

**IN THE COURT OF THE I ADDL. CIVIL JUDGE & J.M.F.C.,
CHANNAGIRI**

:- PRESENT :-

**Smt.Mahalakshmi. G
M.A., LL.B.,
I Addl. Civil Judge & J.M.F.C.,
Channagiri.**

Dated: This the 2nd Day of September 2025

O.S.No.140/2022

PLAINTIFFS : Sharadamma

V/s

DEFENDANTS : G.K.Manjunath and others

I.A.NO.I

Applicant/Plaintiff : Sharadamma

V/s

Opponents/Defendants : G.K.Manjunath and others

1.	Provision under which the application is filed	Under Order 39 Rule 1 and 2 of CPC
2.	Relief sought for	Interim Temporary Injunction
3	Date on which the application is filed	31-03-2022
4.	No. of the application	I.A.No.I
5.	Date on which the objections are filed by different opponents	17-12-2024
6.	The date on which the orders is passed	02.09.2025

ORDER ON I.A.NO.I

This is an application filed by the plaintiff along with the plaint seeking interim temporary restraint order against the defendant with respect to the application schedule property.

2. SUM AND SUBSTANCE OF THE AFFIDAVIT AS UNDER:

In support of the application the plaintiff sworn an affidavit and stated that, she filed the present suit against the defendant seeking the relief of permanent injunction and to treat the plaint averments as part and parcel of this affidavit. The plaintiff averred that the Tahasildar, Channagiri has issued saguvali chit in her favour with respect to the property bearing Re.Sy.No. 8 measuring 3 acre 32 guntas situated at Guruhagenahalli village, Kasaba hobli, Channagiri Taluk which is morefully described as application as well as suit schedule property on 22-05-1998. Pursuant khata mutated in her name and she put in possession and enjoyment of the property since from the date of issuance of the saguvali chit till date.

3. The plaintiff further averred that, the defendant No. 1 i.e., her husband, drunkard, womanizer and he spent money to his bad habits. He used to give physical and mental torture to her. She tolerated all illegal acts of the defendant with great trouble, believing the good hope in future that he may reform his behaviour. But her expectation went in vain, the defendant No. 1 even failed to

maintain, take care of her and her children. She being mother taking care of her children, despite of best efforts her daughter not survived and son namely Karthik @ Santosh being specially disabled person. She taking care of her son with great responsibility without the aid and assistance of the defendant No.1 till date. She developed application schedule property as crop yielding areca nut plants with the help of her brothers namely Shivamurthy and Nagaraja and other relatives by spending huge amount as well as physical effort. The plaintiff used to visit the application schedule property oftenly. The said areca nut crops became fruit yielding plants at present. Such being the case on 19-03-2021 when she visited the suit schedule property, the defendants unlawfully formed assembly and trespassed into it and tried to dispossess by assaulting on her. Immediately, she approached Holehonnuru police and lodged complaint against the defendants said Criminal case is pending before the Hon'ble Civil Judge & JMFC, Bhadravathi. Again on 31-01-2021 when she visited the application schedule property, the defendants again disturbed her possession and assaulted on her and tried to knock off the areca nut crops. She prevented the illegal acts of the defendants. The defendant No.1 has demanded her to mutate the revenue documents into his name, when the same is refused by her, the defendants abused and assaulted on her and went away by posing life threat on her. Hence she again lodged complaint before the police the same is pending before the court for trial. The plaintiff further submitted that due to physical and mental

harassment made by the defendants on her, she decided to file M.C petition bearing No.15/2022 before the I Addl. Senior Civil Judge and JMFC against the defendant No.1 seeking decree of divorce. Same is pending and the defendants having grudges and hatredness towards her, have come to the suit property again on 15-03-2022 and made attempt to dispossess her by plucking areca nuts in the plants. The said illegal acts of the defendants prevented by her with the help of neighbors. Hence the said illegal acts of the defendants are recurring in nature and it is very difficult for her to prevent the same without the proper assistance of the court. She has got prima facie case and balance of convenience lies in her favour. If this application is not allowed she will be put into irreparable loss and injury. On the other hand, no hardship would cause to the other side. Thus, prays to allow the application.

4. The defendant No.1 appeared and filed memo to treat the written statement as objections to I.A. as well as the remaining defendant No. 2 to 5 are adopting the same. The defendant No. 1 admitted the relationship pleaded by the plaintiff in para 2 of the plaint and partly admitted the averment of the para 3 and denied other averment pleaded by the plaintiff in it's entirety. The specific contentions of the defendant found at para 13 onwards that the defendants are in possession over the suit property which was granted by the Government for the benefit and upliftment of the entire joint family of the defendants. They have made efforts to

develop application schedule property as areca nut plantation. At present the areca nut trees are crop yielding plants. The plaintiff hearing the words of her brothers with an intention to cause trouble by creating false story, to knock off the application schedule property has filed present suit. The application schedule property has granted to the joint family property of defendants in the name of plaintiff. Hence the plaintiff has no any independent right over it. The plaintiff has no any right or interest in and over it. The alleged document placed by the plaintiff are created with an intention to grab the same. Thus, prays to dismiss the application with cost.

5. Based on the rival contentions raised by the respective parties, the following points would emerge for my determination;

POINTS

1. Whether the plaintiff has made out prima facie case?
2. Whether the balance of convenience lies in favour of plaintiff?
3. Whether the plaintiff will be put to irreparable loss, if the order as prayed for is not granted?
4. What order?

6. Heard the learned counsels appearing for the plaintiff and defendants. Perused the records and on perusal of the same, my findings to above said points are as under :

POINTS

Point No.1 to 3 : In the Negative

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

REASONS

7. Point No.1:- Admittedly, the present suit filed by the plaintiff seeking the main relief of permanent injunction against the defendants with respect to the suit schedule property.

8. It is case of the plaintiff that the defendant No.1 is her husband and defendant No.2 is brother of defendant No.1, and defendant No. 3 is the wife, the defendant No. 4 and 5 are children of the defendant No. 2. The marriage of the plaintiff with the defendant No. 1 solemnized on 13-02-1983. The plaintiff begotten 2 children out of their wedlock namely Deepa who died and a son Karthik born as a physically challenged by birth. These facts are not disputed by the defendants.

9. In view of the said admission there is no dispute between the plaintiff and defendants with regard to the relationship is concerned.

10. It is specific assertion of the plaintiff that the application schedule property granted to her by the Tahasildar, Channagiri on 22-05-1998. Pursuant khata of the said property mutated in her name is also categorically admitted by the defendant No.1. The defendant No.1 specifically denied the alleged grant in the name of plaintiff on her individual capacity, he specifically stated that the application schedule property is originally granted for the benefit and upliftment of the entire family of the defendants including plaintiff, in her name.

11. It is the specific assertion of the plaintiff that, she with the help of her brothers and relatives developed the application schedule property as areca nut crop yielding plantation by investing huge money and muscle power and she used to visit the application schedule property oftenly and same is maintained by the labours. This assertions of the plaintiff are specifically denied by the defendant No. 1 in his written statement. He strongly stated that the alleged property is granted for the benefit of the joint family of the defendants, when the plaintiff living with him. He along with the help of his family members i.e., other defendants developed the property as areca nut plantation. On perusal of the averments of the plaint as well affidavit, it is clear that the relationship between the plaintiff and defendant No.1 are not in good terms and there is no co-habitation between them and they are living separately.

12. The plaintiff to establish her prima facie case, has placed the copy of Grant certificate bearing No.102/1994-95 dated 21-04-1998. said document discloses the name of plaintiff as grantee of application schedule property on 22-05-1998. The copies of RTC extract pertaining to Sy.No. 8 of Guruhagedahalli village which totally consisting of 63.25 acre out of which 3 acre of land discloses in possession of the plaintiff as per entries in col. No. 9 and 12(2) of RTC entries pertaining to the year 2021-22. The copies of FIR dated 19-03-2021, 31-12-2021 issued by SHO, Holehonnuru police registered by the plaintiff against the defendants. The copy of ration card pertaining to the plaintiff's family issued by Food, Civil supplies and Consumer Affairs Department, dated 01-01-2013 discloses the name of defendant No. 1 as husband of plaintiff and Karthik G.M. as her son. The copy of petition bearing M.C.No.15/2022 filed by the plaintiff before the Hon'ble Senior Civil Judge & JMFC, Chitradurga against the defendant No. 1. The copy of disability certificate and ID card issued by Directorate for the Empowerment of Differently abled Senior Citizens, Bengaluru pertaining to Karthik i.e son of plaintiff and defendant No.1.

13. The defendants strongly resisted the claim of the plaintiff and contended that the alleged grant made in the name of plaintiff is not her individual capacity and the same is granted by the Government for the sake of upliftment and betterment of the members of the joint family of the defendants at the time when the plaintiff is living with defendants family. Thus, the plaintiff has no

any individual right or title much less possession over the suit property. The defendants developed the application schedule property as areca nut crop yielding plantation. Such being the case, the plaintiff by colluding with her brothers with an intention to give trouble as well knock off the property which is originally granted for the benefit of the whole family has falsely Suited against them by creating false cause of action.

14. In support of their contention the defendants have not placed any documents.

15. Having taken note of the pleadings as well Prima facie materials placed on record, this court is of the opinion that it is admitted fact that the application schedule property is granted in the name of plaintiff by the Government. Whether the said grant made in favour of the plaintiff on her absolute capacity or for the benefit of the members of the joint family is in question before the court. Admittedly, the defendant No.1 is the husband of plaintiff. Admittedly, their marital relationship is not in good terms. The plaintiff also filed divorce petition against the defendant No. 1 is also admitted by the plaintiff in her pleadings. Such being the case the alleged grant made by the Government in the name of the plaintiff in her sole capacity or for the benefit and upliftment of the entire family of the defendants is cannot be decided mainly on the Prima facie materials. Thus to consider the claim of the plaintiff it requires full fledged trial.

16. Moreover, if this application is allowed it will resultantly effect the main relief sought by the plaintiff which is one at the same relief. Hence the plaintiff though placed grant certificate and the RTC entries to establish her prima-facei case, but has made out triable case. Under such circumstances in my considered opinion unless and until full fledged trial is completed it cannot be ascertained that the plaintiff granted the suit property on her individual capacity and continued possession over it on the basis of pleadings. Therefore, the plaintiff has not made out prima facie case to grant the temporary injunction in her favour. Having perusal of the said aforesaid discussions the plaintiff has not made out prima facie case to grant temporary injunction in her favour. Hence I answered **Point No.1** in the **Negative**.

17. Point No.2 & 3: The plaintiff has failed to establish very prima facie case in her favour. Even though the records relied by the plaintiff are insufficeint to the version of the plaintiff having prima facie documents to conclude. Thus, balance of convenience and irreparable injuries in went upon existence of the prima facie case. When the applicant failed to prove the basic aspect of the prima facie case in my considered opinion, the aspects of balance of convenience and the irreparable injuries need no consideration accordingly, these two points are held in the **Negative**.

18. **Point No.4:-** As a result, I proceed to pass the following:

ORDER

**The I.A.No.I filed by the plaintiff U/O.39
Rule 1 and 2 of CPC is hereby rejected.**

No order as to cost.

Issues framed.

**For list of documents and for list of
witnesses if any.**

Call on 19-09-2025.

(Dictated to the stenographer typed by her, corrected by me and then pronounced in the open court on this the **2nd Day of September, 2025.**)

**(Smt. Mahalakshmi. G)
I Addl. Civil Judge & J.M.F.C.,
Channagiri.**