

KAMS210034072025



**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.LLB.,**  
Prl.Civil Judge and JMFC., H.D.Kote.  
C/c I Addl.Civil Judge and JMFC., H.D.Kote

**Dated this the 25<sup>th</sup> day of April 2026**

**ORIGINAL SUIT NO.334/2025**

**PLAINTIFF:** Sri.Prabhuswamy.M.  
S/o.Late.Muddappa  
Aged about 73 years,  
R/at Dadadahalli Village,  
Saraguru Hobli, Saraguru Taluk,  
Mysuru District.

**(By Sri.Roopesh Kumar, Advocate)**

**V/s**

**DEFENDANTS:** 1. Sri.Manjunatha  
S/o.Late.Siddamallappa  
Aged about 38 years,  
R/at Hullemala Village,  
Kandalike Hobli, Saraguru Taluk,  
Mysuru District.

2. Sri.D.P.Nataraju  
S/o.Puttanna  
Aged about 60 years,

3. Sri.Parashivappa  
S/o.Devanna  
Aged about 66 years,
4. Sri.Mallappa  
S/o.Doddappa  
Aged about 64 years,  
Defendant No.2 to 4 are  
R/at Dadadahalli Village,  
Saraguru Hobli, Saraguru Taluk,  
Mysuru District.

**(By Sri. P.Nagendra, Advocate)**

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

This IA No.II 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 men, agents, servants or any persons claiming under or through them 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.II, 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. It is further stated that he is absolute owner in peaceful possession and enjoyment of the suit

schedule property by cultivating the same for the past 35 years. The Katha of the suit schedule property got changed in his name vide MR No.8/90-91. However, 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 suit schedule property. On 09.10.2025 at about 10 a.m, the defendants have illegally trespassed into the suit schedule property and started to interfere with his peaceful possession and enjoyment of the suit schedule property, however, he has resisted their illegal acts of interference. In this regard, he has conveyed panchayath in the Village, however, the defendants have not heeded to advise given by the elders of the Village and continued their illegal acts of interference. Thereafter, he approached concerned police station and gave a complaint against the defendants. However, they have not taken any action against the defendants, stating matter is of civil in nature and they only issued acknowledgment. For all these reasons, he prayed to allow the application.

3. After registering the suit, the suit summons was issued to the defendants and they appeared through their counsel. The defendant No.4 has filed detailed written statement denying the plaint averments. Further, the defendants No.1 to 3 have filed memo adopting the written

statement filed by the defendant No.4. Further, counsel for defendants has also filed memo adopting written statement filed by the defendant No.4 as objection to present IA. In the written statement it is stated that suit filed by the plaintiff is neither maintainable under law nor on facts and same is liable to be dismissed in limine. The defendants have admitted that plaintiff is in peaceful possession and enjoyment of the suit schedule property measuring 07 acres 33 guntas situated at Devalapura Village, Kandalike Hobli, Saraguru Taluk. However, they denied the alleged interference on their part. For all these reasons, they 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 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.II 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 plaintiff that he is absolute owner in peaceful possession and enjoyment of the suit schedule property by cultivating the same for the past 35 years. The Katha of the suit schedule property got changed in his name vide MR

No.8/90-91. However, 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 suit schedule property. In support of his suit and the present application, the plaintiff has produced hand written and computerized RTC extracts in respect of the suit schedule property and acknowledgment issued by Saraguru police station dated 09.10.2025.

8. On the other hand, the defendants have denied the contention taken by the plaintiff and they denied the very alleged interference on their part. However they admitted that plaintiff is in peaceful possession and enjoyment of the suit schedule property measuring 7 acres 33 guntas, situated at Devalapura Village, Kandalike Hobli, Saraguru Taluk.

9. It is pertinent to mention here that on careful perusal of materials on record particularly pleadings of the parties and documents produced by the plaintiff it reveals that there is no dispute between the parties as to the plaintiff's right, possession and enjoyment over the suit schedule property. The defendants have not denied the said fact rather in the written statement of the defendant No.4 he has clearly admitted that the suit schedule property measuring 7 acres 33 guntas belonged to the plaintiff and he is in possession and enjoyment over the

same. Further, on careful perusal of materials on record it reveals that the plaintiff has produced handwritten RTC extracts in respect of the suit schedule property for the period 1976-77 to 1994-95. On careful perusal of the said RTC extracts it reveals that originally the suit schedule property measuring 7 acres 33 guntas was standing in the name of one M.Shivanna and thereafter the Katha of the suit schedule property got changed in the name of the plaintiff vide MR No.08/90-91 and same is reflected in the handwritten RTC for the period 1993-94 and 1994-95. Further the computerized RTC produced by the plaintiff in respect of the suit schedule property for the period 2019-20, 2024-25 and 2025-26 it reveals that in possessory column at 9 and cultivation column at 12 of the said RTC extracts the name of the plaintiff is mentioned as Kathedar. Thus, the documents i.e., RTC extracts produced by the plaintiff at this stage prima facie shows that originally the suit schedule property was standing in the name of one M. Shivanna and thereafter the Katha of the suit schedule property got changed in the name of the plaintiff vide MR No.08/90-91 and since then he has been in peaceful possession and enjoyment of the suit schedule property. Further it is pertinent to mention here that the defendants in their written statement have not denied the plaintiff's right, possession and enjoyment over the suit schedule property rather they clearly admitted the same

in the written statement of defendant No.4. Further, the plaintiff has also produced acknowledgment issued by Saraguru Police station for having given a complaint against the defendants for their alleged interference over the suit schedule property. On careful perusal of the said documents it reveals that on 09.10.2025 the plaintiff has given a complaint against the defendants before the Saraguru Police station for interfering with his peaceful possession and enjoyment over the suit schedule property and obstructing him in carrying agricultural activities. It is pertinent to mention here that though defendants have denied the alleged interference on their part in the written statement filed by the defendant No.4, at this stage, the defendants have not specifically denied the said document i.e. acknowledgment issued by the Saraguru Police and produced by the plaintiff to show the interference on their part. Thus, the plaintiff at this stage, has produced sufficient relevant documents to show his lawful possession and enjoyment of the suit schedule property and interference on the part of the defendants. Hence, for all aforementioned reasons, at this stage, this Court is of the opinion that the plaintiff has made out prima facie case. **Hence, the point No.1 is answered in the 'Affirmative'.**

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

11. 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.

12. 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 suit schedule 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, they simply denied an alleged interference on their part without substantiating it. 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'.**

13. **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.II filed by the plaintiff under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure is hereby allowed.

The defendants and their men, agents, servants or anybody else claiming under or through them are hereby restrained by ad-interim order of temporary injunction from interfering with the plaintiff's 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 **25<sup>th</sup> Day of April 2026**)

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