



**IN THE COURT OF PRL. CIVIL JUDGE & JMFC.,  
AT RANEBENNUR.**

**Dated on this the 03<sup>rd</sup> day of December 2025**

**Present: Sri. ADITHYAKUMAR H.R, B.A.LL.B.**

**Pri. Civil Judge & JMFC.,Ranebennur.**

**ORIGINAL SUIT NO.334/2024**

**Plaintiffs:** Smt. Laxmavva W/o Hanumagouda  
Danappagoudra & another  
**(Pif. By Sri. Y.H.K, Advocate)**

**V/s**

**Defendants:** Sri. Shivappa S/o Rudrappa Mattimani  
& others  
**(Defts. By Sri. N.B.B., Advocate)**

**I.A. NO. I CAUSE TITLE.**

**Plaintiffs/**

**Applicants :** Smt. Laxmavva W/o Hanumagouda  
Danappagoudra & another

**-Vs.-**

**Opponent/**

**Defendants:** Sri. Shivappa S/o Rudrappa Mattimani  
& others



## **ORDER ON IA NO. I**

1

The application under consideration is filed by the plaintiffs under Order XXXIX Rule 1 and 2 R/w. Sec. 151 of CPC, seeking that the defendants be restrained from interfering to the possession and enjoyment of plaintiffs in their 1/3rd share in the suit property till the disposal of the suit.

### **2). Brief case of the Plaintiff is as under:**

The plaintiffs have filed this suit seeking the relief of Declaration and permanent injunction by restraining the defendants from their interference over the suit schedule property and such other reliefs. The case of the plaintiffs in a nutshell is that, the suit property was originally measuring 5 acres 24 guntas and belong to one Basappa Hallalli, he died on 20.09.1967. After his death, his wife inherited the suit property and she bequeathed a Registered Will dated 31.10.1967, wherein she allotted 1/3<sup>rd</sup> share to the deceased husband of plaintiff No.1 and remaining 2/3<sup>rd</sup> share were allotted to the father of defendants. After her death, 1/3<sup>rd</sup> share over the entire extent measuring 1 acre 34 guntas was allotted towards western side. After the death of husband of plaintiff No.1, the plaintiffs succeeded the same and have been in possession



and enjoyment of the suit property. The defendants' father without the knowledge of the plaintiffs falsely executed a Will in favour of defendants to the extent of entire property and their names were mutated. Taking advantage of the same, the defendants started to interfere to the possession and enjoyment of plaintiffs and also denying their title. Hence, the present suit is filed.

**2.1).** In support of the application the plaintiff No.1 has sworn to the affidavit accompanying the application reiterating the plaint averments and he has further contended that the defendants by taking undue advantage of innocence of the plaintiffs and claiming to be the owners of entire extent have been trying to dispossess the plaintiffs and if that is happened the very purpose of filling this suit will be frustrated and it is the plaintiffs who will be subjected to irreparable loss if the application is rejected. On the other hand, no harm or prejudice will be caused to the defendants if the interim order as sought for by the plaintiff is granted. On these grounds, the applicants seeks that this Court be pleased to allow the application as prayed for.



**3.** Upon due service of the suit summons the defendants No.1 to 3 have made their appearance before the court through their common counsel and filed their common written statement and objection to the application. It is contended in the objection that, the present application is neither maintainable in law nor on facts; the applicants have not come before the court with clean hands and the plaintiffs failed to show their prima facie case to grant the temporary injunction and also the balance on connivance is not in favour of the plaintiffs. It is specifically contended that, the description of boundary as shown in the plaint schedule is incorrect and the plaintiffs never in the possession of the suit property within the boundaries described in the plaint. They also denied the alleged cause of action and limitation to file this suit. It is further contended that, the suit property was originally belong to their father and they have acquired interest over the same. They have been in possession and enjoyment of the suit property as on filing of this suit. Despite of it, the present suit is filed by plaintiffs to herras them and the same is not maintainable. Upon these grounds the defendants sought for rejection of the application.



4. Heard the arguments of Counsel for either side, perused the materials available on record.

5. After carefully analyzing and upon the perusal of the plaint, affidavit sworn to the application and the objection put forth by the defendants and other materials available on record, the following points arise for my consideration.

### **POINTS**

**1. Whether the plaintiffs have made out a prima facie case to grant the relief as sought for in the IA-I.?**

**2. Whether the plaintiffs prove that balance of convenience lies in their favour as regards the IA-I.?**

**3. Who will be put to irreparable loss and injury if the IA-I is rejected or granted.?**

**4. What order?**

6. After giving its anxious consideration and after carefully perusing the documents produced at this stage of the matter, this court answers the aforesaid points as under:

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

**Point No.2 & 3 : In the Affirmative.**



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

**7. POINT NO.1:**

**7.1).** The provision that the Plaintiffs seek to invoke here is Order XXXIX Rule 1 and 2 of Civil Procedure Code. After perusal of the prayer sought in the IA-1 it is needless to state that the case of the Plaintiff, as regards the IA-1 falls within Clause (c) of Order XXXIX Rule 1 of Civil Procedure Code, which verbatim reads as follows :

*“Where in any suit it is proved by affidavit or otherwise :- (inter alia).*

*(c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any properly in dispute in the suit.”*

The reason why this court considers that the relief sought by way of this application falls within the ambit of clause (c) is because, the said clause seeks to protect the applicants from two apprehensions either dispossession or causing injury to the plaintiff's property; and because the relief sought by the plaintiff by way of this application is to restrain the defendants from interference, it becomes obvious that the apprehension of



the plaintiffs is that the activities of the defendants if not curtailed would cause injury to the plaintiffs possession over the suit schedule property. Needless to state in order to successfully maintain this application the plaintiff should first demonstrate existence of *prima facie* case in their favor.

**7.2).** At the very outset it would be incumbent upon this court to clarify that, the rule that before the issue of a temporary injunction, the court must satisfy itself that the plaintiff has a *prima facie* case, it does not mean that, the court should examine the merits of the case closely and come to a conclusion that the plaintiffs have a case in which they are likely to succeed. All that, the court has to see is that on the face of it the person applying for an injunction has a case which needs consideration and which is not bound to fail by virtue of some apparent defects.

**7.3).** Keeping the above principles in mind, let this court turn to the documentary evidence available on record. With these aspects in mind when the records are perused, it becomes evident that the plaintiffs claim their *prima-facie* case on the suit schedule property based on the Registered Will dated 31.10.1967 in favour of the husband of the plaintiff No.1.



It is the specific case of the plaintiffs that, the suit property was originally belong to one Thirakavva W/o Basappa Hallalli and she bequeathed a Registered Will in favour of husband of plaintiff No.1 and father of defendants. After her death, they jointly made a Vardi and their names were mutated.

**7.4).** In the objection the defendants denied the same and in written statement they have claimed that, since 1988 they have been in possession and enjoyment of the entire suit property. Hence, the plaintiffs have no rights to claim any rights over the same. It is also contended that, by virtue of family partition in the year of 2008-09 between them, they have been in separate possession and enjoyment of the suit property as Vardi submitted in MR No.63/2008-09.

**7.5).** Admittedly, the defendants have not produced any prima facie documents to show that, how the entire suit property was acquired by them. Though they have claimed their title based upon a registered Will, absolutely there is no materials before the court to show that, from whom and when such Will was bequeathed. In order to prove the prima facie case the plaintiffs also produced documents along with plaint. On going through the same at MR No.235/1 dated 13.09.1971



would prima facie demonstrates that, the father of defendants and husband of plaintiff No.1 jointly made a Vardi stating that, they have acquired the suit property through Registered Will dated 31.10.1967. Further also demonstrates that, 1/3<sup>rd</sup> share towards western side of entire extent was allotted to the husband of plaintiff No.1 and remaining share was allotted to the father of defendants.

**7.6).** The documents such as partition deed among the defendants and further revenue entries would demonstrates that, contrary to the earlier Vardi, the defendants have entered into partition to the entire extent measuring 5 acres 24 guntas. Further, the documents of revenue proceedings also would prima facie demonstrate that, the plaintiffs have challenged the revenue entries made based upon the partition, wherein by its order dated 21.11.2022 the Assistant Commissioner, Haveri was rejected the appeal holding that, the litigation among the parties is civil in nature. Thereafter, the plaintiffs filed this suit.

**7.7).** Dwelling upon these crucial documents it establishes that, the plaintiffs having triable issue and made out a prima facie case. The validity of Will in question and subsequent partition among defendants and further revenue



entries are matter of trial. At this stage, this court cannot hold a mini trial to that effect. Though defendants denied the correctness of boundary and description of plaint schedule, since 1/3rd undivided share was allotted to the husband of plaintiff No.1, they also to be considered as owners in possession of the suit property to the extent of their 1/3rd share.

**7.8)** On going through the materials available on record it prima faice establishes that, the Plaintiffs are in possession of suit property to the extent of 1/3rd share allotted to the husband of Plaintiff No.1. The previous litigation between the parties also establishes the interference by defendants to the possession and enjoyment of plaintiffs. Their 1/3rd share has to be protected until disposal of this suit.

**7.9).** It is a very well settled law that, the grant of injunction is a discretionary relief, the exercise thereof is subject to the Court satisfying that there is a serious disputed question to be tried in the suit and that an act, on the facts before the Court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant and the court's interference is necessary to protect the party from the species



of injury. In other words, irreparable injury or damage would ensue, before the legal right would be established at the trial and further that, the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it.

**7.10).** Hence, at this stage, without going into the merits of the case or going through the title or holding a mini trial, this court has considered the aspect of Prima facie case. The primary purpose for granting interim relief is the preservation of the things in dispute till legal rights and conflicting claims of the parties before the court are adjudicated. As such at this stage of the suit, without giving any expression on merits of the case, it is the firm opinion of the Court that, the plaintiffs have succeed to make out a prima-facie case in their favour. Wherefore I find no hesitation in holding the Point for Consideration No.(I) in the **Affirmative**.

**8). Points No.2 & 3:**

**8.1).** The second condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. In other words, the court must be satisfied that



the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

**8.2).** The existence of the prima facie case alone does not entitle the applicants for a temporary injunction. The applicant must further satisfy the court about the third condition by showing that they will suffer irreparable injury if the injunction as prayed is not granted and that there is no other remedy open to her by which he can protect themselves from the consequences of apprehended injury.

**8.3).** The Learned Counsel for the Plaintiffs argued before the Court that, since the plaintiffs are in actual possession and enjoyment of suit property to the extent of 1/3rd share, the defendants based upon their frivolous partition deed trying to dispossess the plaintiffs from the suit property. It is further contended that, if the application is not allowed, the defendants will dispossess them from the suit property. Hence the Defendants have to be temporarily restrained, otherwise the Plaintiffs will be put to irreparable loss and hardship. Per contra, the Counsel for the Defendants contended that, if the



defendants are restrained from the suit property, the same cause obstruction to the defendants' lawful rights.

**8.4).** The court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused, and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the court considers that, pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus this court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit. At the stage of deciding the application for temporary injunction, the Court is not required to go into the merits of the case in detail.

**8.5).** This court has gone through the pleadings and materials on record, as already discussed apparently it is clear that, the Plaintiffs also have been in possession and enjoyment of suit property to the extent of 1/3rd share by virtue of registered Will dated; 31.10.1967. The validity of the Will and subsequent partition among defendants are matter of trial. In



such circumstances, if the defendants are not restrained until disposal of this suit, the chances of dispossession of plaintiffs cannot be ignored. Hence, at this juncture this court feels to opinion that, if the defendants are not restrained from their interference to the possession of Plaintiff, the Plaintiff will be put to great hardship and loss more than the loss causing to the defendants.

**8.6).** In these circumstances this Court is of the opinion that if IA No.1 is not allowed more mischief and hardship will be caused to the Plaintiff who are succeeded to prove their prima faice possession and they will be put to great hardship. By considering all these aspects this Court is of the opinion that if the application is not allowed, the Plaintiffs will be put to irreparable loss and hardship more than the defendants and the same can not be compensated in terms of money. Hence, this Court proceeds to answer these two points in the **Affirmative.**

**9) POINT No.IV:**

For the foregoing reasons and in view of the finding given by this court on Point No. I to III, this court proceeds to pass the following:



**ORDER**

**“I.A. No.I filed by the plaintiff U/O 39 Rule 1 and 2 R/w. Sec. 151 of CPC is hereby allowed.**

**The defendants, their legal representatives, agents, servants or anybody acting on their behalf are hereby temporarily restrained from interfering with the possession and enjoyment of the plaintiffs in their 1/3rd western portion allotted to the deceased Hanumagowda out of total extent of 5 acres 24 guntas till the disposal of the suit.**

**No order as to cost.”**

**(Dictated to the Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 3<sup>rd</sup> day of December 2025).**

**Sd/-  
(ADITHYAKUMAR H.R)  
Prl. C.J. & JMFC Court  
Ranebennur.**

