

KABR610112902021



**IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC.,
NELAMANGALA.**

Dated this the day 2nd day of July, 2026

**PRESENT: Sri. Manju.M, B.Sc., L.L.B.,
I Addl. Civil Judge & JMFC.,
Nelamangala.**

O.S.No.496/2021

- Plaintiffs:** 1. Smt Parvatamma
W/o late Muddaiah,
D/o late Huchabyraiah,
Aged about 60 years,
2. Smt Shantamma W/o Jayaram,
D/o late Huchabyraiah,
Aged about 42 years,

Both are R/at Sondekoppa village,
Balamaranahalli Road,
Dasanapura Hobli,
Bengaluru North Taluk.

[By Sri K.C.P., Advocates]

V/s

- Defendants:** 1. Narasimhamurthy,
S/o late Narasimhaiah,
Aged about 60 years,
2. Krishnappa S/o late Narasimhaiah,
Aged about 55 years,

3. Narasimhaswamy S/o late Narasimaiah,
Aged about 52 years,

All are R/at Sondekoppa village,
Balamaranahalli Road,
Dasanapura Hobli,
Bengaluru North Taluk.

[D1 to 4 by Sri B.G.N., Advocate]

PARTIES IN IA NO.1

Applicant/Plaintiffs: Smt Parvatamma and another.

V/s.

Opponent/Defendants: Narasimhamurthy and others.

**ORDERS ON I.A.NO.1 FILED BY THE PLAINTIFFS
UNDER ORDER 39 RULE 1 AND 2 OF CPC.**

I.A.No.1 filed by the plaintiff Under Order 39 Rule 1 and 2 of CPC and prays to pass an order to restraining the Defendants, their agents, servants or anybody acting on their behalf from interfere to the possession and enjoyment of the plaintiffs over the suit schedule property in any manner whatsoever till disposal of the suit.

2. I.A.No.1 is supported by an affidavit of the plaintiff No.1 and submitted that one Betta S/o Byra belongs to SC community had acquired the suit property through

grant from the government and he was in possession and enjoyment of the suit property. Further, it is submitted that after resurvey Sy.No.285 is numbered as 285/1, 285/2 and 285/3 and put the name individually. Further, it is submitted that the Sy.No.281/1 measuring 2 acres $\frac{1}{2}$ guntas had been assigned to aforesaid Betta S/o Baira. Further, it is submitted that after demise of plaintiffs father, the plaintiffs are in possession and enjoyment of suit schedule property and constructed small shed house and residing there since last 30 years. Further, it is submitted that the defendants having no manner of right, title or possession over the suit schedule property tried to interfere to the possession of the plaintiffs over the suit schedule property. Hence, prays to allow the application.

3. Further, the Applicant raises the usual plea of prima facie case and balance of convenience and irreparable loss and injury. Further, the Applicant has also contends that if this application is allowed no

prejudice would be caused to the Defendants. By contending so, the Applicant has prayed for allowing this application.

4. I.A.No.1 is opposed by defendants by filing objection and denied the allegation made by the plaintiffs and contended that the land bearing Sy.No.285 measuring 28 guntas out of which 14 guntas originally belonged to one Betta S/o Baira and the said Betta had 3 sons namely Puttaiah, Byraiah and Gangabyraiah. Further, it is contended that Sy.No.285 was phoded as Sy.No.285/1, 285/2, 285/3, 285/4 and Sy.No.285/5. The Sy.No.285/1 measuring 2 and $\frac{1}{2}$ guntas has fallen to the share of the aforesaid Byraiah and Sy.N.285/5 measuring 4 and $\frac{1}{2}$ guntas has fallen to the share of Puttaiah and Gangabyraiah. Further, it is contended that the executive officer has visited the spot measured the land and prepared the sketch. At that time, 10 feet was reduced in Sy.No.285/1 and shown the extent in feet that is 27 X 83 and has had given katha No.548 in the name of Narasimhaiah. Further, it

is contended that the aforesaid Byraiah had given the said property to his daughter Gangabyamma and katha had been mutated into her name. Further, it is contended that the father of plaintiffs Huchabyraiah was in possession and enjoyment of 2 ¼ guntas in Sy.No.285/5. Out of 2 ¼ guntas, the father of plaintiffs namely Huchabyraiah for his legal necessities had sold to an extent of 34x22 feet to one S.K.Puttaswamaiah and the remaining extent 36x22 feet was in possession of Huchabyraiah. Subsequently he had constructed house in his 36x22 feet. Now Huchabyraiah is no more and the plaintiffs being the legal heirs are in possession of the said residential house. Further, it is contended that the plaintiffs are not in possession of the suit schedule property and the defendants are in possession of the suit schedule property. Further, it is contended that the plaintiffs have not made out a prima facie case. Hence, prays to dismiss the application.

5. Heard arguments of counsel for plaintiff and defendants. Perused the documents on record.

6. Following points arise for my consideration.
1. Whether the Plaintiffs have made out a prima facie case for grant of temporary injunction?
 2. Whether the Plaintiffs will be put to irreparable loss and hardship, if the injunction is not granted?
 3. Whether the balance of convenience lies in favour of the Plaintiffs?
 4. What order?

7. My findings on the above points are as follows:-

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: In the Negative

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

REASONS

8. **Point No.1 to 3:** Since these points are interlinked to each other, they are taken up together for common discussion in order to avoid repetition of facts and circumstances.

9. The law relating to grant of temporary injunction is well settled. The Plaintiff who approaches the court has to prove three basic principles namely existence of prima facie case, balance of convenience and

irreparable loss and injury. The court must be satisfied that there must be a prima facie case in favour of the Plaintiff that there is balance of convenience in favour of the Plaintiff and if the temporary injunction is refused the Plaintiff would be put to irreparable loss and injury. Apart from this the conduct of the party approaching the court has also to be considered. Injunctive relief is a discretionary relief and an equitable relief. Thus being the case, the person who seeks equity must do equity. In order to grant relief of temporary injunction the Plaintiff has to establish that three vital aspects, i.e., prima facie case, balance of convenience lies in his favour and that they would be put to irreparable loss and injury in case injunction is not granted.

10. In order to prove plaintiffs contention, the plaintiffs have produced the certified copy of allotment, certified copy of resurvey tippani in respect of Sy.No.285, certified copy of phody survey tippani, certified copy of resurvey RR, certified copy of

Akarband, certified copy of index of land, certified copy of encumbrance certificate, photos.

11. On the other hand, the defendants have produced the copy of tax paid receipt, genealogical tree, copy of assessment register extract, copy of demand register extract, photocopy of order passed by Executive Officer, photocopy of mahazar, copy of Akarband, copy of survey documents, copy of invitation card, photos.

12. Having considered the arguments of counsel for plaintiffs and defendants and materials available on record, it is relevant to note that the present suit filed by the plaintiffs for the relief of permanent injunction in respect of suit schedule property by contending that suit schedule property had been allotted to plaintiffs father and the plaintiffs are in possession of the suit schedule property but the plaintiffs have not produced any documents to show that suit property was ever stands in the name of their father namely Huchabyraiah at any point of time and the plaintiffs have also not produced documents to show that suit property stands

in their names. Further, in order to appreciate the contention of both the parties, a full fledged trial is required.

13. At this stage, the plaintiffs have not made out a prima facie case and balance of convenience also not lies in favour of the plaintiffs. Considering all these facts, this court is of the opinion that, the plaintiffs have failed to prove that the above said three mandatory components are in their favour at this stage. Accordingly, I proceed to answer **Point No.1 to 3 in the Negative.**

14. **Point No.4:** In view of my findings on point No.1 to 3, I proceed to pass the following;

ORDER

I.A.No.1 filed by the Plaintiffs under Order 39 Rule 1 and 2 of CPC is hereby dismissed.

Under the circumstances parties shall bear their own cost.

(Dictated to the Stenographer directly on computer, typed by him, corrected and signed by me and then pronounced in the open Court, on this 2nd day of July, 2026)

Sd/-
I Addl. Civil Judge & JMFC,
Nelamangala.