



IN THE COURT OF THE CIVIL JUDGE & JMFC

AT JEWARGI

PRESENT: Sri. **Kashinath V. Uppar, B.Sc., LL.B.**,
Civil Judge & J.M.F.C.,
Jewargi

Dated This the 9th Day of October -2025

ORIGINAL SUIT NO.2/2024

- PLAINTIFFS** : 1. Sri. Raghavendrachari S/o Bhimasenrao,
Age: 50 years, Occ:Agriculture,
2. Sri. Bhimsenrao S/o Raghavendra,
Age: 21 years,
3. Sri. Sudeep S/o Raghavendra,
Age: 18 years, Occ:Agriculture,

All are R/o: Ballundagi, Tq:Jewargi

(By. Sri. B.B.B., Advocate)

V/s.

- DEFENDANTS:** 1. Sri., Gurappa S/o Ningabasappa Budihal,
Age: 54 years, Occ:Agriculture,
2. Sri. Sidramappa S/o Ningabasappa Budihal,
Age: 54 years, Occ:Agriculture,
3. Sri. Sidramappa S/o Ningabasappa Budihal,
Age: 45 years, Occ:Agriculture,

All are R/o: Ballundagi, Tq:Jewargi

(By. Sri.J.V.H., Advocate)

**PARTIES TO I.A. NO.I**

**APPLICANT/
PLAINTIFFS** : Sri. Raghavendrachari and Others

V/S

**OPPONENT/
DEFENDANTS** : Sri. Gurappa and Others

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|------|---|--|
| i. | Provision under which the application is filed | I.A.No.1 filed by plaintiffs U/o 39 Rule 1 and 2 of CPC |
| ii. | Relief sought for | Temporary Injunction |
| iii. | The date on which the application is filed | 02.01.2024 |
| iv. | Number of the application | IA No.1 |
| v. | The date of which the objections are filed by different opponents | 07.12.2024 |
| vi. | The date on which the orders were passed on the said application | 09.10.2025 |

**ORDERS ON I.A No.I FILED BY PLAINTIFFS
U/O 39 RULE 1 & 2 OF C.P.C.**

1. The plaintiffs have filed I.A No.I under Order 39 Rule 1 & 2 of C.P.C., seeking temporary injunction order against defendants restraining them or any other person or persons claiming through or under them from interfering into peaceful possession over the suit properties pending disposal fo the suit or until further orders.

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2. The plaintiff No.1 sworn to the affidavit annexed with the I.A.No.I and urged that plaint para's may be considered as part and parcel of the affidavit to avoid repetition of facts. The defendants though no way concerned to the suit property are properties by taking undue advantage of stay order granted by this Court in O.S.No.132/2023 and 133/2023.

3. Further it is contended that, plaintiff No.1 is the father of plaintiff No.2 and 3 in relation 1st plaintiff is owner in lawful possession of suit item No.A property and 2nd and 3rd plaintiff are owners in possession of suit item No.B property. Accordingly, their names were entered in the ROR of suit properties in pursuance of certificate of mutation. Plaintiffs have been enjoying the suit properties as absolute owners by personal cultivation without any interference much less of defendants. The defendants are natural brothers to each other in relation, despite they no way concerned to the suit properties, they filed suits against 1st plaintiff in respect of portion of suit item No.A property seeking relief of specific performance of contract on the file of senior civil Judge Jewargi in O.S.No.132/2022 and 133/2022 respectively by getting crate agreements from 1st plaintiff that too his without free consent and succeed in getting stay orders as to not to alienate. Taking undue advantage of stay orders as stated

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above defendants without having any rights over the suit properties ar trying to interfere into peaceful possession of plaintiffs with an intention to disposes them. While plaintiffs were doing agricultural work over the sit properties with the help of their labours of on 05.12.2023, meantime defendants together with their supporters came on the suit properties and tried to interfere into peaceful possession of plaintiffs with a intention to disposes them from suit properties on the ground that Hon'ble Senior Civil Judge Jewargi has granted stay orders in their favour in O.S.No.132/2022 and 133/2022. Plaintiffs requested them to not to do so, but they have refused their request. However, plaintiffs protected their possession over the suit properties with the help of adjacent land owners. But defendants went away by saying that they would come once again with more men to dispossess with plaintiffs from suit properties. Hence, with no option plaintiffs filed this suit against the defendants along with interim application seeking interim relief of injunction. Therefore, they prayed to allow the application.

4. In pursuance of suit summons, defendants appeared through their counsel and resisted the claim of plaintiffs by filing written statement. The defendants counsel filed a memo that the contents of written statement is stated as objection to I.A.No.I. The defendants denied that plaintiff



is possession over the suit schedule property. Plaintiff further denied the execution of registered sale deed. Plaintiff further admitted that defendant No.1 and 2 have filed O.S.No.132/2022 and 133/2022 against the present plaintiff before a Hon'ble Senior Civil Court, Jewargi for seeking a relief of specific performance of contract. On all these grounds defendants prayed to dismiss the suit.

5. On considering I.A.No.I, annexed affidavit, plaint/written statement the points that would arise for my consideration are as under:

POINTS

1. Whether the plaintiffs/applicants have made out prima facie case for grant of temporary injunction?
 2. Whether the balance of convenience is lies in favour of plaintiffs/applicants?
 3. Whether the irreparable loss and injury would be caused to the plaintiffs/applicants if the temporary injunction is refused?
 4. What order?
6. The plaintiffs' counsel vehemently argued that plaintiffs are the absolute owner and in possession of suit

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properties. The defendants are no way concerned to the suit property but they are trying to interference into peaceful possession of the plaintiff over the suit schedule property. The plaintiffs have made out a prima facie case and balance of convenience lies in favour of plaintiffs. If an order of temporary injunction as per I.A.No. I is not granted then plaintiffs will be put to irreparable loss and injury which cannot be compensated in terms of money. The plaintiffs have produced record of rights of land bearing record of rights of Sy.No.3/2. 3/3, 32/2 and partition deed.

7. Per-contra, defendants counsel argued vehemently before the Court that plaintiffs are executed the agreement of registered sale deed. The presence defendants are filed suit against the present plaintiff for a relief of specific performance of contract. Plaintiffs filed false suit against defendant with an intention to deprive the rights of the plaintiffs. With these grounds defendant sought reject the I.A.No.I. Defendants are produced the xerox copy of order sheet, plaint and written statement of O.S.,No.132/2022 and 133/2022.

8. My answer to the above points on 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;

REASONS

9. **Point No.1**:- It is well established and settled position of law that the following propositions are to be established in order to invoke the jurisdiction of the court to grant an interlocutory order of injunction U/O 39 Rule 1 and 2 of C.P.C. (1) plaintiff has to establish a prima facie case, (2) the balance of convenience is in favour of the party seeking the relief and (3) that the party seeking the relief will suffer irreparable injury if injunction is refused. The ingredients are to be established by the party who seeks injunction in his favour. The grant of injunction being a discretionary relief, the party should come to court with clean hands and place all the materials before the court so that, the court will be satisfied about the prima facie case in favour of the party seeking the order. At the same time the court cannot conduct a mini trial nor can court express its opinion regarding merits of the case while dealing with the applications of this nature. Only function of the court at this interlocutory stage is to see do the applicants have made out a prima-facie case and balance of convenience is in whose favour and in case of refusal of granting



temporary injunction loss or hardship would be caused to which side. At this juncture it is useful to refer decision of **Kashinath Sansthan v. Srimad Sudhindra Thirtha Swamy**, reported in **AIR 2010 SC 296** the court prescribed the criteria for temporary injunction as follows:

"In order to grant an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well-settled that when a party fails to prove prima facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima facie case to go for trial, it is not open to the court to grant injunction in his favour even if he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction is granted.

10. It is also necessary to mention here that "Prima facie case" not to be confused with "prima facie

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title” which has to be established on evidence at the trial. Prima facie case is a substantial question raises bona fide which needs investigation and a decision on merits.

11. Now keeping in mind the aforesaid aspects let us consider the present application in hand. Before advertng further it is necessary to see the facts of the case. The plaintiffs have filed this suit for the perpetual injunction against the defendant. The present plaintiff are the owners and possession over the suit schedule property and defendants are trying to interfering possession of the suit schedule property of the plaintiff.

12. At this stage interlocutory stage, plaintiffs have produced record of rights of suit properties which are standing in the name of plaintiff No.1 to 3. It is the contention of defendants that the present plaintiffs are they are not in the possession of the suit schedule property. The present plaintiffs are execute the registered agreement of sale in favour of the defendants. The O.S.No.132/2022 and 133/2022 is pending before the Hon’ble Senior Civil Court Jewargi. The plaintiffs have malafide intention that to avoid execution of agreement of sale deed in favour of defendant No.1 and 2 and they have filed false suit against the present plaintiff.

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13. On perusal of the record of rights of suit schedule properties are standing in the name of plaintiff No.1 to 3 and considering the stand taken by the defendants the apprehension of plaintiffs regarding alleged interference cannot be ruled out at this stage of the case. Even plaintiffs have support of record of rights which has got some presumptive evidentiary value in the eye of law unless contrary is proved as such on perusal of the documents placed on record at this stage probablise the pleadings of plaintiffs. Under these circumstances when there is a material worth investigating, then it can be said that there exist a prima facie case. Therefore, considering the pleadings and affidavit and documents placed on record, this court is of the considered view that plaintiffs have got an arguable case against defendants. When the plaintiffs have got an arguable case then it can be said that plaintiffs have got prima-facie case against defendants. In this sense, I answer **Point No.1 in the Affirmative.**

14. **Point No. 2 & 3** :- Both these points are taken up together for common discussion to avoid repetition of facts. The court has to see that does plaintiffs will sustain such injuries which cannot possibly and adequately remedied by way of damage and said damage would be inadequate in case of success of plaintiffs/applicants. Considering

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question of balance of convenience the court has to see the mischief or inconvenience of either parties. The ingredients are to be established by the party who seeks injunction in his favour. The grant of injunction being the discretionary relief the party who claims such relief should come to the court with clean hands and place all the materials before the court so that court will satisfy about the case in favour of party seeking the order.

15. It is averred in the I.A No.1 that defendants are trying to interfere with plaintiff's peaceful possession over suit schedule properties. Therefore, at this stage court cannot go into the merits of the case. This question requires an adjudication which requires a full pledged trial but at this stage court is of the opinion that without expressing its opinion regarding merits of the case, it will be appropriate to pass a temporary injunction order in favour of plaintiffs in order to protect and to keep suit schedule properties intact. Therefore, I am of the view that balance of convenience lies in favour of plaintiffs and heavy and irreparable loss would be caused to the plaintiffs if temporary injunction is not granted. Therefore it will be appropriate to grant temporary injunction against defendants and their henchmen restraining them from illegally causing interference possession of plaintiffs from suit properties till the disposal of the suit which will meet

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ends of justice, by passing such an order against defendants the plaintiffs will be protected from ousting or dispossession. Hence, for all these reasons, ***I answered Point No. 2 & 3 in the affirmative.***

16. **Point No.4**:- In view of my findings on Points No.1 to 3, the plaintiffs are entitle to the relief of temporary injunction which they have sought. Hence, I proceed to pass the following:

ORDER

I.A.No.I filed by the plaintiffs under Order 39 Rule 1 & 2 C.P.C., is hereby allowed.

The defendants and their henchmen are hereby restrained by an order of temporary injunction from causing interference plaintiffs from suit schedule properties till the further order

Cost of this application will follow the result of this suit.

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For order on I.A.No.4 and 5.

(Dictated to the Stenographer directly on computer, typed by him, corrected and then pronounced by me in the Open Court on this 9th Day of October - 2025).

(Kashinath V Uppar)
Civil Judge & JMFC,
Jewargi.

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