



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

Dated this the 01st day of September 2022

PRESENT :

SRI RAGHUNATHA GOWDA K.T.

B. Com., L.L.B.

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

O.S.No.82/2022

- PLAINTIFFS :**
- 1) Sri. Lakkanna
S/o late Erappa
aged about 70 years
 - 2) Sri. Naganna
S/o late Erappa
aged about 68 years
 - 3) Smt. Rangamma
W/o Kalingappa
D/o late Erappa,
aged about 65 years
R/o Bullasandra Village,
Kotagarlahalli post,
Dodderi Hobli,
Madhugiri Taluk.
 - 4) Sri. Ranganatha
S/o late Erappa
aged about 60 years
 - 5) Smt. Rathnamma
W/o Eranna, D/o late Erappa
aged about 55 years
R/o Hanumantharayanapalya

village, Amidalagondhi post,
Madakasira Mandalam,
Madakasira Taluk,
Ananthapura District., A.P.

Plaintiffs No.1, 2 and 4 are
R/o Gampalahalli village,
Medigeshi Hobli,
Madhugiri Taluk.

(By Sri. VRR., Advocate)

Vs/-

DEFENDANTS : 1. Sri. Chinnappa
S/o Late Chikkathimmappa
aged about 60 years

2. Sri. Jayaramappa
S/o Late Chikkathimmappa
aged about 55 years

Both are R/o Pillagundlu village,
Dodderi post,
Rolla Mandalam,
Madakasira Taluk,
Ananthapura District., A.P.

(By Sri PRP., Advocate)

I.A.No. I

Applicants : Lakkanna & others

..... Plaintiffs

Vs/-

Opponents : Chinnappa & another

..... Defendants

* * *

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

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

2. In support of this application, plaintiff No.1 filed his affidavit contended that the suit schedule property belongs to Erappa, towards eastern direction of the suit schedule property Sy.No.43/1 is situated same is abutted to the suit property. As per revenue records i.e., MR.No.1/83-84 and MR.No.5/98-99 reveals the defendants name and they have no knowledge about the said entries and they have acquired the suit property under the inheritance. After the death Erappa they are in possession and enjoyment of the suit schedule property. Further they have contended that the defendants are strangers to suit property taking advantage of the neighborhood of the suit schedule property, they have created nuisance and they are interference over their peaceful possession and enjoyment of the suit schedule property. Further they have contended that they are in

possession and enjoyment of the suit property in MR.No.H14/21-22. Now the defendants caused interference over the suit property. Hence they have got prima facie case and balance of convenience lies in their favour. Hence they prayed to allow this application by way of granting temporary injunction.

3. On the other hand the defendants counsel filed a memo stated that written statement treated as objection to the said application. In the written statement the defendants have admitted that towards eastern side of the suit property the land bearing Sy.No.43/1 is situated. Further they have denied the entire contents of the plaint averments. Further they have specifically contended that originally the suit property belongs to Erappa who is grandfather of plaintiffs and he sold the suit schedule property in favour of Chikkathimmappa who is father of defendant under Registered Sale Deed dated 12-07-1967. In the sale deed the boundaries mentioned as east : land of G.R. Subramanya now it is purchased by defendant father, west : land of G.R. Subramanya now it is purchased by defendant father, North-South : land of G.R. Subramanya now it is purchased by defendant father. But in the said sale deed by oversight the survey number is wrongly mentioned as 71/1 instead of 43/2

and also extent is wrongly mentioned as 2.00 acres instead of 2 acres 29 guntas. In this regard their father so many time requested the said Erappa and his sons to execute the rectification of Registered Sale Deed in respect of survey number and extent, but they have postponing the same for one and other pretext reasons.

4. Further they have specifically contended that ever since the date of purchase, their father was in possession and enjoyment of the suit schedule property as an absolute owner, due to illiteracy he has not get katha and pahani of the suit schedule property. After death of their father they are in possession and enjoyment of the suit schedule property. Now the plaintiffs taking advantage of revenue entries, in their name they are trying to interference with their peaceful possession and enjoyment of the suit property. Hence they prays to reject the said application.

5. Heard the both counsel. Perused the I.A., affidavit, objection and records placed before the court.

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

- 1) Whether plaintiffs have 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 plaintiffs in case of not granting temporary injunction ?
- 4) What Order ?

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

Point No.1 and 3 : In the Negative.

Point No.2 : To the defendants

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

REASONS

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

9. The plaintiffs have sought for Temporary Injunction restraining defendants, their agents, servants or anybody claiming under them from interfering with their peaceful possession and enjoyment of the suit schedule property in any mode or manner, till disposal of the suit.

Description of plaint schedule property:

The agricultural land bearing Sy.No.43/2, measuring 2-29 guntas, situated at Gampalahalli Village,

Medigeshi hobli, Madhugiri Taluk, bounded by East: Land belongs to Chinnappa, West: Government road, North : Land belongs to Gampalahalli Lingappa and South : Land belongs to Jayaramappa.

10. The main contention of the plaintiffs that they are in possession and enjoyment of the suit property and they are acquired the same by way of inheritance, the defendants have no manner of right, title they are trying to interfere with their peaceful possession and enjoyment of the suit schedule property. In support of their case the plaintiffs produced the Genealogical tree, Pakka book, Karnataka Revisional Settlement Akarbandh, Patta book, Mutation register in MR.No.H14/21-22, Record of rights and MR.No.1/83-84 and MR.No.5/98-99.

11. Per contra, the defendants are very disputed the possession of the plaintiffs over the suit schedule property and they are specifically contended that they are in possession and enjoyment of the suit schedule property. In support of their contention the defendants produced the copy of sale deed dated 12-07-1967, Mutation Register, Record of rights in the year 1971 to 1976.

12. On careful perusal of the entire materials available on records, the plaintiffs filed this suit against

the defendants for relief of Declaration and Permanent Injunction. The main contention of the plaintiffs that they are in possession and enjoyment of the suit schedule property, but the defendants caused interference over the suit schedule property. At this juncture, the documents produced by the plaintiffs as per MR. No.H14/21-22 the mutation was entered in the name of plaintiffs pertaining to suit schedule property. Further the record of rights in the year 2021-22 it discloses that the plaintiffs name jointly entered into the suit schedule property. Further as per Pakka book in Sy.No.43 to extent of 2 acre 29 guntas standing in the name of father of plaintiffs. Further the record of right in the year 1986 to 2001 the father name of the plaintiffs is entered into the suit schedule property. Further the documents produced by the defendants discloses that on 12-07-1967 the father of the defendants purchase the property bearing Sy.No. 71/1 to extent of 2 acres from the father and grandfather of the plaintiffs. Further the record of rights produced by the defendants in the 1973 to 1976 the father of the defendants name was shown the cultivator column of the suit schedule property. Further at this juncture based on record of right the plaintiffs claiming possession over the suit property. Further the defendants are very disputed the possession of the plaintiffs over the suit property and

they have specifically contended that at the time of purchase the suit schedule property by oversight survey number is wrongly mentioned as 71/1 instead of 43/2 and also extent mentioned as 2 acres instead of 2.29 acres. When the defendants are very disputed the possession of the plaintiff over the suit schedule property at this juncture the plaintiffs have not produced any documents to show that they are cultivating the suit property except by producing the record of right. Further if the plaintiffs are in possession and enjoyment of the suit property certainly the plaintiffs filed the affidavit of the evidence of the neighbors land owners to show that they are in possession and enjoyment of the suit schedule property. At this juncture, the defendants are very disputed the possession and enjoyment of the suit property and the said fact it will be adjudicated at the time of full fledged of trail. At this juncture the plaintiffs failure to proves that they have got prima facie case and balance of convenience lies in their favour.

13. In-order to grant 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 plaintiffs succeeding in the case, i.e. entitlement for the reliefs sought. On going through the

plaint averments, the plaintiffs have filed the present suit against the defendants seeking for the relief of Declaration and Permanent Injunction. By pleadings and production of documents, the plaintiffs have not made out prima-facie. If temporary injunction as prayed by plaintiffs 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 refusing to grant temporary injunction'.

14. **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 plaintiffs 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 **01st day of September, 2022**)

Sd/-
(Raghunatha Gowda K.T.)
Prl. Civil Judge & JMFC,
Madhugiri.