

KAMS210015922024



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

:PRESENT:

SRI. SANTHOSHA KOTARI, B.A.L.LB.,
Prl.Civil Judge and JMFC., H.D.Kote.
C/c I Addl.Civil Judge and JMFC., H.D.Kote

Dated this the 24th day of March 2026

ORIGINAL SUIT NO.291/2024

PLAINTIFF:

Sri.Radhakrishna Urs H.N.
S/o.Late.Nanjaraja Urs
Aged about 59 years,
R/at No.2788, 20th Cross,
Near Kaveri Circle, 2nd Stage,
Hebbal, Mysuru- 570016.
Also R/at No.83, Bidarahalli Village,
Kandalike Hobli, Saraguru Taluk,
Mysuru District.

**(By Sri.Akshay L and Shreeram T.
Nayak, Advocates)**

V/s

DEFENDANTS:

1. Sri.Padma Prasad H.V.
S/o.S.A.Vasanth Rajaiah
Aged about 46 years,
R/at No.460, Mahaveera Road,
Saraguru Town, Saraguru Hobli,
H.D.Kote Taluk,
Mysuru

2. Sri.Srinivas Murthy @ Kandegala
Srinivas
S/o.Siddalingaiah
Aged about 60 years,
R/at Kandegala Village,
Hura Kandegala,
Hullahalli Hobli, Nanjangud Taluk,
Mysuru.
3. Sri.Chowdahalli Javaraiah
S/o. Not known to the plaintiff
Aged about 56 years,
R/at No.48, BCM Hostel Road,
KHB Colony, H.D.Kote Town,
Mysuru District.
4. Sri.Shivalingu @ Kabini Shivalinga
S/o. Bommegowda
Aged about 42 years
R/at Beechanahalli,
Antharasanthe Hobli,
Saraguru Taluk,
Mysuru District.
5. Sri.Rajaiah
S/o. Siddaiah
Aged about 42 years,
6. Sri.Manja
S/o. Late.Mugaiah
Aged about 35 years,
7. Sri.Gurusiddaiah
S/o. Late.Komaiah
Aged about 47 years,
8. Sri.Nandish
S/o.Nanjundaiah
Aged about 38 years,
9. Sri.Raja
S/o B.T.Nagappa

- Aged about 43 years,
10. Sri.Govinda Naik
S/o Late.Subba Naik
Aged about 55 years,
 11. Sri.Kusaiah
S/o.Late.Chikkaiah
Aged about 46 years,
 12. Sri.Ravi @ Gudde
S/o.Late.Sanna Kusaiah
Aged about 38 years
 13. Sri.Shekhar
S/o.Late.Chikkaiah
Aged about 35 years
 14. Sri.Kemparaju
S/o.Nanjundaiah
Aged about 34 years,
 15. Sri.Dinesh
S/o.Mugaiah
Aged about 32 years,
 16. Sri.Prakash
S/o.Late.Chikkaiah
Aged about 40 years

Defendant No.5 to 16 are
R/at Bidarahalli Village,
Kandalike Hobli, Saraguru Taluk,
Mysuru District.

**(D1 – Sri.K.S.Lokesha, Advocate, D2 and
D4 by Sri.C.G.Krishnaiah, Advocate, D5,
7, 8, 11 to 16 by Sri.Naveen Kumar.H.M,
Advocate, D10 by Sri.P.Nagendra,
Advocate and D3, 6 and 9 : Exparte)**

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

This IA No.I is filed by the plaintiff under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure seeking temporary injunction restraining the defendants, their agents, representatives, supporters, henchmen, workmen etc., from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property pending disposal of the suit.

2. In the affidavit accompanying the IA No.I, the plaintiff has sworn to an affidavit and stated that he has filed the above suit against the defendants for the relief of Permanent Injunction restraining them from interfering with his peaceful possession and enjoyment of the suit schedule property. Further, he prayed that averments made in the plaint may be read as part and parcel of his affidavit. It is stated that he is the absolute owner in lawful possession and enjoyment of the suit schedule property. The suit property originally belongs to his mother Smt.Suvarnammani, as she acquired the same through Saguvali Cheeti dated 25.05.1948 and thereafter the Special Deputy Commissioner for Inam Abolition Bangalore, under the Mysore (Personal and Miscellaneous) Inam Abolition Act 1954, had passed Saguvali grant vide order No. A2-DR 201/1957-58 dated 27.11.1958.

Thereafter, the Special Deputy Commissioner for Inam Abolition Bangalore has also issued the endorsement dated 27.11.1958 for the said purpose. Since then his mother was in possession and enjoyment of the suit schedule property till his death. His mother Smt.Suvarnammani died on 30.01.2014. After her death he being the son/legal heir of the said Smt.Suvarnammani has succeeded the suit schedule property. On 08.01.2023 the defendant No.1 without his knowledge had illegally trespassed into the suit schedule property and tried to build a stone compound and had tried to encroach the suit schedule property. When it came to his knowledge, he approached the defendant No.1 and questioned him with regard to the same, however, the defendant No.1 has abused him in filthy language and also used the goonda elements to threaten him. Being aggrieved by the same, he filed police complaint against the defendant No.1 before the jurisdictional police, however, they have not taken any action stating mater is civil in nature and advised him to approach the concerned authority. Thereafter, he gave a representation to the DC, Mysuru and Tahasildar, however, they have also not taken any action in this regard. It is further stated that he has constructed a small house inside the suit schedule property and carrying out agricultural activities, but the same was demolished by the defendants. Thereafter he filed a suit in O.S No.112/2023 before the I Additional Civil

Judge and JMFC, H.D.Kote and same is still pending for consideration. After filing of the suit, he came to know that defendant No.1 had created a fabricated GPA in his favor and due to the criminal activities of the defendant No.1, he lodged a complaints against the defendant No.1 and they were registered in Crime No.54/2023, Crime No.10/2024 and Crime No.82/2024 before the Saraguru Police Station. It is further stated that during investigation it has come to his knowledge that the defendant No.1 was trying to enter his name in the revenue records through fabricated GPA and also understood that defendant No.1 by hiding death of his mother Smt. Suvarnammani had approached the Hon'ble High Court of Karnataka by filing WP No.4775/2023 to mutate her name in the revenue records in order to transfer it in his name. The defendant No.1 has hoodwinked the Hon'ble High Court of Karnataka by filing a petition on behalf of a dead person Smt.Suvarnammani who is his mother and the Hon'ble High Court has passed an order in his favour. It is further stated that though defendants have no manner of right, title and interest over the suit schedule property they are colluding with each other and illegally attempting/trying to interfere with his peaceful possession and enjoyment of the suit schedule property. Despite of police complaint lodged by him no action has been taken by the concerned police and the defendants are continuing their illegal act of interference

over the suit schedule property by creating/fabricating documents in respect of the suit schedule property. The defendants in collusion with each other are trying to dispossess him from the suit schedule property through money and muscle power. For all these reasons, he prayed to allow the application.

3. After registering the suit, the suit summons was issued to the defendants and the defendant No.1, 2, 4, 5, 7, 8 and 10 to 16 have appeared through their counsel. However, despite of service of summons the defendant No.3, 6 and 9 are remained absent and accordingly, they placed *exparte*. Further, despite of giving sufficient opportunities the defendant No.1, 2, 4, 5, 7, 8 and 10 to 16 have not filed any written statement denying the claim of the plaintiff and the defendant No.2, 4, 5, 7, 8 and 10 to 16 have also not filed any objection opposing the instant IA.

4. The defendant No.1 has filed an objection denying the averments made in the affidavit annexed to present IA and denied the plaintiff's right, possession and enjoyment of the over the suit schedule property. It is submitted that the actual boundaries of the suit schedule property and boundaries as shown in the schedule attached to the plaint and present application are different and they are not tallies with each other, as the plaintiff has created the present boundaries of the suit schedule property and filed

false suit against him and others. The plaintiff has no manner of right, title or interest over the suit schedule property. However, he along with his alleged wife Smt.Nanda and daughter Nayana in colluding with one Manthesh of Bidarahalli Village has created the documents in respect of the land measuring 20 acres in Sy. No.83 of Bidarahalli Village which is standing in the name of Smt.Suvarnammani and filed a false case against the defendant No.1 who is the GPA holder/purchaser of the Smt.Suvarnammani with intention to grab the suit schedule property. It is further submitted that the plaintiff has copied/shown the boundaries of his land bearing Sy. No.83/2 measuring 25 acres in the schedule attached to the plaint and present application and filed this false suit against them in respect of 20 acres of land. It is further submitted that the property bearing Sy. No.83 measuring 20 acres which standing in the name of Smt.Suvarnammani is located/situated on the Northern side of his total 50 acres of land in Sy. No.83/1 and 83/2 and he had obtained the possession of the suit schedule property from its erstwhile owner Smt.Suvarnammani under the registered GPA dated 13.09.2013 and since the date of execution of said GPA, the defendant No.1 has been in peaceful possession and enjoyment of the suit schedule property. Though the plaintiff has no manner of right, title or interest over the suit schedule property, he in colluding

with one Manthesh of Bidarahalli Village who is relative of one Raju and Mahesh who are adjacent land holders on the Southern side of his land bearing Sy. No.83/2 and against whom he filed a suit in OS.No.184/2022 for Permanent Injunction. It is further sated that the plaintiff is not the son/legal heir of Smt.Suvarnammani, however he has created documents showing that he is the legal heir of said Smt.Suvarnammani with an intention to grab the suit schedule property. For all these reasons, he prayed to reject the present IA with exemplary cost.

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

1. *Whether the plaintiff has made out a prima facia case?*
2. *Whether the plaintiff proves that the balance of convenience lies in his favour?*
3. *Whether the plaintiff establishes that he 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 ?*

6. 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

7. **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.

8. It is contented and argued on behalf of the plaintiff that the plaintiff is absolute owner in peaceful possession and enjoyment of the suit schedule property as he acquired the same through inheritance from his mother Smt.Suvarnammani. However, though the defendants have no manner of right, title and interest over the suit schedule property they in colluding with each other are illegally attempting/trying to interfere with his peaceful possession

and enjoyment of the suit schedule property. Despite of complaint lodged by him, the concerned police have not taken any action against the defendants and they are continuing their illegal act of interference over the suit schedule property by creating/fabricating documents in respect of the suit schedule property. The defendant No.1 has hoodwinked the Hon'ble High Court of Karnataka by filing a petition on behalf of a dead person Smt.Suvarnammani who is mother of the plaintiff to mutate her name in the revenue records in order to transfer it in his name and Hon'ble High Court has passed an order in favour of the plaintiff. Thereafter the defendants in collusion with each other are trying to dispossess the plaintiff from the suit schedule property through money and muscle power. In support of his suit and present application, the plaintiff has produced copy of the endorsement issued by Special Deputy Commissioner for Inam Abolition, Copies of RTC, mutation register extract, possession sketch, family tree of the plaintiff, copy of death certificate of the plaintiff's mother, copy of Aadhar card and PAN card, copy of SSLC and II PUC Marks cards of the plaintiff, copy of Study certificate, Transfer certificate, copy of complaint along with NCR, copy of Representation given to the DC, Mysuru dated 11.01.2023, photos of construction and demolition of the house in the suit schedule property, copy of alleged registered GPA

dated 13.09.2013, certified copies of petition copy in W.P.No.4775/2023, applications filed by the plaintiff in the said Writ petition under Order XXII Rule 4, XXII Rule 9 of the Code of Civil Procedure and Section 5 of Limitation Act, order sheet and certified copy of order dated 25.06.2024 passed by the Hon'ble High Court of Karnataka in W.P.No.4775/2023, photographs, copies of Akarbhandh, LR Tippani, RTC extract, Mutation Register extracts, tax paid receipt, Patta book, sketch, copy of order dated 26.12.2024 passed in RRT(D) No.26/2024-25 by the Deputy Tahasildar, Saraguru, copy of letter dated 12.03.2025 issued by the Tahasildar, Saraguru to Deputy Commissioner Mysore, official memorandum dated 01.08.2024 issued by Asst. Commissioner, Hunsur, copy of order dated 29.07.2025 passed by Special Deputy Commissioner in RP 100/2025, copy of acknowledgments issued by Saraguru Police station and copy of FIR in Crime No.21/2026, 157/2025, 139/2025, 38/2025, 02/2025, 126/2024, 109/2024, 82/2024, 10/2024, 54/2023 annexed with its complaints, copy of photographs, photographs and Pen drive.

9. On the other hand the defendants No.1 has denied the contention taken by the plaintiff and they denied the plaintiff's possession and enjoyment over the suit schedule property. It is contended and argued on behalf of the

defendant No.1 that the actual boundaries of the suit schedule property and boundaries as shown in the schedule attached to the plaint and present application are different and they are not tallies with each other, as the plaintiff has created the present boundaries of the suit schedule property and filed false suit against him and others. The plaintiff has no manner of right, title or interest over the suit schedule property. However, he along with his alleged wife Smt.Nanda and daughter Nayana in colluding with one Manthesh of Bidarahalli Village has created the documents in respect of the land measuring 20 acres in Sy. No.83 of Bidarahalli Village which is standing in the name of Smt.Suvarnammani and filed a false case against the defendant No.1 who is the GPA holder/purchaser of the Smt.Suvarnammani with intention to grab the suit schedule property. It is further contended and argued that the plaintiff has copied/shown the boundaries of land bearing Sy. No.83/2 measuring 25 acres belonged to the defendant No.1 in the schedule attached to the plaint and present application and filed this false suit against them in respect of 20 acres of land. The land bearing Sy. No.83 measuring 20 acres which standing in the name of Smt.Suvarnammani is located/situated on the Northern side of land bearing Sy. No.83/1 and 83/2 totally measuring 50 acres of the defendant No.1 and he had obtained the possession of the suit schedule property from

its erstwhile owner Smt.Suvarnammani under the registered GPA dated 13.09.2013 and since the date of execution of said GPA, the defendant No.1 has been in peaceful possession and enjoyment of the suit schedule property. Though the plaintiff has no manner of right, title or interest over the suit schedule property, he in colluding with one Manthesh of Bidarahalli Village who is relative of one Raju and Mahesh who are adjacent land holders on the Southern side of of his land bearing Sy. No.83/2 and against whom he filed suit in OS.No.184/2022 for Permanent Injunction. It is further contended and argued on behalf of the defendant No.1 that the plaintiff is not the son/legal heir of Smt.Suvarnammani, however he has created documents showing that he is the legal heir of said Smt.Suvarnammani with an intention to grab the suit schedule property. Further, the defendant No.1 in support of his statement of objection has produced computerized RTC extracts in respect of Survey No.83/1, 83/2 and latest RTC of consolidated Survey No.83, copy of letter dated 28.12.1994 and 17.01.1995 issued by the Tahsildar H.D.Kote to Assistant Commissioner, Hunsur, and copy of official memorandum dated 06.02.1995 issued by the Assistant Commissioner, Hunsur, copies of handwritten RTC extracts, copies of Mutation register extracts, copy of registered sale deed dated 19.03.1992, copy of registered sale deed dated 01.01.1993, copies of plaint and order

sheet in OS No.184/2022, copy of plaint in 90/2023 and copy of plaint and interlocutory application under Order XXXIX Rule 1 and 2 of Code of Civil Procedure in O.S.No.112/2023, documents issued by Tahasildar, Saraguru under RTI Act, documents pertaining to application given by the defendant No.1 for cancellation of genealogy/family tree issued in favour of plaintiff and subsequent correspondence on the said application, copy of registered agreement of sale dated 20.02.2013, copy of objection statement filed by the defendant No.1 in contempt proceedings in CCC Civil No.228/2025 on the file of the Hon'ble High Court of Karnataka, copies of genealogy/family tree and copy of Voter's list.

10. It is pertinent to mention here that on careful perusal of materials on record particularly the averments made in the plaint, affidavit annexed to instant IA and averments made in the statement of objection filed to the present application it reveals that there is no dispute between the parties to the lis/suit as to the original title/ownership of the suit schedule property is concerned. The plaintiff is claiming his right, title and possession over the suit schedule property based on the title of his mother Smt.Suvarnammani over the suit schedule property contending that originally suit schedule property belonged to his mother Smt.Suvarnammani as she acquired the

same through Saguvali Cheeti dated 25.05.1948 and Saguvali grant order passed by the Special Deputy Commissioner for Inam Abolition Bangalore, under the Mysore (Personal and Miscellaneous) Inam Abolition Act 1954 vide Order No. A2-DR 201/1957-58 dated 27.11.1958 and she died on 30.01.2014 and after her death, he being legal heir of the said Smt.Suvarnammani has succeeded the suit schedule property. Likewise, the defendant No.1 is also claiming his possession over the suit schedule property contending that one Smt.Suvarnammani is the absolute owner of the suit schedule property and on 13.09.2013 she had executed a registered GPA in his favor and under the said GPA she had delivered the vacant possession of the suit schedule property and since the date of said registered GPA, he has been in peaceful possession and enjoyment of the suit schedule property. As such, there is no much dispute between the parties as to the original title/ownership of the suit schedule property. However there is dispute between the plaintiff and contesting defendant No.1 as to the possession of the suit schedule property is concerned. It is the contention of the plaintiff that he is son of deceased Smt.Suvarnammani and after her death, he being the legal heir of Smt.Suvarnammani has succeeded the suit schedule property and has been in peaceful possession and enjoyment of the suit schedule property. However,

defendant No.1 has denied the said contention and taken a contention that one Smt.Suvarnammani is the absolute owner of the suit schedule property and on 13.09.2013 she had executed a registered GPA in his favor and under the said GPA she had delivered the vacant possession of the suit schedule property and since then, he has been in peaceful possession and enjoyment of the suit schedule property. On perusal of record it reveals that the plaintiff in support of his right and possession over the suit schedule property has produced several documents such as documents for having given application by his mother Smt.Suvarnammani to the government for grant of land in the suit schedule property, copy of grant order, RTC and mutation register extracts in respect of the suit schedule property. On careful perusal of mutation register and RTC extract for the period 2024-25 it reveals that as per the mutation order vide MRT2/2024-25, mutation in respect of suit schedule property was effected in the name of the plaintiff's mother Smt.Suvarnammani and accordingly her name was entered in the RTC.

11. Further the documents produced by the plaintiff particularly certified copies of petition copy in W.P.No.4775/2023, applications filed by the plaintiff in the said Writ petition under Order XXII Rule 4, XXII Rule 9 of the Code of Civil Procedure and Section 5 of Limitation Act,

order sheet and certified copy of order dated 25.06.2024 passed by the Hon'ble High Court of Karnataka in W.P.No.4775/2023 it reveals that originally the defendant No.1 had approached the Hon'ble High Court of Karnataka by filing a Writ Petition in W.P.No.4775/2023 representing his alleged Principal Smt.Suvarnammani seeking direction to Tahasildar, Sarguru Taluk to effect the mutation and issue the computerized RTC in the name of Smt.Suvarnammani in respect of suit schedule property. During pendency of the said writ petition the plaintiff had approached the Hon'ble High Court of Karnataka and filed applications under Order XXII Rule 4, XX Rule 9 of the Code of Civil Procedure and Section 5 of Limitation Act seeking permission to come on record to represent his deceased mother Smt.Suvarnammani contending that she was already expired on 30.01.2014 and the petitioner who is defendant No.1 herein had filed the said writ petition by suppressing fact of her death. Thereafter the Hon'ble High Court has allowed the said applications and accordingly permitted the plaintiff to come on record to represent the deceased Smt. Suvarnammani. Thereafter as per the order dated 25.06.2024 the Hon'ble High Court of Karnataka has allowed the Writ Petition and passed a specific order to the effect that *'The legal representative of petitioner is permitted to make an application to the competent authority seeking redressal of his grievance. After such application is filed by*

the legal representative of the deceased petitioner, the same shall be considered by the respondent No.4 (Tahasildar Saraghuru Taluk) in accordance with law.' Thereafter the Katha in respect of the suit schedule property got changed in the joint names of the plaintiff, his wife Smt.Nanda and daughter Nayana and accordingly their names got entered in the RTC extracts and new Survey number 173 is assigned and same is forthcoming in the mutation register extract and RTC extract produced by the plaintiff for the period 2025-26. Thus, these documents prima facia shows the plaintiff's possession over the suit schedule property.

12. Further it is pertinent to mention here that the plaintiff in order to prima facie establish his possession over the suit schedule property as on the date of suit has also produced the possession sketch in respect of land bearing Sy. No.83 of Bidarahalli Village, Kandalike Hobli, Saraguru Taluk which was earlier in H.D.Kote Taluk. On careful perusal of said document it reveals that the ADLR/ Surveyor after verifying the documents and inspecting the entire land in Sy. No.83 had prepared a possession sketch in respect of said land bearing Sy. No.83 wherein it was clearly mentioned that the legal heir of Smt.Suvarnammani i.e. plaintiff Radhakrishna H.N is in possession of land measuring 20 acres in the said Survey No.83 i.e. the suit schedule property and same is shown as Survey No.83

Block III in the said possession Sketch. On careful perusal of said document it further reveal that the said possession sketch was prepared/issued on 16.03.2023 i.e., prepared much before to filing the present suit against the defendants for Permanent Injunction. The said documents produced by the plaintiff at this stage prima facia establishes that as on the date of the suit and much earlier to that i.e., as on the date of issuance of the said possession sketch dated 16.03.2023, the plaintiff was in possession and enjoyment of the suit schedule property. Thus, the documents produced by the plaintiff at this stage prima facia shows the right/title and possession of plaintiff and his mother over the suit schedule property.

13. It is pertinent to mention here that defendant No.1 is claiming his possession over the suit schedule property based on the registered GPA alleged to be executed by Smt.Suvarnammani contending that Smt.Suvarnammani is the absolute owner of the suit schedule property and on 13.09.2013 she had executed a registered GPA in his favor and under the said GPA she had delivered the vacant possession of the suit schedule property and since then, he has been in peaceful possession and enjoyment of the suit schedule property. Further it is relevant to mention here that though the defendant No.1 is claiming his possession over the suit

schedule property based on said registered GPA alleged to be executed by Smt.Suvarnammani, on careful perusal of materials on record, particularly documents produced by the defendant No.1 it reveals he has not produced the very said alleged GPA along with his statement of objection. Further, on perusal of record particularly averments made in plaint and affidavit annexed to present IA and documents produced by the plaintiff it reveals that the plaintiff has seriously disputed the validity and genuinity of the said alleged GPA contending that defendant No.1 has fabricated the same by impersonating her mother. Further on perusal of documents produced by the plaintiff it reveals that in this regard on 07.06.2024 he has already given a first information/complaint against the defendant No.1 and others before the Saraguru Police station for fabricating the GPA by impersonating his mother Smt.Suvarnammani and accordingly criminal case was registered in Crime No.82/2024 and same is under investigation. On careful perusal of said FIR and copy of first information/complaint attached to the said FIR it reveals that in the said first information/complaint the plaintiff has specifically taken a contention that the defendant No.1 by impersonating his mother Smt.Suvarnammani had fabricated the registered GPA and he also taken a contention that his mother is educated lady and she usually put her signatures to the documents and in the said GPA signature of his mother

has not been forthcoming, however, it bears the thumb impression of some unknown person. Further, he also taken a contention that photos taken at the time of registration of the said alleged GPA as shown in the said GPA is also not belonged to his mother.

14. On careful perusal of the copy of registered GPA produced by the plaintiff it reveals that the said GPA bears the thumb impression of the principal and bears only the signature of the agent i.e., defendant No.1. On careful perusal of documents produced by the plaintiff particularly the application/representation given by the plaintiff's mother Smt.Suvarnammani to the government seeking to grant the suit schedule property way back in the year 1956 it reveals that in all the said documents Smt.Suvarnammani had put her signatures and the said signatures are very much neat and legible. Further, those documents are pertaining to the year 1956 and 1958 i.e., related to the period of undisputed point of time. On careful perusal of those documents it reveals that she is educated lady and she usually put her signatures to the concerned documents and not put her thumb impression. However, on careful perusal of the registered GPA alleged to be executed by Smt.Suvarnammani it reveals that the said GPA bears the thumb impression of the principal and it does not bear the signature of principal of the GPA i.e.,

alleged Smt. Smt.Suvarnammani. Further on careful perusal of said GPA it reveals that in the said GPA there is no mention as to whether she had any difficulties in signing the documents at the time of registration. Further the plaintiff has seriously disputed the said GPA alleged to be executed by his mother Smt. Suvarnammani and criminal case in this regard has already been registered and investigation is in progress. Further, it is pertinent to mention here that except the said alleged GPA, the defendant No.1 has not produced any relevant documents to prove his possession over the suit schedule property. The genuinity or otherwise of the said document has to be testified/decided after full fledged trial and no mini trial could be conducted for the said purpose. Thus, based on the said disputed document/GPA alone at this stage, it cannot be held that the defendant No.1 is in possession of the suit schedule property.

15. Further it is pertinent to mention here that the defendant No.1 has also produced copy of report given by the Revenue Inspector dated 30.01.2023 contending that in the said report, the revenue inspector has specifically mentioned that the defendant No.1 is in possession of the suit schedule property based on registered GPA. However, on careful perusal and reading of the said report it reveals that in the said report it was mentioned that the defendant

No.1 had given an application for the change of Katha in respect of said Survey No.83 measuring 20 acres in the name of Smt.Suvarnammani contending that she was the owner of the said land and she had executed registered GPA in his favor on 13.09.2013 before the Sub-registrar office, H.D.Kote and based on the said GPA he is in possession of the suit schedule property and accordingly he sought to change the Katha in the name of Smt.Suvarnammani. On careful perusal of said document it reveals that no where in the said report the Revenue Inspector given his opinion/ report stating the defendant No.1 is in possession of the suit schedule property. Further it is pertinent to mention here that the said misreading /mis interpreting of the report of revenue inspector clearly disclosed from the copy of possession sketch dated 16.03.2023 wherein it was clearly mentioned that the legal heir of Smt.Suvarnammani i.e. plaintiff Radhakrishna H.N is in possession of land measuring 20 acres in the said Survey No.83 i.e. the suit schedule property and same is shown as Survey No.83 Block III in the said Sketch. Further, the said possession sketch was prepared/issued on 16.03.2023 i.e., after submitting the said report by the Revenue Inspector dated 30.01.2023. Hence, the contention taken by the defendant No.1 cannot be acceptable. Thus, the documents produced by the plaintiff at this stage, prima facie establishes the plaintiff's lawful

possession and enjoyment of the suit schedule property as on the date of the suit.

16. Further it is contention of the defendant No.1 that the boundary shown in the schedule attached to the plaint and present IA is not proper. Actual boundaries of the suit schedule property and boundaries as shown in the schedule attached to the plaint and present application are different and they are not tallies with each other, as the plaintiff has created the present boundaries of the suit schedule property and filed false suit against him and others. It is his further contention that the plaintiff has copied/shown the boundaries of land bearing Sy. No.83/2 measuring 25 acres belonged to him in the schedule attached to the plaint and present application and filed this false suit against them in respect of 20 acres of land, as such there is dispute as to an identity of the suit schedule property and no temporary injunction can be granted in favour of the plaintiff in respect of the suit schedule property. Further, the counsel for defendant No.1 in support of his said contention has relied on the decision of *the Hon'ble High Court of Karnataka in the matter of T.L.Nagendra Babu Vs. Manohar Rao Pawar, reported in ILR 2005 KAR 884* wherein the Hon'ble High Court has held that - *"Unless the Court is satisfied with regard to material details in the light of the material evidence with regard to the*

identification of the property, no declaration and injunction can be granted". It is pertinent to mention here that the defendant No.1 has taken the said contention by relying on the copy of registered sale deed dated 01.01.1993 in respect of his alleged property bearing Survey No.83/1 and copy of registered sale deed dated 19.03.1992 in respect of his alleged property bearing Sy. No.83/2. Except the said sale deeds the defendant No.1 has not produced any relevant documents to show the some other boundaries of the suit schedule property. It is pertinent to mention here that whether the boundaries shown in the said sale deeds are correct/proper or not has to be decided after full fledged trial and based on the boundaries mentioned in those sale deeds alone at this stage, it cannot be held that the boundaries shown by the plaintiff in the plaint and present IA are not proper/correct. Further it is pertinent to mention here that on careful perusal of copy of registered GPA dated 13.09.2013 alleged to be executed by Smt.Suvarnammani in favour of the defendant No.1 and relied by the defendant No.1 to claim his possession over the suit schedule property it reveals that the boundaries shown in the said GPA are clearly tallies with the boundaries as shown in the schedule attached to the plaint and instant application at hand. Now the defendant No.1 is taking a contention that the boundary shown in the said GPA is also incorrect and due to inadvertence, the

boundaries of the land bearing Sy. No.83/2 measuring 25 acres was wrongly mentioned/shown in the said GPA. It is pertinent to mention here that when defendant No.1 is claiming his possession over the suit schedule property based on said GPA alleged to be executed by Smt.Suvarnammani contending that he is in possession of the property as shown in the GPA, now he cannot turn and say that the boundaries shown in the said GPA is incorrect. When the boundary shown in the said GPA is not correct/proper, based on the said GPA he cannot claim his possession over the suit schedule property. Further except the said alleged sale deeds of the year 1992 and 1993 as stated above, he has not produced any other relevant documents to show the some other boundaries of the suit schedule property. Hence, the contention of the defendant No.1 at this stage, cannot be acceptable and decision relied by him is not helpful to the defendant No.1 in substantiating his contention.

17. Further he has also taken contention that plaintiff is not the legal heir of deceased Smt.Suvarnammani and he fabricated documents with an intention to grab the suit schedule property. It is pertinent to mention here that as we discussed supra the defendant No.1 had approached the Hon'ble High Court of Karnataka by filing a Writ Petition in W.P.No.4775/2023 representing

his alleged Principal Smt.Suvarnammani seeking direction to Tahasildar, Saragur Taluk to effect the mutation and issue the computerized RTC in the name of Smt.Suvarnammani in respect of suit schedule property and during pendency of the said writ petition the plaintiff had approached the Hon'ble High Court of Karnataka and filed applications under Order XXII Rule 4, XXII Rule 9 of the Code of Civil Procedure and Section 5 of Limitation Act seeking permission to come on record to represent his deceased mother Smt.Suvarnammani contending that she was already expired on 30.01.2014 and the petitioner who is defendant No.1 herein has filed the said writ petition by suppressing fact of her death. Thereafter the Hon'ble High Court has allowed the said applications by removing the name of the defendant No.1 and accordingly permitted the plaintiff to come on record to represent the deceased Smt. Suvarnammani. Thereafter as per the order dated 25.06.2024 the Hon'ble High Court of Karnataka has allowed the Writ Petition and passed a specific order directing the Tahsildar Saragur Taluk to consider the application filed by the legal representative of deceased Smt.Suvarnammani. Thus, the Hon'ble High Court after considering the applications filed by the plaintiff in the said Writ petition has permitted the plaintiff to come on record to represent the deceased Smt. Suvarnammani. The defendant No.1 so far has not produced any documents for

having challenged the said order passed by the Hon'ble High Court. Further the documents produced by the plaintiff i.e., copy of his school admission register extract, SSLC Marks card, PUC Marks card, Study Certificate etc pertaining to the period of undisputed point of time, at this stage, prima facie establishes that the plaintiff is the son of deceased Nanjaraje Urs and Smt.Suvarnammani. Hence, at this stage, the said contention of the defendant No.1 cannot be acceptable.

18. Further, during course of argument, the counsel for defendant No.1 has taken contention that a suit for bare injunction without a prayer for the relief of declaration of title over the suit schedule property is not maintainable. Further the counsel for defendant No.1 in support of his argument has relied on the decision of the Hon'ble Apex Court in the matter of *Anathulla Sudhakar Vs Buchi Reddy* reported in AIR 2008 Supreme Court 2033, wherein the Hon'ble Supreme Court has held that "Where the plaintiff is in possession, but his title to the property is in dispute or under a cloud or where the defendant asserts title thereto and there is also a threat of dispossession from defendant, the plaintiff will have sue for declaration of title and the consequential relief of injunction. Where the title of plaintiff is under a cloud or in dispute and he is not in possession or not able to establish possession, necessarily the plaintiff will

have to file a suit for declaration, possession and injunction.” On careful reading of ratio laid in the said judgment it reveals that when the plaintiff’s title is in dispute or under cloud or when the defendant asserts his title thereto then it is burden on the plaintiff to prove his title over the suit schedule property with cogent evidence by seeking specific relief with regard to his title/right over the suit schedule property. However, in the present case on hand, the plaintiff’s title over the suit schedule property is not under any cloud. The plaintiff is claiming his right, title and possession over the suit schedule property through his mother Smt.Suvarnammani contending that he acquired the suit schedule property through inheritance. Further, though defendant No.1 has denied the plaintiff’s possession over the suit schedule property contending that he is in possession of the suit schedule property by virtue of registered GPA executed by Smt.Suvarnammani, he has not claimed any title over the suit schedule property. As such there is no any cloud as to the title of the plaintiff over the suit schedule property. Further, though defendant No.1 has filed statement of objection to the present IA denying the averments made in the affidavit annexed to the present IA, till date neither defendant No.1 nor any other defendants have filed any written statement denying the claim of plaintiff and disputing his title over the suit schedule property. Under such circumstances, at this

stage, this Court is of the opinion that it is not mandatory on the part of the plaintiff to seek for relief of declaration of his title/ right over the suit schedule property and consequential relief of permanent injunction. Hence, contention taken by the defendant No.1 cannot be acceptable. Hence, for all aforementioned reasons, at this stage, this Court is of the opinion that the plaintiff has made out prima facia case. **Hence, the Point No.1 is answered in the 'Affirmative'.**

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

20. 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.

21. The plaintiff alleges that though the defendants have no manner of right, title or interest over the suit schedule property they are interfering with his peaceful possession and enjoyment of the property and infringes his right. It is further submitted that the acts of the defendants are highly illegal and opposed to law and if the defendants succeed in their illegal acts, irreparable loss and injury would be caused to the plaintiff. It is pertinent to note that the defendants have not specifically denied the said assertion of the plaintiff. Per contra, it is contention of the contesting defendant No.1 that he is in possession and enjoyment of the suit schedule property by cultivating the same as he obtained possession of the suit schedule property under the registered GPA dated 13.09.2013 executed its lawful owner Smt.Suvarnammani. Though he has taken the said stand in his statement of objection, at this stage, he has not succeeded in substantiating the said stand as discussed under point No.1 supra. Under the circumstances, at this stage, this Court is of the opinion that the plaintiff will be put to more hardship vis-a-vis the defendants and if an order of temporary injunction is not granted in favour of plaintiff, he would be deprived of his right of enjoying the suit schedule property, as such, this Court is of the opinion that the balance of convenience also lies with the plaintiff. With these observations, **the Points No.2 and 3 are answered in the 'Affirmative'.**

22. **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 plaintiff under Order XXXIX Rules 1 and 2 of Code of Civil Procedure is hereby allowed.

The defendants are hereby restrained by an ad-interim order of temporary injunction from interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property in any manner pending disposal of the above suit.

It is made clear that the findings herein shall not tantamount to any expression of opinion on the merits of the matter.

No order as to the cost.

(Dictated to the stenographer, computerized by her, same is corrected and then pronounced by me on this the **24th Day of March 2026**)

(SANTHOSHA KOTARI)
C/c I Addl. Civil Judge & JMFC.,
H.D.Kote.