

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.239 of 2025

DATED THIS THE 9th DAY OF APRIL 2026

Plaintiff : Ningaraj S/o Suresh Havanigi @ Havanagi
Age: 16 years, Occ: Student,
R/o: Hirur, Tq: Hangal, Dist: Haveri
and 2 others.

(By Sri.B.S.Dalavai – Adv.)

V/s.

Defendants: 1.Devendrappa S/o Fakkirappa Kamati
Age: 68 years, Occ: Agriculturist
R/o: Hanumankoppa, Tq: Hangal, Dist: Haveri.
And 7 others.

(Def.No.1 to 3 By Sri.P.S.Hebbal Adv.)
(Def.No.4 to 7 By Sri.M.S.Kalangi – Adv.)
(Def.No.8 Exparte)

PARTIES TO I.A.No.I

Applicants/

Plaintiffs: 3.Mallavva W/o Sureshappa Havanagi
and 2 others.

- V/s -

Opponents/

Defendants: Devendrappa S/o Fakkirappa Kamati
And 7 others.

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	30-07-2025
IV	Number of application	I.A.No.I
V	The date of which objections filed by the different opponents	26-02-2026 by D4 to 7
VI	Date on which the order was passed on said application	09-04-2026

(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.3 has filed this application U/o.XXXIX Rule 1 & 2 of C.P.C., seeking to restrain the defendants, their henchmen, agents from the illegal interruption and inhibition to the plaintiff's peaceful possession, enjoyment in/over the suit schedule property by way of temporary injunction till disposal of the suit on merit in the interest of justice and equity.

2. In the affidavit annexed to the application, the applicant/plaintiff No.3 by reiterating facts asserted in the

plaint and has deposed to the facts that the plaintiffs have filed this suit against the defendants for the relief of permanent injunction. It is further contended that, the original propositus Sri.Channabasappa @ Mallappa Fakkirappa Havanagi was the owner of the suit properties, who died leaving behind his wife by name Smt.Bangarevva and her name was mutated in ME.No.742. Smt.Bangarevva adopted the father of the defendant No.8 by name Sri.Ningappa as per Hindu rites and rituals and as such, the suit schedule properties are convert into ancestral properties.

(b) Further, Smt.Bangarevva had more love and affection on the defendant No.8 and his brother and sister and in order to disrupt the status of her coparcenary family, divided the properties between her grandsons in order to enjoy the right to bring about a complete disruption of the family consisting of herself and her son, her grandsons and also grand daughters and accordingly M.E.No.3137 was entered and as per said mutation entry the suit schedule properties have fallen to the share of the defendant No.8 and out of the wedlock of the plaintiff No.3 with defendant No.8, the plaintiff No.1 and 2 born and therefore, the suit schedule properties have become

ancestral properties of plaintiff No.1 and 2 and defendant No.8.

(c) In the meanwhile, the defendant No.8 addicted to bad habit of drinking alcohol, womenization and also did not provide basic necessities for the life of plaintiff No.1 to 3 and also the plaintiff No.3 tolerated the physical and mental cruelty of the defendant No.8 and finally left the matrimonial house. Now the plaintiff No.1 to 3 are leading life under miserable conditions and also without food and shelter and without education of the plaintiff No.1 and 2. Therefore, the plaintiff No.3 is unable to maintain the family.

(d) Finally, the plaintiff No.3 filed suit in O.S.No.200/2022 before Hon'ble Additional Senior Civil Judge, Hangal demanded their legitimate share over the suit schedule properties and said suit was came to be compromised and as such, the suit schedule properties fallen to the share of plaintiff No.1 to 3. After compromise, an application was forwarded to the revenue department in order to mutate names of the plaintiff No.1 to 3 in the revenue records of the respective properties as per compromise decree and got their name entered in respective suit schedule properties.

(e) Such being the facts, the during the month of May 2023, when plaintiff No.1 to 3 were doing agricultural work in the land, suddenly the defendant No.1 to 7 trespassed in the suit schedule properties to inhibition to the peaceful possession and enjoyment over the suit schedule properties and also obstruction to cultivation in the suit schedule properties. Even though several panchayats were held and the defendant No.1 to 7 have not pay heed to the words of the elders of the village. Then, with no alternative the plaintiff No.3 filed suit in O.S.No.65/2023 seeking the relief of perpetual injunction against the defendant No.1 to 7 and after obtaining the order of this Court, the defendant No.1 to 7 again on 25-06-2025 trespassed into the suit schedule properties. On these grounds, the plaintiff No.3 has prayed to allow this application in the interest of justice and equity.

3. (a) In response to suit summons, the counsel for the defendant No.4 to 7 have filed objection to the instant application and specifically contended that, the application is not maintainable under the law and without any legal relation of plaintiffs and defendants family but their intention to harass the defendants and filed this application as well as this suit.

(b) Due to the family necessities, the defendant No.8 entered in to sale agreement with father of the defendant No.4 to 7 by name Sri.Krishanappa S/o Fakkirappa Kamati with respect to R.Sy.No.67/3 measuring 7 acres 3 guntas out of 14 acres 5 guntas in Hanumanakoppa village of Hangal Taluk for sale consideration amount of Rs.4,90,000/- on 18-09-2008 and same was registered before the Assistant Tahasildhar, Hangal. Out of said sale consideration of Rs.3,50,000/- received by the defendant No.8 and after completion of 15 years the defendant No.8 executed the registered sale deed in favour of the father of the defendant No.4 to 7.

(c) In the meanwhile, during the year 2020 due to Covid disease the father of the defendant No.4 to 7 by Sri.Krishanappa S/o Fakkirappa Kamati died and inspite of repeated request and demands the defendant No.8 did not enter into contract and also did not return the advance sale consideration amount. At this juncture, the defendant No.8 filed a suit in O.S.No.200/2022 before the Hon'ble Additional Senior Civil Judge and JMFC., Hangal and compromised the said suit between the plaintiff No.1 to 3 and defendant No.8 and relinquished his right in favour of his sons i.e., the plaintiff No.1 and 2.

(d) Due to non performance of contract by the defendant No.8, the sons of Sri.Krishanappa S/o Fakkirappa Kamati i.e., the defendant No.4 to 7 have filed suit for specific performance of contract in O.S.No.171/2023 against the defendant No.8 with respect to R.Sy.No.67/4 measuring 7 acres 3 guntas and the said fact came to knowledge of the plaintiffs but to harass the defendant No.4 to 7 they have filed this suit.

(e) During the year 2008 to 2023 the plaintiffs were cultivating the suit schedule property and nearly about 15 years the defendants or their agents did not interfere in peaceful possession and enjoyment of the said property but after filing of suit in O.S.No.171/2023, the plaintiffs and defendant No.8 colluded with each other and created and concocted the story and filed this suit to harass the defendant No.4 to 7 and also to grab the advance sale consideration amount and filed this application. Therefore, defendant No.4 to 7 have prayed to dismiss the application as well as suit with costs till completion of O.S.No.171/2023.

4. Having heard and on perusal of the materials on records, the following points that would arise for my consideration:

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?***
5. 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 :-

6. **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 permanent injunction and

other reliefs against the defendants in respect of the suit schedule properties.

7. 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.

8. Perused all the documents produced by the plaintiffs and the defendants. Before discussing the merit of the application, it is appropriate to highlight that in the objections the defendant No.4 to 7 have contended that the defendant No.8 filed a suit in O.S.No.200/2022 before the Hon'ble Additional Senior Civil Judge and JMFC., Hangal and compromised the said suit between the plaintiff No.1 to 3 and defendant No.8 and relinquished his right in favour of his sons i.e., the plaintiff No.1 and 2.

9. This fact indicates that the suit schedule properties are in the possession and enjoyment of the plaintiffs and there are no materials to show that the compromise entered into in OS.No.200/2022 before the Hon'ble Additional Senior Civil Judge and JMFC., Hangal has been set aside.

10. The defendant No.4 to 7 have contended that they have filed suit for specific performance of contract in O.S.No.171/2023 against the defendant No.8 with respect to R.Sy.No.67/4 measuring 7 acres 3 guntas for non performance of contract by the defendant No.8. It involves a different aspect, as at this stage it is not clear if the present suit has been filed by the plaintiffs after coming to know about OS.No.171/2023 being filed by the defendant No.4 to 7 against the defendant No.8.

11. At the time of arguments the learned counsel for the plaintiffs has relied upon the judgment of Hon'ble Supreme Court of India reported in **SLP (C) Nos. 10558 – 59 of 2024, between Sri.Mahesh Vs Sangram & Ors.** The present is filed for the relief of bare injunction only. At this stage the Court need not conduct a mini trial nor can it express any opinion about the merits of the case.

12. It is to be noted that as per **GUJARAT BOTTLING CO.LTD V/s COCA COLA COMPANY 1995(5) SCC 545-** 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.

13. 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?.

14. 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, the plaintiffs are in possession of the suit schedule properties.

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.

15. 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.

16. 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.

17. 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 plaintiff. In such circumstances, if temporary injunction as prayed is not granted in favour of plaintiffs, the irreparable hardship will be caused to the plaintiff than the defendants. With these observations, I answer the **Point No.1 to 3 in the AFFIRMATIVE.**

18. **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 defendant No.1
to 7 or anybody claiming under them
are hereby restrained from
interfering with the peaceful
possession and enjoyment of the
plaintiffs over the suit schedule***

***properties 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 9th day of April - 2026)

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