

KAKL500048242025



**IN THE COURT OF THE I ADDL. SENIOR CIVIL JUDGE  
AND JMFC, KGF, ITINERARY AT BANGARPET**

**PRESENT: K.A.NAGESHA, B.A.L,LL.B.  
I ADDL. SENIOR CIVIL JUDGE & JMFC, KGF,  
ITINERARY AT BANGARPET**

**M.A. No.87/2025**

**DATED THIS THE 12<sup>TH</sup> DAY OF AUGUST 2026**

**APPELLANTS**

1.Munivenkatappa  
S/o Muniyappa,  
Aged about 68 years.

2.Narayana Babu  
S/o Munivenkatappa,  
Aged about 35 years.

Both are R/at Narayanapura Village,  
Hudukula Post,  
Bangarpet Taluk,  
Kolar District.

(By Sri. K.V. Shankarappa, Adv.)

**V/s**

**RESPONDENT**

Venkateshappa  
 S/o Late Munivenkatappa,  
 Aged about 65 years,  
 R/at Narayanapura Village,  
 Hudukula Post,  
 Bangarpet Taluk, Kolar District,  
 Now R/at Buchappalli Village,  
 Kyasamballi Post,  
 Bethamangala Hobli,  
 KGF Taluk.

(By Smt.K.P.Kavyarani, Adv.)

|                                                     |                                                                                                                                      |               |                |              |    |    |    |
|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------|--------------|----|----|----|
| Date and nature of decree or order appealed against | Order dated 25.11.2025 passed by Court of II Addl. Civil Judge and JMFC, Bangarpet on I.A.No.I in O.S.No.386/2024                    |               |                |              |    |    |    |
| Date of institution of appeal                       | 02.12.2025                                                                                                                           |               |                |              |    |    |    |
| Date of order                                       | 12.08.2026                                                                                                                           |               |                |              |    |    |    |
| Total duration                                      | <table><tr><td><u>Year/s</u></td><td><u>Month/s</u></td><td><u>Day/s</u></td></tr><tr><td>00</td><td>08</td><td>10</td></tr></table> | <u>Year/s</u> | <u>Month/s</u> | <u>Day/s</u> | 00 | 08 | 10 |
| <u>Year/s</u>                                       | <u>Month/s</u>                                                                                                                       | <u>Day/s</u>  |                |              |    |    |    |
| 00                                                  | 08                                                                                                                                   | 10            |                |              |    |    |    |

**ORDER**

Defendants in O.S. No. 386/2024 on the file of the learned II Addl. Civil Judge and JMFC, Bangarpet have preferred this miscellaneous appeal against the order dated 25/11/2025 allowing the I.A. No. I filed by the plaintiff U/o 39 Rules 1 and 2 R/w Section 151 of CPC.

2. Respondent herein filed the suit in O.S. No. 386/2024 to restrain the appellants from interfering with his possession and enjoyment over the suit schedule property. In the suit, he filed the I.A. No-I U/o 39 Rules 1 and 2 R/w Section 151 of CPC for the relief of temporary injunction restraining the defendants from trespassing over the suit schedule property till the disposal of the suit. Suit schedule property is bearing Sy. No 132/P29 measuring 3 acres of Vottrakunte village, Kasaba Hobli, Bangarpet Taluk. ***(Parties herein shall be referred to as per their ranks before the Trial Court for the sake of convenience.)***

3. It is the case of the plaintiff that, suit schedule property was Gomal land and same was granted to the plaintiff and grant certificate was issued on 15/07/1994 by the Tahasildar and his name came to be mutated as per MR. No. 87/94-95. He is in possession and enjoyment of this property by paying tax. Plaintiff is aged and illiterate person knowing only to affix LTM. Since he is residing at Buchepalli, faraway place from the schedule property he had allowed his daughter to take

care of the property. Defendants are not in good terms with the plaintiff with respect to the schedule property. Taking advantage of the absence of the plaintiff, they are frequently threatening to trespass over this property claiming certain revenue documents in their name but absolutely they have no right. They are very powerful persons and hence plaintiff is unable to resist their act of interference. They caused interference on 11/09/2024 and on 24/09/2024; hence he filed the suit and hence prayed to allow the application.

4. Defendants have filed written statement and memo to treat the same as objection to the I.A. No-I, wherein they have contended that Sy. No. 132 of Vatrakunte village is measuring more than 299 acres. In this survey number, grant certificates were issued in favour of number of persons. This land is not phoded and boundaries are not demarcated to any grantees. Similarly, plaintiff is not in possession and enjoyment of the land described in the suit schedule. Documents produced by the plaintiff are not related to the suit schedule property. Defendant No.2 has filed application

for grant of 2.20 acres of land in Sy. No. 132 as he is in unauthorised cultivation of this extent out of 12.20 acres. This extent comes within the boundaries furnished by the plaintiff in the plaint schedule. Within the boundaries furnished in the suit schedule, there is extent measuring 10 acres. Defendants No.1 and 2 are the father and son and they have developed the land as cultivable land and they are growing rain fed crops. Application filed by the defendant No.2 for grant of land is pending. With an intention to knock off the land in unauthorised possession of the defendant No.2, plaintiff has filed untenable suit. When the plaintiff is not in possession of the schedule property, allegation of interference cannot be accepted. There is dispute regarding identity of the property. Suit for bare injunction without seeking the relief of declaration of title is not maintainable and hence sought rejection of the application.

5. The Trial Court after hearing the parties, vide impugned order allowed the application granting the relief of temporary injunction as prayed for. Being

aggrieved by the said order, defendants have come up with this appeal.

6. Respondent has appeared before this Court through Counsel. Trial Court records is secured.

7. Heard the learned counsel appearing for the parties and perused the memorandum of appeal and the entire records. Appellants have filed written arguments also and same is perused.

8. Under the circumstances, following points arises for consideration.

### **POINTS**

- 1) Whether the impugned order passed by the Trial Court allowing the I.A. No-I filed by the plaintiff U/o 39 Rules 1 and 2 R/w Sec.151 of CPC is capricious, arbitrary and perverse?*
- 1) Whether the impugned order allowing the I.A-I filed by the plaintiff U/o 39 Rules 1 and 2 R/w Sec. 151 of CPC needs to be interfered with?*
- 2) What order?*

9. The points framed for consideration are answered as under;

Point No.1: In the negative.

Point No.2: In the negative.

Point No.3: As per the final order,  
for the following;

### **REASONS**

10. **POINTS No. 1 & 2:-** Plaintiff has filed the suit for the relief of bare injunction to restrain the defendants from interfering with his possession over the suit schedule property. According to the plaintiff, he is the owner in possession and enjoyment of the suit schedule property bearing Sy. 132/P29 to an extent of 3 acres by virtue of the grant certificate issued in his favour on 15/07/1994.

11. In order to prima-facie prove possession and enjoyment over the suit schedule property as on the date of filing of the suit, plaintiff has produced the documents such as original grant certificate, mutation extract, RTC's, tax paid receipts, photographs, Police compliant

etc., Perusal of the grant certificate shows that an extent of 3 acres in Sy. No. 132 was granted in favour of the plaintiff on 15/07/1994. Pursuant to issuance of the grant certificate, name of the plaintiff was mutated as per MR. No. 27/94-95 and his name started appearing in the RTC. Even as on the date of filing of the suit, name of the plaintiff is appearing in the RTC of Sy. No. 132.

12. It is true that, no documents are available on record to compare the correctness of the boundaries mentioned in the plaint schedule. Even in the grant certificate, boundaries are not mentioned. Both parties have pleaded that Sy. No. 132 is a Government Gomal land having vast extent. At this stage, plaintiff has produced number of photographs to claim that he has grown Ragi crops in the suit schedule property and has alleged that defendants are obstructing harvesting of the said crops.

13. The defendants except claiming that defendant No.2 has filed application for regularization of unauthorized cultivation of 2.20 acres in Sy. No. 132 and

producing copy of the said application, has not placed any other materials on record to contend that said extent comes within the boundaries mentioned in the plaint schedule. Defendant No.2 has not mentioned the boundaries with respect to 2.20 acres of land in Sy. No.132. Said application was filed on 31/01/2019, whereas grant certificate in favour of the plaintiff was issued in the year 1994.

14. The Trial Court after considering the materials available on record has arrived at conclusion that prima-facie, plaintiff has proved his possession and enjoyment over the schedule property and that defendants have caused interference on the ground that defendant No.2 has filed application for regularization of 2.20 acres in the suit survey number.

15. Plaintiff is claiming to be in possession of 3 acres of land as per the grant certificate. On the other hand, defendants are contending that defendant No.2 is in unauthorized cultivation of 2.20 acres of land and the said extent comes within the boundaries mentioned in

the plaint. As a matter of fact, defendant No.2 has not mentioned the boundaries with in which he is in possession of land i.e., 2.20 acres. Taking all these factors in to consideration, Trial Court has come to the conclusion to answer the points framed for consideration in favour of the plaintiff. The materials placed on record by the plaintiff shows that there is prima-facie case for trial. Further, it is found that balance of convenience is in his favour as he is cultivating this property by growing crops and such possession needs to be protected by the Court.

16. Admittedly, scope of this appeal is limited and this Court is not required to re-appreciate the materials available on record as appreciated in regular appeals. In this regard, it is necessary to rely upon the judgment in the case of **Harishraj Urs and another V/s Vinayraj Urs and another, 2013 (5) KCCR 3678**, wherein the scope of appeal against the order of Temporary injunction was discussed and held as under;

*“4. It is trite that an appeal lies from an order of a Trial Court granting or refusing to*

*grant an interim injunction, but what the Court of appeal has to consider is simply whether or not the Trial Judge who dealt with the matter has properly exercised the jurisdiction which he possesses. The appellate Court is not to approach the case as if it is a trial Court. Granting or refusing of injunction is a matter resting in the sound discretion of the Trial Court and consequently the Appellate Court, while examining the matter in an appeal, should be slow to interfere with the discretionary order passed by the Trial Court, unless the appellants show that the view taken by the Trial Court in the matter is perverse, capricious and illegal and that the impugned order bring unsustainable that the plaintiffs/appellants are entitled to an order of temporary injunction, pending decision of the suit.”*

17. As observed above, Trial Court has rightly recorded its findings on the points framed for consideration while passing the impugned order. Said findings cannot be called as arbitrary or capricious or perverse. The opinion formed by the Trial Court cannot be interfered with as the same is found on proper consideration of the pleadings and the materials placed on record. Hence, it is held that impugned order passed by the Trial Court need not be interfered with.

Accordingly, points No.1 and 2 are answered in the negative.

18. **POINT No. 3**:- In view of answering the points No.1 and 2 in the negative, appeal is to be dismissed and the impugned order is liable to be confirmed. Hence, I proceed to pass the following;

**ORDER**

Miscellaneous appeal preferred by the appellants/defendants in O.S. No. 386/2024 U/o 43 Rule 1 CPC is hereby dismissed.

Impugned order dated 25/11/2025 passed by the learned II Addl. Civil Judge and JMFC, Bangarpet allowing the I.A No-I filed by the plaintiff U/o 39 Rules 1 and 2 R/w Section 151 CPC, is hereby confirmed.

Parties are directed to bear their own costs.

It is made clear that, observation made in this appeal is limited to consideration of the I.A. No-I in O.S. No. 386/2024 and not with respect to the merits of the case.

Office is hereby directed to send copy of this order to the Trial Court immediately along with the Trial Court records.

*(Dictated to the Stenographer directly on computer, transcribed by him, revised by me and after corrections pronounced in the open court on this the 12<sup>th</sup> day of August 2026).*

**Sd/-**

**(K.A. NAGESHA)**

**I ADDL. SENIOR CIVIL JUDGE & JMFC,  
KGF, ITINERARY AT BANGARPET**