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**IN THE COURT OF CIVIL JUDGE & JMFC, HALIYAL
AT: HALIYAL, UTTARA KANNADA**

DATED THIS THE 3rd DAY OF MAY, 2025

**PRESENT:- DESHABHUSHAN KOUJALAGI,
B.A.,LL.B
Civil Judge and J.M.F.C., Haliyal**

O.S. No.64/2023

**BETWEEN : 01. SRI. PARASHURAM CHANNAPPA
SHAPURKAR.**

...PLAINTIFF

AND : 01. SMT. PARVATI W/O SOMNING PAKARI.

...DEFENDANT

PARTIES TO I.A NO.IV

**BETWEEN : 01. SRI. PARASHURAM CHANNAPPA
SHAPURKAR.**

...APPLICANT/ PLAINTIFF

(By: Sri. P.B.A, Adv.)

AND : 01. SMT. PARVATI W/O SOMNING PAKARI.

...OPPONENT/ DEFENDANT

(By Sri. CVN/SLS/WJS/PNM, Advs.)

ORDERS ON I.A. NO.IV

The present application is filed by the plaintiff against the defendant under Order 39 Rule 1 and 2 R/w Section 151 of C.P.C., to restrain the defendant or anybody acting on her behalf from interfering in the payment of property tax, water tax and electricity charges in respect of suit property and enjoyment of water supply from TMC, Haliyal and electricity supply from HESCOM, Haliyal till final disposal of the suit.

2. An affidavit is annexed with the instant application wherein, the plaintiff has stated that, maternal grandfather of the plaintiff by name late Sri. Channappa was the native of Shahapur of Belagavi City and he had come to Haliyal for coolie work and as such, he was called by surname Shapurkar. Smt. Ningavva and Sri. Muganna Shapurkar are the parents of the plaintiff. One Sri. Kallavva W/o Channappa Shapurkar is the maternal grandmother of the plaintiff. All of them were residing together in the suit property and records of the suit property were standing together in the name of mother, grandmother and two sisters of the plaintiff.

3. It is further stated in the affidavit that, maternal grandmother of the plaintiff was residing in the suit property by constructing a

residential house in the land belonging to TMC, Haliyal and later on, the TMC, Haliyal has executed a registered sale deed in her favour on 02.01.1986 and the original sale deed is with the plaintiff. The grandmother of the plaintiff has expired when the plaintiff was a small child and as such, his maternal grandmother has adopted him as son and later on, she has bequeathed the suit property in favour of the plaintiff as per registered gift deed dated 30.08.1990 and accordingly, the plaintiff is in physical possession, wahiwat and enjoyment of the suit property. The plaintiff is paying property tax, electricity charges and water charges to the concerned authorities. The natural father and mother of the plaintiff were also residing with the plaintiff till their death. Now, the plaintiff and his family are in possession and enjoyment of the same.

4. It is further stated in the affidavit that, the name of the plaintiff is recorded in his school records with the name of his adoptive father Channappa but, surname is wrongly mentioned as Kapurkar and he has recently got corrected the said surname as Shapurkar in the school records and also in ration card, voter's ID etc., This being the position, the defendant who hails from Gundolli Village is permanently residing with her husband at native place of her husband i.e., at Chibbalgeri and she is

not at all relating to the suit property. However, she has got recorded her name to the concerned CTS records of the suit property on 08.05.1995 on the basis of alleged Will dated 21.07.1994 which is stated to have been executed by the adoptive mother of the plaintiff. The said Will is bogus document. On the basis of CTS records, the defendant has deliberately created encumbrance over the suit property even though she is not in possession of the suit property and she is falsely claiming as owner of the same.

5. It is further stated in the affidavit that, the defendant intends to evict the plaintiff from the suit property and as such, she had filed O.S No.171/2007 against the plaintiff herein for the relief of permanent injunction. The plaintiff herein has contested the said suit and after full fledged trial, the said suit was dismissed on 17.02.2008. Against the same, the defendant herein has not preferred any appeal and it has attained finality and till today, the plaintiff is in possession and enjoyment of the suit property.

6. It is further stated in the affidavit that, the defendant is misusing the CTS and municipal records of the suit property and also trying to alienate the suit property to deprive the rights of the plaintiff.

This Court has already granted interim order on I.A No.I against the defendant from alienating the suit property and evidence is already commenced. The defendant is seeking adjournments for cross-examination of PW.1 with an intention to cause inconvenience to the plaintiff. In this regard, she has colluded with TMC, Haliyal and got mutated her name in the water bills of the suit property. In this regard, the plaintiff has submitted a representation to TMC, Haliyal on 02.08.2024. The defendant is intending to create documents in her name with an intention to evict the plaintiff from the suit property. The defendant has also mutated her name in the electricity documents with active collusion of HESCOM. In this regard, the plaintiff has issued notice to HESCOM on 13.12.2024. Thereafter, the plaintiff came to know that, the defendant has submitted an application to HESCOM, Haliyal on 16.12.2024 to transfer the electricity connection in her name. As such, the plaintiff has moved another application to HESCOM, Haliyal on 23.12.2024 to not to make any changes. In this manner, the defendant is attempting to create documents in her name and causing disturbance and as such, the plaintiff has filed the present application.

7. On the other hand, the defendant has filed objections to the instant application wherein, she has stated that, she is the absolute owner of the suit property and she has got legal right over the suit property. The plaintiff has no right or title over the suit property and he has no right to question the act of the defendant and the plaintiff cannot restrain the defendant from payment of water tax and electricity bill to the concerned authority. It is further contended that, the plaintiff has no locus-standi to file the present application. With an oblique motive and to cause loss and inconvenience to the defendant, the present application is filed by the plaintiff which is deserves to be rejected.

8. Heard on both side. Perused the entire materials.

9. The plaintiff in support of his case has relied upon documents such as Letter addressed by the plaintiff to the TMC, Haliyal dated 02.08.2024, Water Charges demand bill for May 2024, Water Charges demand bill for June 2024, Water Tax Paid Receipt, Letter addressed by the plaintiff to the TMC, Haliyal dated 21.09.2024, Letter addressed by the plaintiff to the HESCOM, Haliyal dated 02.08.2024, Notice from the HESCOM, Haliyal dated 17.12.2024, Electricity bill, Electricity bill paid receipt, Electricity bill for December 2024, Electricity

bill paid receipt, office copy of Letter addressed by the plaintiff to the TMC, Haliyal dated 23.12.2024, copy of Judgment in O.S No.171/2007, copy of Order-sheet in O.S No.64/2023, copy of Plaint in O.S No.64/2023, copy of Affidavit in O.S No.64/2023, copy of I.A No.1 in O.S No.64/2023 and copy of Ruled Card bearing No.701.

10. On the other hand, the defendant has not produced any documents on his behalf.

11. Having heard and perusal of the records, the following points arise for the consideration of the Court:

POINT NO.1: Whether plaintiff has made out a prima-facie case?

POINT NO.2: Whether balance of convenience lies in favour of the plaintiff?

POINT NO.3: Whether if TI is not granted, plaintiff would be put to untold hardship and irreparable loss?

POINT NO.4: What Order?

12. Findings of the Court on the 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 final order for the following:

REASONS:

13. POINT NO.1: Court has gone through the entire materials.

The present application is filed by the plaintiff for an order of temporary injunction to restrain the defendant or anybody acting on her behalf from interfering in the payment of property tax, water tax and electricity charges in respect of suit property and enjoyment of water supply from TMC, Haliyal and electricity supply from HESCOM, Haliyal till final disposal of the suit.

14. According to the plaintiff, he is the absolute owner in possession and enjoyment of the suit schedule property by virtue of registered gift deed dated 30.08.1990 which was executed by his adoptive mother-cum-maternal grandmother by name Smt. Kallavva W/o Channappa Shapurkar. It is the allegation of the plaintiff that, the defendant has got mutated her name to the records of the suit property on the basis of alleged Will dated 21.07.1994 which is stated to have been executed by adoptive mother of the plaintiff. It is further allegation of the plaintiff that, on the basis of standing of name of defendant in the records

of the suit property, she is attempting to create documents in her name with active collusion of TMC, Haliyal and HESCOM, Haliyal in respect of water connection records and electricity connection records. It is the grievance of the plaintiff that, inspite of submission of representation to the concerned authorities, the defendant has continued to create documents in her name during pendency of the suit with an intention to evict the plaintiff from the suit property.

15. So far as the aforesaid allegations are concerned, the Court has scrutinized the documents which are relied upon by the plaintiff. Admittedly, this suit is filed on 05.06.2023 and the plaintiff has already got examined himself as PW.1 and got marked at Ex.P1 to P38 documents. On perusal of the documents i.e., Ex.P10, Ex.P11 etc., it could be gathered that, prior to filing of the present suit, the electricity connection and water connection were in the name of plaintiff. It further appears from the documents produced by the plaintiff as per list dated 18-01-2025 that, during pendency of the suit, name of the defendant has been recorded in the water connection and electricity connection in respect of suit properties. The defendant has not brought to the notice of the Court that, she has got mutated her name pertaining to the electricity connection

and water connection of the suit properties during pendency of the suit. Her suit in O.S No.64/2023 against the plaintiff herein has already dismissed which was filed for permanent injunction. The plaintiff has made several representations to the concerned authorities in respect of change of records pertaining to water connection and electricity connection in respect of suit property. All these factors clearly goes to show that, the defendant is attempting to create documents during the pendency of the suit. Even exparte temporary injunction order on I.A No.I is in force. Having regard to all these aspects, Court opines that, the plaintiff has made out prima-facice case and balance of convenience lies in his favour. The defendant has not produced any documents in support of her contention. Even the defendant has not denied the allegation of the plaintiff that, she has got her name entered in the water connection and electricity connection. Hence, if the present application is rejected, the more sufferer would be the plaintiff. As such, the plaintiff has made out prima facie case and balance³ of convenience lies in his favour. Accordingly, the plaintiff is entitled for the temporary injunction as sought for. Hence, the Points No.1 to 3 are answered in the **AFFIRMATIVE**.

16. POINT NO.4: In view of the findings on Points No.1 to 3, Court proceeds to pass the following:

ORDER

I.A.No.IV filed by the plaintiff against the defendant under Order 39 Rule 1 and 2 R/w Section 151 of C.P.C is hereby allowed.

Consequently, the defendant or anybody acting on her behalf are hereby restrained temporarily from interfering in the payment of property tax, water tax and electricity charges in respect of suit property and enjoyment of water supply from TMC, Haliyal and electricity supply from HESCOM, Haliyal till final disposal of the suit.

No order as to costs.

(Dictated to the Stenographer, transcribed and typed by her, then corrected, signed and pronounced by me in the Open Court on this the *3rd day of May, 2025.*)

(DESHABHUSHAN KOUJALAGI)
Civil Judge and J.M.F.C., Haliyal

Case called out.

It is noticed that, I.A No.V is pending which is filed by the plaintiff on 18.01.2025 under Order VII Rule 14(3) R/w Section 151 of C.P.C for production of 13 documents with list. On the said date, the learned counsel for the defendant has submitted no objections to I.A No.V. In view of the same, to meet the ends of justice, I.A No.V is allowed and documents with list are taken on record.

**Civil Judge and J.M.F.C.,
Haliyal**