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IN THE COURT OF PRL. CIVIL JUDGE AND J.M.F.C, TARIKERE

PRESENT: Sri. Rahul Shettigar, B.Com (Hons.), LL.B
Prl. Civil Judge & J.M.F.C, Tarikere

DATED THIS THE 1st DAY OF AUGUST, 2026

ORIGINAL SUIT No. 194/2026

BETWEEN:

Smt. Lakshmamma,
W/o. Sri. Chandrappa,
Aged about 45 years,
R/o. Hurulihalli village,
Belenahali post,
Tarikere Taluk,
Chikkamagalur District.

PLAINTIFF

(By Smt. B.T. Geetha, Advocate)

-AND-

Sri. Thimmaiah,
S/o. Sri. Hanumanthappa,
Aged about 38 years,
Agriculturist,
R/o. Hurulihalli village,
Belenahalli post,
Tarikere Taluk,
Chikkamagalur District.

DEFENDANT

(By Sri. T.V. Nagaraja, Advocate)

IN I.A.NO.II

Sri. Lakshmamma

APPLICANT/ PLAINTIFF

-AND-

Sri. Thimmaiah

OPPONENT/ DEFENDANT

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PARTICULARS

i	<i>Provision under which the application is filed</i>	<i>Order XXXIX Rule 1 and 2 R/w. S.151 of CPC</i>
ii	<i>Relief sought for</i>	<i>Order of T.I</i>
iii	<i>The date on which the application is filed</i>	<i>06.05.2026</i>
iv	<i>Number of the application</i>	<i>I.A.No.II</i>
v	<i>The date on which the objections are filed by Opponents/ Defendant</i>	<i>10.06.2026</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>01.08.2026</i>

ORDERS ON I.A. NO.II

1. Applicant/ Plaintiff has filed the instant application under Order XXXIX Rules 1 & 2 r/w. Section 151 of C.P.C seeking the relief of temporary injunction by restraining the Opponent/ Defendant, his men, agents, or anybody, from unlawfully interfering with the Plaintiff's peaceful possession and enjoyment of the suit schedule property or encroaching or dispossessing the Plaintiff from the plaint schedule property, pending disposal of the suit.
2. In the affidavit accompanying the application, it is contended that, except the Plaintiff, no one has any right, title, or interest over the suit schedule property and that the Defendant is attempting to encroach upon the same from the

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southern side. In this regard, it is stated that a complaint was lodged before the Tarikere Police as well as the concerned PDO; however, no action has been taken by them. It is further contended that, on 04.05.2026, the Defendant unlawfully attempted to trespass upon and encroach the suit schedule property, and that the Plaintiff, with great difficulty, prevented such encroachment. It is also alleged that, since the Defendant is a powerful and influential person, he is likely to continue such unlawful acts. It is, therefore, contended that the Plaintiff has established a prima facie case, that the balance of convenience lies in her favour, and that she would suffer irreparable injury if an order of temporary injunction is not granted. On these grounds, the Plaintiff has prayed for allowing the application.

- 3.** *Per contra*, the Defendant has filed a memo requesting that the written statement be treated as the statement of objections to I.A. No. II. In the written statement, while denying the averments made in the plaint, it is contended that the propositus of the Defendant's family was one Thimmanna, whose wife was Chowdamma, and that they had

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five children, namely Hanumanthappa, Rangappa, Siddappa, Shivanna, and Rathnamma. It is further contended that the family owned land bearing Sy. No. 77 of Huralihalli Village measuring 1 acre 37 guntas and that, after the death of Thimmanna, the khata of the said property was mutated in the name of Chowdamma. It is further contended that, by virtue of inheritance, the father of the Defendant and his siblings approached the Hon'ble Senior Civil Judge, Tarikere, by filing O.S. No. 300/2025 seeking partition of the family properties, and that under the decree passed therein, the father of the Defendant was allotted a share in Sy. No. 77 measuring 1 acre 37 guntas. However, the khata in respect of the said property has not yet been mutated and continues to stand in the joint names of the father of the Defendant and his siblings. It is further contended that the Government acquired an extent of 18 guntas out of the total extent of 1 acre 37 guntas for the purpose of declaring the area as a revenue village and that a notification for the formation of a new sub-village has been issued by the Government. It is also contended that the father of the Defendant has sought

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compensation in respect of the acquired land before the Tahsildar and that appropriate orders have been passed by the Tahsildar granting such compensation. It is further stated that the acquisition of the land is duly reflected in the RTC extracts. It is further contended that the father of the Defendant has already instituted O.S. No. 24/2026 seeking an order of injunction restraining the authorities from issuing grant certificates until the compensation payable to him has been released. According to the Defendant, the Plaintiff, having become aware of the land acquisition proceedings and with an intention to unlawfully grab the suit schedule property, has created false documents and, without impleading all the necessary parties, has filed the present suit only against the Defendant with a mala fide intention. It is also contended that the Plaintiff has lodged a false complaint before the police. The Defendant further contends that the assessment extract produced by the Plaintiff is fabricated and that the genuine document reflects an entirely different state of affairs. It is also contended that the Plaintiff has failed to furnish proper particulars for identification of the suit schedule

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property and that the entire case of the Plaintiff is founded upon false and fabricated documents. It is further contended that the Plaintiff has not produced any grant certificate or grant order in support of his claim and has concocted false allegations for the purpose of filing the present suit. In these circumstances, it is contended that the suit is liable to be dismissed on the ground that the Plaintiff has suppressed material facts. Accordingly, the Defendant has prayed for dismissal of the application.

4. Heard both sides. Learned Counsel for Defendant banks on the following Judgment in support of his contention –

a. *R.A.No. 78/2013 (1st Addl. District Court, Chikkamagalur)*

5. Having heard the rival contention and on perusal of the materials, the points that would now arise for my consideration are as under-

Point No.1 : Whether the Plaintiff has made out a prima-facie case as against the Defendant?

Point No.2 : Whether the balance of convenience lies in favour of Plaintiff?

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Point No.3 : Whether denial of temporary injunction would cause irreparable injury or hardship to the Plaintiff?

Point No.4 : What Order?

6. Now, my finding on the above points are as follows-

Point No.1 : In the Affirmative
to 3

Point No.4 : As per the final order, for the following -

REASONS

7. Point No.1 to 3: The instant suit is filed seeking relief of permanent injunction by restraining the Opponent/Defendant, his men, agents, or anybody, from unlawfully interfering with the Plaintiff's peaceful possession and enjoyment of the suit schedule property or encroaching or dispossessing the Plaintiff from the suit schedule property and such other ancillary reliefs. The instant application is filed seeking an order of temporary injunction with the prayer which is same as that of the main relief.

8. Before advertng to the factual matrix any further, it would be beneficial to first understand the overall concept of temporary injunction. The grant of temporary injunction is governed by Specific Relief Act of 1963 as well as the C.P.C. Section 37(1)

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of the Specific Relief Act of 1963 provides that the grant of temporary injunction would be regulated by C.P.C. Order XXXIX Rules 1 & 2 and Section 94 (c) of C.P.C provide circumstances under which an order of temporary injunction can be granted. That apart, it is now settled that Sections 151 of C.P.C also can be invoked sparingly to grant an order of temporary injunction to meet the ends of justice if the circumstances are not covered either under Order XXXIX Rules 1 & 2 or Section 94 (c) of C.P.C (See **MANOHAR LAL CHOPRA VS RAI BAHADUR RAO RAJA SETH HIRALAL** reported in **AIR 1962 SC 527**). Though the above provisions provide the circumstances under which an order of temporary injunction could be granted, the principles governing grant of an order of temporary injunction is evolved by judicial pronouncements. The Hon'ble Supreme of Court of India in **GUJARAT BOTTLING CO. LTD. V. COCA COLA CO.** reported in **(1995) 5 SCC 545** has held at Para No.43 as under –

"The grant of an interlocutory injunction during the pendency of legal proceedings is a matter requiring the exercise of discretion of the court. While exercising the discretion the court applies the following tests – (i) whether the Plaintiff has a prima facie case; (ii) whether the balance of convenience is in favour of the Plaintiff;

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and (iii) whether the Plaintiff would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed. The decision whether or not to grant an interlocutory injunction has to be taken at a time when the existence of the legal right assailed by the Plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. Relief by way of interlocutory injunction is granted to mitigate the risk of injustice to the Plaintiff during the period before that uncertainty could be resolved. The object of the interlocutory injunction is to protect the Plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection has, however, to be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the "balance of convenience" lies. [See:Wander Ltd.v.Antox India (P) Ltd.[1990 Supp SCC 727] , (SCC at pp. 731-32.) In order to protect the defendant while granting an interlocutory injunction in his favour the court can require the Plaintiff to furnish an undertaking so that the defendant can be adequately compensated if the uncertainty were resolved in his favour at the trial".

9. In GOWRISHANKARA SWAMIGALU V. SRI SIDDHAGANGA MUTT reported in **1989 SCC ONLINE KAR 116**, the Hon'ble High Court of Karnataka has held at Para No.18, 25 & 26 as under –

(i) Grant of ad-interim injunction has to course through the following slots : (i) prima facie case; (ii) balance of

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convenience; (iii) irreparable injury to the Plaintiff, and (iv) lastly, all injunctions being absolutely discretionary in nature whether there was any overriding consideration that supported the refusal of the injunction by the Court-below.

(ii) The existence of a prima facie case in the matter of granting injunction is really the harbinger or the all clear sign to go ahead in investigating other aspects of the question governing the grant or refusal of injunction. If there was no prima facie case at all or the case put forward was so weak and tainted having very little prospect of being accepted by the Court, further questions of balance of convenience and irreparable loss need not be considered since the Plaintiff would fall at the very first stile itself. But if there was a prima facie case then other considerations governing the grant of injunction would come into play and will also have to be evaluated before granting or refusing the injunction. In other words the existence of a prima facie case or even a very strong prima facie case does not permit, leap-frogging by the Plaintiff directly to an injunction without crossing the other hurdles in between....Even granting that the Plaintiff has an invincible prima facie case, he will not be entitled ex debitaie justiciae, to the grant of an injunction, unmindful of other consequences. If the consequences of granting an injunction are detrimental in nature then an injunction will not be granted even though the Plaintiff might have an unbeatable prima facie case.

- 10.** These two celebrated judgement one of the Hon'ble Supreme Court of India and the other of the Hon'ble High Court of Karnataka beautifully encapsulate the principles underlying the grant of temporary injunction and there arises no necessity to look any further.

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- 11.** In order to be entitled for an order of temporary injunction, the Applicant has to first satisfy the court that he has a prima-facie case in his favour. Prima-facie case is the harbinger or the all clear sign to go ahead in investigating other aspects and on failure to establish it, further questions of balance of convenience and irreparable loss would fade into insignificance. Prima facie case, however, should not be confused with a case that is required to be proved to the hilt. The Court while examining if the Applicant has a prima facie case or not while deciding question of his entitlement for an order of temporary injunction, should not examine the merits of the case closely because at that stage, it is not expected to decide the suit finally. Once prima-facie case is established, the other aspects would have to be examined first being balance of convenience which in other words mean that the Court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the Applicant by refusing the injunction will be greater than that which is likely to be caused to the Opposite Party by granting it. Next, the applicant must further satisfy the Court by

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showing that he will suffer irreparable injury if the injunction as prayed is not granted, and that there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury. The expression irreparable injury however does not mean that there should be no possibility of repairing the injury. It only means that the injury must be a material one, i.e., which cannot be adequately compensated by damages. Apart from these principles, the grant of temporary injunction being purely discretionary, other aspects would also factor in while considering entitlement for temporary injunction. The relief of temporary injunction may be refused on the ground of delay, laches or acquiescence or where the Applicant has not come with the clean hands or has suppressed material facts, or where monetary compensation can be an adequate relief. Establishing prima-facie case though is harbinger in examining other aspects, even where prima-facie case is established, it would not automatically entitle the Applicant to an order of temporary injunction unless he establishes the other aspects aforesaid. With these principles in mind, it

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would now be appropriate to delve into the essential facts of the case only to the extent necessary for disposal of this application.

- 12.** The case of the Plaintiff is that she was granted the suit schedule property in the year 2010 and has been paying the property taxes to the concerned Grama Panchayath ever since. It is contended that she has been in lawful possession and enjoyment of the suit schedule property. According to the Plaintiff, the father of the Defendant and his brothers, who own agricultural lands situated on the southern side of the suit schedule property, have been making attempts to encroach upon the same. Though complaints were lodged before the Grama Panchayath as well as the police authorities, no action was taken, thereby necessitating the institution of the present suit seeking the relief of permanent injunction.
- 13.** On the other hand, the Defendant, in the written statement, has contended that the father of the Defendant and his brothers partitioned their ancestral properties through Court proceedings, wherein land bearing Sy. No. 77 measuring 1

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acre 37 guntas fell to the share of the father of the Defendant. It is further contended that, out of the said extent, 18 guntas was acquired by the Government and, since compensation was not awarded, the matter was challenged before the Assistant Commissioner, Tarikere, who allowed the proceedings in favour of the father of the Defendant. It is further contended that the father of the Defendant has also instituted a suit seeking permanent injunction restraining the authorities from issuing any grant certificate in respect of the acquired land until compensation is paid. According to the Defendant, in the meanwhile, the Plaintiff, in collusion with the Panchayath authorities, has created false documents and is unlawfully claiming to be in possession and enjoyment of the suit schedule property. On these grounds, it is contended that the suit itself is not maintainable.

- 14.** In the light of these rival contentions, it becomes necessary to examine the documents produced by both parties. The Plaintiff has produced the proceedings of the Taluk Panchayath, Tarikere, the assessment extract, tax paid receipts, a copy of the Aadhaar Card, a copy of the police

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complaint, the acknowledgment issued by the Tarikere Police, a certified copy of the meeting notice dated 25.03.2010, the endorsement issued by the Belenahalli Grama Panchayath, a certified copy of the assessment register extract, and a certified copy of the mutation register. On the other hand, the Defendant has produced the khata extract, a copy of the police complaint, RTC extracts, objections filed before the Tahsildar, Tarikere, a copy of the order passed by the Assistant Commissioner, copies of the preliminary notification issued by the Government of Karnataka, the notification issued by the Deputy Commissioner, Chikkamagaluru, the survey report, and a copy of the mahazar.

- 15.** On perusal of the documents produced by the Plaintiff, it is evident that her application seeking grant of the property bearing Assessment No. 42 of Belenahalli Grama Panchayath, measuring 30 feet × 40 feet, was approved by the Taluk Panchayath, Tarikere. However, the assessment extract indicates that her name has been entered in respect of Assessment No. 97 instead of Assessment No. 42, for which the grant was originally made. It is on this basis that the

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Defendant contends that the Plaintiff, in collusion with the Panchayath authorities, has created false documents. However, the subsequent endorsement issued by the concerned Grama Panchayath dated 25.06.2026 indicates that the property originally assigned Assessment No. 42 has subsequently been renumbered as Assessment No. 97 while retaining the same measurement of 30 feet × 40 feet. This material prima facie indicates that, although the grant was originally made in respect of Assessment No. 42, the Panchayath authorities subsequently changed the assessment number to Assessment No. 97 in their records. At this stage, no fault can be attributed to the Plaintiff on that count.

- 16.** The E-Swathu extract produced by the Defendant is only a computer-generated copy without disclosing the complete particulars or supporting records. Hence, the same cannot be safely relied upon at this interlocutory stage. On the other hand, there is a specific endorsement issued by the PDO in favour of the Plaintiff confirming that Assessment No. 97 corresponds to the property originally granted to her. The remaining contentions advanced by the Defendant regarding

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the acquisition of land, non-payment of compensation, and the proceedings initiated before the revenue authorities do not directly concern the Plaintiff or the subject matter of the present proceedings. If the Defendant has any grievance regarding payment of compensation or acquisition proceedings, the appropriate remedy lies against the concerned Government authorities.

- 17.** The judgment relied upon by the Defendant is a decision of the learned District Judge, Chikkamagaluru, rendered in an unrelated matter involving different parties and distinct facts. Therefore, the said judgment does not govern the aspects in the present proceedings.
- 18.** At this stage, upon consideration of the pleadings and the material placed on record, this Court is of the considered opinion that the Plaintiff has succeeded in making out a prima facie case. With these observations, **Point No.1**, which has arisen for my consideration, is answered in the **Affirmative**.
- 19. Point No.2 & 3:** The Court having already held that the Plaintiff has shown a *prima-face* case, would now examine into the other aspects. Given the facts of the case afore-

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narrated, if the Defendant is not restrained from interfering with the possession of the schedule property, the comparative mischief, hardship or inconvenience that is likely to be caused in my opinion is more to the Plaintiff than that which is likely to be caused to the Defendant. The same would also cause irreparable injury to the Plaintiff, which in my opinion is material one and cannot be compensated in terms of cash or kind. Accordingly, **Point No.2 & 3** which have arisen for my consideration are also answered in the **Affirmative**.

20. Point No.4: For the foregoing reasons, I proceed to pass the following -

ORDER

I.A No.II filed by the Applicant/ Plaintiff under Order XXXIX Rules 1 & 2 r/w. Section 151 of C.P.C is hereby allowed.

Defendant, his men, agents or anybody, are hereby restrained from unlawfully interfering with the Plaintiff's peaceful possession and enjoyment of the suit schedule property, pending disposal of the suit.

(Dictated to Stenographer, after transcription, print out corrected and then pronounced by me in the Open Court on this the 1st of AUGUST, 2026)

sd/-

(Rahul Shettigar)
Prl. Civil Judge & J.M.F.C,
Tarikere.

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