

**IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC.,  
CHANNAPATNA.**

**Present: Miss. B.T.Annapoorneshwari,  
B.A.LL.B.,  
Addl. Civil Judge and JMFC.,  
Channapatna.**

**DATED THIS THE 11<sup>TH</sup> DAY OF OCTOBER, 2019.**

**O.S.NO.8/2019**

**PLAINTIFF/S:**

Manjunatha @ Manju  
S/o late Thimmaiah,  
Aged about 42 years,  
R/o Abburudoddi Village,  
Kasaba Hobli,  
Channapatna Taluk,  
Ramanagara District.  
At present R/o K.R.Sagara Village,  
Belagola Hobli,  
Srirangapattana Taluk,  
Mandya District.

**(By Sri.Veerabhadraiah S., Adv.)  
V/s.**

**DEFENDANT/S :**

- 1) Thammanna  
S/o late Karigowda,  
Age: 65 years,
- 2) Ankappa  
S/o late Doddathammaiah,  
Age: 45 years,  
Both R/o Abburudoddi Village,  
Kasaba Hobli,  
Channapatna Taluk,  
Ramangara District.

**(By Sri.Lokesha A., Adv.)**

**PARTIES TO I.A.I**

**Applicant: :** Manjunatha @ Manju  
V/S

**Respondent :** Thammanna and another

**ORDERS ON I.A.I**

The plaintiff has filed this application seeking temporary injunction against the defendants, their men, agents or any persons claiming under them from interfering with the peaceful possession and enjoyment of suit schedule property till disposal of this suit.

2. In support of the application the plaintiff has filed affidavit stating that the suit schedule properties are in one schedule and are situated beside to each other, the suit properties are originally belongs to his grandfather Kashimotaiah @ Kashimota, after his death it came to his father Thimmaiah @ Thimma and after his death his mother got Pouthi katha and thereafter the suit properties fallen to his share in the family partition and he is in possession and has been paying taxes to it. The defendants being strangers are interfering with the suit property without any rights.
3. The defendants have adopted their written statement as objections, wherein the defendants have denied the case of the plaintiff and further submitted that the first defendant's father purchased the suit property from the father of the plaintiff and since then he had been in possession of the suit property and cultivating it. The father

of the first defendant died on 18.6.1997 and mother died on 30.7.2005 and thereafter the first defendant has been in possession of the suit property. The first defendant's father after purchase did not get katha changed in his name as he was rustic village without any knowledge. The first defendant did question the katha standing in the name of mother of plaintiff before A.C. and it was allowed in his favour on 9.6.2017 and remanded to Tahasildhar's court, wherein also order passed on 7.3.2018 ordering katha in favour of first defendant's father and the katha stood in the name of mother of plaintiff is cancelled and accordingly he filed application for change of katha in his father's name. The plaintiff and his mother created an illegal partition deed and got changed the katha in the name of plaintiff's mother. Recently the Tahasildhar has passed an modified order illegally, he has preferred appeal before A.C.. The plaintiff has no any kind of right over the suit property.

4. Heard and perused the materials on record.
5. The following points arise for my determination;
  1. Whether the plaintiff has made out a prima-facie case in his favour?
  2. Whether the balance of convenience lies in favour of the plaintiff?
  3. Whether the irreparable loss or injury will be caused to the plaintiff if temporary injunction is not granted?

4. What order?
6. My findings on the above points are as under;
  - 1) In the negative,
  - 2) In the negative,
  - 3) In the negative,
  - 4) As per final order, for the following;

### **REASONS**

7. **Points 1 to 3:-** These points taken together for the sake of convenience and avoid repetition.
8. The case of the plaintiff is that he is in possession of the suit property and got right by virtue of partition deed and prior to that his father and his grandfather got right over the suit property and after said persons death the pouthi katha transferred into the name of his mother, now the defendants without having any right, title or interest over the suit properties are trying to interfere with the suit property which needs to be restrained. The defendants contend that the father of the first defendant did purchase the suit property from the father of the plaintiff and as his father without having worldly knowledge did not change katha into his name by taking advantage the plaintiff got made pouthi katha in the name of his mother and trying to take illegal possession of the suit property even though the katha order in favour of plaintiff's mother cancelled.

9. The plaintiff has produced RTCs for the year 2018-19 of the suit property standing in the name of the plaintiff, copies of RTCs pertaining to suit property standing in the name of mother of the plaintiff for the year 2018-19, copies of RTCs pertaining to suit property for the year 2012-13 standing in the name of plaintiff's father, copy of MR No:H3/2012-13 in the name of mother of plaintiff on 18.8.2012, copy of MR.H5/2018-19 standing in the name of plaintiff with respect to suit property, tax paid receipts for the year 2012-13 and 2018-19, partition deed dated 5.7.2018 entered between the plaintiff and his family members, Form No.15, photos and CD, RTC of Sy.No:81/2, true copy of Form No.16, Form No.15, MR.H50/2011-12, certified copy of the sale deed dated 4.1.1964, certified copy of the mortgage deed dated 19.1.1966, copy of E.C. and tax paid receipt.
10. The counsel for the defendants has produced original sale deed dated 2.4.1964, original sale deed dated 4.11.1964, copies of RTCs, copies of order passed in R.A.60/2017-18, copy of order in RRT154/17-18, copy of order in R.A.318/19-20, certified copy of partition deed dated 5.7.2018, copies of RTCs and MR, copy of petition filed to Tahasildhar, certificate issued by BESCO, copy of letter of KPTCL, copies of survey sketches, two

ECs, copy of Tippani and copy of judgment in O.S.121/2001.

11. I have gone through the record, application, objections and the documents relied upon by the parties. The plaintiff claims that the suit property is prior belonged to his grandfather, later came to his father and after his death the pouthi katha made in favour of his mother and now by virtue of partition the katha and RTCs are in his name. The defendants deny stating that the father of first defendant purchased the suit property but did not get katha changed to his name, even today they are in possession of the suit property by taking undue advantage of katha not being changed in the name of first defendant's father the plaintiff illegally got changed katha into his mother's name and his name. At this stage, both parties have produced the documents in support of their respective cases. But at this stage looking to the facts and circumstances of this case the documents which are necessary to be looked into are revenue orders. As per R.A.60/17-18 the A.C. has remanded the case to Tahasildhar to verify his order regarding katha of the suit property. On 7.3.2018 the Tahasildhar ordered in RRT(Dis)154-2017-18 directing to transfer of katha in the name of father of the first defendant. Later on 1.8.2018 the order altered in RRT(Dis)154/2017-18 by Tahasildhar rectifying the order of katha in the

name of mother of plaintiff and hence the defendant has preferred R.A.(LKP)319/19-20 before A.C. court, which is pending. The application to Taluk office dated 20.7.2018 shows that as per the order of Tahasildhar on 7.3.2018 requested to cancel the katha in the name of mother of the plaintiff and to enter katha in favour of father of first defendant. The electricity connection shows that that the father of first defendant got pump set connection and paid bill amount in that regard. The copies of crop information and boundary document copy shows that the suit property stood in the name of first defendant's father. Looking to the revenue litigation between the parties with regard to katha, at this stage it is clear that the katha is ordered in the name of father of the first defendant later it is modified in the name of mother of plaintiff, hence looking to this mere producing RTCs standing in the name of plaintiff or his mother does not confer any possession when there exists a revenue order with regard to cancellation of katha made in favour of mother of plaintiff and later alteration, which itself shows that the dispute between the parties needs full fledged trial. As there is dispute with regard to katha itself, hence at this stage looking to the situation and facts and circumstances this court is of the view that the plaintiff is not entitled to get any relief.

12. Further, the plaintiff prima-facie at this stage has not shown his legal continued possession. On perusal of the materials on record, as the plaintiff has not made out prima-facie case in his favour hence the balance of convenience also does not lie in favour of the plaintiff. If the T.I. is not granted, then no hardship or loss will be caused to the plaintiff when compared to that of defendants. Accordingly, I answer point Nos.1 to 3 in the negative.
13. **Point No.4:-** As per discussion made above, I proceed to pass the following;

**ORDER**

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

No order as to cost.

(Typed by me directly on the laptop, later computerized by  
the Stenographer, corrected, signed and then pronounced by me  
in the open court on this the 11<sup>th</sup> of October, 2019.)

Addl. Civil Judge & JMFC.,  
Channapatna.

(Orders pronounced vide separate  
order in the open court)

**ORDER**

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

No order as to cost.

Addl. Civil Judge & JMFC.,  
Channapatna.