

**IN THE COURT OF PRL.CIVIL JUDGE & JMFC AT
CHANNARAYAPATNA**

Dated this the 23rd day of April, 2026

***Present: SMT. KUSUMA V. B.A.L, LL.B.,
Prl. Civil Judge & JMFC
Channarayapatna.***

O.S.No. 243/ 2026

Plaintiff : Smt. Lakshamma and Others

V/s.

Defendant : Sri. B.N. Bojaraju and Another

PARTIES IN IA NO.1

Applicant : Smt. Lakshamma and Others

V/s.

Opponent : Sri. B.N. Bojaraju and Another

**ORDERS ON I.A.1, FILED U/O 39 RULE 1 AND 2 OF CODE OF
CIVIL PROCEDURE 1908**

This application has filed by the plaintiffs praying to pass an ad-interim order of Temporary Injunction restraining the Defendants or their agents, P.A.Holders, workers or anybody acting on their behalf from interfering into the peaceful possession of the plaintiffs in respect

of property mentioned in this application till disposal of the suit in the interest of justice and equity.

2. In the accompanying affidavit, the plaintiffs have stated that they are co-owners and they have authorized to 1st plaintiff to swear to this affidavit and he well conversant with the facts and circumstances of the case. Hence he is swearing this affidavit. They are the absolute owners in lawful and physical possession of the landed property bearing Sy. No.32/1 measuring 22 guntas situated at Gurumaranahalli Village, Kasaba Hobli, Channarayapatna Taluk i.e suit schedule property. Originally the land in Sy. No.32, measuring 5 acres 11 guntas, 10 guntas of kharab total measuring 5 acres 21 guntas, situated at Gurumaranahalli belongs to Boraiah having acquired by virtue of grant, granted by the then Court of Asst. Commissioner, Hassan Division, Hassan. As per the grant, the said Boraiah became absolute owner of 5 acres 21 guntas in Sy. No.32 of Gurumaranahalli having RTC and Mutation in his name.

3. Between Boraiah and his elder brother Kalaiah there was a Partition in respect of said land, as per Partition 1 acre 14 guntas in Sy. No.32 of Gurumaranahalli fell to the share of Kalaiah and separate revenue documents effected in the name of Kalaiah. After the said

Partition the remaining land measuring 3 acres 36 guntas in the said Survey number retained by Boraiah, RTC and Mutation is registered in the name of Boraiah in respect of 3 acres 36 guntas in Sy. No. 32 of Gurumaranahalli. The said Boraiah being absolute owner of land measuring 3 acres 36 guntas in Sy.No.32 of Gurumaranahalli have executed registered WILL dated: 27.11.1979 in favor of plaintiff and in favor of Girish who died, the plaintiff No.3 is wife of Late Girish. By virtue of registered WILL dated: 27.11.1979 1st plaintiff and plaintiff No.2 and late Girish became absolute owners in possession in respect of said land measuring 3 acres 36 guntas in Sy. No.32 of Gurumaranahalli Village, thereafter plaintiff No.1 and 2 Late Girish and others sold converted land measuring 3 acres 15 guntas by way of various Sale Deeds in favor of Defendant No.1 and 2. The Defendant No.1 and 2 are confined for their ownership in respect of only converted 3 acres 15 guntas sold under various Sale Deeds.

4. The facts and circumstances stood thus the defendants who are utter stranger and no way concern to the suit schedule property, on 19.02.2026 around 11.00 a.m came to suit schedule property along with rowdy elements and illegally tried to interfere into peaceful possession of the plaintiffs in respect of suit schedule property and

illegally tried to dispossess them from the suit schedule property. Plaintiffs have made out a prima-facie case and balance of convenience lies in their favor to pass an order as sought in the application and prays to allow the application.

5. On the contrary the defendant No.1 and 2 have filed their written statement and filed memo adopting the same as objections to the said application. In there they denied all the averments made by the plaintiff. Further they stated that, the plaintiffs have no right to maintained the suit, the plaintiffs have suppressed the material true facts in respect of the suit schedule property and in the imaginary cause of action and concocted documents they have come up with this application to harass the defendants. Further they stated that admittedly the property bearing old Sy. No.32 is totally measuring 3 acre 37 guntas. Subsequently after converted the old Sy No.32 has been poded and renumbered as 32/2 measuring 3 acre 15 guntas (converted property) and 32/1 measuring 22 guntas (Road Margin Property). Both the properties are earlier jointly stands in the name of Lakshamma, Gowramma and Girisha and they have acquired the property by way of registered will.

6. It is further submitted that, the given up property to the widening of Road and other public works by Lakshamma, Gowramma and Girisha has been clearly mentioned in conversion sketch, in Mucchhalike pathra and in the report of Revenue Inspector dated: 28.08.1996 and also it has been clearly mention in Town Planning layout approved copy and also in layout sketch.

7. It is further submitted that, Lakshamma, Gowramma and Girisha and their family members have while executed the registered sale deeds in respect of sites which have been formed and converted by Lakshamma, Gowramma and Girisha and their family members, they have clearly mentioned the boundary to the south as 30 feet TMC Road. As per the approved layout plan it is clearly mentioned that there was a service road of 30 feet after sites then after service road their was a buffer zone and thereafter the B.M.Road of National Highway is exist. Accordingly there is no such property was possession and stands in the name of Lakshamma, Gowramma and Girisha as they have claimed as their property in Sy No.32/1 measuring 22 guntas.

8. It is further submitted that, as per their own undertaking and after exclude the property of 22 guntas of land in Sy No.32 to the road margin the Deputy Commissioner, Hassan has converted the land

bearing Sy No.32 measuring 3 acre 15 guntas into non agricultural residential purpose as per the alienation sketch which was prepared and undertaken by Lakshamma, Gowamma and Girisha. Subsequently they have formed the residential sites as per approved layout plan issued by Town Planning Authority Bangalore on 24.02.1996 and they have formed many as 48 sites. Subsequently stated supra the defendant No.1 and his brother have purchased entire 48 sites with various sale deeds in the year 2006, 2012, 2015 and 2017 from Lakshamma, Gowamma and Girisha and their family members. Subsequently after converted of land measuring 3 acre 15 guntas and merger of 22 guntas of land to widening of road, Lakshamma, Gowamma and Girisha have colluded with the revenue officials and also suppressed the fact of merger of road and by using undue influence they have got changed the RTC of 22 guntas of margin road land in their name. Subsequently the RTC of 22 guntas of land continued in the name of Lakshamma, Gowamma and Girisha. But the said property was not all exist and that is not in their possession and that property was merged to the NH B.M.Road and that property is in B.M.Road.

9. It is further submitted that the plaintiff have suppressed all these facts and only with an intention of knocking off the property and

harass these defendants and thereby to make a wrongful gain. The plaintiffs were never in possession and have filed this false and frivolous suit which is not at all maintainable and liable to be dismissed. Hence prays to reject the application.

10. Heard both side and perused materials available on record.

11. On perusal following point arise for consideration of this court.

- 1. Whether the plaintiffs have prima-facie case?**
- 2. Whether the balance of convenience lies in favour of the plaintiffs?**
- 3. Whether plaintiffs would be put to irreparable loss if the Injunction is dis allowed?**
- 4. What order?**

12. The findings to the above mentioned points are under:

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

13. Reasoning on Point No.1:- The plaintiff has filed the suit against the defendants for the relief of permanent injunction in respect of the suit schedule property. The present application has been filed by

the plaintiff praying to restrain the defendants from interfering with the peaceful possession and enjoyment of the suit schedule property till disposal of the suit.

14. The main contention of the plaintiffs is that, the boraiah being absolute owner in Sy No. 32 Measuring 3 acre 36 guntas have executed registered Will dated 27.11.1979. in favor of the plaintiff No.1 and 2 and husband of plaintiff No.3. they being the absolute owners of the said property they have got converted land measuring 3 acre 15 guntas out of 3 acre 36 guntas in Sy No. 32 of Gurumaranahalli. Thereafter they have sold the converted land to the defendant No.1 and 2 under various sale deeds. Remaining 22 guntas of land is standing in the name plaintiffs. They have in physical possession of the said 22 guntas. The said fact had been categorically denied by the defendants in their written statement. Further they have taken the contention that plaintiff No.1 and 2 husband of plaintiff No.3 have executed various sale deeds.

15. While giving requisition for converting the land for non agricultural purpose, the plaintiff have given undertaking later with respect to leave the property to widening of road and road margin property to Govt with out any consideration. Accordingly the said 22 guntas of land had been merged to road and plaintiff No.1 and 2 and

husband of plaintiff No.3 have already gave that property to the widening of road converted their property towards (BM Road) south of their converted property without any consideration. Accordingly there is no property of 22 guntas of land with plaintiff No.1 and 2 and husband of plaintiff No.3 after conversion of the property.

16. As per the defendants the property measuring 22 guntas i,e suit schedule property is not existence and national high way road. Now court has to consider whether the suit schedule property is situated with in the boundaries as mentioned in the schedule portion of the plaint. The said fact has to be considered after conclusion of evidence by both side. Therefore the plaintiffs have not made out sufficient grounds to allow the application. Hence, this court answered **point No.1 in the Negative.**

17. Reasoning on Point No.2 and 3: Since these two points are inter-related they are taken up together for consideration to avoid repetition. In view of the findings on point No.1, these points became purely academic. Having failed to prove the point No.1, the plaintiff has consequently failed to prove these two points as well. Hence this court **answer these two points in the Negative.**

18. Reasoning on Point No.4:- In view of the my findings on point Nos.1 to 3, this proceed to pass the following:-

ORDER

***I.A.NO.1 filed by the plaintiffs under Order
39 Rules 1 and 2 of CPC is hereby rejected.***

***(Dictated to the Stenographer, corrected and then pronounced by me in the open
Court on this the 23rd day of April-2026)***

***(SMT. KUSUMA V.)
Prl. Civil Judge & JMFC
Channarayapatna.***

(Order Pronounced in open court, Vide
separate Order)

ORDER

*I.A.NO.1 filed by the plaintiffs
under Order 39 Rules 1 and 2 of CPC is
hereby rejected.*

For issues.

Call on: 22.06.2026.

(Smt. Kusuma V)
Prl. C.J. & JMFC,
Channarayapatna.