

KADG210003492025



IN THE COURT OF SENIOR CIVIL JUDGE & J.M.F.C,

AT:CHANNAGIRI

:Present:

Soubhagya.B.Bhushar.,
B.A.,LL.B.,LL.M.
Senior Civil Judge & J.M.F.C,
Channagiri.

DATED; THIS THE 13th DAY OF JANUARY-2026

O.S.NO.73/2025

Plaintiff/Applicant:

1. Chandrappa K.G.

(By Sri.B.S.Nagaraja & others.,Advs.,)

V/s

Defendants/Opponents:

1.S.H.M. Nagarajaiah and others,

(D.1 & 2 Sri.M.S.Jadeesh.,Adv.,)

(D.3 to 13 Exparte)

ORDERS ON I.A.NO.I FILED UNDER ORDER XXXIX
RULE 1 AND 2 OF CPC

The plaintiff has filed this application restraining the defendants, their henchmen or person/s claiming through

them from interfering with the plaintiff's lawful, peaceful possession and enjoyment of the suit schedule property by granting an ex-parte ad-interim order of temporary injunction pending disposal of the suit.

2. This application annexed with the sworn affidavit of the plaintiff, wherein he has stated that one Late Uliveppa S/o Late Ramappa is the proponent of the joint family. The said Uliveppa having two sons and a daughter i.e., Gurunanjappa, Late Hanumamma and Late Kotrappa. The said Gurunanjappa is his father. The said Uliveppa having property measuring 07 acres 36 guntas including 06 guntas karab situated at Kattalagere Village, Basavapattana-2nd Hobli, Tq:Channagiri, Dist:Davangere. Further stated that in 1974-75 the said Uliveppa and Kotrappa given 1 acre 29 guntas out of 7 acres 36 guntas including 06 guntas karab by way of register arranged letter dated: 10.02.1975 SR No.3462/1974-75 in favour Late Hanummamma W/o Kenchappa. Further stated that the remaining property measuring 06 acres 03 guntas is divided between the Gurunanjappa and Late Kotrappa through registered partition deed S.R No.1574/1977-78 dated:09.08.1977, as per the said partition deed his father Late Gurunanjappa has got 03 acres 1½ gunta property in Sy.No.204/1, the revenue entry was entered as M.R.No.179/1977-78 extent as

per registered partition deed. But entry in the RTC shown only 02 acres 21 guntas instead of 03 acres 1½ gunta. Further as per the partition deed his father was peaceful possession and enjoyment over the suit schedule property. After the demised of his father the plaintiff became the owner in possession over the suit schedule property till today but RTC are still in the name of his father.

3. Further stated that the defendants are the adjacent land owner of the suit schedule property. The defendants in the month of February 2025 the recently started to disturb his peaceful possession and also deny his ownership and also disputing the extent of the suit schedule property. But he successfully resists the defendants with the help of the villagers. After that he took the consult of the Villagers and he ask the help of the police but the police was advised the matter is in civil nature. Hence, they suggested that to file this case before this court. As per entire facts the only document as created by the defendants but he is in possession no one tried to disturbed him. In the month of February 2025 the defendants are try to disturb him. Further stated that the cause of action arose in the month of February 2025 the recently the defendants started to disturb his peaceful possession and also deny his

ownership. Hence, the suit filed is within the time of limitation. He has also filed this application for temporary injunction. If this application is not allowed he will be put to great hardship, loss and injury on the other hand no hardship will be caused to the other side.

4. After service of the summons the defendant No.1 and 2 have appeared through their counsel and filed the written statement. The learned counsel for the defendant No.1 and 2 has filed memo for adopted the written statement as objection to I.A.No.1. In their written statement the defendants are denied the entire plaint averments. It is contended that suit of the plaintiff is not maintainable either law or facts. Hence, the same is liable to be dismissed in limine. It is admitted that the plaintiff is adjacent owner of their property, but denied that they have disturbing the suit schedule property of the plaintiff. The plaintiff has filed this false suit against them and hence, prayed to dismiss suit.

5. Heard on both the sides and perused the material placed on record. The following points that arise for consideration are;

1. Whether the plaintiff has made out prima facie case.?

2. Whether the balance of convenience lies in favour of plaintiff.?

3. If the temporary injunction is not granted, much hardship will cause to the plaintiff.?

4. What order?

6. My findings on the above points are as follows:

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, for the following;

:REASONS:

7. POINT NO.1: It is the specific case of the plaintiff is that one Late Uliveppa S/o Late Ramappa is the proponent of the joint family. The said Uliveppa having two sons and a daughter i.e., Gurunanjappa, Hanumamma and Kotrappa. The said Gurunanjappa is the father of the plaintiff. The said Uliveppa having property measuring 07 acres 36 guntas including 06 guntas karab situated at Kattalagere Village, Basavapattana-2nd Hobli, Tq: Channagiri. Further stated that in 1974-75 the said Uliveppa and Kotrappa given 1 acre 29 guntas out of 7 acres 36 guntas including 06 guntas karab by way of register arranged letter SR

No.3462/1974-75 dated: 10.02.1975 in favour Late Hanummamma W/o Kenchappa. Further stated that remaining property measuring 06 acres 03 guntas is divided between the Gurunanjappa and Late Kotrappa through registered partition deed S.R No.1574/1977-78 dated: 09.08.1977, as per the partition deed his father Gurunanjappa has got 03 acres 1 ½ gunta the property in Sy.No.204/1 the revenue entry was enter as M.R.No.179/1977-78 extent as per registered partition deed. But entry in the RTC shown only 02 acres 21 guntas instead of 03 acres 1 ½ gunta. Further as per the partition deed his father was peaceful possession and enjoyment over the suit schedule property. After the demised of his father the plaintiff became the owner in possession over the suit schedule property till today but RTC are still in the name of his father.

8. Further stated that the defendants are the adjacent land owner of the suit schedule property. The defendants in the month of February 2025 the recently started to disturb his peaceful possession and and also deny his ownership and also disputing the extent of the suit schedule property. But the plaintiff successfully resists the defendants with the help of the villagers. After that he took the consult of the Villagers and he ask the help of the police but the police

was advised the matter is in civil nature. Hence, the suit filed is within the time of limitation. As per entire facts the only document as created by the defendants but he is in possession no one tried to disturbed him. Along with the suit he also filed I.A.No.1.

9. Per contra. it is the case of the defendants that the suit of the plaintiff is not maintainable either law or facts. Hence, the suit is liable to be dismissed in limine. Further in their written statement they are denied the entire plaint averments. It is admitted that the plaintiff is adjacent owner of their property, they have denied the disturbing the suit schedule property of the plaintiff. The plaintiff has filed the false suit against them and hence, prayed to dismiss suit.

10. The plaintiff has produced the RTC extract of Sy.No.204/1B measuring 07 acres 36 guntas out of which 07 guntas is karab shows the name of Gurunanjappa is entered in both column No.9 and 12 during the year 2000-01. Certified copy of register arrangement letter dated:10.02.1975. Copy of M.R. No.116/1981-82 it shows that as per arrangement letter name of the Hanumamma got mutated. Certified copy of the partition deed dated: 09.08.1977 Gurunanjappa and Kotrappa divided remaining

property of 06 acres 03 guntas. RTC extract of Sy.No.204/1 measuring 02 acres 21 guntas shows the name of Gurunanjappa in both column No.9 and 12 during the year 2021-22, 2022-23, 2023-24 and 2024-25.

11. From the documents produced by the plaintiff prima facie possession as on date of the suit cannot be ascertained. No doubt as per the pleadings and also the documents produced shows that earlier the suit schedule property stood in the name of Uliveppa. Thereafter in year 1974-75 the said late Uliveppa and Kotrappa given 01 acre 36 guntas including 06 guntas karab in favour of Hanumamma by way of register arranged letter. Thereafter the remaining property of 06 acres 03 guntas is divided between Gurunanjappa and Kotrappa. But as per pleadings and also documents produced by the plaintiff it is clear that the records of the current year stands in the name of Gurunanjappa measuring 02 acres 21 guntas. Thus being the case whether the plaintiff is still having actual possession of 03 acres 1½ gunta or not is a matter that has to be ascertained at trial.

12. This is a stage wherein court is considering the entitlement the plaintiff for the relief of temporary injunction and the court need not go into title of the suit property or

about the manner of acquisition. The court is only concerned with the prima facie possession of the suit property and it is not necessary to go into the title or other aspects. It is not necessary for the plaintiff to prima facie prove his title to the suit property but it is sufficient to show prima facie possession. Therefore, at this pre trial stage the documents produced by the plaintiff are prima facie not sufficient to show prima facie possession over the suit property.

13. The documents at this stage does not show any positive evidence. From the records produced by the plaintiff the court at this stage cannot conclude about the actual possession of the suit property. From the prima facie perusal of the said documents prima facie possession of the plaintiff is not shown.

14. The documents produced by the parties are to be proved in trial. At this pre-trial stage it is too premature to state about the possession of the suit property by the plaintiff or about the interference as it is the merit of the case. Further the documents can be relied upon only after a full fledged trial and not at this infant stage. Thus as plaintiff at this stage failed to prima facie show prima facie possession this court deems it fit to afford an opportunity to

both sides to establish the veracity of the documents relied by them. For that a full fledged trial is necessary. Until then no injunction can be granted as there is no prima facie case. Further the relief sought by way of this IA is in the form of final relief. It is impermissible to grant an interim relief which is in the form of a final relief. Thus this point is answered in the negative.

15. POINT NO.2 AND 3: These points are interrelated to each other and finding on point No.2 will have bearing on the another. Hence, to avoid repetition of facts, these points are taken together for common consideration. The plaintiff failed to prove that there is a prima facie case in his favour. There is no balance of convenience also and no irreparable injury would be caused if no injunction is granted. As the plaintiff failed to show a prima facie case, detailed discussion on balance of convenience and irreparable injury is not necessary. Thus point No.2 and 3 are answered in the negative.

16. POINT NO.4: In view of findings on the above points, I proceed to pass the following:

ORDER

I.A. No. I filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby dismissed.

No order as to costs.

(Dictated to the stenographer directly on computer, typed by her, the transcript revised by me and then pronounced in the open court on this the 13th day of January 2026)

**(Soubhagya.B.Bhusher)
Senior Civil Judge & J.M.F.C,
Channagiri.**

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