

KACN320051232025



**IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC,**  
**AT KOLLEGALA**

**PRESENT: SRI. M. RANJITH KUMAR B.A,L' L.L.B.**  
**I Addl. Civil Judge & JMFC., Kollegala.**

**Dated on this the 03<sup>rd</sup> day of June 2026**

**OS. NO.308/2025**

Plaintiff : 1. Smt. Malini K.  
W/o Sambaji Rao V.,  
Aged about 62 years,  
**R/at:** House No.2, DEODATE,  
Public School road, Vittala Nagar,  
ISRO layout, Nagarabhavi,  
Bengaluru North.

**Versus**

Defendants : 1. Sri. Ramaswamy S/o Mutta,  
Aged about 62 years,  
**R/at:** No.7/123/2,  
Hosa Kurubara Beedi,  
Kollegala Town & Taluk,  
Chamarajanagara District.

2. Sri. Rayappa S/o Chikka Hongaiah,  
Aged about years,  
**R/at:** Mangala Village,  
Hanuru Taluk,  
Chamarajanagara District.

3. Smt. Hongamma,  
W/o late Doddahongaiah,  
Aged about 75 years,
4. Sri. Nagaraju,  
S/o late Doddahongaiah,  
Aged about 55 years,
5. Sri. Kumara,  
S/o late Doddahongaiah,  
Aged about 48 years,
6. Smt. Doddahongamma,  
W/o late Basavaraju,  
Aged about 70 years,
7. Smt. Puttathayamma,  
W/o late Chikkatammaiah,  
Aged about 60 years,
8. Smt. Shylajamma,  
W/o late Chikkarangaiah,  
Aged about 58 years,
9. Sri. Chinnamaraiah,  
S/o late Muddamaraiah,  
Aged about 65 years,  
**Defendant No.3 to 9 are R/at:**  
Mangala Village, Hanuru Taluk,  
Chamarajanagara District.

### **INTERIM APPLICATION NO- I**

Applicants/: Smt. Malini K.  
(Plaintiff)

### **Versus**

Opponents/: Sri. Ramaswamy & Others  
(Defendants)

|      |                                                                       |                                                                          |
|------|-----------------------------------------------------------------------|--------------------------------------------------------------------------|
| i.   | Provision under which the application is filed                        | Under Order XXXIX Rule 1 & 2 R/w Section 151 of Code of Civil Procedure. |
| ii.  | Relief sought for                                                     | Seeking ad-interim temporary injunction against defendants.              |
| iii. | The date on which the application is filed                            | 24.09.2025                                                               |
| iv.  | Number of the application                                             | I                                                                        |
| v.   | The date on which the objections are filed by the different opponents | 23.02.2026                                                               |
| vi.  | The date on which the orders were passed on the said application      | 03.06.2026                                                               |

### **ORDER ON IA-I**

**1)** The plaintiff has filed present application under Order XXXIX Rule 1 & 2 R/w Section 151 of Code of Civil Procedure, seeking ad-interim temporary injunction against defendants, restraining them from interfering with plaintiff's possession over the schedule properties pending disposal of the suit. It is the case of the plaintiff that, she is the absolute owner of the suit schedule-A property, and it was donated by her husband vide Gift deed dated 16.11.2023, which he had purchased vide sale deed dated 24.10.2009 and since from the date of

purchase of the schedule A property, the plaintiff and her family members are in physical possession and enjoyment of the schedule A and B properties and as such their possession over the schedule B property is continuous and is adverse to the true owner and subsequent to purchase of the schedule A property they have also formed a public Charitable Trust in the name and style SVJ Charitable Trust and under the same they have also put up an orphanage within the schedule –B property, but the defendants without having any right, title and interest over the schedule properties are trying to interfere with plaintiff's possession over the suit schedule properties.

**2)** In counter to the application, the defendant No.3 to 9 have filed their objection by contending that, the application filed by the plaintiff is not maintainable, on the grounds that, the plaintiff does not have any right and interest over the schedule properties and the defendant No.3 to 9 and their family members are the owners in possession of schedule A and B properties, in which schedule A property is the property

granted by the government in favour of the family of the Chikkahongaiah who is the father-in-law of the defendant No.3 and in pursuance of the said grant Katha of the schedule A property was entered into the name of the father of the defendant No.2 and the schedule –B property is the ancestral property of the defendant No.2 to 9 and accordingly they are in physical possession and enjoyment of the suit schedule properties. Further it is the claim of the defendant No.3 to 9 that, the sale mad in favour of the plaintiff's husband is contrary to the provisions of the PTCL Act, as such, the said sale deed is void-ab-initio and in respect to schedule-B property the defendant No.2 to 9 claims to have already filed a suit in O.S no.235/2009 against tone Puttaraju and defendant No.1 for declaration and permanent injunction, wherein court has already granted decree in favor of the defendant No.2 to 9 herein. Accordingly the defendant No.3 to 9 claiming to be possession of the suit schedule properties, sought for dismissal of the application.

**3)** Heard learned counsel for plaintiff and defendant No.2 to 9. The learned counsels for the parties in support of their respective arguments relied on the following authorities.

**Authorities relied by the plaintiff**

1. *In the case of Sri. Hem Chand Jain Vs. Sri. Anil Kumar and others reported in AIR 1993 DELHI 99*
2. *In the case of Bhagalpur Rolling Mill Vs. Bhagalpura Electric Supply Co. Ltd reported in AIR 1974 PATNA 269*
3. *In the case of Chintapatla Arbinda Babu and another Vs. Smt. K. Balakrishnamma @Bhargavi and another reported in AIR 1992 Andhra Pradesh 300*
4. *In the case of Nurmahamed and other Vs. Md. Abdul Kari reported in AIR 1970 Manipura 7*
5. *In the case of Shajuddin and other Vs. Nagar Palika Parishad and another reported in AIR 1985 Madhya Pradesh 252*
6. *Mohammed Haji Vs. Managing Director reported in 2016(2) AKR 500 :: (2016) 4 KCCR 3369*

**Authorities relied by the defendants**

1. *In the case of Sri. Gangadharaiah and another Vs. Smt. Pathamma(Dead) and others reported in 2024 (4) KCCR 3576*

2. *In the case of Sri. T.L. Nagendra Babu Vs. Manohar Rao Pawar reported in ILR 2005 KAR 884*
3. *In the case of Sri. K.Gopala Reddy (deceased) by Lrs Vs. Sri. Suryanarayana and others reported in 2004(1) KCCR 662*
4. *Hon'ble Supreme Court Judgment in the case of R.K.Roja Vs. U.S.Rayudu and another Civil Appeal No.5540/2016*
5. *Hon'ble Supreme Court Judgment in the case of Prakash Corporate Vs. Dee. Vee Projects ltd Civil Appeal No.1318/2022*
6. *Hon'ble High Court of Karnataka Order in the case of Chaduranga Kantharaju URS Vs. Pramod Devi Wadiyar W.P.No.14925/2024*
7. *Hon'ble High Court of Karnataka Order in the case of M/s Hajee Ebrahim Sait Wakf Vs. M/s India Wood and Industries W.P.No.1816/2024*
8. *Hon'ble High Court of Karnataka Order in the case of Smt. S.Mamatha and other Vs. Smt. Kavitha H A W.P.No.1062/2025*

**4)** Perused materials on record, accordingly the following are the points for consideration of this court.

1. *Whether plaintiff has established prima-facie case against defendants?*

*2. Whether the balance of convenience lies in favor of the plaintiff?*

*3. Whether rejection of application would cause hardship to the plaintiff?*

*4. What order?*

**5)** For the reasons below, this court answers the above points for consideration as hereunder.

**Point No.1 – In the Affirmative.**

**Point No.2 – Partly In the Affirmative.**

**Point No.3 – Partly In the Affirmative.**

**Point No.4 – As per final order.**

### **REASONS**

#### **6) Point No.1 :-**

The plaintiff claiming ownership and possession over schedule A property and adverse possession over schedule B property, has filed the present suit, wherein she has filed the present application seeking ad-interim, temporary injunction, restraining defendants from interfering with plaintiff's possession over the suit schedule properties.



**7)** On perusal of the materials on record, it could be observed that, as on the date of filing of the suit the Katha of the schedule-A property is entered into the name of the plaintiff and similarly, the Katha of the property in Sy.No.355/2 measuring 5 Acres 10 Cents, in which schedule-B property is a part of, is entered into the name of defendant No.1. Further from the materials produced by the defendant No.3 to 9, it could also be observed that, though the Katha of the entire extent of the schedule-B property is in the name of the defendant No.1, but a competent court of law in O.S No.235/2009, vide its judgment dated, 13.11.2024 has declared the defendant No.3 to 9 as absolute owners of the entire extent of property in Sy.No.355/2 and in respect to interference, there are complaints and counter complaints held between the parties. Thus it is very much apparent that, the fact that, existence of prima-facie ownership of plaintiff over the schedule-A property and of defendant No.2 to 9 over the schedule-B property and claim of possession over the both schedule properties, by both the properties, would require full

fledged trial to adjudicate the matter in full and final and it is well settled, that the existence of requirement of trial, would suffice to establish prima-facie case, under Order XXXIX Rule 1 and 2 of the CPC. Thus this court is of the opinion that, the plaintiff has established prima-facie case against the defendants. Accordingly this court answers **Point No.1 in the Affirmative.**

**8) Point No.2 and 3:-**

In the present kind of application, where the plaintiff is seeking protection from the court to protect her alleged possession, pending disposal of the suit, in order to consider hardship and balance of convenience, the prima-facie proof for possession of the schedule properties plays vital role. As already discussed, both the plaintiff and defendant No.3 to 9 are claiming possession over the both Schedule A and B property and the Katha are entered in the name of plaintiff with respect to schedule A property and in the name of

defendant No.1 with respect to entire extent of schedule-B property.

**9)** The plaintiff in her pleadings and as well as in the affidavit filed along with the application, has specifically pleaded that, herself and her family members are in possession of the schedule properties, since from the date of purchase of the schedule-A property in the year 2009 and on the other hand, the defendants denying the title of the plaintiff over the schedule properties, claim that, with respect to schedule-A property, the sale deed entered into the name of the husband of the plaintiff is void-ab-initio as it is in contravention with the provisions of PTCL Act, but the contesting defendants have not furnished any documents to show annulment of the sale deed by competent authority. Thus prima facie, the sale deed entered into the name of the husband of the plaintiff holds good and subsequent gift deed and revenue entries into the name of plaintiff would certainly show, prima-facie possession of the plaintiff over the suit

schedule A property. Moreover, the defendant No.3 to 9 along with their documents, have produced a copy of the report of encroachment submitted by the Tahashildar Hanur Taluk, wherein the Tahashildhar has reported that, the owners of the property in Sy.No.312/f i.e., schedule A property have encroached properties in Sy.No.312/D and Sy.No.312/G and from the said document it is very much apparent that, the plaintiff is prima facie possession of the schedule-A property.

**10)** Coming to proof for prima facie possession of plaintiff over the schedule-B property, it could be observed that, certainly no revenue documents are entered into the name of the plaintiff and the plaintiff is claiming her possession based on adverse possession. It is the claim of the plaintiff that, under the SVJ Charitable Trust, they have constructed, a orphanage within the schedule-B property and they have obtained electricity connection to it and the plaintiff has also produced photographs to show construction of such orphanage and on perusal of the said photographs it is

apparent that, certainly a structure is forthcoming in the photographs, but whether said structure is within the schedule-B property is the question for consideration.

**11)** The plaintiff in order to show her possession over the schedule-B property, has produced documents related to obtaining electricity connection, but all such documents pertaining to electricity connection are in respect of the schedule-A property and none of the document, suggest prima-facie possession of plaintiff over the schedule-B property and from the documents furnished by the defendants, it could be observed that, the plaintiff has also filed a suit with respect to schedule-A property against one Vishweshwara Prasad in O.S No.92/2004, if one observes schedule to the said suit, it could be observed that, in the present suit, the plaintiff claims schedule-B property to be existing onto the East of Schedule-A property, but such recital is missing in the above mentioned suit and more importantly the defendants have also produced a report

submitted by the Special Tahashildhar Hanur on 25.11.2011, which is held at an undisputed period of time and from the said document it is prima-facie, apparent that, the defendant No.1 was in the possession of the entire extent of property in SY.No.355/2.

**12)** Thus from the above discussion, it is apparent that, the plaintiff has sufficiently shown her prima-facie possession over the schedule-A property, but failed to show such possession over schedule-B property and when plaintiff has failed to show her prima-facie possession, granting order of injunction against defendants with respect to schedule-B property is not proper, but considering the prima-facie possession of plaintiff over schedule A property and long standing legal battles between the parties, the plaintiff certainly entitled for protection of her possession over schedule A property, pending disposal of the suit. Insofar as authorities relied by the parties is concerned, the parties have relied on the authorities, wherein Hon'ble constitutional courts

have uphold the established legal presumptions with respect to suit for possession and grant of interim injunction and this court has humbly considered above cited authorities in determining the question on hand. Accordingly this court answers **Point No.2 and 3 partly in the Affirmative.**

**13) POINT NO.4:** For the reasons stated above, this Court proceeds to pass the following:

**:- ORDER:-**

IA No-I filed by the plaintiffs under Order XXXIX Rule 1 & 2 R/w Section 151 of Code of Civil Procedure, is hereby allowed in part.

The defendants, their, agents, assignees, representatives, anybody claiming through them are hereby restrained from interfering with plaintiffs possession over the schedule A property, pending disposal of the suit.

(Dictated to the stenographer, transcribed and typed by him, the same is corrected, signed and then pronounced by me in the open court on this the 03<sup>rd</sup> day of June 2026).

**(M.RANJITH KUMAR)**  
I Addl.Civil Judge & JMFC.,  
Kollegala.