

KABK610029652025



**IN THE COURT OF CIVIL JUDGE AND JMFC,
BANAHAATTI**

PRESENT: Smt. SAUMYA HOOLI
B.A.,LL.B.
Civil Judge & JMFC,
BANAHAATTI

O.S.No.225/2025

Dated this the 13th day of March-2026

PLAINTIFF:

1. Subhas S/o Vittal Mavarkar,
Age: 50 years, Occ: Agriculture,
R/o: Sameerwadi, Tq: Rabakavi-Banahatti,
Dist.: Bagalkot.

(By Sri B.N.S., Advocate)

//Versus//

DEFENDANT:

1. Giramallappa S/o Ramappa Mirji,
Age: 45 years, Occ: Agriculture,
R/o: Bisanal, Tq: Rabakavi-Banahatti,
Dist.: Bagalkot.

(By Sri S.C.U., Advocate)

PARTIES ON I.A.No.I**Applicant/Plaintiff:**

1. Subhas S/o Vittal Mavarkar

//Versus//

Opponent/Defendant

1. Giramallappa S/o Ramappa Mirji

Provision under which applications are filed	:	U/o 39 Rule 1 & 2 R/w sec. 151 of CPC
Reliefs sought for	:	Discretionary relief of temporary injunction
Date of filing the application	:	17.11.2025
Number of the application	:	I.A No.I
Date of filing memo	:	23.01.2026
Date of pronouncement of the order	:	11.03.2026

ORDER ON IA.I

1. Stage: IA No.I is filed U/O 39 Rule 1 and 2 R/w sec.151 of CPC. The instant application is filed seeking temporary injunction against defendant and his followers. The instant suit is filed for the relief of permanent injunction. The

I.A.No.I is filed on 17.11.2025. The number of applications in this suit are five. The date on which the orders on IA No.I passed is 11.03.2026. The current stage is for compliance U/Sec.89 of CPC.

2. The applicant/plaintiff has filed this IA No.I Under order 39 Rule 1 & 2 R/w sec.151 of C.P.C., seeking temporary injunction against defendant and his followers to restrain them from causing obstruction to the plaintiff from cutting sugar cane crops grown in the suit property bearing RS No.41/7 measuring 2 acres 31 guntas situated at Bisnal village, till disposal of this suit.

3. In the affidavit annexed to IA No.I, the plaintiff averred that, he is the owner and in possession of suit property and that the defendant is the owner and in possession of properties bearing RS No.41/4 measuring 00 acres 13 guntas and RS No.40/3 measuring 02 acres 35 guntas of Bisnal village. There was a partition between the defendant and his brothers by name Anand Mirji in the year 2009 and in the

said partition the suit property fell to the share of Anand Mirji. The said Anand for his family necessity opened the suit property for sale and that the said plaintiff offered to purchase the suit property for the consideration amount of Rs.14,15,000/-. The said Anand having agreed to the same, executed registered sale deed in favour of the plaintiff with respect to suit property on 21.09.2023 in presence of the witnesses. To the said sale deed, the wife of Anand has also consented and has affixed her signature. Since the date of purchase, the plaintiff is in the possession of the suit property and has grown sugar cane crops. But the defendant by illegally trespassing is causing obstruction to the plaintiff to cut the sugar cane crops. On these grounds, plaintiff prayed to allow IA No.I.

4. On the other hand, the defendant has filed memo praying to treat the contents of his written statement as objections to IA No.1. In the objections, the said defendant denied the entire averments of the plaintiff and contended that, there has been no any transaction between the plaintiff and

defendant. The plaintiff by taking advantage of innocency of brother of defendant and by colluding with revenue officials has illegally got created sale deed with respect to suit property in favour of plaintiff. The sisters of defendant have filed suit bearing OS No.362/2023 before the Sr. Civil Judge, Banahatti seeking relief of partition against the present defendant and his brother by name Anand. The said suit is still pending and also that the daughter of the plaintiff has falsely filed case U/sec.138 of NI Act against Anand Mirji for the amount of Rs.38,00,000/- and the said case is also still pending. The plaintiff in order to harass the defendant and his family has been filing false suits and private complaints against the defendant. When the plaintiff is not in possession of the suit property, there is no question of growing sugar cane crops in the suit property. The defendant, his brother and his four sisters are in joint possession of the suit property and have grown sugar cane crops by investing huge amount. On these grounds, the defendant prayed to dismiss IA No.I.

5. Upon hearing the arguments and on perusal of materials placed on record, the following points that arise for consideration are;

- (1) Whether the plaintiff has made out a prima-facie case in his favour?
- (2) Whether the balance of convenience lies in favour of plaintiff?
- (3) Whether irreparable loss or hardship will be caused to the plaintiff, if injunction is not granted?
- (4) What order?

6. The findings to the 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

7. **Point No.1**:- The facts of the present application are already narrated above and the same are considered herein after for the sake of brevity.

In brief, it is the case of the plaintiff that, the defendant is obstructing the plaintiff from cutting sugar cane crops grown in the suit property. The plaintiff in order to establish his prima facie case has adduced several documents on record. On perusal of the copy of registered sale deed dated 21.09.2023, at this stage it is forthcoming that, one Anand Mirji appears to have sold the suit property in favour of the present plaintiff and in pursuance of the same the RTC extract of the suit property reflects the name of plaintiff in column No.9. The plaintiff has also adduced sugar cane factory bills, copy of private complaint, copies of medical reports, copies of photographs and order sheet of OS No.225/2025. On the other hand, the defendant has adduced sugar cane factory bills, certified copy of plaint in OS No.362/2023, certified copy of written statement in OS No.362/2023, certified copies of IA No.1 in OS No. 362/2023, certified copy of order on IA No.1 in OS No.362/2023, certified copy of order sheet of OS No.362/2023, certified copy of complaint in PC No.116/2024 (CC No.1084/2024)

along with documents and sworn statement affidavit. On going through the sugarcane bills produced by the plaintiff, at this stage, it is forthcoming that, the defendant's name appears as harvester ID and name with respect to RS No.41/7. The said bills are of dated 12.12.2025. On the other hand, on perusal of the bills adduced by the defendant, the names of Anand Mirji and Kempanna Mirji appear in the said bills which is with respect to RS No.41/7A. It is to be noted that, the RS No.41/7A is not a suit property in the present case. On perusal of the bills for the year 2015 to 2025, the name of defendant appears but there is no any survey number mentioned in the said bills. At this stage, it is not clear as to with respect to which property the sugar cane crops have been cut and sent to sugar cane factories because on perusal of RTC extracts of land bearing RS No.41/4 and RS No.40/3, it appears that the defendant is in the possession of the said two properties. The plaintiff has adduced copy of photographs which cannot be relief upon at this stage because on perusal of the private complaint it is

forthcoming that the said complaint is said to have been registered because the defendant and his family members obstructed the plaintiff and his family while they were cutting sugar cane crops in suit property on 25.11.2025 and that the photographs appear to have been taken at Kesarakoppa village. When the suit property is in Bisnal village, the photographs appear to have been taken in Kesarakoppa village which is unclear at this stage. At the stage of deciding temporary injunction, the court is not expected to conduct a detailed enquiry regarding the validity of the sale deed or the rival title claims of the parties. The court has only to see whether the plaintiff has made out a prima facie case, balance of convenience and irreparable injury. The contention of the defendant that the sale deed has been obtained by taking advantage of the alleged habits of his brother and the pendency of the partition suit are matters which require full-fledged trial and evidence. At this interlocutory stage, the court cannot conclusively decide the validity of the registered sale deed. However, the crucial

aspect for consideration is who is in prima facie possession of the suit property and who has cultivated the sugarcane crop, because the relief sought in the application is to restrain the defendants from cutting the standing crop. If the standing crop is cut during the pendency of the suit, the party who has cultivated the crop would suffer loss which may not be adequately compensated. Therefore, the court has to carefully evaluate the documents produced by the parties such as the sale deed, revenue records, cultivation records and other material to ascertain the prima facie possession and then decide the question of temporary injunction in order to preserve the subject matter of the suit. In such circumstances, the registered sale deed produced by the plaintiff carries some value and prima facie discloses that the suit property was conveyed in favour of the plaintiff. Further, the RTC extract standing in the name of the plaintiff also indicates that, as on the date of the suit, the revenue records reflect the name of the plaintiff in respect of the suit property, which supports the plea of possession. The contention of the

defendant that his brother was addicted to bad vices and that the plaintiff has obtained the sale deed by taking undue advantage of the same is a matter which requires proper adjudication in a full-fledged trial. Similarly, the mere pendency of the partition suit before the Senior Civil Judge with respect to the suit property does not, at this stage, negate the prima facie value of the registered sale deed and revenue records standing in the name of the plaintiff. At the stage of deciding the application for temporary injunction under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, the court is only required to examine whether the plaintiff has established a prima facie case and not to finally adjudicate upon the disputed questions relating to the validity of the sale deed or title of the parties. Therefore, the allegations regarding the habits of the defendant's brother and the pendency of the partition proceedings are questions to be determined during trial and by themselves do not prohibit the court from recognizing the prima facie possession of the plaintiff as on the date of the suit, particularly when

the registered sale deed and RTC extract stand in the name of the plaintiff. Further, the application filed by the plaintiff under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, is only for the purpose of protecting the existing possession and preserving the subject matter of the suit until final adjudication. If the defendants are not restrained from interfering with the suit property and cutting the standing sugarcane crop, the very purpose of filing the suit for injunction would be defeated and the plaintiff may suffer irreparable loss. It is also pertinent to note that the defendant has not produced any documentary material to prima facie show that he or his sisters are in possession of the suit property. Except making a contention that the defendant and his sisters have grown the sugarcane crop in the suit property, no supporting documents such as revenue records, cultivation records or any other material have been placed before the Court. AS already stated, the bills adduced by the defendant does not show that defendant and his family have harvested the sugarcane crops in the suit property itself

because the defendant is in possession of other lands as well. Therefore, in the absence of any documentary evidence on behalf of the defendant to establish possession, the contention of the defendant that he and his sisters are cultivating the suit property cannot be accepted at this interlocutory stage. In a suit for permanent injunction, the crucial aspect for consideration is possession as on the date of the suit, and the material placed on record by the plaintiff prima facie supports his claim of possession. In addition, the contention of the defendant that he and his sisters are in possession of the suit property and sugarcane bills with respect to suit property shows at this stage that, there is obstruction by the defendant to cut the sugarcane crops in the suit property. Hence, the plaintiff has succeeded in establishing a prima facie case. Hence, this court answered point No.1 in the **Affirmative**.

8. Point No.2: It is a well-settled principle of law that prima facie case and balance of convenience go together. With regard to the balance of convenience, it is to be noted that the

plaintiff has produced the registered sale deed and RTC extract, which prima facie disclose that the name of the plaintiff is reflected in the revenue records pertaining to the suit property. On the other hand, the defendant has not produced any documentary material to substantiate his contention that he and his sisters are in possession of the suit property. Though the sugarcane bills indicate that the defendant has transported the sugarcane crop to the sugar factory, the said circumstance alone is not sufficient at this stage to establish the possession of the defendant over the suit property. If the defendants are not restrained from interfering with the suit property and from cutting the standing sugarcane crop, the plaintiff, who has prima facie established his possession through the registered sale deed and revenue records, would suffer hardship and loss. Hence, this court answered point no. 2 in the **Affirmative**.

9. Point No. 3: From the reasons assigned during discussion of point No. 1 and 2, at this stage, it is forthcoming that, the plaintiffs have failed to establish the prima facie case and

balance of convenience in his favour. With regard to irreparable loss and injury, it is to be noted that the dispute pertains to the standing sugarcane crop grown in the suit property. If the defendants are not restrained and are permitted to cut and remove the standing crop during the pendency of the suit, the plaintiff would suffer loss which cannot be adequately compensated at a later stage. The standing crop is a perishable agricultural produce and once it is cut and transported, the same cannot be restored to its original position. Therefore, any interference with the crop during the pendency of the suit would result in irreparable injury to the plaintiff, particularly when the plaintiff has prima facie shown possession through the registered sale deed and revenue records. On the other hand, if the defendants are temporarily restrained from cutting or removing the sugarcane crop, no irreparable injury would be caused to them, as their rights, if any, can be established during the full-fledged trial, and appropriate relief can be

granted at that stage. Hence, this court answered point No. 3 in the **Affirmative**.

10. Point No.4: For the foregoing reasons assigned in point No. 1 to 3, this court proceeds to pass the following :

ORDER

The IA No. I filed by the applicant/
plaintiff under Order 39 Rule 1 and 2 R/
w sec.151 of CPC is hereby allowed.

Consequently, the defendant and his
followers are hereby restrained by way of
temporarily injunction from causing
obstruction to the plaintiff from cutting
sugar cane crops grown in the suit
property bearing RS No.41/7 measuring
2 acres 31 guntas situated at Bisnal
village till disposal of this suit.

No order as to cost.

*(Dictated to the stenographer directly on computer typed by him,
corrected by me, then pronounced in the open court on this the 13th day of
March, 2026)*

(SAUMYA HOOLI)
Civil Judge & JMFC
Banahatti