

**IN THE COURT OF THE CIVIL JUDGE AND J.M.F.C.
NAVALGUND**

Original Suit No.204/2025

Dated this the 23rd day of October, 2025

Present : Sri. Naveen F. Dsouza

B.B.A., L.L.B., (Spl).,

Civil Judge and JMFC., Navalgund.

Plaintiffs :1. Nirmala W/o. Nagesh Patted,
Age: 35 years, Occ: Agriculture,
R/o. Hallikeri, Tq: Annigeri,
Dist: Dharwad & others.

(By Sri.VPP/SVP.,Advvs.)

Versus

Defendants :1. Chandrashekar S/o. Andanappa Patted,
Age:65 years, Occ: Agriculture,
R/o. Hallikeri, Tq: Annigeri,
Dist:Dharwad & others.

(D-1-4 By Sri.VTK.,Advvs.)

PARTIES TO I.A.NO.1

Applicant : Nirmala W/o. Nagesh Patted & others.

Versus

Opponents : Chandrashekar S/o. Andanappa Patted

ANNEXURES

i	Provision of application	I.A.No.1)-U/o.39 Rule 1 &2 of CPC.
ii	Relief sought	T.I.
iii	The date of application	1)08.07.2025
iv	Number of the application	1
v	The date of objections	19.09.2025
vi	The date of order	23.10.2025

**ORDER ON I.A.NO.1 FILED BY THE PLAINTIFF
UNDER ORDER XXXIX RULE 1 & 2 OF CPC.**

The application is coming for disposal under the provisions of Order XXXIX Rule 1 and 2 of CPC wherein the plaintiffs have sought to restrain the Defendants.

SYNOPSIS.

2. The plaintiffs are before this court seeking to restrain the Defendants in perpetuity from causing obstructions to their peaceful possession over the suit property. Pending the adjudication of the suit, the Plaintiffs have sought to restrain the Defendants from causing obstructions to their possession.

3. To the contrary on being summoned the defendants have tendered their presence before this court and opposed the application citing that the suit property is the joint family property in the conjoint possession of the Defendants, hence sought for the dismissal of the application.

4. Having heard the rival contentions and on perusal of materials placed on record, this court has narrowed down the dispute to following points and they have been answered accordingly for the underlying reasons.

Sl. No.	Points	Answers
1.	Does the Plaintiff demonstrate a prima facie case?	In the Affirmative ,
2.	Does the Plaintiff demonstrate the existence of balance of convenience in his favor?	In the Affirmative ,

3.	Does the Plaintiff demonstrate the refusal of injunction to ensue irreparable loss upon him?	In the Affirmative ,
4.	What order?	As per final order, for the following;

REASONS

5. **Point No.1 to 3:** For the sake of brevity all 3 points are taken up together for discussion.

6. In the affidavit accompanying application it is pleaded that the Plaintiff No.1 is the mother of Plaintiff No.2 and 3. The plaintiffs have pleaded that the suit property, the erstwhile absolute property of the husband of Plaintiff no.1, has been gifted to the plaintiffs by registered deed on 24.03.2025 and since then the Plaintiffs have spent fortune for the cultivation of the suit property.

7. The plaintiffs have sowed horse gram over the suit property from the month of April. On 01.09.2025 the Defendants have obstructed the plaintiffs from harvesting the horse gram over the suit property. The defendants having no nexus with the suit property have obstructed the plaintiffs in their possession causing damage to the cultivation of crops and thus being constrained the plaintiffs are before this court.

8. To the contrary the defendants have asserted that defendant no. 1 is the father of defendant no.2 and the father of the husband of the plaintiff no.1. The plaintiff no.1 is the daughter-in-law of defendant no.1 and plaintiff no.2 and 3 are the grandchildren of defendant no.1. The suit property is stated to be joint family property purchased by defendant no.1 from the joint family nucleus in the name of the husband of plaintiff no.1.

9. It is asserted that defendant no.1, 2 and the husband of plaintiff no. 1 are joint family members and the Defendant no.1 is the kartha of the family. That for the development and the betterment of the joint family property the defendant no.1 has sold one of the family property bearing No.69/2 through defendant no.2 and from the proceeds accrued, the suit property has come to be purchased in the name of the husband of Plaintiff no.1.

10. The suit property is stated to be in the conjoint cultivation and possession of the defendants. The plaintiffs are stated to be the residents of Lakkundi village. It is stated that the gift made by the husband of defendant no.1 is in disguise to defeat the joint family arrangement of the defendants.

11. Furthermore, it is asserted that the defendants have cultivated the suit property and now the plaintiff under the disguised gift has instituted this false suit and is causing obstruction to the possession of the defendants. The title and the locus of the Plaintiffs is called in question and accordingly the suit and the application is sought to be dismissed.

12. The learned counsel for the plaintiffs would urge that the plaintiffs have come into possession of the suit property by the virtue of the gift made and it would be sufficient to hold a prima facie case in favour of the plaintiffs. It is also asserted in the course of arguments that the defendants having no regard to the relationship that they hold with the plaintiffs, have abused her verbally and have destroyed the crops that are grown on the land. It has also asserted that the claim of the defendants is not supported by any documents which in turn would make a prima facie case in favour of the plaintiff.

13. The learned counsel for the defendants to the contrary would urge that the suit has been filed in the name of the wrong defendant and the relief cannot be sought against the wrong defendant. It is also urged that the plaintiff have not pleaded the devolution of property before it had come to the ownership of the husband of the plaintiff no.1. He has asserted that the suit suffers from the relief of declaration as there is a cloud over title and a bare suit for injunction would not suffice.

14. Having given anxious consideration to the rival submissions and the documents, it is worth noting that the cause of the plaintiffs is injunction simpliciter on the strength of the gift duly registered. The gift is stated to be made by the husband of plaintiff no.1. The ownership of the husband of plaintiff no. 1 is not disputed.

15. Perhaps, it is stated that the donor held the suit property in the capacity of the joint family member. The defendants have adduced documents stating that there existed joint family and there have been sale transactions in respect of the joint family properties. The sale deeds in respect of the same are produced.

16. The plaintiff has brought in a simple cause, whereas the defendants are pleading existence of joint family property and thereon. The title is also called in question. It is stated that there existed a joint family and the suit property was in fact purchased by defendant no.1 in the name of the husband of the Plaintiff. On perusal of the documents laid by the rival sides, this court finds no recitals in any of the documents as to the existence of the joint family.

17. The defendants have adduced sale deeds and they bear no recital as to the existence of a joint family nucleus. Moreover, the assertions and the submissions made by the counsel for the defendants would venture out upon the merits of the case. The plaintiffs, in this present application, have only to demonstrate the existence of the prima facie case. No prima facie documents are tendered to show the joint possession of the Defendants.

18. The claim as tendered by the defendant is to be pursued in the course of trial and the same cannot be taken into consideration at this phase. It is asserted that the plaintiffs have not pleaded the devolution of the property. However the defendants when having asserted the devolution of the property have themselves not adduced any documents so as to improbabilise the plea of the plaintiff.

19. Having ascertained the rival submissions, this court has to restrict its adjudication only to the basic ingredients. As already discussed the documents adduced by the plaintiff would demonstrate the existence of a prima facie case.

20. Further the plaintiffs have also asserted that after the institution of the suit the defendants have caused obstructions to her and she has sought the aid of the police. The submissions of the defendants would also go to demonstrate that they have a claim over the suit property which would ensure that they are or likely to cause obstruction to the plaintiff.

21. The counsel for the defendant has placed his reliance upon the precedent in ¹**T. T.V. Ramakrishna Reddy v. M. Mallappa** wherein their Lordships have held that when there is

¹ AIR (2021) Supreme Court page 4293

a peculiar dispute as to the title of the plaintiff, the suit for injunction would not maintain.

22. He has also placed his reliance upon the precedent in **AIR 1998, Bombay, page 87**. Additionally, he has also placed his reliance upon the precedent in ²**Ajit Kaur alias Surjit Kaur v. Darshan Singh (Dead) Through LRS**. wherein their Lordships have held that mutation entry would not create any title.

23. The cited precedents would not aid the defendants because they would go to the merits of the case and the defendants have not tendered their defence. This court is ascertaining the application only on the basis of primary objection filed by the defendants and not on the basis of the defence that has been tendered.

24. The plea of declaration of title, existence of joint family nucleus would be a matter of trial. However when the defendants are sternly raising the clouds of title, they ought to have adduced documents stating the property is in fact in joint possession contradicting the gift. The defendants have not done so. Rather they have adduced sale deeds which would not reveal anything.

25. Rival sides have adduced photographs alleging abuse and obstruction from the rival sides. The photographs are adduced and perused. They are the photographs of the litigants standing somewhere in an open field and these photographs cannot be looked into for ascertaining the existence of prima facie case.

26. So far as the objection as to the suit filed in the name of the wrong defendant is concerned, the defendants have

received the summons and have also submitted the objections admitting the relationship in their objections. Hence the contradictory pleas cannot be taken.

27. Furthermore the Defendants have adduced affidavits of the individuals claiming to testify the possession of the Defendants over the suit property and also claiming to be the attesting witnesses to the deeds. The enquiry into the title is sought to be initiated.

28. The consideration of these affidavits would amount to a trial and this court is not obliged to consider the same. The erstwhile sale deed of the suit property and the gift would demonstrate the prima facie case as the Plaintiffs to be in the possession of the suit property.

29. Suffice that the plaintiffs have sought for the restraint upon the Defendants from causing obstructions to the possession. The Defendants who have un-adjudicated rights cannot precipitate to incline for unlawful processes. The assertions of the Defendants would demonstrate the balance of convenience to be inclined in favour of the Plaintiffs.

30. The Defendants if not restrained, would resort to unlawful enforcement un-adjudicated rights. If the temporary relief is not granted then the plaintiffs would suffer irreparable loss. Thus unless the reliefs are established by law by the Defendants, the Plaintiffs would qualify for the interim protection.

31. Additionally this court is in receipt of the principle that granting an interim injunction that effectively amounts to a final relief is impermissible. However as the 3 basic ingredients stand satisfied by the Plaintiffs, this court opines that the Plaintiffs

qualify for more necessitated relief of protection because the legal illiteracy of the litigant cannot be a ground for refusal of relief and accordingly the point No.1 to 3 answered in the **Affirmative.**

32. **Point No.4:** In the result the following

ORDER

*The I.A.No.1 filed by the plaintiffs under Order XXXIX Rule 1 and 2 of C.P.C., is hereby **ALLOWED.***

By an order temporary injunction the defendant no.1 to 4 or anybody claiming through or under them are hereby restrained from causing obstructions to the peaceful possession and enjoyment of Plaintiffs over the suit property the suit property, pending the adjudication of the suit.

The order of temporary injunction shall be in force for a period three months from the date of the order.

Provided that the Plaintiffs shall be entitled for the extension of the TI on the condition that during the period of 3 months the Plaintiffs conclude their chief examination without seeking unnecessary adjournments.

*(Typed and transcript revised by me, formatted by the steno, corrected and then pronounced by me in the open Court on this **23.10.2025**).*

(Naveen F. Dsouza)
Civil Judge and J.M.F.C.,
Navalgund.