

IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT SIRA

Dated this the 8th day of January 2021

PRESENT: Smt. ASHA K.S.

B.A. L., LL.B.,
Prl. Civil Judge & JMFC., Sira

O.S. NO. 211/2020

PLAINTIFF : Jayamma

/Vs/

DEFENDANTS : Kenchappa @ Kenchegowda
& others

IN I.A. No.2

APPLICANT : Jayamma

/Vs/

OPPONENTS : Kenchappa @ Kenchegowda
& others

Orders on I.A. No.2

The plaintiff has filed this application U/Sec. 151 CPC seeking police protection to execute the order passed on I.A. U/Or. XXXIX Rules 1 & 2 CPC.

2. In the annexed affidavit, the Applicant has sworn to an affidavit that, she has filed suit for injunction against the defendants. After considering the documents, this court

passed an ex parte order dated 03.10.2020 and restrained the defendants from interfering with the plaintiff's possession over the schedule property. Even though there is an order in favour of plaintiff, the defendants are obstructing the plaintiff to repair the house and voppar. Hence, this application filed for police protection.

3. The defendants have filed objection to the said application and contended that there are no merits in the application. The applicant filed false application to protract the proceedings. There is a dispute regarding schedule property. I.A. No.1 is not yet decided on merits. On the basis of ex parte injunction order, the plaintiff has filed this application. Hence, prays to dismiss the I.A.

4. Heard the arguments, perused the I.A. and affidavit averments.

5. The points that arise for my consideration are;

1. Whether the application filed by the plaintiff/applicant U/Sec. 151 CPC is deserves to be allowed?
2. What Order?

6. My answer to the above points are as under;

Point No.1: In the **Affirmative**,

Point No.2: **As per Final order**

For the following;

REASONS

7. POINT NO.1: The plaintiff has filed this suit against the defendants for the relief of permanent injunction. This Court passed an order U/Or. XXXIX Rule 1 & 2 CPC on 08.01.2021, after considering the documents placed by both the parties. While passing orders, court has come to conclusion that the plaintiff is in peaceful possession and enjoyment of the schedule property. To protect the plaintiff's possession, court has passed an order. If the possession of plaintiff is not protected, definitely, the defendant may dispossess the plaintiff.

8. The court has observed that, without repairing house and voppar, the plaintiff cannot reside in the said house. It is rainy season and the schedule property is old house and it requires repair. Moreover, the plaintiff is repairing her house. The defendants have no right to object

the same. In the written statement, no where contended that the defendants are the owners of house. The defendants are contending that 9 guntas of property of plaintiff's vendor deducted for forming road. But in support of this contention, they have not produced any documents. As stated above, the plaintiff is claiming right in respect of house property and not in respect of landed property.

9. The defendants are not denying the interference alleged by the plaintiff. The photos produced by the plaintiff show that, the schedule property is old house and it requires repair. If the plaintiff will repair the house, nothing will happen to the defendants. Without the assistance of police, the plaintiff's possession cannot be protect. As stated above, the court has passed an order to protect the possession of the plaintiff.

10. The documents produced by the plaintiff i.e., complaint and endorsement show that the defendants are trying to obstruct the plaintiff from repairing the house. In the absence of police help, the plaintiff's possession cannot be protected. To assist the plaintiff and to protect her property,

enforcement of order is necessary. The objections raised by the defendants can consider at the time of trial. At this stage, order passed by this court has to enforce in the interest of justice and equity. Hence, the plaintiff has made out grounds to allow the I.A. Accordingly, I answer point No.1 in the **Affirmative.**

11. POINT NO.2: For the reasons stated above, I proceed to pass the following;

ORDER

I.A. No.2 filed by the Plaintiff U/Sec.
151 CPC is hereby allowed.

The Police Inspector of
Pattanayakanahalli police station is
directed to provide police protection to the
plaintiff to repair the house and voppar in
the schedule property.

(Directly dictated to the stenographer on computer, printout taken by her, then corrected and pronounced by me in the open court on **08.01.2021**)

(ASHA K.S.)
Prl. Civil Judge & JMFC.,
Sira

