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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 17th DAY OF DECEMBER, 2025

ORIGINAL SUIT No. 250/2025

BETWEEN:

Sri. M.V. Pradeepa,
S/o. Sri. M.R. Veerabhadrappa,
Age 34 years,
Agriculturist,
R/o. Mudugundi village,
Amruthapura Hobli,
Tarikere Taluk,

PLAINTIFF

(By Sri. B.N. Niranjanamurty, Advocate)

-AND-

1. Sri. M.R. Maheshwarappa,
S/o. Late. Sri. Rudregowda,
Age 70 years,

DEFENDANTS

2. Sri. Ramesh,
S/o. Sri. Maheshwarappa,
Aged about 40 years,

3 Sri. Sandesh,
S/o. Sri. Maheshwarappa,
Aged about 38 years,

All are agriculturist,
R/o. Mudugundi village,
Amruthapura Hobli,
Tarikere Taluk,

(By Sri. S. Suresh Chandra, Advocate)

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**IN I.A.NO.I**

Sri. M.V. Pradeepa

APPLICANT/ PLAINTIFF**-AND-**Sri. M.R. Maheshwarappa and
others**OPPONENTS/
DEFENDANTS****PARTICULARS**

<i>i</i>	<i>Provision under which the application is filed</i>	<i>Order XXXIX Rule 1 and 2 r/w. Section 151 of CPC</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Order of T.I</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>25.06.2025</i>
<i>iv</i>	<i>Number of the application</i>	<i>I.A.No.I</i>
<i>v</i>	<i>The date on which the objections are filed by Opponents/ Defendants</i>	<i>04.11.2025</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>17.12.2025</i>

ORDERS ON I.A. NO.I

1. Applicant/ Plaintiff has filed the instant application under Order XXXIX Rules 1 & 2 of C.P.C seeking the relief of temporary injunction by restraining the Opponents/ Defendants, their laborers, supporters, henchmen, agents etc., from unlawfully interfering with the Plaintiff's peaceful possession and enjoyment of the suit schedule property, pending disposal of the suit.
2. In the affidavit appended to the application, it is contended that the Plaintiff is the absolute owner and is in peaceful

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possession and enjoyment of the suit schedule property, having derived the same under a gift deed executed by his father. The khata of the property also stands in his name. It is further contended that the Defendants, having no right, title, interest, or possession over the suit schedule property, have interfered with the Plaintiff's peaceful possession and are attempting to remove the fence erected on the north-western side of the property. Though the Plaintiff approached the police station in this regard, no action was taken. Therefore, contending that he has established a prima facie case, that the balance of convenience lies in his favour, and that he would suffer irreparable injury if a temporary injunction is not granted, the Plaintiff prays that the application be allowed.

- 3.** *Per contra*, the Defendants have filed a memo requesting that the written statement be treated as objections to I.A. No. I. In the written statement, apart from denying the allegations made in the plaint, it is contended that there exists 2 acres of Government land in Sy. No. 33 of Mudugundi Village, which is under unauthorized cultivation by the Defendants under *Bagar Hukum*. The boundaries of the said land are: East by Halla, West by Road, North by Gomala, and South by the Plaintiff's

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property. The Defendants are cultivating valuable crops on the said land and have also erected fencing and installed drip irrigation facilities. Defendant No. 1 has filed an application seeking regularization of the said land in his favour by depositing the requisite fee. It is contended that the Plaintiff's property is situated on the southern side of the said Government land and that the Defendants have not encroached upon the Plaintiff's property. The Plaintiff, by misusing the khata standing in his name in respect of the suit schedule property, is allegedly attempting to unlawfully grab the land that is in the possession of the Defendants. In this regard, the Defendants have also approached the police. In such circumstances, the Plaintiff is not entitled to the equitable relief of injunction. Accordingly, the Defendants pray that the application be dismissed.

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

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- Point No.1** : Whether the Plaintiff has made out a prima-facie case as against the Defendants?
- Point No.2** : Whether the balance of convenience lies in favour of Plaintiff?
- 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 restraining the Defendants, their laborers, supporters, henchmen, agents etc., from unlawfully interfering with the Plaintiff's peaceful possession and enjoyment of 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.

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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) 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; 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**

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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 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 justitiae, 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

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the grant of temporary injunction and there arises no necessity to look any further.

- 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

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it. Next, the applicant must further satisfy the Court by 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 the suit schedule property originally belonged to his father and that he is presently the owner thereof under a registered gift deed executed by his father. Mutation has been effected in his name, and he alone is in possession and enjoyment of the suit schedule property. It is alleged that, despite having no right, title, or interest therein, the Defendants have interfered with the Plaintiff's peaceful possession and enjoyment of the property, thereby necessitating the filing of the present suit.
- 13.** On the other hand, the Defendants contend that the Plaintiff has approached the Court by suppressing material facts and with an intention to harass them. It is alleged that the Plaintiff is attempting to unlawfully grab the property which is under unauthorized cultivation of the Defendants, situated towards the southern side of the suit schedule property, under the guise of the present suit. Hence, it is their contention that the suit itself is not maintainable.

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- 14.** In light of these rival contentions, it becomes necessary to examine the documents produced by both parties. The Plaintiff has produced the grant certificate, gift deed, mutation register extracts, RTCs, and police endorsement. On the other hand, the Defendants have not produced any documentary evidence in support of their contentions.
- 15.** The documents produced by the Plaintiff clearly indicate that the suit schedule property was gifted to him by his father and that he continues to be in possession thereof, as evidenced by the mutation of property records in his name. The RTCs also reflect the Plaintiff's name. These aspects, at this stage, clearly establish that the Plaintiff is in possession of the suit schedule property.
- 16.** The Defendants, while alleging that the Plaintiff has suppressed material facts and is attempting to grab their property which is under unauthorized cultivation, have not produced any material to substantiate their contentions at this stage. These aspects are matters to be adjudicated upon during the course of trial.
- 17.** However, based on the documents presently available on record, the Plaintiff has demonstrated a clear prima facie

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case, and the balance of convenience appears to lie in his favour. If the Defendants are not restrained, the Plaintiff is likely to suffer irreparable injury. Accordingly, the Plaintiff is entitled to an order of temporary injunction at this stage. With these observations, **Point No.1**, which has arisen for my consideration, is answered in the **Affirmative**.

18. 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-narrated, if the Defendants are 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 Defendants. 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**.

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



ORDER

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

Defendants, their labourers, supporters, henchmen, agents etc., are hereby restrained from unlawfully trespassing or causing obstruction with the Plaintiff's 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 17th of DECEMBER, 2025)

sd/-

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