

KACM710013932025



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

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

**DATED THIS THE 28<sup>th</sup> DAY OF NOVEMBER, 2025**

**ORIGINAL SUIT No. 269/2025**

**BETWEEN:**

1. Smt. Nagamma,  
W/o. Late Sri. Gullappa,  
Age 68 years,  
Agriculturist,

**PLAINTIFF**

2. Sri. Kenchappa,  
S/o. Late. Sri. Sanna Kariyappa,  
Aged about 73 years,

Both are R/o. Koratikere village,  
Ajjampura Hoblli,  
Ajjampura Taluk.

**(By Sri. K.R. Gurupadappa, Advocate)**

**-AND-**

Sri. K.P. Gangadharappa,  
S/o. Late. Sri. Puradappa,  
Age 60 years,  
Agriculturist,  
R/o. Koratikere village,  
Ajjampura Hobli,  
Ajjampura Taluk.

**DEFENDANTS**

**(By Sri. K. Subramanya, Advocate)**

KACM710013932025

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

Sri. K.P. Gangadharappa

**APPLICANT/ DEFENDANT****-AND-**

Smt. Nagamma. and another

**OPPONENTS/ PLAINTIFFS****PARTICULARS**

<i>I</i>	<i>Provision under which the application is filed</i>	<i>Order XXXIX Rule 4 r/w. Section 151 of CPC and Section 4 of the Karnataka Land Reforms Act, 1974</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Vacate Exparte temporary injunction</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>25.11.2025</i>
<i>iv</i>	<i>Number of the application</i>	<i>I.A.No.III</i>
<i>v</i>	<i>The date on which the objections are filed by Opponents/ Defendants</i>	<i>26..11.2025</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>28.11.2025</i>

**ORDERS ON I.A. NO.III**

1. Applicant/ Defendant has filed the instant application under Order XXXIX Rule 4 r/w. Section 151 of C.P.C and Section 4 of the Karnataka Land Reforms Act, 1974, to set-aside/ vacate the order of ex-parte temporary injunction passed on

KACM710013932025



05.07.2025, which is extended till further orders on 20.11.2025, passed in respect of I.A No.I, in the present suit.

2. In the affidavit appended to the application, *inter alia*, it is contended that the Plaintiffs have filed the suit seeking the relief of permanent injunction concerning the suit schedule property on 05.07.2025. However, the date mentioned in all the pleadings of the suit is 30.06.2025. The Court, on 05.07.2025, passed an ad-interim ex parte order of temporary injunction in favour of the Plaintiffs on I.A. No. I. Upon receiving suit summons, the Defendant appeared before the Court and filed a written statement as well as objections to I.A. No. I. The Defendant also filed I.A. No. II on 20.11.2025 seeking rejection of the plaint. On 20.11.2025, based on a memo moved by the Plaintiffs, the Court extended the ad-interim order of temporary injunction until further orders. The very pleadings, interlocutory applications, and documents filed by the Plaintiffs indicate that they have knowingly made false and misleading submissions relating to material particulars of the suit. The Plaintiffs have attempted to clandestinely manoeuvre the real purport of the suit by

KACM710013932025



clever drafting, misleading statements, and suppression of material facts to create an illusory cause of action. Certain documents have also been concocted by the Plaintiffs to grab the suit schedule property from the Defendant. The Plaintiffs have no semblance of right, title, interest, or possession over the suit schedule property. In reality, the members of the Defendant's family are in possession and enjoyment of the suit schedule property as its absolute owners. The Plaintiffs have not approached the Court with clean hands. There is no prima facie case, balance of convenience in their favour, nor would they suffer irreparable injury as claimed. The Civil Court has no jurisdiction to grant ad-interim temporary injunction concerning agricultural land without issuing notice to the Defendant. It is a statutory mandate and hence, the ad-interim order becomes a nullity. The extension of the ad-interim order is also not in accordance with law. Hence, the ad-interim order of temporary injunction is required to be vacated forthwith. If the application is rejected, the Defendant would be put to great hardship and irreparable injury, and his

KACM710013932025



rights over the suit schedule property would be affected. Hence, the prayer is to allow the application.

- 3.** *Per contra*, the Plaintiffs have filed their objections to I.A. No. III, contending that the application is not maintainable either in law or on facts and that the supporting affidavit is false. The suit schedule property originally belonged to one Kenchanna S/o. Kallanna, who had not sold it to anyone. The said property came into the hands of the Plaintiffs by way of inheritance, and the mutation in this regard has not been challenged by the Defendant before any revenue authorities. The sale deed dated 18.12.1946 is an instrument created by the father of the Defendant, and hence no mutation has been effected pursuant to such a document. Therefore, the Defendant or his father cannot claim to be the absolute owners of the suit schedule property, and they are not in possession of the same. The Defendant has not produced any documents indicating his possession over the suit schedule property and has also not paid any property taxes in respect of it. In such circumstances, the Defendant cannot seek to vacate the ad-interim order of temporary injunction. The

KACM710013932025



Defendant has also not filed any suit seeking declaration of title in respect of the suit schedule property on the basis of the alleged sale deed. The revenue records standing in the name of the Plaintiffs carry a presumption under Section 133 of the Karnataka Land Revenue Act. Neither the Defendant nor his family members have any semblance of right over the suit schedule property. The Defendant is attempting to cause unnecessary trouble to the Plaintiffs and, in these circumstances, has filed the present application. Therefore, the application deserves to be dismissed with heavy costs.

4. Heard both sides. Learned Counsel for Defendant banks on the following Judgments in support of his submissions -

*a. 1997(10 Kar.L.J 307*

*b. AIR 2013 KAR 142*

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 Applicant/ Defendant has made out sufficient grounds to allow the application in I.A.No.III?

**Point No.2** : What Order?

KACM710013932025



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

**Point No.1** : In the Affirmative

**Point No.2** : As per the final order, for the following -

**REASONS**

7. **Point No.1:** The suit has been filed seeking the relief of permanent injunction. The Court granted an ex-parte ad-interim order of temporary injunction in favour of the Plaintiffs on the basis of the application filed by them in I.A. No. I. Subsequently, upon appearance, the Defendant filed the present application seeking orders of the Court to vacate the said ex-parte ad-interim order of temporary injunction passed in favour of the Plaintiffs on 05.07.2025, as well as the order dated 20.11.2025 extending such ad-interim order till further orders.

8. On perusal of the pleadings and the documents produced by both sides, it appears that although I.A. No. I is filed by the Plaintiffs seeking temporary injunction, which is now resisted by the Defendant, is still pending for consideration, the present application which seeks to vacate the ex-parte ad-interim order passed on I.A. No. I, is being taken up first,

KACM710013932025



since the Defendant has shown a case of grave urgency against the continuation of the ad-interim temporary injunction. This observation also indicates that the Court is yet to hear both sides on I.A. No. I, and therefore, while considering this application, the Court does not intend to delve deeply into the merits of the case as doing so may prejudice either party when I.A. No. I is taken up for hearing.

9. However, on hearing the Learned Counsel for the Defendant and on perusal of the pleadings and documents produced by him, it is evident that the suit schedule property was alienated long ago, i.e., on 18.12.1946, under a registered sale deed executed by one Mallamma W/o. Kenchanna in favour of one Puradappa, who is stated to be the father of the Defendant. A certified copy of the sale deed has been produced by the Defendant, and upon reading, it affirms the assertion that the suit schedule property, bearing the same survey number, was indeed alienated by one Gangamma W/o. Kenchanna in favour of Puradappa, the Defendant's father. Even as per the genealogy tree produced by the Plaintiffs themselves, Mallamma is shown as the wife of their ancestor Kenchanna

KACM710013932025



S/o. Kallanna. The Encumbrance Certificate (E.C.) produced by the Defendant, covering the period from 01.04.1930 to 31.03.2003, also indicates an entry regarding the said sale under a registered document. It is settled law that possession flows from a registered sale deed.

- 10.** The pleadings put forth by the Plaintiffs reveal that they have not mentioned anything about the existence of the sale deed dated 18.12.1946 concerning the suit schedule property, and that the suit appears to have been brought mainly on the basis of revenue records. It is further evident from the objections filed by the Plaintiffs to the present application that they have taken a stand that the said sale deed is a fraudulent instrument, which indicates that they were aware of its existence at the time of filing the suit but suppressed it from their pleadings. This amounts to serious suppression of material facts before the Court by the Plaintiffs. In a suit for permanent injunction, the party approaching the Court is expected to come with clean hands. However, as noted above, the Plaintiffs have suppressed a material aspect regarding the existence of the sale deed relating to the suit

KACM710013932025



schedule property. In these circumstances, and without touching upon the entire merits of the case for the reasons stated above, the Court is of the opinion that the ex-parte ad-interim order of temporary injunction passed in favour of the Plaintiffs requires to be vacated, forthwith.

- 11.** Regarding the other grounds raised in the application concerning the legality of the ad-interim temporary injunction order and the procedure adopted by the Court, the present Court cannot answer those aspects, since the said order was passed by this Court itself. The legality or procedure adopted by the Court cannot be expected to be justified by the same Court, except under the review jurisdiction as contemplated under Order XLVII of the CPC. Admittedly, the present application has not been filed seeking review of the ad-interim order. Hence, the Court cannot be compelled to answer questions regarding the legality or the procedure adopted while passing the said order. With these observations, the Point No.1 which has arisen for my consideration is answered in the '**Affirmative**'.

KACM710013932025



12. **Point No.2:** For the foregoing reasons, I proceed to pass the following -

**ORDER**

*I.A No.III filed by the Applicant/ Defendant under Order XXXIX Rules 4 r/w. Section 151 of C.P.C and Section 4 of the Karnataka Land Reforms Act, 1974 is hereby allowed.*

*Consequently, the ex-parte ad-interim order of temporary injunction passed by this Court on I.A.No.I on 05.07.2025 as well as the order extending the said ad-interim order dated 20.11.2025 until further orders, stands vacated, forthwith.*

(Dictated to Stenographer, after transcription, print out corrected and then pronounced by me in the Open Court on this the 28<sup>th</sup> of NOVEMBER, 2025)

sd/-

**(Rahul Shettigar)**  
**Pri. Civil Judge & J.M.F.C,**  
**Tarikere.**  
**(Itinerate at Ajjampura)**