

KATK610014012022



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

Dated this the 19th day of July 2023.

PRESENT

SMT.SHILPA.H.A.

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

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

O.S No.281/2022

PLAINTIFF:

**Sri. Narra Malyadari,
S/o Chinna Malakondaiah,
Aged about 55 years,
R/at #26-09-1108,
Sapthagiri colony, Mini
bypass road, Nellore-524004,
Andhrapradesh.**

(By Sri. S.R.R., Advocate)

-Vs-

**DEFENDANTS:1. Sri. Malineni Srinivasulu
Naidu,
S/o Venkateshaiah Naidu,
Aged about 58 years,
R/o #11-33-962 Venagalarao
Nagar, Kavali SPSR Nellore
District, Andrapradesh &
another.**

(By Sri. G.S.R. Advocate)

**I.A.No.I/2022****APPLICANT: Sri. Narra Malyadari****V/s****OPPONENT: Sri. Malineni Srinivasulu Naidu****ORDER ON I.A.No.I:**

The plaintiff has filed I.A.No.I under Order XXXIX Rule 1 and 2 of CPC seeking an order of temporary injunction restraining defendants and their agents, servants or anybody claiming under them from alienating the suit schedule properties in favour of anybody till the disposal of the suit.

2. The plaintiff has sworn to an affidavit in support of this I.A. and contended that, he has filed the suit against the defendants for cancellation of registered sale deed executed in respect of suit property. The plaintiff is the owner in possession and enjoyment of the suit property. Since he is residing in Andrapradesh he was not in a position to look after the suit property personally, hence he has executed



the registered GPA in favour of 1st defendant. Taking undue advantage of the said GPA without intimation and consideration, the 1st defendant got registered the sale deed dated 06.07.2015 on his behalf as GPA holder and get revenue entries in his name. On the basis of revenue documents, 1st defendant has got executed a registered gift deed dated 30.06.2021 in favour of his son i.e., 2nd defendant. In such a way defendant has created and concocted alleged sale deeds and gift deed. Now revenue documents are made out in the name of 2nd defendant. On the basis of revenue entries defendants are trying to alienate the suit property in favour of stranger and also trying to obtain loan from the bank. If the defendants are allowed to alienate the suit property plaintiff will loose valuable property. Thereafter, plaintiff has made out prima facie case. Hence, it is just and necessary to grant an order of temporary injunction. If the I.A. is rejected plaintiff will be put to much hardship and injustice. Hence, prays to allow the I.A. in the interest of justice and equity.

3. On the other hand, defendants have filed written statement and memo to adopt their written



statement as objection to I.A. No.I. Defendants have denied entire allegation made in the plaint that they created and concocted the sale deeds as well gift deed and they have further contended that the plaintiff has informed the 1st defendant that he has been in real estate business having vast experience and persuaded the 1st defendant informing that the plaintiff has already acquired several acres of lands in Madhugiri Taluk, within the close proximity of Hindupur and making arrangements to develop those properties into a residential layout by getting the necessary approvals from the authorities required and offered the 1st defendant to purchase the lands in the vicinity so that the same can be developed along with the property of the plaintiff. The plaintiff has not come to the court with clean hands, he has failed to make out prima facie case. If the temporary injunction is granted balance of convenience does not lie in his favour. On the other hand defendants have got good case on merits and balance of convenience lies in their favour. Hence, prays to dismiss the I.A. along with suit with exemplary 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 plaintiff has made out prima-facie case to grant temporary injunction in their favour?
 2. Whether balance of convenience lies in favour of the plaintiff?
 3. Whether the irreparable loss or hardship will be caused to the plaintiff, 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 the suit for declaration and to declare that he is the absolute owner in possession of the suit property and to declare that registered sale deed dated 06.07.2015 and the registered gift deed dated 30.06.2021 executed in respect of the suit property as null and void and for consequential relief directing the defendants to execute cancellation of registered GPA dated 26.03.2014 and for permanent injunction.

8. It is the case of the plaintiff that he is the owner in possession of the suit property and he had purchased the same through registered sale deed dated 19.10.2012 from its vendor one R. Srinivas and since then khatha and pahani stands in his name. Since he is residing in Andrapradesh and doing business he could not concentrate the affairs of suit property. Hence, he had executed the GPA on 26.03.2014 in favour of defendant No.1 to look after the suit property and as per the conditions shown in Para No.1 to 9 of the said GPA, but no possession was delivered to the defendant No.1, no



consideration was given to the plaintiff and market value was shown. In such a way said GPA was executed by the plaintiff in favour of 1st defendant so as to look after the suit property and got converted the same for the purpose of formation of residential sites. Thereafter defendant filed application for conversion in the name of plaintiff and obtained permission from Deputy Commissioner Tumakuru. Without intimating the plaintiff, defendant No.1 has created one registered sale deed in respect of suit property as a registered GPA and the same is void document.

9. In support of the contention of the plaintiff he has relied upon 8 documents. RTC of the suit property for the year 2022-23 stands in the name of defendant No.1 and 2. Some RTC for the year 2022-23 stands in the name of Hanumanthareddy, Ramakrishnareddy, Narayanareddy and Govindareddy. Plaintiff has produced a sale deed of undeveloped converted land dated 06.07.2015 which reads that plaintiff represented by defendant No.1 as GPA holder has sold the suit property in favour of defendant No.1 himself for sale consideration of



Rs.8,60,000/-. Plaintiff has produced notification dated 20.06.2015 issued by Addl. Deputy Commissioner stating that Sy.No.210 measuring 3.30 guntas and Sy.No.211 measuring 3.34 guntas i.e., suit property has been converted. RTC for the year 2014-15 goes to show that it stands in the name of plaintiff. Plaintiff has produced digital copy of registered gift deed dated 30.06.2021 it states that he has purchased the suit property from the plaintiff on 19.10.2012. In this regard plaintiff got issued legal notice narrating the averments of the plaint to execute a re-conveyed sale deed in respect of the suit undeveloped converted property. The defendant has given reply notice to the same by denying entire notice averments as false. Plaintiff has produced a copy of the document styled as a "Sale deed of Undeveloped Converted Land". On perusal of all these documents it prima-facie goes to show that suit schedule property stood in the name of plaintiff and he is residing in Nelluru, Andrapradesh State. He has produced the sale deed dated 06.07.2015 which prima-facie goes to show that defendant No.1 himself got executed registered sale deed on behalf of plaintiff as GPA holder in favour of himself i.e.,



defendant No.1 himself has sold the suit property as GPA holder in favour of himself. Defendants have not placed any materials in support of their contention. Since this is a suit for declaration, cancellation of sale deeds, GPA and for consequential relief of permanent injunction and khatha and pahani of the suit property also stands in the name of defendant, if he alienates the suit property during the pendency of the suit, it defeats the right of the plaintiff and leads to multiplicity of proceedings. If the plaintiff succeeds in this case by that time if the defendants have alienated the suit property which leads to multiplicity of proceedings and also causes irreparable loss and injury which cannot be compensated in terms of money. Accordingly, plaintiff has made out prima-facie case. Hence, I answer **Point No.1 in the Affirmative.**

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

The plaintiff has made out prima-facie case in his favour, hence the balance of convenience also



lies in his favour. If the temporary injunction is not granted plaintiff will be put to much irreparable loss and hardship 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.**

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

: ORDER :

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

The defendants their agents, servants or anybody claiming under them are hereby restrained by an order of temporary injunction from alienating the suit schedule property in favour of anybody in any mode or manner till the disposal of the suit.



No order as to costs.

(Dictated to the Stenographer transcribed, typed and printout taken by her, corrected by me and then pronounced in the open court on this the 19th day of July 2023)

Sd/-

(SHILPA.H.A)

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