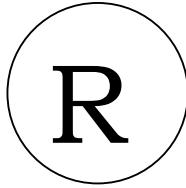




IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 7TH DAY OF JULY, 2025
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.51712/2019 (GM-CPC)



BETWEEN:

1. SRI. BALAKRISHNA K.P.
S/O LATE PUTTASWAMY GOWDA
AGED ABOUT 69 YEARS.
2. SRI. PRADEEP KUMAR
S/O SRI. K.P. BALAKRISHNA
AGED ABOUT 37 YEARS.

BOTH ARE R/AT K. KAMANAGATTA
HIRISAVE HOBLI
CHANNARAYAPATNA TALUK-571112.



...PETITIONERS

(BY SRI. H.N. SHASHIDHARA, SR. COUNSEL FOR
SRI. H.S. SUHAS, ADV.,)

AND:

1. SRI. K.P. PUTTARAJU
S/O LATE PUTTASWAMY GOWDA
AGED ABOUT 58 YEARS.

SRI. K.P. MANJEGOWDA
S/O LATE PUTTASWAMY GOWDA
SINCE DECEASED BY LRS.
2. SMT. SUJATHA
W/O K.P. MANJEGOWDA
AGED ABOUT 52 YEARS.
3. KUM. PRAKRUTHI
D/O K.P. MANJEGOWDA
AGED ABOUT 28 YEARS.



4. KUM. PRANITHA
D/O K.P. MANJEGOWDA
AGED ABOUT 25 YEARS.
5. SRI. K.P. RAMAKRISHNA
S/O LATE PUTTASWAMY GOWDA
AGED ABOUT 54 YEARS.
6. SRI. K.P. KUMARASWAMY
S/O LATE PUTTASWAMY GOWDA
AGED ABOUT 63 YEARS.
7. SRI. RAMAPRASAD
S/O PUTTARAJU
AGED ABOUT 24 YEARS.

RESPONDENTS 1 TO 7 ARE
R/AT K. KAMANAGATTA, HIRISAVE HOBLI
CHANNARAYAPATNA TALUK-571112.

8. SMT. KEMPAMMA
W/O RAJANNA @ HUCHEGOWDA
AGED ABOUT 62 YEARS
R/AT SIDDAPURA PALYA
HONNENAHALLI POST
BELUR HOBLI, NAGAMANGALA TALUK
MANDYA DISTRICT-571 432.
9. SMT. K.P. JAYALAKSHMI
W/O B. NAGARAJU
AGED ABOUT 60 YERS
R/AT D. TUMKUR, HIRISAVE HOBLI
CHANNARAYAPATNA TALUK-571112.

SINCE DECEASED BY HER LR'S.

- 9(a) B. NAGARAJU
S/O BHADRAIAH
AGED ABOUT 66 YEARS.
- 9(b) SMT. N. SHYLAJA
D/O B. NAGARAJU
AGED ABOUT 43 YEARS.
- 9(c) SRI. SADANANDA



S/O B. NAGARAJU
AGED ABOUT 40 YEARS.

9(d) SRI. INDUSHEKHAR
S/O B. NAGARAJU
AGED ABOUT 37 YEARS.

PROPOSED RESPONDENTS 9(a) TO 9(d)
ARE R/AT. K. KAMANAGATTA
D. TUMKURU POST, DIDAGA-573141
HIRISAVE HOBLI
CHANNARAYAPATNA TALUK
HASSAN DISTRICT-571112.

10. SMT. K.P. NALINAKSHI @ NANJAMMA
W/O SIDDEGOWDA
(RETIRED CEMENT COMPANY EMPLOYEE)
AGED ABOUT 58 YEARS
R/AT KUVEMPU NAGAR, BEHIND RTO OFFICE
TUMKUR CITY AND DISTRICT-571832.

11. SRI. K.P. BALARAMEGOWDA
S/O LATE PUTTASWAMY GOWDA
AGED ABOUT 67 YEAS
R/AT DIDGA, HIRISAVE HOBLI
CHANNARAYAPATNA TALUK-571112.

...RESPONDENTS

(BY SRI. RAMACHANDRA R. NAIK, ADV., FOR R1 TO R7, R10 & R11
SRI. M.B. CHANDRACHOODA, ADV., FOR R8, R9 (a to d)
VK FILED FOR R9(b) TO R9(d))

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE RECORDS AND SET ASIDE THE IMPUGNED ORDER OF DISMISSAL OF IA NO.13 DATED 11.11.2019 IN O.S.NO.13/2017 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND JMFC, CHANNARAYAPATNA VIDE ANNX-A TO THE W.P. ISSUE A WRIT OR ORDER OR DIRECTION ALLOWING I.A.NO.13, IN O.S.NO.13/2017 ON THE FILE OF PRINCIPAL CIVIL JUDGE, SENIOR DIVISION AND JMFC, CHANNARAYAPATNA AND GRANT THE RELIEF & ETC.



THIS PETITION HAVING BEEN HEARD AND RESERVED ON 25.06.2025, COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV ORDER

This petition is filed challenging order dated 11.11.2019 passed on IA.No.13 in O.S.13/2017 by the Principal Senior Civil Judge & JMFC, Channarayapatna.

2. Sri.H.N.Shashidhara, learned senior counsel appearing for the petitioners submits that petitioners filed suit against the respondents for declaration and permanent injunction. In the said suit, the petitioners' application for temporary injunction was considered and granted by detailed order on 28.10.2017. The said order was challenged in MFA.No.9460/2017. However, the said appeal was dismissed for non-prosecution and later restored and there is no stay of the order dated 28.10.2017.

3. It is submitted that despite the restraining order against the respondents, they have attempted to



dispossess and caused continuous disturbance to the enjoyment of the suit schedule properties by the petitioners. It is further submitted that petitioners gave police complaints with regard to some incidents and FIRs came to be registered against the respondents. Despite the same, the respondents have continued to disturb the lawful possession of the petitioners in violation of the interim order granted by the trial Court, which compelled the petitioners to file an application seeking police protection to protect their possession. However, the trial Court without considering the same has passed an order on 11.11.2019 and rejected the application solely on the ground that the incidents narrated by the petitioners are mere aberrations of interference.

4. It is submitted that the petitioners lodged the police complaints against the respondents for constant disturbance to their possession and number of incidents were pointed out in the application. However, none of such things were considered by the trial Court, which has



resulted in rejection of the application. In support of his contentions, he placed reliance on the following decisions:

- a) ***Smt.Karisiddamma and Others v. Smt.Sanna KENCHAMMA*¹**
- b) ***Siddaramappa and Others v. Talavar Rangappa and Others*²**
- c) ***Sri.Manjunath Reddy v. Smt.V.Nagarathna and Others*³**

It is contended that this Court has granted interim police protection in the present proceedings and thereafter, the respondents have not disturbed their possession over the suit schedule properties. Hence, he seeks to allow the writ petition by providing police protection to protect their possession over the suit schedule properties.

5. Per contra, Sri.Ramachandra R. Naik, learned counsel appearing for respondent Nos.1 to 7 and 10 & 11

¹ ILR 2010 KAR 1197

² WP.No.62970/2016 dated 27.02.2017

³ WP.No.37507/2012 dated 01.04.2014



and Sri.M.B.Chandrachooda, learned counsel appearing for respondent Nos.8 and 9(a) to 9(d) supports the impugned order of the trial Court. It is submitted that the petitioners have misrepresented before the Court in the writ petition stating that MFA.No.9460/2017 is dismissed and obtained the interim relief in the present petition. However, the said appeal is still pending. It is submitted that immediately after the passing of the interim order by this Court, the respondents filed an application for vacating the same which is pending and the petitioners took many adjournments for one or the other pretext.

6. It is further submitted that respondent No.8 has filed OS.No.59/2017 seeking relief of partition and separate possession in respect of the same properties which is pending and the petitioners have filed written statement in the said suit and without disclosing all the facts petitioners have obtained the interim order at the hands of this Court. It is also submitted that the interim order of the trial Court dated 28.10.2017 has not attained



finality and till the temporary injunction attains finality there cannot be any police protection. It is submitted that there cannot be an interim order against the co-owner of the property and very grant of order of temporary injunction is required to be interfered. In support of his contentions he placed reliance on the decision of this Court in the case of ***Eswaraiah v. B.S.Siddalingappa and Others***⁴. He seeks to dismiss the writ petition.

7. I have heard the arguments of the learned senior counsel for the petitioners, the learned counsel for the respondents and perused the material available on record. I have given my anxious considerations to the submissions advanced on both sides.

8. The petitioners filed OS.No.13/2017 against the respondents herein for a relief of declaration that the petitioners are lawful owners in possession and enjoyment over the suit schedule properties and further relief of permanent injunction against the respondents from

⁴ ILR 1999 KAR 3037



interfering with the lawful possession and peaceful enjoyment of the suit schedule properties. The petitioners application in IA.No.1 filed under Order XXXIX Rule 1 & 2 of the Code of Civil Procedure (for short 'CPC') came to be allowed vide order dated 28.10.2017 by granting temporary injunction in favour of the petitioners by restraining the respondents, their men etc., from interfering with the peaceful possession and enjoyment of the suit schedule properties till the disposal of the suit. The said order is a well considered order and passed after hearing the parties to the proceedings. The said order came to be challenged by respondent No.8/defendant No.6 in MFA.No.9460/2017 and the said appeal was dismissed for non-prosecution on 10.06.2019 and later it was restored. However, there is no interim order in the pending appeal.

9. The petitioners in the meanwhile filed an application under Section 151 of CPC seeking police protection to protect their respective possession over the



suit schedule properties against the respondents on the ground that they are interfering with their peaceful possession and enjoyment over the suit schedule properties, in violation of the temporary injunction order dated 28.10.2017. The affidavit accompanying the said application indicates that the respondents are constantly trespassing into the suit schedule properties in violation of the temporary injunction order. It also indicates that, the respondents wrongfully obstructed the vehicle of the petitioners, which was carrying the coconuts and tried to knock off the coconuts, but the petitioners managed to take away the same. It is averred that the respondents formed unlawful assembly, trespassed the properties, created obstruction and also stole coconuts stored in the petitioners' godown. The said incidents were reported to the jurisdictional police and accordingly Crime No.124/2017, Crime No.13/2019 and Crime No.85/2019 were registered against the respondents under various provision of law. The jurisdictional police are investigating



the said crimes and they recovered the stolen coconuts. It is further averred that despite the registration of FIRs, the respondents continued to disturb the peaceful possession. The affidavit also indicates that there is a constant interference from the respondents with regard to the possession over the suit schedule properties in violation of the temporary injunction order. However, the trial Court has come to conclusion that the petitioners have pointed out few incidents and there is no allegation of serious threat of dispossession and rejected the application for police protection. The trial Court further recorded the finding that the petitioners have not mentioned the purpose for seeking police protection and there are 19 items of suit schedule properties and no police can be deployed to guard all the properties and proceeded to reject the application for police protection.

10. In my considered view, to consider the petitioners prayer for police protection or aid, it would be useful to consider some of the decisions on the point. This



Court in the case of ***Smt.Karisiddamma and Others*** referred *supra* held that when a temporary injunction order is made absolute after hearing both the sides, there are no legal impediments in granting the police assistance for enforcing the temporary injunction order depending upon the gravity of the situation. Similarly in the case of ***Siddaramappa and Others*** referred *supra* held that when the order of temporary injunction has attained finality, both the parties to the *l/s* are bound to obey the order passed by the trial Court and in case of any infraction to such order, the police protection can be provided. In the case of ***Sri.Manjunath Reddy*** referred *supra* it was held that even where an *ex-parte ad-interim* order of injunction is passed, the defendant is bound to obey the order and if the order is not obeyed, the defendant cannot have any grievance against the order of having police protection.

11. After examining the case law on point, I am of the view that the consideration of the application filed for



police protection before the trial Court shall be based on various factors like:

- a) The nature of temporary injunction order passed by the trial Court.
- b) The nature of police protection sought.
- c) The trial Court shall consider the effect of granting and non-granting of police protection.
- d) The trial Court shall satisfy itself that *prima facie* case is made out for grant of police protection based on the pleading and material on record.
- e) The trial Court shall record the reasons while granting the police protection against the defendants as to whether the defendants are consistently violating the temporary injunction order with impunity and there is need for police protection or aid.
- f) The trial Court shall also take note of the fact that whether the temporary injunction order



granted has attained finality and the application needs consideration even during the pendency of the appeal against the order of temporary injunction granted by the trial Court by recording the reasons for such urgency or otherwise.

g) The trial Court cannot order police protection mechanically. Each case has to be dealt based on the pleading, material on record and the nature of protection sought and nature of temporary injunction granted. Unless the trial Court satisfies itself that there is an imminent need for police aid/police help, it cannot order for police protection on mere request.

h) The exercise of power by the trial Court to consider the application for police protection is an inherent power of the Court under Section 151 of CPC. The trial Court may pass such order as may be necessary for the ends of justice or to prevent the abuse of the process of the Court.



i) There is no impediment for the trial Court to consider the application for police aid or protection merely because there is a remedy under Order XXXIX Rule 2A of CPC.

The trial Court shall keep in mind the aforesaid factors and also consider other relevant material and factors while passing an order on the application for police protection or aid.

12. The Hon'ble Supreme Court in the case of ***Meera Chauhan v. Harsh Bishnoi and Another***⁵ reiterating the law laid down by it in the case of ***Manohar Lal Chopra v Rai Bahadur Rao Raja Seth Hiralal***⁶ referred supra at paragraph Nos.14 to 18 has held with regard to scope of Section 151 of CPC as under:

"14. Before we deal with this question of possession as to who was in actual possession at the relevant point of time it would be appropriate to note that the order for restoration was passed by the trial court on an application under Section 151 of the Code of

⁵ (2007) 12 SCC 201

⁶ AIR 1962 SC 527



Civil Procedure. A question may arise whether such an application can be entertained by the court when specific provision under Order 39 of the Code of Civil Procedure has been made for grant of injunction in the form of mandatory order in the exercise of power under the said order. Therefore to decide this aspect of the matter, let us consider the scope of Section 151 of the Code of Civil Procedure. Section 151 reads as under:

"151. Saving of inherent powers of Court.— Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court."

15. *On a bare perusal of Section 151 of the Code of Civil Procedure, it cannot be said to be in dispute that Section 151 confers wide powers on the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.*

16. *The power of Section 151 to pass order of injunction in the form of restoration of possession of the code is not res integra now.*

17. *In Manohar Lal Chopra v. Rai Bahadur Rao Raja Seth Hiralal [AIR 1962 SC 527 : 1963 All LJ 169] while dealing with the power of the court to pass orders for the ends of justice or to prevent the abuse of the process of the court, this Court held that the courts have inherent jurisdiction to issue temporary order of injunction in the circumstances which are not covered under the provisions of Order 39 of the Code of Civil Procedure. However, it was held by this Court in the aforesaid decision that the inherent power under Section 151 of the*



Code of Civil Procedure must be exercised only in exceptional circumstances for which the Code lays down no procedure.

18. *At the same time, it is also well settled that when parties violate order of injunction or stay order or act in violation of the said order the court can, by exercising its inherent power, put back the parties in the same position as they stood prior to issuance of the injunction order or give appropriate direction to the police authority to render aid to the aggrieved parties for the due and proper implementation of the orders passed in the suit and also order police protection for implementation of such order."*

13. It is clear from the aforesaid enunciation of the law by the Hon'ble Supreme Court that the Court has the power to enforce its order of temporary injunction by providing police aid or police protection, though to be exercised in exceptional circumstances. In the case on hand, the petitioners have placed substantial material before the trial Court and specifically pleaded that the respondents in violation of the temporary injunction order are interfering with their peaceful possession and enjoyment of the suit schedule properties on many occasions. In support of the said plea, the petitioners have



placed the material to indicate that they have initiated criminal proceedings against the respondents and that they are under investigation. This Court cannot lose sight of the fact that the order dated 28.10.2017 passed by the trial Court on an application filed by the petitioners filed under Order XXXIX Rules 1 & 2 is not altered in the pending appeal in MFA.No.9460/2017. The trial Court has recorded detailed reasons while granting temporary injunction in favour of the petitioners and against the respondents with regard to the possession over the suit schedule property. In violation of the temporary injunction order, if the respondents interfere with the possession as observed by the trial Court, it is the duty of the trial Court to protect such possession by providing necessary police aid to the petitioners against the respondents, who wanted to take the law into their own hands. In my considered view, the trial Court has committed grave error in recording the finding that there are some aberrations of interference and rejected an application for police



protection. The trial Court has also come to conclusion that there is a violation of the temporary injunction order by the respondents, when that being so, the trial Court ought to have directed the jurisdictional police to provide help whenever need arises.

14. This Court is conscious of the fact that there cannot be a continuous police aid or police protection to guard the properties of the petitioners. However, the same also cannot be a ground to deny the police aid whenever specific instances of interference by the respondents were brought to the notice of the police by the petitioners. Non-providing of police protection in such cases would give a ground for the respondents to defy the order of the temporary injunction granted by the Court. The Trial Court, while rejecting the application has further noted that the petitioners have filed an application under Order XXXIX Rule 2A seeking action against the defendants for violation of injunction order, however, in my view, there is no impediment to entertain the application for police



protection to seek for enforcement of the temporary injunction order just because the remedy under Order XXXIX Rule 2A is available. It was also brought to notice of the Court that after grant of police protection by this Court in the above proceedings on 16.01.2020 there is no interference from the respondents. That being so, I am of the considered view, that the petitioners have made out a case that there are exceptional circumstances in the case on hand and that police aid must be provided to implement the order of temporary injunction order granted by the trial Court whenever need arises. It is needless to observe that the police protection sought and granted by this Court shall remain in force till the temporary injunction order operates in favour of the petitioners. For the aforementioned reasons I proceed to pass the following:

ORDER

- i) Writ petition is allowed.



ii) Impugned order dated 11.11.2019 passed on IA.No.13 in O.S.No.13/2017 on the file of Principal Senior Civil Judge & JMFC Channarayapatna is hereby set aside.

iii) Consequently, IA.No.13 is allowed.

iv) The jurisdictional police i.e. Hirisave police is directed to provide police aid whenever the petitioners seek by pointing out that the respondents are trying to dispossess or acting in violation of the temporary injunction order dated 28.10.2017.

v) No order to costs.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

ABK
List No.: 1 Sl No.: 2