

KAKL510016512022



**IN THE COURT OF PRL. CIVIL JUDGE & ADDL.
JMFC, AT K.G.F.**

PRESENT: **Sri.VINOD KUMAR.M** BAL,.LLB,LLM.,
PRL. CIVIL JUDGE & ADDL. JMFC
AT K.G.F.

O.S. No.317/2022

Dated this the 30th day of October - 2025

BETWEEN :

Sri. Venkateshappa

....Plaintiff

V/s

Smt. Venkatarathnamma & others

....Defendants

IA No.V

Sri. Vadagurappa,

S/o Muniyappa,

Aged about 65 years,

R/at: Jayamangala Village,

T.Gollahalli Post, Bethamangala Hobli,

K.G.F Taluk,

Kolar District.

... Applicant/Defendant No.2

(By **Sri. VR.** Adv.,)

V/s

Sri. Venkateshappa,

S/o late Munishamappa,

Aged about 60 years,

R/at: Jayamangala Village,

T.Gollahalli Post, Bethamangala Hobli,

K.G.F Taluk,

Kolar District.

... Opponent/Plaintiff

(By **Sri. AVS.** Adv.,)

i.	<i>Provision under which the application is filed</i>	U/o 39 Rule 1 R/w Sec.151 of CPC
ii.	<i>Relief sought for</i>	Not to interference
iii.	<i>The date on which the application is filed</i>	17-12-2022
iv.	<i>Number of the application</i>	IA No.V
v.	<i>The date on which the objections are filed by different opponents</i>	- - -
vi.	<i>The date on which the orders were passed on the said application</i>	30-10-2025

ORDERS ON IA No.V U/o 39 RULE 1 R/w
Sec.151 OF CPC

The Applicant/Defendant No.2 filed an IA.No.V U/o 39 Rule 1 R/w Sec.151 of CPC praying to pass an Ad-interim order of temporary injunction restraining the Plaintiff, his family members, agents, servants & others from interfering with possession of written statement schedule property till disposal of the suit, in the interest of justice and equity.

2. In support of application sworn in the affidavit by contented that, the plaintiff filed suit for Permanent Injunction in respect of suit property against them. It is further that, their names & parents names are not at all correct as shown in cause title of the plaint. The name of Defendant No.1 is Venkatarathnamma W/o Vadaguru Venkateshappa, the Defendant No.2 is Vadaguru Venkatashappa S/o late Muniswamappa & Defendant No.3 is Suresh S/o Vadaguru Venkateshappa. The said Chikkavenkatamuni had no right, title, interest or possession over the suit property to sell in

favour of Manjula and the said Sale Deed dated 29-06-2019 is null & void. The plaintiff has no right, title, interest or possession over the suit property. It is further that, the defendant No.1 purchased the written statement schedule property under Sale Deed dated 04-06-1984 from Barle Muniswamy for valuable sale consideration and all the documents got transferred in her name. Since the date, the defendant No.1 is in possession & enjoyment of item No.1 of written statement schedule property. Subsequently, they have put up chicken poultry in schedule property about 3 years ago. In turn, the defendant No.1 purchased the item No.2 of written statement schedule property from Chikkamuniswamy, Errappa & Sriramappa under Sale Deed dated 28-10-1987 and all the documents got transferred in her name. Again the defendant No.1 purchased the item No.3 of written statement schedule property from Munivenkatappa under Sale Deed dated 15-08-2008 and all the documents got transferred in her name. Since the date, the defendant No.1 has put in possession & enjoyment of written statement schedule property by raising seasonal crops and fenced the written statement schedule property with barbed wire. But on 15-08-2022, the plaintiff attempts to dispossess them from written statement schedule property and they lodged a complaint before jurisdictional police. But, police have not taken any action except advised to approach civil court. The plaintiff is concocted & forged all the documents pertaining to suit property. He has made out prima-facie case & balance of convenience lies in his favour. If the application is not allowed,

he will be put great hardship & injury. Hence, he prays to allow the application.

3. On other hand, the plaintiff has not filed objections to application filed by defendants inspite of given sufficient opportunity and objection to present application is taken as not filed.

4. Heard the argument of learned counsel for the Defendants & Plaintiff with documents. Perused the documents available on records.

5. Now the points that arise for my consideration are as under:

(1) Whether the Defendant No.2 has made out a prima-facie case in his favour?

(2) Whether the balance of convenience lies in favour of Defendant No.2?

(3) Whether the Defendant No.2 will be put to irreparable loss or injury, if the IA No.V is not allowed?

(4) What order?

6. My findings on the above said points as here under :

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

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

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

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

:: REASONS ::

7. Point No.1: This is the suit filed by the Plaintiff against Defendants for the relief of Permanent Injunction in respect of suit schedule property.

8. It is necessary to culled out about whether the Defendants have made out prima-facie case in their favour?. In the affidavit to support of application, defendant No.1 & they are owner in possession & enjoyment of written statement schedule property having acquired under three Sale Deeds and all the documents got transferred in the name of defendant No.1. They have constructed poultry form & put up fenced with barbed wire around written statement schedule property. But, the plaintiff has not at all right, title or interest over the written statement schedule property and trying to interfere with possession of the same. In support of prima-facie contention, the defendants & counsel never produced any documents to show the written statement schedule property in their possession with fenced barbed wire around the property. But, here the defendant No.2 has to establish the prima-facie case with supportive documents. Mere perusal of records available in the file, the defendants never produced any documents to show in possession of written statement schedule property. In the absence of physical possession in written statement schedule property by defendants, the question of interference by the plaintiff does not arise. I hold that, the defendant No.2 is not entitled for temporary injunction as sought in the application U/o 39 Rule 1 of CPC. Accordingly, I have answered to **Point No.1 in the Negative.**

9. Point No.2 & 3: If the Defendant No.2 has not made out prima-facie case, the question of consideration the balance of convenience and irreparable loss to Defendant No.2 would not arise. Accordingly, I have answered to **Points No.2 & 3 in the Negative.**

10. Point No.4 : In view of above discussion and conclusion to Points No.1 to 3, this court proceed to pass the following:-

ORDER

I.A.No.V filed by the Defendant No.2 U/o 39
Rule 1 R/w Sec.151 of CPC is hereby dismissed.

No order as to costs.

(Dictated to the stenographer directly on computer and typed by him, corrected, signed by me & then pronounced in the open Court on this the **30th day of October – 2025**)

Sd/-
(VINOD KUMAR M.)
P.C.J., & ADDL. JMFC.,
K.G.F.