

(2012) 08 KAR CK 0341

In the Karnataka High Court

Case No : Writ Petition No. 26719 of 2012 (GM-CPC)

Smt. Padmamma

APPELLANT

Vs

The City Municipal Council, Mandya

RESPONDENT

Date of Decision : 02-08-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2

Citation : (2012) 08 KAR CK 0341

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : R. Pramod, for the Appellant;

Final Decision : Dismissed

Judgement

Ravi Malimath

1. The petitioner / plaintiff filed a suit for injunction. An application under Order 39 Rules 1 & 2 was filed by him to restrain the defendants from interfering with the schedule premises. The Trial Court rejected the application and on an appeal being filed, the Appellate Court dismissed the same. Aggrieved by the same, this petition is filed. Learned counsel for the petitioner submits that the petitioner is running a canteen in the suit schedule premises. The Defendant / City Municipal Council has allotted the premises to her at the Kalamandir Road, Mandya. However, the same is under construction and the same is not yet ready for occupation. Hence, the petitioner / plaintiff pleads for injunction.

2. Heard. I do not see any error committed by the Trial Court, which calls for interference. There are no merits to show that the petitioner is in lawful possession of the suit schedule premises. Admittedly, there is no permission or license or any such documents on the basis of which, the present shop is set up. Under these circumstances, the Court below has rightly dismissed the application for possession and enjoyment of the suit schedule premises. In a suit for injunction, the Trial Court necessarily has to consider the plea of the plaintiff so

far as his lawful possession is concerned. The Trial Court has recorded its findings based on facts and circumstances of the case and I do not see any error committed by the Trial Court. Petition is devoid of merits and is accordingly, dismissed.