

IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.,
HANGAL

PRESENT: Smt.Aishwarya Chidanand Pattanshetti, B.COM, LL.M.,
Civil Judge & J.M.F.C., Hangal.

O.S.No.26 of 2026

DATED THIS THE 2nd DAY OF JUNE 2026

Plaintiffs	1	Smt.Kavita W/o Revanappa Haligondra, Age: 37 years, Occ: Agriculturist, R/o: Karekyatanahalli village, Tq: Hangal, Dist: Haveri and another.
		(By Sri.B.S.Dalavai - Adv.,)

V/s.

Defendants	1	Sri. Shivarayappa S/o Shiddalingappa Kupagaddi, Age: 79 years, Occ: Agriculturist, R/o: Karekyatanahalli village, Tq: Hangal, Dist: Haveri and 2 other.
		(By Sri.S.S.Hiretanad - Adv.,)

PARTIES TO I.A.No.I

Applicants/ Plaintiffs	1	Smt.Kavita W/o Revanappa Haligondra and another.
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V/s.

Opponents/ Defendants	1	Sri.Shivarayappa S/o Shiddalingappa Kupagaddi and 2 other.
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I	Provision under which the application is filed	U/o.XXXIX Rule 1 & 2 of C.P.C.,
II	Relief sought for	Temporary injunction
III	Date on which the application is filed	13-01-2026
IV	Number of application	I.A.No.I
V	The date of which objections filed by the different opponents	17-01-2026
VI	Date on which the order was passed on said application	02-06-2026

(Smt.Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC.,
Hangal.

ORDERS ON I.A.No.I FILED U/O XXXIX RULE 1 AND 2
OF CPC

The applicant/plaintiff No.1 has filed this application U/o.XXXIX Rule 1 & 2 of C.P.C., seeking to restrain the defendants from interfering, trespassing and obstructing the plaintiff's peaceful possession and enjoyment in/over the suit schedule property till disposal of this suit by way of ad-interim temporary injunction.

2. In the affidavit annexed to the application, the applicant/plaintiff No.1 by reiterating facts asserted in the plaint has deposed to the facts that the plaintiffs have filed

this suit against the defendants for the relief of declaration and permanent injunction. It is further contended that, the suit schedule property bearing R.Sy.No.24 measuring 10 acres 7 guntas belonged to one Sri.Bheemanagouda Basalingagouda Patil who sold to Shiddalingappa Shivappa Kupagaddi who is/was none other than the father of the defendant No.1, who along with his son i.e., the defendant No.1, entered into an amicable partition with respect to suit schedule property.

(b) Further, the husband of the plaintiff No.1 and father of the plaintiff No.2 by name Sri.Revanappa Ajjappa Haligonder @ Kupagaddi was in exclusive possession of the property to the extent of 3 acres of northern side of R.Sy.No.24 which is bounded by east by R.Sy.No.25, west by R.Sy.No.6, north by R.Sy.No.23 and south by remaining portion of R.Sy.No.24 which is in the possession of defendant No.1.

(c) Since the year 1998 the defendant No.1 was in peaceful possession and enjoyment of the adjacent portion of 7 acres 7 guntas in R.Sy.No.24, which is abutting to the southern side of 3 acres which is in the possession and enjoyment of Sri.Revanappa Ajjappa Haligonder @

Kupagaddi and it is clear, open and hostile to the ownership/title of the defendant No.1.

(d) Further, the defendant No.1 considering the animus possidendi/hostile possession of Sri.Revanappa Ajjappa Haligonder @ Kupagaddi entered into settlement/partition in the year 2000 in the presence of elders of the village and witness and based on joint vardi given to the revenue authorities 3 acres was entered in the name of Sri.Revanappa Ajjappa Haligonder @ Kupagaddi and it is continued till the year 2011-12 in the revenue records.

(e) Now, sons of defendant No.1 i.e., the defendant No.2 and 3 entered into partition only with respect to 7 acres 7 guntas based on the partition deed, 11E sketch, HL-4 by admitting said respective parties and after certification of said documents the land in R.Sy.No.24 discreted into 3 parts as per MR.No.H25/2011-12 and as per said MR, the 3 acres land as R.Sy.No.24/*/1 was registered in the name of Sri.Revanappa Ajjappa Haligonder @ Kupagaddi which is the suit schedule property in the instant suit and Sri.Revanappa Ajjappa Haligonder @ Kupagaddi was in peaceful possession and

enjoyment of the said property since 1998 within the knowledge of the defendant No.1 to 3.

(f) Such being the facts and circumstances of the suit, Sri.Revanappa Ajjappa Haligonder @ Kupagaddi availed bank loans and was also paying tax to the concerned department. Unfortunately, on 05-09-2020 Sri.Revanappa Ajjappa Haligonder @ Kupagaddi died by leaving behind the plaintiffs and as per MR.No.H29/2020-21 the names of the plaintiffs was entered in the revenue records and since then the plaintiffs are in peaceful possession and enjoyment of the said suit schedule property as owners, openly, continuously, uninterruptedly, without anybody's obstructions.

(g) Thereafter, during the month of November 2025 the defendants trespassed into the suit schedule property to inhibition of the plaintiff's peaceful possession and enjoyment by interfering with the cultivation, by despising the cultivatory possession right and possession of the plaintiffs in/over the suit schedule property and despite several request the defendants did not turn up to oblige and the said act of the defendants was brought before the elders of the village but it went in vain. Ultimately, with no alternative, the plaintiffs have filed this suit for declaration

and consequential relief of permanent injunction against the defendants.

3. (a) In response to suit summons, the defendant No.1 to 3 have appeared through their respective counsels and filed their written statement and have filed a memo to treat their written statement as objection to I.A.No.I. It is specifically contended that, the father of the deceased Sri.Revanappa, Ajjappa Haligonder @ Kupagaddi originally hailed from Vasan village of Hangal Taluk and was having 3 daughters by name 1.Cennavva 2.Mahadevakka, 3.Rudravva along with Revanappa. Sri.Ajjappa during the life time of Sri.Shiddalingappa migrated to Karekyatanahalli. Since, Ajjappa was having no source of income and residence he approached Sri. Shiddalingappa and requested to provide residence for a couple of days till getting shelter.

(b) Further, Sri.Ajjappa was having landed property in Vasan village which was a barren land. Hence, Shiddalingappa advised him to sell the said property and that he will assist to purchase a land in Karekyatanahalli village. Even after demise of Shiddalingappa the defendant No.1 assisted Sri.Ajjappa for purchasing the land bearing R.S.No.106/*/1. Even after demise of his father the

defendant No.1 allowed Revanappa to continue their possession over the said house.

(c) Due to ill-health of defendant No.1 and with blind trust on Revanappa the defendant No.1 allowed Revanappa to look after the property and for which the Revanappa had taken signature of defendant No.1 on some blank papers and created and concocted documents and entered the property in his name and mutated his name to the suit schedule property as owner.

(d) During the year 2011 the defendant No.1 intended to partition the family property and at that time the defendant No.1 came to know about the illegal entry of the name of Revanappa and in the panchayath Revanappa apologized to the defendant No.1 in panchayat and agreed to re-mutate the suit property in the name of defendant No.1. Thereafter, as per the advise of the elders of the village, the defendant No.1 partitioned the remaining property and handed over the actual possession of the suit schedule property.

(e) Thereafter, Revanappa postponed the re-mutation of the suit schedule property in the name of defendant No.1 but unfortunately before changing the mutation entry

Revanappa died by leaving behind the plaintiffs as his legal heirs. Further, the plaintiffs on the ill-advice of one Raju Gondi and by misusing the name appearing in the RTC of suit schedule property filed this false suit against these defendants and the plaintiffs by misusing the name of Revanappa appearing in record of rights and succeeded to get it mutated in their names as legal heirs of Revanappa.

(f) Further, the plaintiffs do not belong to the defendants' family and they are not relatives of the defendants and the suit schedule property is not separate property of defendant No.1 and the defendants along with daughters of defendant No.1 are also having vested interest in the suit schedule property. That the prayer of the plaintiffs itself is self destructive and plaintiff's suit is based on vague pleadings and suffering for lack of necessary pleadings and pleadings are required under law of adverse possession and not complied the ingredients of law of adverse possession. As such the suit of the plaintiffs is not tenable and deserved to be dismissed.

(g) During the year 1998 the deceased Revanappa was a minor and as such the question of acquisition of possessory title itself is meaningless and further without admitting the claim of plaintiffs and without prejudice to

the defense taken for the sake of arguments, if the claim of plaintiffs is admitted to the extent that, Revanappa acquired title and share in partition effected by defendant No.1 in the year 2000 and then deceased Revanappa and the defendant No.1 have become cousins as such it is suffice to hold that, the claim of the adverse possession against the co-owner is not permissible under the law. On these grounds the suit of the plaintiff is not maintainable.

(h) The defendants have contended that the plaintiffs though they are in actual possession of suit schedule property only based on illegal entries in the record of rights filed this false application by misguiding to this Court. On these grounds, the defendants prayed to dismiss the application with costs.

4. Heard the arguments of both the sides and perused entire materials available on record at this stage.

5. The points that would arise for consideration of this court are as follows:-

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

3. Whether the comparative hardship and injury caused to the plaintiffs is more when compared the same to the defendants?

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;***

-: R E A S O N S :-

7. **Point No.1 to 3:-** Since, these three points are interconnected with each other, the determination of which requires common facts and materials. Hence, these points are taken together for common discussion, in order to avoid repetition of facts. Admittedly, the plaintiffs have filed the present suit for the relief of declaration and permanent injunction and other reliefs against the defendants in respect of the suit schedule property.

8. Before having discussion on the merits of the application, it is just and necessary to bear in mind that, the interim order of injunction would be granted as an aid to the main relief. It is pertinent to note that, at this budding

stage of the proceedings the Court need not conduct a mini trial. It is also necessary to bear in mind that, even after placing of the requisite materials in respect of aforesaid three ingredients, the Courts are required to consider the conduct of the parties, their approach in seeking equitable relief and has to exercise its discretionary power while granting an order of Temporary injunction as per the provisions of Specific Relief Act.

9. Perused all the documents produced by the plaintiffs and the defendants. Before discussing the merit of the application, it is appropriate to highlight that when the plaintiffs have come up with the definite case of ownership the burden is on the plaintiffs to prove their ownership over the suit schedule property and as the plaintiffs have sought for the relief of permanent injunction they have to prove that they are in possession and enjoyment of the suit schedule property as on the date of suit.

10. There is no dispute between the relationship of the plaintiffs and the deceased Revanappa Haligondra. In this regard the plaintiffs have produced the certified copies and true copies of hand written and computerized RTCs, Vardi, Amicable Partition Deed/Settlement Deed, Notice, ME Register extracts, Partition Deed, 11- E Sketch, Phodi sketch, HF- 4, Hissa No.12, Vardi application, Mutation

Register extract with MR.No.H25/2011 -2012, Deed of Simple Mortgage, Certificate of Pedigree, MR.No.H29/2020 – 2021 and Deed of Discharge of Loan.

11. At the time of arguments the learned counsel for the plaintiffs has produced the certified copy of ME.No.1497 and the copy of the Aadhar card of the plaintiff No.1, which shows that her husband's name is Sri.Revanappa Haligondra.

12. At the time of arguments the learned counsel for the defendants has produced the school certificates of Revanappa, Chenavva and Mahadevakka, wherein their father's name and surname is mentioned as Ajappa Haligondra. The learned counsel for the defendants has argued the plaintiffs have not produced any document to show when their surname was changed and ME.No.1497 itself shows that the plaintiffs are not the members of the family. The learned counsel for the defendants has argued that there is overwriting in ME.No.1515 and the surnames 'Haligondra' and 'Kuppagaddi' are different and there are no documents to substantiate as to why in the plaint it is mentioned as Revanappa S/o Ajappa Haligondra @ Kuppagaddi.

13. The learned counsel for the defendants has argued that one stretch the plaintiffs are averring about the partition and on the other stretch they are claiming adverse possession which are self destructive. The learned counsel for the defendants has argued that the plaintiffs have not fulfilled any conditions of adverse possession and further Revanappa is not the member of the defendants' family and the alleged partition is not permissible.

14. The learned counsel for the defendants have argued that when the right is acquired by birth then registration of partition is not required and if it is acquired today or in the present day then the registration is compulsory. The learned counsel for the defendants has argued that the revenue documents are not title deeds and they are only for fiscal purpose. The learned counsel for the defendants has argued that the ingredients of adverse possession are not pleaded in the plaint, which indicate about hostility, knowledge and continuity.

15. The learned counsel for the defendants has argued that the date of possession on which date adverse possession started and notice of possession is important and there cannot be adverse possession against the co - owner. The learned counsel for the defendants has argued

that the plaintiff No.2 is a minor and how he can claim adverse possession.

16. On the other hand the learned counsel for the plaintiffs has argued that the plaintiff No.2 has not claimed right independently and the period between 1998 till 2020 pertains to his father Revanappa who has passed away on 05.09.2020.

17. At the time of arguments the learned counsel for the plaintiffs has brought the attention of this Court to Article 220 of the Hindu Law as follows:

Article 220 of the Hindu Law: Incidents of separate or self acquired property -

“ A Hindu, even if he be joint, may possess separate property. Such property belongs exclusively to him. No other members of the coparcenary not even his male issue, acquires any interest in it by birth. He may sell it or he may make a gift of it or bequeath it by Will to any person he likes. It is not liable to partition and on his death as intestate, it passes by succession to his heirs and not by survivorship to the surviving coparceners”.

18. At the time of arguments the learned counsel for the plaintiffs has relied upon the following judgments:

*1. The Hon'ble High Court of Karnataka in **Regular Appeal No.180/2019 in between C.Bhadra Reddy V/s The State of Karnataka.***

Has observed that, It is settled law that even in cases where title is in dispute, if the plaintiff's possession is peaceful and protected, an injunction can be granted without declaration of title.

*2. The Hon'ble High Court of Karnataka in **Miscellaneous First Appeal No.4702/2025 in between A.Y.Sathyavathi W/o Krishne Gowda S.B. V/s Dhanush C S/o Chandrashekar -***

Has observed that it is well established principle that, possession, even if not rooted in absolute title, is none the less a right in itself. The maxim " possessio civilir adhibita jus possessionis paris" recognizes that, possession is lawfully obtained must be protected against unlawful interference.

3. *The Hon'ble High Court of Karnataka in **Regular Second Appeal No.200379/2019 between Jeevappa S/o Neelappa Kurapi V/s Sahebgouda S/o Bapugouda Patil-***

Has held that the position of law is very settled that once the plaintiff is successful in proving his possession and enjoyment of the suit property and when the defendant has chosen to contest the suit, the interference on the part of the defendant could be inferred and the plaintiff is entitled for permanent injunction.

4. *The Hon'ble Supreme Court of India in **(1995) AIR (SC) 2372 between M/s.Gujarat Bottling Co., Ltd., and others V/s. Coca Cola Company and others-***

Has held that the Court must see the conduct of parties seeking injunction that it was free from all the blames such considerations will arise not only in respect of the person who seeks an order of injunction under Order 39 Rule 1 and 2 of CPC, but also in respect of the party approaching the Court for vacating the ad – interim or temporary injunction order already granted in the pending suit or proceedings.

5. *The Hon'ble High Court of Karnataka in **2025(1) KAR LR 481 between Basappa S/o Mallappa Hullikeri and others V/s. Bhimappa Honnappa Vaggar and others.***

- *The pleading of the defendant itself tantamounts to interference of the plaintiffs' possession and enjoyment of the suit property, which is required to be protected by this Court.*

6. *The Hon'ble Supreme Court of India in **(1997) AIR (SC) 2467 between N.Umapthy V/s. B.V.Muniyappa-***

- *Has observed that the respondent cannot unlawfully be dispossessed from the lands nor his possession and enjoyment interdicted except in accordance with the due process of law.*

7. *The Hon'ble Supreme Court of India in **(2004) AIR (SC) 4609 between Ramegowda (d) by LRs V/s. M.Varadappa Naidu (D) by LRs and another.***

Section 38 of Specific Relief Act, 1963- Settled possession - A person in peaceful and settled

possession can seek injunction even against a rightful owner from using force.

19. At the time of arguments the learned counsel for the defendants has relied upon the following judgments:

1. *The Hon'ble High Court of Punjab and Haryana in **2016(1) All MR (journal)27 in RSA.No.2049/1989 in between Rupinder Singh and another V/s. Naranjan Singh.***

The plea of adverse possession is not a pure question of law – It is interpretation based on certain following text mechanism-

(a) On what date defendant came into possession?

(b) What was the nature of his possession?

(c) Whether the factum of possession was known to the plaintiffs ?

(d) How long his possession had continued ?

(e) Is possession open and undisputed?

The plea of adverse possession has no equities, this has same instinct of piratical rights.

2. The Hon'ble Supreme Court of India in **(2020) 7 SCR 528 between Narasamma and others V/s. A Krishnappa (Dead) through Lrs.**

A. Adverse possession - Where there is permissive possession given by the owner and the defendant claims that the same had become adverse - It has to be specifically pleaded and proved as to when possession becomes adverse in order for the real owner to lose title 12 years hence, from that time.

C. Adverse Possession – In order to establish adverse possession an inquiry is required to be made into the starting point of such adverse possession and thus, when the recorded owner got dispossessed would be crucial.

3. The Hon'ble Supreme Court of India in **(1964) 6 SCR 780 between S.M.Karim V/s. Mst.Bibi Sakina-**

Limitation Act 1963, Article 64 and 65- Adverse possession – Pleading and proof of – Continued long possession is not necessarily an adverse possession – Pleading of specific date when the possession becomes hostile, must be made.

Adverse possession must be adequate in continuity, in publicity and extent and a plead is required at the least to show when possession becomes adverse so that the starting point of limitation against the party affected can be found. There is no evidence here when possession became adverse, if it at all did and a mere suggestion in the relief clause that there was an uninterrupted possession for “ several 12 years “ or that the plaintiff had acquired ‘ an absolute title” was not enough to raise such a plea. Long possession is not necessarily adverse possession and the prayer clause is not a substitute for a plea.

*4. The Hon’ble Supreme Court of India in **(1996) 6 SCALE 375 between Parwatabai V/ s Sonabai and others-***

Limitation Act, 1963 – Article 64 and 65 – Evidence Act, 1872 – Sections 101 to 103-
Burden of proof – Adverse possession – The person claiming adverse possession has to show exactly as to from which date his possession became adverse.

5. *The Hon'ble High Court of Punjab and Haryana in **AIR 2017 Punjab and Haryana 69 in RSA.No.3938/2004 between Rupinder Singh and another V/s. Naranjan Singh.***

Section 17 of the Registration Act – Compulsory registration of instrument – Compromise decree – Necessity of registration – Document compulsorily registrable if it created new rights.

6. *The Hon'ble High Court of Karnataka in **2004(1) KCCR 195 in between Smt.Guduma V/s Sri.Shikandar and others.***

Has held that when suit itself is not maintainable no temporary injunction could be granted in such a suit.

20. The plaintiffs have filed the present suit for the relief of Declaration and Permanent Injunction in respect of the suit schedule property and the burden is on the plaintiffs to prove their ownership over the same. Whether Revanappa S/o Ajappa Haligondra was also having the surname 'Kuppagaddi' and whether he belonged to the family of the defendants or not, is a matter of trial. Further the burden is on the plaintiffs to prove the ingredients of adverse possession which necessarily requires full fledged

trial. It is humbly submitted that the ratio laid down in the judgments relied upon by the learned counsel for the defendants is not applicable to the present suit at this stage.

21. It is to be noted that the Hon'ble Apex Court in **COLGATE PALMOLIVE (INDIA) LTD. V/s HINDUSTHAN LEVER LTD-AIR 1999 SC 3105-** has held that, the Trial Court shouldn't express opinion regarding the merits of the case, while deciding IA filed under O 39 Rule 1 and 2 of CPC.

22. The suit schedule property is standing in the name of the plaintiffs after the death of the husband of the plaintiff No.1 and father of the plaintiff No.2. Further the documents show that the defendant No.1 has entered into partition with the defendant No.2 and 3 in respect of the property of the defendant No.1 to the extent of 7 acres 7 guntas which was divided into three parts and the husband of the plaintiff No.1 and father of the plaintiff No.2 has cultivated the suit schedule property measuring 3 acres within the knowledge of the defendant No.1 from the year 1998 till his death in the year 2020.

23. At this juncture on perusal of all the documents on record it prima facie shows that the plaintiffs are in possession and enjoyment of the suit schedule property and in the RTC of the year 2025-2026 the mode of possession is mentioned as MR H29/2020 -2021 dated 20.04.2021 on the basis of Pouthi and crops grown are maize, jowar etc. It is humbly submitted that the ratio laid down in the judgments relied upon by the learned counsel for the plaintiffs is applicable to the present suit at this stage.

24. It is to be noted that as per **GUJARAT BOTTLING CO.LTD V/s COCA COLA COMPANY 1995(5) SCC 545 (supra)** wherein the Hon'ble Apex Court held that the object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial.

25. Further as per **Order 39 of CPC** any order made temporarily prohibiting the defendant not to alienate, or to change or to damage the property in dispute during the pendency of the suit is called temporary injunction. In the case on hand, on the basis of the documents produced by the parties to the suit, at this juncture this Court has to

ascertain what are the fair chances of plaintiff succeeding in the suit after termination of trial?.

26. The plaintiffs have placed sufficient materials before the Court that, there exist a triable issue and the determination of which requires a trial. Therefore, as per the settled principles, when there exists a triable issue, it amounts to establishing of the prima facie case. The materials placed before the Court discloses that, there is serious dispute between the plaintiffs and the defendants in respect of title of the suit schedule property. The Temporary Injunction would be granted as an ancillary or an aid to main relief to protect the rights of the parties as per the settled principles.

27. The comparative hardship and irreparable loss or injury, which would be caused to the plaintiffs is more if an order of Temporary Injunction is not granted, when compared the same to the hardship and irreparable injury which would be caused to the defendants if an interim order of Temporary Injunction is granted. It is to be noted in **2015(1) ICC 376- SMT.SHAKUNTHALAMMA AND OTHERS V/s SMT. KANTHAMMA AND OTHERS-** wherein the Hon'ble High Court of Karnataka, has held that Scope of Interim injunction, when can be granted, Court

empowered to grant three types of orders under three different and distinct situations, firstly when the property was in danger of being wasted, damaged, alienated or wrongfully sold in execution of a decree, secondly when the disputed property was under the threat of being removed or disposed off by the defendant with the intention of defrauding his creditors and thirdly when the defendant threatens to dispossess the plaintiff or otherwise causes injury to the plaintiff in respect of disputed property.

28. In view of ratio held in above said decisions and my discussions, I am of the considered opinion that, the plaintiffs have made out a prima-facie case at this stage to grant temporary injunction as prayed. When, the plaintiffs have made out prima-facie case, then certainly balance of convenience also lies in favour of plaintiffs. In such circumstances, if temporary injunction as prayed is not granted in favour of plaintiffs, the irreparable hardship will be caused to the plaintiffs than the defendants. With these observations, I answer the **Point No.1 to 3 in the AFFIRMATIVE.**

29. **Point No.4:-** In view of my findings to the Point No. 1 to 3, I proceed to pass the following;

ORDER

***I.A.No.I filed by the plaintiffs
U/o.XXXIX Rule 1 & 2 of C.P.C., is
hereby allowed.***

***Consequently, the defendants or
anybody claiming under them are
hereby restrained from interfering,
trespassing and obstructing the
peaceful possession and enjoyment of
the plaintiffs over the suit schedule
property till the disposal of the suit
by way of ad-interim temporary
injunction.***

***The parties shall bear their own
costs.***

(Dictated to Stenographer, directly typed by him on computer, once corrected and later initialed by me and then pronounced by me in the open court on this the 2nd day of June - 2026)

***(Smt.Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC.,
Hangal.***