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IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,

CHIKODI

: PRESENT :

SHRI. PATIL HARISH RANGANAGOWDA

BA. LL.B.(Hon's)

Prl. Senior Civil Judge, Chikodi.

28th DAY OF JANUARY - 2026

OS NO.281/2025

BETWEEN :

**Sri. Kashappa S/o. Beerappa Nadahatti
and others**

... Plaintiffs

(Sri. H. H. Karanure, Adv.,)

AND :

**Sri. Somappa S/o. Satteppa Madihalli
and others**

... Defendants

(Sri. V. P. Shedbal, Adv.,)

:: ORDERS ON IA NO.I ::

The plaintiffs have filed IA No.I u/O.39 Rule 1 and 2 of CPC seeking restrain the defendants and their agents or anybody acting under them from disturbing their peaceful possession and enjoyment of suit property.

2. Facts in nutshell :

The plaintiffs have pleaded that the property bearing RS No. 139 was originally measuring 17 acre 31 gunta which was owned by the family of **Siddappa S/o. Yallappa Madihalli, Satyappa S/o. Yallappa Madihalli and Others.** The said Siddappa and Satyappa have had owned 4 acre 20 gunta of land which was re-numbered as RS No.139/1. The said Siddappa and Satyappa got divided the property. The Satyappa got eastern half portion measuring 2 acre 10 gunta. The Siddappa got western half portion measuring 2 acre 10 gunta. The property of Satyappa is abutting to main road on eastern side. The said Satyappa sold an area measuring 2 acre

abutting to the eastern side road in favour of plaintiff No.1 and father of plaintiff Nos.2 to 5 by name Sidram under registered sale deed dated:20.04.1994 and put them in possession of said property. The said Satyappa retained western 10 gunta which is been succeeded by his descendants who are present defendant Nos.1 to 4. The defendant Nos.1 to 4 illegally started to encroach the property western side half portion belonging to the descendants of Siddappa. The descendants of Siddappa have had filed suit bearing OS No.213/2021 against present defendants and obtained decree of declaration and injunction. The defendant Nos.1 to 4 continue to interfere with the possession of said descendants of Siddappa who are pursuing their remedies in EP No.1/2024. The present defendants appeared in the said execution petition and undertaken to not to interfere in the possession of western side owner. The court has directed survey of property of descendants of Siddappa, present defendants and owners of remaining extent. The court commissioner has carried

out the survey work and fixed the boundaries. Thereafter the defendants started to interfere with the eastern side property owned by them. Therefore they were perforce to file this suit seeking relief of declaration and permanent injunction in respect of the eastern 2 acre purchased by them from the father of defendants.

3. The defendants appeared through their counsel and filed their written statement opposing the suit claim. They denied the execution of sale deed by their father in favour of plaintiff No.1 and his brother Sidram. According to them, the said sale deed is non-est-in-law for want of payment of sale consideration and joining of other co-heirs in execution of sale deed. They contend that the revenue authorities have amalgamated the entire Sy.No.139 as single land. Therefore they are in joint possession of suit property. There is no truth in the assertion of plaintiffs. They have assailed the decree obtained by heirs of Siddappa in the regular first appeal. Hence, they seek to dismiss the suit.

4. As indicated above the plaintiffs have filed IA No.I u/O.39 Rule 1 and 2 of CPC seeking to restrain the defendants from disturbing their possession. Heard both sides.

5. Having heard both sides, the following points would arise for my consideration.

1. Whether the plaintiffs made out prima-facie case for issuance of injunction ?

2. Whether the plaintiffs prove that the balance of convenience lies in their favour ?

3. Whether the plaintiffs prove that if request is refused, they would be put to irreparable loss which cannot be compensated in terms of money ?

4. What order ?

6. Having heard and having perused the material on record, my findings to above points is as under:

Point Nos.1 to 3 : In the Affirmative

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

:: REASONS ::

7. Point Nos.1 to 3:- In order to avoid repetition of facts, these points are taken together for common consideration. The pleadings of parties indicate following undisputed facts:

a. It is not in dispute that one Siddappa and Satyappa are the owners of property bearing RS No.139/1 measuring 4 acre 20 gunta.

b. It is also not in dispute that they got divided the said extent each allotting 2 acre 10 guntas

8. The main dispute between parties is in regard to the execution of sale deed in favour of plaintiff No.1 and his brother by the father of defendant Nos.1 to 4. Therefore with this back drop of disputed and undisputed facts, I proceed to examine the material placed by the parties.

9. The plaintiffs buttress their case by placing reliance on notarized copy of sale deed, record of rights. On the other hand, the defendants have placed reliance on copy of mutation register bearing MR No.H31. The copy of sale deed produced by plaintiffs indicate that the father of defendants by name Satyappa Madihalli has conveyed the extreme eastern portion of 2 acre abutting to the main road in the land bearing RS No.139/1 to the plaintiff No.1 and his brother Sidram. The said sale deed was executed on 20.04.1994 i.e., thirty years back. The names of purchasers came to be entered in the record of rights. The recitals of sale deed indicate handing over of possession of disputed suit property to the purchaser.

10. Now, the defendants seek to dispute the said sale deed on the ground of non-receipt of consideration and non-joining of alleged other co-heirs. The recitals of registered sale deed indicate passing of sale consideration. The said sale deed has been executed thirty years back. The said sale deed has got presumptive

value in the evidence Act. There is presumption in regard to the due execution of sale deed. The thirty year old document carries presumption in regard to its correctness. The fact also remains that the said sale deed has been acted upon and names of purchasers have been mutated over the suit property. Neither the executant nor his descendants have challenged the said sale deed till this day. Therefore it indicates that the defendants are taking chance to deny the said execution only to defeat the interest of purchasers. Therefore the conduct of defendants itself indicate that they are taking chance to deny the said sale deed.

11. The conduct of defendants in challenging of sale deed after thirty years itself show that they are interfering with the possession of plaintiffs. Therefore the plaintiffs have made out strong prima-facie case for issuance of injunction. The record of rights indicate that the revenue authorities for the best reason known to them have amalgamated the entire land RS No.139 in one bit of land in the year 2022. Subsequently, they divided the said land

RS No.139 in four parts. The present suit property is shown in land bearing RS No.139/1. The property of descendants of Vithal Siddappa Madihalli (western portion) is shown in land RS No.139/2. The remaining land of defendants measuring 10 gunta is shown in land RS No.139/3. The remaining portion of 13 acre 11 gunta in land RS No.139 is shown in land RS No.139/4. Therefore the area owned and possessed by each owner of land RS No.139 is shown independently. Therefore it indicates that there is no truth in the case of defendants that they are enjoying the property in jointness with other owners of land RS No.139. Therefore it also indicate that they are interfering with the possession of plaintiffs. The defendants have already suffered decree in OS No.213/2021 and the arrest warrant is pending against them in execution petition No.1/2024. Therefore if interim protection is not granted to the plaintiffs they would be put to irreparable loss in the hands of defendants. The material on record, clearly indicates that the plaintiffs have got strong prima-facie case and balance of

convenience lies in their favour. Therefore, I hold that the plaintiffs are entitled for the order of interim protection. **Hence, I hold above point Nos.1 to 3 in the Affirmative.**

12. Point No.4:- In the light of aforesaid findings on the above said points, I proceed to pass following:

ORDER

The IA No.I filed by plaintiffs u/O.39 Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

The defendants and their agents are hereby temporarily restrained from interfering / disturbing the possession of plaintiffs over suit property till disposal of suit.

It is made it clear to the parties that the observations made above are limited to the extent of disposal of IA.

(Dictated to the stenographer directly over the computer, typed by her, corrected, signed and then pronounced by me in the open court on this the 28th day of January, 2026).

**(Patil Harish Ranganagowda)
Prl. Senior Civil Judge,
Chikodi.**

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