



**IN THE COURT OF I ADDL SENIOR CIVIL JUDGE & JMFC,
DEVANAHALLI.**

Present: Sri Lokesha M.G., B.A.L.,LL.B.,

O.S.No.1035/2024

Dated this the 10th day of July, 2025.

PLAINTIFF: Sri. A. Ramakrishna
(By Advocate Sri.P.K.D.,)

V/s.

DEFENDANTS: Smt. Chinnamma & Others
(D14 - By Advocate Sri. G.H.,)

ORDER ON IA.NO.II

I.A.No.2 is filed by the plaintiff U/O XXXIX Rules 1 & 2 r/w. Section 151 of C.P.C., restraining the defendant No.14 and his agents from alienating the suit property till disposal of suit.

2. It is stated in the accompanying affidavit that plaintiff is the absolute owner of suit property. He purchased the suit property on 12.07.2005 through registered Sale Deed



from Parvathamma. Earlier larger extent of suit property was belonging to Chinnappaiah son of Hanumappa. It was granted to him. Later he sold said extent of 4 Acres including suit property in favour of Paravathamma on 15.01.1975. Katha was mutated in her name and she continued the possession and enjoyment of suit property without interruption. After purchase of the suit property, plaintiff has started to enjoy the same as absolute owner. He applied for mutating revenue entries. Authority refused to mutate his name stating baseless reason. Hence, plaintiff challenged the Mutation register before Assistant Commissioner and it was allowed. Based on the said order, katha was mutated in his name in the year 2010-11. Thereafter, he has been in uninterrupted possession and enjoyment of the suit property. It has not been challenged. Apart from this, Chinnappaiah @ Marappa who is resident of Earayyanapalya, Ramamurthy Nagar, Bangalore, approached the Assistant Commissioner seeking order of restoration of suit property by invoking the provisions of PTCL Act against Chikka Kempanna and his legal heirs without making the plaintiff as party in the said case. It was allowed. It was obtained behind the back



of the plaintiff. Plaintiff came to know about the same and immediately challenged the said order before Deputy Commissioner who set aside the said order of Assistant Commissioner on 18.04.2022 and remanded the case back to the Assistant Commissioner to conduct re-enquiry about the heirship of the alleged grantees with respect to suit property. It has not been challenged and it has attained finality. After remand, Assistant Commissioner has not commenced the remand proceedings yet. During the last September 2024, some men tried to interfere with the possession of the plaintiff and enjoyment of the suit property. They have stated that defendant No.14 is the owner of suit property. His name has been mentioned without the knowledge and consent of the plaintiff in collusion with revenue officials. Plaintiff immediately verified the documents and got the same. It came to know that defendant No.1 to 11 and 12 to 14 have created Sale Deed on 08.06.2022 in the name of defendant No.14. The Sale Deed in favour of plaintiff is not challenged. Therefore, the documents in the names of defendants are illegal and not binding on the plaintiff. Chinnappaiah @ Marappa and his alleged legal heirs who are defendants



No.1 to 11 are not family members of original grantee. Defendants No.1 to 11 taking advantage of similarity in the name of their father and original grantee namely Chinnappaiah son of Hanumappa resident of Kamenahalli Village, created fraudulent Sale Deed in the name of defendant No.14 and it is bogus and not binding on the plaintiff. The facts are suppressed by the defendant No.1. She has obtained sale permission to alienate the suit property on 10.05.2022. Defendant No.14 has got converted the suit property on 16.08.2022. Therefore, they are not binding on the plaintiff. They have no legal sanctity. The defendants have no right, title and interest of over the suit property. Plaintiff is owner of suit property. The Sale Deed in favour of the plaintiff is much earlier to the forged Sale Deed in favour of defendant No.14. Defendants have tried to interfere with the possession and enjoyment of suit property of the plaintiff. They are not lawful owners. They are trying to alienate the suit property by taking advantage of katha standing in the name of defendant No.14. If the same is happened, plaintiff will be put to untold hardship. Hence, it is just and necessary to restrain the defendants from alienating the suit property



till disposal of the suit. There is prima facie case in favour of the plaintiff. Balance of convenience is also in favour of the plaintiff. Plaintiff has good case on merit. It requires oral and documentary evidence. Defendants have no right over the suit property. Hence, it is prayed to allow the application.

3. Objection is filed stating that application is not maintainable. Suit is barred by limitation. Suit is bad for non-joinder of necessary parties. It is true that suit property was granted in the name of Chinnappaiah on 15.12.1962. It is true that Chinnappaiah sold the property in favour of Parvathamma and it is in violation of the provisions of PTCL Act. Hence, sale is not valid. There was no legal transfer of ownership. It is fact that there was order of restoration by the Assistant Commissioner. Accordingly, it is restored in the name of grantee. Defendant No.14 has become owner of suit property by paying valuable consideration as per Law. Plaintiff purchased the granted land without obtaining prior permission from the Government. The Government granted valid permission to sell the suit property in favour



of defendant No.1 and it was sold in favour of defendant No.14. Thereafter, it has been converted for residential purpose. Layout came to be formed and approved by the competent authority. There is no cause of action to file the suit. Without obtaining sale permission, the Sale Deed was executed and hence the said sale becomes void. After development of the land, there is Relinquishment Deed in favour of Jalige Village Panchayath. Allottees have taken possession of their respective sites and they are in possession of the same by paying tax to the local authority. Hence, it is prayed to dismiss the application.

4. Heard the learned counsel appearing for the plaintiff and also the defendants. Perused the applications, affidavits, objections, pleadings and documents produced from the both sides.

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

1. Whether the plaintiff has established prima-facie case to grant temporary Injunction ?



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 as prayed in I.A.No.II is not granted?

4. What order ?

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

Point No.1	:-	In the affirmative,
Point No.2	:-	In the affirmative,
Point No.3	:-	In the affirmative,
Point No.4	:-	As per order for the following:

REASONS

7. **POINT NO.1:** The plaintiff has filed the suit for Declaration to declare that he is the absolute owner in peaceful possession and enjoyment of suit property and for declaration to declare that Sale Deed dated 08.06.2022 executed by defendants No.1 to 11 in favour of defendant No.14 is null and void. Permanent Injunction is also sought restraining the defendants from interfering with the peaceful possession and enjoyment of and from alienating the suit property. It is stated that Sale Deed in



favour of defendant No.14 is forged document. Sale Deed in favour of plaintiff is much earlier to the said Sale Deed. He purchased the suit property on 12.07.2005 through registered Sale Deed from Parvathamma. Earlier larger extent of suit property was belonging to Chinnappaiah son of Hanumappa. It was granted to him. Later he sold said extent of 4 Acres including suit property in favour of Paravathamma on 15.01.1975. Katha was mutated in her name and she continued the possession and enjoyment of suit property without interruption. After purchase of the suit property, plaintiff has started to enjoy the same as absolute owner. He applied for mutating revenue entries. Authority refused to mutate his name stating baseless reason. Hence, plaintiff challenged the Mutation register before Assistant Commissioner and it was allowed. Based on the said order, katha was mutated in his name in the year 2010-11. Thereafter, he has been in uninterrupted possession and enjoyment of the suit property. It has not been challenged. Apart from this, Chinnappaiah @ Marappa who is resident of Earayyanapalya, Ramamurthy Nagar, Bangalore, approached the Assistant Commissioner seeking order of restoration of suit property



by invoking the provisions of PTCL Act against Chikka Kempanna and his legal heirs without making the plaintiff as party in the said case. It was allowed. It was obtained behind the back of the plaintiff. Plaintiff came to know about the same and immediately challenged the said order before Deputy Commissioner who set aside the said order of Assistant Commissioner on 18.04.2022 and remanded the case back to the Assistant Commissioner to conduct re-enquiry about the heirship of the alleged grantees with respect to suit property. It has not been challenged and it has attained finality. Along with the plaint, documents are produced by the plaintiff. R.T.C. is standing in the name of defendant No.14. It shows that suit property is converted. Sale Deed dated 12.07.2005 shows that plaintiff purchased the suit property from Parvathamma. In the Sale Deed, it is mentioned that she has acquired the suit property on 15.01.1975 from Chinnappaiah and katha was mutated in her name. Grant certificate shows that suit property was granted in the name of Chinnappaiah. The address is shown in the said grant certificate. It is Kamenahalli, Devanahalli Taluk. Sale Deed for the year 1975 shows that Parvathamma purchased the



suit property from Chinnappaiah. Mutation shows that the name of Parvathamma is entered in the revenue record from the name of Kamenahalli Chinnappaiah son of Hanumappa. Mutation Register also shows the name of plaintiff and it is mutated from the name of Parvathamma. The order of Assistant Commissioner shows that suit property was restored in the name of original grantee. It is the case filed by Chinnappaiah @ Marappa son of Hanumappa resident of Erayyanapalya, Ramamurthy Nagar, Bangalore. But in the grant certificate, this address is not forthcoming. In the plaint also, plaintiff has clearly stated that the petitioner Chinnappaiah @ Marappa is not original grantee. Original grantee Chinnappaiah is the resident of Kamenahalli Village, Devanahalli Taluk. The produced grant certificate supports prima facie version of the plaintiff at this time. The order of Deputy Commissioner shows that the order of Assistant Commissioner has been set aside by allowing the appeal filed by the plaintiff partly and the matter has been remanded to Assistant Commissioner for re-enquiry of the matter. But defendants have not produced any documents to show that there was enquiry as per the



order of Deputy Commissioner in respect of the present suit property. The copy of Sale Deed shows that defendant No.1 to 11 represented by general power of attorney holder defendant No.14 along with confirming parties who are defendant No.12 and 13 sold suit property in favour of defendant No.14 on 08.06.2022. The order of Deputy Commissioner came to be passed on 18.04.2022 for re-enquiry in respect of the matter in dispute. But Sale Deed came to be executed on 08.06.2022. Thereafter, sale permission was also obtained by the defendant No.1 on 10.05.2022. Thereafter, the name of defendant No.1 came to be entered in the revenue record. Defendant No.14 also obtained conversion order on 16.08.2022 in respect of suit property. On perusal of entire materials on the record, it is clear that there was pending enquiry in respect of the matter in dispute. But defendants have got Sale Deeds, sale permission and conversion order, thereafter, in the year 2022. The advocate for plaintiff has produced the documents to show that the conversion order and sale permission have been stayed by the Hon'ble High Court of Karnataka in Writ Petition No.28979/2024. Therefore, defendants can't take advantage of the said orders.



Defendant No.14 has also produced the same documents. They are Sale Permission, Conversion Order and Relinquishment Deed, Order of Assistant Commissioner and Deputy Commissioner, Family Tree, Grant Certificate, General Power of Attorney, Patta Book and R.T.C. They are not helpful to the defendant No.14 at this time or to other defendants. Because there are materials on the record to consider the prima facie case in favour of the plaintiff. The Sale Deed in favour of plaintiff is earlier to the Sale Deed of defendant No.14. Whether sale permission was required or not can't be considered at this time. At this time, only prima facie case is to be looked into. On perusal of entire materials on the record, I am of the opinion that the plaintiff has made out prima facie case to grant Temporary Injunction order restraining the defendants. There are grounds in the application. Objection is not sustainable. Hence, I answer Point No.1 in the "**AFFIRMATIVE**".

8. POINT NO.2:- The plaintiff has made out prima-facie case in this case. To grant temporary Injunction in favour of the plaintiff, he has to show that there is balance of



convenience in his favour more than the defendant No.14. On perusal of materials on the record, the balance of convenience lies in favour of the plaintiff, when it is compared with the defendant No.14 case. Because, if the schedule property is sold by the defendant No.14, the plaintiff will have no other way to get the relief. Therefore, I am of the opinion that the plaintiff has also shown the balance of convenience to grant temporary Injunction. Accordingly, I answer the point No. 2 in the **"AFFIRMATIVE"**.

9. POINT NO.3: The plaintiff has also to establish that if the temporary Injunction is not granted, he will be put to greater hardship. The defendant No.14 has also to show that they will be put to greater hardship, if the temporary Injunction is granted in favour of the plaintiff. But, there are materials to show that the greater hardship will be caused to the plaintiff if application is rejected. Therefore, the contentions of the defendant No.14 are to be considered at the time of trial. Hence, I am of the opinion that the plaintiff has also shown that he will be put to greater hardship, if the temporary Injunction is not



granted. Accordingly, I answer the point No.3 in the **"AFFIRMATIVE"**.

10. POINT NO.4: As per the above discussion, I pass the following :

ORDER

I.A.No.II filed by the plaintiff Under Order 39 Rule 1 and 2 read with Section 151 of C.P.C. is hereby allowed.

The defendant No.14, his agents are hereby restrained from alienating the application/suit schedule property in any manner in favour of anybody till disposal of the suit.

(Directly dictated to the Stenographer, corrected and then pronounced by me, in the Open Court, on this the **10th** day of **July, 2025**).

Sd/-
(**Lokesha.M.G.**)
I Addl Sr.Civil Judge & Jmfc.,
Devanahalli.

