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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 12th DAY OF AUGUST, 2026

ORIGINAL SUIT No. 528/2025

BETWEEN:

1. Smt. Pappi Bai,
W/o. Late. Sri. Shankara Naik,
Aged about 62 years,

PLAINTIFFS

2. Sri. Devaraja Naik,
S/o. Late. Sri. Shankara Naik,
Aged about 40 years,

3. Sri. Harish Naik,
S/o. Late. Sri. Shankara Naik,
Aged about 37 years,

4. Sri. Mohan,
S/o. Late. Sri. Shankara Naik,
Aged about 35 years,

All are resident of
Karakuchi village,
Tarikere Taluk,
Chikkamagalur District.

(By Sri. T. Neelendara Naik, Advocate)

-AND-

1. Sri. Chandra Naik,
S/o. Sri. Rudra Naik,
Aged about 55 years,
R/o. Karakuchi village,

DEFENDANTS

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Tarikere Taluk,
Chikkamagalur District.

2. The Panchayath Development Officer,
Karakucni Grama Panchayath,
Tarikere Taluk,
Chikkamagalur District.

3. The Executive Officer,
Taluk Panchayath,
Tarikere, Chikkamagalur District.

4. The Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bengaluru-560001

(D-1 By Sri. Aseem Ahmed, Advocate)
(D-2 & 3 By Sri. G.N. Chandrashekar, Advocate)
(D-4 By Assistant Public Prosecutor, Tarikere)

IN I.A.NO.III

Smt. Pappi Bai and others

**APPLICANTS/
PLAINTIFFS**

-AND-

Sri. Chandra Naik and others

**OPPONENTS/
DEFENDANTS**

PARTICULARS

I	<i>Provision under which the application is filed</i>	<i>Order XXXIX Rule 1 and 2 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>11.12.2025</i>
iv	<i>Number of the application</i>	<i>I.A.No.I</i>

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v	<i>The date on which the objections are filed by Opponents/ Defendant</i>	<i>D-1 18.03.2026 D-2 & 3 08.04.2026</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>12.08.2026</i>

ORDERS ON I.A. NO.III

1. Applicants/ Plaintiffs have 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 men, officials, subordinates and agent, from unlawfully interfering with the Plaintiffs' peaceful possession and enjoyment of the suit schedule property, pending disposal of the suit.
2. In the affidavit accompanying the application, it is contended that the Plaintiffs are residents of Karukuchi Village and have been residing there from the time of their ancestors. It is further contended that the residential site in question was originally allotted to and stood in the name of late Shankara Nayaka, and the Plaintiffs' family has been in continuous possession and enjoyment of the said property for several decades. It is further contended that, in the year 2001, a

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village meeting was convened in the presence of villagers and Panchayat officials, wherein the properties belonging to late Shankara Nayaka and Defendant No. 1, Chandranayaka, were measured. In the said measurement, late Shankara Nayaka was allotted a site measuring East-West 42 feet and North-South 62 feet, whereas Defendant No. 1, Chandranayaka, was allotted a site measuring East-West 42 feet and North-South 26 feet. It is contended that the Karukuchi Grama Panchayat passed a resolution in the year 2001 allotting the respective sites to the parties, pursuant to which mutation entries were also effected. The Plaintiffs have further contended that they have constructed a residential house in the suit schedule property. It is alleged that, though Defendant No. 1 has constructed a compound wall around his property, he is attempting to remove and damage the fence erected by the Plaintiffs in their property without any lawful authority and is interfering with the Plaintiffs' peaceful possession and enjoyment of the suit schedule property. Hence, the Plaintiffs have been constrained to institute the present suit. It is therefore contended that the Plaintiffs have established a

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prima facie case, that the balance of convenience lies in their favour, and that they would suffer irreparable injury if an order of temporary injunction is not granted. On these grounds, the Plaintiffs have prayed for allowing the application.

3. *Per contra*, Defendant No. 1 has filed a memo requesting that the written statement filed by him be treated as objections to I.A. No. III. In the written statement, while denying the averments made in the plaint, it is contended that the suit has been filed by suppressing material facts and that the Plaintiffs have not approached the Court with clean hands. It is further contended that the property bearing Assessment No. 319, measuring 22 x 72 feet, originally belonged to the father of Defendant No. 1, namely Rudranayaka. After his demise, the khata of the said property was mutated in the name of Defendant No. 1, and he has been in possession and enjoyment of the same thereafter. It is further contended that, in the year 2001, a mutual exchange took place between Defendant No. 1 and late Shankara Nayaka, under which an extent of 22 x 55 feet from Assessment No. 319 was given to

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Shankara Nayaka, and in exchange, an extent of 20 x 15 feet from Assessment No. 320 was allotted to Defendant No. 1. According to Defendant No. 1, the said exchange was duly recorded in the Panchayat records and confirmed by the resolution passed by the Panchayat in the year 2001, and the parties have acted upon the same. It is further contended that the Plaintiffs are in possession only to an extent of 20 x 55 feet and not the entire extent of 42 x 62 feet claimed in the suit schedule property. According to Defendant No. 1, the said aspect has already been adjudicated by the competent authority under the Karnataka Panchayat Raj Act and has been confirmed. Therefore, it is contended that the Plaintiffs cannot maintain the present suit, as the same is barred by the principles of res judicata. It is further contended that the allegations made by the Plaintiffs regarding interference with the suit schedule property are false, concocted, and without any basis. On these grounds, Defendant No. 1 has prayed for dismissal of the application.

4. Defendant Nos. 2 and 3 have filed a memo requesting that the written statement filed by them be treated as objections

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to I.A. No. III. In the written statement, while denying the averments made in the plaint, it is contended that there is no collusion between the Defendants and the Panchayat, as falsely alleged by the Plaintiffs. On these grounds, Defendant Nos. 2 and 3 have prayed for dismissal of the application.

5. Heard both sides.
6. 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 Plaintiffs have made out a prima-facie case as against the Defendants?

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

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

Point No.4 : What Order?

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

Point No.1 : In the Negative
to 3

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

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REASONS

- 8. Point No.1 to 3:** The instant suit is filed seeking relief of permanent injunction restraining the Defendant No. 1, his legal heirs, his agents, servants, men, representatives, hencemen, laborers, supporters, workers etc., from unlawfully interfering with the Plaintiffs' 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.
- 9.** 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

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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

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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".

10. 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 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

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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.

- 11.** 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.
- 12.** 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

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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 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

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

- 13.** The case of the Plaintiffs is that, in the year 2001, a village meeting was duly convened in the presence of villagers and Panchayat members, wherein the suit schedule property and

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the property belonging to Defendant No. 1 were subjected to a joint survey. Based on such survey, a resolution was passed by the Panchayat and mutation entries were effected in respect of the suit schedule property in the name of the husband of Plaintiff No. 1 and father of the remaining Plaintiffs. It is further contended that the family of the Plaintiffs has been in possession and enjoyment of the said property ever since. However, it is alleged that Defendant No. 1 has been interfering with the Plaintiffs' possession and enjoyment of the suit schedule property and is attempting to trespass into the said property, thereby necessitating the Plaintiffs to institute the present suit seeking the relief of permanent injunction.

- 14.** On the other hand, the contesting Defendant No. 1, in his written statement, has contended that though there was a joint survey, subsequently a mutual exchange was entered into between the parties. Based on such exchange, the mutation entries were subsequently modified by altering the extent of the properties. It is further contended that an appeal was preferred before the Taluk Panchayat in respect of

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the said proceedings and an order came to be passed confirming the said position. Despite the same, the Plaintiffs have suppressed the said proceedings and have approached this Court by filing the present suit on false and untenable grounds. In these circumstances, it is contended that the suit seeking bare injunction is not maintainable.

- 15.** In light of these rival contentions, it becomes necessary to examine the documents produced by both parties. The Plaintiffs have produced RTC extracts, certified copies of mutation register extracts, tax-paid receipts, certified copies of encumbrance certificates, copies of registered partition deeds dated 26.10.2009, 06.09.2018, and 19.03.2024, a copy of the registered Will dated 26.08.2009, a copy of Form No. 10, and certified copies of the orders passed by the Deputy Director of Land Records, Chikkamagaluru, in LRA Nos. 26/1987, 27/1987, 122/1987, and 123/1987.
- 16.** On the other hand, the Defendants have produced a copy of the order sheet in W.P. No. 34426/2025, a copy of the order passed by the Tahsildar, Tarikere, in DVSCR No. 02/2025-26,

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and copies of the petition, objections, and affidavit filed in DVSCR No. 02/2025-26.

- 17.** A perusal of the pleadings placed by the Plaintiffs indicates that their claim of possession over the suit schedule property is primarily based on the transaction and proceedings that took place in the year 2001. Though the Plaintiffs have produced documents in support of such claim, the document produced by Defendant No. 1, namely the order dated 14.07.2025 passed by the Executive Officer of the Taluk Panchayat, assumes significance. A reading of the said order indicates that, though the parties had earlier subjected the properties to joint survey and mutation entries were effected accordingly, a finding has been recorded that the extent of land so claimed was not actually available. Consequently, the Executive Officer of the Taluk Panchayat modified the extent of land allotted to both the Plaintiffs' family and Defendant No. 1 and directed necessary changes to be incorporated in the concerned assessment registers.
- 18.** It is also noticed that Plaintiff No. 2 had appeared in the said proceedings before the Executive Officer of the Taluk

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Panchayat and had contested the same, which culminated in the passing of the order dated 14.07.2025. However, the present suit, instituted on 11.12.2025, does not contain any reference whatsoever to the said order passed by the Executive Officer of the Taluk Panchayat.

- 19.** The entire basis of the present suit is founded on the transaction and proceedings of the year 2001, while suppressing the subsequent order passed by the competent authority. Such suppression of a material fact, particularly an order passed shortly prior to the institution of the suit, raises serious doubts regarding the bona fides of the Plaintiffs in approaching this Court.
- 20.** Further, in view of the order passed by the Executive Officer of the Taluk Panchayat, the extent of property claimed by the Plaintiffs has itself become subject to dispute, thereby creating a cloud over the title asserted by them. In such circumstances, a question also arises as to whether a suit for bare injunction, without seeking the relief of declaration of title, would be maintainable. Therefore, at this stage, the Plaintiffs have failed to establish a clear prima facie case

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warranting the grant of an order of temporary injunction in their favour.

- 21.** The Applicants/ Plaintiffs having failed to prove prima-facie case which is the harbinger in examining other aspects, there is no necessity to examine the questions of balance of convenience or irreparable injury in view of dictum laid down in **GOWRISHANKARA SWAMIGALU V. SRI SIDDHAGANGA MUTT (supra)**. With these observations, the **Point No.1 to 3** which have arisen for my consideration are also answered in the **Negative**.
- 22. Point No.4:** For the foregoing reasons, I proceed to pass the following -

ORDER

I.A No.III filed by the Applicants/ Plaintiffs under Order XXXIX Rules 1 & 2 of C.P.C is hereby dismissed.

Costs made easy.

(Dictated to Stenographer, after transcription, print out corrected and then pronounced by me in the Open Court on this the 12th of AUGUST, 2026)

sd/-

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

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