

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.I

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.

... Applicant/Plaintiff

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

V/s

1. Smt. Venkatarathnamma,

W/o Vadagurappa,

Aged about 62 years,

2. Sri. Vadagurappa,

S/o Muniyappa,

Aged about 65 years,

3. Sri. Suresh,

S/o Vadagurappa,

Aged about 35 years,

All are R/at: Jayamangala Village,
T.Gollahalli Post, Bethamangala Hobli,
K.G.F Taluk,
Kolar District.

... Opponents/Defendants
(By **Sri. VR.** Adv.,)

i.	<i>Provision under which the application is filed</i>	U/o 39 Rule 1 & 2 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>	26-07-2022
iv.	<i>Number of the application</i>	IA No.I
v.	<i>The date on which the objections are filed by different opponents</i>	17-12-2022
vi.	<i>The date on which the orders were passed on the said application</i>	30-10-2025

ORDERS ON IA No.I U/o 39 RULE 1 & 2 R/W
Sec.151 OF CPC

The Applicant/Plaintiff filed an IA.No.I U/o 39 Rule 1 & 2 R/w Sec.151 of CPC praying to pass an Ad-interim order of temporary injunction restraining the Defendants, their supporters from interfering with possession of suit 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, he filed suit for Permanent Injunction in respect of suit property against defendants. He is absolute owner in possession & enjoyment of suit property after death of his daughter/Manjula. Originally suit property purchased by his daughter/Manjula under Sale Deed dated 29-06-2019

from Chikkavenkatamuni for valuable sale consideration. The Khata & RTC got transferred in his name and he is raising seasonal crops like ragi, jowar & horsegram including paying taxes to concerned authority. It is further that, the defendants absolutely have no manner of right or title over the suit property and trying to interfering with his peaceful possession & enjoyment of suit property towards western side. He resisted the illegal act of defendants, but the defendants have continued the same. In this regard, he given a complaint to police on 11-07-2020. But, police have issued NCR vide No.184/2020 with advised to approach civil court. 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. Per contra, the Defendants filed objection to IA No.I by denying the contents in Para No.1 to 7 of affidavit in support of application inter-alia contended that, application is not maintainable either in law or on facts. 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 Venkateshappa 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, 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. On these ground, they prays to dismissal the application.

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

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

- (1) Whether the Plaintiff has made out a prima-facie case in her favour?***
- (2) Whether the balance of convenience lies in favour of Plaintiff?***
- (3) Whether the Plaintiff will be put to irreparable loss or injury, if the IA No.I 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 :- |

:: R E A S O N S ::

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. It is specific contention of plaintiff in application that, he is owner in possession & enjoyment of suit property having acquired under Sale Deed in the name of his daughter/Smt.Manjula, who acquired the suit property under Sale Deed dated 29-06-2019 and all the documents got transferred in his name. But, the defendants trying to interfere with possession & enjoyment of suit property. On other hand, the defendants filed objection by resisted the application inter-alia contended that, the

defendant No.1 purchased the item No.1 to 3 of written statement schedule property under three Sale Deeds and possession & enjoyment of the same includes constructed poultry form and all the documents got transferred in their names. But, the plaintiff has wrongly claiming the written statement schedule property as it their property.

8. It is necessary to culled out about whether the plaintiff has made out prima-facie case in his favour?. In the affidavit to support of application, the plaintiff contended that, his daughter/Manjula acquired the suit property under Sale Deed dated 29-06-2019 from G.V.Nagesh & others for valuable sale consideration and all the documents got transferred in her daughter's name. After death of her daughter/Manjula, he succeed the suit property and become owner in possession & enjoyment of suit property. In support of contention, the plaintiff has produced Sale Deed & RTC clearly reveals that, her daughter/Manjula purchased the suit property from J.V.Nagesh & others for valuable sale consideration. But, the plaintiff has produced police complaint & NCR clearly reveals that, the defendants have encroached & growing the plants in their property. From the complaint & NCR produced by plaintiff clearly establish that, the defendants have already put in settled possession of property belongs to plaintiff. If the defendants have already encroached the same itself shows that, the plaintiff never in possession of entire suit property. On other hand, the defendants contended that, item No.1 to 3 of written statement schedule property acquired under three Sale Deeds in the name of defendant No.1 and all the

documents got transferred in the name of defendant No.1 includes put up poultry form as well as fenced with barbed wire around the written statement schedule property. In support of contention, the defendants & counsel never produced any documents to show the prima-facie case about in possession of suit property as well as written statement schedule property. But, here the plaintiff has to establish the prima-facie case with supportive documents. Mere perusal of complaint & NCR issued by police clearly made out that, the plaintiff never in possession of suit property due to defendants have already encroached & growing plants in the said property. In the absence of physical possession in suit property by plaintiff, the question of interference by the defendants does not arise. I hold that, the Plaintiff is not entitled for temporary injunction as sought in the application U/o 39 Rule 1 & 2 of CPC. Accordingly, I have answered to **Point No.1 in the Negative.**

9. Point No.2 & 3: If the Plaintiff has not made out prima-facie case, the question of consideration the balance of convenience and irreparable loss to Plaintiff 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.I filed by the Plaintiff U/o 39 Rule 1 & 2
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.