



**IN THE COURT OF THE ADDL CIVIL JUDGE AND JMFC
AT GUBBI**

Present : **Smt. Medha., P.M. B.A. LL.B.,(Hons.)**
Addl Civil Judge and J.M.F.C.,
Gubbi

Dated this 11th day of October 2023

O.S.No.304/2013

PLAINTIFF : 1. Gowramma W/o Late Rangaiah,
Aged about 62 years,
2. Narasappa S/o Late Rangaiah,
Aged about 43 years,
3. Nagaraju dead by his Lrs
3(a) Manjula W/o Late Nagaraju,
Aged about 40 years,
3(b) Narasimharaju
S/o Late Nagaraju,
Aged about 25 years,
3(c) Ranganatha S/o Late Nagaraju,
Aged about 13 years,
Minor Represented by his
mother natural guardian
Manjula Lrs No.3(a) are R/o
Oblli Village, Kasaba Hobli,
Gubbi Taluk.



4. Gopi S/o Late Rangaiah,
Aged about 37 years,
5. Kumar S/o Late Rangaiah,
Aged about 35 years,

All are R/o Oblli, Kasaba Hobli,
Gubbi Taluk.

(By Sri.V.M.G., Advocate)

V/s

- DEFENDANTS:**
1. Jayamma W/o Pandurangaiah,
Aged about 35 years,
 2. Panduragaiah S/o Late Chikkanna,
Aged about 42 years,

Both are R/o Biligere, Kasaba Hobli,
Gubbi Taluk.

(By Sri. B.V.R., Advocate)

Applicant : Gowramma

V/s

Opponent : Pandurangaiah and Jayamma



**ORDERS ON I.A. NO. 9 FILED UNDER ORDER 39 RULES 1
AND 2 CPC**

1. The plaintiffs have filed this application U/o XXXIX Rule 1 and 2 CPC seeking an order of temporary injunction against the defendants restraining them from alienating the suit schedule property in any way pending disposal of this suit. This IA has been filed at the stage of further cross examination of PW-1.

2. The plaintiffs have filed this present suit for declaration and permanent injunction. The plaintiffs contend that in this suit this court had granted an order of temporary injunction restraining them from interfering with the plaintiff's possession over the suit schedule property as per order dated 23.02.2018. But during the pendency of this suit the defendants have changed the khata of the suit schedule property to their names vide MR No.H21/2019 dated 27.02.2020 and their names have been mentioned in the RTC of the suit schedule property. Taking undue advantage of the same the defendants are trying to alienate the suit schedule property to their party. Hence, the plaintiffs have filed this application.



3. The defendants have filed objection to this application stating that the said application is not maintainable as the plaintiffs have misled the court. They further contend that the defendant No.2 has filed an appeal before Assistant Commissioner, Tumakuru in RRT(A) No.32/2013-14 with respect to the suit schedule property as it is the granted land of the grandfather of defendant No.2. The said appeal was ordered in the favour of defendant No.2. Further Sy.No.3 and Sy.No.89 are different; defendants are in possession of Sy.No.3. Therefore, the RTC of the Sy.No.3 stands in the name of defendant No.2. Therefore, prayed to dismiss the said application.

4. Heard the learned Counsel for the plaintiff and the defendants. Perused the application, affidavit, plaint and documents produced.

5. The following points arise for this court's consideration.

- 1) Whether the plaintiffs have made out a prima facie case?



2) Whether the balance of convenience lies in favour of the plaintiffs?

3) Whether the irreparable loss will be caused to the plaintiffs if temporary injunction is not granted?

4) What order?

6. This court answers the above aforesaid points 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 ::

7. Point No.1 to 3:- The plaintiffs contend that in this suit this court had granted an order of temporary injunction restraining them from interfering with the plaintiff's possession over the suit schedule property as per order dated 23.02.2018. But during the pendency of this suit the defendants have changed the khata of the suit schedule property to their names vide MR No.H21/2019 dated 27.02.2020 and their names have been mentioned in the RTC of the suit schedule property.



Taking undue advantage of the same the defendants are trying to alienate the suit schedule property to their party. The defendants contend that the defendant No.2 has filed an appeal before Assistant Commissioner, Tumakuru in RRT(A) No.32/2013-14 with respect to the suit schedule property as it is the granted land of the grandfather of defendant No.2. The said appeal was ordered in the favour of defendant No.2.

8. The plaintiffs have produced the RTC of the year 2020-2021 which show that it stands in the name of defendant No.2 as per the MR No.H21/2019. The said MR No.H21/2019 is also produced. Further, the defendants have filed documents such as the order of Assistant Commissioner, Tumakuru in RRT(A) No.32/2013-14, survey sketches, MR of Sy.No.89 and RTCs.

9. As pointed out by the plaintiff the RTC of the year 2020-2021 which show that it stands in the name of defendant No.2 as per the MR No.H21/2019, it is immaterial as to how the said change as happened, it has been effected during the pendency of the suit. Further the contentions taken by the defendants regarding the ownership of the suit schedule property is the matter for the trial. At this stage as the case has been pending



for over 7 years it is necessary to preserve the property until the disposal of the suit or else it might lead to the multiplicity of proceedings.

10. The plaintiffs have established prima facie case to grant temporary injunction and irreparable injury will be caused to them if the application is rejected. Whereas the defendants have not established their contention as to how the ad-interim temporary injunction is causing them irreparable injury. The plaintiffs have prima facie established all the necessary conditions for the grant of ad-interim temporary injunction. **Hence, this court answers point No.1 to 3 in the Affirmative.**

11. Point No.4:- As per following:-

ORDER

The IA No. 9 filed U/o XXXIX Rule 1 and 2 CPC filed by the plaintiffs is hereby allowed on cost of Rs.300/-.

The defendants are hereby restrained from alienating the suit schedule property in any way pending disposal of this 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 11th day of October 2023.

**Addl. Civil Judge and JMFC.,
Gubbi.**