



**IN THE COURT OF I ADDL. CIVIL JUDGE AND
J.M.F.C., AT : K.G.F.**

Present:

**Smt. Shemida.K, B.A.(Law), LL.B.,
1st Addl. Civil Judge and J.M.F.C,
KGF**

Original Suit No.423/2024

Dated this the 28^h day of July, 2025

Plaintiff : Sri.G.M.Venkataramappa,
S/o. S.Narayanappa,
Aged about 69 years,
R/at: Sangannahalli Majara Gaddur,
Village, Kyasamballi Hobli,
K.G.F. Taluk , Kolar District.
(Rep. By Sri.K.C.N., Advocate)

V/s

Defendant : Sri.Ramesh.V,
S/o. Venkateshappa and Smt. Gangamma,
Aged about 46 years,
R/at: Nakanahalli Village,
Kyasamballi Hobli, Srinivasasandra Post,
K.G.F. Taluk, Kolar District.

(Rep. By Sri.M.P.R., Adv.,)

IA No.I

APPLICANT : **S Sri.G.M.Venkataramappa**
(Plaintiff)

V/s

OPPONENT : **Sri.Ramesh.V,**
(Defendant)

i. Provision under which the application is filed	Under Order 39 Rule 1 and 2 r/w Sec.151 of CPC filed by the plaintiff
ii. Relief sought for	Temporary injunction
iii. The date on which the application is filed	19.11.2024
iv. Number of the application	IA.No.I
v. The date on which the objections are filed by different opponents	26.06.2025
vi. The date on which the orders were passed on the said application	28.07.2025

:- ORDER ON I.A. No.I :-

The plaintiff has filed I.A.No.I under Order 39 Rule 1 and 2 r/w Sec.151 of CPC praying to pass ad-interim order of temporary Injunction restraining the defendant, his agents, henchmen, servants, family members or anybody else on his behalf from interfering the peaceful possession of plaintiff over the suit-schedule property until pending disposal of the suit in the interest of justice equity.

2. In the affidavit the plaintiff has stated that he has filed the present suit against the defendant for the relief of Declaration of title and Permanent Injunction and consequential reliefs. Further stated that he is the absolute owner of the suit schedule property which is his self acquired property which was purchased by him under registered Sale Deed dated 19.07.2003 for valuable consideration from his earlier vendor. Accordingly the revenue documents were transferred in his name and ever

since from the date of its purchase, he is in peaceful possession and enjoyment of the same along with his family members. Further stated that in the year 2017, the mother of the defendant by name Smt.Gangamma, has tried to interfere into his peaceful possession over the suit schedule property, hence he has filed suit against Smt.Gangamma in O.S.No.273/2017 before II Addl. Civil Judge at K.G.F., for the relief of permanent injunction and the said Gangamma has appeared through her advocate and atlast the suit of the plaintiff was decreed on 25.10.2022 in favour of him.

2(a). Now the defendant has started to interfere the possession of the plaintiff and try to dispossess him from the suit-schedule property with an intention to grab his property. In this regard Panchayath was convened, but it went in vain. Further the plaintiff has approached the jurisdictional police, but in this regard they have issued only NCR and advised him to approach Civil Court. Further the plaintiff has made out prima-facie case. The balance of convenience lies in favour of plaintiff. The irreparable injury and hardship, caused to the plaintiff is more if an order of temporary injunction is not granted. On the basis of aforesaid grounds, the plaintiff seeks for allowing of the application by granting temporary injunction.

3. The defendant has appeared through his advocate and he has filed written-statement along with adoption memo by adopting the same as objection to IA.No.I.

3(a). The defendant has denied the contents of the present application averments and contended that the present application is not maintainable either in law or on facts. Further contended that the plaintiff has not approached this Court with clean hands and he has suppressed the material facts. Further contended that the suit-schedule property bearing Sy.No.6 measuring 174.34 acre is a Gomala Land and the defendant's mother by name Smt.Gangamma was in un-authorized occupation to an extent of 1 acre out of said gomala land for more than 40 years by cultivation the said land for her livelihood. Meantime the said Smt.Gangamma had filed an application before Tahsildar KGF to grant the same in her name. Further contended that the neighboring of the suit-schedule property belongs to one Smt.Shanthamma had sold the land to an extent of 20 to the plaintiff towards Northern side. Further contended that the plaintiff after purchasing the suit schedule property he is trying to interfere with the defendant's property which is situated towards Eastern side of the suit schedule property and he tried to grab the valuable property of the defendant and he has filed OS.273/2017 before II Addl. Civil Judge at KGF against his mother for the relief of Permanent Injunction and the said case was decreed and in this regard the plaintiff has filed Ex. No.74/2024 before II Addl. Civil Judge at KGF and it is still pending for consideration.

3(b). Further contended that the plaintiff had applied for the survey proceedings for identification of property dated 29.11.2024 and the survey officials had

came near the suit schedule property to survey the land and identify the plaintiff's property, but the plaintiff had stopped the survey officials for conducting the survey of suit schedule property. Further contended that the plaintiff intend to harass the defendant and his mother had keep on filing cases eventhough survey numbers are different. Further contended that the plaintiff is making troubles by seeing the developments made by the defendant with jealous attitude and he has filed the present application without any reason. Hence prays to reject the application.

4. I have heard the arguments of both the sides and perused the documents on record. During the time of argument the counsel for plaintiff has filed list of documents. Perused taken on record. The counsel for defendant had given liberty to furnish documents before the pronouncement of orders, but till date he has not filed any supportive documents.

5. Having heard and on perusal of the materials on records, the following points that would arise for my consideration.

1. **Whether the plaintiff has made out prima-facie case?**
2. **Whether the balance of convenience lies in favour of plaintiff ?**
3. **Whether the comparative hardship and injury caused to the plaintiff is more when compare the same to the defendant ?**
4. **What order ?**

6. My findings on the above points are as under;

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;***

-: R E A S O N S :-

7. **Point No.1 : -** Admittedly the plaintiff has filed the present suit seeking the relief of declaration of title, permanent injunction and consequential reliefs with respect of suit schedule property against the defendant. Further the present application was filed along with plaint and this Court has granted interim order of injunction and issued suit summons to the defendant alongwith interim order. Meantime the defendant has appeared when the matter was posted for Further chief of PW1 seeking permission to contest the mater by filing IA.No.III to set-aside exparte order and same was considered. Meantime the earlier interim order granted in IA.No.I was extended till further order. Later the counsel for plaintiff has pressed the present application.

8. It is the specific case of the plaintiff that he is the absolute owner of the suit-schedule property as per registered Sale Deed dated 19.07.2003 and earlier the mother of defendant has interfered his possession and he has filed OS.273/2017 and it was decreed in favour of him. Now the defendant is interfering. Per contra the contention of defendant is that his mother by name Smt.Gangamma was in un-authorized occupation of

Sy.No.6 measuring 1 Acre and she has given application for grant of said property to her. Meantime the plaintiff has purchased the Sy.No.14 to an extent of 1 Acre 37 guntas from Smt.Shanthamma and interfering his possession by filing OS.273/2017 and also contended that both the properties are different and there is dispute regarding identity of the suit-schedule property.

9. In this case in support of the contention the plaintiff has furnished copy of Sale Deed dated 19.07.2003 which shows that the plaintiff has purchased the suit-schedule property from Smt.Shanthamma for a sale consideration of Rs.13,000/-. The said Sale Deed one side admitted by the defendant. Further the plaintiff has furnished RTC extract which shows that in the year 2024-25 the suit-schedule property standing in the name of plaintiff. Further mutation register extract furnished wherein the name of plaintiff is showing and the copy of encumbrance certificate is also furnished wherein the alienation of suit-schedule property from Smt.Shanthamma to plaintiff is clearly depicting.

10. In this case the defendant in the written-statement itself in para No.11 admits that the plaintiff has purchased the suit-schedule property to an extent of 1 Acre 37 guntas from Smt.Shanthamma for 20 guntas towards northern side. The said admission of defendant shows that the plaintiff is in possession of suit-schedule property. Further there is no dispute that Smt.Gangamma is mother of defendant and they admits that earlier

plaintiff has filed OS.273/2017. The above said documents furnished by the plaintiff corroborates his case.

11. Further during the time of argument the counsel for plaintiff furnished the copy of judgment passed in OS.273/2017 dated 25.10.2022 which shows that the plaintiff has obtained the relief of permanent injunction against mother of defendant with respect of Sy.No.14 measuring 20 guntas. The said property is the suit-schedule property of present suit.

12. As stated supra the defendant eventhough took a defence that his property comes in Sy.No.6 measuring 1 acre and it is different property compared to suit-schedule property, till date he has not furnished single piece of document. Further the judgment copy furnished by the plaintiff shows that the said permanent injunction order is still in force and the defendant till date not challenged the same.

13. It is pertinent to note that, the primary purpose of granting interim relief is the preservation of property in dispute till legal rights and conflicting claims of the parties before the Court are adjudicated. Further at this budding stage of the proceedings the Court need not conduct a mini trial. It is also necessary to bear in mind that, even after placing of the requisite materials in respect of aforesaid three ingredients, the Courts are require to consider the conduct of the parties, their approach in seeking equitable relief and has to exercise its discretionary power while granting an order of Temporary

injunction as per the provisions of Specific Relief Act. The plaintiff has placed sufficient materials before the Court that, there exist a triable issue and the determination of which requires a trial. Therefore as per the settled principles, when there exists a triable issue, it amounts to establishing of the prima-facie case. The materials placed before the Court discloses that the documents standing in the name of plaintiff. Therefore he has established the prima-facie ground. Hence I hereby answer **Point No.1 in the Affirmative.**

14. Point No.2 : - Further the applicant must satisfy the Court about the Court the second condition by showing that he/she will suffer irreparable injury if the injunction as prayed is not granted and there is no other remedy open to him by which he can protect herself/himself from the consequences of apprehended injury.

15. In this regard the Hon'ble Supreme Court in **AIR 1985 SC 330-ASSISTANT COLLECTOR OF CENTRAL EXCISE, CHANDAN NAGAR, WEST BENGAL V/s DUNLOP INDIA LTD. AND OTHERS**, it is held that '*once the existence of prima-facie case is made out the Court should analyze the second condition i.e the irreparable injury. Only if the applicant would suffer irreparable injury if interim injunction is not granted then the injunction can be granted.*'

16. In the present case the contention of the plaintiff is that eventhough earlier the mother of defendant

has interfered his possession over the suit-schedule property and he has obtained permanent injunction order in OS.273/2017, now the defendant is interfered his possession. The documents produced by the plaintiff shows that the said judgment and decree was passed in favour of plaintiff by restraining the mother of defendant and her family members and servants in interfering the plaintiff in the suit-schedule property. Now the defendant is one of the representative of his mother and he has not challenged the said judgment, hence it is binding on him. Moreover to establish the grant as per the say of defendant in Sy.No.6 measuring 1 acre no single piece of document was produced by the defendant which not establish his defence at this stage and there is no contrary evidence with respect of documents of plaintiff.

17. Further the documents produced by the plaintiff at this stage showing his concluded right over the suit schedule property. It is to be noted that as per the decision of Hon'ble Supreme Court in **AIR 1997 SC 2674- AGRICULTURAL PRODUCE MARKET COMMITTEE V/s GIRIDHARBHAI RAMJIBHAI CHHANIYARA** it is held that '*a temporary injunction can be granted only if the person seeking injunction has a concluded right, capable of being enforced by way of injunction*'.

18. Further it is pertinent to note that the Hon'ble Supreme Court in **SHIV KUMAR CHADHA V/s MUNICIPAL CORPORATION OF DELHI, 1993 (3) SCC 161**, it is held that '*Grant of injunction is 'exdebito*

Justitiae' i.e to meet the ends of justice.' Hence the plaintiff has made out balance of convenience which lies in his favour. Moreover granting of injunction is an equitable relief and such a power can be exercised when judicial intervention is absolutely necessary to protect the right and interests of the parties. Hence, I hereby answer **Point No.2 in the Affirmative.**

19. Point No.3 :- The third condition for granting interim injunction is that the counsel must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

20. In the present case the materials placed before the Court at this stage discloses that, the plaintiff shown the existence of his property and he is in possession of the same. Further the said possession of property by the plaintiff has in-detail discussed in OS.273/2017 which was not set aside by any other appellate Court. Further it is true that the plaintiff has not furnished documents issued by the concerned police, but the defendant at this stage fail to establish his right over Sy.No.6 to an extent of 1 acre. Therefore, by virtue of the aforesaid documents, this Court is of the opinion that, the plaintiff has made out sufficient grounds to consider his case and if it is not granted the comparative hardship will be more to the plaintiff. Hence, I hereby answer **Point No.3 in the Affirmative.**

21. Point No.4:- In view of my findings to the Point No. 1 to 3, I proceed to pass the following;

:- O R D E R :-

***The I.A.No.I filed by the plaintiff
U/Order 39 Rule 1 and 2 r/w Section 151
of C.P.C is hereby allowed.***

***The defendant, his servants, agents,
henchmen, family members or anybody
acting on his behalf are hereby
restrained from interfering the suit-
schedule property in any manner
whatsoever by way of granting the
interim order of temporary injunction in
favour of plaintiff with respect of suit-
schedule property till the disposal of
this suit.***

The parties shall bear their own cost.

(Dictated to the Stenographer directly on computer, revised and corrected by me then pronounced in the open court, this the **28th day of July, 2025**)

Sd/-
(SHEMIDA. K)
I Addl.Civil Judge and J.M.F.C,
KGF.