



IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE & J.M.F.C.,
AT:MAGADI

Present:

Sri. Sandeep S. Reddly, LL.M,
Addl. Senior Civil Judge & JMFC., Magadi

DATED: THIS THE 15th DAY OF MARCH, 2024
O.S.No.64/2022

Plaintiffs : 1. Smt. Lakshmamma,
W/o. late Rangaswamaiah,
Aged about 75 years,

2. Sri. Rajanna,
S/o. Late. Rangaswamaiah,
Aged about 60 years,

3. Sri. Guddathimmaiah,
S/o. late Rangaswamaiah
Aged about 45 years,

4. Sri. Rangegowda
S/o. late Rangaswamaiah,
Aged about 42 years,

5. Sri. Puttaswamaiah H.R
S/o. late Rangaswamaiah,
Aged about 38 years,
All are residing at
Hoojagallu Village,
Kasaba Hobli, Magadi Taluk,
Ramanagara District.

(By **Smt. P.K.H.** Advocate)

---V/s---



Defendants : 1. Sri. Nagaraju H.M.
S/o. Late. Maregowda
Aged about 40 years,

2. Sri. Bommaiah H.M,
S/o. Late. Maregowda,
Aged about 38 years,

Both are residing at
Hoojagallu Village,
Kasaba Hobli, Magadi Taluk,
Ramanagara District.

(By **Sri. M.V.S.** Advocate)

ORDER ON IA NO.2 U/O.39 R.1 & 2 r/w. S.151 of C.P.C.,

The I.A.No.2 is filed by the plaintiff U/O.39 R.1 & 2 praying for an order of temporary injunction restraining the defendants, their agents, servants, supporters or anybody claiming through them from alienating or encumbering the suit schedule property pending disposal of the suit.

2. The aforesaid suit is filed by the plaintiff praying for the relief of declaration, permanent injunction and other consequential reliefs.

3. The plaintiff has stated in the accompanying affidavit to I.A.No.2 that, they are the absolute owners and possession of the suit schedule property.



That, one Sri. Rangaswamaiah i.e., the father of plaintiff had acquired the property in Sy.No.60/5, measuring to an extent of 0.07 guntas through inheritance. That, his father had purchased the property in Sy.No.60, measuring 0.15 guntas under registered sale deed. He had further purchased 0.15 guntas in Sy.No.60/5. That, during the life time his father was in possession of the aforesaid properties and after his father's death, the plaintiffs are in possession and enjoyment of the suit schedule property. That, his father was illiterate and ignorant person and he had attempted to change the khata in respect of the property purchased under registered sale deed. That, after the death of his father the plaintiffs have not made any attempts to change the khata of the property. That, on 02.01.2022 the defendants tried to interfere with the plaintiff's possession of the schedule property by creating revenue records. That, the plaintiffs to came to know about the fraud played by the defendants and had sought for rectification of revenue entries. That, revenue entries were not rectified and having no other option the plaintiffs have approached this Court seeking for the relief of declaration, permanent injunction and consequential reliefs.



4. The defendant No.1 has filed memo adopting the written statement as his objections. In order to avoid repetition of facts and to give clarity only the relevant facts mentioned in written statement shall be taken up for discussions. In the written statement the defendant No.1 stated that, the Hoojgal Village is a jodi village and his jodidar was one Sri. Sheshagiri Rao. That, the land bearing Sy.No.60/5, measuring 1 acre 21 guntas including 7 guntas of karab was the jodi land. That, one Sri. Gadda Thimmaiah was tenant under jodidar with respect to the land measuring to an extent of 28 guntas. That, after the advent of Inam Abolition Act, the said Sri. Gadda Thimmaiah moved an application seeking for occupancy rights before the Land Tribunal in case No.93/1959-60. That, the Land Tribunal had confirmed the occupancy right with respect to 28 guntas of land in favour of Gadda Thimmaiah. That, after the death of Sri. Gadda Thimmaiah, his son Kempa Guddaiah sold 27 guntas of land out of 28 guntas and retained 1 gunta and executed registered sale deed dated: 07.09.1999 in favour of defendants' father Sri. Maregowda S/o. Late Ganga Maraiah. That, in pursuance of the registered sale deed the defendants' father is put in possession of the said land. The defendants are in possession of the schedule property since the death of their father and that the revenue entries are also



mutated in their name. That, the plaintiffs father has not acquired the land measuring 7 guntas as alleged in the plaint and that they are not in possession of the schedule property at all.

5. Heard learned counsel for plaintiff and defendant No.1.
6. Considering the contentions of the counsel, following points arise for my consideration.
 1. Whether plaintiffs have made out prima-facie case for grant of temporary injunction?
 2. Whether balance of convenience is in favour of the plaintiffs?
 3. Whether plaintiffs will suffer irreparable injury if temporary injunction is not granted?
 4. What order?

7. My findings for the above points are as follows.

- Point No.1: In the affirmative,
 - Point No.2: In the affirmative,
 - Point No.3: In the affirmative,
 - Point No.4: As per final order.
- For the following,



REASONS

8. **POINT NO.1:-** The plaintiffs have taken the contention that, they are in possession of the land bearing Sy.No.60/5, measuring to an extent of 37 guntas situated at Hoojagal Village, Kasaba Hobli, Magadi Taluk.

9. The plaintiffs in order to prove their case have produced the Encumbrance Certificate, Genealogical Tree, RTCs., Sale Deed and Death Certificate. The plaintiffs have produced the hand written RTCs., from the year 1970-71 until the date of filing of RTCs., to the court. As per the said RTCs., the plaintiffs' father Sri. Rangaswamaiah's name is reflected. Subsequently, the RTCs., of the years 2000 onwards reflects the name of Sri. Maregowda in possession of 27 guntas of land and Sri. H. K. Rangaswamaiah in possession of 1 gunta and jointly in possession with H. K. Rajanna of 26 guntas.

10. The plaintiffs have produced the copy of sale deed dated: 22.07.1968 showing that, they have purchased 15 guntas of land. They have further produced another sale deed dated: 22.07.1968 showing that, they have purchased 15 guntas of land. The total extent of land that the plaintiff is



seeking for the relief of temporary injunction is 37 guntas. The plaintiff has only proved his possession through the documents with respect to 30 guntas of land. The plaintiff has stated that, 7 guntas of land was acquired by him through inheritance. The RTC produced by him clearly shows that, the 7 guntas of land was inherited by Sri. Rangaswamaiah through inheritance at column No.10 there is a referral that 7 guntas was inherited by Sri. Rangaswamaiah. The plaintiff has prima-facie proved that, he is in possession of 37 guntas of land.

11. On the other hand, the defendants have not filed any documents to substantiate their claim. The defendants have claimed that, one Sri. Gadda Thimmaiah was given the occupancy rights by the Land Tribunal. That, the said occupancy rights given by Land Tribunal on the orders copies are not produced by the defendants. The defendants have not produced any documents to substantiate their claim. Hence at this stage of the case, the case of plaintiff can be prima-facie accepted. Hence, I answer Point No.1 in the Affirmative.



12. **Point No.2:-** The plaintiffs have made out prima-facie case. The plaintiffs have produced the copy of sale deeds dated: 22.07.1968 and 09.02.1973 along with RTC extract to substantiate his case.

13. The plaintiffs have further averred that, they have purchased the land and they have further averred that, they are in possession of the said land. The defendants on the other hand, have only stated that, they were given occupancy rights by the Land Tribunal to an extent of 28 guntas in land bearing Sy.No.60/5 and that their father had purchased 27 guntas out of 28 guntas. At this stage the defendants have not produced any documents to show the genuineness of his claim. The plaintiffs on the other hand, have prima-facie proved their case.

14. The Hon'ble Supreme Court of India in Colgate Palmolive (India) Ltd. v. Hindustan Lever Ltd., (1999) 7 SCC 1 : 1999 SCC OnLine SC 774 at page 13:

24. We, however, think it fit to note herein below certain specific considerations in the matter of grant of interlocutory injunction, the basic being non-expression of opinion as to the merits of the matter by the court, since the issue of grant of injunction, usually, is at the earliest possible stage so far as the



time-frame is concerned. The other considerations which ought to weigh with the court hearing the application or petition for the grant of injunctions are as below:

- (i) extent of damages being an adequate remedy;*
- (ii) protect the plaintiff's interest for violation of his rights though, however, having regard to the injury that may be suffered by the defendants by reason thereof;*
- (iii) the court while dealing with the matter ought not to ignore the factum of strength of one party's case being stronger than the other's;*
- (iv) no fixed rules or notions ought to be had in the matter of grant of injunction but on the facts and circumstances of each case — the relief being kept flexible;*
- (v) the issue is to be looked at from the point of view as to whether on refusal of the injunction the plaintiff would suffer irreparable loss and injury keeping in view the strength of the parties' case;*
- (vi) balance of convenience or inconvenience ought to be considered as an important requirement even if there is a serious question or prima-facie case in support of the grant;*
- (vii) whether the grant or refusal of injunction will adversely affect the interest of the general public which can or cannot be compensated otherwise.*



15. It can be deduced from the aforesaid judgement that, the circumstances which ought to be weighed is a suitably applicable to the aforesaid case. Further the losses that, the defendant could suffer can be compensated by suitable cost if any. The defendants have not produced any documents whatsoever to substantiate their claim. Hence at this stage of the case, if the injunction is not granted, then the plaintiffs would suffer hardship than defendants and balance of convenience also lies in favour of plaintiffs. Hence, I answer point No.2 & 3 in the Affirmative.

16. **POINT NO.4:** In view of reasons on point No.1 to 3, I proceed to pass the following,

ORDER

IA No.II U/O.39 Rule 1 and 2 of C.P.C., filed by plaintiffs is hereby allowed and defendants, their agents, servants or any persons claiming through them are hereby restrained by way of temporary injunction from encumbering the suit schedule property till disposal of suit or till further orders.

Parties to bear their respective cost.



Call on for issues by 16.04.2024.

(Dictated to the Typist, transcribed & typed by her, corrected by me and then pronounced in the open court on this the **15th day of March, 2024.**)

(Sandeep S. Reddy)

**Addl. Sr. Civil Judge & JMFC.,
Magadi.**