

KARN020014532025



Presented on : 15-09-2025
Registered on : 15-09-2025
Decided on : 29-07-2026
Duration : 0 years, 10 months, 14 days

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

Dated : This the 29th day of July 2026

Present

Smt.Niveditha.T.M.,

BA.L., LL.B.,

I Addl. Senior Civil Judge & JMFC.,
Ramanagara.

M.A.No.34/2025

Appellants :-

1. Smt.Kotemuniyamma,
W/o. Anjinappa,
Aged about 71 years,
2. Smt.Durgamma,
W/o. Late Muniyappa,
Aged about 66 years,
3. Sri.K.Venkatesha,
S/o. Late Kariyappa @ Krishnappa,
Aged about 61 years,
4. Sri.H.Shivakumar,
S/o. Late Hanumanthaiah,
Aged about 35 years,



5. Uma @ Munirathna
D/o. Late Hanumanthaiah,
Aged about 30 years

All are R/at: Hejjala Village
Bidadi Hobli
Ramanagara Taluk
Bengaluru South District.

(Rep by Sri.VSS., Advocate)

-V/s-

Respondent:-

1. Sri.B.S.Nagaraju,
S/o. Late Shamarao,
Aged about 61 years,
R/at: No.301, Ranka plaza,
Weelers Road, Bengaluru-05.
2. Smt.Munimaramma,
W/o. Thimmaiah,
Aged about 51 years,
3. Sri.Basavaraju,
S/o. Late Thimmaiah,
Aged about 30 years,

2nd and 3rd respondent R/at:
Hejjala Colony,
Hejjala Village,
Bidadi Hobli,
Ramanagara Taluk,
Bengaluru South District.

4. Smt.Durgamma,



W/o. Late Narasamaraiah,
Aged about 71 years,
R/at Chikkanahalli Village
Tavarekere Hobli
Bengaluru South District.

5. Smt.Hombamma @ Moogamma,
W/o. Ashwatha,
Aged about 49 years,

6. Sri.Dileepa,
S/o. Ashwatha,
Aged about 31 years,

5th and 6th respondent are R/at:
Chikkanahalli Village,
Tavarekere Hobli,
Bengaluru South District.

(Rep by Sri.HBS., Advocate)

(Rep by Sri.DJA., Advocate)

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J U D G M E N T

(Delivered on 29/06/2026)

The appellants/plaintiffs have preferred this appeal under Order XLIII Rule 1 of CPC., challenging the orders dated:09.07.2025 passed on I.A.No.I in OS.No.257/2024 by the Prl.Civil Judge and JMFC., Ramanagara.



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

3. The plaintiffs have instituted the suit before the Trial Court for the relief of permanent injunction against the defendants in respect of the suit schedule property.

4. Case of the plaintiffs is that, the suit schedule property was granted to propositus of plaintiffs by name Kariyappa @ Krishnappa on 06.12.1983 and from the date of grant, he was in possession of the suit property and after his death, the plaintiffs are in possession and enjoyment of the suit property and the defendants have no right, title or interest over the suit property and property of defendant No.1 is situated towards the Southern side of the suit property and by taking undue advantage of the same, the defendants are trying to encroach the suit



property. It is further stated, the defendants are trying to interfere with the peaceful possession of the plaintiffs over the suit property and they are politically and economically sound persons and without an order of this court, the plaintiffs are not in position to resist illegal interference by the defendants and if an order of injunction is not granted, the plaintiffs will be more put to more hardship. Hence, the present IA.

5. In response to the service of summons, the defendants have appeared through their counsel and the defendant No.1 has filed their written statement and memo to treat the averments of written statement as objection to I.A.No.1. In the written statement the suit filed by the plaintiffs is not maintainable and contended that, that he has purchased the suit property from it's original owner Kariyappa and his son Venkatesh and Hanumanthaiah under a registered sale deed dated:24.01.1997 and



thereafter the khatha was mutated to his name and he has formed residential layout in the suit property and the other adjacent properties which was purchased by him by obtaining approved plan from concerned authority. Further contended that, the plaintiffs have not encroached any portion of property of plaintiffs and the plaintiffs have filed false suit against him to extract money from him in view of escalation of price and he was not aware about the order passed by Assistant Commissioner, Ramanagara and he was not served with any notice and there is specific allegation of interference against them.

6. The defendant No.2 to 4 have appeared through their counsel and filed their written statement and also counter claim and memo to treat averments of written statement as objection to IA No. 1. They contended that, the land in Survey No.8/5 of Hejjala Village, Ramanagara Taluk, measuring 01 acre was in possession of Girithimma and



the said Girithimma is the ancestor of the defendant No.2 to 4 and after the death of Girithimma, the defendant No.2 to 4 are in peaceful possession and enjoyment of the said property. Further contended that, the suit property comes in survey No.8/8 and the property of defendant No.2 to 4 comes survey No. 8/5 and plaintiffs are not in possession of total extent 2 acres of land in the suit property and they are in possession of 10 guntas of land only in Sy.No.8/8 of Hejjalla Village, Ramanagara Taluk. Further contended that as per records land in Sy.No.8 is a Gomala land belonging to the Government and the suit property was not identified and there is no hadhubastu to suit property and the boundaries of the suit property is also not fixed by the Government and Survey Authority. Hence, they pray to reject the suit.

7. Inter alia, the plaintiffs has filed IA.No.I under Order XXXIX Rules 1 and 2 R/w Sec.151 of C.P.C., seeking an order for temporary injunction. The defendants appeared



before the court and filed written statement. After hearing both sides the learned Trial Judge partly allowed the application.

8. Being aggrieved by the said order, the appellants/plaintiffs have preferred the appeal on the grounds urged in the appeal memo.

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

10. Heard the learned counsel representing the appellants and respondents and perused materials on record.

11. The respondent No.1 counsel has relied upon the following decisions:

- 1) Wander Ltd and Another V/s. Antox India P. Ltd., reported in 1990 SCC 727 :1990 SCC Online Sc 490;



- 2) Ramakant Ambalal Choksi V/s. Harish Ambalal Choksi and Others, reported in (2024) 11 SCC 351.

12. 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.I is arbitrary and not in accordance with law?*
2. *Whether the interference of this court is required?*
3. *What order?*

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

- Point No.1 & 2** :- *In the Affirmative;*
Point No.3 :- *As per final order for the following:-*

REASONS

14. **Point No.1 & 2:-** As these two points are interconnected, these points are taken together for common discussion to avoid repetition.



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 XXXIX 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.

15. 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) of the CPC and challenge in this appeal is a discretionary order passed by the Trial Court under the provisions of Order XXXIX Rules 1 and 2 r/w Sec.151 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.

16. 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”.

17. 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.

18. In the case on hand, the appellants/plaintiffs had approached the learned Trial Court for the relief of permanent injunction against the defendants in respect of the suit schedule property. They have also filed I.A No.I, U/o XXXIX Rule 1 and 2 R/w Sec.151 of CPC., seeking restraint order against the defendants from not to interfering with the suit schedule property, till the disposal of the suit. The learned Trial Court after going through the application and documents available on record, partly allowed the said application aggrieved by the said order appellants/plaintiffs approached this court for interference of the order passed by the learned Trial Court.

19. This is the plaintiffs appeal, wherein plaintiff filed suit before the trial court for the relief of permanent injunction against the defendant in respect of the suit schedule property.



The suit schedule property was granted property to propositus by name Kariyappa @ Krishnappa on 06.12.1983, from the date of grant he was in possession of the suit property. After his death, the plaintiffs are in possession and enjoyment of the suit property. The defendants are no right, title or interest but they are trying to encroach and interfered over the suit schedule property.

20. It is the contention of the defendants that, the suit property is in Sy.No.8/8 and the property of the defendants No.2 to 4 is in Sy.No.8/5 and the plaintiffs are not in possession of total extent of 2 acres of land on the suit property. They are in possession of 10 guntas of land only in Sy.No.8/8 of Hejjala Village. It is further contend that, as per records land in Sy.No.8 is a Gomala land belonging to the Government and the suit property was not identified and there is no haddubastu and boundaries are not fixed by the



Government and survey authority. Hence, prays to dismiss the application.

21. The appellants have produced the copy of the G-tree, Saguvali Chit, Skecth Copy, Hand Written RTC's, Order Copy dated:01.03.2010 of PTCR No.13/2006-2007 and complaint and statement given to the Bidadi Police. On the other hand, the defendants have produced RTC extracts of Sy.No.8/5 of Hejjala Village. It is the contention of the defendants that, the plaintiffs are in not in possession of total 2 acres of land in Sy.No.8, but they are in possession of 10 guntas of land only in Sy.No.8/8 of Hejjala Village. The Trial Court has observed that, on perusal of the documents the defendants are in possession of Sy.No.8/5 and they are not claiming any right over the suit schedule property in Sy.No.8/8 of Hejjala Village. The only allegation of the defendants are that, the plaintiffs are not in possession of entire 2 acres of Sy.No.8/8 and also they have disputed the boundaries. Therefore, It is



clear from the statement of the defendants that, plaintiffs have proved prima-facie that, they are in possession of the Sy.No.8/8. Even though Trial Court have come to the same conclusion that, the plaintiffs have proved prima-facie case that, they are in possession of the suit schedule property. Further it is stated by the Trial Court that, the land in Sy.No.8/5 belongs to defendants but in survey sketch, it is shown that some vacant land is situated towards the Southern side of land in Sy.No.8. Therefore, the land in Sy.No.8 and other lands are situated in the suit schedule property. It is also stated by the Trial Court that, the plaintiffs have not filed any documents to show the boundaries. But, however all these facts have to be decided only after the full fledged trial.

22. The defendants have also contended that, they have made layout plan but they have not produced any document with respect to the same. But, here the plaintiff is claiming



that the suit schedule property is a landed property and agricultural property. Since the appellants have prima-facie proved that, the suit schedule property is the agricultural property and they are in possession even the Trial Court have come to conclusion the plaintiffs are in possession of the suit schedule property. The appellants have proved that, since it is an agricultural property and if they are not allowed to do any agricultural activities. Moreover, it is a rainy season, it will cause irreparable loss to the appellants. On the other hand no hardship will be caused to the defendants, since the defendants No.2 to 4 have claimed that, they have found the layout. Therefore, the balance of inconvenience rise in the favour of the appellants. Therefore it is necessary to interfere with the order of Trial Court. Therefore, the Trail Court has erred granting in injunction. Under these circumstances, this court hold that the impugned order partly allowing the I.A.No.I filed by the appellants/plaintiffs under Order XXXIX Rules 1 and 2 R/w Sec.151 of CPC suffer from infirmities.



Therefore, this court hold that the appellants have proved Points No.1 and 2 and there are reasonable and sufficient grounds to interfere with the order of the Trial Court passed in the I.A.No.I. Therefore, I answer **Point No.1 and 2 in the Affirmative.**

23. **Point No.3:-** In view of my findings on the above Points No.1 and 2, I proceed to pass the following:

ORDER

The Miscellaneous Appeal is hereby allowed.

Consequently, the order on IA.No.I under Order XXXIX Rules 1 and 2 R/w Sec.151 of CPC., dated:09.07.2025 in OS.No.257/2024 is set-aside.

The defendants are restrained from interfering with the possession of the plaintiffs suit schedule property, till disposal of the suit.

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M.A.No.34/2025 J

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

*(Dictated to the Stenographer in-part and directly on computer, typed by him,
then corrected by me and then pronounced in the open Court on this the **29th day of
July 2026**)*

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