

KATK810028822024



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

Dated this the 14th Day of October 2025

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

O.S. No.365/2024

PLAINTIFF: Manjunatha .E. S/o Late Eranna,
 Aged about 58 years,
 R/at Kamagondanahalli village,
 Gowdagere Hobli, Sira Taluk,
 Tumakuru District.

(By Sri. B.J.R., Advocate)

/Vs/

DEFENDANTS: 1. Mylarappa S/o Late Doddalingappa,
 Aged about 75 years,
 R/at Kamagondanahalli village,
 Gowdagere Hobli, Sira Taluk,
 Tumakuru District and others.

(By Sri. K.U., Advocate)

:I.A.No.I/2024**APPLICANT** : Manjunatha .E.**V/s****OPPONENTS** : Mylarappa and others**: ORDER ON I.A.No.I:**

The plaintiff has filed an application under Order XXXIX Rule 1 and 2 of CPC., praying to restrain defendant No.3 or her agents, servants or anybody acting on her behalf from not to put up further construction in the suit schedule property till disposal of the suit.

2. In the accompanying affidavit of the interim application, plaintiff has averred that plaintiff is the absolute owner in peaceful possession and enjoyment of the suit schedule property. Originally, the suit schedule property is the ancestral property of plaintiff. The grandfather of plaintiff by name Goragundappanavara Linganna has acquired the suit schedule property under unauthorized occupation. On the basis of unauthorized occupation the panchayath of Kamagondanahalli village has collected taxes from the unauthorized occupants and issued Hakkupathra in favour of Goragundappanavara Linganna. As per the Hakkupathra the gramapanchayath was accepted the khata of the suit

schedule property in favour of grandfather of plaintiff. During the life time of grandfather of plaintiff he was in possession and enjoyment of the suit schedule property. After his death, the plaintiff is in peaceful possession and enjoyment of the suit schedule property as the legal heir of Goragundappanavara Linganna.

2a. The plaintiff further submitted that defendants without having any right over the suit schedule property they have unauthorizedly interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property. The defendants in collusion with revenue officials have created some documents in respect of suit schedule property in their names. By taking undue advantage of revenue documents standing in the name of defendants they are trying to construct building in the suit schedule property, in order to defraud the rights of the plaintiff. When the plaintiff questioned the same towards the defendants they have denied the request of plaintiff. Hence, plaintiff come up with this application and prays to allow this application.

3. Per contra the defendants have appeared and filed objection wherein they have contended that one Late Linganna was the propositor of both the families of plaintiff and defendants. After the death of said propositor, the 1st son

by name Goruvagundappa was managing the joint family of plaintiffs and defendants. The said Goruvagundappanavara Lingappa and his brother Aytharappa have divided their family properties on 01.07.1970 and they are in peaceful possession and enjoyment of their respective shares. According to the partition land bearing Sy.No.149 measuring 2.07 guntas and land bearing Sy.No.150/1 measuring 1.10 guntas and land bearing Sy.No.124 measuring 21.29 guntas of Kamagondanahalli village have fallen to the share Eranna S/o Goruvagundappa who is the father of plaintiff and land bearing Sy.No.1 measuring 2.11 guntas, land bearing Sy.No.125 measuring 25.11 guntas of Kamagondanahalli village was fallen to the share of Goruvagundappanavara Lingappa. After the death of elders of plaintiff and defendants No.1 to 4 the revenue documents have been mutated on the basis of Pavathi varasu. Subsequently plaintiff and defendants are enjoying their share properties.

3a. Defendants further submitted that plaintiff is a BA graduate and he is an intelligent, skilled worldly knowledge person has secretly colluded with some of the strangers created a false G-Tree by saying that defendants are strangers to the family of plaintiff and filed the suit in O.S.109/2018 and O.S.263/2022 before Hon'ble Senior Civil

Judge, Sira in order to knock off the properties of defendants. The 4th son of Goruvagundappanavara Lingappa by name Aytharappa has sold the share in the suit schedule property in favour of defendant No.1 by name Mylarappa along with his family members under registered sale deed dated 07.01.2022. Accordingly khata has been transferred into the names of defendants and the defendants have obtained license from the concerned authority and constructed the building in the suit schedule property. Since the plaintiff has no right and possession over the suit schedule property. In spite of it, in order to grab the property of defendants plaintiff has filed this false application. The plaintiff has not come to the court with clean hands. Hence, prays to reject 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 applicant/plaintiff, 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 Negative

**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 counsel for plaintiff argued that the suit schedule property was the ancestral property of plaintiff and plaintiff is in peaceful possession and enjoyment over the suit schedule property. The defendants in collusion of revenue officials have created false documents in respect of suit schedule property and trying to construct the building in the suit schedule property in order to defraud the rights of plaintiff. Hence, prayed to allow the application.

9. The counsel for defendants argued that defendants have purchased the suit schedule property under registered sale deed dated 07.01.2022 and they have obtained license from the survey authority in order to build house in the suit schedule property. The plaintiff has no right over the suit schedule property inspite of it, in order to harass the defendants he has filed this application. Hence, prays to reject the application.

10. In the present application the plaintiff has seriously alleged that suit schedule property was the ancestral property of plaintiff and presently the plaintiff is in peaceful possession and enjoyment of the suit schedule property. In order to substantiate the same, the plaintiff has filed documentary evidence and on perusal of the same it is clear that suit schedule property presently standing in the names of defendants. As contended by the plaintiff that the suit schedule property was the ancestral property of plaintiff, he has not produced any supportive documents to prove that it was the ancestral property of plaintiff. Thereafter the plaintiff has stated that after the death of their ancestors, plaintiff is in peaceful possession and enjoyment of the suit schedule property. In order to prove the same the plaintiff has not produced any relevant documents issued by the concerned

authority to prove the possession and enjoyment of the plaintiff over the suit schedule property. Further, the plaintiff has relied on photos in respect of suit schedule property and on careful perusal of the same, a building has been already constructed in the suit schedule property. Accordingly the application filed by the plaintiff is in belated stage. Moreover, the plaintiff has not produced any relevant document to prove that he is in possession and enjoyment of the suit schedule property. In the absence of same, the version of plaintiff is not believable. Accordingly, plaintiff has utterly failed to show primaface. Therefore, plaintiff has not made out any grounds to allow the application. The materials available before this court, at this stage it is imperative on this court to hold that plaintiff has not made out prima-facie case which is suffice to grant the discretionary relief of temporary injunction.

11. In so far, as the hardship is concerned, from the facts and circumstances of the case on hand, it appears that defendants will be put to greater hardship, if the T.I. is granted. Hence, looking into any angle the comparative hardship is more on defendants rather than the plaintiff. Likewise the balance of convenience also lies in favour of defendants.

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

13. **POINT No.4:** Since the plaintiff has failed to make out the prima-facie case and failed to prove hardship and balance of convenience, he is not entitled to discretionary and equitable relief of T.I. as prayed. Hence, for the aforesaid reasons, I proceed to pass following:

ORDER

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

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 14th Day of October 2025)

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