



IN THE COURT OF THE PRL. CIVIL JUDGE AND JMFC.,
MUDIGERE

Present: **Sri. Vishwanath A.,** B.B.A., L.L.B.
Prl. Civil Judge & JMFC.,
Mudigere.

DATED: THIS THE 16th DAY OF JUNE 2025

ORIGINAL SUIT No: 87/2023

BETWEEN :

Sri.Byrappa @ Byraiah,
Aged about 59 years,
S/o Late Burudaiah,
R/o Byduvalli Village,
Gonibeedu Hobli,
Mudigere Taluk,
Chikkamagaluru District.

.... Plaintiff

(By Sri.M.M.Raghavendra, Adv.,)

AND :

Sri.Chowdebyre Gowda,
Aged about 60 years,
S/o Byre Gowda,
R/o Byduvalli Village,
Gonibeedu Hobli,
Mudigere Taluk,
Chikkamagaluru District.

.... Defendant

(By Sri.B.T.Nataraj, Adv.,)

PARTIES ON I.A.NO.I

BETWEEN :

Byrappa @ Byraiah

... Applicant

AND :

Chowdebyre Gowda

... Opponent



i	Provision under which the application is filed	Order XXXIX Rule 1 and 2 of CPC
ii	Relief sought for	Temporary injunction
iii	The date on which the application is filed	11.09.2023
iv	Number of the application	I
v	The date on which the objections are filed by different opponents	19.11.2024
vi	The date on which the orders were passed on the said application	16.06.2025

(Vishwanath A.)
Prl. Civil Judge & JMFC,
Mudigere.

ORDERS ON I.A.NO.I

The plaintiff has filed the present application under Order 39 Rules 1 and 2 of CPC, seeking for a temporary injunction restraining the defendant, his men, agents, servants or anybody from interfering or trespassing into the suit schedule property or from dispossessing the plaintiff therefrom without due process of law.

2. The plaintiff's case is that the suit property originally belonged to his father. After the death of his father, the khatha of suit property is mutated to his name. Then his sisters have executed the registered relinquishment deed dated 10.03.2023. Pursuant to the same, the khatha of suit property is mutated vide MR.No.H13/2022-23. Since then, he is in possession, occupation,



cultivation and enjoyment of the suit property which is fenced with barbed wire and cultivated with coffee, pepper and jungle-wood. This being the case, the defendant who has got no manner of right, title and interest in or over the suit property, is always trying to dispossess the plaintiff from the suit property. On 08.09.2023, the defendant along with his men, supporters and agents have tried to interfere with the suit property by removing the fence towards western side and tried to dispossess the plaintiff therefrom. Though the said act was resisted with great difficulty, but the threat of dispossession is continuing. On the above averments, the plaintiff has sought for allowing the application.

3. The defendant who entered appearance through his SPA holder by virtue of SPA dated 11.06.2024 wherein the defendant claims his age as 44 years, has filed a memo submitting that the written statement filed by him may be treated as objections to the present application. In the written statement, the defendant having denied the plaint averments, contended that the boundaries furnished to the suit property is false, misleading and intended to misrepresent the facts. No incident as alleged in the plaint occurred on 08.09.2023. The defendant is the owner in possession, occupation and enjoyment of the lands in Sy.No.156/2, 157 and 158/1 of Byduvalli Village, Gonibeedu Hobli, Mudigere Taluk. The said lands are fenced and cultivated with coffee. The plaintiff has got no right, title or interest over the said properties. On the above averments the defendant has sought for rejection of the application.



4. Having heard the arguments addressed on behalf of the respective parties, this court has carefully perused the entire materials available on record. In view of the above contentions, the following points arise for consideration:

- 1. Whether the plaintiff has made out prima-facie case in his favour to grant temporary injunction as sought for?**
- 2. Whether the balance of convenience lies in favour of the plaintiff?**
- 3. Whether the plaintiff will be put to irreparable injury if temporary injunction is not granted in his favour?**
- 4. What order?**

5. The answers of this Court on the above points are as under:

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

6. Points No.1 to 3: Since these points require common consideration of facts and materials, they are taken for common discussion so as to avoid repetitions.



As per the plaintiff, the suit property belonged to his father by name Burudaiah and after his death, the khatha of said property is mutated to the name of plaintiff. Subsequently, his sisters have executed relinquishment deed dated 10.03.2023. The copy of the said relinquishment deed produced by the plaintiff goes to show that one Lakshamma, Lalitha, Rathna, Jayamma and Leela shown as the daughters of one Burudaiah have relinquished their right over several properties one among which is the suit property. The recital of the relinquishment deed is to the effect that the khatha of the suit property was then in the name of Burudaiah and Sannaiah. After their death, the khatha of suit property is mutated to the name of plaintiff vide MR.No.6/2002-03. Whereas, neither such mutation nor the revenue records pertinent to suit property in the name of Burudaiah and Sannaiah, are produced by the plaintiff.

7. It could be seen from the MR.No.H13/2022-23 that the khatha of suit property is mutated to the name of plaintiff by virtue of the relinquishment deed dated 10.03.2023 and the RTC of suit property is to the same effect. As noted earlier, from the recital of relinquishment deed, the khatha of suit property was then in the name of one Burudaiah and Sannaiah. But even the index of land and record of rights pertaining to the land in Sy.No.158 of Byduvalli Village, does nowhere whisper the names of said Burudaiah and Sannaiah.

8. As per the plaintiff, the suit property is in between the lands of defendant. But the defendant has contended that the



boundaries mentioned to the suit property is false. Though the recitals of relinquishment deed would disclose similar boundary to the suit property, but the said deed is of the year 2023 and apart from the said deed and the pleading, there is nothing on record which stand as support to the boundaries of suit property. Though the plaintiff has contended that the suit property is fenced and that the same is cultivated with coffee and pepper. But the RTC produced by the plaintiff is silent with respect to the crop information. Whether or not the photographs produced by the plaintiff relates to the suit property, is a matter for consideration on a full fledged trial. This being the case, this Court is of view that the case of the plaintiff lacks prima-facie materials at this stage. Under the circumstances, discussion on the point of balance of convenience and irreparable injury is unwarranted. On basis of the above discussion, this Court record its answer on point No.1 to 3 in the '**Negative**'.

9. Point No.4: In view of the above findings recorded on points No.1 to 3, this Court is of view to reject the present application. Hence, the following;

ORDER

I.A. No.I filed by the plaintiff under Order XXXIX Rules 1 & 2 of Code of Civil Procedure, is hereby rejected.

For Issues by: 27.06.2025.



(Dictated to the Stenographer, typed by him on computer, corrected and then pronounced by me in the open court on this the **16th day of JUNE, 2025**).

(Vishwanath A.)
Prl. Civil Judge & JMFC.,
Mudigere.

^{VP}

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