

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
SHAHAPUR

Dated this the 16th day of August- 2025

Present: Smt. Hema Pastapur, B.A.,L.L.B.

SENIOR CIVIL JUDGE & JMFC, SHAHAPUR

OS No.94/2023

Plaintiff: Smt. Shankamma

(By Sri. M.V.,Advocate)

Defendants: Shivakumar & Anr.

(By Sri.R.N.D., Advocate)

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ORDER ON I.A.NO.I

1. That, the plaintiff filed the application under Order XXXIX Rule 1 and 2 R/w Section 151 of Civil Procedure Code, with a prayer to restrain the defendants and their agents from interfering in peaceful possession and her enjoying over the suit property till disposal of the suit.

2. That, the plaintiff in her affidavit has contended that, originally Sy.No.1005 measuring 26 acres 08 guntas was standing in the name of her brother and later on she and other joint family members have got partitioned the ancestral and joint family property and in said division 13 acres 04 guntas of land had been allotted to her by virtue of the same she has become the owner of the Sy.No.1005/1 measuring 13 acres 04 guntas.

3. That, the plaintiff has further contended that, the Government for the project of National Highway had acquired 03 acres 29 guntas in her said

land and her name and in Revenue records pertaining to the said land her name has shown to the extent of 09 acres 10 guntas and she had received the compensation amount.

4. That, the plaintiff has further pleaded that, the defendant s No.1 and 2 are relatives and their lands are situated towards eastern-side of the suit land and colluding with each other claiming their rights over the suit land and at the instance of defendant No.2, the defendant No.1 is illegally claiming that he had purchased 02 acres 04 guntas of land in suit property from one Smt. Mahadevamma D/o Gangamma Rakkasgi through Registered Sale Deed vide Doc. bearing No.9397/2021-22 dated 26-03-2021.

5. That the plaintiff has further contended that, the defendants No.1 and 2 are noway concerned with the suit property and their illegally interference in peaceful possession and enjoyment over the suit property.

6. That, the defendants No.1 and 2 have submitted their detailed objections to said application and have admitted that, the defendant No.1 had purchased the land bearing Sy.No.1005/2 measuring 02 acres 04 guntas situated Naikal Village from one Smt. Mahadevamma and have contended that, originally the said Mahadevamma was the owner and possessor of the land bearing Sy.No.1005/2 measuring 07 acres 04 guntas and she had acquired the said property in her family partition and she sold the said property to the defendants No.1 and 2 as the absolute owners of the said property.

7. That, the defendants have further contended that, the plaintiffs filed the present application only with an intention to harass them and the market value of the suit property on the date of filing of this suit is more than Rs.3,05,000/- and which is evident from the sale deed dated 26-03-2021 Hence, this court has no jurisdiction to try the present matter. Hence, prayed for rejecting the said application.

8. That, I have heard the arguments and perused the materials placed on record.

9. That, the following points arise for My consideration and determination:-

1. Whether the plaintiff has made out the grounds to allow the said application as prayed for?

2. What order?

10. That, My answer to the aforesaid points are as under :-

Point No.1:- In the **NEGATIVE**.

Point No.2:- As per the final order for the following :-

:- R E A S O N S :-

11. **Point No.1:-** It is pertinent to noted here that, the primary purpose of granting the interim relief is the preservation of the property in dispute till legal rights and conflicting claims of the parties before Court are adjudicated. In other words, the object of making an order regarding the interim relief is to evolve a workable formula to the extent called for by the

demands of situation, keeping in mind the pros and cons of the matter and striking a delicate balance between two conflicting interests i.e. injury and prejudice. That, generally before granting the interim injunction the Court must be satisfied about the following slots :-

(a) **Prima facie case:-** That, the Court must be satisfied that there is a bonafide dispute raised by the applicant. That, the existence of a prima facie right and infraction of such right is a condition precedent for grant of temporary injunction.

(b) **Irreparable Injury :-** That, the existence of the prima facie case alone does not entitle the applicant for a temporary injunction. That, the Court must be satisfied that refusal to grant injunction would result in irreparable injury to the party seeking the relief and he needs to be protected from the consequences of the apprehended injury. That, the irreparable injury means that the injury must be a material one i.e. which cannot be adequately compensated by damages.

(c) **Balance of convenience:-** That, the third condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. That, in other other words, the Court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it. That, the Court must weigh one need against another and determine where the balance of convenience lies.

10. It is significant to note here that, interim relief is an equitable relief and the party who seeks the equity must do the equity.

11. That, the defendants have placed their relying on following decision;

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Wherein it has held that, it is well settled that if any court has no jurisdiction to entertain and try the suit it cannot pass any order accepting or rejecting the application for temporary injunction as well. In any case it has to return or reject the plaint as the case may be.

12. It is to be noted here that, in present case the defendants are claiming that this Court has no jurisdiction to try the present matter. It is to noted here that, the plaintiff has submitted the xerox copy of the sale deed document bearing No.9397/2020-21 dated 25-03-2021. That, in the said application the market value of the property has been mentioned as Rs.3,05,000/- It is to be noted here that, form the contents said document it prima facie appears that, this Court has no jurisdiction to try the present matter. Hence, without much discussion, I answer point No.1 in the **NEGATIVE.**

13. **Point No.2** :- That, as discussed on point No.1, I proceed to pass the following:-

:- O R D E R :-

That, the application filed by the plaintiffs under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC-I.A.No.I is hereby rejected.

(Directly dictated to the typist-copyist, typed by him, corrected by me and then pronounced in the open Court on this 16th day of August- 2025).

(Hema Pastapur)
Senior Civil Judge & JMFC,
Shahapur.