

KATK510035262024



**IN THE COURT OF PRL.CIVIL JUDGE & JMFC,
KUNIGAL**

-:PRESENT:-

Smt. Sujatha A.B. B.A.L, LL.B.
Prl Civil Judge & JMFC., Kunigal.

DATED THIS THE 5TH DAY OF JULY 2025

O.S. No.637/2024

Plaintiff-

Smt.Kamala.L
(By Sri.CLV., Advocate)

AND:

Defendants-

Sri. H.R.Rajesha and others
(D-1 by Sri. NVG., Advocate)
D-2 & 3 by Sri.YRH Advocate)

I.	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2 of CPC
II.	Relief sought for	To grant an exparte ad-interim order of temporary injunction order against defendants
III.	The date on which the application is filed	14.10.2024

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IV.	Number of the application	I
V.	The date on which the objections are filed by	29.04.2024.
VI.	The date on which the order were passed on the said application	05.07.2025

RANKS OF THE PARTIES IN IA No.I

Applicant/Plaintiff-

Sri. Gangarangaiah

Vs.

Opponent/Defendants-

Sri. Guddaiah

ORDERS ON I.A.No.I

IA.No.I is filed by the applicant/plaintiff under Order XXXIX Rule 1 and 2 of CPC, to pass an ad-interim order of temporary injunction against defendants, their agent, servants, attorneys or anybody acting on their behalf from interfering with the peaceful possession and enjoyment of the suit schedule property in any manner pending disposal of the suit.



2. In the affidavit annexed with the application. The plaintiff contended that she has acquired suit item No.1 through registered sale deed dated 06.09.2023 from its lawful owner by name Lakshmana S/o Rajanna for a valuable consideration of Rs.7,60,000/- and she acquired suit item No.2 registered sale deed dated 06.12.2023 from its lawful owner by name Ameen B W/o Sulthan Saab for valuable consideration of Rs.2,80,000/-. The plaintiff contended that she is in possession as absolute owner from the date of purchase and concerned Grama Panchayat authorities have mutated E-katha in her name and her vendors have valid right, title, interest in respect of suit to execute the registered sale deed. The plaintiff stated that defendants are no way concerned to the suit schedule properties as well as the family of the plaintiff. The



defendants not have any sort of right, title, interest muchless possession of the suit schedule properties .

3. The plaintiff stated that she intended to construct residential house in the suit schedule properties, the defendants with instigation of some persons who are enimical towards plaintiff, have often making hectic efforts to obstruct her peaceful possession and enjoyment of the suit schedule properties by way of obstructing the construction work without having any sort of right over the same. The defendant No.1 having properties towards northern side of the suit schedule properties and defendant No.2 and 3 having property towards eastern side of the suit schedule item No.2 property, taking the undue advantage of the same the defendants are trying to obstruct the constructions work over the suit schedule properties. The plaintiff approached the jurisdictional police but they have



not taken any action against the defendants. Hence plaintiff constrained to file suit and prayed to allow the application.

4. In pursuance of the suit summons defendant No.1 to 3 have appeared through their counsel but defendant No.1 has not chosen to file objection to above application. The defendant No.2 and 3 have filed their written statement and same is adopted as objection by them. In the written statement defendant No.2 and 3 have denied the plaint averments and denied the possession of plaintiff as well as their vendors. According to defendants, defendant No.2 and 3 have purchased the written statement item No.1 registered sale deed dated 09.08.2017 executed by the B.R.Prakash and others with respect to property no.1551/08 measuring East-West 9.144 mts and North-South 9.14 mts situated at Huliurdurga village Kunigal taluk and said Prakash and others having absolute right,



title over the same and they conveyed absolute right, title, interest and possession to the defendant No.2 and 3 with respect to property referred in the said sale deed. Accordingly the said B.R. Prakasha and others and his family members are jointly executed a sale deed in favour of defendants for valuable consideration of Rs. 1,55,000/- .

5. Defendants further contended that property bearing Katha no.473 measuring East-West 40ft and North-South 30 ft, situated at shrungarasagar village Huliurdurga Hobli, Kunigal taluk originally belongs to halevoor gram panchayath halevoor. Defendants stated that defendant No.2 is an unauthorized occupant and put up a AC sheet roofed house within the said portion and residing in the said house along with her family since 2000. Thereafter Halevoor gram panchayath had granted the same in her favour and katha accepted in her favour. Accordingly



defendant no.2 has acquired absolute right, title and possession over the same. The defendant stated that plaintiff having knowledge about above facts. But she has suppressed material facts and filed false suit to harass them and filed false suit by giving wrong boundaries. The defendants stated that suit schedule properties is not in existence. Plaintiff and her vendors have created sale deed and other documents without their being possession. Among these grounds they prayed to dismiss the application.

6. Heard arguments from both sides.

7. The points that would arise for my consideration

are:-

(1) Whether the plaintiff has made out a prima facie case to grant temporary injunction as sought?



(2) Is the balance of convenience lies in favour of plaintiff?

(3) Whether the plaintiff will be put to irreparable loss and injury in the event of refusal of temporary injunction sought?

(4) What order?

8. My findings on the above Points are as follows:

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative

*Point No.4 : As per final orders
For the following:*

REASONS

9. Point No.1:- Admittedly plaintiff has filed this suit for the relief of permanent injunction. According to the plaintiff she has purchased the suit item No.1 and 2 from her vendors respectively to support her contentions the plaintiff has produced E-katha in respect of suit schedule



properties and also sale deed dated 20.09.2023 and 06.12.2023. On perusal of above documents it appears that plaintiff claimed the right, title and possession over the suit schedule properties based on sale deeds executed by Lakshmana and Ameena B respectively. Further the plaintiff has also produced photocopy of E-katha of suit item No.1 and 2 and in the same Lakshmana and Ameena B name are appearing respectively in respect of suit schedule properties. Again plaintiff has also produced photo copy of sale deeds which were executed in favour of vendors of plaintiff i.e. Lakshmana and Ameena B. Wherein it is seen that sale deed pertains to schedule no.1 property was being executed by one Toufeeq Khan and others in the year of 2017. Again sale deed pertains to schedule no.2 was executed by one Mukbal Ahmad in the year 2009.



10. It is further noted that plaintiff has also produced photo copy of Hakku pathra which was issued in the name of Sridhar & Mukbal Ahmad w.r.t to item no.1 & 2 respectively and same shows that said property is basically given from Ashraya Scheme. Again it is noted that plaintiff has also produced sale deed dated 08.06.2009 which was executed by Sridhar and also his family members in favor of one Toufeeq khan, wherein nature of the property described here as ancestral property but the documents i.e., Hakku pathra produced by the plaintiff goes to show that same was granted to one Sridhar under Ashraya scheme. So in that situation why said Sridhar had described said property as their ancestral instead of granted property is not made out.

11. Again it is important to note that the E-katha produced by the plaintiff in respect of suit schedule



properties is shown her name as owner but on careful perusal of said documents property photographs is depicted as vacant land. But plaintiff claiming an existence of red-oxide tiled house in suit item No.1, but said description is not at all mentioned in E-katha extract of suit item No.1 and plaintiff picture is not appearing in the said description. Furthermore, on perusal of sale deed of plaintiff in respect of suit item No.2 there is no mentioning of plaintiff own property towards eastern side instead of said property No.3. Though the plaintiff has produced voluminous documents i.e. demand register and electricity bill from the year 1994 which were appearing in the name of Sridhar and Toufeeq Khan, but at this stage all these documents are not sufficient to clarifying the above mentioned doubts.

12. On the other hand the defendant has produced demand extract, sale deed, E-katha and above documents



and these documents goes to show that defendant No.2 has purchased site No.8 and based on the same her name mutated in the concerned revenue documents. Further both parties have produced photographs by claiming their possession but based on the same court cannot arrive to the conclusion with regard to possession of the parties.

13. In light of above, on the basis of available documents and pleadings of either parties it is clear that when defendant no.2 & 3 have taken a contention that suit properties are not in existence and plaintiff by showing wrong boundaries have filed the false suit and application. So in that situation plaintiff had to be diligent with her documents and contentions. Unfortunately she failed to satisfy the court in that aspect. So under said circumstances application of plaintiff is making a way for more doubts at this rather than clearing the same. So on



perusal of entire documents and rival contentions of the parties in order to ascertain the exact boundaries of the suit schedule property along with plaintiff possession as well as interference by the defendant as alleged by the plaintiff requires a full fledged trial. Therefore at this stage plaintiff has not made out any prima facie case in her favour. Accordingly i answer Point no.1 in the **Negative**.

14. Point No.2 and 3:- Since these points are inter connected with each other, they are taken together for the discussion in order to avoid the repetition of the facts and circumstances.

It is further noted that when defendants clearly denying the existence of suit property and also when then burden is shifted back upon the plaintiff to disprove the said aspect of defendant. So anyway both the parties will get ample opportunities to prove their respective contentions. So in



the wake of failure in ascertaining the plaintiff property properly with clear description her claims are hard to accept and hence if present application is rejected no prejudice or harm would be caused to plaintiff side. On the other side if present application is allowed defendant might be put into inconvenience. Hence i answered **Points No.2 and 3 are in the Negative.**

15. Point No.4:- In view of the reasons assigned above, I proceed to pass the following;

ORDER

The I.A.No.1 filed by the plaintiff under Order XXXIX Rule 1 and 2 of C.P.C. is hereby rejected.

No orders as to costs.

(Dictated to the stenographer, transcribed and typed by her, corrected by me and then pronounced in the open Court, this the **5th day of July, 2025**)

(SMT. SUJATHA A.B.)
Prl. Civil Judge & JMFC, Kunigal