



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC
AT K.R.NAGAR**

PRESENT: **Sri. Aravindra B.C., B.A., L.L.B.,
Senior Civil Judge & JMFC,
K.R. Nagar.**

Dated this the 16th day of July, 2025

O.S No.28/2022

Plaintiffs : Sri. Harisha L.S. and Others

-V/s-

Defendants : The Chief Secretary & Others

Parties to I.A. No.IX

Applicants : 1. Sri. L.S. Harish,
 S/o Late L.Shanthakumar,
 Aged about 46 years.
 2. Sri. L.S. Yogesh,
 S/o Late L.Shanthakumar,
 Aged about 44 years.
 3. Sri. L.S. Santhosh,
 S/o Late L.Shanthakumar,
 Aged about 42 years.
 All are R/at:
 Lalanahalli village,
 B.R.Pura Post,



K.R.Nagar Taluk,
Mysuru District.

..... Plaintiffs
(By Sri. H.S.K. Adv.)

-V/s-

Opponent : Sri. Mohan Swamy,
S/o Late Mallikarjunaiah,
Aged about 46 years,
R/at: Lalanahalli village,
Kasaba Hobli,
K.R.Nagar Taluk,
Mysuru District.

..... 4th Defendant
(R4 by Sri. M.D.K., Adv.)

Provision under which the application is filed	Under Order 39 Rule 1 and 2 of CPC
Relief Sought For	Seeking pass an exparte order of ad-interim temporary injunction
The date on which the application is filed	30.07.2024
Number of the application	IA No.IX
The date on which the objection is filed by the different opponents	02.09.2024
The date on which the orders was passed on the said application	16.07.2025

**ORDER ON IA.No.IX**

This is an application filed by the plaintiffs/applicants under Order 39 Rule 1 and 2 of Code of Civil Procedure for seeking the relief of ad-interim temporary injunction restraining the defendant No.4 from interfering with the peaceful possession and enjoyment of the schedule property till disposal of the suit.

2. In the affidavit which is enclosed to I.A. No.IX it is stated that, he is the absolute owner and in possession of the land bearing Sy.No.278/1 measuring 1 acre 3 guntas of Lalanahalli village. He was put the possession from 1987. After the death of his father late Sri.Shanthakumar, he is in continuous possession and enjoyment of the schedule property along with the family members. The revenue documents stands in the name of the plaintiffs. Such being the case, the defendant No.4 who has no manner of right over the schedule property and he trying



to interfering with the peaceful possession and enjoyment of the schedule property. Therefore, the plaintiffs prays for allowing the application as prayed for.

3. On the other hand, the defendant No.4 has appeared before the Court through his counsel and filed objection to IA No.IX. In the objection statement, he has contended that, the application is not maintainable either in law or on facts and it is definite case of the defendant No.4 is that, the suit schedule property originally belongs to Basaveshwara temple situated at Lalanahalli village, Kasaba Hobli, K.R.Nagar Taluk. The same has been gifted one Smt.Basamma W/o Siriyappa in the name of temple. The grandfather of defendant No.4 by name, Basavaiah has working as a Archaka in the said temple and performed the Pooja from so many years. After the death of said Basavaiah, the father of defendant No.4 by name, Malikarnjunaiah was working as a Archaka for a period of



more than 70 years. As such, the plaintiffs have no manner of right and title over the schedule property and they trying to interfere with the peaceful possession of defendant No.4. At that time, the defendant No.4 was filed a suit against the plaintiffs in OS No.337/2023 on the file of Prl. Civil Judge and JMFC, K.R.Nagar. The same is pending for adjudication. The plaintiffs have suppressed the said facts and filed this application. The plaintiffs have not made out prima-facie case in their favour. Whereas, the defendant No.4 has made out prima-facie case factum of possession balance of convenience lies in his favour. Hence, the defendant No.4 prays for reject the application.

4. Heard the learned counsel appearing for the parties and perused the material on record.

5. Now the following points arise for consideration of this Court:

1. Whether the plaintiffs have made out prima-facie case for grant of



**prohibitory injunction as sought
for ?**

**2. Whether the balance of
convenience lies in favour of the
plaintiffs?**

**3. Whether the plaintiffs will be put
to irreparable loss and injury if
I.A. No.IX is not allowed?**

4. To what order?

6. The findings of this Court on the above said points
are as under:

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: In the Negative

**Point No.4: As per final order
For the following;**

R E A S O N S

7. **Point No.1**: The plaintiffs have filed the suit for
the relief of declaration that, they are the absolute owners
of the schedule property by way of adverse possession
and also permanent injunction restraining the defendants



from interfering with the peaceful possession and enjoyment of the schedule property. As per plaint averments, the plaintiffs are in possession and enjoyment of the suit schedule property bearing Sy.No.278/1 measuring 1 acre 3 guntas of Lalanahalli village. The father of plaintiffs was in possession and enjoyment of the schedule property from past 44 years and after his death, the plaintiffs are in continuous possession and enjoyment of the same. The revenue documents stands in the name of plaintiffs. Further alleged that on 14.01.2022 the revenue inspector of K.R.Nagar issued notice to the plaintiffs stating that they have encroached the suit land and on 03.03.2022 the concerned authority passed a notification of public auction by stating that they went to auction the schedule property for a period of one year. The plaintiffs have claimed their title by way of adverse possession.



8. Per contra, on the other hand, the defendants have denied the case of the plaintiffs and contended that, the suit schedule property originally belongs to Basaveshwara temple. The defendant's family members have preformed Pooja at the temple and on behalf of the temple, the defendant No.4 is in possession and enjoyment of the schedule property. Further, contended that, at the time of the filing of the application, the original suit in OS No.337/2023 is pending before the Prl. Civil Judge and JMFC, K.R.Nagar. The said facts suppressed by the plaintiffs.

9. Keeping in view of the rival contentions raised by the parties, now this Court proceed to discuss that what is meaning of the word of prima-facie case. It is well settled that the plaintiffs have to make out a prima-facie case to get the relief of injunction. In other words, the Court must be satisfied that there is a bona-fide dispute raised by the



plaintiffs and there is a strong case for trial which needs investing also and decision on merits and on the facts before the Court there is a probability of the plaintiffs being entitled to the relief claimed by the plaintiffs. This view of this Court receives support from the law declared by the Hon'ble Apex Court in the decision reported in **AIR 1993 SC 276** between **Dhalpath Kumar Vs. Prahalad Singh**. Keeping in view of this meaning of the word 'prima-facie case' once again this Court perused the entire case of the plaintiffs. It must be noted that this Court have already stated about the contention raised by the plaintiffs in the preceding paragraph of this order itself. In view of this Court when the plaintiffs allege that they are in lawful possession and enjoyment of the suit schedule property and when the defendant No.4 denies the contention of the plaintiffs, then it becomes clear that dispute has to be investigated by this Court. Keeping in



view this fact, this Court proceed to discuss the documents produced by the plaintiffs.

10. In the light of the arguments canvased by the learned counsel for the parties, their Court as carefully perused the documents produced by the parties to the suit. In the plaint, the plaintiffs stated that, they have seeking injective and declarative reliefs on the ground that they have perfected their title by way of adverse possession.

11. Further, in the plaint the plaintiffs have not stated when the plaintiffs are entered into possession of the schedule property and who are the original owners of the schedule property and further the plaintiffs have not mentioned the ingredients of the principles of adverse possession. The plaintiffs have produced the revenue documents pertaining to the land bearing Sy.No.278/1. The documents appears that the name of Basaveshwara



temple find in the column of 9 and in the column of 10, the names of L.S.Chikkaiah find in the said document. There is no any material available on record in what basis the father of the plaintiffs name mentioned in the said RTC extracts from past forty years. As on the date of filing of the suit, the katha of the schedule property stands in the name of Basaveshwara temple. But, no documents have been produced by the plaintiffs as on the date of suit the katha of the property stands in their names.

12. Further the plaintiffs have also produced the order passed by the government Deputy Commissioner, wherein it appears that, the katha has been transferred in the name of Mahadevaswamy who is defendant No.4. The said order has not been challenged by the plaintiffs.

13. On the other hand, the defendant No.5 has also produced the same documents wherein, the name of the temple was found in the column No.9 of the said revenue



documents. Admittedly, the both parties have claimed same property on the basis of revenue documents. At this stage, it cannot possible to say who is in actual possession of the schedule property and it required full pledged trial.

14. The plaintiffs have not produced any document to show that at this stage they are the owners of the schedule property by way of adverse possession. Therefore, the plaintiffs have failed to made out a prima-facie case in their favour. Thus, to obtain relief of injunction, the plaintiffs foremost have to establish a prima-facie case which means prima-facie existence of right and infringement by the opposite party. On perusal of materials before this Court it appears that, the plaintiffs have failed to establish the prima-facie case that they are in possession and enjoyment of the schedule property. **Hence, this Court answered to Point No.1 in the Negative.**



15. **Point No.2 and 3:** When the plaintiffs have failed to establish the prima-facie case, the other two ingredients does not arise for consideration. In **Kashi Math Samsthan and another Vs. Shrimad Sudhindra Thirthaswamy and another** reported in **(2010) 1 SCC 689**, it is held by Hon'ble Apex Court at para 16 which reads under;

“It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima-facie case to go for prayer, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well settled that when a party fails to prove prima-facie to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima-facie case to go for trial, it is not opened to the Court to grant injunction in his favour even if, he has made out case of balance of convenience being in his favour and suffer irreparable loss and injury if no injunction order is granted.



16. In the present case on hand the plaintiffs have not made out prima-facie case, hence the question of considering balance of convenience and irreparable loss and injury does not arise. **Accordingly Point No.2 and 3 are answered in the Negative.**

17. **Point No.4**:- For the above discussion on point No.1 to 3, this court proceed to pass the following:

ORDER

The I.A.No.IX filed by the plaintiffs under Order 39 Rule 1 and 2 of CPC is hereby rejected.

No order as to cost.

*[Dictated to the Stenographer directly on computer, typed by her corrected and then pronounced by me in the Open Court on the **16th day of July, 2025**]*

**(ARAVINDRA B.C.)
SENIOR CIVIL JUDGE & JMFC,
K.R.NAGAR.**