

KAMS410033702025



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

PRESENT

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

DATED 02ND DAY OF MAY 2026

O.S./639/2025

Plaintiff : Pandu

-V/s-

Defendant : Bhageeratha

I.A. No.1

Applicants : Pandu

--- Plaintiff

-V/s-

Opponent : Bhageeratha

--- Defendant

Provision under which the applications are filed	U/o 39 R-1 and 2 R/w Sec.151 of C.P.C.
Relief sought for	Injunction
The date on which the IA No.2 is filed	05.02.2026
The date on which the IA No.3 is filed	10.03.2026
Number of the application	2 & 3
Date on which the objections are filed by the different opponents	10.03.2026 & 17.03.2026
Date on which the order is passed	02.05.2026

**ORDER ON IA NO.2 FILED U/O 39 R-1 AND 2 R/W SEC.151
OF C.P.C**

The epitomized sum and substance of the application filed U/o 39 R-1 and 2 of C.P.C. and also objections against and in respect of IA No.3 which is maintained U/o 39 R-1 and 2 of C.P.C. are reads thus:

2. This application is filed by the plaintiff U/o 39 R-1 and 2 of C.P.C. seeking an order of temporary injunction restraining the defendant, his agents, henchmen, or anybody claiming through him from alienating or encumbering the suit schedule property until the disposal of the suit.

3. The plaintiff submits that, the suit schedule property originally belonged to his ancestors. The plaintiff and his predecessors-in-title have been in continuous, peaceful possession and enjoyment of the said property for several decades as absolute owners.

4. It is further submitted that, the suit schedule property originally belonged to the plaintiff's forefather, namely Kunnana Chaluva, who had a son by name Ningaiah. The said Ningaiah had three sons, namely Hejjuraiah, Ningaiah, and Koniyaiah. The plaintiff is the grandson of the said Ningaiah and is continuing in possession and enjoyment of the property. The plaintiff and his ancestors have been cultivating the land by growing crops such as ragi, millets, vegetables, groundnuts, jowar, etc., thereby exercising all rights of ownership over the plaint schedule property.

5. The plaintiff further submits that, the defendant has no manner of right, title, or interest in the suit schedule property. The defendant is a complete stranger to the plaintiff's family and the property. However, taking undue advantage of his political influence and in collusion with revenue officials, the defendant has fraudulently and illegally got the khatha of the suit schedule property mutated in his name without the knowledge or consent of the plaintiff.

6. The plaintiff came to know about such illegal mutation only recently when he approached a bank for financial assistance, and upon verification of revenue records, it was revealed that the khatha had been changed in the name of the defendant. Immediately thereafter, the plaintiff approached the defendant and also convened a panchayath in the presence of village elders and well-wishers, requesting the defendant to rectify the illegal entries. However, the defendant failed and refused to heed to such requests.

7. The plaintiff further submits that, the defendant, taking advantage of the illegal revenue entries standing in his name, is now attempting to alienate the suit schedule property in favour of third parties. If the defendant is not restrained by an order of this Court, he may succeed in alienating the property, which would result in multiplicity of proceedings and cause irreparable loss and hardship to the plaintiff, which cannot be compensated in terms of money. The balance of convenience lies in favour of the

plaintiff, and he has made out a prima facie case. If the temporary injunction is not granted, the plaintiff will suffer irreparable injury. Wherefore, the plaintiff respectfully prays that this Court be pleased to grant an order of temporary injunction restraining the defendant, his agents, or anybody claiming through him from alienating or encumbering the suit schedule property pending disposal of the suit, in the interest of justice and equity.

8. IA NO.3 FILED U/O 39 R-1 AND 2 R/W SEC.151 OF C.P.C

The epitomized sum and substance of the application filed U/o 39 R-1 and 2 of C.P.C. and also objections against and in respect of IA No.2 which is maintained U/o 39 R-1 and 2 of C.P.C. are reads thus:

9. This application is filed by the defendant U/o 39 R-1 and 2 of C.P.C. seeking an order of temporary injunction restraining the plaintiff, his agents, representatives, or anybody acting on his behalf from interfering with the peaceful possession and enjoyment of the suit schedule property measuring 8 acres of land in Sy. No.174/1, situated at Keggere Village, K.R.Nagar Taluk, Mysuru District.

10. The defendant submits that, the application schedule property originally belonged to one Haliningaiah, who is the grandfather of the defendant. The said Haliningaiah was the absolute owner of the entire extent of 8 guntas of land in Sy. No.174/1. It is further submitted that, the said Haliningaiah acquired the entire extent of 8 guntas through three registered

sale deeds, namely an extent of 4 guntas under a registered sale deed dated 29.06.1945, an extent of 2 guntas under a registered sale deed dated 09.09.1955, and the remaining 2 guntas under a registered sale deed dated 26.11.1970.

11. Pursuant to the said purchases, Haliningaiah was in absolute possession and enjoyment of the said suit property during his lifetime. After his death, his wife Kamma succeeded to the property and got the khatha of the entire 8 guntas mutated in her name. She continued in possession and enjoyment of the property as absolute owner.

12. The defendant further submits that, the said Kamma, out of love and affection and in recognition of the care and support rendered by the defendant, executed a registered relinquishment deed dated 05.03.2016 in favour of the defendant. By virtue of the said relinquishment deed, the defendant has become the absolute owner in possession of the entire extent of 8 guntas in Sy. No.174/1.

13. Subsequently, the revenue records, including the khatha, have been duly mutated in the name of the defendant, and he has been in lawful possession and enjoyment of the suit schedule property. The defendant submits that, the plaintiff has no manner of right, title, or interest over the suit schedule property. Despite the same, the plaintiff is attempting to interfere with the peaceful possession and enjoyment of the defendant, thereby giving rise to the present application.

14. The defendant further submits that, if the plaintiff is not restrained by an order of temporary injunction, he will continue to interfere with the defendant's lawful possession, causing irreparable injury and hardship which cannot be compensated in terms of money. The defendant has a prima-facie case, the balance of convenience lies in his favour, and he will suffer irreparable loss and injury if the injunction is not granted.

15. Wherefore, the defendant respectfully prays that this court be pleased to grant an order of temporary injunction restraining the plaintiff, his agents, representatives, or anybody claiming through him from interfering with the peaceful possession and enjoyment of the suit schedule property measuring 8 guntas in Sy. No.174/1, pending disposal of the suit, in the interest of justice and equity.

16. The following points arise for this court's consideration in the present both applications.

1) Whether the applicants have made out that, they have got a prima-facie case on hand?

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

3) Whether the applicants further made out that, it will cause untold hardship and irreparable damages and injury to them, if the present applications are not allowed?

4) What order?

17. This court findings on the above points for consideration in the both application No.2 & 3 are 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

18. POINT NO.1 TO 3 IN BOTH APPLICATIONS:

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.

19. 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.

20. 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.

21. It is also well settled that, in cases relating to immovable property, possession as on the date of suit assumes great significance, and ordinarily the Court leans in favour of protecting settled possession. The plaintiff asserts ancestral title and possession. However upon perusal of the pleadings, the plaintiff has traced lineage but has not produced, at this stage, cogent documentary evidence such as RTC extracts, pahani records, tax receipts, or other revenue documents demonstrating continuous possession in his favour. The allegation that the mutation in favour of the defendant is fraudulent is a matter requiring full-fledged trial and evidence.

22. It is not disputed that, as on the date of filing of the suit, the revenue records stand in the name of the defendant. Though mutation entries do not confer title, they are relevant for determining prima-facie possession. Thus, the plaintiff has succeeded in raising a triable issue regarding title, but has failed to prima-facie establish actual, physical, or settled possession over the suit property. The defendant relies upon registered sale deeds in favour of Haliningaiah, succession through Kamma, registered relinquishment deed dated 05.03.2016, mutation entries standing in his name.

23. At this interlocutory stage, a registered relinquishment deed carries a presumption of validity unless it is set aside by a competent court. The mutation entries corroborate the defendant's claim of possession. There is no material placed by the plaintiff to demonstrate that the defendant has been dispossessed or is not in possession. Thus, the defendant has established a strong prima-facie case not only regarding title but also regarding possession.

24. In suits for injunction relating to immovable property, the Court must primarily ascertain who is in possession. From the available material, revenue entries stand in the defendant's name, The plaintiff has not produced contrary documents at this stage. Hence, the Court is inclined to hold that the defendant is in prima-facie lawful possession of the suit schedule property as on the date of the suit. The balance of convenience requires weighing the comparative hardship, granting injunction in favour of the plaintiff would amount to disturbing the apparent possession of the defendant, which is not permissible at an interlocutory stage. Granting injunction in favour of the defendant would merely protect existing possession and maintain status quo. Therefore, the balance of convenience tilts in favour of the defendant.

25. If the defendant is not protected, he may be subjected to unlawful interference, leading to disturbance of possession, which constitutes irreparable injury. The plaintiff's alleged injury, on the other hand, is contingent upon establishing title, which can

be adjudicated at trial. Thus, the element of irreparable injury is more in favour of the defendant insofar as protection of possession is concerned. However, another important aspect requires consideration. The plaintiff has specifically alleged that the defendant is attempting to alienate the suit property based on disputed title. If such alienation is permitted it may create third-party rights, lead to multiplicity of proceedings, complicate the adjudication of rights in the suit.

26. Even though the defendant is prima-facie in possession, his title is under serious dispute. In such circumstances, this court have consistently held that the subject matter of the suit must be preserved. Therefore, it is just and proper to restrain the defendant from alienating or encumbering the property till disposal of the suit.

27. The plaintiff approached the court after learning about mutation entries and has attempted resolution through a village panchayath. Therefore, the defendant relies on registered documents but has not demonstrated urgency necessitating alienation during pendency of the suit. Thus, equity also favours preservation rather than transfer of the property.

28. Upon consideration of the pleadings and materials, the plaintiff has established a triable issue, but not prima-facie possession. The defendant has established prima-facie possession supported by revenue records and registered documents. The balance of convenience lies in favour of the defendant. However,

to protect the subject matter, alienation must be restrained. Hence the **point No.1 to 3 are answered in the Affirmative in both applications.**

29. POINT NO.4:

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

ORDER

The application No.2 filed by the plaintiff U/o 39 R-1 and 2 R/w Sec.151 of CPC is hereby allowed.

The defendant, his agents, or anybody claiming through him are restrained from alienating or encumbering the suit schedule property till disposal of the suit.

The application No.3 filed by the defendant U/o 39 R-1 and 2 R/w Sec.151 of CPC is also allowed.

The plaintiff, his agents, representatives, or anybody claiming through him are restrained from interfering with the peaceful possession and enjoyment of the suit schedule property by the defendant till disposal of the suit.

It is made clear that the observations made herein above are prima-facie in nature and shall not influence the final adjudication of the suit on merits.

No order as to cost.

[Dictated to the Steno, transcribed by her. Corrected and then pronounced by me in the Open Court on this the 02nd day of May 2026]

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