

KATK810049372022



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

Dated this the 23rd Day of October 2025

PRESENT: NARASIMHAMURTHY.A
B.A.,LL.B.,
Prl. Civil Judge & JMFC., Sira.

O.S. No.435/2022

PLAINTIFF: Thimmanna S/o Late Appanna,
 Aged about 65 years,
 Represented by his SPA holder
 Girish H. R. S/o Ramanna and both of
 them are agriculturists,
 R/o Halenahalli village,
 Kallambella Hobli, Sira Taluk,
 Tumakuru District.

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

/Vs/

DEFENDANTS: 1. The Panchayath Development Officer
 Halenahalli Gramapanchayath,
 Halenahalli, Kallambella Holi,
 Sira Taluk, Tumakuru District and
 others.

(By Sri. H.G.P., Advocate for D.3 to 5)

:I.A.No.II/2022

APPLICANT : Thimmanna by his SPA holder
Girish H.R.

V/s

OPPONENTS : The Panchayath Development
Officer Halenahalli Grama
panchayath and Others.

: ORDER ON I.A.No.II:

The plaintiff has filed the application under Order XXXIX Rule 1 and 2 of CPC, seeking prayer to restrain the defendant No.1 and 2 from distributing the sites by any means and ways till disposal of the suit.

2. In the accompanying affidavit of the interim application, plaintiff has averred that the land bearing Sy.No.17 totally measuring 10.07 guntas of Halenahalli village, Kallambella Hobli, Sira Taluk, belongs to the government. The plaintiff and his family is cultivating the very small portion of the land in the above said survey number. The plaintiff further submitted that he is the sub fragmented holder of the land and as such in order to meet the necessities of life of himself

as well as his family he is cultivating the suit schedule property.

2a. The plaintiff further submitted that he is in physical possession and enjoyment over the suit schedule property since time immemorial by raising crops and paying kadayam with respect to suit schedule property. When the plaintiff was cultivating the suit schedule property, defendant No.1 came and warned the plaintiff to not to cultivate the suit schedule property, as the 1st defendant has decided to form layout and distribute the sites to the houseless people in the above said survey number. After the incident, plaintiff with the help of educated person came to know that various orders passed by the defendants in respect of suit schedule property. The plaintiff further submitted that he is a poor landless farmer, only the suit schedule property there is no other land belongs to the plaintiff. The plaintiff is in peaceful possession and enjoyment of the suit schedule property continuously without any interruption. The defendants are illegally trying to dispossess the plaintiff from the suit schedule property. The revenue records of the suit schedule property was also standing in the name of plaintiff. In order to restrain the illegal act of the defendants, the plaintiff has

come up with this application. Hence, prayed to allow the application.

3. Per contra, defendant No.1 has appeared through his counsel and filed objection to the present application. Wherein it is contended that the land bearing Sy.No.17 measuring 10.07 guntas of Halenahalli village, Kallambella Hobli, Sira Taluk is originally belongs to the state government. On the Southern side 7.17 guntas portion of the land has formed residential sites and distribute the free sites under Ashraya Scheme on 26.01.1992 by issuing Hakkupathra to the beneficiaries. Subsequently defendant No.1 has made khata of the respective sites in the name of beneficiaries. Accordingly, said beneficiaries are in peaceful possession and enjoyment of the sites by constructing residential house. The Deputy Commissioner, Tumakuru has granted the remaining land 2.30 guntas of land in the said survey number for residential purpose vide Order No.ALND (Sira):CR:344/2016-17, dated 15.05.2017 and handed over the vacant possession by effecting khata in favour of defendant No.2 for the purpose of distributing free sites to houseless people under Ashraya scheme. Town and Rural

housing planning authority has approved the layout plan. Accordingly, defendant No.1 and 2 are in peaceful possession and enjoyment of 2.30 guntas of land in Sy.No.17 of Halenahalli village, Kallambella Hobli, Sira Taluk.

3a. Defendant No.1 further submitted that plaintiff is not having any manner of right, title or possession over the land bearing Sy.No.17 of Halenahalli village, Kallambella Hobli Sira Taluk. The plaintiff was under the influence of local politicians with an intention to hurdle the government social welfare programme has filed this false application. The defendants are the government officers and they are implementing the social welfare scheme on behalf of government for providing own shelters to the poor and houseless persons of Halenahalli village. Hence, prayed to dismiss the application.

4. Heard and perused the materials placed before me.

5. The points that arise for my consideration are as follows;

1. Whether the applicant/plaintiff has made out a prima-facie case for the grant of TI as prayed?

2. Whether the balance of convenience lies in favour of Plaintiff?
 3. Whether irreparable loss would be caused to the plaintiff/applicant, if the instant interlocutory application is not allowed?
 4. What Order?
6. My findings to the above points are as follows;

POINTS No.1-3: In the Affirmative

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

REASONS

7. **POINTS No.1 TO 3:** These points are taken together for common discussions and to avoid the repetition of facts.

It is made clear that, at this stage only whatever observation made below and opinion expressed are only for the purpose of disposal of this I.A. These observations shall not carry any weigh in the final disposal of this case.

8. The learned counsel for plaintiff argued that the plaintiff is in peaceful possession and enjoyment of the suit schedule property since time immemorial. The revenue documents of

the suit schedule property are also standing in the name of plaintiff and he is also paying tax to the revenue authorities in respect of suit schedule property. Defendants illegally trying to dispossess the plaintiff from the suit schedule property. Hence, prayed to allow the application.

9. The learned counsel for defendants argued that defendants are government officials and they are acting on behalf of the government and they are discharging their duties by allotting sites in the suit schedule property to poor and houseless people as per the order of the District Magistrate, Tumakuru. The plaintiff has no right over the suit schedule property. In spite of it, taking undue advantage of the revenue documents standing in the name of plaintiff is trying to grab the suit schedule property. Hence, prayed to reject the application.

10. Heard the arguments of both the counsels and perused available materials on record. In order to prove the contention of the plaintiff, he has produced RTC in respect of Sy.No.17 of Halenahalli village. On carefully perusal of the same, the revenue officials had issued the RTC in respect of suit schedule property in favour of plaintiff. Accordingly,

plaintiff has paid tax to the revenue officers in respect of suit schedule property. As contended by the defendants the land of 2.30 guntas in Sy.No.17 of Halenahalli village is granted in favour of defendant No.1 and 2 for the purpose of formation of sites to the poor people. In order to prove the same defendant No.1 and 2 have produced revenue documents. There is conflict that the RTCs in respect of suit schedule property standing in the name of plaintiff as well as defendant No.1 and 2. In order to decide the controversy between the parties it needs full fledged trial. At this stage, this court cannot hold mini trial to decide the rights of the parties. The parties are at liberty to get their rights by leading oral and documentary evidence. Accordingly plaintiff has shown prima facie.

11. The materials available before this court, at this stage prompts this court to adopt halt and proceed approach. While considering the relief sought by the plaintiff in the instant application as per the settled principle of law that, one who seeks description relief of Injunction must come to the court with clean hands. The plaintiff has approached this court with valid grounds. Thus, the law is clear that the possession of the suit schedule property is main

consideration while considering the application under Order 39 Rule 1 and 2 of CPC. At this stage, it is imperative on this court to hold that the plaintiff has made out prima-facie case which is sufficient to grant the discretionary relief of T.I.

12. In so far as, the hardship is concerned from the facts and circumstances of case on hand, it appears that the plaintiff will be put to greater hardship if T.I. is not granted. If T.I. is not granted, then there will be chances of another flank of litigation being opened up between the parties, which may result in unnecessary burden on plaintiff. On the other hand, if the relief of Injunction is granted, no hardship will be caused to the defendants. Hence, looking from any angle the comparative hardship is more on the plaintiff rather than the defendant. Likewise the balance of convenience also lies in favour of plaintiff.

13. From the above discussion, it is quite obvious that the plaintiff has made out prima-facie case for the grant of T.I. as prayed and also to prove other two statutory ingredients. Accordingly, this court answered **Points No.1 to 3 in the Affirmative.**

14. **POINT No.4:** Since the plaintiff has made out the prima-facie case on proving hardship and balance of convenience, plaintiff is entitle to discretionary on equitable relief of T.I. as prayed. Hence, for the reasons this court proceed to pass the following:

ORDER

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

Defendant No.1 and 2 are hereby restrained from distributing the sites by any means and ways till disposal of the suit.

No order as to cost.

(On my dictation transcribed and typed by the stenographer printout taken by her, then corrected and pronounced by me in the open court on 23rd Day of October 2025)

Sd/-
(NARASIMHAMURTHY .A)
Prl. Civil Judge and J.M.F.C.,
Sira.