

**IN THE COURT OF THE CIVIL JUDGE JMFC,
PONNAMPET.**

***PRESENT : Sri.Shrinath A, B.A.L, L.L.B.,
Civil Judge & JMFC.,
Original Suit No.39/2024***

Dated this the 16st day of September 2025.

Plaintiffs : Sri. T. T. Suresh,
S/o: Late Thimmaiah T. G.,
Age: 66 years,
R/o: Nallur Village,
Kirgoor, Balele Hobli,
Ponnampet Taluk,
Kodagu District.

(By Sri. K. G. Appanna, Advocate)

-Vs-

Defendants: :1. Sri. T. T. Somaiah,
S/o: Late Thimmaiah T. G.,
Age: 70 years,

2. Sri. T. S. Jagath,
S/o: T.T. Somaiah.,
Age: 70 years,

R/o: Nallur Village,
Kirgoor, Balele Hobli,
Ponnampet Taluk,
Kodagu District.

(By Sri. A.B.Kalaiah, advocate)

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PARTIES TO I.A.II

**PLAINTIFF/
APPLICANT** : Sri. T. T. Suresh,

-V/s.-

**DEFENDANT/
OPPONENT :** Sri. T. T. Somaiah & another.

**ORDERS ON I.A.NO.II FILED BY THE PLAINTIFF UNDER
ORDER XXXIX RULE 1 and 2 OF CPC**

The plaintiff prays for temporary injunction to restrain the defendants from interfering in the suit schedule property till the disposal of the suit. The suit properties are Sy.No. 132/1 and 133/1 of Nalluru Village.

2. In the affidavit, the plaintiff contends that he purchased the properties under sale deed dated 29.04.1982 in which the defendant no. 1 being his brother was attesting witness. From then he is in possession growing coffee, pepper and areca. Plaintiff was an employee in Taj Hotel Bangalore and from last three years now is permanent residence in the suit property. The defendants on

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15.01.2024 have picked coffee from the suit property bearing Sy. No. 132/1 when he was out of station. In this regard police was informed on 11.02.2024 and case was registered. Once again on 17.03.2024, the defendants have picked pepper from the property bearing Sy. No. 133/1 and once again attempt was made to lodge another complaint but no case was registered. The defendants are in the habit of interfering by harvesting the grown crop and therefore the plaintiff has fenced with proper identification and hence, therefore filed this application having prima – facie case and balance of convenience in his favor and hence prays to allow the application.

3. Advocates for defendants files objections denying of such interference by attempting to harvest in the suit properties. It is submitted that the plaintiff and defendant

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father at other two sons along with them. They are joint family and have not divided any properties including suit properties by metes and bounds. In the guise of claiming property bearing Sy. No 133/2, 56 cents which is cultivated by defendants, this false suit has been filed. Plaintiff has no manner or right, title and interest in the suit properties. It is submitted that the vendor of plaintiff had no title to sell the suit properties and therefore the plaintiff has no prima – facie case and prays to dismiss the application.

4. Heard advocate for plaintiff and defendants.

5. On perusal, following points are arise for my consideration:-

1. Whether the plaintiff has made out a prima-facie case?
2. Whether the balance of convenience lies in favour of plaintiff?

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3. Whether irreparable injury would be caused to the plaintiff if an order of temporary injunction is not granted?

4. What Order?

6. My answers to the aforementioned points are as under :

Points No.1 to 3: In the AFFIRMATIVE.
Point No.4 : As the final order
for the following.

REASONS

7. **POINTS NO.1 to 3** :- The suit is for Declaration that plaintiff is absolute owner of suit properties. Further has claimed for permanent injunction against the defendants. From perusal of documents and the pleadings, prima – facie it is seen that the suit properties are purchased by plaintiff in his exclusive name. Further it is seen that the defendant no. 1 is one of the attesting witness to the sale deed. Therefore the contention of defendant no. 1 that as eldest

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male member of the family he signed as attesting witness cannot be considering at this stage, when there are no recitals in the sale deed to that effect. The defendant no. 1 has not stated why sale deed has not been entered in his name being the Kartha of the family. Therefore prima – facie it is seen that suit properties belong to the plaintiff. Further in the written statement there is no specific denial of title of plaintiff over suit properties, but has taken defense that even these suit properties are joint family properties. Having so stated in the written statement defendants have contended that they are in possession of properties according to their convenience. On the other hand defendants have contended that they are joint possession of all the properties including suit properties. Further defendant have contended another property bearing Sy. No.

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133/2 belongs to them. When such property is claimed to be their exclusive property, their defense of joint family and properties are joint family properties are doubtful.

8. It is prima – facie sseen that there are many criminal complaints filed by the plaintiff against the defendants for having illegally harvested in the suit properties. Even in this case the allegation of interference is the same. Since the sale deed of suit properties is in the name of plaintiff, he has shown his prima faice possession over the suit properties.

9. Further since the defendants taken by the defendants prima – facie is not tenable, at this stage, it cannot be decided on merits with regard to intent of sale deed in the name of plaintiff whether it constitutes joint family. On the other hand to show that it is a self acquired

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property, sale deed is sufficient to prove the prima – facie case.

10. Further it is alleged that the grown crops is being illegally harvested by the defendants causing loss, when plaintiff it is out of station. Therefore hardship is been caused to plaintiff, defendants without prima – facie showing the case of joint family property in case of suit properties. Further it is noted that plaintiff was an employee in Taj Hotel having independent income to purchase these properties. Hence, balance of convenience lies in favor of plaintiff. Further from the documents produced by the defendants of the suit properties, the RTC is in the name plaintiff. As of now there is no boundary dispute. Further defendants have produced sale deed in respect of property bearing Sy. No. 133/2 claiming has

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owner. Therefore, the plea of properties has not been partition is matter of adjudication. Hence for above reasons, it is necessary to restrain defendants from interfering in the suit properties and accordingly points no. 1 to 3 in the affirmative.

11. **Point No.4:-** In view of the forgoing observations and discussions, I proceed to pass the following :-

ORDER

The I. A. NO.II filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.

The defendants are temporarily restrained from interfering in the suit properties till disposal of the suit.

(Dictated to the stenographer, transcribed and computerized by him, then corrected, signed and pronounced by me in open court on this the 16th day of September 2025)

- sd -

(Shrinath A)
Civil Judge & JMFC
Ponnampet.

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ORDER PRONOUNCED IN THE OPEN COURT VIDE
SEPARATE ORDER

The I. A. NO.II filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.

The defendants are temporarily restrained from interfering in the suit properties till disposal of the suit.

Civil Judge & JMFC.,

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Ponnampet.

For issues. Call on

Civil Judge & JMFC.,
Ponnampet.