

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC,
HOSAKOTE AT: HOSAKOTE**

Present; Sri Basavaraj. G. Sanadi,
B.A L.L.B(Spl.),
Prl. Civil judge And JMFC Hoskote

O.S. NO: 200-2021

Dated this 1st Day of August 2022

**Applicant/
Plaintiff**

: Smti. Renuka g.V.
W/o Purudhothma. K.
Age :46 years,
R/at C/o M.C. Harish Kumar
No.LIG-14, Maruthi Nilaya,
New KEB colony,
Near Bharath Vikas School,
Nanjanagud, Mysore District.

(By Sri. S.M.R., Advocate)

-V/s -

Respondent/s

Defendant/s :1. Sri. Venkatappa
S/o Muniyappa
Age: 76 years,
R/at Jinnagara Village,
Jadigenahalli Hobli,
Hosakote Taluk,
Bengaluru Rural District and others.

(By D1- to 4- Sri. B.L.K., Advocate)

The applicant/plaintiff has filed this application with prayer to grant the relief of temporary injunction against the defendants, restraining the defendants or anybody claiming under them from interfering in the peaceful possession of the plaintiff over the suit property. In support of the application the plaintiff has filed the affidavit and prayed to allow the application.

2. On the other hand defendants have appeared through counsel and filed written statement and prayed to treat it as objection to IA No.1. In the written statement defendants denied all the averments of the plaint and interim application as false and frivolous. Further contended that the suit property is the self acquired property of defendant no.1 but plaintiff being daughter of defendant no.1 along with her mother by playing fraud they have obtained signature of defendant no.1 and got executed gift deed in her favour in respect of suit property. But defendant no.1 has not voluntarily executed the gift deed now he has challenged the said gift deed and mutation before the deputy commissioner , Bengaluru Rural in Appl.No.8/2021. Further contended that this defendant no.1 has filed suit for declaration and

possession against the present plaintiff and others in O.S.No.557/2021 before Hon'ble Senior Civil Judge, Bengaluru Rural and same are pending for consideration . Further contended that plaintiff has suppressed the material facts before the court and she has no prima facie case in her favour. Hence prayed to dismiss the application.

3. The following points arise for my consideration;

1. Whether the applicant/plaintiff has Prima - facie case in her favour?

2. Whether the balance of convenience lies in favour of applicant/plaintiff ?

3. Whether the applicant/plaintiff would suffer irreparable loss if the prayer for Interim injunction is rejected?

4. What order?

5. My findings on the above said points are as follow;

Point No.1 : In “Negative”

Point No. 2 : In “Negative”

Point No. 3 : In “Negative”

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

: REASONS :

6. Point No. 1: This is the suit filed by the plaintiff against the defendants for the relief of permanent injunction in respect of suit schedule property. It is the specific contention of the plaintiff that she is absolute owner and in possession and enjoyment of the property bearing Sy.No.6/5 old survey no 6/1 of Devashettihalli Village. Further contended that originally suit property was belonged to defendant no.1 and he has executed registered gift deed in favour of plaintiff in respect of suit property. Now revenue records are standing in the name of plaintiff and she is in actual possession of suit property.

6(a). It is further contention of the plaintiff that defendants who are the father, brother, sister-in-law and relative of the plaintiff and have no manner of right, title and interest over the suit schedule property have illegally trespassed over the suit

schedule property along with their henchmen and obstructed the plaintiff and tried to interfere with peaceful possession and enjoyment of the plaintiff over the suit schedule property. The plaintiff approached the jurisdictional police Station, but police did not take any action. Hence, plaintiff is constrained to file this suit along with I.A No 1.

7. In support of the application, plaintiff has filed affidavit and reiterated averments of the plaint. In support of their case plaintiffs have produced the certified copy of Registered Gift Deed dated 03.08.2007. Copies of Mutation Registers No.3/2007-08, No.4/2007-08. Copies of RTC's property bearing Sy.No.6 of Devashettyhalli Village for the year 2007-2008, 2006-07, 2008, 09 to 2014-15, 2021-21, wherein it is apparent that plaintiff has got 2 acre land in the said property. Copy of the registered sale deed dated 24.01.2006. Copy of the encumbrance certificate. On the other hand defendants have also produced copy of sale deed dated 05.09.1970, Certified copy of Case No. SCA appeal No.08/2021, copies of plaint in SCA appeal No.08/2021, Copy of ordersheet and plaint in O.S. No.557/2021, Copies of photographs and CD copy of Photo's Receipt.

8. Learned advocate for the plaintiff has vehemently argued that plaintiff is the absolute owner and in possession over the suit schedule property. Further argued that plaintiff has prima-facie case in her favour. If IA is not allowed then the plaintiff will be put into great loss and hardship and the irreparable loss will be caused to the plaintiff, which will not be compensated in terms of money. Therefore prayed to grant the temporary injunction against the defendant by allowing the I.A. No.1.

9. On the other hand Learned advocate for the defendants has vehemently argued that defendants are absolute owners and they are in actual possession of suit property. Plaintiff has suppressed the material fact before the court and has not approached the court with clean hands. Further argued that plaintiff has no prima-facie case and balance of convenience in his favour. Therefore prayed to dismiss the I.A. No.1.

10. I have carefully gone through the materials placed by both side. On perusal of materials on record it is apparent that the suit property is standing in the name of plaintiff. On the contrary it the contention of the defendants that they are the

owners and they are in actual possession of the suit property. Further it is the contention of the defendant no.1 that plaintiff by playing fraud has got the gift deed executed in her favour in respect of suit property. Therefore defendant has instituted suit against the present plaintiff and others before Hon'ble Senior Civil Judge, Bengaluru Rural and he has also challenged the said gift deed and mutation, before the Deputy Commissioner , Bengaluru Rural under the provisions of Maintenance and Welfare of parents and senior citizens act 2007. The documents produced by the defendants reveal that there are dispute pending between the plaintiff and defendants in respect of suit property before revenue court and before Hon'ble Senior Civil Judge, Bengaluru Rural. This being suit for bare injunction plaintiff has to necessarily prove the possession over the suit property irrespective of title and interference by the defendants. Obviously it needs full fledged trial, where both parties can prove their contention by leading cogent and reliable evidence. Therefore, at this stage looking into facts and circumstance of the case and analyzing the materials placed before the court, it appears that plaintiff has no prima-facie case in her favour. Accordingly I answer Point No. 1 in the negative.

11. Point No 2: As discussed above in point No. 1 now at this stage the prima- facie case is not existing in favour of the plaintiff. Further on perusal of materials placed by both side it appears that the balance of convenience is also not in favour of plaintiff. Hence, I answer point No. 2 in Negative.

12. Point No 3: As discussed above in Point No.1 and 2 the prima-facie case and balance of convenience are not in favour of the plaintiff. Therefore, the question of hardship or irreparable loss to the plaintiff does not arise. Hence, I answer point No. 3 in the Negative.

13. Point No 4: In view of my findings on Point No. 1 to 3 as discussed above, I proceed to pass the following:

ORDER

I.A. No. I filed U/o 39 Rule 1 and 2
R/w. 151 of CPC by plaintiff is hereby
dismissed.

No order as to cost.

(Dictated to the stenographer directly on computer, typed by her, revised by me and then pronounced in the open court, on this 1st day of August 2022)

**Prl. Civil Judge and JMFC.,
Hosakote.**

01.08.2022

Case called out

**(Orders on I.A.No.1 pronounced in
the open court vide separate orders)**

ORDER

I.A. No. I filed U/o 39 Rule 1 and 2
R/w. 151 of CPC by plaintiff is hereby
dismissed.

No order as to cost.

Call on for framing of issues by 15.10.2022.

**Prl. Civil Judge and JMFC.,
Hosakote.**