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

Dated: This the 3<sup>rd</sup> day of June 2026

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

M.A./7/2026

**Appellant** : Dr. G.R. Chandrashekar,  
S/o late Rangappa,  
Aged about 55 years,  
R/at D.No.354,  
8<sup>th</sup> Main Road,  
Lalith Mahal Nagara,  
Alanahalli Layout,  
Mysuru – 28.

(By Sri. **GRB / HBG**, Adv.)

/Vs/

**Respondent** : M.B. Lokesh,  
S/o M.L. Bojashetty  
@ M.L. Marishetty,  
Aged about 43 years,  
R/at D.No.31,  
Palace City Layout,  
Mallinathapura Grama,  
Bilikere Hobli,  
Hunsur Taluk,  
Mysuru District - 571103

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

Date of presentation  
of Appeal : 09-02-2026

Nature of the Appeal : Miscellaneous Appeal  
questioning the orders  
passed on IA.No.1 by the  
I Addl. Civil Judge &  
JMFC, Hunsur in  
OS.No.445/2025 dated  
04.02.2026.

Judgment pronounced on : 03.06.2026

Duration of the appeal : Year/s Month/s Day/s  
-- 03 24

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

**JUDGMENT**

The appellant has preferred this appeal U/O 43 Rule 1 R/w Sec.104 of CPC aggrieved by the orders dated 04.02.2026 passed in OS.No.445/2025 on the file of I Addl. Civil Judge and JMFC, Hunsur on IA.1 filed under Order 39 Rules 1 & 2 R/w Sec.151 of CPC.

2. The appellant is the defendant, respondent is plaintiff 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 and has stated that he has acquired right over the suit schedule property by way of registered sale deed dated 23.05.2013 executed by Sannathayamma and her children in his favour. The plaintiff obtained 11-E sketch of the suit schedule property in order to identify the property and also got the khata mutated to his name vide MR H2/2013-14 and the property was sub phoded as Sy.No.215/2. Accordingly, the plaintiff is enjoying the suit schedule property as absolute owner. The plaintiff has further stated that the defendant, without having any right, title, or interest over the suit schedule property, has illegally and unlawfully attempted to interfere with his possession. With an intention to harass the plaintiff, the defendant preferred an appeal before DDLR, Mysuru disputing the identity of the suit schedule property, DDLR, Mysuru appointed Taluk Surveyor to visit the spot and survey the property. Accordingly, the Taluk Surveyor visited

the spot on 16.05.2025 and reported the same to DDLR. The DDLR, Mysuru after due verification of all the documents was pleased to dismiss the appeal.

4. It is submitted that, the defendant's property is situated towards Western side of the suit schedule property at Sy.No. 215/1 measuring 2 acres 11 guntas, acquiring the same by way of gift deed executed by his mother. It is alleged that the defendant with an malafide intention to knock of the suit schedule property is continuously interfering into the possession and enjoyment of the suit schedule property. The plaintiff approached the jurisdictional police seeking protection, however he was advised to approach the civil court, as the dispute was civil in nature. Hence, the plaintiff constrained to file the present suit accompanying with this I.A. The plaintiff submits that prima-facie case and balance of convenience lies in his favour, and if the application is not allowed, the plaintiff will suffer great hardship and irreparable injury, which cannot be compensated in terms of money. Therefore, the plaintiff prays to allow the application.

5. On the other hand, the defendant has filed objections to I.A. No.I. In the said objection, the defendant has categorically denied the averments made in the plaint. It is stated that the Sy.No.215 was measuring 4 acres 22 guntas originally belonged to one Late.Kalanayaka, after his demise the property was divided into two parts. It is admitted that, plaintiff purchased 2 acres 11 guntas from Sannathayamma and her children on 23.05.2013 at Sy.No. 215, which divided into two phodi Sy.No. 215/1 and Sy.No. 215/2(suit schedule

property). It is averred that, Sy.No. 215/1 was purchased by defendant's mother on 07.05.2015, in turn she subsequently executed gift deed in favour of defendant. Ever since, he is in peaceful possession and enjoyment of Sy.No.215/1. It is alleged that, while preparing survey sketch and phodi the revenue and survey department have committed mistake and they have not considered the exact possession and enjoyment of the parties. It is alleged that, the revenue officials have colluded with each other and created false documents with an intention to grab property. Being aggrieved with the acts of officials and documents, the defendant preferred DDLR appeal which came to dismissed. It is further stated upon the order of DDLR the defendant has preferred an appeal to JDLR Mysuru which is pending for consideration. Now, the plaintiff is trying to interfere into the defendant's possession and enjoyment, there is certain short fall of land with respect to property of both parties. The defendant contends that the plaintiff has no right, title, or interest over the suit schedule property and that the present suit has been filed with malafide intention to unlawfully claim the property. On these grounds, the defendant prays to dismiss the I.A.

6. After hearing both parties, the trial court formulated 3 points for its consideration and answered all the points in the affirmative. Accordingly, I.A. No.I filed under Order 39 Rules 1 & 2 R/w Sec.151 of CPC came to be allowed.

7. Being aggrieved by the impugned order, the appellant/defendant has preferred the present appeal contending that the Trial Court has grossly erred in allowing

I.A. No.1 filed by the respondent/plaintiff without properly appreciating the facts and circumstances of the case. The Trial Court failed to consider the material documents produced by the appellant, particularly the Hudbust Reports and the Sale Agreement dated 16.08.2014 executed by Madanayaka and his family in favour of Kempamma, wherein the respondent, M.B. Lokesh, is an attesting witness. The Trial Court failed to appreciate the respondent's involvement in the said transaction and the admissions arising therefrom. The Court further failed to appreciate that the appellant and his predecessors have been in possession of the disputed portion of the property for more than fifty years. There is no material to show that the appellant or his men have interfered with the respondent's peaceful possession and enjoyment of his property. On the contrary, the appellant has confined himself to the land in his actual possession and enjoyment. The respondent has no manner of right, title, interest, or possession over the disputed portion of the suit schedule property. The respondent has also admitted the appellant's purchase and possession of the said portion. Even as per the documents relied upon by the respondent himself, namely the Hudbust Reports dated 11.06.2019 and 11.08.2015, the disputed coloured portion of the suit schedule property is not shown to be in the respondent's possession. This vital aspect has been completely overlooked by the Trial Court.

8. The Trial Court further failed to appreciate that both the appellant and the respondent are facing a shortfall in their respective extents of land due to occupation by third parties. In order to resolve the said dispute, the defective phodi and

durasti proceedings are required to be cancelled and fresh phodi and durasti work has to be undertaken based upon the actual physical possession and factual situation on the ground. Accordingly, the appellant has already preferred an appeal before the Deputy Director of Land Records/Joint Director of Land Records, Mysuru, challenging the defective phodi proceedings. The pendency of the said proceedings and their bearing on the dispute have not been considered by the Trial Court. The Trial Court has also failed to consider that the respondent is allegedly in unauthorised enjoyment of approximately 30 guntas of Government kharab land situated on the eastern side of the suit schedule property.

9. The Trial Court failed to appreciate that the respondent has never been in possession and enjoyment of the disputed portion of the suit schedule property, whereas the appellant has been cultivating and maintaining a coconut garden comprising more than 80 coconut trees therein. The appellant and his predecessors have been in uninterrupted possession and enjoyment of the said portion for over 50 years. Such long-standing possession cannot be disturbed unless and until the respondent establishes his lawful entitlement to the property through cogent evidence. In the absence of such proof, no case is made out for granting an order of temporary injunction against the appellant.

10. The Trial Court further failed to appreciate that the schedule described in the plaint does not correspond to the actual physical possession of the respondent and in fact, wrongly includes a portion of land that has been in the

peaceful possession and enjoyment of the appellant and his predecessors for more than 50 years. The respondent has never been in possession of the said portion at any point of time. The schedule property described in the plaint overlaps with a portion of land comprised in Sy. No. 215/1 belonging to the appellant. The respondent cannot seek to annex to his property a portion of land which has always remained in the possession and enjoyment of the appellant. The plaint schedule has been deliberately drafted with incorrect boundaries and descriptions, contrary to the actual physical possession. The respondent has no right to curtail or interfere with the appellant's lawful possession and enjoyment. The incorrect schedule appears to have been furnished with a malafide intention of securing a favourable order by misleading the Court.

11. The Trial Court ought to have appreciated that no injunction can be granted in respect of property which is admittedly not in the possession of the respondent and which is, in fact, in the continuous possession and enjoyment of the appellant and his predecessors for several decades. The Trial Court further failed to appreciate that the appellant has specifically challenged the legality of the defective 11-E Sketch and phodi proceedings and has consistently denied the correctness of the boundaries shown in the plaint schedule. Despite such specific pleadings, the Trial Court has erroneously drawn adverse inferences against the appellant.

12. The Trial Court has also failed to properly appreciate and apply the judgments of the Hon'ble Supreme Court relied

upon by the appellant. If the operation and execution of the impugned order of temporary injunction are not stayed during the pendency of this appeal, the appellant will suffer serious, substantial and irreparable injury. The balance of convenience is overwhelmingly in favour of the appellant and grant of stay is necessary to prevent abuse of the process of law and to secure the ends of justice.

13. The appellant is a medical practitioner rendering valuable service to society. Due to the impugned order, the respondent is attempting to interfere with the appellant's peaceful possession and enjoyment of his land, compelling him to repeatedly approach the police and courts, thereby causing undue hardship and prejudice. The temporary injunction granted by the Trial Court is contrary to the facts, evidence and settled principles of law. Therefore, the order passed by the learned I Additional Civil Judge and JMFC, Hunsur, on I.A. No.1 in O.S. No.445/2025 is liable to be set aside. Accordingly, the appellant humbly prays that this Hon'ble Court be pleased to allow the appeal and set aside the impugned order in the interest of justice and equity.

14. On the other hand, the learned counsel for respondent/plaintiff has supported findings of trial court.

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

16. The Points arise for my consideration are;

**1. Whether the Trial Court committed any illegality or material irregularity in granting temporary injunction in favour of the plaintiff?**

**2. What Order?**

17. My findings on the above points are:

Point No.1 : In the Affirmative

Point No.2 : As per final order  
for the following:

### **R E A S O N S**

18. **POINTS NO. 1:** It is a settled principle that an Appellate Court will interfere with an order granting or refusing temporary injunction only when the Trial Court has acted arbitrarily, ignored important evidence or failed to apply settled legal principles. On re-appreciation of the material available on record, this Court finds that the Trial Court has not properly considered the nature of the dispute and the documents produced by the defendant before granting the temporary injunction. The Trial Court mainly relied upon the plaintiff's sale deed, mutation entries, RTC extracts and 11-E sketch, while overlooking several important documents produced by the defendant which raise a serious dispute regarding possession of the suit property. Therefore, the findings of the Trial Court regarding prima facie case, balance of convenience and irreparable injury cannot be sustained.

19. It is not in dispute that the plaintiff claims ownership over Sy.No.215/2 measuring 2 Acres 11 Guntas under a registered sale deed dated 23.05.2013. Likewise, the defendant claims ownership over Sy.No.215/1 measuring 2 Acres 11 Guntas through a registered gift deed executed by

his mother Kempamma, who had acquired the property under a registered sale deed dated 07.05.2015. Therefore, the defendant cannot be treated as a stranger or trespasser. Both parties claim rights under registered documents and the real dispute relates to the correct boundaries and actual possession of the properties on the spot. Further he specifically contended that while conducting the phodi proceedings and preparing the 11-E sketch, the survey authorities failed to consider the actual possession of the parties and wrongly included a portion of the defendant's land within the boundaries of the plaintiff's property. To support this contention, the defendant has produced Hudbust Reports dated 11.08.2015 and 21.08.2023. These are official survey records showing the physical features and possession at the spot. Since the dispute mainly concerns possession and boundaries, these documents are very relevant. However, the Trial Court has not discussed these documents at all. Failure to consider such important material has resulted in an incomplete appreciation of the dispute.

20. The defendant has also produced photographs showing coconut trees, cultivation, borewell facilities and agricultural activities in the disputed portion of the land. The existence of mature coconut trees and agricultural improvements prima facie indicates that the land has been in the possession and enjoyment of the defendant and his predecessors for a considerable period of time. These photographs support the defendant's case regarding possession. However, the Trial Court has neither discussed these photographs nor assigned any reason for rejecting them.

If these materials had been properly considered, they would have clearly shown that there is a genuine dispute regarding possession which requires full trial and evidence. Another important aspect ignored by the Trial Court is the pendency of proceedings before the Joint Director of Land Records, Mysuru. The records show that the defendant has challenged the correctness of the phodi proceedings and survey records. Though his appeal before the Deputy Director of Land Records was dismissed, he has preferred a further appeal before the Joint Director of Land Records, which is still pending. Therefore, the correctness of the phodi proceedings, 11-E sketch, survey boundaries and identification of Sy.No.215/1 and Sy.No.215/2 has not yet become final. When the very survey records relied upon by the plaintiff are under challenge before the competent authority, the Trial Court ought not to have treated those records as conclusive proof of possession.

21. The material on record further discloses a serious boundary dispute between the parties. According to the defendant, the schedule property described by the plaintiff overlaps with a portion of land that is actually in the possession and enjoyment of the defendant in Sy.No.215/1. Therefore, the dispute is not merely regarding interference with possession, but also relates to identification of land, boundaries and actual possession. Such issues cannot be decided only on the basis of survey numbers, RTC extracts or mutation entries. The impugned order shows that the Trial Court has considered only the documents favourable to the plaintiff while ignoring the documents produced by the defendant. Though the Court has referred to the plaintiff's sale

deed, mutation entries, RTC extracts and DDLR order, it has failed to discuss the Hudbust Reports, defendant's title documents, photographs, cultivation records, borewell documents and the pending proceedings before the JDLR. Failure to consider these important documents amounts to a material irregularity. The revenue records are only pieces of evidence and do not conclusively establish actual physical possession, especially when there is other material indicating otherwise. Where both parties claim possession and produce supporting documents, the Court is required to consider the entire material available on record.

22. Most importantly, the purpose of granting a temporary injunction is only to preserve the property and maintain the existing situation until the dispute is finally decided. It is not meant to decide disputed questions of possession at an interim stage. In the present case, the Hudbust Reports indicate a dispute regarding possession; the defendant has produced registered title documents and photographs showing cultivation and coconut plantation; proceedings challenging the phodi and survey records are pending before the JDLR; and there is a serious dispute regarding boundaries. Despite all these circumstances, the Trial Court failed to consider the defendant's material evidence and virtually granted the final relief sought by the plaintiff at the interim stage. This clearly shows that the Trial Court has not exercised its discretion in accordance with the settled principles governing grant of temporary injunction.

23. Therefore, this Court is of the considered opinion that the plaintiff has failed to establish clear, exclusive and

undisputed possession so as to justify the grant of temporary injunction. The balance of convenience lies in maintaining the existing state of affairs until the rights of parties are finally decided after full trial. Accordingly, the impugned order suffers from material irregularity and requires interference by this Court. Hence, the appeal deserves to be allowed, the order granting temporary injunction is liable to be set aside and both parties shall maintain status quo with regard to possession, nature and character of the disputed property until disposal of the suit. **Hence, Point No.1 is answered in the Affirmative.**

**24. POINT NO.2:** In the light of above discussion, this court proceeds to pass the following:

### **O R D E R**

The appeal filed under Order XLIII Rule 1 R/w Sec.104 of CPC is hereby allowed with cost.

The order dated 04.02.2026 passed on I.A.No.1 in O.S.No.445/2025 by the I Addl. Civil Judge and JMFC, Hunsur, is set aside.

Consequently, the order of temporary injunction granted in favour of the plaintiff stands vacated.

However, considering the nature of dispute and to avoid breach of peace, both parties are directed to maintain status quo regarding nature, character and possession of the disputed portion of property and

shall not alienate, encumber or create third party interest therein till disposal of the suit.

The Trial Court shall dispose of the suit expeditiously and independently without being influenced by any observations made in this judgment.

Office is directed to transmit the copy of the order to the trial court forthwith.

(Dictated to the stenographer directly on computer, typed by him, corrected by me and then pronounced in the open court on this the 3<sup>rd</sup> day of June, 2026).

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