



**IN THE COURT OF PRL. SENIOR CIVIL JUDGE
AND JMFC., AT MADHUGIRI.**

Dated this the 12th day of January 2024

PRESENT

SMT.SHILPA.H.A.

B.A.L., LL.B.,

**Prl. Senior Civil Judge & J.M.F.C.
Madhugiri.**

O.S No.307/2022

**PLAINTIFFS: 1. Shivaramaiah
S/o Late Siddaramaiah,
Aged about 71 years,
R/o #381, 2nd cross,
Kamalanagara,
Bengaluru and Other.**

(By Sri. K.N.B., Advocate)

-Vs-

**DEFENDANTS: 1. Gangamma
W/o Late Nagarajaiah,
Aged about 66 years,
R/o Dabbeghatta village,
Dodderi Hobli,
Madhugiri Taluk,
Tumakuru District and other.**

(By Sri. A.N.G., Advocate)

**I.A.No.II/2022****APPLICANT: D.S.Lakshmana****V/s****OPPONENT: The Special Land Acquisition
Officer, KI.A.D.B upstairs,
Maruthi Complex, Beside S.I.T
Campus, B.H. road, Tumakuru.****: ORDER ON I.A.No.II:**

The plaintiffs have filed I.A.No.II under Order XXXIX Rule 1 and 2 of CPC., seeking an order of temporary injunction restraining defendant No.2, his agents, servants, or anybody claiming under him from disbursing the compensation amount with respect to suit schedule property till the disposal of the suit.

2. The Plaintiff No.2 has sworn to an affidavit in support of this I.A and contended that he has filed the suit for declaration and permanent injunction in respect of the suit schedule properties. Suit property and other properties are the ancestral properties of one Siddaramaiah who has 5 children by name



Veeragyathaiah, Shivramaiah, Nagarajaiah, Ramanna and D.S.Lakshmana and after the death of Siddaramaiah his children have got divided their family properties through unregistered panchayath parikath dated 28.12.1994 and accordingly suit schedule property has been divided equally among Shivaramaiah, Nagarajaiah, Ramanna and D.S. Lakshmana and accordingly they have got 1 acre each in Sy.No.119 which is described as the suit schedule property. The elder son of Siddaramaiah by name Veergyathaiah was not given any share in the suit schedule property. His 4th son Ramanna remained unmarried and hence his share was divided equally among Nagarajaiah and Shivaramaiah after his death. Accordingly 1st plaintiff has got right over 1.20 guntas out of 4 acres of land in suit schedule property. After the death of Nagarajaiah his wife Gangamma has got changed the khata and pahani of entire extent into her name by virtue of order passed in M.R.H.23/2015-16 by colluding with revenue officials and defendant No.1 is not having any right, title in respect of the share allotted to the plaintiffs in panchayath parikath dated 28.12.1994. Defendant



No.2 has issued preliminary notification for acquisition of suit schedule property for the formation of K.I.A.D.B and now defendant No.1 by taking advantage that the khata of suit property stands in her name she is attempting to withdraw the compensation amount from defendant No.2. Plaintiff has also approached defendant No.1 and sought her demarcation of the suit property by making separate sketch, but she has refused. Hence, plaintiff has filed the suit along with I.A.. Plaintiffs have made out prima facie case and balance of convenience lies in their favour. If temporary injunction is rejected they will be put to great hardship and injury and if the temporary injunction is granted no harm or injury will be caused to the defendants. Hence, prays to allow the application in the interest of justice and equity.

3. Defendant No.1 has filed written statement and adopted the same as objection to I.A. No.1 according to her she is the legally wedded wife of Nagarajaiah and he has acquired the suit schedule property old Sy.No.23 presently new Sy.No.119 totally measuring 4 acres under Darakasth as per the government of Karnataka, accordingly he was in actual possession



and enjoyment of the said Sy.No.119 of the suit schedule property from the date of grant. The suit schedule property is the self acquired property of her husband, accordingly mutation was accepted in his favour vide M.R.No.40/74-75. Ever since from the date of grant he was in possession and enjoyment of the same as absolute owner and after his death 1st defendant continued the possession and enjoyment of the same and khata and pahani is changed in her name. Plaintiff absolutely has no manner of right, title or possession over the suit schedule property. Since the same is acquired by 2nd defendant and preliminary notification is passed, with an intention to grab the compensation amount awarded to the 1st defendant, eventhough plaintiffs know that suit schedule property is the self acquired property of Nagarajaiah, they have concocted and created palupatti dated 28.12.1994 only for the purpose of filing this false and frivolous suit against the defendants. The 1st defendant is legally entitled for compensation amount derived to her in respect of suit schedule property. Since 1st defendant is a poor widow and just to trouble her and cause loss and



injury to her plaintiffs have filed this false suit and I.A. No.II. Hence, prays to dismiss the I.A. with cost in the interest of justice and equity.

4. Heard and perused the materials placed before me.

5. The points that arise for my consideration are as follows;

:POINTS:

1. Whether the plaintiffs have made out prima-facie case to grant temporary injunction in their favour?
 2. Whether balance of convenience lies in favour of the plaintiffs?
 3. Whether the irreparable loss or hardship will be caused to the plaintiffs, if injunction is not granted?
 4. What order?
6. My findings to the above points are as follows;

Point No.1 : In the Affirmative

Point No.2 &3 : In the Affirmative

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



:REASONS:

7. **POINT No.1:** The plaintiff has filed this suit for the relief of declaration and permanent injunction contending that plaintiff is the absolute owner to an extent of 1.20 guntas out of 4 acres of land in the suit schedule property, as per the panchayath parikath dated 28.12.1994. Since the khata stands in the name of defendant No.1 she is trying to withdraw the compensation amount deposited by the defendant No.2, hence, prays to grant an order of temporary injunction. In support of the contention of the plaintiffs they have produced RTC, copy of the unregistered partition deed, sketch, certified copy of the G-Tree. These documents goes to show that the khata of the suit schedule property stands in the name of defendant No.1 through inheritance vide M.R.H.23/2015-16. As per the unregistered partition deed dated 28.12.1994 it prima facie goes to show that there was partition between Veeragyathaiah, Shivaramaiah, Nagarajaiah, Ramanna and Lakshmana. Accordingly all of them are allotted 1 acre each in the suit schedule property. Whether there was prior partition with respect to the suit



properties and other joint family properties or not will have to be decided only after full fledged trial. Defendant No.1 has not placed any material to show that her husband is the absolute owner of the suit schedule property and after his death she has inherited the same and became the absolute owner. Since the suit schedule property is acquired by the defendant No.2 and also awarded compensation and the panchayath parikath of the year 1994 also prima facie goes to show that plaintiff was allotted share in the suit schedule properties, if defendant No.1 withdraw entire compensation and if ultimately plaintiffs succeeds in this suit then their right over the compensation will be defeated and they have to initiate separate proceedings for recovery of their share of compensation. Under such circumstances, it is just and proper to pass an interim order restraining defendant No.2 from disbursing the entire compensation amount in favour of defendant No.1 till the disposal of the suit. Accordingly, I answer **Point No.1 in the Affirmative.**



8. **POINTS No.2 & 3:** Both the points are interconnected in order to avoid repetition of facts they are taken together for discussion.

The plaintiffs have made out prima facie case in their favour, hence the balance of convenience also lies in their favour. If the temporary injunction is rejected plaintiffs will be put to irreparable loss and injury and on the other hand, if the I.A. is allowed no hardship or injury will be caused to the defendants. Accordingly, I answer **Points No.2 and 3 in the Affirmative.**

9. **POINT No.4:** For the aforesaid reasons, I pass the following;

:ORDER:

I.A No.II filed by the plaintiffs under Order XXXIX Rule 1 and 2 of CPC., is hereby allowed.

The defendant No.2, his agents, servants, or anybody claiming under him are hereby restrained by an order of temporary injunction from



**disbursing the entire compensation
amount in favour of defendant No.1
with respect to suit schedule
property till the disposal of the suit.**

No order as to cost.

(Dictated to the Stenographer transcribed, typed and
printout taken by her, corrected by me and then
pronounced in the open court on this the 12th day of
January 2024)

Sd/-

(SHILPA.H.A)

**Prl. Senior Civil Judge & JMFC.,
Madhugiri.**