

KASM710001122018



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC.,
SORABA**

Dated this the 8th Day of December 2022

: PRESENT:

Sri Prabhakara Rao. B. Sc., LL.B.,(Spl.,)
Senior Civil Judge and JMFC.,
Soraba.

Original Suit 13 / 2018

Plaintiff:

V.B. Patil adopted father
Siddaramaiah Gowda

(By Sri. E.N. Adv.)

Vs.

Defendants:

1. Smt. Kushalamma (dead by Lrs.
and others.

(By Sri. MVD/GS Adv.)

Parties to I.A. XV

Applicants:
(D6 & D7)

Sri. Jagadeesh Bhadraraihgowda Tavarehalli
and Mahesh Bahdraraihgowda.

Vs.

Opponent:
(Pltf & Others)

1. Sri. V.B. Patil @ Veerabhadraiahgowda ,
Tavarehalli and others.

ORDER ON I.A. NO. XV

The defendant No.6 has filed this application under
Section 151 of C.P.C., seeking an order for investigation in

respect of removing of tiles and valuable wood in the house situated in khaneshumari No.5 of Tavarehalli village illegally.

2. In the affidavit filed with the application, the defendant No.6 has stated that he has noticed that a plan for removal of valuable wood situated in the house in khaneshumari No.5 and 6 of Tavarehalli village illegally. Therefore, he has lodged police complaint and also given complaint to the Forest Officer. He has stated that it is very much necessary to make investigation and take action against those who are making attempt to remove wood from the said houses. Further, in the affidavit, he has stated that a gang has made raid upon his house and kept him and his brothers in jail and taken away the valuable properties like golden and silver ornaments, cattle and cash of ₹ 93,000/-, T.V., mobile, agricultural equipments and valuable documents like other property records, kisan credit card and bank pass book. It is stated that in this regard, he has filed an affidavit in Execution Petition 28/2018. Therefore, for all these reasons, the defendant no. 6 has requested to make an order for investigation.

3. The counsel for the plaintiff has not filed any objections to the application.

4. Heard the argument of defendant No.6. The counsel for the plaintiff has not made any submission to this application. I have carefully perused the application and affidavit of defendant No. 6.

5. The points for my consideration are as below:

1) Whether this court can make any order as sought in the application ?

2) What Order ?

6. I have answered the above points as under:

Point No. 1 : In the Negative.

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

REASONS

7. **Point No. 1** : - The plaintiff has filed this suit for declaration that the sale deed dated 22.12.2010 in the name of defendant No.20 in respect of item No.5 and 6 of the plaint schedule is not binding upon him and also further sought for the relief of permanent injunction to restrain the defendants or anybody claiming under them from interfering with his possession and enjoyment over the suit schedule properties.

The defendant No.6 herein, has filed the written statement and denied the case of the plaintiff. Further, the defendant No.20 has also filed the written statement and denied the case of the plaintiff. This court has framed issues and now, the matter is posted for cross examination of P.W.1. At this stage, the defendant No.6 has filed this application, seeking for an order to make investigation regard to the alleged illegal removal of valid wood from the house and also in respect of theft of valuable articles and records from the house as stated in the affidavit. In the application, the defendant No.6 has clearly stated that he has already filed a police complaint and also the complaint to the Forest Officer in respect of the alleged act in the house situated in khaneshumari No.5 and 6. In my considered view, such application in this case is totally unwarranted. This court cannot pass any order in this case for making investigation as sought by the defendant No.6. I did not find any merits in the application. Accordingly, I have answered point No.1 in the Negative.

8. **Point No.2:** In view of my answer to point No.1, I proceed to pass the following:

ORDER

I. A. No. XV filed by the defendant No.6 is hereby dismissed.

No order as to the costs.

(Dictated to the stenographer, transcribed by her on the computer, corrected, signed and then pronounced by me in the open court on this the 8th Day of December 2022)

(Sri. Prabhakara Rao),
Senior Civil Judge & JMFC.,
Soraba.