



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC
AT MADHUGIRI**

Dated this the 22nd day of February 2022

:PRESENT:

SMT. H. SOWMYASHRI

B.A. LL.M

Prl. Civil Judge & JMFC,
Madhugiri.

O.S.No.47/2020

PLAINTIFF : Smt. Padma G.
W/o Narasimhamurthy
aged about 26 years
R/o Chowlahalli village,
I.D. Halli Hobli,
Madhugiri Taluk,
Tumakuru District.

(By Sri BNM, Advocate)

Vs/-

DEFENDANTS : 1. Nagamma
W/o Late Chikkahanumappa
aged about 70 years
2. Nagalakshamma
D/o Late Chikkahanumappa
aged about 50 years
3. Lakshminarayana
S/o Late Chikkahanumappa
aged about 45 years
4. Radhamma
W/o Lakshminarayana
aged about 40 years



5. Ramanji
S/o Late Chikkahanumappa
aged about 38 years

All are R/o Chowlahalli
village, I.D.Halli Hobli,
Madhugiri Taluk,
Tumakuru District.

(By Sri MM., Advocate)

I.A.No. I

Applicant : Smt. Padma G. Plaintiff

Vs/-

Opponents : Nagamma & others Defendants

* * *

**ORDER ON I.A.No.I FILED BY PLAINTIFF UNDER
ORDER XXXIX RULE 1 AND 2 OF C.P.C**

The present application is filed by the plaintiff seeking order of temporary injunction restraining the defendants, their agents, servants or anybody claiming under them from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, in any mode or manner till disposal of the suit.

2. In the affidavit annexed to the application, plaintiff averred to look into the plaint averments which shows that, the plaintiff has filed this suit against



defendants seeking for the relief of Permanent Injunction in respect of suit schedule property. It is her case that she is the absolute owner of the suit schedule property which she acquired under a Registered Sale Deed dated 27-08-2019. By virtue of the said deed, katha was made out in her name and since then she is in lawful possession and enjoyment of the suit schedule property. The defendants being the strangers, have no manner of right, title, interest or possession over the suit schedule property. In-spite of that they are trying to interfere with plaintiff's peaceful possession and enjoyment of the suit schedule property. Hence, she prayed to allow the application.

3. On the other hand, defendants filed detail objection stating that one late Chikkahanumappa S/o Buddappa, husband of defendant No.1 and father of defendant No.2 to 5 purchased 1¾ gunta in Sy.No.28/21 vide Registered Sale Deed dated 13-08-1975. During his lifetime he got constructed a mud roofed house in the said land bearing panchayathi katha No.65 and now the defendants have constructed another house towards eastern side of the house bearing katha No.65 in the name of defendant No.1 having katha No.70. The plaintiff



has created concocted and manipulated the sale deed dated 27-08-2019 by giving false boundaries and false katha number. The boundaries mentioned in the suit schedule belongs to the house property of defendant No.1 i.e., katha No.70. Towards western boundaries of the suit schedule property, there is house bearing katha No.65 and towards south there is house belonging to Narasimhamurthy. There is no definite identification of the suit schedule property. On these grounds, prayed for reject of the application.

4. Heard counsel for plaintiff and defendants.
Perused the records placed before the court.

5. The points that arise for my consideration is as under :

- 1) Whether plaintiff has made out prima-facie case?
- 2) If injunction is granted or refused, to whom inconvenience will be caused ?
- 3) Whether irreparable loss and injury would be caused to plaintiff in case of not granting temporary injunction ?
- 4) What Order ?



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

Point No.1 and 3 : In the Negative.

Point No.2 : To the Defendants if granted

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

R E A S O N S

7. **POINT No.1 to 3** : For the sake of convenience and to avoid repetition of facts, these points are taken together for common discussion.

8. I have already narrated the contentions of plaintiff and defendants in para No.2 and 3 respectively.

9. Coming to the documentary portion, plaintiff, in support of her contention, produced list of documents which contain; Registered Sale Deed dated 27-08-2019 executed by Smt. Nagamma, W/o late Anjappa in favour of plaintiff in respect of suit property bearing No.141. The E-katha in Form No.9 and 11E are produced and as per the same, the suit schedule property was entered in the name of plaintiff by the concerned authority. She has also produced EC which reflects the sale transaction dated 27-08-2019. The Tax paid receipt dated 22-07-



2019 shows the name of one Anjinappa S/o Buddappa from whom a sum of Rs.3,500/- was received towards Tax for the period 2019-20. On the other hand defendants have not produced any documents in support of their contentions.

10. The point to be noted here is that plaintiff has sought for main relief of Permanent Injunction restraining the defendants, their agents, servants or anybody claiming under them from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property. The interim relief claimed by the plaintiff in her application is also same. Thus the relief sought by plaintiff in the plaint as well as in this application is one and the same. If as per the prayer of plaintiff in the application, relief is granted, it would amount to granting of final relief.

11. In-order to grant order of temporary injunction, 3 essential ingredients have to be fulfilled, Prima facie case, balance of convenience and irreparable loss or injury. Prima facie case includes maintainability of the suit and probability of plaintiff succeeding in the case, i.e. entitlement for the reliefs sought. On going through



the plaint averments, the plaintiff has filed the present suit against the defendants seeking for the relief of Permanent Injunction and the relief sought in the plaint and relief sought in the application are one and the same. If temporary injunction as prayed by plaintiff is granted, it would cause irreparable loss or injury to defendants. The balance of convenience also lies in favour of defendants. Hence, I answer point No.1 and 3 in the Negative and Point No.2 as 'injury will be caused to defendants in case of granting temporary injunction'.

12. **POINT No.4** : In view of the aforesaid discussion and reasons on point No. 1 to 3, this court proceeds to pass the following :

ORDER

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

Parties to bear their own costs.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this **22nd day of February 2022**)

Sd/-
(H. Sowmyashri)
Prl. Civil Judge & JMFC,
Madhugiri.