



IN THE COURT OF THE ADDL.CIVIL JUDGE AND
JMFC., Sira

Present: **Kum. Sharmila E.J.** B.A., LL.B., LL.M.,

Addl. Civil Judge & JMFC., Sira

Dated this the **28th** day of **July 2025**

Original Suit.No.426/2024

Plaintiff/s : Smt. Madhu W/o
Channegowda,
Aged about 32 years,
R/at Bramasandra Gollarahatti
Kallambella Hobli, Sira Taluk,
Tumakuru District.

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

-V/S-

Defendant/s : 1. Gangamma W/o
Late Krishnamurthy,
Aged about 56 years,

2. Muddarangaiah S/o Late
Krishnamurthy,
Aged about 30 years,

3. Somanatha S/o Late
Krishnamurthy,
Aged about 28 years,

4. Manjunatha S/o Late
Krishnamurthy,



Aged about 24 years,
All are R/at Hendore, Gowdgere Hobli,
Sira Taluk, Tumakuru District.

(By Sri. K.T.P., Advocate for Defendants)

I.A. No.II

Applicant : Smt. K.N. Madhu Plaintiff

-V/s-

Opponents : Gangamma & Others Defendants

ORDER ON IA FILED U/ORDER XXXIX RULE 1 AND 2 OF CPC

The plaintiff has filed I.A. No.II under Order 39 Rule 1 and 2 of CPC seeking a temporary injunction against the defendants, restraining them from interfering with her peaceful possession and enjoyment of the suit schedule property, pending final disposal of the suit.

2. It is averred in the affidavit annexed to the application that the suit schedule property originally formed part of Sy. No. 348/2 measuring 14 acres 29 guntas, which was allegedly, inherited by Late Krishnamurthy, the husband of defendant No. 1 and father of



the defendant Nos. 2 to 4. It is contended that Late Krishnamurthy had sold 10 acres from the said land through registered sale deeds in the years 1997 and 2000 in favour of one K.M. Ramakrishnappa and Gurulingappa. Further the said land measuring 10 acres bearing Sy, No. 348/2 was phoded as 348/3. The plaintiff claims to have purchased the said property from one Srinivasa under a registered sale deed dated 02.02.2015 and that her name is duly mutated in the revenue records. It is asserted that she has been in peaceful possession of the suit schedule property since then.

3. The plaintiff submits that the defendants have no right or interest in the suit schedule property, and that their attempts to interfere with her possession, including by filing O.S. No. 233/2023 for declaration and injunction, are unlawful. She submits that although temporary injunction was initially granted in the said suit, the Hon'ble High Court in MFA Nos. 6174/2024 and 6175/2024 set aside the said order and granted liberty to the plaintiff to seek



appropriate relief in this suit. She further submits that the defendants are trying to trespass over the suit schedule property illegally. Hence has sought to allow the application.

4. On the other hand, the defendants appeared through their counsel and have filed objections to the application stating that the plaintiff is not in possession of the suit property, and in fact, they are the ones who are in actual and lawful possession of the full extent of 14 acres 29 guntas, including the suit schedule land. They further submit that Krishnamurthy, through whom the plaintiff traces her title, had no right or authority to sell the property since it had not been inherited by him during the lifetime of his father, Late Guddappa, who died intestate, only in 2008.

5. The defendants claim that the mutation entries made in the name of Krishnamurthy and the later buyers were collusive and invalid. They also state that the sale deed made by the guardian of



minor Adithya Rishi in favour of Srinivasa (plaintiff's vendor) was against the orders passed in O.S. No. 318/2012, and contempt proceedings are said to be pending in Misc No. 9/2016 in relation to that. They further submit that the plaintiff has not approached the Court with clean hands and is not entitled to any equitable relief. Therefore, they have sought for dismissal of the application.

6. Heard both the learned counsel appearing for the plaintiff and defendants. Perused the materials on record.

7. The points that would arise for consideration of this Court are as under;

POINTS

1. Whether the plaintiff has made out prima-facie case for grant of temporary injunction as sought for?

2. Whether the balance of convenience lies in favour of the plaintiff?

3. Whether the plaintiff will be put into irreparable loss and hardship if interim application is not allowed?



4.What order?

8. The findings of this court on above Points are as under:

POINT No.1 : In the Affirmative.

POINT No.2 : In the Affirmative.

POINT No.3 : In the Affirmative.

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

REASONS

9. **Point No.1:** The present suit is filed by the plaintiff against the defendants seeking the relief of permanent injunction, restraining the defendants from interfering with her peaceful possession over the suitschedule property. It is settled principle of law that the grant of temporary injunction is a discretionary relief governed by three essential factors: (i) existence of a *prima facie* case, (ii) balance of convenience, and (iii) likelihood of *irreparable injury* if the relief is denied.

10. In the present suit, the plaintiff has averred that she is the



absolute owner and is in possession of the suit schedule property by virtue of the sale deed dated 02.02.2015 and that her name is duly mutated in the revenue records. To affirm the same the plaintiff has produced the sale deed and the RTC extracts of the suit schedule property that depict the said suit schedule property stands in the name of the plaintiff. The documents produced by the plaintiff are the revenue records which show that the plaintiff is in possession of the suit schedule property for the period 2015 to 2024.

11. Per contra the defendants contend that they are in possession of the suit schedule property and have produced certain photographs, documents pertaining to gangakalyana yojan and receipt of amount paid to krushiyanthra which are not any revenue records or title deeds. The documents produced by the defendants do not, at this stage, sufficiently rebut the plaintiff's claim of possession. Such documents alone does not establish possession or ownership. Furthermore the defendants have not denied the sale



deed of the plaintiff and revenue records. Their objections are that the said revenue records are mutated in collusion with the revenue authorities and there is a cloud over the title of the plaintiff. When that being so, the defendants contend that the plaintiff ought to have filed a suit for declaration and permanent injunction. However these contentions of the defendants require full fledged trial and are not tenable at this stage. As it is well settled principle of law that the court cannot conduct a mini trial at the time of deciding upon an application seeking temporary injunction. In view of the above discussions and based on the pleadings and materials placed by both the parties, this Court is of the considered opinion that the plaintiff has made out a prima -facie case in her favour. Accordingly this court proceeds to answer point no.1 in the **affirmative**.

12. Point No.2 and 3: As these two points are interconnected to each other, they are taken together for consideration in order to avoid repetition of facts. The second contention for grant of



temporary injunction is, that the balance of convenience must be in favour of applicant. The object of the temporary injunction is to protect the plaintiff against the injury, by violation of his right, for which he could not be adequately compensated if issues were resolved in his favour in the trial. The concept of balance of convenience requires the Court to weigh the inconvenience which is likely to be caused to either party if the interim relief is granted or refused.

13. In the present suit, the plaintiff has produced a registered sale deed dated 02.02.2015 and revenue records (RTC extracts) from 2015 to 2024. These documents prima facie indicate the plaintiff's possession. Furthermore the plaintiff has contended in her affidavit that the defendants are trying to tress pass into the suit schedule property. If the temporary injunction is denied and the defendants succeed in interfering with the plaintiff's possession, the inconvenience and prejudice to the plaintiff would be significant and



irreversible. On the other hand, granting an injunction does not deprive the defendants of any settled legal rights. Thus, the inconvenience to the plaintiff from refusal of injunction is far greater than any prejudice to the defendants by granting it. Therefore, this Court is of the considered opinion that the balance of convenience lies in favour of the plaintiff. Moreover, even if title is disputed, an injunction may be granted to protect possession unless the defendants show better title with possession. Moreover, any dispossession during the pendency of the trial would render the suit infructuous and lead to irreparable hardship. Hence for the reasons aforesaid, this court proceeds to answer point No. 2 and 3 in the **affirmative.**

14. Point No.4 :- For the aforesaid reasons this court proceeds to pass the following;

ORDER:

The I.A.No.II filed by the plaintiffs



under Order XXXIX Rule 1 and 2 of CPC
is hereby allowed.

The defendants, their men, agents,
servants or anybody acting on their
behalf are hereby restrained by way of
temporary injunction from interfering
with the plaintiff's peaceful possession
and enjoyment of the suit schedule
property pending adjudication of the
instant suit.

No order as to costs.

(Dictation given to the Stenographer, transcribed and computerised by her, then corrected, print
out taken, signed by me and pronounced in the open court on this the **28th** day of **July 2025**)

(Sharmila E.J.)
Addl. Civil Judge & JMFC.,
Sira.