

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE 2015

BEFORE

THE HON'BLE MR. JUSTICE A.V.CHANDRASHEKARA

WRIT PETITION NO.2880/2015 (GM-CPC)

BETWEEN

BANGARA SHETTY
S/O LATE BASAVASHETTY
AGED ABOUT 49 YEARS
RESIDING AT BANDIGERE VILLAGE
HARADANAHALLI HOBLI
CHAMARAJANAGAR - 571 313.

... PETITIONER

(By SMT.S.SUMATHI, ADV. FOR
SRI A.M. SURYA PRAKASH. ADV.)

AND

N. SURESH
S/O LATE N NAGESHRAO
AGED ABOUT 49 YEARS
RESIDING AT NO.1ST CROSS
BRAMARAMBA EXTENSION
CHAMARAJANAGARA - 571 313.

... RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF CONSTITUTION OF INDIA, PRAYING TO QUASH
ANNX-D THE ORDER DT.29.1.2014 PASSED ON I.A.NO.II IN

O.S.NO.120/2013, ON THE FILE OF PRINCIPAL CIVIL JUDGE & JMFC, CHAMARAJANAGAR.

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Heard the learned counsel for the petitioner and perused the impugned order dated 29.1.2014 passed by the learned Principal Civil Judge and JMfC, Chamarajanagar, in O.S.No.120/2013.

2. The suit is filed for the relief of permanent injunction only. Plaintiff Bangara Shetty is claiming to be in possession of the suit schedule property and since the 3rd defendant tried to interfere with his peaceful possession, he was forced to file a suit for permanent injunction.

3. During the pendency of the suit, the respondent herein chose to file an application under Order 1 Rule 10(2) r/w Section 151 CPC to implead him as proposed defendant No.4 on the ground that he is in possession of the suit schedule property and he has purchased the suit

schedule property under the Registered Sale Deed dated 29.1.1998 executed by the mother of the plaintiff. The learned Judge has come to the conclusion that, though the name of plaintiff finds a place in the revenue records, it has only a rebuttable presumption and the applicant has placed material to show that he is in actual possession of the suit schedule property. The learned Judge has come to the conclusion that he is not only a necessary party, but also a proper party, who claims to be in possession of suit schedule property and allowed the application filed under Order 1 Rule 10(2) r/w Section 151 of CPC.

4. Just because the respondent has been allowed to come on record in a suit for permanent injunction, the approach adopted by the learned Judge cannot be called either as perverse or illegal. No good grounds are made out to interfere with the supervisory jurisdiction under Article 227 of the Constitution of India.

Any observation made by the learned Judge is for the limited purpose of disposing of the application filed under Order 1 Rule 10(2) r/w Section 151 of CPC and the same shall not influence while deciding the case on merits.

Petition is dismissed.

**Sd/-
JUDGE**

AP