

KAKL510043092023



**IN THE COURT OF II ADDITIONAL CIVIL JUDGE &
JMFC., KGF**

Dated this the 01st day of February, 2025

PRESENT
SRI.MANJU.M, B.Sc., L.L.B.,
II Addl. Civil Judge & JMFC.,
KGF

OS.No.513/2023

PLAINTIFF:

Sri.Krishna Reddy
S/o Malla Reddy.

-V/s-

DEFENDANTS:

Sri.Muniyappa
S/o A.K.Venkataramappa and Others.

CAUSE TITLE ON IA NO.I

APPLICANT:

Sri.Krishna Reddy
S/o Malla Reddy,
Aged about 43 years,
R/at Doddakari Majara,
Kambampalli Village,
Bethamangala Post,
KGF Taluk.

(By Sri/Smt.E.B., Advocate)

-V/S-

OPPONENTS:

1. Sri.Muniyappa,
S/o A.K.Venkataramappa,
Aged about 50 years.
2. Venkatesh,
S/o A.K.Venkataramappa,
Aged about 38 years.

No.1 and 2 are
R/at: Kulur Village, Doddakari Post,
Bethamangala Hobli, KGF Taluk.

(By Sri.A.V.S., Advocate)

i	Provision under which the application is filed	Under Order 39 Rule 1 & 2 R/W Sec.151 of CPC
ii	Relief sought for	Temporary Injunction
iii	The date on which the application is filed	06-12-2023
iv	Number of the application	IA.No.I
v	The date on which the objections are filed by different opponents	04-03-2024
vi	The date on which the orders were passed on the said application	01-02-2025

ORDER ON I.A.NO.I

This application filed by the plaintiff under Order 39 Rule 1 and 2 R/W Sec. 151 of CPC praying for an order to restraining the defendants, their family members, agents, workers and others on his behalf from tresspass into the

schedule property any manner whatsoever till disposal of the suit.

2. This application is supported by an affidavit of the Plaintiff. In the said affidavit the Applicant has contended that, plaintiff is the absolute owner and in possession of the schedule property and all documents stands in his name. Further, it is submitted that, the defendants have no manner or right, title or interest and they never and ever in the schedule property in any extent since there is ill-will in the family matters, the defendants giving trouble to plaintiff possession and also gave threats, they will create the documents and will claim for their own. Hence, this application.

3. Further, the Applicant raises the usual plea of prima facie case and balance of convenience and irreparable loss and injury. Further, the Applicant has also contends that if this application is allowed no prejudice would be caused to the Defendants. By contending so, the Applicant has prayed for allowing this application.

4. This application is opposed by the defendants by filing memo to adopt the written statement as objection to IA

and denied the allegation of fact made by the plaintiff and contended that, the land bearing survey number 90 measuring 5 acres 23 guntas situated at Kulur Village, which is inamthi land. Further, it is contended that, the defendants are in possession and enjoyment of the said property consisting of houses and Anjineyaswamy Temple. Further, it is contended that the suit schedule property is situated towards the eastern side of the defendant property. The land bearing survey number 89 measuring 4 acres 13 guntas is ancestral property of plaintiff which has been acquired by the land acquisition authorities and also awarded the compensation amount, the plaintiff has already received the compensation amount from the land acquisition authorities. Hence there is no property of plaintiff in survey number 89. Further, it is contended that now the plaintiff has created the revenue documents in his name in respect of suit schedule property in order to trouble the defendant property. Hence, prays to dismiss the application.

5. Heard arguments of counsel for plaintiff.

6. Following points arise for my consideration.

1. Whether the Plaintiff has made out a prima facie case for grant of temporary injunction?
2. Whether the Plaintiff will be put to irreparable loss and hardship, if the injunction is not granted?
3. Whether the balance of convenience lies in favour of the Plaintiff?
4. What order?

7. My findings on the above points are as follows;

Point No.1 : In the Affirmative

Point No.2 : In the Affirmative

Point No.3 : In the Affirmative

Point No.4 : As per final order

For the following:-

REASONS

8. POINT NO.1 TO 3: Since these three points are interlinked to each other, they are taken up together for common discussion in order to avoid repetition of facts and circumstances.

9. It is well settled that weakness of the defendants are of no use to the plaintiff. The plaintiff has to establish prima

facie case, balance of convenience and irreparable loss to succeed in an application seeking temporary injunction order. Besides, it is well settled that if there is a probability of plaintiff succeeding in the ultimate analysis, then, one can conclude that there is prima facie case. With this perception, now, I proceed to discuss the materials on record.

10. It must be noted that, I need not repeat the entire contention of the parties herealso, since I have already narrated the same at the inception of this order. The record shows that the plaintiff has filed this suit for the relief of permanent injunction against the defendants over the suit schedule property.

11. In order to substantiate the plaintiff contention, the plaintiff has produced the RTC extract in respect of survey number 89/6 to an extent of 9.04 guntas stands in the name of plaintiff herein and mode of acquisition is shown has through MR.H13/2022-23, RTC extract bearing survey number 89/5 to an extent of 1 acre 11 guntas stands in the name of plaintiff herein and mode of acquisition is shown has through MR.H13/2022-23, extract of mutation

register and it is discloses that the khatha of the property bearing survey number 89/5 and 89/6 had been mutated into the name of plaintiff herein, 11E-Sketch in respect of survey number 89/2, certified copy of the order sheet in OS.No.16/2020, certified copy of the plaint in OS.No.16/2020, photo copies of IA's and Decree in OS.No.16/2020.

12. In order to substantiate the contention of the defendants, the defendants have not produced any documents.

13. Having considered the materials on record, it is to be noted that, the plaintiff is claiming the relief of permanent injunction over the suit property bearing survey number 89/6 to an extent of 9.4 guntas situated at Kulur Village and in order to substantiate the contention of the plaintiff, the plaintiff has produced the RTC extract of the suit property for the year 2022-23 stands in his name. The RTC extract of the suit property discloses that the name of the plaintiff does find place in owners column and in cultivators column and mode of acquisition is shown has through MR.H13/2022-23. Further, in order to substantiate

their contention, the defendants have not produced any document. In order to consider the contention of the defendants, a full fledged trial is required.

14. At this stage, the plaintiff has made out a prima facie case and balance of convenience lies in favour of the Plaintiff. This court opinions that, in the present case the equitable relief of temporary injunction has to be granted till the disposal of suit. Therefore, this court of the opinion that at this stage the Plaintiff has established mandatory requirements to avail relief of temporary injunction. In view of this, the court opinions that the balance of convenience lies in favour of the Plaintiff and also the court feels that if an order of temporary injunction is not granted in favour of the Plaintiff he will be put to loss and hardship. If an order of temporary injunction is granted no hardship will be caused to the defendants. Hence, I proceed to answer **point No.1 to 3 in Affirmative.**

POINT NO.4:

15. In view of my findings on point No.1 to 3, I proceed to pass the following;

ORDER

I.A.No.I filed by the Plaintiff under Order 39 Rule 1 and 2 R/w Sec.151 of CPC is allowed.

The defendants, their family members, agents, workers and others on their behalf are temporarily restrained from tresspass into the schedule property in any manner till disposal of the suit.

Under the circumstances parties shall bear their own cost.

(Dictated to the Stenographer through on-line computer, typed by him, corrected and signed by me and then pronounced in the open Court, on this **01st day of February, 2025**)

Sd/-

(MANJU.M)

II Addl. Civil Judge & JMFC,
KGF