



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

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

Dated: 18th Day of October 2025

ORIGINAL SUIT NO.233/2025

PLAINTIFF/s :

K.T.Huchegowda S/o late
Thimmegowda, aged 80 years,
Agriculturist, R/o Karakuchi A Colony
Village, Lakkavalli Hobli, Tarikere
Taluk.

(Reptd. By : Sri S.N.Mallegowda, Advocate.)

Vs.

DEFENDANT/s:

- 1) Smt.Laxmamma W/o late
M.Basavaraju, aged 55 years,
- 2) Ranganatha S/o late M.Basavaraju,
aged 34 years,
- 3) Sunil S/o late M.Basavaraju, aged 32
years,

All are R/o Karakuchi A Colony Village,
Lakkavalli Hobli, Tarikere Taluk.

(Reptd. By : Sri K.Chandrappa
Sri K.S.Vasanth and
Sri B.S.Niranjnamurthy, Advocates.)

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PARTIES TO I.A.NO.I

Applicant : K.T.Huchegowda

Vs.

Opponent : Smt.Laxmamma and others

i	Provision under which the application is filed	Order 39 Rule 1 & 2 r/w Section 151 of CPC
ii	Relief sought for	Temporary Injunction
iii	The date of which the application is filed	18.06.2025
iv	Number of application	I.A.No.I
v	The date on which the objection are filed by different opponents	29.07.2025
vi	The date on which the orders were passed on the said application	18.10.2025

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 labours, supporters, henchmen, agents, etc., from trespassing or interfering with the peaceful

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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 in possession and cultivation of suit schedule property since the date of purchase of the adjacent land under a registered sale deed dated 20.07.1979 and at the time of purchase, the said land measured 2 acres 20 guntas and was the subject matter of SC.ST.794/78-79, a case filed before the Assistant Commissioner, Tarikere under the provisions of the Karnataka SC and ST (PTCL) Act. That land was ordered to be restored to the original grantee vide order dated 13.05.1989, which attained finality after dismissal of subsequent appeals and writ petitions. It is further submitted that, accordingly, possession of said 2 acres 20 guntas was handed over to Sri M.Basavaraju S/o late Laxmappa who is the husband of the defendant No.1 and father of defendants No.2 and 3 under

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mahazar dated 31.03.1989. Meanwhile, he applied for regularization of the 1 acre 26 guntas of land in the same survey number under Form 50 dated 22.07.1991 and his application was allowed vide order passed in NCR 129/94-95 dated 25.08.1994 and he was issued Saguvali Chit bearing No.191/94-95 dated 19.12.1994. However, Sri M.Basavaraju filed an appeal against the said order in R.A.52/97-98, and by order dated 26.03.1999, the regularization granted in favour of plaintiff was cancelled and the matter was remanded to the Bagar Hukum Committee.

3. It is further submitted that, the plaintiff preferred an appeal against that order before the concerned authority in R.A.2/97-98 and it was dismissed on 03.08.1999. In accordance with the said order, the Bagar Hukum Committee rejected his application through a resolution dated 31.01.2004 without conducting any proper enquiry and he made a representation to the Committee and after conducting

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a detailed enquiry, his application was again allowed vide resolution dated 17.02.2004. It is further submitted that, later Sri M.Basavaraju challenged the resolution dated 17.02.2004 by filing an appeal in R.A.17/05-06 before the Assistant Commissioner, Tarikere and the said appeal was allowed on 08.12.2006 and the matter was once again remanded. Then the plaintiff questioned the legality of that order by filing a writ petition in W.P.42847/2011 before the Hon'ble High Court of Karnataka and the said writ petition was dismissed on 23.03.2023, but the order contained adverse findings in para 9 and 11, which could affect the pending proceedings. It is further submitted that, during the pendency of that writ petition, a survey sketch and mahazar were prepared as per court directions and then he filed a writ appeal in W.A.No.341/2022 and the same was allowed on 13.02.2023. The adverse observations made in para 9 and 11 of the order dated 23.03.2022 in W.P.42847/2011 were expunged as they were prejudicial to the pending

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proceedings. The proceedings against the plaintiff are illegal, arbitrary, and capricious and he has filed R.P.No.21/2025 before the Deputy Commissioner, Chikkamagaluru, questioning the order passed by the Assistant Commissioner, Tarikere and the matter is currently pending consideration. It is further submitted that, on 05.06.2025, the Assistant Commissioner, Tahasildar and local police authorities visited the suit schedule property and conducted a spot inspection, the land was measured in their presence and it was confirmed that the plaintiff in possession and peaceful enjoyment of the said land and the authorities directed the defendants not to disturb his peaceful possession. It is further submitted that, despite this, the defendants, who have no right, title or possession over the suit schedule property, made an attempt to dispossess him on 08.06.2025 and with great difficulty, he resisted their illegal acts and sent them back and immediately he filed a complaint with Lakkavalli Police and based on his complaint, FIR was

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registered against the defendants and others in Cr.No.42/2025. It is further submitted that, when the defendants tried to interfere with his house property, which is part of the suit schedule property, he has filed a civil suit in O.S.No.177/2025 against defendants No.2 and 3 and also sought temporary injunction which was granted exparte and same remains in force till date. It is further submitted that he is a law abiding senior citizen and the defendants are trying to misuse their money and muscle power to dispossess him from the suit schedule property and without the protection of this Court, he is unable to resist the illegal acts. It is further submitted that, if his application is allowed and exparte order of temporary injunction is granted against the defendants, no hardship will be caused to them as balance of convenience is lies in favour of plaintiff and he has got prima facie case and if his prayer is rejected, then he will be put into untold hardship and problem. Hence, this I.A.

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4. In response to service of summons, the defendants have appeared before the court through their counsels. The defendant No.2 filed written statement and other defendants adopted the averments of written statement of defendant No.2 by filing memo. The defendants have also filed memo and adopted the averments of their written statement as objections to I.A.No.I.

5. In the written statement the defendants admitted para No.2 to 4 of the plaint and denied the other averments of plaint and inter alia contended that this court has no jurisdiction to try this suit as the present suit is quasi judiciary in nature in view of Section 11 of PTCL Act and the plaintiff is not having sketch in respect of granted land and he has no authorised boundaries and the bagar hukum applications previously filed by the plaintiff for two times were rejected for the above said reason. It is further contended that no Government land is situated around the land of Basavaraj

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and as such, suit of the plaintiff is liable to be dismissed. It is further contended that the property measuring 4 acres was granted to Lakshmappa S/o Lakkanna in the year 1956-57 freely and out of the said land, said Lakshmappa sold 2 acres 20 guntas in the year 1965 to one Ismail Sab and thereafter said Ismail Sab sold the said property to K.T.Huchegowda during 1979 through registered sale deed with boundaries East by channel, West by land of Pandurangappa, North by road and South by channel. Thereafter, the legal heirs of original grantee Lakshmappa namely Basavaraj filed petition before the Assistant Commissioner, Tarikere in SC-ST:794/1978-79 under PTCL Act in respect of land sold measuring 2 acres 20 guntas and the said petition was allowed on 13.05.1988.

6. It is further submitted that against the said order, K.T.Huchegowda filed appeal in PTCL:19/1988-89 before the Deputy Commissioner, Chikkamagaluru and the said appeal

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was dismissed on 28.06.1988 by upholding the orders of Assistant Commissioner. Thereafter, against the said orders, said K.T.Huchegowda filed writ petition No.10074/1988 before the Hon'ble High Court of Karnataka and the said writ petition also dismissed by upholding the orders of Assistant Commissioner and Deputy Commissioner and in the said petition it was further ordered that the Assistant Commissioner has to visit the spot and draw mahazar as per boundaries stated in sale deed and fix the boundaries and also hand over the possession to the legal heirs of original grantee. It is further contended that as per the said order of the Hon'ble High Court of Karnataka, the Assistant Commissioner visited the spot on 31.03.1989 and drawn mahazar as per boundaries stated in grant and sale deed in the presence of officers and villagers and handed over the property to the legal heir of original grantee namely Basavaraju and sketch was also prepared as per mahazar and in view of the same, the khata also mutated and entered

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into the name of Basavarajappa S/o Lakshmappa in the RTC and MR. It is further contended that against the said order of Hon'ble High Court of Karnataka, the plaintiff has preferred writ appeal No.20167/1990 before Division Bench and in the said writ appeal also, the Hon'ble Division Bench passed the order in favour of original grantee and thereby uphold the orders of Hon'ble Single Bench.

7. It is further contended that in spite of above orders, the plaintiff has been illegally filing applications under Bagar hukum by concealing the real facts and trying to get grant in his favour. Further though the grant obtained for two times in respect of land under Bagar Hukum Sakrama committee was dismissed, again and again the plaintiff has been filing applications before said committee and thereby harassing the defendants and interfering with their peaceful possession over the land granted under PTCL Act. For all these grounds, it is prayed to reject the I.A.No.I with cost.

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

9. 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?

10. 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

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11. **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 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.

12. It is the urge of the plaintiff that, he is in unauthorised possession of Government land bearing Sy.No.108 old Sy.No.77 measuring 1 acre 26 guntas situated at Karakuchi village, Lakkavalli Hobli, Tarikere Taluk since 1979. The land measuring 2 acres 20 guntas which he purchased from one Ismail Sab, which is adjacent to suit schedule property, was handed over to the defendants as per PTCL Act with due process of law. He is cultivating the suit schedule property from 1979 and he also filed R.P.No.21/2025 before the Deputy Commissioner, Chikkamagaluru by questioning order of Assistant

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Commissioner, about rejection of bagar hukum application.

When such being the case, the defendants have no manner of right, title, interest and possession over the suit schedule property and they are trying to trespass and interfering with the possession of the plaintiff over the suit schedule property.

13. Per contra, it is the urge of the defendants that, the plaintiff is in unauthorised possession of their PTCL land measuring 2 acres 20 guntas, there is no remaining Government land of 1 acre 26 guntas adjacent to 2 acres 20 guntas of their land and the boundaries given by the plaintiff are the boundaries of their 2 acres 20 guntas of land and the plaintiff has not handed over the complete 2 acres 20 guntas of their PTCL land and this court has no jurisdiction to try this matter.

14. The plaintiff and defendants in order to substantiate their contentions, they have produced number of documents and photographs. The learned counsel for plaintiff has relied

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on the judgments of the Hon'ble Supreme Court of India passed in Civil Appeal No.2737/2023 between G.Nagaraj and another Vs. B.P.Mruthunjayanna and others and judgment passed in Civil Appeal No.7743/2025 between Pandurangan Vs. T.Jayarama Chettiar and another. The leaned counsel for defendants has relied the judgment of the Hon'ble High Court of Karnataka passed in Misc. First Appeal No.6871/2022 (CPC) between Smt.Muthu Rajamma @ Rajamma and others Vs. Sri B.Somashekar and others.

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 RTC for the year 2024-25 in respect of Sy.No.180 situated at Karakuchi village, Lakkavalli Hobli, Tarikere Taluk, on perusal of the same, it discloses that in Sy.No.180 land

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measuring 1 acre 26 guntas is standing in the name of Government and the plaintiff has also produced photographs, on perusal of the same, it prima facie discloses that the plaintiff and his wife are age old persons and they are in possession of the suit schedule property. Further the possession of the plaintiff over the suit schedule property is not disputed by the defendants and their only contention is that the plaintiff is in unauthorised possession of their PTCL land and the plaintiff has not handed over the possession of complete 2 acres 20 guntas of PTCL land to the defendants. It is very pertinent to note that, the defendants in their written statement admitted that, ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಮಾನ್ಯ ಉಪವಿಭಾಗಾಧಿಕಾರಿಗಳು ಸ್ಥಳಕ್ಕೆ ಭೇಟಿ ಕೊಟ್ಟು ದಿನಾಂಕ 31.03.1989 ರಂದು ಮಹಜರು ನಡೆಸಿ ಮೂಲ ಮಂಜೂರಿಯಂತೆ ಮತ್ತು ಕ್ರಯ ಪತ್ರದ ಚಕ್ಕುಬಂದಿಯಂತೆ ಅಧಿಕಾರಿಗಳು ಹಾಗೂ ಗ್ರಾಮಸ್ಥರೊಂದಿಗೆ ಮಹಜರು ನಡೆಸಿ ಮಂಜೂರುದಾರರ ವಾರಸುದಾರರಾದ ಬಸವರಾಜು ಇವರಿಗೆ ಸ್ವಾಧೀನಾನುಭವವನ್ನು ಕೊಡಿಸಿರುತ್ತಾರೆ. ನಂತರದಲ್ಲಿ, ಮಹಜರ್ ನಂತೆ ನಕ್ಷೆಯನ್ನು ತಯಾರಿಸಲಾಗಿದೆ, ತದನಂತರ ಅದರಂತೆ ಬಸವರಾಜಪ್ಪ ಬಿನ್ ಲಕ್ಷ್ಮಪ್ಪ ಇವರಿಗೆ ಖಾತೆಯನ್ನು ಮಾಡಲಾಗಿದ್ದು, ಕಂದಾಯ ದಾಖಲೆಗಳಾದ ಪಹಣಿ ಮತ್ತು ಮ್ಯೂಟೇಷನ್

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ಗಲಲಿ ನಢೂದಿಸಲಾಗಿದೆ. Further, on perusal of the computerized RTC for the year 2024-25 in respect of land bearing Sy.No.180 situated at Karakuchi village, it discloses that in Sy.No.180 land measuring 2 acres 20 guntas is standing in the name of Basavarajappa S/o Lakshmappa, who is the husband and father of defendants. Further the documents produced by the plaintiff prima facie discloses that he is in settled possession of the suit schedule property since 1979.

16. At this juncture, I would like to refer the decision of the Hon'ble High Court of Karnataka reported in ILR 2000 KAR 435 between P.Prabhavathi and another Vs. Divisional Controller and others, wherein their Lordship pleased to held that:

A person, even if, he is a trespasser, if he is in settled possession cannot be thrown out by taking course otherwise than a due process of law – even a Trespasser, who is in settled possession, is entitled to protect his possession even as against the true owner.

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I would also like to refer the decision rendered by the Hon'ble Supreme Court of India in the case of **Rame Gowda (D) by Lrs. Vs. M.Varadappa Naidu (D) by Lrs and another in Civil Appeal No.7662/1997 dated 15.12.2003**. The Hon'ble Apex Court of India pleased to held in the said decision that,

It is the settled possession or effective possession of a person without title which could be entitle him to protect his possession even against the true owner.

On perusal of the ratio laid down in the aforesaid decisions, the same are aptly applicable to the present case on hand. As per the aforesaid decisions, it is clear that the trespasser also can protect his possession even as against the true owner and he cannot be evicted without due process of law.

17. So far as jurisdiction to try this matter is concerned, it can only be decided after framing of preliminary issue. Hence, 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

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stage the plaintiff has made out a prima-facie case. For considering all these reasons, I answer Point No.1 in the Affirmative.

18. **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 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 and photographs 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

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possession until conclusion on the merits. Accordingly, I answer Point No.2 in the Affirmative.

19. **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 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.

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

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**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, corrected by me and then pronounced in the open Court, on this the day of 18th day of October 2025.)

sd/-
(URMILA.V)
I ADDL.CIVIL JUDGE &
J.M.F.C., TARIKERE.