



possession of the plaintiff on the suit schedule property is also under dispute, as such at this stage the plaintiff failed to prove her possession over the suit schedule property as on the date of suit, if an order of temporary injunction is granted the defendants would be put into greater hardship and balance of convenience is also lies in favour of the defendants. With these observation, this court answers Point No.2 and 3 in the Negative.

14. Point No.4 : In view of the aforesaid reasons and finding made on Point No.1 to 3, this court proceeds to pass the following;

ORDER

I.A.No.I filed Under Order 39 Rule
1 and 2 R/w Section 151 of CPC by the
plaintiff is hereby dismissed.

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 **02nd day of December 2025.**)

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