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O.S. No. 116/2024

IN THE COURT OF THE CIVIL JUDGE & JMFC., N.R.PURA
(ITINERARY COURT)

Present : Sri. Jeethu R.S., B.A.L.,LL.M.,
Civil Judge & JMFC., N.R. Pura.

Dated : This the 4th day of August 2026.

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Plaintiff/s

- : 1) Smt. Shanthamma H.K.,
W/o Late. B.D. Manjappagowda,
Aged about 85 years,
R/o Bilalkoppa, Aduvalli Village,
Megaramakki Post, Narasimharajapura Taluk,
Chickmagalur District.
- 2) Smt. Vanitha B.M., W/o Mahesha,
D/o Late .D. Manjappagowda
Aged 54 Years, Ujjayini,
Sangameshwara Pete
Chikamagaluru Taluk & District.
- 3) Sri. Srinivasa B.M.,
S/o Late B.D. Manjappagowda,
Aged about 52 Years,
R/o Bilalkoppa, Aduvalli Village,
Megaramakki Post, Narasimharajapura Taluk,
Chickmagalur District.

(Represented by Sri. G.Divakara, Adv.,)

V/S

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Defendant/s : 1. Sri. Somaiah B.K.,
S/o Late B.D. Krishnaiahgowda,
Aged about 67 Years,
2. Sri. B.K. Jayaram,
S/o Late B.D. Krishnaiahgowda,
Aged about 65 Years,
Both are R/o Bilalkoppa,
Aduvalli Village, Megaramakki Post,
Narasimharajapura Taluk,
Chickmagalur District.
(Represented by Sri. H.R. Venkatesh Murthy
Adv.,)

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ORDER ON I.A. NO. 1 FILED UNDER ORDER 39 RULE 1 AND
2 OF CPC

The plaintiffs have instituted the above suit against the defendants seeking the relief of permanent injunction. Further, the plaintiffs have filed the above I.A.No.1 U/O 39 Rule 1 and 2 of CPC seeking to restrain the defendants from interfering with the plaintiffs' peaceful possession and enjoyment over the suit schedule properties. In the affidavit annexed to the above IA, the plaintiffs have stated that one Late. B.D Manjappagowda is the

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husband of plaintiff No. 1 and father of plaintiff No. 2 and 3. It is further stated that he had acquired the suit 'A' schedule property by virtue of partition which was taken place in their family. It is further stated that the Smt. Shanthamma i.e. plaintiff No. 1 had purchased the suit schedule 'B' property as per the registered sale deed dated 30.5.1995 for lawful consideration. Thereafter the said Smt. Shanthamma i.e. plaintiff No. 1 is in peaceful possession and enjoyment of the plaint schedule 'B' property. The said Manjappagowda demised on 26.05.1996 and thereupon the suit schedule 'A' property is devolved upon the plaintiffs and therefore they are in peaceful possession and enjoyment of the suit schedule 'A' property as the plaintiffs are the surviving legal heirs of Manjappagowda. It is further stated that the defendants are strangers and they do not have any right, title and interest over the suit schedule properties. In spite of that, the defendants have attempted to trespass into the suit schedule properties on 1.12.2024 and it was restrained by the plaintiffs. Thereupon, The plaintiffs have lodged a complaint before the N.R.Pura Police

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Station, but as the matter is pertaining to civil dispute in nature, the concerned police have not registered the FIR and therefore the plaintiffs have appeared before this court for seeking the above mentioned relief.

2. After the issuance of the summons, the defendants have appeared before the court and they have filed the written statement in the above suit. Further, they have sought to adopt the written statement of the defendants as objections to the above IA. In the written statement, the defendants have denied the plaint averments. The defendants have contented that the defendants are the owners of the land in Survey No. 54, 269 and other land and they are growing coffee and other crops therein. It is further stated that they have also illegally occupied the agricultural land and have cultivated the land and are growing coffee, acrecanut etc. by having unauthorized occupation over the some of the properties. It is also stated that for their ingress and egress over the land in Sy.No. 54 and 269 and other properties, there exists a cart road and the defendants are using the said cart road for their



ingress and egress from the time immemorial. Such being the case, the plaintiffs have attempted to interfere with the defendants' peaceful usage of the said cart road and as such the defendants have lodged a complaint before the jurisdictional police. At that time, the concerned police had instructed the plaintiffs to not to interfere with the cart road. In spite of that the plaintiffs by hiding the said material facts have approached this court and therefore they are not entitled for the relief of injunction and pray to dismiss the application.

3. On the basis of the above pleadings, the following points arise for consideration:

- 1) Whether the plaintiffs have made out prima facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiffs?
- 3) Whether the irreparable loss and injury caused to the plaintiffs if the temporary injunction is not granted?

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4) What order?

4. My findings on 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 the final order
for the following;

REASONS

5. **Point No. 1:** I have already narrated the averments pleaded by the plaintiffs in the above I.A and also the objections raised by the defendants. It is the case of the plaintiffs that one Late. B.D Manjappagowda is the husband of plaintiff No. 1 and father of plaintiff No. 2 and 3. It is further stated that he had acquired the suit 'A' schedule property by virtue of partition which was taken place in their family on 25.4.1973 and the partition deed is also placed by the plaintiffs along with the RTCs pertaining to the suit schedule properties. The mutation register extract stands in the name of the plaintiffs at this juncture

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pertaining to the suit item No.1.

6. It is further stated that Smt. Shanthamma i.e. plaintiff No. 1 had purchased the suit schedule 'B' property as per the registered sale deed dated 30.5.1995 for lawful consideration. In this regard the plaintiffs have also submitted the certified copy of the registered sale deed dated 30.5.1995. The said Manjappagowda demised on 26.05.1996 and thereupon the suit schedule 'A' property is devolved upon the plaintiffs and therefore they are in peaceful possession and enjoyment of the suit schedule properties as the plaintiffs are the surviving legal heirs of Manjappagowda. It is further stated that the defendants are strangers and they do not have any right, title and interest over the suit schedule properties. In spite of that, the defendants have attempted to trespass into the suit schedule properties on 1.12.2024 and it was restrained by the plaintiffs.

7. Per contra the defendants have contended that the defendants are the owners of the land in Survey No. 54, 269 and

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other land and they are growing coffee and other crops therein. It is further stated that they have also illegally occupied the agricultural land and have cultivated the land and are growing coffee, arecanut etc. by having unauthorized occupation over the some of the properties. It is also stated that for their ingress and egress over the land in Sy.No. 54 and 269 and other properties, there exists a cart road and the defendants are using the said cart road for their ingress and egress from the time immemorial. Such being the case, the plaintiffs have attempted to interfere with the defendants' peaceful usage of the said cart road and as such the defendants have lodged a complaint before the jurisdictional police. At that time the concerned police had instructed the plaintiffs not to interfere with the cart road. The plaintiffs have also submitted the sketch maintained by the ADLR Department dated 24.9.1953 pertaining to Sy.No. 269 i.e., suit schedule property. On the other hand, the counsel for defendants have also filed the certified copy of Akarbandh issued by the ADLR pertaining to Sy.No.269 i.e., suit schedule property. On careful

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perusal of the documents submitted by both the parties at this juncture it reveals that the plaintiffs after the demise of Manjappagowda are in peaceful possession and enjoyment of suit schedule properties. In the title deed referred by the plaintiff as mentioned above do not disclose the existence of a cart road at this juncture. Further the re-settlement survey sketch furnished by the defendant at this juncture does not clearly disclose the existence of a cart road in the plaint schedule properties. Under the said facts and circumstances, the plaintiffs have made out the grounds to allow the application to have the fruits of injunction. Accordingly, Point No. 1 is answered in the affirmative.

8. **Point No.2 and 3:** Since the point No.2 and 3 are interrelated, they are taken up together for discussion to avoid the repetition. At this stage, the plaintiffs have successfully able to establish their case with the supporting documents. Hence, at this stage this court opined that the plaintiffs have made out prima facie case and the balance of convenience also lies in favour of the plaintiffs and if the temporary injunction is not granted in

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favour of the plaintiffs, the plaintiffs will be put to irreparable loss and hardship. Hence, this court answers Point No. 2 and 3 in the affirmative.

9. **Point No. 4:** In view of the above discussion on point No. 1 to 3, this court proceed to pass the following order.

ORDER

I.A.No. 1 filed under order 39 rule 1 and 2 of CPC is hereby allowed.

Consequently, the defendants and their men and anybody acting under them are hereby restrained from interfering with the plaintiffs' peaceful possession and enjoyment over the suit schedule property in any manner till disposal of the suit.

(Dictated to the Stenographer directly on system, print out corrected and then pronounced by me in the open court on this the 4th day of August, 2026)

Sd/-xxx 4/8/2026
(Jeethu R.S.)
Civil Judge & JMFC.,
N.R.Pura.