

KAMS210013892025



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE
AND J.M.F.C., AT H.D.KOTE**

:PRESENT:

SRI. SANTHOSHA KOTARI, B.A.L.LLB.,
Prl.Civil Judge and JMFC.,H.D.Kote.

Dated this the 17th day of March 2026

ORIGINAL SUIT NO.157/2025

PLAINTIFFS: 1. Sri.Sathish
S/o.Late. Shivarajappa,
Aged about 43 years,
2. Sri.Girish
S/o. Late. Shivarajappa
Aged about 41 years,
Both are R/at Malali Village,
Antharasanthe Hobli,
H.D.Kote Taluk.

(By Sri.K.Chandrashekar, Advocate)

V/s

DEFENDANT: Sri.Sannasiddaiah
S/o. Late. Biliyaiah
Aged about 60 years,
R/at Malali Village,
Antharasanthe Hobli,
H.D.Kote Taluk.

(By Sri. Manjunath.M, Advocate)

**ORDERS ON I.A. NO. I FILED BY THE
PLAINTIFFS UNDER ORDER XXXIX RULE 1 AND
2 OF THE CODE OF CIVIL PROCEDURE**

This IA No.I is filed by the plaintiffs under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure seeking temporary injunction restraining the defendant, his men, agents, servants or any persons claiming under or through them from interfering or trespassing into the suit schedule property pending disposal of the suit.

2. In the affidavit accompanying the IA No.I, the plaintiff No.1 has sworn to an affidavit and stated that they have filed the above suit against the defendant for the relief of permanent injunction restraining him from interfering with their peaceful possession and enjoyment of the suit schedule property. It is further stated that they are the absolute owners in possession and enjoyment of the of the suit schedule property as they acquired the same through their mother Smt.Rathnamma. Originally suit schedule property belonged to their mother Smt.Rathnamma as she acquired the same through inheritance and the Katha of the suit schedule property got changed in her name vide INH-14/2000-01. During the lifetime of their mother Smt.Rathnamma, she was absolute owner in possession and enjoyment of the suit schedule property. Thereafter on 06.01.2019 their mother was died leaving them and

their father Shivarajappa as her legal heirs. Thereafter the Katha of the suit schedule property got changed in their and their father Shivarajappa's joint name vide MRH.1/2019-20 and they were in joint possession and enjoyment of the suit schedule property till his death. Thereafter on 16.11.2020 their father also died leaving them as his legal heirs. After his death, Katha of the suit schedule property got changed in their joint names vide MRH.38/2021-22 and they have been in peaceful possession and enjoyment of the suit schedule property. However, though the defendant has no manner or right, title or interest over the suit schedule property he is interfering with their peaceful possession and enjoyment of the suit schedule property and also obstructing them in cultivating the suit schedule property. In this regard, they have conveyed panchayath in the Village, however, the defendant has not heeded to advise given by the elders of the Village and continued his illegal acts of interference. Thereafter they approached concerned police station and gave a complaint against the defendant. However, they have not taken any action against the defendant, as the matter is civil in nature. For all these reasons, he prayed to allow the application.

3. After registering the suit, the suit summons was issued to the defendant and he appeared through his

counsel. The defendant has filed detailed written statement denying the plaint averments and also filed memo for adopting written statement as objection to the IA No.1. He denied the plaintiffs absolute possession and enjoyment over the suit schedule property and alleged interference on his part. However, he admitted that plaintiffs are the absolute owners of the suit schedule property. It is submitted that during lifetime of plaintiffs parents, the plaintiffs, their parents and their wives on 26.05.2018 have executed a registered agreement of sale in favour of the defendant, agreeing to sell 01 acre of land out of total extent of 03 acres of land in the suit schedule property for total sale consideration of Rs.5,75,000/- and on the same day, the defendant had paid Rs.2,75,000/- to the plaintiffs and their parents towards an advance sale consideration and agreed to pay the balance sale consideration of Rs.3,00,000/- at the time of registration of the sale deed. Under the said agreement of sale the plaintiffs and their parents had agreed to execute the registered sale deed in favour of the defendant within three months after the podhy/durastha and getting genuine documents i.e. revenue sketch, Akarbandh etc. However, thereafter, despite of repeated requests made by the defendant to execute a registered sale deed in his favour, they have not come forwarded to execute the registered sale deed

by receiving balance sale consideration of Rs.3,00,000/-.

It is further submitted that the father of the plaintiffs had put the defendant in permissive possession of 01 acre of land out of total extent of 03 acres of land in the suit schedule property and even today the defendant is in permissive possession and enjoyment of said 01 acre of land in the suit schedule property and growing various crops. However, unfortunately plaintiffs parents Smt.Rathnamma and Shivarajappa have died and thereafter the defendant has approached the plaintiffs and requested them to execute the registered sale deed by receiving the balance sale consideration. However, the plaintiffs had postponing the same on one or the other pretext. In the month of May 2025, when the defendant has requested the plaintiffs to execute the registered sale deed in his favour in respect 01 acre of land in the suit schedule property in respect of which, they executed agreement of sale, immediately they filed present false suit against him with an intention to defraud and harass him. For all these reasons, he prayed to reject the present IA with exemplary cost.

4. Heard arguments of both sides. Perused the materials on record. The following points would arise for my consideration:

1. *Whether the plaintiffs have made out a prima facie case?*
2. *Whether the plaintiffs prove that the balance of convenience lies in their favour?*
3. *Whether the plaintiffs establish that they would be put to irreparable loss and injury if temporary injunction as prayed in the I.A.No. 1 is not granted?*
4. *What orders ?*
5. My answer to 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:

REASONS

6. **Point No.1** : It is settled law that the grant of temporary injunction is a discretionary relief. The burden is on the plaintiff to establish by evidence that there is a prima facie case. If a person is to get entitled to the relief of temporary injunction he must show that he has a prima facie case. In order to get himself entitled to the relief of temporary injunction the person seeking temporary injunction must show that, not only he has made out a prima facie case but also the balance of convenience lies in his favour and that irreparable injury which cannot be compensated in terms of money would

be caused to him in the event the injunction sought is refused. Bearing these legal principles with regard to the grant or refusal of temporary injunction we shall turn our attention to the case made out by both the sides and find out as to whether the plaintiff has made out a prima facie case.

7. It is contented and argued on behalf of the plaintiffs that the plaintiffs are the absolute owners in possession and enjoyment of the suit schedule property as they acquired the same through their mother Smt.Rathnamma. Originally suit schedule property belonged to their mother Smt.Rathnamma as she acquired the same through inheritance and the Katha of the suit schedule property got changed in her name vide INH-14/2000-01. After the death of their parents, the Katha of the suit schedule property got changed in their joint names vide MRH.38/2021-22 and they have been in peaceful possession and enjoyment of the suit schedule property. However, though the defendant has no manner or right, title or interest over the suit schedule property he is interfering with their peaceful possession and enjoyment of the suit schedule property and also obstructing them in cultivating the suit schedule property. In support of their suit and present IA, the plaintiffs have produced RTC in respect of suit schedule property for the year 2001-02 which standing

in their mother's name, mutation register extract for the period 2019-20, RTC extract for the period 2019-20, mutation register extract for the period 2021-22 and RTC extract for the period 2024-25 which standing in their names.

8. On the other hand the defendant has denied the contention taken by the plaintiffs as to their absolute possession over the suit schedule property and alleged interference on his part. However, he admitted that plaintiffs are the absolute owner of the suit schedule property. It is contended and argued on behalf of the defendant that during lifetime of plaintiffs parents, on 26.05.2018 plaintiffs, their parents and their wives have executed a registered agreement of sale in favour of the defendant, agreeing to sell 01 acre of land out of total extent of 03 acres of land in the suit schedule property for total sale consideration of Rs.5,75,000/- and on the same day, the defendant had paid Rs.2,75,000/- to the plaintiffs and their parents towards an advance sale consideration and agreed to pay the balance sale consideration of Rs.3,00,000/- at the time of registration of the sale deed. Under the said agreement of sale the plaintiffs and their parents had agreed to execute the registered sale deed in favour of the defendant within three months after the podhy/durastha and getting genuine documents i.e. revenue sketch, Akarbandh etc.

However, thereafter, despite of repeated requests made by the defendant to execute a registered sale deed in his favour, they have not come forwarded to execute the registered sale deed by receiving balance sale consideration of Rs.3,00,000/-. It is further contended and argued on behalf of the defendant that the plaintiffs had put the defendant in permissive possession of 01 acre of land out of total extent of 03 acres of land in the suit schedule property and even today the defendant is in permissive possession and enjoyment of said 01 acre of land in the suit schedule property and growing various crops. Thereafter, unfortunately plaintiffs parents Smt.Rathnamma and Shivarajappa have died. In the month of May 2025, when the defendant has requested the plaintiffs to execute the registered sale deed in his favour in respect 01 acre of land in the suit schedule property in respect of which, they executed agreement of sale, immediately they filed present false suit against him with an intention to defraud and harass him.

9. It is pertinent to mention here that on careful perusal of materials on record particularly pleadings of the parties and averments made in the affidavit annexed to IA No.I and documents placed of record, it reveals that the defendant has not disputed the plaintiffs right, title and interest over the suit schedule property rather in the

written statement filed by the defendant, he clearly admitted the plaintiffs title over the suit schedule property. However, he denied the plaintiffs absolute possession over the suit schedule property and taken a contention that he is in permissive possession of 01 acre out of 03 acres of land in the suit schedule property by virtue of registered agreement of sale dated 26.05.2018 executed by the plaintiffs, their parents and their wives.

10. It is pertinent to mention here that plaintiffs in support of their contention have produced RTC extracts and mutation register extracts in respect of suit schedule property. On careful perusal of the RTC extract for the period 2001-02 in respect of suit schedule property it reveals that the suit schedule property was originally standing in the name of their mother Smt.Rathnamma vide INH.14/2000-01. On careful perusal of the said RTC extract it reveals that their mother Smt.Rathnamma had acquired the suit schedule property through inheritance. Further, the mutation register extract produced by the plaintiffs for the period 2019-20 reveals that after death of Smt.Rathnamma the Katha of suit schedule property got changed in the name of the plaintiffs and their father Shivarajappa vide MRH-1/2019-20 and accordingly, their joint names were entered in column No.9 and 12 of the RTC extracts and same is forthcoming in the RTC extract for the period

2019-20. Further, the mutation register extract produced by the plaintiffs for the period 2021-22 reveals that after death of their father Shivarajappa, the Katha of suit schedule property got changed in the joint name of the plaintiffs vide MRH-38/2021-22 and accordingly, their joint names were entered in column No.9 and 12 of the RTC extract and same is forthcoming in the RTC extract for the period 2024-25. Thus, the documents produced by plaintiffs clearly establish that after death of their mother Smt.Rathnamma, the plaintiffs and their father Shivarajappa have succeeded the suit schedule property and after death of their father Shivarajappa, the plaintiffs being sole legal heirs of deceased Shivarajappa and Smt.Rathnamma have succeeded the suit schedule property and accordingly the revenue records were changed in their joint names and they are in joint possession and enjoyment of the suit schedule property.

11. It is pertinent to mention here that the defendant has not denied the plaintiffs right, title and interest over the suit schedule property. However, it is his contention that he is in permissive possession of 01 acre out of 03 acres in the suit schedule property by virtue of registered agreement of sale dated 26.05.2018 executed by the plaintiffs, their parents and their wives. It is pertinent to mention here that on careful perusal of materials on record, it reveals that except bare pleadings

of the defendant in his written statement, he has not produced iota of documents to substantiate his stand as to execution of registered agreement of sale dated 26.05.2018 in his favour by the plaintiffs, their parents and their wives. He has not produced the very said alleged registered agreement of sale dated 26.05.2018 before the Court. Further, he even has not produced any documents to show that plaintiffs and their parents have put the defendant in the permissive possession of the suit schedule property. Further, it is pertinent to mention here that if really the plaintiffs and their parents have executed a registered agreement of sale in favour of the defendant in respect of 01 acre of land out of 3 acres of land in the suit schedule property, the defendant ought to have filed the suit for specific performance of contract in terms of the alleged agreement of sale dated 26.05.2018. However, on perusal of materials on record it reveals the defendant has not produced any document for having filed suit for specific performance of contract against the plaintiffs and their wives or their parents. Without, doing so and without producing any documents for execution alleged registered agreement of sale and documents for putting him in the permissive possession of 01 acre of land in the suit schedule property, now the defendant cannot take a contention that he is in permissive possession of

01 acre of land in the suit schedule property by virtue of registered agreement of sale dated 26.05.2018 executed by the plaintiffs, their parents and their wives. The very contention by the defendant and very tenor of the written statement, at this stage, shows the defendant's conduct and interference over the suit schedule property. Further, the plaintiffs have produced sufficient relevant documents to show their lawful possession and enjoyment of the suit schedule property. Hence, for all aforementioned reasons, at this stage, this Court is of the opinion that the plaintiffs have made out prima facia case. **Hence, the point no.1 is answered in the 'Affirmative'.**

12. **Points No.2 and 3:** Points No.2 and 3 are taken up together for common discussion to avoid repetition of facts and reasoning.

13. The second condition for granting temporary injunction is that the balance of convenience must be in favour of the applicant. In other words, the court 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. The applicant must further satisfy the court about the third condition by showing that he will suffer

irreparable injury if the injunction as prayed is not granted and that there is no other remedy open to him by which he can protect himself from consequences of apprehended injury.

14. The plaintiffs allege that though the defendant has no manner of right, title or interest over the suit schedule property he is interfering with their peaceful possession and enjoyment of the property and infringes their right. It is further submitted that the acts of the defendant are highly illegal and opposed to law and if the defendant succeeds in his illegal acts, irreparable loss and injury would be caused to the plaintiffs. It is pertinent to note that the defendant has not specifically denied the said assertion of the plaintiffs. Per contra, it is contention the defendant that he is in permissive possession of 01 acre out of 03 acres in the suit schedule property by virtue of registered agreement of sale dated 26.05.2018 executed by the plaintiffs, their parents and their wives. Though he has taken said stand, he has not produced iota of document to substantiate his stand. Under the circumstances, at this stage, this Court is of the opinion that the plaintiffs will be put to more hardship vis-a-vis the defendant and if an order of temporary injunction is not granted in favour of plaintiffs, they would be deprived of their right

of enjoying the suit schedule property, as such, this Court is of the opinion that the balance of convenience also lies with the plaintiffs. With these observations, **the Points No.2 and 3 are answered in the 'Affirmative'**.

15. **Point No.4:** In view of the reasons and discussions made on Points no.1 to 3, I proceed to pass the following :-

ORDER

I.A.No.I filed by the plaintiffs under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure is hereby allowed.

The defendant and his men, agents, servants or anybody else claiming under or through his are hereby restrained by ad-interim order of temporary injunction from interfering with the plaintiffs peaceful possession and enjoyment of the suit schedule property pending disposal of the above suit.

No order as to cost.

(Dictated to the stenographer, computerized by her, same is corrected and then pronounced by me on this the **17th day of March 2026**)

(SANTHOSHA KOTARI)
Prl. Civil Judge & JMFC.,
H.D.Kote.