

THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11<sup>TH</sup> DAY OF FEBRUARY, 2015

BEFORE

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

M.F.A.NO.8357/2014 C/W  
M.F.A.NO.8358/2014 (CPC)

BETWEEN:

SRI. BABU REDDY  
SON OF SRI.K.M.RAMIAH REDDY,  
AGED ABOUT 59 YEARS,  
RESIDING AT NO.73, 8TH BLOCK,  
KORAMANGALA,  
BANGALORE-560095. ... APPELLANT  
(COMMON IN BOTH APPEALS)  
(BY SRI. V B SHIVA KUMAR, ADV.)

AND:

1.SRI. K.M. RAMIAH REDDY  
AGED ABOUT 96 YEARS,  
SON OF LATE MUNIYAPPA,  
RESIDING AT NO.73, 8TH BLOCK,  
KORAMANGALA,  
BANGALORE-560095.

2.SMT JAYAMMA  
AGED ABOUT 76 YEARS,  
WIFE OF LATE H.RAMIAH REDDY,  
RESIDING AT NO.277/3,  
9TH A MAIN, 2ND BLOCK,  
JAYANAGAR,  
BANGALORE-560095.

3.SRI RANI REDDY  
AGED ABOUT 51 YEARS,  
WIFE OF SRI.RAVI KUMAR,

RESIDING AT NO.277/3,  
9TH A MAIN, 2ND BLOCK,  
JAYANAGAR,  
BANGALORE-560011.

4.SMT SHAMALA RAJAGOPAL  
WIFE OF SRI. S.N.RAJAGOPAL,  
AGED ABOUT 49 YEARS,  
RESIDINT AT NO.277/3,  
9TH "A" MAIN, 2ND BLOCK,  
JAYANAGAR,  
BANGALORE-560011.

5.SRI H R RAJASEKHAR  
WIFE OF LATE H.RAMAIAH REDDY,  
AGED ABOUT 56 YEARS,  
RESIDING AT NO.310, 6TH MAIN,  
HAL II STAGE,  
BANGALORE-560038.

6.SMT KANTHAMMA  
WIFE OF SRI.N.CHANDRASHEKAR,  
AGED ABOUT 53 YEARS,  
RESIDING AT NO.53, 1ST FLOOR,  
BASAPPA ROAD, SHANTHINAGAR,  
BANGALORE-560027.

7.SMT LAKSHMI DEVI  
WIFE OF VENKATASWAMY,  
AGED ABOUT 59 YEARS,  
RESIDING AT NO.498,  
1ST FLOOR, 3RD "A" MAIN,  
16TH CROSS, HSR LAYOUT,  
6TH SECTOR,  
BANGALORE-560034.

... RESPONDENTS  
(COMMON IN BOTH APPEALS)

(BY SRI.M.S.RAJENDRA FOR M/S. HOLLA & HOLLA, C/R-5)

THESE MFAs ARE FILED U/O 43 RULE 1(r) OF CPC,  
AGAINST THE ORDER DATED:02.12.2014 PASSED ON IA

NO.II (IN MFA.NO.8357/14) & I.A.XX (IN MFA.NO.8358/14)  
IN OS NO.2383/2008 ON THE FILE OF THE XIV  
ADDITIONAL CITY CIVIL JUDGE AT BANGALORE,  
ALLOWING IA NO.1 FILED U/O 39 RULE 4 OF CPC.

THESE APPEAL COMING ON FOR ADMISSION ALONG  
WITH I.A.1/14 FILED FOR STAY THIS DAY, THE COURT  
DELIVERED THE FOLLOWING:-

### J U D G M E N T

Heard the learned counsel for the appellant.  
Perused the orders dated 2.12.2014 passed by the  
learned XIV Addl. City Civil Judge, Bengaluru City in  
O.S.No.2383/08.

2. The first defendant is the father of the plaintiff.  
Defendant Nos. 3 to 7 are children of defendant No.2-  
Jayamma. Suit has been filed for the relief of title and  
possession in respect of 2 acres 20 guntas of land  
situated at Haralur Village, Varthur Hobli, Bengaluru  
East Taluk. During the pendency of the said suit, an  
application had been filed by the plaintiff under Order  
39 Rule 1 and 2 of CPC seeking an order of injunction  
against alienation against defendants Nos.2 to 7 who

are respondent Nos. 2 to 7 herein and an application had been filed by defendant Nos.2 to 6 under Order 39 Rule 4 of CPC. The application under Order 39 Rule 1 and 2 of CPC has been dismissed after contest and the application filed by defendant Nos. 2 to 6 under Order 39 Rule 4 of CPC had been allowed vacating the exparte temporary injunction order. It is this order, which is questioned in this appeal before this Court.

3. Admittedly, the entire extent of 4 acres 10 guntas in Survey No.33/1 was an Inam land and one H.Ramaiah Reddy, deceased husband of second respondent has chosen to file application seeking occupancy rights in his favour before the Deputy Commissioner for Mysore Religious Charitable and Inams Abolition Act. Consequently occupancy right was granted in his favour. Later on, khatha was changed to his name and he got converted land to an extent of 2 acres 20 guntas into non-agricultural purpose.

4. The entire case of the plaintiff, as put forth before the trial Court is that, the said Ramaiah Reddy himself approached the authorities and obtained an order in his favour behind his back and the said order does not bind him in any manner. It is too premature to accept the said contention at this stage and that will have to be made out only during the course of the trial. The learned Judge has discussed the facts of the case in its entirety and has held that the plaintiff has failed to establish existence of an prima facie case. It is also to be notified that a portion of land in Survey No. 33/1 was sought to be acquired by BDA and it was challenged by defendant Nos. 2 to 7 by filing a writ petition. The said Writ Petition has been dismissed and the acquisition has been upheld.

5. Taking into consideration, the over all facts and circumstances in this case, the learned Judge has come to the conclusion that prima facie case is not made out. In that view of the matter, there is no ground to

interfere with the well considered order passed by the learned trial Judge.

5. There is no ground to admit the appeals. Hence the appeals are dismissed as not fit for admission. Consequently, I.A.1/14 filed for stay does not survive for consideration and the same is rejected.

SD/-  
JUDGE

RS/\*