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Presented on : 16-11-2024

Registered on : 16-11-2024

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 14th day of October 2025

O.S./404/2024

Plaintiff/s :- Smt. K.P.Tharamani
W/o late D.Raju
Aged about 45 years,
R/o: Alasinamaradadoddi
Main Road,
Kanakapura Town & Taluk,
Ramanagara District.

Presently R/o:
S.V.Jasmine Apartment,
T2A Block, 3rd Floor,
Opp. KSIT College,
Raghuvanahalli,
Bengaluru-62.

(By Sri. H.L.A, Advocate)

.Vs.



- Defendant/s :-
1. Sri. K.Raju
S/o late Kempegowda
Aged about 68 years,
Retired PDO,
R/o: Maharajarakatte Road,
Kanakapura Town & Taluk,
Ramanagara District.
 2. Smt. Ningamma & Lingamma
W/o late Kempegowda
Aged about 70 years,
R/o: Linganna Beedi,
Ward No.18,
Kanakapura Town & Taluk,
Ramanagara District.
 3. Smt. Shankamma
D/o late Kempegowda
W/o K.L. Papanna
Aged about 50 years,
R/o: Kottatti Village & Hobli,
Mandya Taluk & District.
 4. Smt. Puttamma
D/o late Kempegowda
W/o Krishna
Aged about 46 years,
R/o: Linganna Beedi,
J.C. Extension,
Kanakapura Town & Taluk,
Ramanagara District.
 5. Smt. Jayarathamma
D/o late Kempegowda
W/o Shankregowda
Aged about 45 years,
R/o: Sampahalli Village,



Dudda Hobli,
Mandya Taluk & District.

6. Smt. Lakshmi
D/o Ningamma
W/o Srinivasa
Aged about 38 years,
R/o: Linganna Beedi,
Ward No.16,
Near Vani Talkies,
Kanakapura Town & Taluk,
Ramanagara District

**(By Sri. R.C, Adv., for
D1 to D4 & D6)**

PARTIES TO IA No.I

Applicant / plaintiff : Smt. K.P.Tharamani

Vs.

Opponents/ defendants : Sri. K.Raju and Others

(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 property bearing Sy.No.698/1E1 measuring East-West-40 feet and North-South-120 feet (0.04.04 guntas) situated at Kasaba Hobli, Kanakapura Town and 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 her 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 documents pertaining to the suit schedule property are standing in the name of the plaintiff. Except the plaintiff no one are having any manner of right, title, interest and possession on the suit schedule property. The suit schedule property was originally belonged to one Smt.Cheluvamma W/o late Lingaiah @ Lingegowda who was none other than the maternal aunt of the plaintiff's husband. The said Smt. Cheluvamma has got the suit schedule property under registered partition deed dated 02-04-1946. The husband of the plaintiff was taken care of said Smt.Cheluvamma during her old age as she has no issues. As such out of the love and affection the said Smt.Chaluvamma had executed a registered Will dated 22-09-2008 in favour of the husband of the plaintiff. After the death of said Smt.Cheluvamma, on the basis of said Will the all the revenue documents pertaining to the suit schedule property were transferred in the name of said D.Raju. After the death of said D.Raju, the katha pertaining to the suit schedule is transferred in the name of the plaintiff vide M.R.No.H269 and RTC is also effected into her name.

8. Further it is the case of the plaintiff that in the year 2006 one Ningaiah @ Bandekana had filed a suit under O.S.No.180/2006 against Kempegowda and Cheluvamma for declaration and injunction in respect of the suit



schedule property. The said suit was dismissed. There after the wife of said Ningaiah @ Bandekana has preferred an appeal before the Assistant Commissioner, Ramanagara under R.A.No.382/2016-17 against the khata made out in the name plaintiff's husband viz D.Raju. The said appeal was also dismissed. In spite of dismissal of above suit and appeal one Honnegowda @ Kulla S/o late Girigowda, Smt. Madamma W/o late Girigowda and Bandekana are without having any manner of right, title, interest are trying to interfere into the peaceful possession and enjoyment of the plaintiff over the suit schedule property. Under such circumstances the husband of the plaintiff viz D.Raju has filed a suit under O.S.No.517/2014. The defendants have appeared in the said suit but not contested the same by filing written statement. The suit was decreed in favour of plaintiff's husband. The defendants are nowhere concerned to the suit schedule property even though by taking the advantage of death of plaintiff's husband are trying to interfere into the peaceful possession and enjoyment of the plaintiff over 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. The defendants in order to knock off the suit schedule property have created an agreement for sale in respect of the suit



schedule property and thereby they are trying to dispossess the plaintiff from the suit schedule property. 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.

9. 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 suit schedule property is not belonged to the plaintiff as the same is belong to one Smt. S.Geetha W/o Shivappa. The plaintiff is also well aware of this fact even though has filed the present suit against the wrong persons. The said Smt.Geetha is the owner of the suit schedule property and she is in lawful possession of the same.

10. The defendants further contended that the land bearing Sy.No.698/1E1 measuring 0.04.04 guntas is not in existence as the same was merged with Kanakapura Town long ago itself. The entire Sy.No.698 is located at the center of the city near Vani Talkies, Kanakapura. The plaintiff is claiming her right on the property belonged to one Smt.S.Geetha who is not a party to this suit. One Kempegowda was the owner of Sy.No.698/171 measuring 0.23 guntas and the same was converted into non-



agricultural purpose on 16.04.1983. Thereafter the said Kempegowda was sold some portion of property to others by retaining the suit schedule property. The Town Municipality, Kanakapura was given a katha No.4278/3742 to suit schedule property to the extent of East to West 36 feet and North to South 120 feet in the year 1988 itself. The husband of defendant No.2 i.e., Kempegowda had obtained permission for construction in the suit schedule property but he did not constructed the house. The katha of the suit schedule property was standing in the name of said Kempegowda till his death. After his death, the katha pertaining to the suit schedule property was made out in the name of defendant No.2. Municipality was also given E-Katha in favour of the defendant No.2. There after the defendant Nos.1 to 6 have sold the said property to one Smt.Geetha on 03.10.2024 for a valuable consideration. Now the E-Katha was made out in the name of said Smt. Geetha and she is in possession of the suit schedule property. The plaintiff or her husband or Smt Chaluvamma were not in possession of the suit schedule property at any point of time. As such, the suit of the plaintiff is not maintainable. The plaintiff is not having any title on the suit schedule property as such without the relief of declaration, possession the bare injunction suit is not maintainable. The title of the plaintiff is under dispute



under such circumstances the present suit is not maintainable. The plaintiff is well aware of these facts even though in order to grab the suit schedule property has filed this false and frivolous suit against the defendants by suppressing the real facts. Hence the plaintiff is not entitled for any relief as sought in the application. On these grounds the defendants prayed to dismiss the application.

11. I have gone through the pleadings of plaintiff and documents available on record. The plaintiff in support of her contention, has produced the certified copy of registered partition deed dated 02-04-1946, mutation extract M.R.No.173/2009-2010, certified copy of hand written RTCs, RTCs, Original copy of registered Will dated 22-09-2008, mutation extract M.R.No.H21/2014-2015 transferred in the name of plaintiff's husband viz D.Raju, death certified of D.Raju, mutation extract M.R.No.H269/2020-2021, certified copy of order sheet in O.S.No.180/2006, certified copy of order dated 13-01-2020 passed by the Assistant Commissioner, Ramanagara, certified copy of Judgment and Decree passed in O.S.No517/2014. I have carefully gone through the documents produced by the plaintiff in support of her case. It is the case of the plaintiff that the suit schedule property was originally belonged to one Smt.Chaluvamma who got the same under the partition



but at this stage she has not produced any documents to show that as on the date of execution of registered Will in favour of plaintiff's husband the suit schedule property as described in the plaint was standing in the name of the said Smt.Chaluvamma. The defendants are claiming their independent right and title on the suit schedule property by denying the title of said Smt.Chaluvamma. In the partition deed, there is no description of the suit schedule property as mentioned in the plaint schedule. The plaintiff has not produced any documents at this stage to show that the suit schedule property and the properties mentioned in the partition deed are one and the same to consider the present application. The defendants have specifically denied the possession of the said Smt.Chaluvamma, plaintiff and her husband on the suit schedule property as described in the plaint schedule as such the facts with regard to the possession of the plaintiff to the entire extent as mentioned in the plaint schedule and partition deed has to be ascertained during trial. 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 the possession of said Smt.Chaluvamma on the suit schedule property which was alleged to be allotted under the partition deed at this stage to grant temporary



injunction as prayed for. The defendants in support of their defence have produced Photostat copy of registered sale deed dated 03-10-2024, Photostat copy of Form No.3, Photostat copy of tax paid receipt and photographs. From the documents produced by the plaintiff and defendants it is crystal clear that the properties which were allotted to one Smt.Chaluvamma has to be ascertained during trial to consider the claim of the plaintiff as such at this stage the possession of the plaintiff on the suit schedule property is under doubt. More over the burden is upon the plaintiff to prove that the property as described in the plaint schedule was allotted to the said Smt.Chaluvamma under the registered partition deed and she was in exclusive possession and enjoyment over the same. But in order to prove this fact the plaintiff has not produced any documents to consider the present application at this stage.

12. 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 and the same was allotted to the said Smt.Chaluvamma. 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 and its identity. 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.

13. 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 parties as also irreparable injury which might be suffered by the parties.

14. 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 the 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.

15. 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 **14th day of October 2025.**)

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