

KAHS710017282025



**THE COURT OF THE I ADDL. CIVIL JUDGE & J.M.F.C., AT
HOLENARASIPURA**

DATED THIS THE 23rd DAY OF MARCH 2026

PRESENT

**SMT. AISHWARYA S.G., B.A. LL.B., LL.M.
I ADDL. CIVIL JUDGE & JMFC,
HOLENARASIPURA.**

O.S. No.406/2025

PLAINTIFF : Savithramma W/o. Late Kalegowda
(By Sri.M.E.SM., Advocate)
V/s

DEFENDANTS : Nagamma W/o. Late Ramegowda
and others
(By Sri.V.R.S., Advocate)

I.A.No.II

APPLICANT : Savithramma W/o. Late Kalegowda
V/s

OPPONENTS : Nagamma W/o. Late Ramegowda
and others

**ORDER ON IA NO.II FILED U/O 39 RULE 1 AND 2 OF
CPC**

Plaintiff has filed this application seeking an restraining order of temporary injunction against the defendants from interfering with his possession of the plaintiff over the suit schedule property.

2. The set of facts discernible from affidavit is summarized as follows:

That, the plaintiff was in tenancy possession and enjoyment of the suit property prior to 1974 by and on 20.09.2002 the suit schedule property was granted to plaintiff through LRF 1/1999-2000. Consequently, the revenue records were mutated in her name by virtue of MR 1/2003-04 and pursuant of which plaintiff continued to be in possession and enjoyment of the suit property, having duly demarcated the boundaries of property through Hadbast, and remained in the possession as on the date of institution of suit. when such was the scenario, defendants having no manner of right or title over the suit schedule property started to interfere with possession of the plaintiff and in protecting the possession the plaintiff lodged a complaint to the jurisdictional police however, the police on 08.09.2025 and despite the police having advised, defendants did not mend their ways.

And left with no other efficacious remedy plaintiff has knocked on the doors of this court seeking the relief of permanent injunction in main suit and through this application seeking relief of temporary injunction against the defendants till the disposal of this suit.

3. Upon the admission of the application the notice of the same was issued to defendants in pursuance of which they appeared through counsel and filed a memo to consider the written statement as objection to the application.

Gist of the Written statement.

The defendants, denied the plaint averments in toto and submitted that the suit property is the ancestral property of the defendants and they are in possession of the same for over a period of

50 years and having dug a well in the property and having laid pipeline they are cultivating the land. And despite having no relevance with the property plaintiff, by falsely creating the documents, have instituted the suit. Contending the same defendant prays for the rejection of the application.

4. Heard respective counsel.

5. Upon hearing the arguments and on perusal of the materials placed on record the following points arises for the consideration of this court

1. Whether the plaintiff has made out prima-facie case?
2. Whether the plaintiff has balance of convenience in his favour?
3. Whether the plaintiff would be subjected to irreparable losses if the temporary injunction is not granted?
4. What order?

6. Upon appreciation of the averments placed on record in the background of the arguments advanced, court's findings for the above points are as under:

Point No.1: In affirmative

Point No.2: In affirmative

Point No.3: In affirmative

Point No.4: As per final order for following-

REASONS

7. **Point No.1:** In order to substantiate her claim, the plaintiff has relied upon the order copy of the LRF 1/1999-2000 and it is

forthcoming that the special land acquisition officer had granted the property bearing Sy. No 38/8 situated in Ankanahalli village in favour of the current plaintiff based on her tenancy possession. Further, it is corroborated with the Form No 1 annexed with particulars of the Hadbast proceedings such as Survey sketch, prior survey notice and spot statement. Further, MR 1/2002-03 is placed on record to substantiation of mutation pursuant to the grant order and RTC extract of the Sy. No 38/8 from the year of 2008-2025 are placed on record to substantiate the possession of the plaintiff over the property. On perusal of the RTC extracts, it is forthcoming that the name of the plaintiff is being reflected in Cl no 9 for all years. Furthermore, the tax paid receipt and copy of the complaint lodged before police are placed on record. In protesting the claim of the plaintiff, the defendants have placed on record the documents as follows. Notarised copy of the genealogy tree reflecting the family of the defendants. Hand written RTC extracts, o of the year of 1992-2001, pertaining to the Sy. No 38/8 which evidences name of the one Puttamma, who is stated to be the propositus of the defendants. Further, survey notice copy and the application submitted to the survey authorities by the defendant. And Encumbrance certificate and photostats have been placed on record.

8. The current suit is one for bare injunction, wherein the primary consideration for the Court is the possession of the plaintiff over the suit schedule property as on the date of the suit. In such a suit, unless the title is admitted or free from dispute, the Court cannot embark upon a detailed inquiry into complicated questions of title. Upon consideration of the documents in the background of the argument

canvased by respective parties, it appears to the court that at this juncture, not only the possession but the very title of the plaintiff is disputed by the defendants.

9. It is pertinent to note that, the plaintiff claims that she had come into the possession of the suit property through the LRF 1/1999-2000, and from the order copy of the same it is forthcoming that plaintiff was in tenancy possession over the suit property and subsequently, through the said order the land was granted in favour of the plaintiff.

10. the present case, the documents placed on record by the plaintiff establish the presumption in favour of the possession of the plaintiff over the suit property, though the said presumption is available for the rebuttal however, the documents produced by the defendants and the contention taken by them in written statements are insufficient in rebutting the prima facie of claim of the plaintiff. At present, there is no material to displace the presumption arising from the revenue records standing in the names of the plaintiff as oral averments the defendants cannot prevail over the documentary evidence advanced by the plaintiffs.

11. Though the defendants have taken the contention that the entire LRF proceedings was illegal and was without the knowledge of the defendant, however the contention requires a full- fledged trial and it is settled proposition of the law that at the juncture of the application under order 39 rule 1 and 2 the court shall not conduct a mini trial. In the circumstances, this Court opines that the plaintiff has made out a prima facie case. And if interference is not restrained, the plaintiff, who is shown in the revenue records and claim to be cultivating the land, would be put to hardship and multiplicity of proceedings. The

balance of convenience, therefore, lies in preserving the existing state of affairs until the rights of the parties are finally adjudicated. Any interference at this stage would cause injury which cannot be adequately compensated Accordingly, Point No.1, 2 and 3 are answered in the **affirmative**.

12. Point No.4: For the said reasons, this Court proceeds to pass the following:

O R D E R

The I.A. No II filed by the plaintiff is hereby allowed.

Consequently, the defendants, their representatives, their agents, or any person acting on behalf of the defendants is hereby temporarily restrained from interfering with peaceful possession and enjoyment of the plaintiffs over the suit property till disposal of the suit

(Dictated to the stenographer directly on the computer, typed by her, corrected by me and then pronounced in the open Court, this 23rd day of March 2026).

**(Smt.AISHWARYA S.G.)
I ADDL. CIVIL JUDGE & JMFC.,
HOLENARASIPURA.**