

**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND JMFC.,
AT GOWRIBIDANUR**

Dated this 26th day of September 2025

:: PRESENT::

Smt. PUSHPA .D

B.Com, L.L.B.,

**Addl. Civil Judge & J.M.F.C,
Gowribidanur**

ORIGINAL SUIT NO.124/2013

PLAINTIFFS :

- 1.** Sri. G. Ragavendra Char,
S/o Late G.R. Gopinath char,
Aged about 58 years,
R/at No.27, Block No.5, BEMEL Nagar,
Srirampura 2nd Stage, Mysore-570023,

*Represented by his G.P.A. Holder the 2nd
plaintiff herein*

- 2.** Sri .G. Srinivasa Murthy,
S/o Late.G.R. Gopinath Char,
Aged about 52 years,
R/at Gowdagere, Manchenahalli Hobli
Gowribidanur Taluk,
Chikkbhallapur District

***(Represented by Sri. C.M., Advocate for
plaintiff)***

// Versus //

DEFENDANTS:

- 1.** Sri. A.L. Gangadharappa,
S/o Late Lingappa,
Aged about 64 years,
- 2.** Sri. Siddappa,
S/o Late Lingappa,
Dead by his LR's,
- 2(a)** Smt. Gowramma,
W/o Late Siddappa

*Aged about 75 years,
R/at Addekoppa Village,
Manchenahalli Hobli,
Gowribidanur Taluk.*

2(b) *Sri. Shanth Kumar,
S/o late Siddappa
Aged about 45 years.*

2(c) *Sri. Shiva Kumar,
S/o Late Siddappa,
Aged about 42 years,*

2(d) *Smt. Vijayamma,
2(b) to (d) Residing
at Devishettihalli Village,
Doddamaralli Post, Nandi Hobli,
Chikballapur District.*

3) *Sri. Somashekarappa,
S/o Late Lingappa,
Aged about 53 years,*

*Defendants No.1 to 3 are
Residing at Addekoppa,
Manchenahalli Hobli,
Gowribidanur Taluk ,
Chikballapur District.*

***(Represented by Sri. C.A.S.,
Advocate for defendants)***

PARTIES TO THE I.A.

APPLICANT/S:

*Sri. G. Raghavendra Char and another
(Plaintiffs)*

-Vs-

OPPONENT/S:

*Sri. A.L.Gangadhrappa and others
(Defendants)*

**ORDER ON I.A. FILED BY PLAINTIFFS UNDER ORDER
XXXIX RULE 1 & 2 READ WITH SECTION 151 OF C.P.C.**

The plaintiff has filed this I.A under Order XXXIX Rule 1 & 2 read with Section 151 of C.P.C. praying to grant temporary injunction restraining the defendant from not to change the structure of the suit schedule property, till pending disposal of the suit.

2. The sum and substance of the plaintiff's case are:

The plaintiffs states that the suit schedule property originally belonged to one Ragavendar Char, Son of Poornachar of Gowdagere, who was the grandfather of the plaintiffs. It is stated that Ragavendar Char had mortgaged the said property in favour of one Gajji Rangappa. However, Gajji Rangappa, without the knowledge or consent of Ragavendar Char, sold the suit schedule property to one Hanumathappa. Subsequently, on 27.01.1954, Munishammappa and A. Lakshmaiah, who are the sons of the said Hanumathappa, sold the suit schedule property to Lingappa, son of Siddappa of Virupasandra. The plaintiffs state that this fact came to the knowledge of G.R. Gopinathachar, who was the son of Ragavendrachar and the father of the plaintiffs. Upon

learning of the same, G.R. Gopinathachar filed a suit for redemption of mortgage against the said Lingappa in O.S. No. 241/1973 before the competent court on 30.07.1973. The said suit was decreed in favour of G.R. Gopinathachar on 25.10.1976. Thereafter, decree proceedings were initiated, and a final decree was drawn on 04.11.1977. Pursuant to the decree, G.R. Gopinathachar also initiated execution proceedings in E.P. No. 70/1978 against Lingappa. In the said execution proceedings, possession of the suit schedule property was delivered to G.R. Gopinathachar on 17.03.1978, and accordingly, the execution petition was closed.

3. Further, the plaintiffs submit that the suit schedule property was originally bearing Survey No. 23/1, and was subsequently renumbered as Survey No. 109/2 during the year 1976-77. Thereafter, in the year 1978-79, G.R. Gopinathachar, the father of the plaintiffs, filed an application before the Tahsildar, Gowribidanur, and got his name mutated in the revenue records. Pursuant to the said mutation, the name of G.R. Gopinathachar was duly entered in the RTC extract. His name continued to appear in the cultivator's column, as he was in lawful possession and enjoyment of the suit schedule property.

G.R. Gopinathachar died on 01.11.2004, and thereafter, the plaintiffs, being his sons and legal heirs, have continued in peaceful possession and enjoyment of the suit schedule property. The plaintiffs further submit that the defendants, who are brothers, have no manner of right, title, or interest in the suit schedule property. However, they have wrongfully caused their names to be entered in the RTC extract by filing an application to change the Khatha in their names on the basis of 'Pavathi Varasu', despite the fact that they were never in possession of the suit schedule land. Furthermore, the defendants filed a false suit in O.S.No.228/2009 against one Hanumatha Naik and fraudulently obtained a decree by making false statements to their own knowledge, thereby playing fraud on the court and causing injury to the plaintiffs in respect of the suit schedule property. The plaintiffs further submit that the defendants falsely stated in O.S. No. 228/2009 that the suit schedule property is their ancestral property and that the same was granted in their favour under occupancy rights. The plaintiffs categorically deny these claims as false, baseless, and contrary to the actual facts. However, the defendants, who have no manner of right, title, or

possession over the suit schedule property, are interfering with the suit schedule property. Hence, the present suit.

4. The plaintiff has sworn to an accompanying affidavit reiterating the entire averments of the plaint and stating that the the suit is posted for defense evidence, meanwhile the defendants are putting construction on the suit schedule property, which will change the nature of suit schedule property. If the nature of property is changed, the plaintiffs will put to irreparable loss and injury. Hence, plaintiffs will be put to great loss, hardship and injury of the application is not allowed but no hardship or injury will be caused to the other side, if the application is allowed. Therefore, the plaintiff has prayed that this Court may be pleased to grant temporary injunction against the defendants.

5. In pursuance of the suit summons, the defendants have appeared before the Court through their counsel and filed detailed objections to the I.A No.1.

6. It has stated that plaintiffs do not possess a single document to establish any right, title, or interest over the suit schedule property. They have no title deed, mutation records, or even RTC extracts standing in their names. On the other hand,

the defendants are the lawful title holders of the suit schedule property and are in possession of valid title deeds. The relevant revenue records, including mutation entries and RTC extracts, clearly reflect the names of the defendants, thereby proving their lawful ownership and possession of the suit schedule land. That the plaintiffs have no locus-standi to file the application, because the defendants have denied the title over the suit property and the plaintiffs have no title or possession over the suit property. The defendants had earlier filed O.S. No. 228/2009 against one Hanumanthanaik with respect of the suit schedule property, seeking relief of permanent injunction. The Hon'ble Court was decree the said suit with costs on 25.08.2010, thereby granting permanent injunction in favour of the defendants. Hence, he prays for dismissal of the application.

7. On considering the plaint, I.A No.1, its accompanying affidavit and the written statement cum objections, the points that arise for consideration are as under:

POINTS FOR CONSIDERATION

- 1. Whether the plaintiffs /applicants have made out a prima-facie case for the grant of temporary injunction?*

2. *Whether the balance of convenience/inconvenience lies in favor of the plaintiffs/applicants?*
3. *Whether irreparable loss and injury would be caused to the plaintiffs/applicants, if the temporary injunction is refused?*
4. *What order?*

8. My answer 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

9. **Point Nos.1 to 3** - This is a suit filed by the plaintiffs against the defendant seeking for the relief of declaration and permanent injunction filed by the plaintiff against the defendants.

10. It is averred by the plaintiff that they are in peaceful possession over the suit schedule property, the defendants having no manner of right or title changing nature of the structure of the suit schedule property.

11. It is important to note that while dealing with the application of this nature, the only function of the Court is to see whether the applicants have made out a prima-facie case and in whose favor the balance of convenience/inconvenience lies and in case of refusal to grant temporary injunction, which side would suffer the most irreparable loss and injury. Prima facie case means that the plaintiff should have a arguable case before proceeding further. It is a well settled principle of law that when there is a doubt regarding the case of the plaintiff, injunction cannot be granted. Let consider the documents produced by the parties.

12. To support the case of the plaintiff, he has produced copy of GPA, G-Tree, Certified copy of order sheet in OS No.241/1973, certified copy of the order in Ex.70/1978, registration of occupants of lands, certified copies of CrI.Case 28/59-60, RTC extracts, mutation extract, judgment, decree in OS.NO.228/2009 and sale deed.

13. Per contra, the defendants have also produced as many as documents such as, certified copies of order of Addl.Spl.Deputy Commissioner for INAM Abolition, Akarbhand,

Pakka Book, index of land, copy of notice, Form No.8, record of rights, computerised RTCs, tax paid receipt.

14. During the course of arguments, plaintiff has filed a memo along with certain documents such as RTCs, proceedings in Ex.70/1978 and photographs and submits that the suit schedule property originally belonged to Raghavendra Char, who had mortgaged the property in favour of one Gajji Rangappa. It is further submitted that, without the knowledge or consent of Raghavendra Char, the said property was sold to Hanumanthappa, in turn Sons of Hanumanthappa sold it to Lingappa. The plaintiff asserts that he has acquired valid title to the property by virtue of a court decree and that he has been in continuous possession of the suit schedule property to date.

15. Per contra, the defendant has filed a memo along with two judgments and submits that the plaintiff has not challenged the sale deed or the revenue records pertaining to the suit schedule property. It is further submitted that the defendants had filed a suit against Hanumanthnaik in respect of the suit schedule property, which was not contested or challenged by the plaintiff. Based on the registered sale deed, the defendants claim

to be the lawful owners of the suit schedule property and assert that they are in possession of the same.

16. In reply, the plaintiff submits that he was not a party to the original suit filed by the defendants against Hanumanthnaik, and therefore, the said proceedings are not binding on him.

17. The plaintiff has filed this suit as well as this application seeking temporary injunction against the defendants not to change structure of the suit schedule property. It is to be noted here that while considering the applications of this nature, the Court has to see whether the parties have made out prima-facie case and balance of convenience leans in their favour. The prima-facie case does not mean that the plaintiff should have cent percent case which will in all probability succeed in trial. The prima-facie case means the contentions which the plaintiff is raising, required consideration in merit and are not liable to be rejected summarily. While dealing with the applications of this nature, the Court cannot express its finding on the merits of case and further the Court cannot conduct mini trial at this stage, of the suit. Further, it is not the function of the court at this stage of litigation to try to resolve difficult question of facts of law,

which requires elaborate evidences to be recorded in the trial. Under these circumstances when there is a material worth investigating, then it can be said that there exist a prima facie case. As above stated, there exist a serious dispute of ownership of property in between the parties in order to adjudicate the dispute a full-fledged trial is required. Therefore, considering the pleadings, affidavit and documents placed on record, the court is of the considered view both parties have got an arguable case against each other. The Court must refrain from going into the merits of the case at this preliminary stage, this Court proceeds to examine the documents produced by the plaintiff. The court has to see that the party seeking the relief will sustain such injuries which cannot possibly and adequately remedied by way of damage and said damage would be inadequate in case of the success of applicants. Considering the question of balance of convenience court has to see the mischief or inconvenience of either parties or otherwise it is necessary or proper to maintain status-quo till the adjudication of dispute finally decided. The ingredients have to be established by the party who seeks injunction in his/her favour. The grant of injunction being the discretionary relief the party who seek such relief should come to

court with clean hands and place all the materials before the court so that court will satisfy about the case in favour of the party seeking the order. The plaintiff in I.A.No.I averred that defendants are trying to change structure over the suit schedule property, whereas defendants contended that they are the owner of the suit schedule property. The defendants have seriously objected for grant of temporary injunction in favour of the plaintiff. If the temporary injunction order is granted against the defendants, taking advantage of the order, the plaintiff may interfere with the schedule property cannot be ruled out and if the temporary injunction order is not granted to the plaintiff, the defendants may change structure over the suit schedule property. Therefore, there is an every likelihood of changing the position, status and nature of possession of the suit schedule property. More over, the suit is at the stage of cross-examination of DW1. Therefore, in weighing the risk of injustice, granting or refusing the injunction would entitle there appears to me that there is a justification in directing both the parties to maintain a status-quo in respect of suit property till the disposal of suit. Hence, I am therefore of the opinion that balance of convenience lies in favour of both plaintiff and defendants. Therefore, in order to

avoid multiplicity of proceedings and to keep the property intact and also to protect the legitimate rights of the parties, it is appropriate to order directing both the parties to maintain a status-quo in respect of suit schedule property, till the disposal of the suit. Hence, on all these reasons, I am of the opinion that balance of convenience lies in favour of both the parties and loss and injury will be caused to both the sides. The Point Nos.1 to 3 are answered accordingly.

18. **Point No.4**:- In view of my findings on Points No.1 to 3 of I.A.No.1. I proceed to pass the following:

ORDER

I.A.No.I filed by the plaintiff under Order 39 Rule 1 & 2 R/w.Section 151 of C.P.C. is hereby allowed.

Both the parties are directed to maintain status-quo in respect of the suit schedule property till the disposal of the suit.

Both parties are further directed to cooperate to dispose off the suit as early as possible.

No order as to costs.

For further cross examination
Defendant No.1 by 15.10.2025

(Typed, corrected, revised by me and then pronounced in the open Court this
26th September, 2025)

(PUSHPA D.)
Addl.Civil Judge & J.M.F.C.
Gowribidanur