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**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT TARIKERE**

Present: Sri.Ramamurthy N. B.A. LL.B.,
Addl. Civil Judge & JMFC, Tarikere.

Dated: 1st Day of February 2022

ORIGINAL SUIT NO.42/2021

PLAINTIFF/s :

Giddappa S/o late Hanumanthappa, aged
61 years, Agriculturist, R/o Duglapura
Village, Kasaba Hobli, Tarikere Taluk,
Chikkamagaluru District

(Reptd. By : Sri S.Sureshchandra, Advocate.)

Vs.

DEFENDANT/s:

- 1) Rangappa S/o Kariyappa, aged 60 years,
- 2) Chetana S/o Ranganna, aged 28 years,
- 3) Krishnamurthy S/o Ranganna, aged 25
years,

D.1 to 3 are R/o Station Duglapura Village,
Tarikere Taluk.

- 4) Suresha S/o Lingaiah, aged 45 years,
- 5) Rajashekaramurthy S/o Lingaiah, aged
48 years,

D.4 & 5 are R/o Mudigere Village,
Ajjampura Taluk.

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6) Rangaswamy S/o Thimmaiah, aged 50 years, R/o Shivamogga Town.

(D.1 to 3 : By Sri T.M.Raju. Advocate.

D.4 & 5 : By Sri S.Narayanarao, Advocate.)

PARTIES TO I.A.NO.I

Applicant : Giddappa

Vs.

Opponent : Ranganna and others

**ORDER ON I.A.NO.I FILED U/O XXXIX RULE 1 AND 2 R/W
SECTION 151 OF CPC**

The plaintiff has filed present I.A. seeking temporary injunction against the defendants to restrain them from trespassing and interfering in his peaceful possession and enjoyment of the suit schedule property.

2. In the annexed affidavit, the plaintiff has stated that the suit property is belongs to his family. He has purchased the same under registered sale deed and in possession of the said property. The defendants or others have no title, interest or in possession of the suit schedule property. On 02.01.2021

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the defendants have trespassed into the suit property and tried to pluck the crops and made interference in his peaceful possession of the same. If I.A., is not allowed, he will be put to great hardship and loss. If it is allowed, there is no hardship to other side. Hence, prays for allow the I.A., by passing temporary injunction against the defendants till disposal of the suit.

3. In the objections, the defendants have denied the entire averments of the I.A. Further stated that the property of the defendants bearing Sy.No.164/P13 is situated adjacent to the suit property and defendants are in possession of the same. The plaintiff himself tried to encroach the defendants property and same was resisted by the defendants. After purchase of the suit property, the plaintiff has tried to put the fence by encroaching the defendants property without hudbasth or measurement work of his property. The

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defendants are not interfered in the possession of the plaintiff. Hence, prays for reject the I.A.

4. Heard arguments of both counsels and perused the materials in file.

5. The following points that arise for consideration are :

- 1) **Whether the plaintiff has made out prima-facie case ?**
- 2) **Whether the plaintiff has made out balance of convenience in his favour?**
- 3) **Whether the plaintiff has made out that irreparable loss to his if temporary injunction refused?**
- 4) **What order?**

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

Point No.1 : In the Affirmative,

Point No.2 : In the Affirmative,

Point No.3 : In the Affirmative,

Point No.4 : As per the Order,

for the following:

REASONS

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7. **POINT NO.1 TO 3** : These points are interrelated with each other. To avoid repetition of facts, these points are taken up together for common discussion.

8. The suit of the plaintiff is for permanent injunction and the present I.A., is for temporary injunction against the defendants. According to the plaintiff, he is the absolute owner and in peaceful possession of the suit property. The same was purchased through registered sale deed. Except himself and his family members, no others have right over the said property.

9. According to the defendants, they have a property adjacent to the suit property. The plaintiff himself tried to encroach their property.

10. Upon perusal of documents placed by the plaintiff, it shows that the suit property was purchased by the plaintiff on 10.02.2015 through registered sale deed and obtained

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registered amended sale deed on 16.06.2016. The copy of the final decree in O.S.No.17/2015 dated 15.12.2017 shows that, the suit property was shown as 'G' schedule property in the name of plaintiff. The defendants have not placed any materials on their behalf in support of their contention. Therefore, by considering the contents of documents placed by the plaintiff and pleadings of the both parties, at this stage, it is shows that, the plaintiff is in possession of the suit schedule property and there was interference of the defendants in his possession. Hence, opinion of this court is that, the plaintiff has made out prima facie case and balance of convenience in his favour and if temporary injunction is not granted, there is a irreparable loss to him. Hence this court answered Point No.1 to 3 in the Affirmative.

11. **POINT NO.4** : For the above reasons and answer given to the Point No.1 to 3, this court proceed to pass the following

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**ORDER**

I.A.No.I filed by the plaintiff under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC is hereby allowed.

The defendants are restrained from interfering in the peaceful possession of the plaintiff over suit property till further order.

Cost shall follow the event.

(Dictated to the Stenographer, transcribed by her, corrected by me and then pronounced in the open Court, on this the day of 1st day of February 2022.)

Sd/-

**(RAMAMURTHY N.)
ADDL.CIVIL JUDGE &
J.M.F.C., TARIKERE.**