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O.S.No.218/2025

**IN THE COURT OF THE C/C I ADDL CIVIL JUDGE &  
JMFC., SAKALESH PURA**

**-.PRESENT:-**

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

C/c I Addl. Civil Judge & JMFC., Sakaleshpura

**Dated this the 18<sup>th</sup> day of March, 2026**

**O.S. NO.218/2025**

**PLAINTIFF** : Sri. Prashanth Kumar A.V.  
and others

**V/s.**

**DEFENDANTS** : Sri. B.D. Prabhu Shankar

**I.A. No.II**

**Plaintiff/Applicant** : Sri. Prashanth Kumar A.V.  
and others

**V/s.**

**Defendants/Opponents** : Sri. B.D. Prabhu Shankar

**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 enjoyment the suit schedule property till the disposal of the suit.

2. In the affidavit annexed along with the application, the plaintiff No.1 has averred that, they have filed the present suit for the relief of permanent injunction against the defendants in respect of the suit schedule property. The suit schedule property was originally belonging to their forefather by name Nanjunda Shetty and grand father's brother A.N. Varadarajulu, acquired under a registered sale deed. The said Nanjundashetty had two children by name A.N. Varadarajulu and A.V.Gundappa @ Gundappa Shetty. The Said Varadarajulu had no any issues. As such, he transferred the suit schedule property in favour of the father of plaintiff by name A.G.Venkatarathnam through a GPA. During the life time of said A.N. Varadarajulu, the revenue records got mutated in the name of the father of plaintiff A.G.



Venkatarathnam vide M.R. No.10/1995-96. Thus, he was in possession and enjoyment of the suit schedule property.

3. He has further contended that A.G. Venkatarathnam died in year 2011. Thereafter his wife Meenakshamma and the plaintiffs being the legal heirs, continued the estate of said A.G. Venkatarathnam and the revenue records of the suit schedule property got mutated in the name of Meenakshamma vide MR No.11/2015-16. Thus the plaintiffs are the absolute owners in possession of the suit schedule property. The suit schedule property was self acquired property of A.N. Varadarajulu. The brother of the father of the plaintiff by name Nanjundashetty is taking care of the properties. The plaintiffs are residing at Bengaluru. By taking advantage of the same, the defendant having no any right, title or interest over the suit schedule property, has tried to interfere with the possession and tried to dispossess the plaintiffs from the suit schedule property. 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 defendant has appeared before the court through his counsel and filed written statement and also memo to adopt the written statement as objections to IA.No.II. It is his contention that the plaintiffs do not possess any land in Sy No.49/1. The said A.N.Varadarajulu had sold all his properties in Sy No.49 and other properties prior to 1966. Hence, the question of acquiring rights by the plaintiffs on basis of alleged GPA do not arise. The plaintiffs have filed the present suit on basis of created documents. The plaintiffs have not impleaded the said Meenakashamma in the suit.

5. He has further contended that the land bearing Sy No.49 of Bage village, Belagodu Hobli, Sakaleshpura Taluk is totally measuring more than 300 acres and it is phoded from



No.1 to 21. The said A.N. Varadarajulu has sold the land bearing Sy No.49, measuring 5 acres 20 guntas in favour of the father of defendant by name B.S. Devaraju through a registered sale deed dated 18.04.1966. The said property is bounded on East by: Sy No.47 and boundary of Yadehalli village, West by: Pulper house of A.G. Gopalakrishna, North by: Sy No. 48 and South by: Basavanahalla. The said A.N.Varadarajulu has also sold the land to an extent of 43 acres in Sy No. 49 in favour of one B.D. Shashidhar and the land to an extent of 43 acres of in Sy No.49 in favour of one B.D.Basavanna through a registered sale deed dated 18.04.1966. Thus, he has sold the property to an extent of 91 acres. By virtue of the Registered partition deed in the year 1971, the land extent of 5 acres 20 guntas in Sy No.49 has fallen to the share of the defendant. The revenue records have also got mutated in his name. Now, the plaintiffs have filed this suit by including the boundaries of the above property



with intention to grab the property of the defendant. The boundaries mentioned in the sale deed and the plaint are one and the same. Hence, the plaintiff is 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. Perused the application, affidavit, objections and records placed before this court.

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



**Point No.1** : In the *Negative*

**Point No.2** : In the *Negative*

**Point No.3** : In the *Negative*

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

**::REASONS::**

**8. 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.

**9.** The plaintiffs have filed the present suit for the relief of declaration and permanent injunction against the defendant in respect of the suit schedule property. The plaintiffs have mainly contented that the brother of grand father of the plaintiff by name A.V. Varadarajulu had acquired the rights over the suit schedule property through a registered sale deed. He was issue less. Hence, the father of plaintiff had acquired the ownership of the suit schedule property through a GPA. Whereas, at this stage, the plaintiffs have not produced



any documents as alleged. Moreover, whether the rights can be acquired by way of GPA is required to be adjudicated after full fledged trial. The plaintiffs have claiming the reliefs only on basis of the revenue records. On the other hand, the defendant has contended that The said A.V.Varadarajulu had executed a registered sale deed dated 18.04.1966 in respect of land bearing Sy No.49, measuring 5 acres 20 guntas in favour of the father of defendant by name B.S.Devaraju. The defendant has produced the copy of the sale deed. On perusal of the same, it appears on prima-facie that the said property is bounded on East by: Sy No.47 and boundary of Yadehalli village, West by: Pulpar house of A.G.Gopalakrishna, North by: Sy No. 48 and South by: Basavanahalla.

**10.** The very contention of the defendant is that now the boundary of Yadehalli village has become Bage-Hosakere Road, The pulper house of Gopalakrishna situated towards western side got mutated in the name of his children Srinivas



Murthy and Prasanna Kumar bearing No.49/11 and 49/12. The property of the defendant bearing Sy No.48 is in existence towards northern side and Basavanahalla is still in existence towards southern side of the property. On perusal of the sale deed, it appears on prima-facie that there is no any recitals as to remaining property of the said A.N. Varadarajulu in the land bearing Sy No.49. The plaintiffs are claiming the rights over the suit schedule property on basis of the revenue records. On the other hand, the defendant has contended that A.N. Varadarajulu executed a registered sale deed.

**11.** It is general rule that registered deed prevail over the revenue records. The revenue records presumed to be genuine unless contrary is proved. At this stage, the defendant has come up before the court and alleged that the said A.N. Varadarajulu has already executed a registered sale deed dated 18.04.1966 in favour of the father of the defendant. Hence, the said aspect has to be determined. The documents



produced by the both parties discloses as to cloud over the possession of the suit schedule property which required to be adjudicated after full fledged trial.

**12.** Moreover, on perusal of the pleadings, it appears that there is dispute as to boundaries and encroachment of the suit schedule property. It is to note here that in a decision reported in *ILR 2005 KAR 884 (T.L.Nagendra Babu v/s Manohar Rao Pawar)* the Hon'ble High Court of Karnataka held that without identification of the property, the temporary injunction cannot be granted. From the above decision, it is clear that in the absence of the materials with respect to identification of the property, the injunction cannot be granted. Hence, at this stage the plaintiffs have failed to prove the prima-facie case and balance of convenience in their favour.

**13.** Further, the plaintiff has not stated anything as to in what manner the defendant is causing obstruction. The plaintiff has not produced any piece of documents for having



obstructions caused by the defendants. Under such circumstances, at this stage, the plaintiffs have failed to show prima-facie case in their favour. In the case of ***Dalpat Kumar and another V/s Prahalad Singh*** and others, the Hon'ble Supreme Court of India has held that, the 'balance of convenience' must be in favour of granting injunction. The court while granting or, refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief of injury which is likely to be caused to the parties, if the injunction is refused and compare it with that is likely to be caused to the other side if injunction is granted.

14. It is pertinent to note here that in the case on hand, the plaintiffs have failed to make out prima-facie case and balance of convenience in their favor. Further, they have also failed to show the irreparable loss and injury if the application is not allowed. Thus, this court is of the opinion of that a full

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pledged trial is required to prove the contentions of the plaintiff. As such, at this stage the plaintiffs have failed to prove the ingredients, which are necessary for order of temporary injunction. In view of the above said reasons points No.1 to 3 are answered in the **Negative**.

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

**::ORDER::**

IA No.II filed by the plaintiffs  
under order XXXIX Rule 1 and 2 of  
C.P.C. is hereby dismissed.

No costs.

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 18<sup>th</sup> day of March, 2026]

[Lakshmi Narasimha R.V,  
C/c I Addl. Civil Judge and JMFC,  
Sakaleshpura.