

KAMS410028292025



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./575/2025

Plaintiff : Parvathamma

-V/s-

Defendant : G.R.Lohith Kumar

I.A. No.1

**Applicant : Parvathamma W/o Late.Rajegowda,
Aged about 70 years,
R/at Gandhanahalli Koppalu Village,
Hosa Agrahara Holi,
K.R.Nagar Taluk, Mysuru District.**

--- Plaintiff

-V/s-

**Opponents : G.R.Lohith Kumar
S/o Late.Ramakrishna
Aged about 32 years,
R/at Gandhanahalli Koppalu Village,
Hosa Agrahara 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	14.11.2025
Number of the application	1
Date on which the objection is filed by the opponent	12.03.2026
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 39 Rules 1 and 2 R/w Sec.151 of C.P.C. seeking an order of temporary injunction restraining the defendants, their agents, servants, supporters, henchmen, or anybody claiming through them from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property measuring 8½ guntas in Sy. No.428/1 situated at Gandhanahalli Village, Hosaagrahara Hobli, K.R.Nagar Taluk, Mysuru District, pending disposal of the suit.

2. The case of the plaintiff, as set out in the plaint and affidavit filed in support of the application, is that the suit schedule property originally belonged to the ancestors of the husband of the plaintiff. It is contended that in a partition that took place between the husband of the plaintiff and his brother, an extent of 17 guntas in Sy. No.428/1 was equally divided and 8½ guntas fell to the share of the plaintiff's husband, Late.Rajegowda. According to the plaintiff, after the death of Rajegowda, she succeeded to the estate as his legal heir and the revenue records, khata, and

connected entries were mutated in her favour. It is her specific case that, she has been in lawful and exclusive peaceful possession and enjoyment of the suit schedule property and has been cultivating the same without any interruption.

3. The plaintiff further contends that, the defendants have absolutely no manner of right, title, or interest over the suit schedule property. However, taking advantage of their proximity to the land, they are allegedly attempting to interfere with the plaintiff's possession, trying to use portions of the property for tethering cattle and other purposes, and are creating unlawful obstructions. It is therefore contended that unless the defendants are restrained by an order of temporary injunction, the plaintiff would suffer serious hardship and irreparable injury which can not be determined and compensate properly and adequately. Hence, the present application.

4. Upon service of summons, the defendants appeared through their counsel and filed detailed statement of objections opposing the application. The defendants have denied all the material averments made in the plaint and affidavit.

5. According to the defendants, the defendant is the absolute owner and possessor of land measuring 1 acre 5 guntas in Sy. No.428/2 situated at Gandhanahalli Village, inherited from his father. It is contended that, the khata has been duly mutated in the name of the defendant under the relevant mutation proceedings and that he has been in continuous possession and

enjoyment of the same by cultivating agricultural crops and maintaining coconut plantations.

6. The defendants further contend that, the present dispute is not a new dispute and that the predecessors of the plaintiff had earlier instituted O.S. No.141/2007 against the predecessors of the defendants in respect of the very same property. According to the defendants, in the said suit, the father-in-law of the present plaintiff had specifically pleaded that, a substantial extent of land measuring to an area, width and extent of 7 guntas of land forming part of Sy. No.428/1 had already been encroached upon and occupied by the defendants. It is their contention that after filing of the written statement in the said suit and after realizing that the relief sought was not appropriate, the plaintiff therein withdrew the suit on 30.09.2008. Thereafter, neither the said plaintiff nor his legal representatives instituted any suit for declaration of title and recovery of possession.

7. It is further contended that, after lapse of several years, the present plaintiff, who claims through the very same predecessor, has filed the present suit for bare injunction without seeking declaration of title or recovery of possession. The defendants contend that the plaintiff has suppressed the earlier proceedings and the admissions made therein and has not approached the Court with clean hands. Therefore according to the defendants, the plaintiff is not entitled to the discretionary relief of temporary injunction and the application deserves to be dismissed.

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 Negative

Point No.2 : In the Negative

Point No.3 : In the Negative

**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 relief sought by the plaintiff is one of temporary injunction. The principles governing grant of temporary injunction are well settled. The plaintiff must establish the existence of a prima-facie case, the balance of convenience in her favour, and the likelihood of suffering irreparable injury in the event of refusal of the relief. Unless all the three ingredients coexist, an order of temporary injunction cannot be granted.

15. The entire foundation of the plaintiff's case is that the suit schedule property measuring 8½ guntas in Sy. No.428/1 fell to

the share of her husband in a family partition and that after his death she succeeded to the property and continues to be in possession thereof. The plaintiff has relied upon revenue entries and mutation records standing in her name.

16. However, the defendants have seriously disputed the plaintiff's possession over the disputed property. The records placed before the Court reveal that the dispute between the parties is not of recent origin. The materials produced by the defendants disclose that an earlier suit in O.S. No.141/2007 had been instituted by the father-in-law of the present plaintiff against the predecessors of the defendants in respect of the very same property.

17. A careful perusal of the pleadings of the plaintiff in the said suit assumes considerable significance. In the said pleadings, the predecessor-in-interest of the present plaintiff had specifically pleaded that a substantial portion of land that is 3 guntas of land in Sy. No.428/1 had already been unlawfully occupied and encroached upon by the defendants. Such a pleading amounts to a clear admission regarding the possession of the defendants over the disputed extent of land.

18. The significance of the said admission cannot be ignored at this interlocutory stage. The present plaintiff claims her rights through the very same predecessor who had made such admissions before a competent Civil Court. Therefore, the admissions made by the predecessor-in-interest bind the plaintiff

to the extent they relate to the nature and character of possession over the disputed property.

19. The records further disclose that O.S. No.141/2007 came to be withdrawn. Even after alleging encroachment and loss of possession, neither the predecessor of the plaintiff nor the present plaintiff initiated any comprehensive proceedings seeking declaration of title and recovery of possession. Instead, after several years, the present suit has been filed merely seeking only the relief of injunction.

20. The documents produced by the defendants and the admissions available in the earlier proceedings create a serious dispute regarding possession. When possession itself is under serious cloud and when the defendants assert independent possession over the disputed property, a mere suit for injunction without seeking declaration of title and recovery of possession cannot ordinarily be entertained. The appropriate remedy available to a person claiming ownership over a property allegedly under the possession of another is to seek declaration of title and consequential recovery of possession.

21. The plaintiff has attempted to rely upon revenue entries standing in her name. It is a settled proposition that revenue records are not documents of title. They are maintained primarily only for fiscal purposes. Though such entries may furnish a prima-facie indication regarding possession, they cannot override

specific admissions made in judicial proceedings, particularly when the question of actual possession is seriously disputed.

22. This Court further notices that, the earlier litigation and the admissions made therein have not been satisfactorily explained by the plaintiff. The existence of prior litigation involving the same property and the acknowledgment of encroachment therein are material facts which ought to have been candidly disclosed. Suppression or non-disclosure of such material facts dis entitles a party from obtaining equitable relief.

23. At this stage, this court is not required to finally determine the title of either party. However, the Court is required to ascertain whether the plaintiff has established a strong prima-facie case warranting protection. Having regard to the earlier admissions, the disputed nature of possession, and the absence of any relief for declaration and recovery of possession, this Court is unable to hold that the plaintiff has established a prima-facie case.

24. The balance of convenience is also not in favour of the plaintiff. Granting an order of injunction under such circumstances would virtually amount to recognizing a disputed possession in favour of the plaintiff without a full-fledged trial. Such an order may seriously prejudice the rights asserted by the defendants.

25. Equally, the plaintiff has failed to establish irreparable injury. In the event the plaintiff ultimately succeeds in proving her

title and possession before the competent Court, appropriate relief can always be granted in accordance with law. Therefore, no irreparable injury would be caused merely because temporary injunction is refused at this stage. For all these reasons, this Court is of the considered opinion that the plaintiff has failed to establish the essential ingredients required for grant of temporary injunction. Hence the **point No.1 to 3 are answered in the Negative.**

26. 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 dismissed being sans merit.

The observations made in this order are only for the purpose of deciding the present interlocutory application and shall not influence the final adjudication of the suit on merits and mettle.

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.