

KAMS410001032023



**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR**

PRESENT

**Sri. Chandan S, B.Com., LL.B
Prl. Civil Judge & JMFC, Krishnarajanagara.**

DATED 01ST DAY OF JULY 2026

O.S./33/2023

Plaintiff : Mallajamma

-V/s-

Defendant : Basavaraju

I.A. No.1

**Applicant : Mallajamma W/o Late.Karigowda,
Aged about 75 years,
R/at Chandagalu Village,
Hebbalu Hobli, K.R.Nagar Taluk.
Mysuru District.**

--- Plaintiff

-V/s-

**Opponents : Basavaraju S/o Late.Budakegowda,
Aged about 47 years,
R/at Chandagalu Village,
Hebbalu Hobli, K.R.Nagar Taluk.
Mysuru District.**

--- Defendant

Provisions under which the applications are filed	U/o 39 R-1 and 2 of C.P.C.
Relief sought for	Injunction
The date on which the Application	18.01.2023

Number of the application	1
Date on which the objection is filed by the opponent	01.04.2026
Date on which the order is passed	01.07.2026

ORDER ON IA NO.1 FILED U/O 39 R-1 AND 2 OF C.P.C

The present application is filed by the plaintiff U/o 39Rule 1 and 2 of C.P.C. seeking an order of temporary injunction restraining the defendants, their agents, servants, henchmen, or anybody claiming through or under them from interfering with the peaceful possession and enjoyment of the suit schedule property by the plaintiff till the disposal of the suit.

2. The brief facts leading to the filing of the present application are that the plaintiff claims that, the suit schedule property originally belonged to one Shashigowda, who is stated to be the elder brother of Karigowda, the husband of the plaintiff. According to the plaintiff, the said Shashigowda had purchased the suit schedule property under a registered sale deed dated 06.06.1994 and thereafter continued in possession and enjoyment of the same. It is the further case of the plaintiff that, after the death of Shashigowda, his wife continued in possession and enjoyment of the property and subsequently, after her death, the legal heirs succeeded to the property.

3. The plaintiff further contends that, an old tiled house existing in the property was demolished on account of its dilapidated condition and a new residential house was

subsequently constructed with the assistance of Government grant and financial aid. It is stated that, the plaintiff has been in possession and enjoyment of the suit schedule property by utilizing the same for residential as well as domestic purposes including tying cattle, storing firewood, household articles, and agricultural implements. It is also contended that, the khata has been transferred to the name of the plaintiff and that she has been regularly paying taxes pertaining to the property.

4. The plaintiff alleges that, on 25.09.2022 the defendants along with their family members approached the suit property, picked up quarrel, interfered with the peaceful possession and enjoyment of the plaintiff, and attempted to assert rights over a portion of the property. According to the plaintiff, though a complaint was lodged before the jurisdictional police, the police advised the parties to approach the competent civil court as the dispute appeared to be civil in nature. Hence, apprehending further interference, the present application is filed.

5. Per contra, the defendants have appeared and filed their objections denying the averments made in the plaint and affidavit. The defendants contend that, one Sannegowda is the grandfather of the defendants and that the said Sannegowda had purchased the suit schedule property under a registered sale deed dated 27.04.1966 from one Gendanayaka. According to the defendants, ever since the date of purchase, the said Sannegowda and thereafter his legal heirs have been in lawful

possession and enjoyment of the property by fencing the same and utilizing it for their domestic purposes.

6. The defendants further contend that, after the death of Sannegowda, his son Budakegowda succeeded to the property and thereafter the present defendant continued in possession and enjoyment of the property by effecting khata transfer and paying taxes and revenue to the Government. It is specifically contended that, the revenue records including Form No.11-B disclose the possession and enjoyment of the defendants.

7. The defendants further allege that, on 07.02.2023 the plaintiffs along with certain other persons illegally trespassed into the property and removed the stone boundary markers and fencing put up around the property. According to the defendants, the plaintiffs are attempting to encroach upon the suit property and therefore the present suit and application have been filed with false and frivolous allegations.

8. Heard on the application filed by the plaintiff/applicant and the arguments advanced by the learned counsel for both parties.

9. The following points arise for this court's consideration in the present application.

1) Whether the applicant/plaintiff made out that, she has got a prima-facie case on hand?

2) Whether the applicant further made out that, the balance of convenience lies in her favour?

3) Whether the applicant further made out that, it will cause untold hardship and irreparable damages to her, if the present application is not allowed?

4) What order?

10. This court findings on the above points for consideration in application is 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

11. POINT NO.1 TO 3:

For the facts and circumstance of the application are concern these three points are interlinked and to avoid the repetition of facts these points are taken up together for common discussion.

12. Upon appreciating the pleadings along with the materials placed before this court, while adjudicating and deciding the application which is filed U/o 39 R-1 and 2 of C.P.C., the relevant factors to be considered by the court is regarding existence of prima-facie factors and case which involves finding of facts as to whether a case for trial is made out and also

whether other factors requisite for grant of injunction exists. Further, the court has to consider the balance of convenience in respect of the parties and irreparable injuries or loss if any, that may be suffered by the plaintiff in the case of refusal to grant injunction.

13. Further, admittedly there is no evidence on record to consider the applications on the basis of the evidence. Further, the parties to the suit are yet to lead their evidence. Accordingly, in the absence of any evidence to discuss the applications, this court has to consider only the available materials which are presented before this court by the respective parties to the suit.

14. The plaintiff has produced the certified copy of the registered sale deed standing in the name of Shashigowda. The plaintiff has also produced the encumbrance certificate pertaining to the suit property reflecting the transaction relating to the purchase of the property under the registered sale deed dated 06.06.1994. Further, the plaintiff has produced demand register extracts wherein Janjar No.427 and Property No.32 stand in the name of the plaintiff. The plaintiff has also produced tax paid receipts and photographs along with a compact disc to substantiate her possession and enjoyment over the suit schedule property.

15. On the contrary, though the defendants have specifically denied the claim of the plaintiff and have asserted their own possession over the suit schedule property, admittedly no

documentary evidence has been produced by the defendants at this stage in support of their pleadings.

16. At this interlocutory stage, the Court is not expected to conduct a detailed trial or adjudicate conclusively upon the title of either party. The Court is only required to examine whether the plaintiff has made out a prima-facie case, whether the balance of convenience lies in favour of granting injunction, and whether irreparable injury would be caused if the relief is refused.

17. Upon careful perusal of the documents produced by the plaintiff, it prima-facie discloses that, the plaintiff has placed before the Court certain revenue records including demand register extracts and tax paid receipts standing in her name. The plaintiff has also produced the registered sale deed standing in the name of her predecessor-in-interest and the encumbrance certificate relating thereto. The said documents, at this stage, prima-facie indicate the existence of possession and enjoyment of the plaintiff over the suit schedule property.

18. Though the defendants have disputed the possession of the plaintiff and have asserted independent possession over the suit schedule property, except making bald assertions in the written statement and objections, no supporting documentary material has been produced by them before the Court at this stage. In the absence of any documentary evidence produced by the defendants, the material placed by the plaintiff assumes

significance for the limited purpose of considering the present application.

19. Further, the very pleadings of both parties and the allegations made against each other disclose that there exists serious dispute with regard to possession over the suit schedule property. The allegations regarding interference and obstruction also indicate that there is likelihood of disturbance to the existing state of affairs.

20. If the defendants are not restrained by way of temporary injunction and if ultimately the plaintiff succeeds in the suit, the plaintiff would be put to irreparable hardship and injury which cannot be adequately compensated in terms of money. On the other hand, if an order of temporary injunction is granted, no prejudice would be caused to the defendants since the same would only preserve the property and maintain status quo till final adjudication of the suit.

21. Therefore, this Court is of the considered opinion that the plaintiff has made out a prima-facie case for grant of temporary injunction. The balance of convenience also lies in favour of protecting the alleged possession of the plaintiff till disposal of the suit. Further, refusal to grant injunction would result in irreparable injury and multiplicity of proceedings. Accordingly, the application filed by the plaintiff U/o 39 Rule 1 and 2 of CPC deserves to be allowed. Hence the **point No.1 to 3 are answered in the affirmative.**

22. POINT NO.4:

In view of the above discussions and the reasons mentioned therein this court proceeds to pass the following:-

ORDER

I.A. No.1 filed by the plaintiff U/o 39 R-1 and 2 of C.P.C. is hereby allowed.

The defendants, their agents, servants, henchmen, or anybody claiming through or under them are hereby temporarily restrained from interfering with the peaceful possession and enjoyment of the suit schedule property by the plaintiff till the disposal of the suit.

Nothing observed in this order above shall influence the final adjudication of the suit on merits.

No orders as to cost.

[Dictated to the Steno, transcribed by her. Corrected and then pronounced by me in the Open Court on this the 01st day of July 2026]

(Chandan.S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.