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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: 1st Day of March 2025

ORIGINAL SUIT NO.310/2022

PLAINTIFF/s :

Ranganatha S/o Mudlappa, aged 40
years, Agriculturist, R/o Udeva Village,
Lingadahalli Hobli, Tarikere Taluk.

(Reptd. By : Sri S.P., & T.C.N.K., Advocates.)

Vs.

DEFENDANT/s:

- 1) Lalithamma W/o Ranganatha, aged 60
years, Agriculturist,
- 2) Chandrappa S/o Ranganatha, aged 37
years, Agriculturist,
- 3) Nagarathna D/o Ranganatha, aged 35
years, Agriculturist,
- 4) Shivamma W/o Shamanna, aged 65
years, Agriculturist,
- 5) Thimmaiah S/o Shamanna, aged 38
years, Agriculturist,
- 6) Rangaiah S/o Shamanna, aged 32
years, Agriculturist,

All are R/o Udeva village,
Lingadahalli Hobli, Tarikere Taluk.

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7) Chandrappa S/o Jayaramappa, aged 55 years, Agriculturist, R/o Rampura Village, Garje Post, Yagati Hobli, Kadur Taluk – 577140.

(D.1 to 3 : By Sri V.K.K., Advocate.
D.4 to 6 : By Sri TGU and ARK, Advocates.
D.7 : By Sri TPT, Advocate.)

PARTIES TO I.A.NO.I

Applicant : Rangantha

Vs.

Opponent : Lalithamma and others

i	Provision under which the application is filed	Order XXXIX Rule 1 and 2 of CPC
ii	Relief sought for	Temporary injunction
iii	The date of which the application is filed	14.07.2022
iv	Number of application	I.A.No.I
v	The date on which the objection are filed by different opponents	D.1 to 4 : 03.02.2023 D.4 to 6: 03.12.2024
vi	The date on which the orders were passed on the said application	01.03.2025

ORDER ON I.A.NO.I

The applicant/plaintiff has filed this interlocutory application under Order XXXIX Rule 1 and 2 of CPC for the

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relief of temporary injunction restraining the defendants, their labourers, representatives, supporters or anybody on their behalf from trespassing, encroaching and interfering with the peaceful possession and enjoyment of the plaintiff over the schedule property till disposal of this suit.

2. The I.A., is supported with the affidavit of the plaintiff No.1. In the affidavit he has stated that, he has filed this suit for the relief of permanent injunction against the defendants. The suit schedule property is the part and parcel of Sy.No.29/ P1 totally measuring 407 acres situated at Udeva village and said land is forest land. The plaintiff is in unauthorized cultivation of the suit schedule property measuring 4 acres and he has filed application to allot the same under Forest Act and thereby the Deputy Commissioner, Chikkamagaluru allotted and issued grant certificate on 05.03.2016 in respect of 2 acres 16 guntas out of 4 acres of land i.e., item No.1 of suit schedule property and since then, he has been in possession and enjoyment of the suit schedule property. It is

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further submitted that on southern side of item No.1 of suit schedule property, the property belongs to Government land is situated and out of that property, the plaintiff is in unauthorized cultivation of 3 acres of land which is the item No.2 of suit schedule property and he has filed form No.57 to grant the said land under bagar hukum before the Tahasildar, Tarikere on 17.01.2019. In the grant certificate in respect of item No.1 of suit schedule property, on the southern side boundary his name is shown as Ranganatha S/o Rangaiah, but his father name is wrongly shown as Rangaiah instead of Mudlappa.

3. It is further submitted that he has been in possession of the suit schedule properties and growing crops. The defendant No.4 has 3 acres 20 guntas of land on the western side of suit schedule properties and the defendants No.4 to 6 and also other defendants on the instigation of defendants No.4 to 6 are interfering with his peaceful possession and enjoyment of the suit schedule properties. On 15.06.2022

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when he was cultivating the land, the defendants wrongfully trespassed and tried to interfere with his possession over the suit schedule properties. Himself and his family members with great difficulty restrained the illegal acts of the defendants and sent them back. It is further stated that the plaintiff has prima facie case and balance convenience lies in his favour and if temporary injunction order is granted in his favour, the defendants will not sustain any loss, on the other hand, if temporary injunction is not granted in his favour, he will sustain irreparable loss and hardship. Hence, this I.A.

4. In response to service of summons, the defendants have appeared before the court through their counsels. The defendants No.1 to 3 filed written statement and adopted the averments of written statement as objections to I.A.No.I. The defendant No.4 filed written statement and defendants No.5 and 6 adopted the same by filing memo. The defendants have also filed the memo and adopted the averments of their written statement as objections to I.A.No.I.

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5. In the written statement the defendants No.1 to 3 denied the entire plaint averments and inter alia contended that the suit of the plaintiff for injunction simplicitor without seeking declaration is not maintainable and this court has no pecuniary jurisdiction to try this suit. The suit of the plaintiff is bad for non-joinder of necessary parties. The plaintiff is claiming to be in possession of the Government land as unauthorized occupant and the present suit filed by the plaintiff without making the State Government as a party, is not maintainable. It is further contended that the plaintiff cannot seek for permanent injunction in respect of the suit schedule properties by claiming absolute right, title and possession in respect of item No.1 of suit schedule property and at the same time, by alleging as being in settled possession of item No.2 of suit schedule property. It is further contended that the defendant No.1 is the widow of late Ranganatha and defendant No.2 is her son, the defendant No.3 is the married daughter of defendant No.1. The deceased

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husband of defendant No.1 was in possession and in unauthorized cultivation of 4 acres of land in Sy.No.29/P1 of Udeva village. It is further contended that after the death of husband of defendant No.1, the defendants No.1 to 3 continued in possession and unauthorized cultivation of the said land. The defendant No.1 has also filed application before revenue authorities for regularization of her aforesaid holding as the unauthorized occupants thereof and the said application is pending for consideration. The plaintiff intentionally and deliberately camouflaged the aforesaid property of these defendants as item No.1 of the suit schedule property and as part of item No.1 of suit schedule property and filed the present suit in order to disturb the possession and enjoyment of these defendants. It is further contended that there is no prima facie case or balance of convenience in favour of the plaintiff, on the other hand, the defendants will be put to irreparable loss, hardship and inconvenience if the

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present I.A., is allowed. Hence, it is prayed to reject the I.A.No.I with cost.

6. The defendants No.4 to 6 in their written statement denied the plaint averments and inter alia contended that Sy.No.29 measuring 3 acres 22 guntas of Udeva village is Government land and in the said land, the husband of defendant No.4 and father of defendants No.5 and 6 namely Shamanna was in unauthorized possession since many years and considering his unauthorized possession, the Tahasildar, Tarikere has granted the said land as per Order No.NCR:41/1997-98 dated 08.01.1999 and issued saguvali chit No.10/1999-2000 and thereby the khata was mutated in his name and RTC also is standing in his name. It is further contended that before and after grant, the said Shamanna and after his death, defendants No.4 to 6 are in possession of the said land. It is further contended that above said land measuring 3 acres 22 guntas is bounded by east by Government land, west by defendant's father Rangappa's

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land, north by Government land which is now in possession of defendants No.1 to 3 and South by Government land. It is further contended that on western side of land granted to Shamanna, the land of granted to defendant No.4 father's namely Rangappa is situated and khata also standing in his name. It is further contended that plaintiff is not in possession of suit property within the boundaries stated in the plaint and the khata also not changed in the name of plaintiff as per grant certificate and RTC produced before the court is created one. The plaintiff has not made the forest department as party in the present suit and the forest department has no right to grant the land belongs to revenue department. It is further contended that the plaintiff is also not in possession of item No.2 suit schedule property and boundaries mentioned to said property is also not correct. The item No.2 of suit schedule property is still standing in the name of Government and as such, the plaintiff has to made Tahasildar as party in the present suit, but the plaintiff has

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not to do so. Hence, it is prayed to reject the I.A.No.I with cost.

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

8. 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?

9. My answer to the above points are as under :

Point No.1 : In the Negative,

Point No.2 : In the Negative,

Point No.3 : In the Negative,

Point No.4 : As per final Order,

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for the following:

REASONS

10. **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. It is the urge of the plaintiff that the suit schedule property is the part and parcel of Sy.No.29/P1 totally measuring 407 acres situated at Udeva village and said land is forest land. The plaintiff is in unauthorized cultivation of the suit schedule property measuring 4 acres and the Deputy Commissioner, Chikkamagaluru allotted and issued grant certificate on 05.03.2016 in respect of 2 acres 16 guntas out of 4 acres of land i.e., item No.1 of suit schedule property and since then, he has been in possession and enjoyment of the item No.1 of suit schedule property. The plaintiff is in unauthorized

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cultivation of 3 acres of land i.e., item No.2 of suit property which is adjacent to item No.1 of suit schedule property and he has filed form No.57 to grant the said land under bagar hukum before the Tahasildar, Tarikere. He has been in possession of the suit schedule properties and growing crops. But the defendants wrongfully trespassed and tried to interfere with his possession over the suit schedule properties.

11. In order to prove the prima facie case, the plaintiff has produced grant certificate dated 05.03.2016, certified copy of statement of public of Udeva village, certified copy of application given by plaintiff to PDO, Udeva grama panchayath, certified copy of annexure-I, certified copy of sketch, RTC of Sy.No.29/P1 for the year 2019-2020, RTC of Sy.No..29 for the year 2021-22, form No.57, acknowledgment, photographs and C.D.

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12. On the other hand, the defendants have denied the possession of the plaintiff over the suit schedule properties and defendants No.1 to 3 have contended that the deceased husband of defendant No.1 was in possession and unauthorized cultivation of 4 acres of land in Sy.No.29, now Sy.No.29/P1 of Udeva village, Lingadahalli Hobli, Tarikere Taluk and defendant No.1 has filed application before the revenue authorities for regularization of her unauthorized cultivation and the said application is pending before the competent authority. Further the defendants No.4 to 6 have also contended that they are in possession of land measuring 3 acres 22 guntas in Sy.No.29 of Udeva village by way of unauthorized cultivation and the Tahasildar, Tarikere Taluk has issued grant certificate on 08.01.1999 in respect of said land. To substantiate their contentions, the defendants No.4 to 6 have produced grant certificate dated 08.01.1999, hand written RTC extract for the year 1999-2000 in respect of

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Sy.No.29/P, tax paid receipt and xerox copy of mutation register extract.

13. At this stage, without going through the merits of the case and conducting mini trial, the court has considering the aspect of prima facie, at this stage this court makes very clear that this court is looking towards prima facie case and not for the prima facie title. In the present suit on hand, the plaintiff is claiming possession over the suit schedule properties as on the date of the suit. In order to show the prima facie case, the plaintiff has produced the grant certificate dated 05.03.2019 which discloses that in Sy.No.29 2 acres 16 guntas was granted to the plaintiff by the Deputy Commissioner, Chikkamagaluru under ಅನುಸೂಚಿತ ಬುಡಕಟ್ಟುಗಳ ಮತ್ತು ಇತರೆ ಪಾರಪರಿಕ ಅರಣ್ಯವಾಸಿಗಳ (ಅರಣ್ಯ ಹಕ್ಕುಗಳ ಮಾನ್ಯತೆ) ನಿಯಮಗಳು 2008 and in RTC for the year 2019-20 and 2021-22 in column No.11 the plaintiff's name has been mentioned. The acknowledgment produced by the plaintiff under form 57 discloses that the plaintiff has filed application for grant of 3

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acres of land in Sy.No.29. In the present case on hand, the plaintiff is claiming that the suit schedule properties are forest land and he is cultivating unauthorizedly and the Deputy Commissioner has granted 2 acres 16 guntas of land in Sy.No.29 in his name and he is in possession and cultivation of another 3 acres of land which is situated on southern side of granted land and he has also filed application to the Government under Form No.57 to grant said 3 acres in his name and hence, he is in possession of the suit schedule properties.

14. The defendants No.1 to 3 in their written statement have denied the possession of the plaintiff over the suit schedule properties and they are claiming possession over the suit schedule properties on the ground that the deceased husband of the defendant No.1 was in possession and unauthorized cultivation of 4 acres of land in Sy.No.29, now Sy.No.29/P1 of Udeva village, Lingadahalli Hobli, Tarikere Taluk and after the death of husband of defendant No.1, the

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defendants No.1 to 3 continued in possession and in unauthorized cultivation of aforesaid land. The defendant No.1 has also filed application before the revenue authorities for grant of said land and the said application is pending before the competent authorities and further contended that item No.2 of the suit schedule property is part of item No.1 of suit schedule property and the plaintiff has filed the present suit to disturb the possession and enjoyment of these defendants. Further the defendants No.4 to 6 in their written statement contended that Sy.No.29 of Udeva village is Government land and the Tahasildar, Tarikere Taluk considering that the 3 acres 22 guntas of land was in unauthorized possession of Shamanna husband of defendant No.4, on 08.01.1999 granted the said land in the name of Shamanna and also issued grant certificate in the name of Shamanna and after demise of Shamanna, the defendants No.4 to 6 are in possession of said land. The husband of defendant No.4 and father of defendants No.5 and 6 was in

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possession of said land before and after the grant of said land and as per the said sanction order, in the hand written RTC for the year 1999-2000 the name of said Shamanna is mentioned.

15. It is very significant to note that the plaintiff and defendants No.1 to 6 are claiming possession over the suit schedule properties. The contention of defendants No.1 to 6 is that the plaintiff is not in possession of the suit schedule properties and he has mentioned wrong boundaries and the suit schedule properties does not belongs forest department and defendants No.1 to 3 are claiming possession over the suit schedule property. It is to be noted that the grant certificate produced by the defendants No.4 to 6 is of the year 1999-2000 and the grant certificate produced by the plaintiff is of the year 2015-16. All of them are claiming possession over the same property. At this stage, on perusal of the documents produced by the plaintiff and defendants, the court cannot come to the conclusion about the plaintiff

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possession over the suit schedule properties. This court need sufficient and proper documents to ascertain the matter in dispute, the grant certificate and RTC produced by the plaintiff and defendants are not sufficient to establish who is in the authenticated possession.

16. Admittedly it is a suit for bare injunction in respect of suit schedule properties. The injunctive relief is purely discretionary relief of the court, but it has to be exercised in judicious manner. At this stage, the rights of the parties cannot be adjudicated and it needs full fledged trial. Looking into the pleadings and documents produced by the plaintiff and defendants and other materials available on record, at this stage it appears that, the plaintiff has not made out prima facie case and also balance of convenience is not lies in his favour. If an order of temporary injunction is granted in favour of the plaintiff as prayed in the I.A., certainly the defendants will be put to greater hardship and injury which

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cannot be compensated in any means. For considering all these reasons, I answer Point No.1 to 3 in the Negative.

17. **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 of CPC is hereby rejected.

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 1st day of March 2025)

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