

KABR310009502019



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

PRESENT

SRI. PRAVEEN NAYAK, LLM.,

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

Dated this day of 27th November, 2025

O.S.No.730/2019

BETWEEN:

Sri. Muniraju : **Plaintiffs**
Died by his LRs and others

(Plts & Pro. Plts. - By R.K.,Advocate)

AND:

Smt. Ramarathanamma : **Defendants**
W/o Late Gangadharachar
& others

(Defts. 1 & 3 - By Sri.K.V.M, Advocate)
(Deft. 2 (b) - Absent
(Def.2(a)----

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i	Provision under which the application is filed	U/o. XXXIX Rule 1 and 2 of C.P.C
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ii	Relief sought for	Temporary Injunction
iii	The date on which the application is filed	17-11-2025
iv	Number of the application	I.A.No.X
v	Date of filing objection	19-11-2025
vi	Date of Pronouncement of Order	27-11-2025

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

ORDER ON I.A. No.X

The instant application has been filed by the counsel for the plaintiffs under Order XXXIX Rule 1 and 2 of C.P.C, seeking grant of ad-interim order of Temporary Injunction to restrain the defendant No.3, his agents or anybody claiming through him from putting up construction or compound wall over the suit schedule property till disposal of the suit.

2. In the affidavit accompanying the application, the plaintiff No.3 has stated that the plaintiffs have filed the suit for declaration that they are the absolute owners in possession of the suit property. They



have also sought the declaration that the Sale Deed dated 25.07.2019, executed by defendants No.1 and 2 in favour of defendant No.3 as not binding on them. The defendant No.3, by taking undue advantage of the revenue records standing in his name as per Sale Deed dated 25.07.2019, is attempting to cut and remove eucalyptus trees standing in the suit property. The plaintiffs have filed I.A.No.4 to restrain the defendant No.3 from cutting and removing the same. The defendant No.3 stopped cutting trees in the suit property and kept quite. However, all of a sudden he started cutting the trees yesterday and removed the same from the suit property. The defendant No.3 has made all sort of arrangements to put up compound wall around the suit property and trying to put up constructions highhandedly in the agricultural land. Though, the defendant No.3 is claiming that the father of the plaintiffs sold 2 acres out of the suit property he is trying to put up compound wall around the entire suit property. There is prima facie case in favour of the plaintiffs. Hence, prayed to allow the application.

3. The application is opposed by the defendant No.3 by stating that the same is not maintainable. It is stated that after dismissal of MSA No.29/2021 before Honb'le High Court of Karnataka, instead of pursuing the suit on merit, the plaintiffs have filed the instant



application. The suit property was the self acquired property of Muniyappa. He sold the same through registered Sale Deeds dated 25.10.1962 and 05.01.1969. The property was lawfully sold and possession has been handed over to the husband of defendant No.1. The defendant No.3 purchased the suit property under registered Sale Deed dated 25.07.2019 and he has been continuous possession and enjoyment of the same. The plaintiffs claiming to be 3rd generation are not in possession over the suit property. There is no cause of action to file the suit. The plaintiffs have challenged only the subsequent sale deed dated 25.07.2019, which has been executed in favour of defendant No.3. The suit itself is not maintainable under Section 34 of Specific Relief Act. As the plaintiffs do not seek possession of the suit property. The plaintiffs have suppressed material facts. An injunction can not be granted on the ground of inconvenience or apprehension of injury. The plaintiffs have not produced documents to substantiate their possession. The claim of the plaintiffs is vague and ambiguous. The defendant No.3 has lodged police complaint against the plaintiffs. The plaintiffs are continuing their illegal interference in 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 plaintiffs prove that they have got prima-facie case and the balance of convenience tilts in their favour to pass an order of ad-interim injunction on I.A. No.X?
2. Whether the plaintiffs prove that they will suffer irreparable loss and hardship if temporary injunction order has not been passed on I.A. No.X?
3. What order ?

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

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

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

REASONS

7. Point No.1: In order to prove their prima facie case, the plaintiffs have to prove their prima facie right over the suit property. It is the case of the plaintiffs that they are the absolute owners of the suit property and the defendant No.3 claiming to be the owner of the



suit property through registered Sale Deed dated 25.07.2019, is putting up construction over the same. The application is opposed by the defendant No.3 on the ground that as per Sale Deed dated 25.10.1962, the property was acquired by Muniyappa and the same is his self acquired property. Subsequently, on 05.01.1969 the property was sold in favour of Gangadharachar, the husband of defendant No.1. Thereafter, the defendant No.3 purchased the suit property as per Sale Deed dated 25.07.2019 and he is in possession and enjoyment of the same. It is stated that there is no merits in the case of the plaintiffs as they did not seek for possession of the suit property as per Section 34 of Specific Relief Act.

8. In view of rival contentions, on going through the materials placed on record it appears that there is some sort of construction in the suit property. The photographs reveal that the compound wall has been put up in the suit property. The photographs relied upon by the plaintiffs reveal that the compound wall is already put up around the suit property. The same is also appearing in the photographs produced by the defendant No.3. The learned counsel for the defendant No.3 has argued that the application becomes infructuous as compound wall is already put up in the suit property. On careful perusal of the front portion of the compound wall and the gate



installed, it appears that the same is an old structure. The photographs do not reveal that any sort of construction or development activity is taking place in the suit schedule property, except the putting up of compound wall . The above observation is purely based on the materials produced by both sides.

9. The plaintiffs have challenged the Sale Deed dated 25.07.2019, standing in the name of the defendant No.3. It is the case of the plaintiffs that they are the absolute owners in possession of the suit property and the Sale Deed dated 25.07.2019 is not binding upon them. In this case, already there is an order of injunction operating in favour of the plaintiffs to restrain the defendants from alienating the suit schedule property in favour of 3rd party. The learned counsel for the defendant No.3 has argued that the husband of defendant No.1 has acquired the suit property as per Sale Deed dated 05.01.1969 from one Muniyappa @ Muniga. It is also argued that the said Muniyappa had sold the suit property as per Sale Deed dated 25.10.1962 and the same was his self acquired property. It is also argued that the plaintiffs have not challenged the earlier sale deeds and only attacked the sale deed of the defendant No.3. It is also argued that the plaintiffs have not sought for possession of the suit property. In view of the said contention on going through the copies



of the sale deeds placed on record, it appears that as per the registered Sale Deeds dated 25.10.1962 and 05.01.1969 and the subsequent Sale Deed dated 25.07.2019, the possession has been delivered in favour of the purchasers. The revenue entries and the Encumbrance Certificate also reflect the sale transactions. Under such circumstances, it appears that as per the registered documents and the revenue entries there is prima facie ground to believe that the defendant No.3 is in possession of the suit property. There are several transactions in respect of suit property. It is argued that Muniyappa has sold 02 acres of land in the year 1962 and subsequently he sold the remaining extent of 02 acres in the year 1969. In the order passed by the Assistant Commissioner in RA No. 125/2013-14, all the sale deeds have been referred and RTC entries are made in favour of the defendant No.3. The learned counsel for the defendant No.3 has also argued that the plaintiffs were not even born in the year 1962, when Muniyappa had sold the property. In the year 1969, the plaintiffs were minors and they should have filed the suit within period of 3 years from the date of attaining majority. The said aspect in respect of Limitation can be decided at the later stage. At this stage, the materials reveal that the defendant No.3 has proved prima facie possession over the suit property. If the defendant No.3 develops the suit property during the pendency of the suit, the same is subject to



out come of the suit result. Therefore, I am of the opinion that the plaintiffs have no prima facie case and the balance of convenience does not tilt in their favour. **Hence, I answer Point No.1 in the Negative.**

10. Point No.2: While answering point No.1 it is held that there is no prima facie case in favour of plaintiffs. Under such circumstances, the question of considering irreparable harm and injury to be caused to the parties does not arise. However, on consideration of the materials it appears that only the compound wall has been put around the suit property. If the Temporary Injunction is granted in favour of plaintiffs, it may cause interference in the suit property. On the other hand, any construction over the suit property is subject to out come of the suit and the defendant No.3 can not claim equity for any development made during the pendency of the suit. Under such circumstances, if the Temporary Injunction is not granted as sought in the application, no hardship will be caused to the plaintiffs.

11. The counsel for the plaintiffs has relied upon the following decisions:



- 1) 2014 Supreme (Kar) 513
- 2) MFA No.10516/2018

I have gone through the above decisions with due respect. The above decisions are in respect of non maintainability of application by the defendant under Order 39 Rule 1(b) and (c) and also the circumstances which empowers court to direct the parties to maintain status quo of vacant nature of the property. The facts and circumstances of the present case are entirely different. In this case, there are materials to show the prima facie possession of the defendant No.3 over the suit property. Hence, the decisions are not applicable to the case on hand. Therefore, the plaintiffs have not made out grounds to grant Temporary Injunction as sought for. **Hence, I answer point No.2 in the Negative.**

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

ORDER

I.A. No.X filed by the plaintiffs
under Order XXXIX Rule 1 and 2 of
C.P.C, is hereby rejected.



No order as to cost.

(Dictated to the Stenographer, transcribed and computerized by her, same is corrected and then pronounced by me in the open court on this the 27th Day of November, 2025).

Sd/-

(PRAVEEN NAYAK)

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

Devanahalli.