

KAHS510003222024



Presented on : 05-02-2024

Registered on : 05-02-2024

Decided on : 23-04-2026

**IN THE COURT OF I ADDL. CIVIL JUDGE AND JMFC., BELUR**

**Present:-**

**Smt. Salma A.S.**

**B.B.A., LL.B.,(Hons)**

**I Addl. Civil Judge and JMFC., Belur.**

**Dated this, the 22<sup>nd</sup> day of April, 2026**

**O.S. No. 60/2024**

N.N. Madhu Sudan S/o late N.N. Hanumanthegowda and another

...Plaintiffs

-Versus-

Gangegowda S/o late Lakkegowda and others

....Defendants

**I.A. No.I**

N.N. Madhu Sudan S/o late N.N. Hanumanthegowda and another

...Applicants/ Plaintiffs

-Versus-

Gangegowda S/o late Lakkegowda and others

..Opponents/Defendants

(By- **Sri. C.C.S.**, Advocate for Plaintiff)

(By- **Sri. K.L.N.**, Advocate for Defendant No.1 to 3 )

**ORDERS ON I.A. NO.I**

1	Provision under which the application is filed	U/o 39 rule 1 and 2 of CPC.
2	Relief sought for	To restrain the defendants or anybody claiming under them from interfering with plaintiff's peaceful possession and enjoyment over the suit schedule property.
3	The date on which the application is filed	05.02.2024
4	Number of the application	I
5	The date on which the objections are filed by different opponents	21.10.2024
6	The date on which the orders were passed on the application	22.04.2026

That the plaintiff has filed IA No.I under order 39 rule 1 and 2 R/w sec. 151 of CPC with the prayer to restrain the defendants or anybody claiming under them from interfering with plaintiff's peaceful possession and enjoyment over the suit schedule property.

2. In support of the IA plaintiff has sworn an affidavit contending that, the present suit is filed for the relief of Permanent Injunction. That the plaintiff is the absolute owner and in peaceful possession and enjoyment over the suit schedule property. That the suit schedule property was purchased by the father of the plaintiffs N.N. Hanumanthegowda S/o Ningegowda under

registered sale deed dated 06.07.1997 executed by Sri. Mallegowda S/o Kengegowda with consent of defendant No.1 and 2. Originally the suit schedule property belongs to Mallegowda, he has executed sale deed in favour of 1<sup>st</sup> plaintiff's father. That after the purchase the Khata was transferred in the name of 1<sup>st</sup> plaintiff's father and he was paying taxes to the consent authorities. Thereafter in the partition effected between the brothers of 1<sup>st</sup> plaintiff's father an extent of 0.38 guntas was allotted to the share of 1<sup>st</sup> plaintiff's father and 0.38 guntas was allotted to the 2<sup>nd</sup> plaintiff including 0.04 guntas of Karab and he is paying property taxes to the concerned authorities. That all the revenue records are transferred in the name of the plaintiff. That the father of the 1<sup>st</sup> plaintiff has died and the 1<sup>st</sup> plaintiff is in possession of A schedule property. He has filed an application for change of Khata which is pending for consideration. That from the date of purchase the plaintiffs are the absolute owners and in possession of the suit schedule property. That the defendants without any manner of right are interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property and hence the present suit and IA. Hence the prima facie case and balance of convenience lies in favour of the plaintiffs and if Temporary Injunction is not granted the plaintiffs will be put to irreparable loss and injury. Hence prayed to allow the IA.

3. The defendants have filed a memo stating that, the contents of the written statement may be treated as objection to the IA. That the defendants have filed the written statement by denying the entire plaint averments in general and has specifically contended that, the propositus of the defendants family was one

Beeregowda, he has died around 50 years back. That Beeregowda had 2 sons by name Kengegowda and Lakkegowda and they have also died around 30 years back. That Kengegowda's son is Mallegowda. That Mallegowda has died on 27.10.2003. That the suit schedule property is the ancestral and joint family property of the defendants. That the suit schedule property originally belongs to Beeregowda. That after his death as per inheritance it was transferred in the name of Kengegowda. That after his death in the revenue records his son Mallegowda, has got entered his name without the knowledge of the defendants. The said fact was brought to the knowledge of the defendants recently. That the defendants are in peaceful possession and enjoyment over the suit schedule property and growing various crops. That in suit schedule property except the defendants no other person has got right, title or interest. That the plaintiffs have no right over the suit schedule property, but even then the plaintiffs are trying to trespass in the suit schedule property and letting the cattle graze in the suit schedule property and obstructing the defendants from carrying out any work in the suit schedule property. Thereafter on verification it was found that the Khata of the suit schedule property is standing in the name of the plaintiffs. Thereafter on verification it was found that Mallegowda has executed the sale deed infavour of plaintiffs father on 06.07.1987. That the said Mallegowda had no right to execute the sale deed in favour of plaintiffs father. That the said sale deed was executed behind the back of the defendants and without the consent of the defendants. That the said sale deed is void and did not came into force. That the 2<sup>nd</sup> defendant has got entered his name as per MR No.6/1994-95 based on partition the said revenue entries is also not binding

on the defendants. That the 1<sup>st</sup> defendant has filed the suit for declaration in O.S. No.37/2021 which is pending for consideration. That there is not cause of action to file the suit and hence prayed to reject the IA.

4. Heard learned counsel for the plaintiffs and defendants.

5. After perusal of the records of the case, the following points would emerge for my consideration:

1. Whether the plaintiffs have made out a prima-facie case?
2. Whether the balance of convenience lies in favour of the plaintiffs?
3. Whether the plaintiffs would be put to untold hardship and irreparable loss if the temporary injunction is not granted?

4. What order?

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

Point No.1: In the Affirmative,

Point No.2: In the Affirmative,

Point No.3: In the Affirmative,

Point No.4: As per final order for the

following:

### **REASONS**

7. **Point No.1 to 3:** I have taken these three points together for my common discussion as they are inter-linked with each other in order to avoid repetition of the same.

It is the contention of the plaintiffs that, plaintiffs are the absolute owners and in peaceful possession and enjoyment the schedule property. That the father of the 1<sup>st</sup> plaintiff has purchased the suit schedule property under registered sale deed dated 06.07.1987 executed by Sri. Mallegowda. That since from the date of purchase the plaintiffs are the absolute owners and in peaceful possession and enjoyment over the suit schedule property.

8. On the other hand the defendants have contended that, the suit schedule property is their ancestral property. That Mallegowda has executed sale deed infavour of plaintiffs father without their knowledge or consent and hence the said sale deed is not binding on the defendants. That the defendants are in possession of the suit schedule property.

9. In view of rival contentions put forth by both the parties, now let me see whether the plaintiffs have made out prima facie case and balance of convenience for grant of temporary injunction as prayed in I.A.No.I.

10. The plaintiffs in support of their case, have produced sale deed dated 06.07.1987 and RTC of property bearing Sy No.182.

11. On the contrary, the defendants in support of their case, have produced order sheet, plaint and issues in O.S. No.37/2021.

12. It is the contention of the plaintiffs that, the plaintiffs are the absolute owners and in peaceful possession and enjoyment over the suit schedule property being purchase the same under registered sale deed dated 06.07.1987. In order to substantiate

the same the plaintiffs have produced the certified copy of sale deed dated 06.07.1987. That the said sale deed is registered document. Hence it carries presumption of valid execution until the contrary is proved. That the defendants have contended that, the suit schedule property is their ancestral property Mallegowda had no right to execute the sale deed. That the sale deed was executed by Mallegowda without the knowledge or consent of the defendants and hence it is not binding on them and they are in peaceful possession and enjoyment over the suit schedule property. The defendants have not produced even a single document to show that, the suit schedule property is their ancestral property. On the other hand the plaintiffs have produced certified copy of sale deed and RTC to show that, the suit schedule property was purchased by 1<sup>st</sup> plaintiff's father Hanumanthegowda from Sri. Mallegowda. No doubt the said sale deed is challenged by defendants in O.S. No.37/2021. But that alone is not sufficient to hold that, plaintiffs are not in possession of the suit schedule property. In the sale deed there is mention about delivery of possession, sale deed being registered instruments it has to be presumed to be genuine until contrary is proved. Though the defendants are claiming to be in possession of the suit schedule property they have not even produced a single document to prove their possession over the suit schedule property. No doubt the rights of the parties will be subject to outcome of O.S. No.37/2021, but since the present suit is one for bare injunction it is only the possession and interference that matters. That the plaintiff has produced the RTC extracts of the suit schedule property which goes to show that, the suit schedule property is standing in the name of 1<sup>st</sup> plaintiff's father and 2<sup>nd</sup>

plaintiff. That the sale deed and RTC prima facie shows that, the plaintiffs are in possession of the suit schedule property and hence their possession has to be protected. It is the case of the plaintiffs that, the defendants are interfering with their possession over the suit schedule property mere apprehension is sufficient for grant of injunction. Moreover at present the defendants have filed suit by challenging sale deed of the plaintiffs. Hence there is reasonable apprehension in the mind of the plaintiffs regarding interference. Hence on perusal of the entire materials on records this court is of the plaintiffs have made out prima facie case and balance of convenience. If temporary injunction is not granted the plaintiffs will be put to irreparable loss and injury which cannot be compensated in terms of money. Hence I answered **Point No.1 to 3 in the Affirmative**

**13. Point No.4:** For the aforesaid reasons and discussions made supra, I proceed to pass the following:

### **ORDER**

IA No.I filed by the plaintiffs under Order 39 Rule 1 and 2 of Code of Civil Procedure is hereby **allowed.**

The defendants or anybody claiming under them are hereby restrained from interfering with plaintiff's peaceful possession and enjoyment over the suit schedule property till disposal of the suit.

Under the facts and circumstances of the case,  
no order as to costs.

*(Dictated to Stenographer, transcribed by her, transcription corrected by me and then pronounced in the open court on this, the **23<sup>rd</sup> day of April, 2026**)*

**(Smt. Salma A.S.)**  
**I Addl. Civil Judge and JMFC.,**  
**Belur.**