

KABI200004162021



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

DATED THIS THE 9th DAY OF OCTOBER 2025

: **PRESENT:**

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

O.S.No.51/2021

PLAINTIFF/s : 1) **Sri.A.M.Prakash S/o A.M.Veeraiah,**
Aged about: 39 years, Occ:Agriculturist-cum
Advocate by profession, R/o Hagaribommanahalli,
H.B.Halli Taluk, Vijayanagara District.

2) **Sri.A.M.Veeraiah S/o A.M.Ajjaiah,**
Aged about: 80 years, Senior Citizen,
R/o Hagaribommanahalli, H.B.Halli Taluk,
Vijayanagara District.

Vs

DEFENDANT/s : 1) **Pataguli Nagaraj S/o Lesi Hanumavva,**
Aged about: 55 years, R/o Kurudagaddi
area, Ramanagara, H.B.Halli, H.B.Halli
Taluk, Vijayanagara District.

2) **Smt.H.M.Umadevi W/o Not known,**
Aged about: 60 years, Owner of Plot No.86,
R/o Kurudagaddi area, Ramanagara,
H.B.Halli, H.B.Halli Taluk, Vijayanagara
District.

I.A.No.II

**APPLICANTS/PLAINTIFFS: Sri.A.M.Prakash S/o A.M.Veraiah
and another.**

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

V/s

**RESPONDENTS/DEFENDANTS: Pataguli Nagaraj S/o Lesi
Hanumavva and another,**

(D1 Rep.by Sri.**P.R.**, Advocate)
(D2 Rep. by Sri.**A.C.S.**, Advocate)

ORDER ON I.A.No.II

The plaintiffs have filed the IA No.II under Order 39 Rule 1 and 2 of CPC., seeking the relief of temporary injunction to restrain the defendants from obstructing the plaintiffs peaceful possession and enjoyment over the suit schedule properties bearing Khatha No.1-546, bearing Plot No.105, measuring East-West: 33 feet, North-South:66 feet and property Khatha No.1-545, bearing Plot No.104, measuring East-West: 33 feet, North-South: 66 feet 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 No.1 that, he has purchased the suit item No.1 bearing Khata No.1-546, Plot No.105 from P.Dodda Hanumanthappa S/o Hanumavva under the registered sale deed dated 07.07.2008. The 2nd plaintiff is his father, he has also purchased the suit item No.2 bearing Khata No.1-545, Plot No.104 from P.Dodda Hanumanthappa S/o Hanumavva under the registered sale deed dated 07.07.2008, both Plots are adjacent to each other. From the date of purchase, they are in possession and enjoyment of the suit schedule properties without anybody's obstructions. They are paying taxes regularly to the concerned Grama Panchayath. After purchase they were applied for change of mutation into their names. As per the mutation proceedings dated 08.08.2008 the Khata of the suit schedule properties were changed in the name of plaintiffs. They have borrowed loan from the State Bank of India by mortgaging the suit item No.1 property Khata No.1-546. They have obtained for building construction license/permission from Gramapanchayath, Chintrapalli on 05.10.2009. After obtaining the permission/license, they have

constructed the building in the suit schedule properties and they were also constructed the compound wall to the said building. After newly establishment of Town Municipality of H.B.Halli, Form No.10 and Form No.3 have issued in the name of plaintiffs. They have leased the suit schedule properties to the Government for running a SC/ST hostel. The Deputy Director of Social Welfare officer have fixed the rent for the said hostel. The defendants have no manner of right, title and interest over the suit schedule properties, they are owning their plots towards Southern side of the suit schedule properties. The defendants taking advantage of the declaration of holidays to the students they have encroached upon the suit schedule properties and they have demolished the Northern side compound wall of the suit schedule properties and they have claiming right over the suit schedule properties. The defendants have threatened the plaintiffs that they will demolishing the suit schedule properties. The defendants are trying to dispossess the plaintiffs from the suit schedule properties and they have tried to demolish the building. They have made out prima facie case, balance of convenience lies

in their favour. If the temporary injunction order is granted no injustice will be caused to the defendants. If the temporary injunction order is not granted they will be put to hardship. Hence, they pray to allow the IA.

3. In the present case on hand, the defendants have appeared before the Court. The defendant No.1 has filed the written statement. In the written statement he has denied the entire case of the plaintiffs, and further contended that the plaintiffs have not approached the Court with clean hands. By suppressing the material facts they have appeared before the Court. The elders of the defendant No.1 were originally residents of Aralihalli Village. After construction of T.B.Dam, the said Aralihalli Village sub-merged in Tungabhadra Dam. All the persons of the said Village were shifted to rehabilitation constructed Village. The Government has allotted the plots and sites to the land losers and also paid the compensation amount. The Uncle of the defendant No.1 Pothagulla Hanumanthappa sold the suit item No.1 bearing Plot No.105 to the plaintiff No.1 under the registered sale deed dated 07.07.2008 for valuable consideration amount of Rs.88,000/-.

The said Pothagulla Hanumanthappa was also sold the suit item No.2 bearing Plot No.104 to the plaintiff No.2 under the registered sale deed dated 07.07.2008 for valuable consideration amount of Rs.88,000/-. The defendant No.1 is the owner of Plot No.87 measuring East-West: 33 feet, North-South: 66 feet, plaintiff No.1 and 2 are the absolute owners of the suit schedule properties under the registered sale deeds. The said Pothagulli Hanumanthappa has handed over the possession of the suit schedule properties to the plaintiffs. The plaintiffs have obtained the building construction license. They have constructing the building in the suit schedule properties by violating the terms and conditions of the license. The defendant No.1 is the owner of Plot No.87, measuring East-West: 33 feet, North-South: 66 feet. The defendant No.1 has no intention to encroach the suit schedule properties and he has no intention to demolish the Northern side compound wall of the suit schedule properties. The plaintiff No.1 has constructed the building in the suit schedule Plot No.105 near about East-West: 33 feet and North-South: 72 feet, but the site of plaintiff No.1 is measures East-West: 33 feet, North-

South: 66 feet only. The plaintiff No.1 has constructed the building more than the extent of his property. The plaintiff No.1 has encroached 6 feet of land in the Southern side of Plot No.87 of the defendant No.1. The defendant No.1 also prays to appoint the Court Commissioner. By making false allegations the plaintiffs have filed the false application, hence he prays to dismiss the same.

The defendant No.2 has also filed the written statement and taken a similar contentions as taken by the defendant No.1. She has further contended that she has purchased the Plot No.86 measuring East-West: 33 feet, North-South: 66 feet from Halli Sanna Jamal Sab for valuable consideration amount of Rs.10,000/- under the registered sale deed dated 31.10.1988. The defendant No.2 is the owner of the said Plot. She has no intention to encroach the suit schedule properties and to demolish the compound wall of the suit schedule properties. The plaintiff No.2 has constructed the building to an extent of East-West: 33 feet, North-South: 78 feet, but the Site of plaintiff No.2 totally measures East-West: 33 feet and North-South: 66 feet only. The plaintiff No.2 has encroached

near about 12 feet extent towards Southern side of his Plot No.86. The plaintiff No.2 has constructed the building by violating the conditions of license. He has also prays to appoint the Court Commissioner. Hence he prays to dismiss the application.

4. Heard Both the side. Perused the records.

5. The following points arise for my consideration:

1. Whether the plaintiffs have made out *prima-facie* case?

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

3. Whether the plaintiffs 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 **AFFIRMATIVE**

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

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

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

REASONS

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 plaintiffs against the defendants for the relief of declaration of title and permanent injunction with respect of the suit schedule properties.

According to the plaintiffs, the plaintiff No.1 has purchased the suit item No.1 property from its owner P.Dodda Hanumanthappa S/o Hanumavva under the registered sale deed dated 07.07.2008. The plaintiff No.2 has purchased the suit item No.2 property from the said P.Dodda Hanumanthappa S/o Hanumavva under the registered sale deed dated 07.07.2008. Both the properties were adjacent to each other. From the date of purchase they are in possession and enjoyment of the suit schedule properties. The Khata of the suit schedule properties have been mutated in their names. After obtaining construction license they have constructed the building in the suit schedule properties.

They have leased the suit schedule properties to the Government for running SC/ST hostel. They have constructed the compound wall to the suit schedule properties. The defendants have no manner of right, title and interest over the suit schedule properties, with an intention to encroach the suit schedule properties they have demolished the Northern side compound wall of the suit schedule properties. The defendants have threatening the plaintiffs that they will demolishing the building existing in the said property. Hence, they have filed the present suit.

9. The contention taken by the defendants is that, the plaintiffs are the absolute owners of the suit schedule properties. They have constructed the building by violating the construction license conditions. They have constructed building by encroaching 6 feet of extent towards Southern side in Plot No.87 of defendant No.1 and 12 feet of extent towards Southern side in Plot No.86 of defendant No.2. Hence they prays to dismiss the suit as well as I.A.

10. I have perused the materials available on record. At this stage the plaintiffs have produced the registered sale

deed dated 08.07.2008, on going through the same prima facie it appears that the plaintiff No.1 has purchased the suit item No.1, Khata No.1-546, Plot No.105 from P.Dodda Hanumanthappa for valuable consideration amount of Rs.88,000/-. The plaintiffs have also produced the registered sale deed dated 07.07.2008, on going through the same prima facie it appears that the plaintiff No.2 has purchased the suit schedule item No.2, Khata No.1-545, Plot No.104 from the said P.Dodda Hanumanthappa for valuable consideration amount of Rs.88,000/-. The plaintiffs have produced the tax assessment extract of the year 2008-09 of suit item No.1 property bearing Khata No.1-546 which is stands in the name of plaintiff No.1. The plaintiffs have produced the tax assessment extract of suit item No.2 property Khata No.1-545 for the year 2008-09, the said property stands in the name of plaintiff No.2. The plaintiffs have produced the tax paid receipts which shows that the plaintiffs have paid the taxes to the suit schedule properties to the concerned Grama panchayath as well as Town Municipal Council. The plaintiffs have produced the tax assessment extract of the suit

schedule properties from the year 2021-22 with respect of suit item No.1 and 2, on going through the same prima facie it appears that as on the date of filing of the suit, the suit item No.1 stands in the name of plaintiff No.1 and suit item No.2 stands in the name of plaintiff No.2. The plaintiffs have produced the letter issued by the State Bank of India dated 01.06.2021, on going through the same prima facie it appears that the plaintiffs have availed loan from the State Bank of India on 01.03.2010 by depositing the documents. The plaintiffs have also produced the letter dated 24.09.2020 issued by the Deputy Director of Social Welfare department, on going through the same it appears that the plaintiff No.1 has rented the building for the purpose of SC/ST hostel. The plaintiffs have produced the letter dated 02.08.2019 issued by the Chief Executive Engineer, Department of Public Works, Ports and Inland Waterways, Huvinahadagali, on going through the same prima facie it appears that the Government has fixed the rent to the said building. The plaintiffs have produced the layout plan and photographs.

11. As per the documents produced by the plaintiffs, and as per the contentions taken by the parties the fact that the plaintiffs are owners and in possession of the suit schedule properties is not in dispute. The contention of the plaintiffs is that the defendants are trying to interfere with their peaceful possession and enjoyment of the suit schedule properties and they have trying to demolish the building which is existing in the suit schedule properties. The contentions of the defendants is that the plaintiffs have constructed the building by violating the license conditions, they have constructed the building by encroaching 6 feet of extent towards Southern side in the Plot No.87 of defendant No.1 and 12 feet extent towards Southern side in Plot No.86 of defendant No.2. The contentions taken by both the parties will be decided only after fledged trial. Whether the plaintiffs have constructed the building by encroaching property of defendants by violating the conditions of the construction license will be decided only after full fledged trial. At this stage the defendants have not produced any documents before the Court to show that the plaintiffs have constructed

the building by violating the construction license and encroached the alleged extent.

12. As stated above as per the contentions of both the parties prima facie it appears that the plaintiffs are in possession and enjoyment of the suit schedule properties. If during the pendency of the suit, the defendants have interfere with the plaintiffs peaceful possession and enjoyment over the suit schedule properties it cause injustice to the plaintiffs. Therefore, I am of the opinion that plaintiffs have made out prima facie case for granting of temporary injunction and balance of convenience lies in their favour. If the temporary injunction order is not granted plaintiffs will be put to hardship. If temporary injunction order is granted no injustice will be caused to the defendants. On the basis of above reasons and discussions I hold **Point No.1 to 3** in the **AFFIRMATIVE.**

13. 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 plaintiffs under Order 39 Rule 1 and 2 of CPC., is hereby allowed.

The defendants are hereby restrained from interfering with the plaintiffs peaceful possession and enjoyment over the suit schedule properties till disposal of the suit.

(Dictated to the Stenographer, transcribed and computerized by her, corrected by me, and then pronounced in the open court on this the 9th day of OCTOBER 2025.)

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