

KABK710009872025



O.S./106/2025

**IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC,
AT: JAMKHANDI.**

PRESENT

**Smt.Shreedevi,
B.Com LLB,
Addl. Civil Judge & JMFC,
Jamkhandi.**

Dated this the 28th day of August – 2025

O.S. No.106/2025

1. Smt.Bharati W/o Hanamant Sutar,
Age: 56 years, Occ: Household work,
R/o. Plot No.B-319, Alagur R.C., Centre,
Tq: Jamkhandi, Dist: Bagalkot
and Another.

.....Plaintiffs.

(By Shri.A.P.K., Advocate)

- Vs -

1. Shri.Adappa S/o Bhimappa Sutar,
Age: 57 years, Occ: Business,
R/o. Alagur village
Tq: Jamkhandi, Dist: Bagalkot.

.....Defendant.

(By Shri.A.C.N., Advocate)

I.A.No.II

1. Smt.Bharati W/o Hanamant Sutar,
Applicants/Plaintiff No.1.
- Vs -

1. Shri.Adappa S/o Bhimappa Sutar,
Opponent/Defendant.

Sl. No.	Details	Particulars
1	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2
2	Relief sought for	Temporary Injunction
3	The date on which the application is filed	16-05-2025
4	Number of the applications	I.A.No.II
5	Stage of the case	For hearing
6	The date on which the objections are filed by the different opponent/s	18-07-2025
7	The date on which the orders were passed on the said application/s.	28-08-2025

ORDER ON IA.No.II

The plaintiff has filed an interim application under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC, at I.A No.II against defendant and his henchman, relatives, servants, agents, administrators, legal heirs, officials and

other persons claiming under him from interfering with the peaceful and enjoyment of the suit schedule property till the disposal of the suit.

2. In the accompanying affidavit to the interim application, 'plaintiff No. 1 has stated that the plaintiffs have filed the present suit against the defendant seeking the relief of declaration and permanent injunction. It is further submitted that they have a prima-facie case and that the balance of convenience lies in their favour. If the defendant are permitted to interfere with or obstruct their peaceful possession of the suit schedule property, it would cause them greater hardship and result in irreparable loss and injury. It is further submitted that plaintiffs No.1 and 2 are the absolute owners of the suit schedule property, including the house situated at Algur R.C. in Plot No. B-319, measuring 20 meters from south to north and 10 meters from east to west. The suit property was originally granted in the name of one Hanumanth Bhimappa Sutar, who was the husband of plaintiff No.1 and the father of plaintiff No.2. The said Hanumanth passed away on 25-09-2023, leaving behind

the plaintiffs as his sole legal heirs. "It is further submitted that the suit schedule property bearing Plot No.B-319 was granted to one Hanamanth by the Government of Karnataka under Order No.RD21REH94(P), dated 15-05-1995, under Serial No.26711. It is submitted that the property bearing VPC No.666 had fallen to the share of the deceased Hanamanth S/o Bhimappa Sutar under a family partition between him and his brother, Adappa S/o Bhimappa, who is the defendant in the present suit. The said property (VPC No.666) was submerged in backwater, and therefore, the Government of Karnataka granted Plot No.B-319 in lieu of VPC No.666 as compensation under the Rehabilitation and Resettlement Scheme, in favour of the deceased Hanamanth, the husband of plaintiff No.1. Hence, the deceased Hanamanth became the absolute owner of the suit property. Being the absolute owner, he constructed a dwelling house on the said plot in the year 2000 by investing his entire savings. Plaintiff No.1 also contributed by selling her gold ornaments and investing the proceeds towards the construction. After the completion of the house, the plaintiffs

have been residing in the said building without any obstruction. Following the demise of Hanamanth, plaintiff No. 1 got the property mutated in her name along with her daughters, as the legal heirs of the deceased. Since then, the plaintiffs have been in joint physical possession of the suit schedule property.

3. It is further submitted that the defendant has no right, title, or interest in the suit schedule property and is in no way concerned with the same. However, on 29-04-2025, the defendant, along with his associates, unlawfully entered the suit schedule property and attempted to interfere with the residential house situated therein. The defendant also abused the plaintiffs in filthy language, thereby causing fear and intimidation. The defendant and his associates even attempted to physically assault the plaintiffs. It is submitted that the defendant, with a mala-fide intention to unlawfully grab the suit schedule property, is taking advantage of the plaintiffs' simplicity and is attempting to interfere with their peaceful possession and enjoyment of the property.

4. "The defendant, with mala-fide intention, is un-authorisedly attempting to grab the suit schedule property by taking advantage of the plaintiffs' vulnerability as women. He is seriously interfering with our peaceful possession and is attempting to dispossess us by force, even issuing life threats. Although I have repeatedly requested the defendant - both personally and through the intervention of elders from the community and locality - not to engage in such illegal acts, the defendant has refused to heed our requests or the advice of community members. He continues to attempt to enter the house situated on the suit schedule property, intending to dispossess us by using highhanded methods and leveraging his political and financial influence. It is further submitted that the plaintiffs are the absolute owners of the suit schedule property, and the unlawful acts of the defendant continue to this day. Hence, it is most respectfully prayed that this Hon'ble Court may be pleased to allow the present application in the interest of justice and equity.

5. The counsel for the defendant has filed objections to I.A. No.2, contending that the reasons stated in the affidavit are false, frivolous, and vexatious. It is submitted that the plaintiffs have filed the present application only with the intention to harass the defendant and to cause him mental and physical hardship. It is further contended that the plaintiffs have filed the present interim application by making misleading statements regarding material facts and particulars, and have obtained an ex-parte order of temporary injunction from the Hon'ble Vacation Court, Bagalkot, by suppressing the true facts.

6. It is further contended that the defendant has been residing in the southern portion of the suit property, i.e., plot No.B-319 of Algur R.C. Centre, Jamkhandi, for the past 20 years. The defendant, along with his family, has been residing in the said property and carrying out carpentry work from the same premises for more than two decades. It is submitted that the defendant has been in continuous possession of the southern portion of the suit property for over 20 years. It is further contended that the northern

portion of the suit property was previously used by the plaintiffs, but it has remained locked for the past two years, and plaintiff No.1 is currently residing with her daughter, plaintiff No.2, in Banahatti Taluka. Despite this being the true and factual position, the plaintiffs have obtained an ad-interim ex-parte order of temporary injunction from the Hon'ble Vacation Court, Bagalkot, by falsely asserting in the plaint and the interim application that the defendant has no concern or legal right over the suit property, and that he is interfering with their peaceful possession. It is further contended that the plaintiffs have falsely claimed to be the absolute owners of the suit property and have misrepresented that they alone are in actual and peaceful possession of the same.

7. It is further contended that, in order to substantiate that the defendant is residing in the suit property, it is pertinent to note that the plaintiffs, while complying with the temporary injunction order passed by the Hon'ble Vacation Court, falsely mentioned the defendant's address as 'R/o Algur village, Taluka Jamkhandi' in the

plaint as well as on the registered post. The notice was duly served upon the defendant at Algur R.C., Jamkhandi, which is, in fact, the suit property where he is presently residing. This, by itself, is sufficient to demonstrate that the defendant is in continuous possession and enjoyment of the suit property to date. It is further submitted that not only this, but even the suit summons in the present case was served upon the defendant through the Court Process Server at the suit property, i.e., Plot No.B-319, Algur R.C. This clearly indicates the defendant's possession of the property. The plaintiffs have made false claims, suppressed material facts, and have not approached this Hon'ble Court with clean hands. They have utterly failed to establish that they are in exclusive and peaceful possession of the suit property, and that the defendant is not in possession thereof.

8. It is further submitted that the defendant has filed a suit for partition and separate possession before the Hon'ble Additional Senior Civil Judge, Jamkhandi, in O.S. No.42/2025, in which the present plaintiffs are arrayed as defendants No.1 and 2. It is submitted that the present

plaintiffs appeared in the said suit through their counsel on 28-04-2025, which clearly establishes that they were well aware of the pendency of the said proceedings initiated by the defendant. Without admitting the averments made in paragraph No.8 of the affidavit annexed to the interim application filed under Order XXXIX Rules 1 and 2 CPC, it is submitted that the plaintiffs have alleged that on 29-04-2025, the defendant, along with his friends, entered the suit property, interfered with their possession, and warned them to vacate the premises. If such an incident had actually occurred, the plaintiffs were at liberty to move an appropriate application seeking interim relief in O.S. No.42/2025, which is already pending before the Hon'ble Additional Senior Civil Judge, Jamkhandi. However, instead of doing so, the plaintiffs have chosen to file the present suit and have obtained an ex-parte temporary injunction by suppressing the material facts. The fact that they did not approach the court in O.S. No.42/2025 itself indicates that the allegations made in the present interim application are

false, frivolous, and vexatious, and are intended solely to mislead this Hon'ble Court and secure favourable orders.

9. It is submitted that, despite having appeared through their counsel in O.S. No.42/2025, the plaintiffs have willfully suppressed the material fact of the said suit pending between the parties before the Hon'ble Additional Senior Civil Judge. (It is pertinent to note that the Hon'ble Court had passed a temporary injunction order in that matter, which is still in force.) The plaintiffs, acting with ill motive and solely to obtain an order from this Hon'ble Court, have presented incorrect facts and fraudulently succeeded in obtaining the temporary injunction. It is further submitted that since the title to the suit property is yet to be decided by the Hon'ble Additional Senior Civil Judge, Jamkhandi, the present suit, seeking merely an injunction, is not maintainable. Viewed from any angle, the present suit is liable to be dismissed at the threshold.

10. It is submitted that the plaintiffs are not in actual possession of the entire suit property at present. Plaintiff No.1 is residing with her daughter at her husband's

residence in Banahatti town. It is further submitted that the defendant is in possession of the southern portion of the suit property. The present suit has been filed by the plaintiffs solely to harass the defendant and his family members, under the guise of an order obtained from this Hon'ble Court by suppressing material facts. It is also submitted that the plaintiffs have instituted the present suit with the ulterior motive of causing harassment, as the defendant has filed a suit for partition and separate possession bearing O.S. No.42/2025.

11. It is submitted that the defendant has been in possession of the suit property since the early 2000s, following the completion of construction of the residential house on the suit property. He has been in continuous possession and enjoyment of the suit land to this day. It is further submitted that the plaintiffs have resorted to sending goondas and anti-social elements to the defendant's house to create disturbances and threaten him with dire consequences. The defendant was also summoned to the police station. Moreover, a representation was made to the

KEB, Jamkhandi, seeking to cut off the electricity supply to the defendant's house. All these acts occurred at the suit property over which the plaintiffs claim that the defendant is not in possession.

12. Aggrieved by the acts of the plaintiffs, the defendant filed an application under Section 151 of the Code of Civil Procedure before the Hon'ble Additional Senior Civil Judge, Jamkhandi, in O.S. No.42/2025, praying that his peaceful possession over the suit property (Plot No.B-319) not be disturbed and seeking a direction to maintain status quo. The Hon'ble Court was pleased to pass an order dated 16-07-2025, directing both parties to maintain status quo over the suit property until the disposal of the suit. It is further submitted that, in order to demonstrate that the plaintiffs are not in actual possession of the suit property, during the compliance of the stay order granted in O.S. No.42/2025, a Registered Post A.D. was sent to the plaintiffs at their Banahatti address, where they actually reside. However, the said post was returned with the postal endorsement 'Unclaimed - Return to Sender. These facts

clearly establish that the plaintiffs are not residing at the suit property and have filed the present application only with the intention of harassing the defendant. Hence prayed to reject the application.

13. Heard the both counsels. In view of the material placed before this court, the following points arise for determination:

P O I N T S

1. Whether the applicants/plaintiffs have made out a prima-facie case for the grant of the TI as prayed?
2. Whether the balance of convenience lies in favor of plaintiffs?
3. Whether irreparable loss would be caused to the applicants/plaintiffs. If the instant interlocutory application is not allowed?
4. What order?

14. My answer to the above points are as under;

Point No.1:- In the Negative,

Point No.2:- In the Negative

Point No.3:- In the Negative and

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

:: REASONS ::

15. **Point No.1 to 3:-** These points are taken up together for a common discussion and to avoid repetition of facts. The complete facts of the interim application have already been narrated at the beginning of this order; therefore repetition is avoided here.

Note:- It is made clear that, at this stage, any of the observations made herein do not affect the merits of the case, and the parties are at liberty to prove their respective contentions. These observations have been made solely for the purpose of disposing of this application and shall not carry any weight in the final disposal of the suit.

16. I have carefully perused the entire plaint, affidavit, objections, and the documents on record. The plaintiffs contend that the suit property, bearing Plot No.B-319, is the exclusive property of the deceased Hanumanth, who was the husband and father of Plaintiffs No.1 and 2. After his demise, the plaintiffs have been residing in the said suit property. Per contra the defendant contends that the suit property is not exclusive property of deceased Hanumanth. The defendant is

resides on the southern side of Plot No.B-319 and has no objection to the plaintiffs residing on the northern side of the plot. However, the defendant claims that the plaintiffs are presently residing in Banahatti and has produced certain documents in support of this contention.

17. It is observed that the present defendant has filed a suit for partition and separate possession against the present plaintiffs in O.S. No.42/2025 before the Hon'ble Additional Senior Civil Judge and JMFC, Jamkhandi, in respect of property bearing Plot No.B-319 along with other properties. The suit property bearing Plot No.B-319, is one of the properties involved in O.S. No.42/2025. In relation to the said property, the defendant (plaintiff in O.S. No.42/2025) filed an application before the Hon'ble Additional Senior Civil Judge, Jamkhandi, seeking an order of status quo. The Hon'ble Court allowed the application and directed the parties to maintain status quo with respect to the suit property bearing Plot No. B-319.

18. Since the Hon'ble Additional Senior Civil Judge, Jamkhandi, has directed the parties to maintain status quo

with respect to the suit property bearing Plot No.B-319, the question of entertaining the present application does not arise. Therefore, this Court is of the opinion that a temporary injunction against the defendant cannot be granted. Further, both parties are bound to comply with the order passed by the Hon'ble Additional Senior Civil Judge, Jamkhandi. In view of the foregoing, this Court is of the considered opinion that the plaintiffs have not made out a prima-facie case, nor have they demonstrated hardship or shown that the balance of convenience lies in their favour. Accordingly, this Court holds that the plaintiffs are not entitled to the relief of temporary injunction as prayed for. Accordingly, this court answers the **Points No.1 to 3 in the 'Negative'**.

19. **Point No.4:-** The plaintiffs have not made out a prima-facie case and have not established both hardship and the balance of convenience in her favor. This court is of the opinion that the plaintiffs are not entitled to the discretionary and equitable relief of temporary injunction as prayed for. Hence, for the aforesaid reasons, this court proceeds to pass the following;

: ORDER :

I.A. No.II filed by the plaintiffs under Order XXXIX Rule 1 and 2 of CPC is hereby rejected.

No order as to cost.

*(Dictated to the Stenographer directly on computer and typed by him, and corrected, printout taken, signed by me and then pronounced in the open court on this the **28th day of August - 2025**)*

**Sd/-
(Smt.Shreedevi),
Addl. Civil Judge & JMFC,
Jamkhandi.**