



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

Dated on this the 4th day of January, 2024

PRESENT: SMT. POORNIMA .K. YADAV,

B.A.LL.B., LL.M.,

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

ORIGINAL SUIT NO. 210/2023

Plaintiff/s : 1. Bhadraiah,
S/o Late Muniyappa,
Aged about 53 years,

2. Lakshmamma,
W/o Bhadraiah,
Aged about 45 years,

Both are R/o Near Herur Farm,
Herur Village,
Kasaba Hobli,
Gubbi Taluk
(By Sri. S.C.K., Adv.)

Vs.

Defendant/s: 1. Gowramma,
W/o Late Kalaiah,
Aged about 85 years,

2. Shivanna
S/o Late Kalaiah,
Aged about 61 years,

3. Savithramma,
W/o Late Bhadraiah,
Aged about 54 years,



4. Laksmaiah
S/o Late Kalaiah,
Aged about 56 years,
5. Lalitha
W/o Late Anand
Aged about 47 years,
6. Raveesh
S/o Shivanna,
Aged about 40 years,
7. Pathraju,
S/o Shivanna
Aged about 36 years,
8. Patharaju
S/o Lakshmaiah,
Aged about 28 years,

All are R/o Herur Farm House,
Herur Village,
Kasaba Hobli,
Gubbi Taluk.

(By Sri S.B.M. Adv.)

PARTIES TO I.A.NO.I

Applicants/ Plaintiffs : Bhadriah and others

Vs.

Opponents/Defendants : Gowramma and Others



Provision under the Application	Under Order 39 Rule 1 and 2 of CPC
Application Relief sought for	Temporary injunction restraining defendants from causing interference.
The date of the application is filed	11.09.2023
Interlocutory Application Number	I
Date of objection filed by the Respondent	12.12.2023
Date of order passed	04.01.2024

Sd/-
(POORNIMA K. YADAV)
Addl. Senior Civil Judge &
JMFC, Gubbi.

ORDERS ON IA NO.I

The Plaintiffs through their counsel filed this application U/O 39 Rule 1 and 2 of CPC against the defendants restraining them from causing interference to the plaintiffs peaceful possession and enjoyment over the suit schedule property i.e.

"ಗುಬ್ಬಿ ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ ಹೇರೂರು ಗ್ರಾಮದ
ಹಳೇ ಸ.ನಂ. 43/2 ಎ ರಲ್ಲಿ ಪೋಡಾದ ಸ.ನಂ. 43/2 ಎ



1 ಒಟ್ಟು ವಿಸ್ತೀರ್ಣ 0-36 ಗುಂಟೆ ಪೈಕಿ 0-02 ಗುಂಟೆ, ಆಕಾರ 0-06 ಪೈಸೆ, ಖುಷ್ಕಿ ಜಮೀನಿನಲ್ಲಿ ಹೇರೂರು ಗ್ರಾಮ ಪಂಚಾಯ್ತಿ ಕಚೇರಿಯಲ್ಲಿ ನಮೂದಾಗಿರುವ ಅಸೆಸ್ ಮೆಂಟ್ ರಿಜಿಸ್ಟ್ರರ್ ನ (ಎ) ಹಾತೆ ನಂ. 182/191 ರಲ್ಲಿ ಭದ್ರಯ್ಯ (ವಾದಿ-1) ಬಿನ್. ಮುನಿಯಪ್ಪ ಹೆಸರಿನ ಖಾತೆಯ ಅಳತೆ 40X41 ಲೀ 40X17 ಎ,ಸಿ ಶೀಟಿನ ತಾತ್ಕಾಲಿಕ ಮನೆ ಮತ್ತು (ಬಿ) ಈ ಖಾತೆಗೆ ಲಗತ್ತು ಚಾಲ್ತಿ ಖಾ.ನಂ. 182/191/1 ರಲ್ಲಿ ಲಕ್ಷ್ಮಮ್ಮ (ವಾದಿ-2) ಕೋಂ ಭದ್ರಯ್ಯ ಹೆಸರಿನ ಖಾತೆ ಮನೆಗೆ ಲಗತ್ತು ಹಿಂದಿನ ಹಿತ್ತಲಿನ ಅಳತೆ 40X20 ಖಾಲಿ ನಿವೇಶನ, ಸ್ವತ್ತಿನ ಪಿ.ಐ.ಡಿ ಸಂಖ್ಯೆ : 150500202001200103/2022-23, ಸ್ವಾಮಿತ್ವ ಸ್ವತ್ತು ಸನ:253.

2. ಖಾತೆಯ ಒಟ್ಟು ಪೂ.ಪ 40X61 ಉ,ದ ಅಳತೆ ಚಕ್ಕುಬಂದಿಯಲ್ಲಿರುವ ಪೂರ್ವಕ್ಕೆ : ಇದೇ ಸ.ನಂ. 43/2 ಎ 2 ಚಂದ್ರು ಬಿನ್ ಚಂದ್ರಾಯಪ್ಪ ರವರ ಜಮೀನು, ಪಶ್ಚಿಮಕ್ಕೆ: ಇದೇ ಸೇ.ನಂ. 43/2 ಎ 1 ರ 0-36 ಗುಂಟೆ ಪೈಕಿ ಪ್ರತಿವಾದಿ-1 ಗೌರಮ್ಮರವರ 0-31 ಗುಂಟೆ ಜಮೀನು, ಉತ್ತರಕ್ಕೆ : ಬಿ.ಹೆಚ್. ರೋಡ್, ದಕ್ಷಿಣಕ್ಕೆ: ಇದೇ ಸ.ನಂ. 43/2 ಬಿ, ಮಂಗಳ ಬಿನ್ ನಂಜಮ್ಮ (ಛೇರ್ಮನ್ ರ ತೋಟ) ರವರ ಜಮೀನು.



2. The application is accompanied with the affidavit of the of the plaintiff No.1, wherein it is stated that, the ancestors of the defendants by name Bhadramma W/o Late Chikkanarasaiah was having the katha of house and vacant site measuring 40X61 situated in Sy. No. 42/2A measuring 2 Guntas situated at Herur Grampanchayath and there was Electicity connection by BESCOM to meter RR No.10865 and 14608 in the name of the said Smt. Bhadramma, the bills were paid by the plaintiff family members. The Katha of the house bearing No. 182/191 was transferred in the name of plaintiff No.1 on the basis of pouthi varasu after the death of the said Smt. Bhadramma. In the said property the legal heirs of Smt. Bhadramma are having katha of property No. 182/191 measuring 40X17 in the name of plaintiff No.1, katha of property No. 182/191/1 measuring 40X20 in the name of plaintiff No.2 vide PID No. 152500202001200103/2022-23. Sale deed was executed by the family members on 27.01.2023. The plaintiffs are the joint owners of the suit



schedule property. The defendant No.1 after sale of portion of land in Sy. No. 43/2 to an extent of two guntas to one Shanthamma, she got created katha pahani to an extent of 34 guntas and causing interference to the plaintiffs alleging that the suit schedule property is given on rent and the plaintiffs have failed to deposit the rent amount. Hence, sought to allow the application.

- 3.** On the other hand, the defendants through their counsel filed objection to the application and contended that the application is not maintainable and it is liable to be rejected. It is contended that the defendants have filed suit against the plaintiff in OS No. 86/2023 seeking for eviction from the suit schedule property which is still pending. The plaintiffs have got created sale deed to claim rights over the property which is given on rent to the plaintiffs. Hence, sought to reject the application.
- 4.** Heard the counsel for the plaintiffs and defendants.
- 5.** Upon hearing both the counsel and on perusal of the



materials available on record, the points that arise for my consideration are;

1. Whether the plaintiffs have made out a prima facie case in their favour?
2. Whether the plaintiffs will be put to irreparable loss?
3. Whether the balance of convenience lies in favour of the plaintiffs?
4. What Order?

6. My findings to the above points are as under:

Point No.1: In the Affirmative

Point No.2: In the Affirmative

Point No.3: In the Affirmative

Point No.4: As per the final order,
for the following:

R E A S O N S

7. **POINT NO.1 TO 3** : These points are taken up for discussion together as they are inter related to each other.

8. The plaint averments disclose that the plaintiffs filed this suit



seeking relief of Declaration of title and consequential relief of permanent injunction on the ground that Smt. Bhadramma W/o Chikkanarasaiah acquired rights over 2 guntas of land i.e. the suit schedule property on the basis of sale deed dated 09.07.1975 consisting of a house and vacant place. After the death of Smt. Bhadramma, the suit schedule property is transferred in the name of the plaintiffs on the basis of pouthi varasu to an extent of 40X17 in the name of plaintiff No.1 vide Katha No. 182/191 and to an extent of 40X20 in the name of plaintiff No.2 vide katha No. 182/191/1 under property PID No. 152500202001200103/2022-23 property No. 253 dated 27.01.2023. It is stated that the defendant No.1 purchased 33 guntas of land in Sy. No. 43/2A1 out of which she sold an extent of 2 guntas in favour of one Sharadamma thereafter the property which remained with the defendant No.1 was only 31 guntas of land but she got created katha to an extent of 34 guntas of land. As such, the defendants are causing interference to the plaintiffs possession over the suit schedule property. On the other hand the defendants in the written



statement the defendants have filed suit against the plaintiff in OS No. 86/2023 seeking for eviction from the suit schedule property which is still pending. The plaintiffs have got created sale deed to claim rights over the property which is given on rent to the plaintiffs.

- 9.** The documents produced by the plaintiff on the basis of sale deed shows their claim over the suit schedule property on the basis of sale deed. Further, the Panchayath records read with Tax paid receipts prima facie discloses the possession of the plaintiffs over the suit schedule property. That apart the defendants by contending that they have filed suit against the plaintiffs seeking relief of eviction shows that the defendants admitted about the possession of the plaintiffs over the suit schedule property, this shows that the plaintiffs can not be dispossessed from the suit schedule property without due process of law.
- 10.** The plaintiffs in this application sought for protection of their possession over the suit schedule property until disposal of



the suit. The claim set up by the defendants shows that they are claiming their rights over the suit schedule property by admitting the possession of the plaintiffs over the said property. Hence, the pleadings of the parties shows that there is dispute regarding title of the parties over the suit schedule property which requires determination by way of full fledged trial. In the said circumstances, if the temporary injunction is not granted during the adjudication of the said claim, the rights of the plaintiffs will be defeated which can not be compensated by terms of money which shows balance of convenience in favour of plaintiff than the defendants. As such, there is prima facie case, balance of convenience and irreparable injury in favour of the plaintiffs. Accordingly, Point No. 1 to 3 are answered **in the Affirmative.**

11. POINT NO.4: In view of the reasons assigned above, I proceed to pass the following;

O R D E R

*The IA No. I filed by the plaintiffs
under Order 39 Rule 1 and 2 of CPC is*



hereby allowed.

The defendants or anybody claiming through them are hereby temporarily restrained from causing interference to the plaintiffs peaceful possession and enjoyment over the suit schedule property until disposal of the suit.

Parties to bear their own costs.

(Directly dictated to the stenographer on the computer, printed through steno, corrected by me and then pronounced in the open court on this the **4th day of January, 2024**)

Sd/-

(POORNIMA. K. YADAV)

Addl. Sr. Civil Judge & JMFC,
Gubbi.