

IN THE COURT OF THE CIVIL JUDGE & JMFC, SANDUR

:: PRESENT ::

Sri. Md. Shaiz Chouthai,

B.A.,LL.B.(Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur.

Dated: 14th day of August 2026

O.S. No.79/2020

Plaintiff/s : Smt. Sharanamma,
W/o Late Guleppa @ Sanna Guleppa,
Aged about 51 years,
Occ: Agriculturist,
R/o Mathazanahalli village,
Sandur Taluk, Ballari District.

(By Sri. G.M., Advocate)

V/S

Defendant/s : Ennal Boraiah S/o Late Karibasaiah,
and Another.

(By Sri. A.V.K. Advocate)

I.A.No.II

Applicant : Smt. Sharanamma,
W/o Late Guleppa @ Sanna Guleppa

(Plaintiff)

V/S

Opponent/s : Ennalu Boraiah S/o Late Karibasaiah,
and Another.

(Defendant)

ORDER ON I.A.No.II FILED UNDER ORDER XXXIX

RULE 1 AND 2 R/W Sec. 151 OF C.P.C.

1. The plaintiff has filed this application U/O XXXIX Rule 1 and 2 R/w Sec. 151 of C.P.C., seeking to restrain defendant No.1 and 2, from causing interference in her possession over the suit property, till the disposal of the suit.

2. The Government had granted the suit land bearing Sy. No.62, measuring 6.75 acres, situated at Sheliyappanahalli village, Sandur taluk in favour of father-in-law of plaintiff by name Sanna Basappa S/o Channabasappa. The said Sanna Basappa died on 10.05.1995 and his wife Lakshamma on 10.04.1997.

3. The said Sanna Basappa and Lakshamma have son by name Guleppa @ Sanna Galeppa who is the husband of

plaintiff. He died on 20.07.2007. After demise of Guleppa @ Sanna Galeppa, the suit property got mutated in the name of plaintiff. Since then, the plaintiff is the absolute owner, in enjoyment and cultivation of the suit land.

4. The defendants have no manner of right or title but are unnecessarily causing interference in the possession of the plaintiff over the suit land. In this regard, many panchayaths were summoned but it did not yield any benefit. On 26.07.2020, when the plaintiff was working in the suit property, the defendants tried to disturb her possession which was resisted by the plaintiff. The said interference even continued on 03.08.2020. The plaintiff gave oral complaint before Gudekote Police Station but no action is taken. The plaintiff apprehend recurring of interference by the defendants. The plaintiff claim that she has got *prima-facie* and balance of convenience in her favour. If the injunction is not granted irreparable loss will be caused to her. On these grounds, she prays to allow her application.

5. After service of summons, the defendant No.1 and 2 appeared through their learned counsel and filed written statement. They filed memo adopting the written statement as also objections to I.A. No.II.

6. The defendants denied the entire case of the plaintiff in respect of possession of the plaintiff over the suit property and also the allegation of interference. It is submitted that the suit property is not the Government land. The Government has not issued any patta in favour of father-in-law of the plaintiff by name Sanna Basappa.

7. It is the case of the defendants that the suit land is joint family and ancestral property of the plaintiff and defendants. The grandfather of defendant No.1 by name Avalu Obaiah and his wife Basamma have 3 children by name Dodda Basappa, Sanna Basappa and Guleppa. The first son Dodda Basappa died leaving behind 6 children i.e., defendant No.1, Avalu Obaiah, Sanna Obaiah, Dodda Guleppa, Dodda Mareppa and Gidda Basappa. The

second son Sanna Basappa died leaving behind his wife Lakshmamma and one son by name Guleppa. Both Lakshmamma and Guleppa has passed away. Plaintiff is the wife of Guleppa. Similarly, the third son Guleppa died without any marriage.

8. The father-in-law of the plaintiff i.e., Sanna Basappa was kartha of the joint family as such his name is mutated in the property records. The plaintiff is not the absolute owner of the suit land but the defendants have got right and share. During the lifetime of Avalu Obaiah, his children have not partitioned the family properties. Therefore, the plaintiff alone is not the absolute owner. The plaintiff has no *prima-facie* case in her favour. The plaintiff and defendants are co-owners, co-sharers and coparceners. A suit for permanent injunction against co-sharer is not maintainable. Amongst other grounds, the defendants pray to dismiss the application.

9. Heard the argument of learned counsel for the plaintiff and defendants. Perused the records.

10. The points that arise for my consideration are:-

1. Whether the applicant proves that she has *prima-facie* case in her favour to the grant the interim relief as sought for?
2. Whether the applicant proves balance of convenience in her favour?
3. Whether the applicant proves that she would suffer irreparable loss if injunction is not granted as sought for?
4. What order?

11. My answer on the above points are as follows:-

- 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:-

REASONS

12. **POINT NO.1 TO 3:-** All these points are taken together for common discussion to avoid repetition of facts and appreciation of materials on records.

13. This is a suit filed by the plaintiff for the relief of permanent injunction in respect of the suit property described in

the plaint schedule. The foundation of the plaintiff's case is that the Government granted patta in respect of suit land in favour of her father-in-law by name Sanna Basappa S/o Channabasappa. After his demise, the suit land will be succeeded by his only son – Guleppa @ Sanna Guleppa. He also having died, the plaintiff being his wife succeed to the suit land.

14. On the other hand, the defendants claim that the suit land is not granted to Sanna Basappa S/o Channabasappa but it is the property held by the grandfather of defendant No.1 by name Avalu Obaiah. That being so, his 3 children by name Dodda Basappa, Sanna Basappa and Guleppa, and after their demise their children will equally inherit the suit land. The defendants claim to be the joint owners and co-sharer of the suit land.

15. The documents placed by the plaintiff at this juncture would reveal that the name of Sanna Basappa is shown in the revenue records of suit land right from 1968-69 till 2013-14. These revenue records do not disclose that it is granted to Sanna

Basappa. There is no reference to grant of land by the Government in any of the documents produced by the plaintiff. The plaintiff has not placed either the original or the certified copy of the grant certificate.

16. The defendants have also filed certain documents which disclose that the defendants *herein* have instituted suit against the plaintiff *herein* and others in O.S. No.59/2020 before the court of Hon'ble Senior Civil Judge and J.M.F.C., Kudligi sitting at Sandur for the relief of partition and separate possession in respect of the properties which include the land bearing Sy. No.62, measuring 6.75 acres, situated at Sheliyappanahalli village, Sandur taluk. In the said suit, the plaintiff *herein* (who is defendant No.1 in O.S. No.59/2020) has filed her written statement by taking contention that the properties covered in the said suit including the land bearing Sy. No.62 are already subjected to oral partition wherein the land bearing Sy. No.62 has fell to the share of her grandfather Sanna Basappa. It is also averred in the said suit that after the demise of Sanna Basappa,

the husband of plaintiff *herein* was in possession till his demise. These averments would *prima-facie* contradict the averments made in the present suit by the plaintiff. The written statement in O.S. No.59/2020 appears to have been filed on 26.03.2022. Whereas the present suit is filed on 11.08.2020. Therefore, the plaintiff having taken contrary stand in O.S. No.59/2020 and in the present suit would dent her *prima-facie* case claiming to be in exclusive possession of the suit land. The nature of the property has to be decided only during the trial. The defendants *herein* have claimed in O.S. No.59/2020 that the land bearing Sy. No.62 is also joint and ancestral property. The plaintiff fail to exhibit *prima facie* case in her favour for the above said reasons. Therefore, it is not necessary to discuss other two ingredients for grant of injunction. Hence, this court answers Point No.1 to 3 in the **NEGATIVE**.

17. **POINT NO.4:-** In view of the above findings and discussions, I proceed to pass the following:-

ORDER

IA. No.II filed by the applicant– plaintiff
U/O XXXIX Rule 1 and 2 R/W. Sec.151 of
C.P.C., is hereby dismissed.

The observations made in this order shall
not come in the way of, affect or cause
prejudice to the rights of the parties to prove
their case by leading evidence during the trial.

*(Dictated to the stenographer, computerized by him, corrected
by me and then pronounced in the open Court, on this the 14th day
of August - 2026).*

(Md. Shaiz Chouthai)
Civil Judge & JMFC, Sandur.