

KABI200000022021



**IN THE COURT OF THE CIVIL JUDGE & JMFC.,**  
**AT: HAGARIBOMMANAHALLI**

DATED THIS THE 19<sup>th</sup> DAY OF MARCH 2025

: **PRESENT:**

SRI. **SAYED MOHIUDDIN URF KHAWAJA PEERAN.**, BA. LLB.,(Spl.)  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.

**O.S.No.2/2021**

**PLAINTIFF/s :** **Bellakki Ramappa S/o Bheemavva,**  
Aged about: 65 years, Occ:Agriculturist,  
R/o Chintrapalli Village, H.B.Halli Taluk,  
Bellary District.

**Vs**

**DEFENDANT/s :** 1) **Bellakki Hanumakka D/o Bheemavva,**  
Aged about: 68 years, Occ: Agriculturist,  
R/o Chintrapalli, Vallabhapura main road,  
H.B.Halli Taluk, Ballari District.

2) **Bellakki Netravathi D/o Hanumakka,**  
Aged about: 45 years, Occ: Coolie,  
R/o Chintrapalli, Vallabhapura main road,  
H.B.Halli Taluk, Ballari District.

3) **Smt.B.P.Meenakshi W/o Pampapati**  
**D/o Bheemavva,**  
Aged about: 42 years, R/o Sandur road,  
Hosapete, Ballari District.

4) **C.Mallikarjuna S/o Hanumakka,**  
Aged about: 39 years, Occ: Coolie,  
Valmiki Bhavana, Kudligi Road, H.B.Halli,  
H.B.Halli Taluk, Ballari District.

- 5) **Bellakki Manjunatha S/o Hanumakka,**  
Aged about: 35 years, Occ: Coolie-cum-  
Agriculturist, R/o Chintrapalli,  
H.B.Halli Taluk, Ballari District.
- 6) **Kamakshi W/o not known D/o Hanumakka,**  
Aged about: 31 years, Occ: Housewife,  
R/o Chintrapalli, H.B.Halli Taluk, Ballari  
District.

**I.A.No.II**

**APPLICANT/PLAINTIFF: Bellakki Ramappa S/o Bheemavva,,**

(Rep. by Sri.**G.G.**, Advocate)

V/s

**RESPONDENTS/DEFENDANTS: Bellakki Hanumakka D/o  
Bheemavva and others,**

(Rep. by Sri.**U.K.**, Advocate)

**ORDER ON I. A. No. II**

The plaintiff has filed the IA No.II under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking the relief of temporary injunction to restrain the defendants from trespassing over the suit schedule property, dispossessing him from the suit schedule property and causing obstructions to his peaceful possession and enjoyment over the suit schedule property

bearing Sy.No.376 measuring 0.80 cents situated at Chintrapalli Village, H.B.Halli Taluk till disposal of the suit.

**2.** In the accompanying affidavit to the IA., it is stated by the plaintiff that, he is the absolute owner and in possession and enjoyment over the suit schedule property. He acquired the said property under the registered gift deed dated 09.07.1962 from his grandmother Bellakki Bheemavva W/o Dodda Hanumappa. The suit schedule property originally belongs to Dodda Hanumappa who is the elder brother of his grandfather. After his death, the said Bheemavva had succeeded to the suit schedule property and she was in peaceful possession and enjoyment of the same. She took his care as her grandson, due to love and affection the said Bheemavva had executed the registered gift deed with respect of suit schedule property along with other properties in his favour represented by mother Bheemavva D/o Sanna Hanumappa. The entries were not effected in the RORs as per the gift deed. Later on, his mother Bheemavva got changed the Khata of the said property in her name. From the year 1978-79 to 2010-11 the Khata of the suit schedule

property was stands in the name of his mother Bellakki Bheemavva. After the death of his grandmother he succeeded the suit schedule property and he is in peaceful possession and enjoyment of the same. Defendant No.1 is his elder sister, she has no right, title and interest over the suit schedule property. By taking advantage of the innocence of the plaintiff, the 1<sup>st</sup> defendant has created false partition deed dated 11.09.2011 and she applied for changing of mutation, and at that time he never signed the partition deed and mutation records. The revenue authorities have rejected the M.No.216/2010-11 dated 22.04.2011. On the basis of illegal entries she executed the registered gift deed dated 11.03.2020 in favour of defendant No.2 to 6 and got entered their names in the revenue records. Till today the plaintiff is in possession and enjoyment of the suit schedule property. Recently he came to know about the illegal transaction and he obtained the documents and he came to know about the illegal entries. By taking advantage of the entries of the revenue records the defendants are trying to trespass over the suit schedule property and trying to dispossess the plaintiff from the suit

schedule property by denying his title and they are trying to obstruct his peaceful possession and enjoyment over the same. If they succeeded in their acts, he will be put to hardship. He has made out prima facie case and balance of convenience lies in his favour. If temporary injunction order is not granted he will be put to irreparable loss and injury. If temporary injunction order is granted no injustice will be caused to the defendants. Hence he prays to allow the I.A.

**3.** To the said application the defendants have filed a memo adopting the written statement as objections to I.A.No.II. In the written statement the defendants have denied the contention of the plaintiff, and further contended that the suit schedule property is the ancestral property of the defendants. Earlier it was belongs to one Bellakki Bheemavva D/o Goorappa who is the mother of defendant No.1 as well as plaintiff. During her life time, she had entered into the family partition dated 11.09.2008 along with the defendant No.1. In the said partition suit schedule property was fallen to the share of defendant No.1. As per the partition, mutation was effected in the name of defendant NO.1 under Mutation

No.38/2011-12 dated 26.09.2011. Since then the defendant No.1 was in possession and enjoyment of the suit schedule property. Later on, she had executed the gift deed dated 11.03.2020 in favour of her children defendant No.2 to 6. As per the said gift deed M.R.No.H130/2019-2020 was effected and they are in possession and enjoyment of the suit schedule property. The plaintiff with an intention to grab the suit schedule property filed the false suit. The suit is bad for non-joinder of necessary parties and the suit is barred by law of limitation. Hence they prays to dismiss the suit as well as I.A.

**4.** Heard Both the side. Perused the records.

**5.** The following points arise for my consideration:

**1 .Whether the plaintiff has made out *prima-facie* case?**

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

**3.Whether the plaintiff will be put to irreparable loss and injury, if the order of Temporary Injunction is not granted?**

**4 .What order?**

**6.** My answers to the above points are as under:

Point No.1 : In the **NEGATIVE**

Point No.2 : In the **NEGATIVE**

Point No.3 : In the **NEGATIVE**

Point No.4 : As per final order for the  
following: -

### **R E A S O N S**

**7. Point No.1 to 3**:- As the facts involved in point No.1 to 3 are interlinked together, hence they are taken up together for common consideration.

**8.** The present suit is filed by the plaintiff against the defendants for the relief of declaration of title and permanent injunction with respect of the suit schedule property.

According to the plaintiff, he is the absolute owner and in possession and enjoyment of the suit schedule property. Originally the suit schedule property belongs to one Dodda Hanumappa who is the elder brother of his grandfather. After his death, his grandmother Bheemavva succeeded to the suit schedule property. Due to love and affection she had executed the registered gift deed dated 09.07.1962 in his favour represented by his minor guardian mother Bheemavva with respect of suit schedule property and other properties.

As per the gift deed the Khata of the suit schedule property was not effected, later on the Khata of the suit schedule property was changed in the name of mother of the plaintiff Bheemavva. From the year 1978-79 to 2010-2011 the RTC extracts of suit schedule property are stands in the name of Bellakki Bheemavva D/o Goorappa @ Sanna Hanumappa. After the death of his grandmother, the plaintiff had succeeded to the suit schedule property and he is in possession and enjoyment of the same. The defendant No.1 is the sister of the plaintiff, she has no manner of right, title and interest over the same, by creating false partition deed she got changed her name in the revenue records of the suit schedule property under MR.No.38/2011-12. On the basis of the illegal entries, the defendant No.1 had executed the registered gift deed dated 11.03.2020 in favour of her children defendant No.2 to 6. On the basis of the said illegal gift deed the Khata of the suit schedule property standing in the name of defendant No.2 to 6. He recently came to know about the said illegal transaction. The plaintiff is in possession and enjoyment of the suit schedule property. The defendants

have no manner of right, title and interest over the suit schedule property, but they are illegally trying to interfere with his peaceful possession and enjoyment over the same. Hence he has filed the present suit.

**9.** The contention of the defendants is that, the suit schedule property is the ancestral property of the plaintiff and defendant No.1. The defendant No.1 is the sister of plaintiff. During the life time of their mother Bheemavva D/o Goorappa partition was effected on 11.09.2008 between the plaintiff, defendant No.1 and their mother. In the said partition the suit schedule property was fallen to the share of defendant No.1. In the year 2011 Khata of the suit schedule property was effected in the name of defendant No.1. The defendant No.1 was in possession and enjoyment of the same. Later on she had executed the registered gift deed dated 11.03.2020 in favour of her children defendant No.2 to 6. The Khata of the suit schedule property stands in the name of defendant No.2 to 6. The defendant No.2 to 6 are in possession and enjoyment of the suit schedule property. The plaintiff with an

intention to grab the suit schedule property has filed the false suit. Hence they prays to dismiss the suit.

**10.** I have perused the documents produced by both the sides. At this stage the plaintiff has produced the copy of the gift deed dated 09.07.1962 and written copy of the same, as per the said document prima facie it appears that one Dodda Bheemavva W/o Bellakki Hanumappa executed the gift deed dated 09.07.1962 in favour of plaintiff represented by his minor guardian mother Bellakki Bheemavva with respect of suit schedule property, Sy.No.376 and house property. The plaintiff has produced the certified copies of the RTC extracts of the Sy.No.376B for the year 1978-79 to 1984-85, 1983-84 to 1987-88, 1988-89 to 1992-93, 1993-94 to 1997-98, 1998-99 to 2000-01 and 2001-02 to 2010-11, in the said documents the name of Bellakki Bheemavva D/o Goorappa is entered. The plaintiff has produced the RTC extracts of the suit schedule property from the year 2011-12 to 2018-19, in the said documents the name of defendant No.1 Bellakki Hanumavva D/o Bheemavva is entered. The plaintiff has produced the RTC extracts of the suit schedule

property for the year 2019-2020, as per the said document prima-facie it appears that the said property is stands in the name of defendant No.2 to 6, their names were effected in the said RTC extracts as per M.R.No.H130/2019-20. The plaintiff has produced the certified copies of the Encumbrance certificate, the said Encumbrance certificate discloses the transaction of gift deed dated 09.07.1962. The plaintiff has produced the certified copy of the mutation file. The plaintiff has produced the registered gift deed dated 11.03.2020, as per the said document prima facie it appears that the defendant No.1 had executed the said gift deed in favour of defendant No.2 to 6 with respect of present suit schedule property. Further the plaintiff has produced the mutation file of Mutation No.H130.

According to the plaintiff he is in possession and enjoyment of the suit schedule property, he had acquired the title over the suit schedule property under the registered gift deed dated 09.07.1962, as per the gift deed his name was not entered in the revenue records of the suit schedule property, the defendant No.1 got created the partition deed

dated 11.09.2008 and entered her name in the revenue records of the suit schedule property and later on in the year 2020 she has gifted the said property to the defendant No.2 to 6 in the year 2020. At this stage in order to prove the said fact that he is in possession and enjoyment of the suit schedule property the plaintiff has not produced any documents before the Court. The RTC extracts produced by the plaintiff as well as the defendants it clearly discloses that as on the date of filing of the suit, the suit schedule property is standing in the name of defendant No.2 to 6. As per Column No.10 of the said RTC extracts prima facie it appears that on the basis of the gift deed the name of defendant No.2 to 6 entered in the revenue records of the suit schedule property.

On the other hand in order to prove their contentions the defendants have produced the MR No.38/2011-12, as per the said mutation it appears that on the basis of the partition deed the suit schedule property was entered in the name of defendant No.1 in the year 2011. The defendants have produced the MR.No.H49/2016-17, as per the said mutation

prima facie it appears that on the basis of the sale the name of plaintiff entered with respect to the Sy.No.341/\*A/2. The defendants have produced the certified copy of MR No.H130/2019-2020, on going through the same prima facie it appears that on the basis of the gift deed executed by the defendant No.1 in favour of defendant No.2 to 6, the names of defendant No.2 to 6 are entered in the RTC extracts of the suit schedule property. The plaintiffs have produced the RTC extract of Sy.No.376/C for the year 2017-18 to 2020-21, in the said RTC extracts the name of plaintiff is entered. As per Column No.10 of the said RTC extracts the name of plaintiff is entered on the basis of MR No.H38/2011-12. Further the plaintiff has produced the copy of the registered sale deed dated 09.04.2021, on going through the same prima facie it appears that the plaintiff had executed the registered sale deed with respect of Sy.No.376C in favour of Kagal Jyothi W/o Kagal Mohan Das, in the said document there is a recitals with regard to partition as per MR No.38/2011-12. In the present case on hand the plaintiff has contended that the defendant No.1 had created the partition deed and got

effected her name in the revenue records of the suit schedule property. As per above mentioned sale deed the plaintiff has sold the property bearing Sy.No.367C, he himself clearly mentioned in the sale deed with regard to the above said partition. The said document is registered instrument it got presumptive value in the eyes of law. As stated above in the present case on hand, the plaintiff at this stage has not produced any documents before the Court to show that as on the date of filing of the suit he is in possession and enjoyment of the suit schedule property. As stated above as per the documents produced by both the parties, prima facie it appears that as on the date of filing of the suit, the suit schedule property is standing in the name of defendant No.2 to 6. The said mutation entries have got presumptive value in the eyes of law as per Sec.133 of Karnataka Land Revenue Act. The plaintiff contended that he had acquired the title over the suit schedule property on the basis of the registered gift deed of the year 1962, and he further contended that the defendant No.1 has created the partition deed. The contention of both the parties will be decided only after full

fledged trial. As per the RTC extracts of the suit schedule property prima facie it appears that the defendant No.2 to 6 are in possession and enjoyment of the suit schedule property. The plaintiff denied the partition deed of the year 2011, but in the registered sale deed dated 09-04-2024 executed by the plaintiff there is clear recitals that the plaintiff acquire the title over the above said Sy.No.376/C on the basis of partition deed dated 26.09.2011 and MR38/2011-12. On going through the same it create doubt with regard to the stands taken by the plaintiff. The doubtful case is not a prima facie case. On the basis of above reasons and discussions, I am of the opinion that the plaintiff has failed to made out prima-facie case for granting the temporary injunction. if the temporary injunction order is granted it cause injustice to the defendants. If temporary injunction order is not granted no injustice will be caused to the plaintiff. Hence I answer **Point No.1 to 3** in the **NEGATIVE**.

**11. Point No.4** :- For the aforesaid reasons and discussions made above, I proceed to pass the following:-

**ORDER**

I.A.No.II filed by the plaintiff under  
Order 39 Rule 1 & 2 R/w Sec.151 of CPC is  
hereby dismissed.

*(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and  
then pronounced in the open court on this the **19<sup>th</sup> day of MARCH 2025.**)*

**(SAYED MOHIUDDIN URF KHAWAJA PEERAN)**  
CIVIL JUDGE & JMFC., HAGARIBOMMANAHALLI.