



Presented on : 08-11-2019
Registered on : 11-11-2019
Decided on : 29-03-2023
Duration : ---

**IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC,
BASAVANA-BAGEWADI**

PRESENT: Smt. SAUMYA HOOLI

B.A.,LL.B.

**Addl. Civil Judge & JMFC,
BASAVANA-BAGEWADI**

O.S.No.654/2020

Dated this the 29th day of March-2023

PLAINTIFF:

1. Mallappa s/o:Yalaguradappa Pattanashetti,
Age: 44 years, Occ:Agriculture,
R/o:Ward No.3, Adarsha Nagar, Nidagundi,
Dist:Vijayapura.

-Versus-

DEFENDANTS:

1. The Chief Officer,
Town Panchayat, Nidagundi,
2. The State of Karnataka,
Represented by D.C., Vijayapura.

PARTIES ON I.A.III

Applicant/plaintiff:

1. Mallappa s/o:Yalaguradappa Pattanashetti,
Age: 44 years, Occ:Agriculture,
R/o:Ward No.3, Adarsha Nagar,
Nidagundi, Dist:Vijayapura.

(By Sri.M.H.K., advocate)

-Versus-

Opponents/Defendants:

1. The Chief Officer,
Town Panchayat, Nidagundi,
2. The State of Karnataka,
Represented by D.C., Vijayapura.

(D-1 by Sri.V.B.M., advocate)

[D-2 exparte.]

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ORDERS ON IA NO.III

Stage: This IA was filed along with suit. The current stage of the suit is for “compliance U/s 89 of CPC.”

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The plaintiff/applicant has filed I.A.No.III U/O 39 Rule 1 and 2 of CPC seeking ad-interim temporary injunction against the defendants to restrain them from obstructing the peaceful use and enjoyment of the suit properties bearing VPC/TPC No.1590/12, 1590/15A, 1590/15B, 1590/16A, 1590/24, 1590/25, 1590/26, 1590/28A, 1590/28B, 1590/33A, 1590/35C, 1590/35D and 1590/36E situated at Nidagundi town of Vijayapura district, till the disposal of the suit.

2. It is the case of the plaintiff that, the plaintiff is in the peaceful possession and enjoyment of suit properties. Initially, Sy.No.549 of Nidagundi village measuring 1 acre 9 guntas was standing in the name of one Yalagurdappa

s/o:Mallappa minor guardian mother Basawwa as per M.E.No.1928 and that the plaintiff is the son of the said Yalagurdappa. Thereafter, the Yalagurdappa and his wife sold an area of 34 and 1/2 guntas to one Veerabhadrapa and that the remaining portion of Sy.No.549 is in the plaintiff's possession. The Sy.No.549 is not entirely sold to Veerabhadrapa as per M.E.No,2820. Further, that the plaintiff has created plots in Sy.No.549 shown as "ABCD" and "XY" is the road as shown in the plaint hand sketch. Now the defendants are causing obstruction to the enjoyment of suit property on the ground that it is government land. Hence, prayed to allow IA No.III.

3. On the other hand, defendant No.1 has filed memo to treat the written statement as objection to the said IA. In the written statement cum objection defendant No.1 contended that, there is no relation between Sy.No.549 and suit properties. The plaintiff has not produced any documents to show conversion of land into N/A nor has produced any documents to show that plaintiff obtained permission from competent authorities to lay down the plots. Further, contended that property No.1590 is the

Government land, which comes under Panchayat and that the plaintiff by colluding with Gram panchayat officials has created the false and illegal documents. Hence, prayed to dismiss the IA No.III.

4. Heard both side and perused the entire materials placed on record.

5. Upon hearing the arguments and on perusal of materials placed on record, the following points that arise for consideration are;

- (1) Whether the plaintiff has made out a prima facie case in his favour?
- (2) Whether the balance of convenience lies in favour of plaintiff?
- (3) Whether irreparable loss or hardship will be caused to the plaintiff, if injunction is not granted?
- (4) What order?

6. My findings to the above points are as under;

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|------------|---|---------------------------------------|
| 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; |

: **REASONS** :

7. Point No.1 to 3:-These points are taken together for discussion, as they are co-related to each other.

8. In brief, it is the case of the plaintiff that, the defendants are causing obstruction to the use and enjoyment of the suit properties situated at Nidagundi Town of Vijayapura district.

9. The plaintiff in support of his averments has produced several documents on records, which are the RTC extracts and Mutation Entries and VPC extracts of the suit properties bearing VPC No.1590/12, 1590/15A, 1590/15B, 1590/16A, 1590/24, 1590/25, 1590/26, 1590/28A, 1590/28B, 1590/33A, 1590/35C, 1590/35D and 1590/36E and certain Tax receipts with respect to the said VPC numbers. On perusal of the above documents there are no documents to show that Sy.No.549 is converted to N/A and that the plaintiffs have laid down the plots. No doubt at this stage, on perusal of the documents on record, it is forthcoming that Sy.No.549 belonged to the Pattanashetti family, but there are no records to show that the said Sy.No.549 was converted to

N/A and that the above said plots were laid. However, it is true in the eyes of law, mere revenue documents do not establish the title. At this stage mere revenue records do not establish the title to the suit property of the plaintiff. Moreover, at this specific stage there are no proper documents to show that how the Sy.No.1590 came to the Pattanshetti family and how the said Sy.No.549 is related to Sy.No.1590. The questions that arise at this stage require proof for which full fledged trial is required. The plaintiff in order to prove his/her prima facie case at this early stage is required to place relevant documents on record, which to some extent can satisfy the court. But by the documents available on record that is VPC extract, tax receipts and electricity bills, at this stage the court cannot raise the presumption with respect to title because the court needs to assess the same in depth with evidences on record. Per contra at this stage there are no authenticated documents on record to clearly establish the title from whom the plaintiff purchased the property. However, the same can be assessed only after trial on appreciation of evidences. As of at this stage, the court is bound to decide only on the documents placed on record.

However, establishment of valid title is the course of trial. The court cannot at this early stage, come to the conclusion with respect to clear title of the plaintiff or Pattanshetti family. Moreover the documents on record are also to be proved as valid in the course of trial. Thus, at this specific stage, only from perusing the documents on record and without deciding on merits, I answer **point No.1 to 3** in the **Negative**.

10. Point No.4:-For the reasons assigned above, this court proceeds to pass the following;

ORDER

IA No.III filed by the
applicant/plaintiff U/O 39 Rule 1 and 2 of
Civil Procedure Code is hereby rejected.

No order as to cost.

(Dictated to the Stenographer directly on the computer typed by him, corrected and pronounced by me in the open court on this the 29th day of **March-2023**)

Place:B.Bagewadi
DATE:29-03-2023

(SAUMYA HOOLI)
Addl.Civil Judge & JMFC.,
Basavana-Bagewadi.