



**IN THE COURT OF THE HONOURABLE ADDITIONAL CIVIL
JUDGE & JMFC, AT KRISHNARAJANAGAR.**

PRESENT: SMT. ASRINA.,B.A, LLB.
ADDL. CIVIL JUDGE AND JMFC, KRISHNARAJANAGAR.

DATED THIS 1ST DAY OF MARCH, 2025
O.S.No.48/2025

BETWEEN

PLAINTIFF	Shri.B.P.Sathish S/o B.M.Prakash Aged: 50 years, R/at: Bherya Village Mirle Hobli Saligrama Taluk Mysore District. (By Sri.K.N.S. Advocate)
DEFENDANT	Shri.Kumaranayaka S/o Late.Siddanayaka Aged:55 years. R/at: Saligrama Road, Bherya Village Mirle Hobli Saligrama Taluk Mysore District. (By Sri.D.C.G.Advocate)

KAMS410001472025

**IA NO.2****BETWEEN**

APPLICANT/ PLAINTIFF	Shri.B.P.Sathish.
OPPONENT/ DEFENDANT	Shri.Kumaranayaka.

Provision of law	Order 39 Rule 1 and 2 R/w Section 151 of CPC.
Relief sought in the application	For a temporary injunction order to restrain the defendant from causing interference to the peaceful possession and enjoyment of the plaintiff over the suit property till the disposal of the above suit.
Date of filing the application	11/02/2025.
Date of filing the objection to the application	10/02/2025.
Date of order	01/03/2025.

(SMT. ASRINA)
**ADDL. CIVIL JUDGE & JMFC.,
 KRISHNARAJANAGAR.**

KAMS410001472025



**ORDERS ON IA.NO.2 FILED BY THE PLAINTIFF UNDER
ORDER 39 RULE 1 AND 2 R/W SECTION 151 OF CPC**

Plaintiff has filed the present suit as against the defendant for the relief of perpetual injunction. Along with the suit the plaintiff has also filed IA.No.2 under order 39 rule 1 and 2 R/w Sec.151 of CPC praying to restrain the defendant from interfering with the peaceful possession and enjoyment of the plaintiff over the suit property till the disposal of the above suit.

2. In the affidavit accompanying the IA.No.1, the plaintiff has inter-alia reiterated the plaint averments. It is averred that the plaintiff is a owner and possessor of the suit property. It is averred that the plaintiff has acquired the suit property under the registered gift deed dated 20/10/2016 registered as a document No.MIR-1-02585-2016-17. It is averred that ever since from the date of acquiring the suit property under the aforesaid gift deed, the plaintiff is in peaceful possession and enjoy of the suit property as its absolute owner without any interference from any one. It is averred that the defendant is a adjacent land owner of the suit property and the land of the defendant is situated at the Western side of the suit property. It is grievance of the plaintiff that without having any right, title and interest over the suit property, the defendant is causing illegal interference to the peaceful possession and enjoyment over the suit property. It is

KAMS410001472025

averred that on 10/12/2024 a panchaythi was held in the presence of the elders of the village and though the elders of the village have advised the defendant not to cause any illegal interference to the peaceful possession of the plaintiff over the suit property, but the defendant did not mend his ways. Rather, the defendant has continued his illegal act of causing interference to the peaceful possession of the plaintiff over the suit property. Therefore, ultimately on 20/01/2025 the plaintiff has submitted a complaint as against the defendant before the jurisdictional police. It is averred that in pursuance to the said complaint, the police has issued an endorsement stating that since the dispute involved is civil in nature, the police have directed the plaintiff to work out his remedy before the court of law. It is the grievance of the plaintiff that in spite of it the defendant did not stop his illegal acts of causing interference to the peaceful possession of the plaintiff over the suit property. It is the grievance of the plaintiff that by using the money and muscle power, the defendant is trying to interfere with the peaceful possession of the plaintiff over the suit property. Therefore the plaintiff has averred that the acts of the defendant is highly illegal and high handed and the same is against the law. Therefore, the illegal acts of the defendant has to be checked by this court by granting the reliefs as sought for in the instant application. If not the plaintiff will suffer irreparable

KAMS410001472025



loss which cannot be compensated in terms of money. Therefore, having no other efficacious remedy, the plaintiff was constrained to file the above suit. Apprehending the possibilities of further interference on the part of the defendant over the peaceful possession of the suit property, the plaintiff has filed the present suit and by filing the instant application the plaintiff has prayed to restrain the defendant from causing any sorts of interference to his peaceful possession and enjoyment over the suit property until the disposal of this suit. The plaintiff has averred that he has made out a prima facie case and the balance of convenience also lies in his favour. If the order of temporary injunction is not granted to the plaintiff as sought for in the instant application, then the plaintiff will be put to irreparable loss and injury which cannot be compensated in terms of money. Hence, on the above grounds the plaintiff has prayed to allow the application.

3. In pursuance to the summons issued by this court, the defendant has appeared before this court through his counsel and by filing his objections the defendant has opposed the I.A.No.2.

4. The defendant has seriously opposed the IA.No.2 by denying the claim of the plaintiff. The defendant has denied the title and possession of the plaintiff over the suit property. The allegation of interference made against him by the plaintiff was also denied by

KAMS410001472025

the defendant. By denying rest of the plaint as well as application averments the defendant has categorically contended that the father of the plaintiff namely Mr.B.M.Prakash had only purchased an extent of 2 ½ guntas of land in Sy.No.14/7. The defendant has contended that the father of the plaintiff has not purchased 0.07.12.00 guntas of land at any point of time. Therefore, the question of father of the plaintiff gifting greater extent of the suit property to the plaintiff does not arise at all. The defendant has contended that by creating the false documents the plaintiff has filed the present suit. The defendant has further contended that he has inherited the suit property from his father namely Late.Siddalinganayaka as per the M.R.No.T40/2015-16 dated 26/04/2016. However, the defendant has not given the description of the property which he has inherited from his father under the aforesaid mutation order. The defendant has contended that when the father of the plaintiff had only purchased 2½ guntas of land in Sy.No.14/7, the plaintiff did not acquire any right over the suit property, which is in greater extent. The defendant has further contended that only with an intention to cause harassment to him, the plaintiff has filed the present false suit. Therefore the defendant has contended that with an malafide intention of obtaining the ex-parte injunction order, the plaintiff has filed the present false suit by suppressing all the above true

KAMS410001472025



facts. The defendant has contended that if at all the order of temporary injunction is granted in favour of the plaintiff, then the defendant will suffer irreparable loss which cannot be compensated in terms of money. Therefore, with the above contentions the defendant has sought for dismissal of the application.

5. Heard arguments from both the side.

6. Perused the records. After going through the application along with affidavit, objection statement and the relevant documents placed on record, the following points arises for my consideration:

Point No.1: Whether the plaintiff has made out a prima facie case against the defendant?

Point No.2: Whether the balance of convenience lies in favour of the plaintiff?

Point No.3: If the order of temporary Injunction is not granted in favour of the plaintiff, whether the plaintiff will suffer irreparable injury or hardship which cannot be compensated?

Point No.4: What order?

7. My answers to the above points are as hereunder:

Point No.1 : In the Affirmative.

KAMS410001472025



Point No.2 : In the Affirmative.

Point No.3 : In the Affirmative.

Point No.4 : As per the final orders for the following:

REASONS

8. POINT NO.1: Plaintiff has filed the present suit as against the defendant for the relief of perpetual injunction. By filing the instant application the plaintiff has prayed to restrain the defendant from causing any sorts of interference to the peaceful possession of the plaintiff over the suit property until the final adjudication of the above suit.

9. In an application filed under Order 39 Rule 1 and 2 of CPC the plaintiff must show that he has a prima facie case. "*Prima facie case*" means that the plaintiff must prove to the satisfaction of the court that there is a case to go for a trial and there is a arguable case and that the plaintiff also must prove to the satisfaction of the court the probability of the plaintiff obtaining the reliefs at the conclusion of the trial.

10. In the case on hand, it is the contention of the plaintiff that he is a owner and possessor of the suit property. Along with the plaint, the plaintiff has produced the copy of registered gift deed dated 20/10/2016 bearing document No.2585/2016-17 and the same prima-facie depicts that the plaintiff has acquired the suit

KAMS410001472025



property under the aforesaid gift deed. Further, along with the plaint the plaintiff has also produced the RTC of the suit property for the year 2024-25 and the same prima-facie discloses the name of the plaintiff as a owner and possessor of the suit property. The documents produced by the plaintiff along with the plaint prima-facie depicts that the plaintiff has some semblance of right over the suit property. When the plaintiff has a semblance of right over the suit property, the plaintiff is very much entitled to protect the suit property by filing a suit. Therefore I conclude that the plaintiff has made out a prima facie case to go for a trial. Since the materials placed on record prima facie shows that the plaintiff has semblance of right over the suit property, after the trial, if at all the plaintiff succeeds in establishing his case, then the plaintiff will surely obtain the reliefs at the conclusion of the trial. Whether the defendant has caused illegal interference to the peaceful possession of the plaintiff over the suit property or not, the same has to be decided by holding a full fledged trial. Further, the contention of the defendant that the plaintiff did not acquire any right over the suit property under the aforesaid gift deed, even the same also needs to be decided by holding a full fledged trial. Hence the present *lis* needs a complete trial. But the trial in this case is not yet commenced. There is a arguable case in the present *lis*. Therefore I conclude that the plaintiff has made out a *prima*

KAMS410001472025



facie case to go for trial and that there is a arguable case. Thereby I conclude that the plaintiff has made out a *prima facie* case as against the defendant. **Accordingly, Point No.1 is answered in the Affirmative.**

11. POINTS NO.2 & 3: Since the discussion on these two points are interconnected, in order to avoid repetition, the above points are taken up together for a common discussion.

12. In an application filed under Order 39 Rule 1 and 2 of CPC, apart from proving the *prima facie* case, the plaintiff also must invariably prove that the balance of convenience lies in his favour and so also it is incumbent on the part of the plaintiff to prove that if an order of temporary injunction is not granted then the plaintiff will suffer irreparable loss and injury.

13. The present suit is at the very initial stage and therefore, in the absence of the evidence, the present application has to be decided based on the averments made by the parties to the suit in their respective pleadings and the material placed before the court. In the case on hand, the plaintiff has claimed himself to be the owner in possession of the suit property. As held above, the gift deed dated 20/10/2016 produced by the plaintiff in respect of the suit property prima-facie discloses that the plaintiff has

KAMS410001472025



acquired the suit property under the aforesaid registered instrument. Further, the RTC of the suit property for the year 2024-25 produced along with the plaint also prima-facie discloses the name of the plaintiff as a owner and possessor of the suit property. The documents produced by the plaintiff along with the plaint prima-facie depicts that the plaintiff has some semblance of right over the suit property. On the other hand, the defendant did not make any claim over the suit property in his objections.

14. Further, along with the plaint the plaintiff has also produced the acknowledgment issued by the jurisdictional police for having received the complaint. The same prima-facie establishes that there is a serious dispute involved between the parties to this suit in respect of the suit property. Adding further, the photographs submitted by the plaintiff discloses that the defendant is also attempting to take construction in the disputed property.

15. The materials placed on record *prima facie* depicts that the plaintiff has a semblance of right over the suit property. Hence, preventing the defendant from interfering in the peaceful possession of the plaintiff over the suit property will not cause any hardship to him. Since the materials placed on record prima facie discloses that the plaintiff has a semblance of right over the suit property, the plaintiff is entitled to prevent the defendant from

KAMS410001472025



causing any sorts of obstruction to his peaceful possession over the suit property. As apprehended by the plaintiff, if the defendant causes any illegal interference to his peaceful possession over the suit property, the plaintiff may not be able to conveniently and peacefully possess and enjoy the suit property. The acknowledgment issued by the police which is submitted by the plaintiff prima-facie establishes that there is a serious dispute involved between the parties to this suit in respect of the suit property. Furthermore, the photographs submitted by the plaintiff discloses that the defendant is also attempting to take construction in the disputed property. Hence, such being the case future invasion on the part of the defendant to the peaceful possession of the plaintiff over the suit property cannot be ruled out. Accordingly I hold that the balance of convenience and element of hardship tilts more in favour of the plaintiff. Hence, I conclude that the balance of convenience lies in favour of the plaintiff in granting the order of temporary injunction. If not the plaintiff will suffer hardship. **Accordingly points No.2 and 3 are answered in the Affirmative.**

16. POINT NO.4: In view of my foregoing discussions on points No.1 to 3, I proceed to pass the following:

KAMS410001472025

**ORDER**

IA.No.2 filed by the plaintiff under order 39 rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

By an order of temporary injunction, the defendant, his men, servants, agents, anybody claiming through or under him are hereby restrained from interfering in the peaceful possession and enjoyment of the plaintiff over the suit property in any manner till the disposal of the above suit.

It is further made it clear that the observations made in this order is only restricted to decide the IA.No.2 and the same will not come in the way during the final disposal of the above suit.

Considering the facts and circumstances of the case there is no order as to costs.

(Dictated to the Stenographer, typed by her, and the transcript revised and corrected by me and then pronounced in the open court on this **1st day of March-2025**)

(SMT. ASRINA)
ADDL. CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR.