



IN THE COURT OF THE PRL CIVIL JUDGE & JMFC.,
SAKALESH PURA

-.PRESENT:-

Sri. Lakshmi Narasimha R.V. B.A.L., LL.B.,

Prl. Civil Judge & JMFC., Sakaleshpura.

Dated this the 15th day of April, 2026

O.S. No.203/2025

Plaintiffs : Smt. Parvathamma and others

V/s.

Defendants : Sri. H.T. Sagunashetty and another

I.A. No. II

Applicants : Smt. Parvathamma and others

V/s.

Opponents : Sri. H.T. Sagunashetty and another

ORDERS ON APPLICATION FILED BY THE PLAINTIFFS
UNDER ORDER XXXIX RULE 1 AND 2 OF C.P.C

The plaintiffs have filed this application under order XXXIX Rule 1 and 2 of CPC praying this court to pass an order of an ad-interim temporary injunction restraining the



defendants, their agents, henchmen or anybody claiming on their behalf from interfering with the possession of suit schedule 'B' property and dispossess the plaintiff from the house property till the disposal of the suit.

2. In the affidavit annexed along with the application, plaintiff No.1 has averred that they have filed the present suit for the relief of permanent injunction against the defendants. The suit schedule properties are the ancestral properties of her husband Chandrashetty, acquired under the family partition, Accordingly, the revenue records got mutated in the name of husband of plaintiff by name H.T.Chandrashetty. He had also constructed suit schedule B house property 40 years ago and was residing thereon. He died on 23.11.2023. The plaintiffs being the legal heirs, continued the estate of the said Chandrashetty.

3. She has further contended that the defendants having no any right, title or interest over the suit schedule 'B'



property, tried to interfere and encroach the property and dispossess the plaintiffs from house property. The plaintiffs inspite of approaching the jurisdictional police went in vain. Defendant No.2 has filed a suit vide O.S.No.301/2025 against the plaintiff. The application filed under Order 39 Rule 1 and 2 was came to be dismissed in the said suit. Defendant No.2 had also filed a suit vide O.S.No.41/2019 against the husband of plaintiff No.1. The said suit was also came to be dismissed on 29.01.2024. The plaintiff have also filed a suit vide O.S.No.378/2023 against the defendants and pending for consideration. The plaintiffs have got prima-facie case and balance of convenience in their favour. If the application is not allowed, they will be put to irreparable loss and injury. Hence prayed to allow the application.

4. Upon the service of summons, the defendants have appeared before the court through their counsel filed written statement cum objections to the application by denying averments in toto. It is the contention of defendants that the



suit schedule property was originally belonging to father of defendant No.1 by name Thimmashetty S/o Venkatashetty. Suit schedule 'A' property is the self acquired property of Thimmashetty. He has bequeathed the same through a Will dated 29.09.2011 in favour of defendant No.2. The defendants are the grand children of late Thimmashetty. Defendant No.2 had filed petition seeking for Letter of Administration before Hon'ble V Addl. District and sessions Judge, Hassan in P & SC No.24/2022. The said petition was allowed and granted Letter of Administration Certificate in favour of defendant No.2. Hence, defendant No.2 became absolute owner in possession of the suit schedule property.

5. They have further contended that when defendant No.2 applied for the mutation of revenue records, plaintiff No.1 filed Misc petition to set aside the order passed in P & SC No.24/2022 and the same is pending for consideration. The said Thimmashetty executed a Will in favour of defendant No.2. The plaintiffs by suppressing all the material facts, have



filed this suit. Suit schedule 'B' property is not situated in Sy No.38/2 and there is no any immovable structure in the said land. The plaintiffs have also filed a suit vide O.S.No.378/2023 for permanent injunction by taking the contention that the land to an extent of 4 acres 7 guntas has fallen to the share of husband of plaintiff under the oral partition. A suit vide O.S.No. 26/2024 is also pending in respect of the suit schedule property. There is no any recital as to existence of house property in Sy No.38/2. The plaintiffs have taken contrary contentions. Hence, they are not entitled to any reliefs. Accordingly, prayed to dismiss the application.

6. On basis of the application, plaint, written statement and documents on record, the following points that arise for the determination of this court.

- 1.** Whether the plaintiffs have made out prima-facie case in their favour?
- 2.** Whether the balance of convenience lies in favour of the plaintiffs?



3. Whether the plaintiffs will be put to great hardship and irreparable loss if, order of temporary injunction is not granted?

4. What order?

7. Heard arguments on behalf of both the parties.

8. My finding on above points are as follows:-

Point No.1 : In the *Affirmative*

Point No.2 : In the *Affirmative*

Point No.3 : In the *Affirmative*

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

::REASONS::

9. **Point No.1 to 3:** Since these points are inter connected with each other, they are taken together for the discussion in order to avoid the repetition of the facts and circumstances.

10. The plaintiffs have filed the present suit for the relief of permanent injunction against the defendants. The plaintiff have filed this application in respect of house property in suit schedule 'B' property. It is the contention of the



plaintiffs that they are in possession of suit schedule 'B' property since 40 years by constructing the house. On the other hand, the defendants have contended that the suit schedule property is originally belonging to one Thimmashetty and he had executed a Will in favour of defendant No.2. On perusal of the documents, it appears on prima-facie that defendant No.2 and his brother had filed a petition vide P & SC No.24/2022 before the Hon'ble V Addl. District and Sessions Judge, Hassan. The Hon'ble vide order dated 31.08.2023 issued Letters of Administration in his favour. It can also be seen that plaintiff No.1 has challenged the said order and the same is pending for consideration.

11. Further it can be seen on prima-facie that the plaintiff have also lodged complaint before jurisdictional police on the ground of forgery of the documents. Further, it can be seen on prima-facie that the plaintiffs have filed a copy of certificate issued by Malali village Panchayath wherein it is stated that Chandrashetty is residing in suit schedule 'B'



Property. It is also seen on prima-facie that the plaintiff are paying taxes and electricity bill appears in the name of husband of plaintiff No.1. The plaintiffs have filed this application to restrain the defendants from dispossessing them from the suit schedule 'B' property. As such, by considering the above facts and circumstances at this stage, it is the plaintiffs have succeeded to show that they have got prima-facie case and balance of convenience in their favour and also they would put to irreparable loss and injury if the application is not allowed. Accordingly Point No.1 to 3 are answered in the *Affirmative*.

12. Point No.4: For the above discussed reasons, this court proceeds to pass the following:

::ORDER::

Application No.II filed by the plaintiff under order XXXIX Rule 1 and 2 of C.P.C. is hereby allowed.

The defendants or their agent or henchmen or anybody claiming on behalf



of them are hereby temporarily restrained from causing obstruction to the possession of suit schedule “B” house property (only) till further orders.

No costs.

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 15th day of April, 2026]

[Lakshmi Narasimha R.V,
Prl. Civil Judge and JMFC,
Sakaleshpura.