

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: 4th day of July 2026

O.S. No.115/2025

Plaintiff/s : Smt. Mandal Sankamma,
W/o Late Mandal Basappa,
Aged about 78 years,
Occ: Agriculturist,
R/o Lakshmipura village,
Sandur Taluk, Ballari District.

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

V/S

Defendant/s : Smt. Channabasamma,
W/o Late Kenchappa,
Aged about 75 years,
R/o Lakshmipura village,
Sandur Taluk, Ballari District.

(By Sri. H.M.K. Advocate)

I.A.No.I

Applicant : Smt. Mandal Sankamma,
W/o Late Mandal Basappa
(Plaintiff)

V/S

Opponent/s : Smt. Channabasamma,
W/o Late Kenchappa,
(Defendant)

ORDER ON I.A.No.I 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, from causing interference in her possession over the suit property, till the disposal of the suit.

2. The plaintiff is the absolute owner and in possession of suit properties. The suit land bearing Sy.No.42/pai ki measuring 3.03 cents situated at 18-Hulikunte village, is the inam land standing in the name of Kumaraswamy temple. The husband of plaintiff by name Mandal Basappa was cultivating the suit land by remaining in its possession and enjoyment. His name was appearing in the revenue records from 1965-66 to 1996-97. After his demise the plaintiff is in possession, cultivation and enjoyment of suit properties. The Tahasildar, Sandur, on receipt of premium,

issued patta in Form-II in favor of plaintiff in file No.464/1991 Dt: 27.05.2004, followed by mutation of her name in the records.

3. The land bearing primacy No.42 pai ki was earlier measuring 3.03 cents. Subsequent to resettlement the land is subdivided as 14RS/1 measuring 2.27 cents, 14RS/2 measuring 1.02 cents, 14RS/3 measuring 0.20 cents, 14RS/4 measuring 0.35 cents. That being so, the land Sy.No.14RS/1, 14RS/3 and 14RS/4 measuring 02.27 cents, 0.20 cents and 0.35 cents respectively are jointly standing in the name of plaintiff and defendant – Channabasamma. The land Sy. No. 14RS/1 measuring 01.02 cents is entered as *Kavaludaari*.

4. The defendant is neither the owner nor in possession of suit properties. The defendant in collusion with the revenue authorities got entered her name in ROR. On 12.05.2025 when the plaintiff was working in the suit property the defendant tried to disturb her possession. Though she resisted the interference but it continued on 13.06.2025. It is asserted that the defendant denied the title of the plaintiff. As such she is claiming declaration

of ownership and consequential relief of permanent injunction. 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 appeared through her counsel and filed written statement.

6. The defendant denied the entire case of the plaintiff in respect of ownership and possession of the plaintiff over the suit property and also the allegation of interference. It is the case of the defendant that the land bearing Sy.No.42 measuring 03.03 acres and Sy.No.43 measuring 1.53 acres are Devadaya Inam lands belonging to Kumaraswamy Deity.

7. One Mandal Basappa, Mandal Eranna and Mandal Subbanna are brothers. They constitute Hindu Joint family and were in joint cultivation of the above said lands. That Mandal Basappa is the husband of plaintiff. One Mandal Kenchappa is the

son of Mandal Eranna. The defendant is the wife of Mandal Kenchappa. The name of Mandal Kenchappa and Mandal Basappa was shown in cultivators column of ROR. This itself indicates that they were in joint cultivation of the said lands bearing Sy.No.42 and 43. Both Mandal Basappa and Mandal Kenchappa died leaving behind the plaintiff and defendant as their legal heirs. Thereafter, the plaintiff made an application in Form No.1A under Sec.4 and 5 of Karnataka Certain (Sandur Area) Inams Abolition Act, 1976. Thereafter, the Tribunal issued Ryotwaripatta in Form No.II on 27.05.2004 in the name of plaintiff. Since the plaintiff's husband was the elder in the family, after his demise, the patta was issued in favour of plaintiff. However, the plaintiff and defendant are joint family members and have jointly inherited the suit property.

8. Further, as per the resettlement of Inam land in Sandur area, survey was conducted wherein the extent, survey numbers were modified in accordance with the extent of land held by the cultivators. As per the said resettlement, the land

Sy.No.42 measuring 03.03 acres is renumbered as Sy.No.14/1 with measurement 02.27 acres. As the plaintiff and defendant are lineal descendants of Basappa and Kenchappa, they are in joint possession and enjoyment of the said lands. The plaintiff suppressed many material facts for the sake of filing suit. Further, the legal heirs of Mandal Subbanna have filed suit for partition and separate possession in respect of joint family properties. The properties involved in this suit are also part of the suit filed by the heirs of Mandal Subbanna. Amongst other grounds, the defendant prays to dismiss the application.

9. Heard the argument of learned counsel for the plaintiff and defendant. 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 Affirmative
Point No.2 : In the Affirmative
Point No.3 : In the Affirmative
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 declaration of ownership and permanent injunction in respect of the suit property described in the plaint schedule. It is admitted fact that the land bearing primacy No.42 paiki/3, measuring 3.03 acres, situated at 18-Hulikunti village, Sandur taluk is subjected to resettlement survey which bifurcated the land into land bearing Sy. No.14RS/1, Sy. No.14RS/2, Sy. No.14RS/3 and Sy.

No.14RS/4. This suit is in respect of land bearing Sy. No.14RS/1, Sy. No.14RS/3 and Sy. No.14RS/4, measuring 2.27 acres, 0.20 cents and 0.35 cents.

14. The plaintiff claim to be the absolute owner of the above said lands having acquired the right through grant certificate issued by Tahasildar, Sandur. According to plaintiff, the suit lands were earlier cultivated by her husband Late Mandal Basappa whose name was appearing in the record of rights.

15. On the other hand, the defendant submits that the suit lands were in the joint cultivation of Mandal Basappa (husband of plaintiff), Mandal Eranna (father-in-law of defendant) and Mandal Subbanna. The names of husband of defendant Mandal Kenchappa and Mandal Basappa were jointly appearing in the revenue records. After the demise of Mandal Basappa, the plaintiff got her name mutated in the revenue records but the suit properties remained in joint possession and cultivation of the plaintiff and defendant.

16. The defendant has not placed any records to show that Mandal Basappa, Mandal Eranna and Mandal Subbanna were in joint cultivation of the suit properties. At present there are no records to indicate that their names were jointly appearing in the record of rights.

17. To the contrary, the plaintiff has placed the certified copy of Certificate of Registration of Inamdar Dt. 27.05.2004 issued by the Tahasildar, Sandur in the name of the plaintiff alone in respect of land bearing Sy. No.42(P), measuring 3.30 acres. The said document does not reflect or indicate that the said certificate was issued not only in favour of the plaintiff but also in the name of defendant or her husband as the case may be. Further, the record of rights from 1982-83 to 1994-95 in respect of land bearing Sy. No.42 paiki, the name of Mandal Basappa i.e., the husband of plaintiff was appearing in column No.12 to the extent of 3.03 acres. In column No.9 of the said document, it is mentioned as 'Kumaraswamy Devaru'. When the Certificate of Registration of Inam was issued in favour of plaintiff, her name

came to be mutated in the revenue records. However, her name came jointly with the defendant. The reason why the name of defendant is mentioned along with the plaintiff is not clear from the records. To substantiate that since the defendant is also in possession her name is mentioned in the revenue records the defendant has not filed any documents before the court.

18. The records placed by the plaintiff would reveal that the plaintiff *herein* had instituted suit in O.S. No.108/2011 before this court for the relief of permanent injunction in respect of the same land against one Maddani Kumaraswamy and others. After the trial, it was found that the plaintiff is in possession of the said land.

19. The copy of the judgment in O.S. No.48/2016 disposed by this court would reveal that one Mandal Channabasaiah S/o Late Kenchappa, who happens to be the son of defendant *herein* had instituted suit against the plaintiff and defendant *herein* and others for the relief of partition and separate

possession again in respect of same property bearing Sy. No. 42/paiki3, measuring 3.03 acres claiming it to be the joint family property. This court dismissed the suit by observing that the plaintiff in the said suit failed to prove that the land is joint family property. Meaning thereby, the plaintiff has verdict in her favour in O.S. No.108/2011 which certified her possession over the suit land. At the same time, the judgment in O.S. No.48/2016 clarified that the said land is not the joint family property. The records further reveal that the father-in-law of the defendant i.e., Mandal Eranna had instituted suit against the plaintiff *herein* before the court of Hon'ble Senior Civil Judge and J.M.F.C., Kudligi in O.S. No.19/2007 for the relief of partition and separate possession again in respect of the said property. The said suit was also dismissed. What transpires from the above sequence of events is that there are no records to show that the defendant is in joint possession and enjoyment of the suit properties. Whereas, there are revenue records to indicate that the plaintiff was issued Certificate of Registration of Inamdar which *prima-facie* indicate

her possession over the suit properties.

20. At this juncture, the applicant/plaintiff has shown *prima-facie* case in her favour to grant interim relief. The records placed at this stage demonstrate that the plaintiff is in possession of the suit property. The applicant/plaintiff has submitted that the defendant is causing interference in her possession and enjoyment of the suit property in the manner narrated in the application. If the defendant is not restrained from causing interference and obstruction, there are all possibilities that the defendant will continue interference in the enjoyment of the plaintiff over suit properties. Therefore, the balance of convenience tilt in favour of plaintiff. As stated above, the defendant did not refute the case of plaintiff with cogent records. The applicant has raised apprehension of recurring interference by the defendant. Since the plaintiff *prima-facie* appears to be in possession of the suit property, the defendant must be restrained from causing interference, otherwise irreparable loss will be caused to the plaintiff. As such, I answers Point No.1 to 3 in the **AFFIRMATIVE**.

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

ORDER

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

The defendant, or her agents etc., or anybody on her behalf are hereby restrained from interfering in the possession and enjoyment of the plaintiff over the suit schedule properties by any means, till the disposal of the suit.

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 4th day of July- 2026).

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