

KAMS300000772026



**IN THE COURT OF I ADDL. SENIOR CIVIL JUDGE AND
JMFC., HUNSUR**

Dated: This the 27th day of March 2026

Presided Over by Smt. Bhagyamma
B.Com. L.L.B.,

M.A./3/2026

Appellant : Smt. H.P. Janamma,
W/o H.H. Putta @ Puttaiah,
Aged about 65 years,
R/at Devanooru Village,
Balele Hobli,
Virajpet Taluk,
Kodagu District.

(By Sri. **BSY**, Adv.)

/Vs/

Respondents : 1. Shivananjaiah,
S/o Kariyaiah,
Aged about 67 years,
2. Shivamma,
W/o Shivananjaiah,
Aged about 54 years,
3. Dasharatha H.S.
S/o Shivananjaiah,
Aged about 35 years,
4. Shankara,
S/o Shivananjaiah,
Aged about 31 years,

5. Javaramma,
W/o late Swamy,
Aged about 38 years,
6. H.S. Sachin,
S/o late Swamy,
Aged about 21 years,
7. H.S. Darshan,
S/o late Swamy,
Aged about 20 years,
8. Shivamma,
W/o late Chandra,
Aged about 49 years,
9. Kumari,
W/o late Kemparaju,
Aged about 43 years,
10. Lankesha,
S/o late Kemparaju,
Aged about 26 years,
11. Mahadeva,
S/o late Kengaiah,
Aged about 55 years,
12. Savithri,
W/o Mahadeva,
Aged about 47 years,
13. Shashikirana,
S/o Mahadeva,
Aged about 30 years,

All are R/at Harinahalli Village,
Hanagodu Hobli, Hunsur Taluk,
Mysuru District.

(By Sri. **NSG**, Adv.)

Date of presentation
of Appeal : 12-01-2026

Nature of the Appeal : Miscellaneous Appeal
questioning the orders
passed on IA.No.1 by the
Prl. Civil Judge &
JMFC, Hunsur in
OS.No.226/2024 dated
02.12.2025.

Judgment pronounced on : 27.03.2026

Duration of the appeal : **Year/s Month/s Day/s**
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(Bhagyamma)
I Addl. Sr. Civil Judge & JMFC,
Hunsur

Orders on Appeal under Order 43 Rule 1 of C.P.C.

The appellant has filed this appeal U/O 43, Rule 1 of CPC questioning the dismissal of order of IA.No.1 dated 02.12.2025 passed in OS.No.226/2024 on the file of Prl. Civil Judge and JMFC, Hunsur.

2. The appellant is the plaintiff, respondents are defendants before the trial court and they will be referred in the same ranking before this court to avoid confusion.

3. The plaintiff has sworn to an affidavit annexed to the application stating that, the suit schedule property has been purchased by the husband of plaintiff and brother of husband of plaintiff. The husband of plaintiff Putta @ Puttaiah and Venkataiah got divided the properties and they were in possession of their respective shares. After their demise, the plaintiff and her family members got divided the properties as per partition deed dated 26.08.2022 and katha has been got mutated in the name of plaintiff. The plaintiff is the absolute owner and in possession of the suit schedule property. The defendants without any right, title and interest over the suit schedule property interfering with the peaceful possession of the plaintiff over the suit schedule property. If injunction order is not granted the plaintiff will be put to great loss as the plaintiff would be deprived of her lawful possession. The plaintiff has got a prima-facie case and the balance of convenience also lies in her favour, if interim injunction is not granted the plaintiff will be put to great irreparable loss and

injury and great injustice will be caused to her. Hence, prays to allow the application.

4. Per Contra, the defendants have resisted the application by filing objection and contended that the suit schedule property originally belongs to Nanjaiah S/o Kullaiah under registered sale deed as per MR. No.2/1952-1953 and the khata and all the revenue documents were stood in the name of Nanjaiah and accordingly he was possession enjoyment of the suit schedule land as absolute owner. On 23.03.1965 one Kariyaiah S/o Late. Nanjaiah and his brothers Kengaiyah and Nanjaiah received Rs.1,500/- from the Venkataiah and Puttaiah and for security purpose one nominal sale deed executed in their favour. On 15.01.1992 Venkataiah and Puttaiah received Rs.1,500/- from Kariyaiah and his brothers Kengaiyah and Nanjaiah and handed over original sale deed and possession with respect schedule property to them, on the back side of last page in original sale deed, there is shara executed by Venkataiah and his brother puttaiah in favour of Kariyaiah and his brothers Kengaiyah and Nanjaiah, they stated that they received consideration amount of Rs.1,500/- and the possession handed over to them, accordingly Kariyaiah and his brothers Kengaiyah and Nanjaiah continued the possession in the schedule property as absolute owner ship, the entries column No.12 of RTC, but only computer RTC entries continue name of Venkataiah and Puttaiah. By taking the said advantages after death of Kariyaiah, Kengaiyah and Nanjaiah, the Powthi khata created by successor of Venkataiah, but they have been not possession of suit schedule property any point of time.

5. The plaintiff created Powthi khata colluded with revenue authorities and she set up with Smt. H. Y. Mallige W/o Late.H.Venkataiah and her children H.Y. Lakshmana, H. L. Meena H.L. Pradeepa, H.L. Prasad and Anu. H.G and Julimary created revenue documents and also family partition deed. They are residing in Devanuru Village, Balale Hobli, Virajpet Taluk, Kodagu District, she is not in possession of the suit schedule land, however created family partition deed, which is not binding on the defendants. The plaintiff created false family partition deed and the revenue documents without possession, she tried unlawfully enter into the suit schedule land and to gain wrongfully as possible and interfered to the properties of defendants and children of Kengaiyah and Nanjaiah. The plaintiff has no manner of title, interest and possession in respect of the suit schedule property, she colluded with Taluk survey authorities Hunsur and created false 11E-sketch and also created revenue documents by giving false boundaries in order to knock of the defendants' land. Hence, prays to dismissal of the application.

6. After hearing both parties, the trial court formulated 3 points for its consideration and answered the point No.1 to 3 in the negative. Accordingly, I.A. No.I filed under order 39 Rule 1 & 2 of CPC came to be dismissed.

7. Being agreed by the said order the appellant/plaintiff has preferred the present appeal contending that the learned trial judge highly erred in not granting injunction in respect of suit schedule property even after observing that Sale deed, RTC & other documents produced by the plaintiff / appellant

discloses possession of plaintiff over the suit properties and there is presumption regarding correctness of the entry in the revenue records. The observation made by the learned trial judge with reference to suit schedule property cannot be on legal basis. The plaintiff / appellant is in absolute possession and enjoyment of the suit schedule property, which was purchased by her husband and brother of her husband. Thereafter, her husband Putta @ Puttaiah and brother Venkataiah got divided the properties and they were in possession of their respective shares. After their demise the plaintiff and her family members got divided the properties as per partition deed dated 26.08.2022 and khata has been got changed in the name of plaintiff. The plaintiff is the absolute owner and in possession of schedule property. The defendants without any right title and interest over the suit schedule property interfering with the peaceful possession of the plaintiff over the suit schedule property. The plaintiff is in lawful possession & enjoyment of the suit schedule property. She got a prima facie case and balance of convenience also lies in her favour, if interim injunction is not granted plaintiff will be put to great irreparable loss and injury and great injustice will be caused to her. Hence, prays to allow the application.

8. On the other hand, the defendants / respondents have resisted the application by filing objection and contended that, the suit schedule property originally belongs to Nanjaiah S/o Kullaiah under register sale deed as per MR. No.2/1952-1953 and the khata and all the revenue documents were stood in the name of Nanjaiah, accordingly he was possession

enjoyment of the suit schedule land as absolute owner. On 23.03.1965 one Kariyaiah S/o Late. Nanjaiah and his brothers Kengaiyah and Nanjaiah received Rs.1,500/-from Venkataiah and Puttaiah, for security purpose one nominal sale deed executed in their favour. On 23.03.1965 Venkataiah and Puttaiah received amount Rs.1,500/- from Kariyaiah and his brothers and handed over original sale deed and the possession with respect schedule property to them, in that respect there is recital of receipt of consideration amount of Rs.1,500/- and handing over the possession to them, accordingly they continued the possession of schedule property as absolute ownership and entered in column No.12 of RTC, but computer RTC entries continue name of Venkataiah and Puttaiah. By taking said advantages, after the death of Kariyaiah, Kengaiyah and Nanjaiah, the Powthi khata created by successor of Venkataiah, even they are not in possession of schedule property any point of time.

9. The plaintiff herein appellant submits that plaintiff is the continued in possession of the same and personally cultivating & enjoyment of the schedule property from the date of purchase in the year 1965. Even now the defendants are unknown persons of the schedule property, the schedule property is the self acquired property of the husband of plaintiff. Later divided the same through registered partition deed among his brothers. However, the defendants here in respondents has got no right of what so ever nature over the schedule property, tried to make wrongful gain in the schedule property. They are no way concern to the schedule property, they were illegally interfering with plaintiff /

appellant peaceful possession and enjoyment of the schedule property. The appellant submits that the defendants / respondents have raised the objection before the trial court, the suit schedule property is the ancestral property of the defendants and also nominal sale deed executed in favour of her husband, there is no meaning of nominal sale deed or sale deed. In support of the said objection there is no document produced by the defendants and also not stated that father of the defendants executed the nominal sale deed in the year 1965 in favour of her husband i.e., Venkataiah & Puttaiah.

10. In order to prove their contention they have produced the sale deed, index of lands and RTC extracts. The sale deed produced on record goes to show that, the suit schedule property has been sold in favour of Puttaiah and Venkataiah and as per the contents of the sale deed it also goes to show that, the possession of the suit schedule property has been again delivered by Venkataiah and Puttaiah in favour of the Vendors by receiving consideration amount of Rs.1,500/-. Furthermore the mahazar and the Survey report produced by the defendants dated 01.08.2024 goes to show that, the revenue authorities have went to the spot to make spot investigation in of suit schedule property and as per the said report it goes to show that, the defendants are in possession of the suit schedule property in 72 years. Further the Survey sketch produced on record prima facie goes to show that, the defendants and their family members are in possession of the suit schedule property. The object of the interlocutory injunction is to protect the plaintiff against the injury by violation of her right for which he could not be

adequately compensated in damages recoverable in the action, if the uncertainty were resolved in her favour at the trial. Prima facie case does not mean that the plaintiff should have cent percent case which will in all probability succeed in trial. The learned trial judge ought to have noted that the plaintiff has made out prima facie case to urge before the trial court and it ought to have drawn adverse inference against the case of plaintiff, when they have not produced any documents to substantiate their contention raised in the written statement. The observation made by the learned trial judge in Para 11 is perverse and capricious and the same could not have been the reason to reject the claim of plaintiff in respect of schedule property. The learned trial judge ought to have noted that the main interference by the defendants/respondents to schedule property. The trial court ought to have granted the relief and erred in rejection the relief in relation to suit schedule property. The order is otherwise opposed to law, facts and all probabilities of the case and liable to be set aside. On these grounds, the appellant prays that the appellate court should set aside the impugned order, allow her application for temporary injunction, and grant protection to her possession until disposal of the suit.

11. On the other hand the learned counsel for respondents/defendants have supported the findings of the trial court.

12. Heard both parties and perused available materials on record.

13. The Points arise for my consideration are;

1) Whether the judicial discretion exercised by the trial court in the matter of dismissing IA No.1 is just and proper?

2) Whether interference with the order of trial court is necessary?

3) What Order?

14. My findings to the above points are as under;

Point No.1 : In the Affirmative

Point No.2 : In the Negative

Point No.3 : As per final order

for the following:

R E A S O N S

15. **Point No.1 & 2:** As these points are interconnected, they are taken up together for common discussion to avoid repetition of facts.

16. The learned counsel appearing for the appellant/plaintiff vehemently contended that the impugned order passed by the Trial Court is contrary to law, facts and probabilities of the case and therefore liable to be set aside.

17. It is submitted that the revenue records, particularly the RTC extracts, clearly stand in the name of the plaintiff and the same raise a presumption of possession in her favour. The Trial Court has failed to give due weight to these material documents. The learned counsel further submits that the registered partition deed dated 26.08.2022 establishes not only the title, but also the possession of the plaintiff over the

suit schedule property and the Trial Court has erred in discarding the same without proper appreciation. It is also contended that the interference by the defendants is evident from the pleadings and surrounding circumstances, and therefore the plaintiff has made out a clear prima facie case for grant of temporary injunction. The learned counsel further argue that the Trial Court has misdirected itself in law by applying incorrect principles and has failed to exercise its judicial discretion in a proper manner. On these grounds, it is prayed that the impugned order be set aside and the application for temporary injunction be allowed.

18. Per contra, the learned counsel appearing for the respondents/defendants supported the order of the Trial Court and contended that the same is well-reasoned and does not call for any interference. It is submitted that the plaintiff has utterly failed to establish her actual physical possession over the suit schedule property as on the date of the suit. The learned counsel further contended that the survey report, mahazar and sketch produced by the defendants clearly demonstrate that the defendants are in possession of the suit schedule property and have been enjoying the same for several decades. That mere revenue entries are not conclusive proof of possession and at best they raise a rebuttable presumption, which stands effectively rebutted by the material produced by the defendants. 5 It is further submitted that the Trial Court has properly appreciated both oral submission and documentary evidence and has exercised its discretion judiciously. Hence, it is prayed that the appeal be dismissed as devoid of merits.

19. It is a settled principle of law that grant of temporary injunction is a discretionary relief governed by well-established parameters. The party seeking such relief must satisfy the Court on the existence of three essential ingredients, namely; prima facie case, balance of convenience and the irreparable injury. These ingredients are cumulative in nature and absence of any one of them would disentitle the party from obtaining the equitable relief of temporary injunction.

20. In order to establish prima facie case, the plaintiff has relied upon RTC extracts and the registered partition deed dated 26.08.2022. On the other hand, the defendants have placed reliance on earlier title documents, survey report dated 01.08.2024, mahazar and sketch to substantiate their possession. The Trial Court has rightly observed that in a suit for bare injunction, the primary consideration is actual physical possession of the property as on the date of the suit. This Court is of the considered view that revenue records, though relevant, are not conclusive proof of possession and only raise a rebuttable presumption. In the present case, the defendants have produced material indicating their continuous possession over a long period, which prima facie rebuts the presumption arising from the revenue entries. Therefore, it cannot be said that the plaintiff has established a strong prima facie case warranting grant of injunction.

21. The concept of possession assumes significant importance in a suit for injunction. The survey report and mahazar produced by the defendants prima facie indicate that

they are in possession of the suit schedule property. The materials on record further suggest that such possession is not recent, but has been continuing for a considerable length of time. On the contrary, the plaintiff has not produced cogent and convincing material such as cultivation records, tax paid receipts or independent evidence to establish actual physical possession. In the absence of such material, the claim of possession based solely on revenue entries cannot be accepted. Hence, the Trial Court was justified in holding that the plaintiff failed to establish prima facie possession. The balance of convenience lies in favour of the party who would suffer greater hardship if the injunction is granted or refused. When possession itself is doubtful, the granting injunction in favour of the plaintiff would result in disturbing the existing state of affairs.

22. The Courts must be cautious in granting injunction where it would amount to dispossessing a party who is prima facie in possession. In the present case, the material on record indicates that the defendants are in possession. Therefore, the balance of convenience tilts in favour of the defendants. Irreparable injury means an injury which cannot be adequately compensated in terms of money. When the plaintiff has failed to establish possession, the question of irreparable injury does not arise. The plaintiff always has the remedy of establishing her rights during the course of trial. Therefore, it cannot be said that refusal of injunction would result in irreparable injury to the plaintiff. On a careful re-appreciation of the entire material on record, this Court finds that the Trial Court has properly appreciated the documentary evidence

placed before it. The Trial Court has applied correct legal principles governing grant of injunction. The discretion has been exercised judiciously and not arbitrarily. Hence, no fault can be found with the reasoning adopted by the Trial Court.

23. It is well settled that an appellate court will not lightly interfere with the discretionary orders passed by the Trial Court. Interference is warranted only when the order is perverse, when the order is based on no evidence, when the material evidence has been ignored or the discretion is exercised arbitrarily or capriciously.

24. In the present case, the Trial Court has considered both parties' pleadings and documents in detail. The reasons assigned by the Trial Court are clear, cogent and based on the material available on record. It cannot be said that the Trial Court has ignored any material evidence or has misapplied the law. Even if two views are possible, the appellate court cannot substitute its own view in place of the Trial Court's discretion.

25. The contention of the appellant that revenue entries conclusively establish possession is not tenable. The Revenue records only raise a presumption, which is rebuttable in nature. In the present case, such presumption stands rebutted by the defendants through documentary evidence indicating possession. This Court finds that there is no illegality or irregularity in the impugned order. The findings of the Trial Court are based on proper appreciation of materials placed by the respective parties. The discretion exercised by the Trial Court is neither arbitrary nor perverse. In view of the

findings recorded on Point Nos.1 and 2, this Court is of the considered opinion that the appeal is devoid of merits. The appellant has failed to make out any valid ground to interfere with the discretionary order passed by the Trial Court. Consequently, the appeal deserves to be dismissed and the order of the Trial Court is liable to be confirmed. It is made clear that the observations made in this judgment are only for the purpose of disposal of I A and shall not influence the trial on merits. Accordingly, the above **Point No.1** is answered in the **Affirmative** and the **Point No.2** is answered in the **Negative**.

26. POINT NO.3:- In view of my answer to the points No.1 and 2 as above, this court proceeds to pass the following:-

ORDER

The appeal filed under Order XLIII Rule 1 CPC is hereby dismissed with cost.

The order dated 02.12.2025 passed on I.A. No.1 in O.S. No.226/2024 by the Prl. Civil Judge & JMFC, Hunsur is hereby confirmed.

(Dictated to the stenographer directly on computer, typed by him, corrected by me and then pronounced in the open court on this the 27th day of March, 2026).

(Bhagyamma)
I Addl. Sr. Civil Judge & JMFC,
Hunsur