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**IN THE COURT OF THE CIVIL JUDGE & JMFC., JEWARGI*****Present*****Sri. Kashinath V. Uppar****B.Sc. LL.B.**

Civil Judge & JMFC., Jewargi.

Dated on this the 5th day of January-2026**O.S. No. 10/2025**

PLAINTIFF: Bheerappa S/o Shivalingappa Gundagi
Age; 38 years, Occ: agric, R/o Ranjanagi,
tq: Jewargi, dist: Kalaburagi.

V/s.

DEFENDANTS: 1. Siddalingappa S/o Nagappa, age; 40 years, occ: agri.
2. Sanganna S/o Nagappa, age; 45 years, occ: agri.
3. Sharnappa S/o Saibanna, age; 65 years, occ: agri.
4. Bhagawanthraya S/o Benneppa, age; 38years, occ: agri.
5. Sidram S/o Benneppa, age; 35 years, occ: agri.
6. Karaling S/o Benneppa, age; 30 years, occ: agri.
7. Anand S/o Saibanna, age; 28 years, occ: agri.
8. Mahantappa S/o Saibanna, age; 38 years, occ: agri.
9. Yallaling S/o Sharnappa, age; 30 years, occ: agri.
10. Beerappa S/o Sharnappa, age; 32 years, occ: agri.
11. Yallaling S/o Saibanna, age; 30 years, occ: agri.
12. Pundalik S/o Siddalingappa, age; 32 years, occ: agri.
13. Shantappa S/o Siddalingappa, age; 29 years, occ: agri.
14. Sambai W/o Siddalingappa, age; 45 years, occ: agri.
15. Bhagamma W/o Saibanna, age; 40 years, occ: agri.
16. Renugka W/o Bhagawanthraya, age; 35 years, occ: agri.
17. Parvati W/o Sidrama, age; 32 years, occ: agri.

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18. Ningamma S/o Saibanna, age; 60 years, occ: agri.

19. Dattappa S/o Jangappa Nagavi, age; 60 years, occ: agri.

All R/o Ranjanagi village, tq: Jewargi. Dist: Kalaburagi.

PARTIES TO I.A. NO.I

APPLICANT/S
PLAINTIFF

: 1. Bheerappa S/o Shivalingappa
Gundagi.
(By. Sri. B.B., Advocate)

V/S

OPPONENT/
DEFENDANTS

: 1.Siddalingappa S/o Nagappa & others,
(D-1 By Sri. P.K.Advocate)
(D-2 to 7, 9 & 10 By Sri. J.V.H., Advocate)
(D-11 to 19 placed Ex-Parte)

1	Provision under which the application is filed	U/O.39 Rule 1 & 2 of CPC.
2	Relief sought for	Not to disturb
3	The date on which the application is filed	Along with suit.
4	Number of application	I.A.No.1
5	The date which the objection are filed by different opponents	11-02-2025
6	The date on which the orders were passed on the said application	05-01-2026

ORDER ON I.A No.I FILED BY PLAINTIFF
U/O 39 RULE 1 & 2 OF C.P.C.

The plaintiff has filed I.A No.I under Order 39 Rule 1 & 2 R/w. Section 151 of C.P.C., for the relief of temporary injunction against defendants, in favour of plaintiff and

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thereby restraining the defendants, from causing interference over the suit property is an agricultural land bearing Sy.No.108 measuring 04 acres 07 guntas, situated at Ranjanagi village, tq: Jewargi, till the disposal of the suit.

2. Plaintiff sworn to an affidavit in support of the application, wherein he has stated that, the plaint averments is part and parcel of this affidavit.

3. **The brief plaint averments as under:**

4. The plaintiff is the owner in possession of the suit land and he has been paying the land revenue to the government. Defendants ancestors have filed suit for declaration and injunction in O.S.No.85/2013 on the file of hon'ble Senior Civil Judge at Jewargi, and the same was dismissed on the ground that, plaintiff and his ancestors are in possession and enjoyment of the suit land and non-suited land and suit was barred by time. The same has been challenged by the defendants' ancestors in RFA No.200121/2019 on the file of the hon'ble High Court of Karnataka and after hearing the matter was remanded for giving finding on two issues relating to possession and execution of deed in which the hon'ble Senior Civil Judge has again passed in judgement on 10-12-2024 and hold that defendants ancestors are not in possession of the suit

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land and the plaintiff and his ancestors are in possession of the suit land and non-suited land.

5. Now defendants have planned to dispossess the plaintiff from the portion of the suit land and brought teen shed and erected the same in the suit land and soon after their act, the plaintiff informed the police officials who have come to the suit land and inspected the same and lodged PAR (Preventive Inspection Report) before the Tahasildar.

6. That, the plaintiff and defendant have appeared and executed a bond for keeping peace and tranquility and on 10-01-2025, the Tahasildar Jewargi, has directed the police to take appropriate action for removal of temporary teen shed as per law, knowing the said fact, the defendant installed a camera on the same day on 10-01-2025.

7. That the defendants have no lawful authority to interfere or disposes the plaintiff illegally and they are not permitted to take the law in their hands. Hence, all the said acts of the defendants amount illegal interference over the peaceful possession of the plaintiff over the suit land and required to be restrained by granting an interim injunction. Hence, this application filed.

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8. Plaintiff has made out a prima-facie case, balance of convenience lies in his favour. If T.I. is granted no harm or prejudice would be caused to other side. If not plaintiff will be put to heavy and irreparable loss which cannot be compensated in terms of money. Hence, this affidavit.

9. Defendant No.1 and 3 appears through their counsel and filed a written statement and also filed a memo that, the contents of written statement is treated as objections to I.A.No.1.

10. **The written of defendant No.1 brief as under:**

The defendant No.1 contended that, the suit property 04 acre 07 guntas, has not in existence. The suit property land bearing Sy.No.108/E, is totally measuring 04 acre 34 guntas, out of 03 acres 04 guntas has sold by the father of plaintiff to the father of defendant No.1 through registered sale-deed document bearing No.664/1987-88, as per panchayat held by the villagers the father of plaintiff by name Shivalingappa S/o Siddappa Gudagi was not ready to deliver the possession of the land eastern side. Because 02 acre 30 guntas was fertile land towards the eastern side of the suit property. As per panchayat the father of plaintiff put in a possession to the western side instead of eastern side. After the death of father defendant No.1 had been possession in the suit schedule

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property. The ancestors of defendants filed O.S.No.85/2013 before a hon'ble Senior Civil Judge, Jewargi, same is dismissed. Thereafter, defendant No.1 prefer appeal before a hon'ble High Court of Karnataka in RFA No.200121/2019. The hon'ble High Court of Karnataka O.S.No.85/2013 same is remanded back to giving a finding on two issues. The plaintiff presently trying to dispossess the defendant from the suit schedule property. Defendant No.1 further contended that, defendant No.1 and his father dug the open well and improve the suit property. The plaintiff is never in possession of suit schedule property.

11. The brief averments of written statement of defendant No.3 as under:

12. Defendant No.3 denied that, plaintiff is owner and he is in possession of suit schedule property. Defendant No.3 admitted that, the ancestors of defendants filed a suit O.S.No.85/2013 before hon'ble Senior Civil Judge, Jewargi and said suit was dismissed and defendants have preferred appeal in R.F.A.No.200121/2019 in the Hon'ble High Court of Karnataka, Kalaburagi Bench, and same is pending. Defendant No.3 further contended that, in RFA No.200121/2019 the Hon'ble High Court made a order of restricted remand. Now the O.S.No.85/2013 is disposed

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and the original records and finding on issues sent to the hon'ble High Court of Karnataka. The defendant No.3 further contended that, the dispute of suit property between the same parties is already pending in RFA No.200121/2019 in the hon'ble High Court of Karnataka, Kalaburagi Bench, hence, present suit is not maintainable. With these grounds defendant No.3 prays to reject the I.A.No.1.

13. Heard the arguments on both side and perused the records.

14. On considering the I.A No.I, affidavit and objections/written statement to I.A No.I, the points that would arise for my consideration are as under:

POINTS

1. Whether the plaintiff /applicant has made out prima-facie case for grant of temporary injunction ?
2. Whether the balance of convenience is lies in favour of plaintiff/applicants ?
3. Whether the irreparable loss and injury would be caused to the plaintiff/applicants if the temporary injunction is refused ?
4. What order?

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15. The Learned Counsel for plaintiff has produced the record of rights of the suit property and argued that the plaintiffs have made out prima-facie case and balance of convenience lies in favour of the plaintiffs. If temporary injunction is not granted the plaintiffs would be put to heavy and untold hardship. Therefore, the temporary injunction may be granted to the plaintiff.

16. On the other hand the defendants counsel has argued that, the plaintiff has never in possession of suit schedule property. The appeal pending before the hon'ble High Court of Karnataka, Kalaburagi Bench. Hence, prayed to reject the I.A.No.1.

17. My answer to the above points are as under:

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

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

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

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

REASONS

18. **Point No.1:** I have already set out in brief as to what the case of the plaintiff is and as to what the objection of the defendants.

19. It is well established and settled position of law that the following propositions are to be established in order to

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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.

20. In the light of the argument canvased by the learned counsel for the parties, this court has carefully perused the documents produced by the parties to the suit. The list of documents of plaintiff consist the RTC of land bearing Sy.No.108 measuring 17 acres 22 guntas, out of 04 acres 07 guntas is standing in the name of plaintiff and 03 acre 04 guntas standing in the name of defendant No.1. Plaintiff produced the judgement copy of O.S.No.85/2013, wherein the hon'ble court is observed that, the recasted issue No.2 and 5 is answered as Negative. the hon'ble court observed that, the present defendant No.1 is in not possession of the suit schedule property. Plaintiff further produced the photos and pen-drive. Plaintiff produced the order passed by the

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Tahasildar Jewargi. Defendants counsel produced the xerox copy of registered sale-deed, it disclose that, father of defendant purchased the land bearing Sy.No.108/E measuring 03 acre 04 guntas from the father of plaintiff by name Shivalingappa S/o Siddappa Gundagi. Defendant produced the records of rights of land bearing Sy.No.108. And the electricity sanction letter. The defendant produced the photos in respect of suit property. The suit property land bearing Sy.No.108 measuring 17 acre 22 guntas out of 04 acres 07 guntas, standing in the name of plaintiff and 03 acre 04 guntas, standing in the name of defendant No.1. It is the contention of the defendants that, they are in possession of suit property, as per panchayat held in villagers. The contention taken by the defendants it required full pledged trial. Hence, at the stage, court cannot be conduct mini trial to determine the rights of parties. By considering all these aspects, this court is of opined that, plaintiff has made prima-facie case for granting the equitable relief of temporary injunction. Hence, I answered Issue No.1 in the Affirmative.

21. **Point No.2 and 3** :- The second condition of granting interim injunction is that, the balance of convenience must be lean favour of the applicant. In other words, the court must be satisfied that, the comparative mischief, hardship or inconvenience which is like to be caused to the applicant

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by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

22. The existence of prima-facie case, alone does not entitle the applicant for a temporary injunction the applicant must be further satisfied the court about the 3rd condition by showing that, he will suffer irreparable injury if the injunction as prayed is not granted and there is no other remedy open to him by which he can protect himself from the consequence of apprehended injury.

23. It is admitted fact that, in respect of suit schedule property, the appeal pending in RFA No.200121/2019 before the hon'ble High Court of Karnataka, Kalaburagi Bench. At this stage, if injunction is granted it will cause irreparable loss to the defendants more than plaintiff. Hence, the balance of convenience and irreparable loss lies in favour defendants. Hence, I answer Point No.2 and 3 in the Negative.

24. **Point No.4**:- In view of my findings on above Points No.1 to 3, I proceed to pass the following:

ORDER

I.A.No.I filed by the learned counsel
for the plaintiff Under Order 39 Rule 1 & 2
of C.P.C. is hereby rejected.

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No order as to cost.

For Issues.

(Directly dictated to the Stenographer, directly on Computer typed by him, revised and corrected by me, then pronounced in the open court on this the 05th day of January, 202)

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

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