

KABG040032132024



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC,
AT : BELAGAVI.**

PRESENT : Smt. Preeti L. Malavalli, B.B.A.,LL.B (Hons.)
Prl. Civil Judge & JMFC.,
Belagavi.

DATED THIS THE 4TH DAY OF JUNE-2025

ORIGINAL SUIT NO.1033/2024

PLAINTIFF :

1)	Shri. Ramaji S/o. Hanumanth Talwar, Age : 52 years, Occ : Agriculture, R/o : K. K. Koppa, Tal : & Dist : Belagavi.
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Vs.

DEFENDANTS :

1)	Smt. Paravva W/o. Somappa Talwar, Age : 42 years, Occ : Household, R/o : K. K. Koppa, Tal : & Dist : Belagavi.
2)	Shri. Somappa S/o. Sidrayappa Talwar, Age : 50 years, Occ : Agriculture, R/o : K. K. Koppa, Tal : & Dist : Belagavi.

PARTIES TO I.A.NO.I**Applicant/Plaintiff :**

1)	Shri. Ramaji S/o. Hanumanth Talwar.
	(By Shri. A. C. Kathari, Adv.)

Vs.**Opponents/Defendants :**

1)	Smt. Paravva W/o. Somappa Talwar & another.
	(By Shri. R. D. Kamble, Adv.)

1.	Provision under which application is filed	U/O.XXXIX Rule 1 and 2 R/w. Sec.151 of C.P.C.
2.	Relief sought for	Temporary Injunction
3.	The date on which the application is filed	20.07.2024
4.	Number of application	I
5.	The date on which the objections are filed by different opponent	23.09.2024
6.	The date on which the orders were passed on the said application.	04.06.2025

**ORDERS ON I.A.NO.I FILED BY PLAINTIFF U/O. XXXIX
RULE 1 AND 2 R/W. SEC.151 OF C.P.C.**

The suit properties are agricultural lands bearing R.S. No.23/2 measuring 23 Guntas, R.S.No.24/1+2 measuring 24 Guntas, R.S.No.24/12 measuring 15 Guntas, R.S.No.24/14 measuring 5 Guntas, R.S.No.24/17 measuring 30 Guntas, R.S. No.24/21+22 measuring 30 Guntas and R.S.No.24/25 measuring 23 Guntas, situated at K. K. Koppa Village, Bagewadi Circle, Belagavi. That the suit properties are ancestral properties of plaintiff and he has been cultivating the said properties since generations. The father of plaintiff by name Hanumanth Yalappa Talwar and his uncle by name Chandrappa Yallappa Talwar were cultivating the suit schedule properties after they were allotted to their share in family partition. The father of plaintiff died on 23.05.2017 and the uncle of plaintiff died on 19.12.2020. As such, after the demise of the father and uncle of plaintiff, the plaintiff along with the joint family members including the legal heirs of deceased Chandrappa have succeeded to the suit schedule properties. The plaintiff is in peaceful possession and enjoyment of suit schedule properties and he has been cultivating the suit properties along with other family members belonging to the family of his uncle Chandrappa. The income from agricultural land is the main source of income to the plaintiff's family and the defendants are in no way concerned with the suit schedule

properties, but they are interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule properties. The defendants are only distant relatives of plaintiff, but they are picking up quarrel on silly reasons and interfering with the agricultural activities of plaintiff in the suit schedule properties. The plaintiff also approached Hirebagewadi Police Station in this regard and on reporting the incident to Deputy Commissioner of Police, an order was passed U/Sec.111 of Cr.P.C. calling upon the parties to execute bond along with sureties to maintain peace. However, the defendants are not ready to obey the said order and they have been interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule properties. Hence, the plaintiff has filed the present suit seeking the relief of permanent injunction to restrain the defendants from entering, interfering and disturbing the plaintiff's peaceful possession and enjoyment over the suit properties and the present application has been filed seeking the relief of temporary injunction to restrain the defendants from interfering in the agricultural activities i.e., in the plaintiff's peaceful possession and enjoyment over the suit schedule properties, till disposal of the suit. The plaintiff has also stated in the affidavit annexed to the application that the prima-facie case and balance of convenience lies in favour of plaintiff and that he would suffer irreparable loss and injury if temporary

injunction is not granted in his favour. On these grounds, the plaintiff has prayed to allow the present application.

2. Per contra, the defendants have filed written statement-cum-objection to the said application and in the said objection, the defendants have admitted in the course of their written statement that the suit properties are ancestral properties of plaintiff and since generations the suit properties are being cultivated by the father of plaintiff Hanumanth Yallappa Talwar and his uncle Chandrappa Yallappa Talwar and after division and partition, the suit properties were held by the father and uncle of plaintiff and further that the plaintiff's father and his uncle died on 23.05.2017 and 19.12.2020 and thereafter the plaintiff along with joint family members including the legal heirs of deceased Chandrappa have succeeded to the suit properties. The defendants have denied the further averments of plaint and stated that the suit schedule properties are ancestral properties of defendants and the plaintiff along with Sadevva Yallappa Talwar, Channavva Yallappa Talwar and Mallavva Ningappa Talwar are in actual physical possession and enjoyment over the suit schedule properties and the plaintiff is in no way concerned to the suit schedule properties and that the defendants are growing paddy, soyabean and other crops in the suit properties. They have further stated that the defendants along with plaintiff are in joint

possession of other lands bearing R.S.No.55/14B, 55/18B, 55/19+20, 55/22, 55/24, 56/23B+24B+29/31, 56/31A/1A, 56/32B, 299/5 situated at K. K. Koppa Village, Belagavi and there is no partition with respect to said lands till date. That apart from said lands and the suit properties, there are other joint family properties of the propositus, which are in the joint possession of the defendants and plaintiff. The defendants have also shown genealogy of their family and stated that on the said grounds the present application deserves to be dismissed.

3. Heard the arguments of learned counsel for plaintiff Shri. A. C. Kathari and learned counsel for defendants Shri. R. D. Kamble.

4. Based on the contentions taken by plaintiff and defendants, the following points arise for my consideration :

POINTS

i) *Whether the plaintiff has made out prima-facie case for grant of temporary injunction as sought for ?*

ii) *Whether balance of convenience lies in favour of the plaintiff to grant temporary injunction against the defendants ?*

iii) Whether irreparable loss or injury would be caused to the plaintiff if temporary injunction is not granted ?

iv) What order ?

5. My answer to above points are as under :

Point No.1 : In the Affirmative.

Point No.2 : In the Affirmative.

Point No.3 : In the Affirmative.

Point No.4 : As per final order for the following :

REASONS

6. **Point No.1 :** It is the case of the plaintiff that the suit schedule properties are his ancestral properties and after partition in respect of suit schedule properties, the father of plaintiff and the uncle of plaintiff by name Chandrappa had been cultivating the suit properties and after their death, the plaintiff has been cultivating the suit properties along with the legal heirs of deceased Chandrappa. According to plaintiff, the defendants are distant relatives and they are in no way concerned to the suit properties, but they are interfering with the plaintiff's peaceful possession and enjoyment over suit schedule properties.

7. Per contra, the defendants have stated that they are cultivating the suit schedule properties by themselves and the

plaintiff is in no way concerned to the suit properties and that they are cultivating other joint family properties along with plaintiff jointly. The defendants have also stated that there are other joint family properties in joint possession of defendants and plaintiff and there is no partition till date in the joint family properties. However, it is pertinent to note that the defendants themselves have admitted in Para No.2 of their written statement-cum-objection to I.A.No.1 that the suit properties are ancestral properties of plaintiff and after partition, the suit properties were held by the father and uncle of plaintiff and after their demise, the plaintiff along with joint family members including the legal heirs of deceased uncle Chandrappa have succeeded to the suit properties. As such, the defendants admit that there is partition in the family in respect of the suit schedule properties. In support of the case of plaintiff, he has also produced the RTC extracts pertaining to the suit schedule properties for the year 2023-24 which are standing in the name of the father of plaintiff and his uncle Chandrappa and the mode of acquisition of right is shown in the said RTC extracts as ವಾಟ್ಸಿ ವಾರಸಾ which prima facie indicates that the suit schedule properties have fallen to the share of the father of plaintiff and his uncle Chandrappa in partition. The Column No.9 and 12 of the said RTC Extracts show the names of father of plaintiff and the uncle of plaintiff Chandrappa only. The genealogy furnished by the defendants as annexure to their

written statement reveals that the main propositus Yallappa had three sons by name Laxman, Kareppa and Musheppa. It further reveals that the plaintiff and his uncle Chandrappa are grandchildren of Laxman, whereas the defendants are the heirs of the second son Kareppa. As such, the plaint averments, the aforesaid admission given by defendants in their written statement and the entries in RTC Extracts prima facie reveal that after partition, the plaintiff has been enjoying the suit schedule properties as legal heir of Hanumanth Yallappa Talwar. Also Section 133 of Karnataka Land Revenue Act enumerates about the presumptive value of the entries in the RTC extracts, unless the contrary is proved. At this stage, since only the names of Hanumanth Yallappa Talwar who is father of plaintiff and Chandrappa Yallappa Talwar who is uncle of plaintiff are shown in the RTC extracts, it can be presumed that the plaintiff is in prima facie possession of the suit schedule properties. In this regard, the learned counsel for plaintiff has relied on the decisions of Hon'ble High Court of Karnataka in **Maruthi and others Vs. Govind and others, reported in 2022(2) KCCR 1667** and in **Smt. Susheelamma Vs. G. Venkateshaiah and others, reported in 2022(3) KCCR 2085**, wherein it is held that *the law presumes possession to go with title unless rebutted and that the survey records showing possession of plaintiff and his family should be considered and injunction should be granted in favour*

of plaintiff and it would not in any manner come in the way of defendant in establishing his right if any. It is for the defendants to prove any contrary theory, but they have not produced any document to the contrary at this stage to show that they are in possession of suit schedule properties. Hence, the same can be determined upon a full fledged trial. Until then the prima facie possession of plaintiff over the suit schedule properties has to be protected. Since the plaintiff has now made out a prima facie case in his favour, I answer **Point No.1 in the Affirmative.**

8. Point No.2 and 3 : These points are interlinked with each other, hence they are taken up together for common discussion in order to avoid the repetition of facts. The balance of convenience lies in favour of plaintiff since it would cause great inconvenience to the plaintiff if temporary injunction is refused when the plaintiff himself is shown to be in prima facie possession of the suit schedule properties. Refusal of temporary injunction in favour of plaintiff would also cause irreparable loss and injury to plaintiff because otherwise the defendants would try to interfere with the agricultural activities in the suit properties undertaken by the plaintiff, as the plaintiff is already under apprehension that the defendants would disturb his possession over the suit schedule properties. Per contra, the defendants have not made out that any irreparable loss and injury would be caused to them if

temporary injunction is granted to the plaintiff. Therefore at this stage, the balance of convenience lies in favour of plaintiff and also irreparable loss and injury would be caused to plaintiff if the order of the temporary injunction is refused at this stage. Accordingly, I answer **Point No.2 and 3 in the Affirmative.**

9. Point No.4 : For the above discussed reasons, I proceed to pass the following :

ORDER

The interim application No.1 filed by applicant/plaintiff against the opponents/defendants U/O. XXXIX Rule 1 and 2 R/w. Sec.151 of C.P.C. is hereby allowed.

Defendants or anybody claiming rights under them are hereby restrained from interfering with plaintiff's peaceful possession and enjoyment over the suit schedule properties, till disposal of this suit.

(Dictated to the stenographer directly on computer, revised by me & after corrections pronounced in the open Court on this the 4th day of June-2025.)

(Smt. Preeti L. Malavalli)
Prl. Civil Judge & JMFC,
Belagavi.