

KAMS210012892025



**IN THE COURT OF THE ADDITIONAL CIVIL JUDGE  
AND J.M.F.C., AT HEGGADADEVANAKOTE.**

**PRESENT: SUSHMA.M. B.A., LL.B.,  
Addl.Civil Judge & J.M.F.C.,  
Heggadadevanakote.**

**Dated this the 17<sup>th</sup> day of NOVEMBER 2025**

**O.S.No.148/2025**

**Plaintiff** : Sri. Nagaraju H.B.  
S/o late Basappa  
Aged about 48 years  
R/o New Maruthi Extension,  
Hunsur Town,  
Mysore District.

**(By Sri.PKR, Advocate)**

**- V/s -**

**Defendant** : Sri.Ravi  
S/o late Shivanna  
Aged about 45 years  
R/at Nanjanayakanahalli village,  
Annur Post, Kasaba Hobli,  
H.D. Kote Taluk.

**(By Sri.NS, Advocate)**

**Orders on I.A.No.1 U/o XXXIX Rule 1 & 2 of C.P.C  
filed by the plaintiff**

The plaintiff has filed I.A.No.1 U/o 39 Rule 1 and 2 of C.P.C seeking for an ad-interim order of temporary injunction restraining defendant from interfering with peaceful possession of the plaintiff schedule property, till the disposal of the suit.

**2.** The plaintiff has filed the suit for seeking relief of permanent injunction against the defendant in respect of suit schedule property. It is the case of plaintiff that, he acquired the suit schedule property bearing Sy. No.31/1 measuring to an extent of 4 acre 13 guntas situated at Nanjanayakanahalli village, Kasaba Hobli, H.D. Kote Taluk, on 14.07.2023 on executing Relinquish deed by his father, brother and sisters. By virtue of said relinquish deed he was in possession, enjoyment and cultivation of the suit schedule property by paying revenue tax. Further he has availed agricultural loan by mortgaging the suit schedule property in the Bank. The original sale deed and other revenue documents relating to suit property is pledged in the Bank. The defendant land is situated on the southern side of the suit property, the defendant with an intention to knock off the suit

property has caused interference. On 18.04.2025 the defendant interfered to the plaintiff possession in the suit property, hence he has lodged police complaint, but the police have advised the plaintiff to approach civil court as the matter is civil in nature. The plaintiff has also summoned panchayath in the village. But the defendant continued to cause illegal interference. Hence, plaintiff has filed this suit along with the present application.

**3.** Per contra the defendant appeared through his counsel and filed objections to IA No.I stating that the application filed by the plaintiff is not maintainable either in law or on facts, hence application is not maintainable. The application averments are denied and further contended that, the suit schedule property is the ancestral property of plaintiff and defendant. Both of them are having equal share and interest over the suit property and there is no partition took place between them. The property bearing old Sy. No.15/24, Sy. No.15 totally measuring 6 acres situated at Haralahalla village, Hanagodu Hobli, Hunsur Taluk, Sy. No.31 measuring 8 acre 30 guntas situated at Nanjanayakanahalla village, Kasaba Hobli, H.D. Kote Taluk and Sy. No.2 measuring 3 acres situated at Madahalli village, Hanagodu Hobli,

Hunsur Taluk, and a house situated at Hunsur Town are the ancestral and joint family properties of both plaintiff and defendant. The plaintiff by misusing the illiteracy of other family members got changed khatha of the joint family properties into his name and availed bank loan by mortgaging the suit property. Now the plaintiff intend to alienate the suit property for unlawful gain. After knowing the said fact, the defendant demanded to give his share in the joint family properties including the suit property, but the plaintiff refused to effect partition. Hence the defendant filed a suit against the plaintiff and other family members in OS No.86/2025 before Hon'ble Senior Civil Judge & JMFC, H.D. Kote seeking relief of permanent injunction. Temporary injunction order has been passed in the said suit not to alienate the suit property in any manner. The defendant is in peaceful possession and enjoyment of the suit property by cultivating the land and has constructed a house sanctioned in the name of defendant's mother Mahadevamma under Ashraya yojane and residing in the said house along with his family members. The defendant has also dug borewell in the suit property for agricultural and for domestic purpose. But the plaintiff by misusing the khatha standing in his name has filed

this false suit. On these grounds, the defendant prayed for dismissal of application.

4. Heard the arguments of both side counsels and perused the materials on record. The following points arise for my consideration:

- 1) **Whether the plaintiff has made out a prima-facie case?**
- 2) **Whether the balance of convenience lies in favour of plaintiff?**
- 3) **Whether irreparable loss and injury would cause to plaintiff if temporary injunction as prayed in I.A.No.I is not granted?**
- 4) **What order?**

5. My answer to the above points are as under

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|-------------------|----------|--|
| <b>Point No.1</b> | <b>:</b> | <b>In the Affirmative</b>                    |
| <b>Point No.2</b> | <b>:</b> | <b>In the Affirmative</b>                    |
| <b>Point No.3</b> | <b>:</b> | <b>In the Affirmative</b>                    |
| <b>Point No.4</b> | <b>:</b> | <b>As per final order for the following:</b> |

**:: REASONS ::**

6. **POINT NO.1 TO 3:** These points are taken up together for consideration to avoid repetition of facts. I have perused the plaint avernments, affidavit, application

and documents filed along with plaint, the plaintiff has contended that, suit schedule property is ancestral property and same has been fallen to the share of the plaintiff father, thereafter siblings of the plaintiff executed Relinquish deed in favor of the plaintiff. On the basis of said relinquish deed the plaintiff is in possession and enjoyment of the schedule property by changing the khatha. The defendant without having any manner of right, title over the schedule property causing interference over the plaintiff possession in the suit schedule property. Hence this application. In order to prove the said contention he has produced RTC extracts, copy of registered relinquish deed dated 14.07.2023, NCR acknowledgment, EC, Electricity grant certificate, notice issued by ADLR, handwritten and computerized RTC extracts and survey sketch.

**7.** On perusal of RTC it makes clear that property bearing Sy. No.31/1 measuring 4 acre 13 guntas i.e., suit schedule property is stood in the name of the plaintiff as per MRH 3/2023-24. The RTC mutated in the name of the plaintiff in pursuant of registered relinquishment deed. Admittedly the plaintiff and defendant are the joint family members. One Puttamadappa and Ningamma had

two children namely Basappa and Shivanna. Basappa and Basammani had seven children, the plaintiff is the fourth son of Basappa, as such Shivanna had two wives namely Sakamma and Mahadevamma. The defendant is son of second wife of Mahadevamma. During the lifetime of Basappa who is father of the plaintiff and Shivanna had got changed the khatha in respect of Sy. No.31/1, it was totally measuring 8 acre 25 guntas, out of which 4 acre 13 guntas fell to the share of the plaintiff's father, similarly 4 acre 12 guntas fell to the share of his uncle Shivanna and RTC jointly were stood in the name of his uncle Shivanna, Shivanna's wife Sakamma and Mahadevamma. On perusal of relinquishment deed it shows that the plaintiff's father and his siblings have executed the said Relinquishment deed in favor of the plaintiff on 14.06.2023 by relinquishing their rights over the schedule property. Since then the plaintiff is in possession and enjoyment of the schedule property. The RTC produced by the plaintiff goes to show that he is in possession and enjoyment of the suit schedule property as on date of suit. Further produced letter issued by the CHESCOM, it shows he got electricity connection to the schedule property, therefore it can be gathered that he is possession by cultivating the schedule property.

Handwritten RTC produced by the plaintiff is evident to show that Sy. No.31/1 was originally belonged to Puttamadappa S/o Subbanna who is grand father of plaintiff and defendant. Therefore it can be easily held that the said property is ancestral property of plaintiff and defendant. After the death of plaintiff's grand father, the plaintiff's father and his uncle Shivanna have changed the pouthi khatha with respect to 4 acre 13 guntas and 4 acre 12 guntas respectively. Out of 4 acres 12 gutnas, an extent of 1 acre 20 guntas allotted to the Sakamma and Mahadevamma jointly. The said RTC is evident to show that the plaintiff's father and his uncle were equally allotted and changed the pouthi khatha in respect of their respective share. As noted supra, plaintiff's uncle Shivanna had two wives namely Sakamma and Mahadevamma. The share which was fallen to the plaintiff's uncle Shivanna was divided to Sakamma, Mahadevamma and Shivanna. The defendant's mother, his father and Sakamma are entitled to the share which was allotted to the Shivanna measuring to an extent of 4 acre 12 guntas. Further computerized RTC is produced, it shows that an extent of 4 acre 13 guntas was mutated in the name of the plaintiff's father as per MR No.5/95-96 and 4 acre 12

guntas jointly mutated in the name of Shivanna, Sakamma and Mahadevamma as per MR No.21/1998-99, therefore it can be said that plaintiff and his uncle are in separate possession and enjoyment of their respective shares. The defendant contended that, there is no division in respect of suit schedule property and other properties. The defendant is in possession and enjoyment of schedule property and also constructed house in the said property and also installed the borewell for the purpose of agriculture. Since the plaintiff has filed suit in respect of Sy. No.31 measuring 4 acre 13 guntas only, as such the defendant was also allotted 4 acre 12 guntas. RTC shows that both the parties in possession of their respective shares. Therefore the contention of the defendant that he is also having share in the suit schedule property is not believable since his father was already allotted 4 acre 12 guntas in the said property. It is pertinent to note that the defendant is having share in his father's share. Since Sy. No.31 was already divided between the plaintiff's father and defendant's father. Form No.5 produced by the plaintiff goes to show that an extent of 4 acre 13 guntas was stood in the name of plaintiff's father, as such 2 acre 32 guntas and 1 acre 20 guntas are stood in the name of

Shivanna and Sakamma who are defendant's father and his father's first wife. It is crystal clear that the defendant has no remaining property in the suit schedule property and also it appears that he is not having share in the schedule property. If at all the defendant is having any share in the schedule property that can be decided in OS No.86/2025 which was filed by the defendant against the plaintiff and others in respect of Sy. No.15/24 measuring 3 acre, Sy. No.31 measuring 8 acre 30 guntas and Sy. No.2 measuring 3 acres. The defendant and his sister have filed above suit against the plaintiff and others for the relief of partition in respect of above said properties. Since the plaintiff has filed suit only in respect of Sy. No.31/1 measuring 4 acre 13 guntas. The documents produced by the plaintiff corroborates with the plaint averments and supported the contention of the plaintiff and also they show that the plaintiff is in possession and enjoyment of the suit schedule property and it is ancestral property and it has been already divided between his father and uncle, and they are in possession of their respective properties. The contention of the defendant that injunction cannot be granted against co-owners or joint family members would not arise. In the instant case, since the plaintiff and

defendant are in separate possession and enjoyment of their properties. The documents produced by the defendant did not show that his is in joint possession and enjoyment of the suit schedule property. Therefore the above said principle will not applicable to the case on hand and the contention of the defendant is ruled out.

**8.** The defendant contended that the plaintiff and defendant are members of joint family and suit schedule property and other properties are joint family properties and there is no partition in respect of above said properties. Sy. No.15/24 measuring 6 acre was granted to defendant grand father, after his death the plaintiff's father changed the pouthi khatha as per MR No.2/93-94 and executed Will in favor of his children Ravi and Suresh. As such Sy. No.31 and Sy. No.2 are also ancestral and joint family properties. In order to prove their contention the defendant has produced certified copy of plaint, IA, order sheet in OS No.86/2025 and RTC extracts. As already noted above that, the defendant herein and his sister have filed the above suit against the plaintiff and others in respect of above said properties. The suit schedule property herein is also the subject matter in the above said suit. Copy of RR, VI produced

by the defendant shows that Sy. No.31 totally measuring 8 acre 30 guntas was mutated in the name of Puttamadappa who is grant father of plaintiff and defendant. Admittedly suit schedule property is ancestral property. Similarly Sy. No.15/24 measuring 6 acres was also stood in the name of plaintiff's grand father. Therefore it can be gathered that the above said properties are ancestral properties of plaintiff and defendant. It is on record that Sy. No.31 measuring 8 acre 30 guntas has been already partitioned between the plaintiff's father and his uncle Shivanna, and they changed the pouthi khatha to an extent of 4 acre 13 and 4 acre 12 guntas. Further more, RTC produced by the defendant in respect of Sy. No.15/24 shows that the said property still stands in the name of plaintiff father. As such Sy. No.2 also stands in the name of one Somashekara S/o Basappa and Rajeshwari W/o Somashekara jointly. As per the say of defendant Sy. No.15 and Sy. No.2 are also ancestral and joint family properties of plaintiff and defendant.

**9.** The RTC produced by the defendant shows that there is no partition in respect of Sy. No.15 and Sy. No.2 which are stood in the name of the plaintiff's father.

As already discussed above that plaintiff has filed suit only with respect to Sy. No.31/1. If at all the plaintiff has filed the above suit in respect of Sy. No.15 and Sy. No.2, the matter would be different. Since documents produced by the plaintiff shows that plaintiff's father and defendant father changed the pouthi khatha and they are in possession of their respective properties, therefore the contention of the defendant that there is no partition in respect of suit schedule property is not believable. However documents show that the defendant father also changed the pouthi khatha in respect of 4 acre 12 guntas out of 8 acre 30 guntas and he is in separate possession and enjoyment of the said property. The defendant counsel further canvassed that an injunction cannot be granted against co-owner and the defendant is also co-owner of the schedule property. It is pertinent to note that if at all the plaintiff has filed suit in respect of entire extent of 8 acre 30 guntas, then the matter would be different and the contention of the defendant can be appreciated. Since the plaintiff has restricted his claim with respect to his property. The materials on record disclosed that the defendant is not in joint possession of the suit schedule property. Therefore he claimed to be in joint possession does not arise. Since defendant and his

family members are in separate possession and enjoyment to an extent of 4 acre 12 guntas. Such being the case the contention of the defendant cannot be accepted. Furthermore the defendant has failed to show that he is in joint possession of the suit schedule property.

**10.** By considering oral argument and other materials, I am of the opinion at this stage that there is prima-facie case in favor of the Plaintiff. Hence, I am of the opinion that it is necessary to allow the application by restraining the defendants, their henchmen and claiming under them from plaintiff peaceful possession and enjoyment over the suit schedule property. Hence, it is almost necessary by considering overall case that, subject matter of the suit has to be preserved at this stage.

**11.** Therefore, the contention of the plaintiff is to be acceptable at this stage. Accordingly, I am of the opinion that, the plaintiff has prima-facie shown that he is in possession of the suit property as per sale deed, balance of convenience lies in his favour rather than the defendants and if Temporary Injunction is granted, greater hardship will not be caused to the defendants

and if the temporary Injunction is not granted, greater hardship and irreparable loss will be caused to the plaintiff. Further more, looking to the balance of convenience and irreparable loss, the same lies more in favour of plaintiff rather than the defendants. Therefore, the plaintiff is entitled to the relief of Temporary Injunction against defendants from restraining the defendants, their henchmen and claiming under them from plaintiff peaceful possession and enjoyment in respect of suit property till disposal of the suit. I am of the opinion that the plaintiff is entitled to the preventive remedy. **Therefore, the Point No.1 to 3 are answered in the Affirmative.**

**12. POINT NO.4:** In view of above discussions, I pass the following:

**ORDER**

I.A.No.1 filed by the plaintiff  
U/o XXXIX Rule 1 and 2 CPC is  
hereby allowed.

The defendant is restrained  
from interfering over the suit

schedule property in any manner,  
till disposal of the suit.

No order as to cost.

(Dictated to the stenographer, corrected and pronounced in the open court on this the **17<sup>th</sup> Day of NOVEMBER 2025**).

**(SUSHMA. M.)**  
**Addl.Civil Judge & JMFC,**  
**Heggadadevanakote.**