

KABR310005832025



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE & J.M.F.C.,
AT DEVANAHALLI.**

PRESENT

SRI. PRAVEEN NAYAK, LL.M.,

Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

Dated this day of 11th June, 2025.

O.S.No.461/2025

BETWEEN:

Sri. Hanumantharayappa : **Plaintiff**

(Plt. - By Sri. A.H.C.,Advocate)

AND:

The State of Karnataka, : **Defendants**
Rep. by its Principal Secretary,
Revenue Department & others

(Defts.1 to 6 - By Sri. A.G.P., Advocate)

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i	Provision under which the application is filed	U/o. XXXIX Rule 1 and 2 R/w.Sec.151 of C.P.C.
ii	Relief sought for	Declaration and Injunction
iii	The date on which the application is filed	03-04-2025



iv	Number of the application	I.A.No.I
v	Date of filing objection	09-06-2025
vi	Date of Pronouncement of Order	11-06-2025

Sd/-
(PRAVEEN NAYAK)
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.

ORDER ON I.A. No.I

The instant application has been filed by the counsel for plaintiff under Order XXXIX Rule 1 and 2 R/w.Sec.151 of C.P.C, seeking ad-interim order of Temporary Injunction by restraining the defendants, their agents or anybody claiming through them from interfering in the possession of the plaintiff over the suit schedule property till disposal of the suit.

2. In the affidavit accompanying the application, the plaintiff has stated that, he has filed the suit for the relief of declaration and injunction. The suit schedule property has been originally granted in favour of the plaintiff in proceedings LND:SR:206/1977-78 and the Tahasildar, Devanahalli issued Grant Certificate and also issued Official Memorandum. The Revenue authorities entered the name of the plaintiff in RTC, the same continued from the year 1980-81 till 1994-95.



The plaintiff has been in possession and enjoyment over the suit schedule property. However, while computerizing the revenue records, without any reason the revenue authorities have not mentioned the name of the plaintiff in the RTC. The plaintiff being illiterate and agriculturist did not know the procedure. The defendants No.4 and 5, by taking advantage of the name of the plaintiff not being reflected in the RTC started interfering in the possession of the plaintiff over the suit property and tried to dispossess him. The defendants No.4 and 5 have not issued any notice in writing and on the other hand they are orally saying that they would take action against the plaintiff. The defendants are alleging that the plaintiff is the unauthorized cultivator of the land. The plaintiff brought to the notice of the defendants by furnishing Saguvali Chit and old RTC. However, the defendants No.4 and 5 are not ready to hear the request of the plaintiff. The plaintiff got issued legal notice dated 04.03.2025 against the defendants No.4 and 5 and requested them not to interfere in the possession of the plaintiff. The notice was duly served on the defendants No.4 and 5. In spite of the same, the defendants No.4 and 5 did not stop to interfere in the possession of the plaintiff over the suit property. The plaintiff preferred an appeal before the Assistant Commissioner, Bangalore North as per RA (YLNK)



No.689/2024 and the same is pending for consideration. The plaintiff also filed W.P. No.8032/2025 before Hon'ble High Court of Karnataka and the matter came to disposed off by reserving liberty to the plaintiff to pursue matter before the Assistant Commissioner. The plaintiff is also given liberty to approach the Civil Court. The plaintiff came to know that the defendants have granted the land for burial ground inspite of the knowledge that the same has been granted in favour of the plaintiff in the year 1977. The defendants are now trying to dispossess the plaintiff from the suit schedule property. Hence the application.

3. In response to suit summons the defendants No.1 to 6 appeared through learned A.G.P and filed objections statement to IA No.I by denying the contents of the same. It is stated that the Grant Certificate No.LND:SR:206/1977-78 issued by Tahasildar Devanahalli is not available in the office of Tahasildar. The plaintiff is not in possession and enjoyment of the suit property. Hence prayed to reject the application.

4. Heard both sides.

5. The following points would arise for my consideration:



1. Whether the applicant proves that he has got prima-facie case and the balance of convenience tilts in his favour to pass an order of ad-interim injunction on I.A. No. I ?
2. Whether the applicant proves that he will suffer irreparable loss and hardship if temporary injunction order has not been passed on I.A. No. I?
3. What order ?

6. My answer to the above points are as follows:

Points Nos.1 & 2 : **In the Affirmative**

Point No.3 : **As per final Order
for the following**

REASONS

7. Point No.1:In order to establish the prima facie case the plaintiff has to establish his prima facie right over the suit schedule property. In the present suit for the relief of Declaration and Permanent Injunction, the plaintiff has contended that as per the order of



Tahasildar in LND:SR:206/1977-78 the suit schedule property has been granted in favour of the plaintiff and the Tahasildar has issued Grant Certificate. The revenue authorities have also entered the name of the plaintiff in the revenue records and the same continued from the year 1980-81 to 1994-95. The plaintiff has been in peaceful possession and enjoyment of the suit schedule property. At the time of computerizing of RTC the name of the plaintiff left out in the revenue documents. The defendants No.4 and 5 by taking advantage of the same tried to interfere with the possession of the plaintiff. The plaintiff filed an appeal before Assistant Commissioner and also filed W.P. No.8032/25. In the Writ Petition the Hon'ble High Court of Karnataka reserved the right of the plaintiff to approach the Civil Court and to get adjudicate the matter before the Assistant Commissioner. In spite of the same, the defendants not only reserved the land for burial ground, but also trying to dispossess of plaintiff from the suit property. The application is opposed by the defendants No.1 to 6 only on the ground that the Grant Order passed in favour of the plaintiff is not available in their records.

8. On going through the documents placed on record the plaintiff has produced the copy of the Grant Order and Official Memorandum which show that the land has been granted in favour of the plaintiff in



the year 1977 and accordingly the Tahasildar has issued the Official Memorandum dated 15.11.1977. The same is also appearing in the register extract maintained by the office of the defendant No.4. Further more, the hand written RTC's from the year 1980-81 to 1994-95 produced by the plaintiff show the name of the plaintiff. The said documents are sufficient to hold that in the year 1977 the land was granted in favour of the plaintiff and accordingly the revenue entries have been made in the name of the plaintiff in respect of suit schedule property till 1994-95. Though the defendants have taken a contention in the objection statement that the Grant Order is not available in their records, they have denied that the concerned authority has granted the suit schedule property in favour of the plaintiff and Official Memorandum has been issued in this regard. The defendants have also failed to explain that when the Grant Order is not available in the records, how they have entered the name of the plaintiff in the revenue records from the year 1980-81 till 1994-95. The defendants have also not taken pain to narrate that how the name of the plaintiff came to be discontinued in the revenue documents after 1994-95. The recent RTC of the year 2024-25 produced by the plaintiff pertaining to the suit survey number does not reflect the name of the plaintiff. The plaintiff has clearly given the explanation for the same. It is the case of



the plaintiff that at the time of computerization of RTC the name of the plaintiff left out and due to illiteracy the plaintiff could not pursue the matter before the concerned authority. On going through the documents produced by the plaintiff there is prima facie proof that the suit schedule property was granted in the name of the plaintiff in the year 1977 and revenue entires have been effected accordingly. It is also forth coming that for some reason the name of the plaintiff was not continued in the revenue documents from the year 1995-96 till date.

9. The plaintiff got issued legal notice dated 04.03.2025 to the defendants No.4 to 6. However, defendants No.4 to 6 did not choose to reply to the legal notice. Subsequently, the plaintiff preferred an appeal before the Assistant Commissioner. He also filed W.P No.8032/2025 before the Hon'ble High Court of Karnataka, which came to disposed off by reserving the liberty to the plaintiff to get adjudicate the matter before the Assistant Commissioner and also to approach the Civil Court. Accordingly, the plaintiff has filed the present suit seeking the relief of Declaration of ownership and consequential relief of Permanent Injunction. During the course of arguments the learned counsel for the plaintiff has produced the order passed by the



Assistant Commissioner in RA (YLK) No.689/2024, wherein the defendant No.4 herein has been directed to secure all the relevant documents, verify the same and enter the name of the appellant in column No.9 and 12 (2) of RTC of the suit schedule property. The Assistant Commissioner has also observed that the present plaintiff has produced the relevant Grant Order which depict the name of the plaintiff. The order is dated 15.11.1977 and registered under the Grant Order LND.SR(1).166/1978-79. It is no where stated in the order that such grant was never made in favour of the plaintiff. Therefore, the order of the Assistant Commissioner also supports the case of the plaintiff that the Grant Order was made in his name in the year 1977 and the plaintiff was put in possession by entering his name in the revenue documents. Further more, the defendant No.4 herein being the respondent before the Assistant Commissioner has not appeared to contest the matter. In view of the same, I am of the considered opinion that the plaintiff has produced sufficient materials on record to show his prima facie possession over the suit schedule property and also the title over the same by virtue of Grant Order and Saguvali Chit issued by Tahasildar. Thus, the plaintiff has made out prima facie case and the balance of convenience tilts in his favour. Hence, I answer **Point No.1 in the Affirmative.**



10. Point No.2: While answering the point No.1 it is held that there is prima facie case in favour of the plaintiff. The plaintiff has produced the Grant Order, Official Memorandum and RTC's of the year 1980-81 to 1994-95 to show that he has been granted with the suit schedule property and he continued to be in possession of the same till 1994-95. It is appearing that subsequently the name of the plaintiff is not reflected in the revenue documents. However, there is no proper explanation by the defendants in respect of the same. The order of Assistant Commissioner supports the case of the plaintiff. Under such circumstances, if the temporary injunction is not granted, there is every likely hood of the defendants dispossessing the plaintiff from the suit schedule property. If the temporary injunction is granted, no hardship will caused to the defendant authority. Accordingly, the plaintiff has made out grounds to grant temporary injunction as sought for. **Hence, I answer Point No.2 in the Affirmative.**

11. Point No.3 : In view of the above findings, this court proceed to pass the following:



ORDER

I.A. No.I is allowed.

The defendants, their agents or anybody claiming through them are restrained from interfering in the possession of the plaintiff over the suit schedule property till disposal of the suit.

(Dictated to the Stenographer, transcribed and computerized by her, same is corrected and then pronounced by me in the open court on this the 11th Day of June, 2025).

Sd/-
(PRAVEEN NAYAK)
Prl. Senior Civil Judge & J.M.F.C.,
Devanahalli.