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

Present: Smt.Urmila.V. B.A.L., LL.B.,
Addl. Civil Judge & JMFC, Tarikere.

Dated: 17th Day of September 2025

ORIGINAL SUIT NO.178/2025

PLAINTIFF/s :

Virupaksha.I.K., S/o Krishnappa, aged
36 years, Agriculturist, R/o Inalli
Village (Gulladamane), Doranalu Post,
Tarikere Taluk.

(Reptd. By : Sri K.K.H., Advocate.)

Vs.

DEFENDANT/s:

- 1) Basanna (Balihal) S/o Basappa, aged
68 years,
- 2) Smt.Nagamma W/o Basanna (Balihal),
aged 64 years,
- 3) Prabhu S/o Basanna (Balihal), aged 49
years,
- 4) Smt,Roopa D/o Basanna (Balihal), aged
42 years,
- 5) Smt.Shobha W/o Prabhu, aged 36
years,

All are R/o Inalli Village (Gulladamane),
Doranalu Post, Tarikere Taluk..

(Reptd. By : Sri K.R.G., Advocate.)

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PARTIES TO I.A.NO.I

Applicant : Virupaksha.I.K.

Vs.

Opponent : Basanna and others

i	Provision under which the application is filed	Order XXXIX Rule 1 and 2 r/w Section 151 of CPC
ii	Relief sought for	Temporary injunction
iii	The date of which the application is filed	02.05.2025
iv	Number of application	I.A.No.I
v	The date on which the objection are filed by different opponents	16.07.2025
vi	The date on which the orders were passed on the said application	17.09.2025

ORDER ON I.A.NO.I

The applicant/plaintiff has filed this interlocutory application under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC for the relief of temporary injunction restraining the defendants, their agents, servants, representatives or any other persons claiming under them from in any way

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interfering with the peaceful possession of the plaintiff over the suit schedule property till disposal of this suit.

2. The I.A., is supported with the affidavit of the plaintiff. In the affidavit the plaintiff has stated that, he is the absolute owner and peaceful possession of the suit schedule property having purchased the same through a registered sale deed dated 02.01.2024 from its previous owners Smt.Mallamma and Smt.Renuka for valuable consideration and after purchase, the relevant revenue and mutation entries were changed in her name. As there was mistake in mentioning eastern side boundary, a rectification deed was executed by the vendors. From the date of purchase, the plaintiff is in continuous and unhindered possession of the suit schedule property. It is further submitted that, the suit schedule property was granted to Sri B.Hanumanthappa by Revenue Department and the saguvali chit was issued on 11.11.1975 and in pursuance of the same, the khata was mutated in the name of Sri B.Hanumanthappa as per

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M.R.No.7/1975-76 dated 28.05.1973 and RTC also mutated in his name.

3. It is further submitted that, after noticing encroachment by some persons in the year 2009-10, Sri B.Hanumanthappa has conducted survey work and survey official has measured the property and as per the survey work, some persons were encroached property of Sri B.Hanumathappa in Sy.No.102 of Gulladamane Village and hence, he had filed O.S.No.23/2012 before Hon'ble Addl. Civil Judge and JMFC at Tarikere against the defendant No.1, Ramachandra and Janardana for relief of declaration as absolute owner of the suit schedule property and for recovery of possession of encroached portion. In that suit, the court by considering the materials on record, decreed the suit and directed the defendants to hand over the encroached portion of suit schedule property to the Sri B.Hanumanthappa within 2 months from the date of order. It is further submitted that, the defendants in O.S.23/2012 have not complied the court

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order and hence, Sri B.Hanumanthappa had also filed Ex.No.34/2016 before Addl. Civil Judge and JMFC., at Tarikere and in the execution proceedings as per the court order and procedure, the court officials have handed over the possession of encroached portion in favour of Sri B.Hanumanthappa.

4. It is further submitted that Sri B.Hanumanthappa had executed a registered gift deed dated 10.05.2019 bearing S.R.No.TRK-1-00813-2019-20 in favour of his daughters Smt.Mallamma and Smt.Renuka i.e., vendor of plaintiff and in pursuance of registered gift deed, all the revenue records are mutated to the joint name of Smt.Mallamma and Smt.Renuka and thereafter, they have sold the suit schedule property in favour of plaintiff as stated above. It is further submitted that, the plaintiff being the absolute owner, is in peaceful possession and enjoyment of the property since date of purchase. The defendants having no right, title and possession over the suit schedule property, unnecessarily

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again and again interfering with peaceful possession of plaintiff over suit schedule property. The defendant No.3 has caused obstruction for enjoyment of plaintiff over suit schedule property and in this regard, the plaintiff has lodged complaint on 03.06.2024 to concerned police station.

5. It is further submitted that again the defendants have caused obstruction for enjoyment and peaceful possession of the plaintiff over suit schedule property on 27.03.2025 and they have proclaimed that, they will never allow the plaintiff to enjoy the suit schedule property. The illegal activities of the defendants were protected by the friends and well-wishers of the plaintiff. Hence, in this regard the plaintiff has lodged complaint to concerned police station, but the police officers denied taking complaint by stating that, it is civil in nature. It is further submitted that, the suit schedule property is a valuable property and the defendants are trying to swallow the property by their illegal and high handed activities and in that connection, they are trying to oppose the plaintiff to

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enjoy his own property. It is further submitted that, if the defendants emerges successful in their illegal venture to claim whimsical right and possession over the suit schedule property, certainly and seriously it will affects the valuable right of the plaintiff. The plaintiff is not able to protect the suit schedule property all the time and by misusing the absence of the plaintiff, the defendants being powerful persons in the locality having men, money mussel power, are trying to interfere with the plaintiff's possession over the suit schedule property. It is further submitted that, he has prima facie case and balance of convenience lies in his favour. If the injunction is not granted, the defendants will emerge successful in his illegal venture and it will seriously affect his valuable right of enjoyment over the suit schedule property and the purpose of filing of suit will be frustrated. Hence, this I.A.

6. In response to service of summons, the defendants have appeared before the court through their counsels. The

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defendant No.3 filed written statement and other defendants adopted the averments of written statement of defendant No.3 by filing memo. The defendants have also filed memo and adopted the averments of their written statement as objections to I.A.No.I.

7. In the written statement the defendants denied the entire plaint averments and inter alia contended that the suit of the plaintiff is not maintainable. It is further contended that the defendants have been cultivating the property bearing Sy.No.53 measuring 3 acres situated at Gulladamane village since 50-55 years under bagar hukum cultivation and they have fenced the said property with stone pillars and thorn fence and the said property is bounded, East by land of Janardhana, West by land of Dinesh, North by road and South by land of Ramappa, Kumarappa and Mallaiah and property of the plaintiff is not situated on any side of the property of defendants which is cultivating by them under bagar hukum. The plaintiff has filed this suit in order to give

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trouble to the defendants and to grab the said property of the defendants illegally and unlawfully and the plaintiffs have no right, title, interest and title over the said property. The defendants since two years have improved the said bagar hukum cultivation property by planting coconut saplings and they have also planted silver trees around the said property inside the fence and also growing maize, millet and horse gram.

8. It is further contended that on 15.07.2025 the plaintiff removed the coconut and silver sapling which were grown inside the said bagar hukum cultivating property and when the defendants questioned about the said act, the plaintiff abused and assaulted the defendants and thereafter the defendants have given complaint to the police against the plaintiff. It is further contended that the plaintiff and his vendors are not the owners of suit schedule property and they are not in possession of suit schedule property at any point of time and they have created the sketch of suit schedule

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property and the plaintiff has not produced any sketch in order to identify the suit schedule property. It is further contended that the defendants have filed application for grant of said bagar hukum property which is cultivating by them unauthorisedly and the said application is at the stage of approval. It is further contended that originally suit schedule Sy.No.53 of Gulladamane village is gomala land and in the said survey number, about 70 persons are cultivating under bagar hukum and till now, no persons have been sanctioned in the said survey number and it is false to state that Hanumanthappa S/o Byrappa was granted land in the said survey number. For all these grounds, it is prayed to reject the I.A.No.I with cost.

9. Heard arguments on both sides. Perused the materials placed on record.

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10. Upon hearing arguments and on perusal of materials placed on record, the following points that would arise for my consideration are as under:

- 1) Whether the plaintiff/applicant has made out a prima facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiff/applicant?
- 3) Whether the plaintiff/applicant will be put to irreparable loss and injury, if the temporary injunction is not granted as prayed in the I.A.?
- 4) What order?

11. 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

12. **POINT NO.1 TO 3** : As these points are interconnected and interlinked with each other, these points are taken up together for common discussion in order to

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avoid repetition of facts and findings. The plaintiff has filed this suit against the defendants for the relief of permanent injunction in respect of suit schedule property.

13. It is the urge of the plaintiff that, he is the owner and in possession and enjoyment of suit schedule property having acquired the same as per the registered sale deed dated 02.01.2024, in pursuance of the same, the concerned revenue authorities have mutated the khata in the name of the plaintiff in respect of suit schedule property and he is in possession and enjoyment of the same without hindrance from any corner. When such being the case, the defendants have no manner of right, title, interest and possession over the suit schedule property and they have tried to trespass and interfere with the possession of the plaintiff over the suit schedule property. In order to substantiate the contention of the plaintiff, at this stage, the plaintiff has produced computerized copy of registered sale deed dated 02.01.2024, computerized copy of rectified sale deed dated 03.04.2025,

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computerized copy of registered gift deed, computerized copy of grant certificate along with sketch, RTC extract, certified copy of mutation register extract bearing No.H5/2023-24, H13/2018-19, xerox copies of mutation register extract bearing No.7/75-76, 5/79-80, xerox copies of Judgment and decree passed in O.S.No.23/2012, petition in Ex.No.34//2016, xerox copies of letter of ADLR dated 16.01.2023, hudbusth sketch, notice and statement.

14. Per contra, it is the urge of the defendants that they are in possession to an extent of 3 acres in land bearing Sy.No.53 of Gulladamane village, Lingadahalli Hobli, Tarikere Taluk which is the suit schedule property of the present case on hand, from past 50-55 years and they are in possession of the suit schedule property with boundaries East by land of Janardhana, West by land of Dinesh, North by road and South by land of Ramappa, Kumarappa and Mallaiah and the defendant No.3 filed application for sanction of said land as per bagar hukum and said application is pending before the

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concerned authority for approval. The defendants further contended that the plaintiff is not in possession of the suit schedule property and therefore, the plaintiff is not entitle for temporary injunction as sought for. It is further urge of the defendants that they are in possession of the suit schedule property and the plaintiff is not the owner of the said property and vendor of the plaintiff is also not previous owner of the suit schedule property, the sketch produced by the plaintiff is created document. The plaintiff has filed this suit only to harass the defendants. The defendants in order to substantiate their contentions, at this stage, they have not produced any iota of documents.

15. At this stage, without going through the merits of the case and conducting mini trail, this court is considering the aspect of prima-facie, at this stage it makes very clear that this court is looking towards prima-facie case and not for prima-facie title. The plaintiff has produced the computerized copy of registered sale deed dated 02.01.2024. On perusal of

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the same, at this stage it discloses that, the plaintiff has purchased the suit schedule property from Smt.Mallamma and Smt.Renuka for sale consideration of Rs.13,00,000/-. The plaintiff has also produced the computerized gift deed dated 16.02.2019, at this stage it discloses that B.Hanumanthappa father of Smt.Mallamma and Smt.Renuka has executed gift deed in favour of of his two daughters. The plaintiff has also produced the computerize copy of grant certificate, on perusal of the same at this stage it discloses that the Government has granted 3 acres of land in Sy.No.53 situated at Gulladamane village during the year 1975. It is very significant to note that the defendants are claiming in their written statement that they are in possession of 3 acres of land in bearing Sy.No.53 of Gulladamane village and filed application before the concerned authority for obtaining grant certificate in respect of the suit schedule property, but they have not produced any iota of documents to substantiate their contention.

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16. The learned counsel for the defendants argued that in the above suit, the plaintiff is not the owner of the suit schedule property and the defendants are in possession of the suit schedule property. It is very significant to note that the defendants counsel has raised contention in his arguments that, the defendants are in possession of the suit schedule property. The said contention raised by the defendants counsel cannot be considered at this stage by only looking into the photographs produced by them and the same may be considered at the time of final adjudication of the matter. At this stage, the rights of the parties cannot be adjudicated, it needs full fledged trial. Hence, looking into the pleadings and documents produced by the plaintiff, at this stage the plaintiff has made out a prima-facie case. For considering all these reasons, I answer Point No.1 in the Affirmative.

17. **POINT NO.2 :** The term balance of convenience is to see the comparative hardship and mischief of inconvenience which is likely to occur from withholding the injunction will

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be greater than that would be likely to acted from granting it.

I have arrived at the conclusion that the plaintiff has made out a prima facie case. It is the urge of the plaintiff that the defendants are trying to trespass and interfere with the possession of the plaintiff over the suit schedule property. If at all the defendants have succeed to interfere with the suit schedule property as alleged by the plaintiff, it appears that, greater inconvenience will be caused to the plaintiff. The documents produced by the plaintiff at this stage discloses that, the balance of convenience lies in favour of the plaintiff and this court is inclined to protect the possession until conclusion on the merits. Accordingly, I answer Point No.2 in the Affirmative.

18. **POINT NO.3** : Needless to say that the irreparable injury need not always mean measurable in terms of money or need not be physical damage. If the injunction is not granted and the apprehension of the plaintiff turns into reality and the defendants have succeeded to interfere with

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the possession of the plaintiff over the suit schedule property, the amount of damage would certainly be substantial and not mere tangential. The plaintiff might have to be subjected to another round of litigation to revive the status of the property. This is certainly against the principles of the grant of injunction. Therefore, this court opined that the plaintiff has made out all requirements for grant of injunction. Hence, I answer Point No.3 in the Affirmative.

19. **POINT NO.4** : In the light of the above discussion on Point No.1 to 3, I proceed the following :

ORDER

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

Consequently, the defendants are hereby temporarily restrained from interfering with the possession of plaintiff over the suit schedule property till disposal of this suit.

No order as to cost.

(Dictated to the Stenographer directly on computer, typed by her,

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corrected by me and then pronounced in the open Court, on this the day of 17th day of September 2025.)

sd/-

(URMILA.V)
ADDL.CIVIL JUDGE &
J.M.F.C., TARIKERE.