

KARN020013402019



Presented on : 05-11-2019
Registered on : 05-11-2019
Decided on : 27-03-2026
Duration : 06 years, 4 months, 22 days

**IN THE COURT OF THE 1st ADDL., SENIOR CIVIL
JUDGE AND JMFC AT RAMANAGARA**

Dated : This the 27th day of March, 2026

Present

Smt.Niveditha.T.M.,

BA.L., LL.B.,

1st Addl. Senior Civil Judge & JMFC.,
Ramanagara.

M.A.No.18/2019

Appellant :-

Sri.Dasegowda,
Aged about 42 years,
S/o. Late Kadegowda @ Ramanna,
R/at: Kyasapura Village and Post,
Kootagal Hobali,
Ramanagara Taluk and District

And also R/at: No.229, 1st Floor,
2nd Cross, Jalamangala Road,
Manjunathanagara,
Ramangara Town

(Rep by Sri.DG.,Advocate)



-V/s-

Respondent:-

1. Sri.Siddaramaiah,
Since dead Rep by his LR's
 - a) Sri.Lokesha.S,
S/o. Late Siddaramaiah,
Aged about 35 years,
 - b) Smt.Lakshmi.S,
D/o. Late Siddaramaiah,
Aged about 33 years,
2. Smt.Chikkathayamma,
W/o. Late Siddaramaiah,
Major

All are R/at. Kyasapura Village and
post, Kootagal Hobali,
Ramanagara Taluk and District.

(R-1 & 2 Rep by Sri.MCU., Advocate)

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J U D G M E N T

(Delivered on 27/03/2026)

The appellant/plaintiff has preferred this appeal under Order XLIII Rule 1(r) of CPC., challenging the orders dated:09.10.2019 passed on I.A.No.7 in OS.No.347/2011 by the learned Prl.Civil Judge and JMFC., Ramanagara.



2. For the sake of convenience, parties are referred to by their ranking before the Trial Court. Appellants is the plaintiff while respondents are the defendants before the Trial Court.

3. The plaintiff has instituted the suit before the Trial Court for the relief of permanent injunction and other reliefs against the defendants.

4. Case of the plaintiff is that, he is the absolute owner in possession and enjoyment of the agriculture land bearing Sy.No.60/p13 measuring 02 acres situated in Kyasapura Village, Kootagal Hobli, Ramanagara Taluk. Further originally the suit schedule property belongs to grand-mother of plaintiff, after the death of his grand father the plaintiff's father was in possession over the said property till his death and the plaintiff is in actual possession and enjoyment of the suit property along with his brother. This defendant is obtained the granted land in year 1990-1991 in Sy.No.60 from 1300 acres. On the basis



of the grant, the Tahasildar issued Saguvali Chit in favour of 1st defendant and khata was affected in the year 1997. The 1st defendant filed O.S.No.158/1997 against the father of plaintiff and brother and also against the plaintiff for permanent injunction, the pending of the above suit the plaintiff's father died, after the dismissal the same, the defendant challenged the same by preferring R.A.No.40/2007 and same was also dismissed on 05.03.2010. Further it is stated that, the Land Tribunal granted the land only 01 acre 20 guntas in favour of 1st defendant and not the 2 acre and the 1st defendant is also paid the Kimmath Tax to 01 acre 20 guntas only and the Revenue Inspector issued the notice to 1st defendant to furnish some documents pertaining to land 1 acre 20 guntas in Sy.No.60 only. But, the Tahasildar issued the Saguvali Chit for 02 acres in favour of 1st defendant and also issued boundary incorrect schedule land. This being the state of affairs, the 1st defendant is challenged the Assistant Commissioner order before the Deputy



Commissioner in R.A.(LND) No.7/2007-2008 and same was allowed hence, the plaintiff is challenged the Deputy Commissioner Order before the Karnataka Appellate Tribunal in Rvn. Revision.No.24/2011. After the heard the matter, the tribunal is passed the interim stay Commissioner order till next date of hearing. The defendants have not got right over the suit schedule property interfering with the suit schedule property and cutting the Ala Tree and Basari Trees and made attempts to encroach upon the land of the suit schedule property. The lodging of police complaint also did not yield any result. Hence, the suit along with Instant application.

5. After service of suit summons, defendants appeared before the Court and defendants filed written statement filed memo adopting same as objection to the IA. Further, the defendants denied the application averments in material aspects and contended that the plaintiff has no manner of right, title or any interest their the suit schedule



property among others, he is not in possession of the suit schedule property. It is further contended that the suit schedule property measuring 2 acres has been granted to the defendant by the Government under the Saguvali Chit and he paid the Kandayam to the Government and has been measured, phoded and the boundaries has been fixed and he has been in cultivation and enjoyment as absolute owner of the same and paying taxes. It is further contended that he has not cutting any trees, and the defendant raising round crops like Ragi, Jola and the periodically in a part of this land and recently there was foremanship to his ragi hay stock in this land and the Revenue Authorities were pleased to pay him compensation for the loss of crops in the said suit land. Therefore, the plaintiff has not gained valid possession of the suit schedule property and has no title or interest over the same and accordingly among other grounds prayed to dismiss the application with cost.



6. Inter alia, the plaintiff has filed Ias.No.7 under Order XXXIX Rules 1 and 2 r/w Section 151 of C.P.C., seeking an order for temporary injunction. The defendants have filed written statement as objections to IA.No.7. After hearing both sides the learned Trial Judge rejected the application.

7. Being aggrieved by the said order the plaintiff has preferred the appeal on the grounds urged in the appeal memo.

8. After service of notice, defendant/respondent No.1 appeared before the Court through his counsel and filed objections.

9. Heard the learned counsel representing the appellant and respondents and perused materials on record.

10. The following points would arise for the consideration of this court:-

1. *Whether the impugned order passed by the Trial Court in respect of IA.No.7 is*



arbitrary and not in accordance with law?

2. What order?

11. Finding of this Court on the above points are as follows:-

Point No.1 :- In the Negative;
Point No.2 :- As per final order
for the following:-

REASONS

12. **Point No.1:-** Before proceeding further, I must point out the scope of this court while sitting in Appeal. It is to ascertain as to whether the Trial Court exercised its discretion arbitrarily, perversely or against settled principles of law. It is settled law that while hearing appeal against the discretion exercised by the Trial Court while deciding the application U/o 39 Rule 1 and 2 of CPC, the Appellate Court is not expected to substitute its own discretion except where the discretion is shown to have been exercised arbitrarily, capriciously or perversely or against the settled principles of law. Appellate Court will not reassess the material and seek to reach a conclusion different from the one reached by the



court below, if the one reached by that court was reasonably possible view.

13. It is required to be kept in mind that the present Appeal from the impugned order is filed under the provisions of Order XLIII Rule 1(r) R/w Sec.151 of the CPC and challenge in this appeal is a discretionary order passed by the Lower Court under the provisions of Order XXXIX Rules 1 and 2 of CPC. Before proceeding further it is required to be noted that the present appeal is against the refusing of interim relief and the main suit is still pending. If this court elaborately deals with the matter on merits it is likely that the same would prejudice the case of either side. Therefore, it is well settled law that this court is not required to go into the merits of the entire matter at this stage and what is required to be seen is whether the Appellant-plaintiff has made out a prima-facie case or not for grant of interim injunction.

14. In the decision reported in 1990 (Supplement) – S.C.C - 727 (Wonder Ltd., and another V/s Antox India Pvt., Ltd.), the



Hon'ble Supreme Court in para 9 of the said decision, after considering the scope of Order XLIII Rule 1(r) of the CPC in an appeal wherein, the discretionary order passed by the Trial Court was under challenge, held as follows:-

“9. Usually, the prayer for grant of an interlocutory injunction is at a stage when the existence of the legal right asserted by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the Trial on evidence. The court, at this stage, acts on certain well settled principles of administration of this form of interlocutory remedy which is both temporary and discretionary. The object of the interlocutory injunction, it is stated “...is to protect the plaintiff against injury by violation of his rights for which he could not adequately be compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the Trial. The need for such protection must be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and



determine where the “balance of convenience lies”. The interlocutory remedy is intended to preserve in status quo, the rights of parties which may appear on a prima-facie. The court also, in restraining a defendant from exercising what he considers his legal right but what the plaintiff would like to be prevented, puts into the scales, as a relevant consideration whether the defendant has yet to commence his enterprise or whether he has already been doing so in which latter case considerations somewhat different from those that apply to a case where the defendant is yet to commence his enterprise, are attracted”.

15. So in light of the limited powers, the Appellate Court can interfere with the discretionary order passed by the Trial Court only in exceptional circumstances and the Appellate court cannot interfere with the exercise of discretion of the court of first instance and substitute its own discretion except, where the discretion has been shown to have been exercised arbitrarily, capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. In nutshell, an



appeal against exercise of discretion is said to be an appeal on principle. To put it differently, the Appellate Court cannot reassess the entire evidence so as to come to its own conclusion contrary to the conclusion arrived at by the Trial Court, if two views are possible.

16. In the case on hand, the appellant/plaintiff had approached the learned Trial Court for the relief of permanent injunction thereafter files to IA No.7 praying to restrain the defendants, their agents, servants, supporters, followers or anybody claiming under them from in anyway not interfere with the plaintiff peaceful possession and enjoyment over the suit schedule property. The learned Trial Court after going through the applications and documents available on record, rejected the said application aggrieved by the said order appellant approached this court for interference of the order passed by the learned Trial Court.

17. Further on careful perusal of the case records and also the respondents counsel filed a memo along with the copy of



judgment in OS.No.347/2011 dated:03.02.2026 and payed to close this petition on the basis of the judgment passed by the Trial Court. On going through the said judgment, the said original suit was decided on 03.02.2026 and also the trial court come to the conclusion in the original suit and also attained finality. Therefore, I answered **Point No.1 in the Negative.**

18. **Point No.2:-** In view of my findings on the above Point No.1, I proceed to pass the following:

ORDER

The Miscellaneous Appeal filed by the appellatant/plaintiff is dismissed.

Office is hereby directed to send the copy of this judgment for perusal of the trail court.

(Dictated to the Stenographer directly on computer, then corrected by me and then pronounced in the open Court on this the 27st day of March 2026).

(Smt.Niveditha.T.M)
1st Addl. Senior Civil Judge & JMFC.,
Ramanagaram.