

**IN THE COURT OF THE CIVIL JUDGE & JMFC,
HARAPANAHALLI**

Present: SMT. B.G.SHOBA, M.A., LL.B.,
Civil Judge & JMFC,
Harapanahalli.

Dated : This the day of 8th August, 2019.

O.S. NO.150/2018

Plaintiff/s : Pujar Srinivas and others
(Rept. by Sri. G.C.G, Advocate)

-Vs.-

Defendant/s : Pujar Rangaswamy and others
(Rept. by Sri. P.J.G., Advocate)

IA. No. I

Applicant/s : Pujar Srinivas

V/s.

Respondent/s : Pujar Rangaswamy

ORDERS ON IA. No.I U/O. 39 RULE 1 AND 2 R/W 151 of CPC

This is an application filed by the plaintiffs under Order 39 Rule 1 and 2 R/w Section 151 of CPC with a prayer to grant an ad-interim order of temporary mandatory injunction against the defendants, by directing them to hand over the charge to the family of plaintiffs family for a period of one year to conduct the

pooja karyakrama of the Lord Venkataramana till pending disposal of the suit.

2. The said application is accompanied with an affidavit sworn by the plaintiff No.1 wherein he stated that he is the resident of the Devarathimmalapura village he has been performing the pooja of Lord Venkataramana of Devarathimmalapura since several centuries. That the forefathers of his family and the defendants families were performing the pooja of Lord Venkataramana temple and at present his family and the defendants family are performing the pooja ever alternate year. His family including the defendants one Sheshaiah were performing the pooja of the deity called Lord Venkataramana temple on roaster system. Said Sheshaiah left the village somewhere in the year 1952 and thereafter it was given to understand that he died in the year 1955, without any issues and as such by way of abundant caution the defendant No.10 who is son of brother of Sheshaiah has been arrayed as defendant in the said suit for effective adjudication of the issues. Further submitted that for having performing the pooja of the deity called Lord Venkataramana temple, both the families namely his family and

the defendants have donated some land in the name of notice of the elders of the villagers. The elders also advised the defendants family to continue the pooja system as it was running since several years. But the defendants' family did not listen the elders advise. From the next day of Gowri Hunnime, as his family was supposed to perform the poojakaryakrama, only the doors of the temple were opened but no charges including the keys as agreed between the parties was handed over to family of plaintiff. On the other hand there was an interference and again the defendants family causing obstruction to the plaintiffs' family without handing over the keys of the temple. In this context, on 20-11-2016 when the 1st defendant and his supporters threatened him to not to perform pooja. He filed a suit for injunction against the 1st defendant in OS No.238/2016, without arraying the other required members of both the families to the suit. For effective adjudication of the issues involved in between both the families with regard to worship of deity called Lord Venkataramana, he has filed the present suit for declaration and injunction. He has made out a prima facie case and balance of convenience also lies in his favour. If the application is not allowed he will be put to irreparable

loss and injury. On the other hand, if the application is allowed he will continue with the pooja karyakrama of the deity Lord Venkataramana. Hence prayed to allow the application.

3. The said application is resisted by the defendant No.6 by filing memo stating that written statement may be treated as objection to IA No.1 and defendant No.1 to 5 and 7 to 9 are adopt the same, wherein he has contended that the defendant Nos.1 to 5 are the descendants of one Pujar Ramanjeya and defendant no.6 to 9 are the descendants of one Pujar Ramanjaneya respectively. The defendant No.1 to 5 are come from Bharadwaja Gotra. The defendant No.6 to 9 are come from Vashista Gotra. The said Pujar Ramanjeya is the great grandather of defendant No.1 to 5. The said Pujar Ramanjaneya is the grandfather of defendant No.6 to 9. The defendant No.10 is unknown and stranger person to the temple of Sri. Venkataramana Swamy of Devarathimmalapura village as well as defendant No.1 to 9. The plaintiffs have falsely impleaded defendant No.10 in this suit for their convenience. The great grandfather of defendant No.1 to 5 by name Pujar Ramanjeya who performed various pooja and rituals functions during his life time in the temple and deity of Sri. Venkataramana

Swamy of Devarathimmalapura village hamlet of Adivihalli revenue village. After his death his only son by name Pujar Rangayya had performed pooja and other ritual functions in the said temple during his life time. After his death his only son by name Pujar Sanna Venkanna @ Sanna Venkayya who performed pooja and other ritual functions during his life time. The defendant No.1 to 5 are the children of said Pujar Sanna Venkanna @ Pujara Sanna Venkayya. The defendant No.1 to 5 have acquired the right of hereditary archaka to perform the pooja and ritual functions from their forefathers in respect of deity Sri. Venkataramana Swamy temple. The great grandfather of defendant No.1 to 5 by name Pujar Ramanjeya and grandfather of defendant No.6 to 9 by name Pujar Ramanjaneya, the two families were performed the pooja and other ritual functions of deity of Sri. Venkatramana Swamy temple. The great grand father of defendant No.1 to 5 by name Pujar Ramanjaneya, the grandfather of defendant No.6 to 9 by name Pujar Ramanjaneya two families were continued to perform the pooja and other functions by consecutive years one by another. The above said persons are no more. Now the defendant No.6 to 9 who are the descendants of

Pujar Ramanjaneya performed the pooja of Sri. Venkataramana Swamy. It is submitted that there was an old and immemorial oral scheme in between forefathers of defendant No.1 to 9 to perform the pooja and ritual functions of said temple. The said two families had acquired the right as hereditary archaka to perform the pooja and other religious functions in the said temple.

4. Further contended that about 40 to 50 years ago, the forefather of defendant No.1 to 9 inevitable circumstances could not perform the pooja due to "Valimani Suthaka" for which, the grand father of plaintiffs by name Dodda Venkayya was appointed causally to perform the pooja of the said temple. Then the village elders and dharmakartha aslo advise the defendant No.1 to 9 ancestors to give permission to perform pooja to the ancestor of plaintiffs also. Since, the defendant No.1 to 9 ancestors and plaintiffs ancestors were performing the pooja by rotation system by consecutive years one another exchanging pooja service for term of one year. As per oral and old scheme, now the defendant No.6 to 9 have performing the pooja of the said temple and after the month of November-2018 i.e., next day of Gowri Hunnime, charge of pooja karyakrama of Lord Venkataramana will be

handing over the defendant No.1 to 5 for next one year. Now the defendant No.6 to 9 have been performing pooja and ritual functions of deity of Sri.Venkataramana will be handed over to the defendant No.1 to 5 for next one year. Now the defendant No.6 to 9 have been performing pooja and ritual functions. Thereafter, they will handed over the charge of pooja in favour of defendant No.1 to 5 to perform the pooja of above said temple. After the death of Ramanjaneya the defendant No.6 and his cousins i.e., defendant No.7 to 9 continued to perform pooja on behalf of their head of the family.

5. The plaintiff No.1, defendant No.1 and 6 jointly given an application on 09-09-2015 to the address of Tahasildar, Harapanahalli to disburse the "Thastik Kana" i.e., remuneration amount in their favour from the State Government. The the plaintiff No.1, defendant No.1 and 6 opened the joint account in their name at PG bank of Harapanahalli branch to obtain he "Thastik Kana" i.e., remuneration from taluk office. After including the plaintiffs ancestor about 40 to 50 years back, plaintiffs, defendant No.1 to 9 ancestors followed the said scheme and continued even to this day. The plaintiffs have created false

documents on old stamp paper with intent to cause loss to the family of defendant No.1 to 9. The plaintiffs have intentionally and wantonly filed this suit against the defendant No.1 to 9 to cause loss to the defendant No.1 to 9 and public at large. The suit is not maintainable as per provision of section 90 of CPC as the temple and deity is the public temple having numerous and large number of devotees. The plaintiffs have not obtained any prior permission from the court before filing the suit under section 92 of CPC. Hence prayed to dismiss the application.

- 6.** Heard argument and perused the records.
- 7.** On perusal of the pleadings, documents and application, the points that arise for my determination are;
 1. Whether the plaintiffs have made out prima facie case for grant of temporary injunction ?
 2. Whether the plaintiffs prove balance of convenience lies more in his favour ?
 3. Whether the plaintiffs prove irreparable loss will be caused more to him, if temporary injunction is not granted ?
 4. What order ?
- 8.** My answer on above points is as follows;

Point Nos.1 to 3 : In the Negative.

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

REASONS

9. Point No.1:- On perusal of contention urged by both parties it appears that the plaintiffs have filed this suit for the relief of declaration and mandatory injunction to direct the plaintiffs to perform pooja of deity Lord Venkataramana for a year till the completion of Gowri Hunnime and thereafter handover the entire pooja karyakrama to the family of the defendants for a period of one calender year and thus continue the same in routine. The present application is filed by the plaintiff with a prayer to direct the defendants to handover the charge to the plaintiffs family for a period of one year to conduct pooja karyakrama of lord Venkataramana. In order to prove the allegation of the plaintiffs, they have produced documents such as book pertaining to the pooja karyakrama, wherein it is mentioned that pooja karyakrama of lord Venkataramana has been handed over by Sanna Venkanna to one Pujar Dooda Venkanna in the year 1984. In the year 1985 said Dodda Venkaiah handed over pooja karyakrama to Krishnamurthy S/o Dodda Ramaiah i.e., defendant No.6. In the year 1986 said Krishnamurthy handed over

it to Pujar Dooda Venkaiah. In the year 1987 said Dodda Venkaiah handed over it to Sanna Venkaiah. Finally on 30-11-1993 one Purushotama S/o Dooda Venkaiah handed over it to Ramanjaneya S/o D. Ramaiah. However in order to substantiate the contention of defendants they have produced documents i.e., order copy of OS No.238/2016 which reveals that the plaintiff herein had filed said suit with respect to same subject matter of present suit. He had filed IA No.VI U/s 151 of CPC in said suit with a prayer to direct the defendant to handover the key and material pertaining to suit schedule temple. Said IA came to be rejected on 04-01-2019.

10. However the contention urged by both parties disclose that there is a dispute regarding performing pooja of temple of Venkataramana situated at Devaratimalapura village. According to the plaintiffs the elders of the village have decided that the plaintiff's family has to perform pooja for one year and defendant's family have to perform the pooja for one year alternatively, but the defendants have not handed over the charge from 15-11-2017 to 15-11-2018. The said allegation has been denied by the defendants. However said dispute has to be decided in this suit. It is

main dispute between plaintiffs and defendants. As such at this stage it cannot be decided. It requires full-fledged trial. The book produced by the plaintiff discloses that the performing of pooja of said temple has been handed over to the father of plaintiff in the year 1990. Thereafter it has been handed over to Sanna Venkaiah in the year 1991 and he has handed over the same to Purushothama in the year 1992. Thereafter it has been handed over to R. Ramanjaneya in the year 1993. According to the defendants the forefather of defendant No.1 to 9 inevitable circumstances could not perform the pooja due to "Valimani Suthaka" for which, the grand father of plaintiffs by name Dodda Venkayya was appointed causally to perform the pooja of the said temple. Then the village elders and dharmakartha also advise the defendant No.1 to 9 ancestors to give permission to perform pooja to the ancestor of plaintiffs also. Since, the defendant No.1 to 9 ancestors and plaintiffs ancestors were performing the pooja by rotation system by consecutive years one another exchanging pooja service for term of one year. As per oral and old scheme, now the defendant No.6 to 9 are performing the pooja of the said temple and after the month of November-2018 i.e., next day of

Gowri Hunnime, charge of pooja karyakrama of Lord Venkataramana will be handing over the defendant No.1 to 5 for next one year. However when the main dispute is involved in this application at this stage it can not be decided. The prima facie case does not disclose infavour of the plaintiff.

11. It is settled principle of law that a party who approaches the Court has to establish prima facie case. Grant of interlocutory injunction is discretionary remedy and in exercise of judicial discretion granting or refusing to grant injunction, the Court will have to take following principles.

1. Whether a person seeking temporary injunction has made out prima facie case ?
2. Whether balance of convenience lies in his favour i.e. whether it could cause greater inconvenience to him if injunction was not granted ?
3. Whether a person seeking temporary injunction would suffer irreparable injury if injunction was not granted ?

Among aforesaid conditions at-least two conditions should be satisfied by the party. Mere proof of one of the three conditions does not entitle for the party to obtain temporary injunction. In the instant suit the plaintiffs have failed to establish prima facie case. Accordingly, point No.1 is answered in **negative**.

12. Point Nos.2 and 3 :- These two points are considered together as they require same set of discussion and pleadings.

When the plaintiff failed to prove the existence of prima-facie case, considering balance of convenience and irreparable loss does not arise at all. In view of the principles enunciated in a decision reported in **ILR 1989 Karnataka 1701 between Gowrishankara Swamigalu V/s. Sri Siddagangamutt and others.** The proposition that if there was no prima-facie case at all or the case put forward was so weak and tainted having very little prospect of being accepted by the court. Further question of balance of convenience and irreparable loss need not be considered, since the plaintiff would fall at the very threshold. The relief of injunction is remedy in equity. Hence such relief must be bestowed only on those who come up with clean hands. In view of the above discussion this court is of the opinion that balance of convenience does not lie in favour of the plaintiffs and they would not be put to irreparable loss or injury, if the temporary injunction is not granted. Accordingly point Nos.2 and 3 are answered in the **negative.**

13. Point No.4:- In view of above discussion, I proceed to pass the following;

ORDER

IA No. I filed by the plaintiffs U/O. 39 Rule 1 and 2 R/w sec. 151 of CPC is hereby rejected.

(Dictated to stenographer directly on computer, corrected and then pronounced by me in the open Court on 8th day of August, 2019)

**(B.G. SHOBHA)
Civil Judge & JMFC,
Harapanahalli.**

(Order pronounced in the open court vide
separate)

ORDER

*IA No. VI filed by the plaintiffs
U/O. 39 Rule 1 and 2 R/w sec. 151
of CPC is hereby rejected.*

*For framing of Issues: 26-11-
2019*

Civil Judge & JMFC,
Harapanahalli

