

KAVP410012192021



Presented on : 08-04-2021

Registered on : 08-04-2021

Decided on : --

Duration :

**IN THE COURT OF CIVIL JUDGE AND JMFC,
MUDDEBIHAL**

Present:

**Sri. Suresh Annappa Savadi, B.A., LLB., (Spl.)
Civil Judge & JMFC, Muddebihal**

O.S.No.86/2021

Dated this the 23th day of November 2021

PLAINTIFF:

1. Ramesh S/o Dharmanna Ilager @ Angadi,
R/o: Bangargunda, Tq: Muddebihal.

-Versus-

DEFENDANT:

1. Nagamma W/o Virupakshappa Nadagoudar,
R/o: Bangargunda, Tq: Muddebihal.

PARTIES ON I.A.I

APPLICANT:

plaintiff

1. Ramesh S/o Dharmanna Ilager @ Angadi,
R/o: Bangargunda, Tq: Muddebihal.

(By Sri.V.S.S., Adv.,)

-Versus-

OPPONENTS:

defendant:

1. Nagamma W/o Virupakshappa Nadagoudar,
R/o: Bangargunda, Tq: Muddebihal.

(By Sri.B.A.N, Adv.,)

ORDER ON I.A.No.I

The plaintiff filed I.A.No.I U/o. 39 Rule 1 and 2 of CPC to restrain the defendants from alienating the suit schedule properties till disposal of suit.

2. In the affidavit contended that, the plaintiff filed this suit for declaration, mandatory and permanent injunction against the defendants. And the defendants are hurriedly trying to alienate the properties. Hence, prays to allow the application.

3. On the other the defendant appeared and filed the written statement denying the plaint averments. In the written statement the defendant contended that, the property was granted to the defendant and the defendant is in possession of the property bearing VPC No.46 by putting the tin sheds and the plaintiff noway concern to the suit property. And the plaintiff is noway relates to the Madivalavva Yamanappa Ilager and on the strength of the false document the plaintiff filed this suit. Hence, prays to reject the application.

4. Heard the both sides.

5. The following points arises for my consideration;

1. Whether the plaintiff has made out the prima facie case ?
2. Whether the plaintiff shown the balance of convenience lies in his favour?
3. Whether the plaintiff shows that, if the application is not allowed irreparable injury cause to the plaintiff?
4. What order?

6. My answer to the aforesaid points are as under;

Point No.1 to 3: In the negative

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

REASONS

7. **POINT NO.1 TO 3:** These points are interlinked with each other and to avoid the repetition of facts and separate discussion taken together for common consideration.

8. The plaintiff filed this suit for declaration mandatory and permanent injunction against the defendants. The plaintiff contended the suit property

had been granted by the Government to the grand mother of the plaintiff by name of Madivalavva W/o Yamanappa Ilager on 15.05.1987 by way of Hakku Patra (ಹಕ್ಕು ಪತ್ರ). The plaintiff is having right over the suit property by way succession. This being the fact the defendant colluded with the panchayat officials and illegally got his name entered in the records of the suit property and also constructed the house in the suit property. And also trying to alienate the suit property. For that the defendant denied the right of the plaintiff over the suit property. After going through the materials available on record the defendant contended that the property was granted to the defendant and the defendant is in possession of the property bearing VPC No.46 by putting the tin sheds and the plaintiff noway concern to the suit property. And the plaintiff is noway relates to the Madivalavva Yamanappa Ilager and on the strength of the false documents the plaintiff filed this false suit.

9. After going through the material available on record the defendant produced the panchayat records in respect of the suit property and the documents are

standing in the name of the defendant. The plaintiff has also produced the documents which shows the name of the defendant in the records. As per the records available at this stage the name of the defendant is appearing since 1999-2000 in records of the suit property. The defendant has also produced the construction permission issued by the panchayat authority. The plaintiff produced the copy of the Hakku Patra, police complaint copy to trace out the Hakku Patra. After going through the materials produced by the both sides this court is of the opinion that there is no prima facie material to grant the injunction against the defendant. And also the balance of convenience does not lies in favour of the plaintiff. The plaintiff failed to show that If the application is not allowed then irreparable injury will cause to the plaintiff. Hence, under such circumstances, this Court answered the point No.1 to 3 in the Negative.

10. **POINT NO.4:** For the reasons stated in the above this Court proceed pass the following;

ORDER

The I.A.No.I filed by the plaintiff U/o.XXXIX Rule 1 and 2 of CPC is hereby rejected.

No order as to costs.

(Dictated to the Stenographer through electronic media, corrected and then pronounced by me in the open Court on this the **23th day of November 2021**)

(SURESH ANNAPPA SAVADI)
Civil Judge & JMFC., Muddebihal.