

KARN210013842021



M.A.No.15/2021(J)

Presented on : 22-12-2021
Registered on : 22-12-2021
Decided on : 13-03-2026
Duration : 04 year, 02 months,
23 days

**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE
& JMFC, CHANNAPATNA.**

:PRESENT:

SRI.SANDESHA.K., M.A., LL.B,
Addl. Senior Civil Judge & JMFC,
Channapatha

Dated, this the 13th day of March 2026

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APPELLANTS :

1. Smt.Sunandamma
W/o Late Muddegowda @
Thammaiah,
Aged about 60 years,
2. Sri.Chandrashekar,
S/o Late Muddegowda @
Thammaiah,
Aged about 36 years,

Both R/at,
Gowdagere Village,
Malur Hobli,
Channapatna Taluk,
Ramanagara District.

(By Sri. C.M.K., Advocate)

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-Versus-

- RESPONDENTS** :
1. Smt.Chikkathayamma,
W/o Late Shivalingaiah,
Aged about 65 years,
 2. Sri.Dhananjeya,
S/o Late Shivalingaiah,
Aged about 51 years,
 3. Sri.G.S.Suresh,
S/o Late Shivalingaiah,
Aged about 70 years,
 4. Sri.G.Gangaiah,
S/o Late Joginingegowda,
Aged about 70 years,
 5. Sri.G.Krishna,
S/o Late Joginingegowda,
Aged about 68 years,
 6. Smt.Yeshodamma,
W/o Late G.Ramesh,
Aged about 68 years,
 7. Sri.Niranjana.R,
S/o G.Ramesh,
Aged about 49 years,

(By Sri.K.T.T., Advocate)

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ORDER

The appellants/defendants have preferred this appeal under order XLIII Rule 1(r) R/w Sec.151 of C.P.C., challenging the order on I.A.No.II passed by Prl.Civil Judge & JMFC, Channapatna, dated:20.11.2021 in O.S.No.141/2021.

2. For the sake of convenience, hereinafter the parties are referred to as their ranks shown in the suit before the trial court.

3. The plaintiffs have filed an application under Order XXXIX Rule 1 & 2 R/w Sec.151 of C.P.C., ad-interim Ex-parte injunction against defendants and agents, anybody claiming under them from interfering peaceful possession and enjoyment of the suit schedule property till the disposal of the suit.

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4. In the affidavit filed in support application plaintiffs sworn that, suit schedule property is acquired through family partition, earlier to that, plaintiffs grand father obtained the above property through grant subjected to Durasth and new survey number given as 188. After his death Khatha as mutated in the name of plaintiffs grand mother. As per her will and wish the sons got divided the family property, as per the partition Khatha as mutated and tax is also paying concerned authority. Except plaintiffs no body have right over the plaint schedule property. The defendants are stranger to the suit schedule property and they have right title nor possession over the same. In-spite that defendants are trying to tress-pass over the plaint schedule property. Plaintiffs have lodged complaint in concerned police station but they have not taken any action. Hence, this application.



5. As against the application filed by the plaintiff, the defendant has filed adoption memo and submitted that, written statement of defendant may be treated as objection to I.A.No.II. In the written statement defendants contended that, Sy.No.172 is belongs to Muddegowda which is situated in the northern side it is his ancestral property. Muddegowda and Kandegowda divided the property. Suit schedule property is Gomala land in Sy.No.40. Since from 50 year Mudddegowda having possession over the Sy.No.40. After death of Muddegowda defendants are in possession over the plaint schedule property. Khatha mutated in name of the Muddegowda. On 02.11.2020 plaintiffs are destroyed the 3 mango tree. In this regards they defendants have filed a complaint. To avoid the wasted of the soil the defendants are made badu in the eastern and southern side of plaint schedule property. Plaintiffs are

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in possession over the suit schedule property. Hence, pray for dismiss the application.

6. By considering the application and objection filed by the defendant, the trial court has raised the following points for consideration:

- 1. Whether the plaintiffs/applicants has made out a prima facie case?**
- 2. Whether balance of convenience lies in favour of the plaintiffs?**
- 3. Whether the plaintiff will be put to irreparable loss and injury if temporary injunction is not granted, as prayed ?**
- 4. What order?**

7. On appreciation of application filed by the plaintiffs and objection filed by the defendants, the learned trial court has allow the application.

8. Being aggrieved by the findings of the learned trial court, the defendants have preferred this appeal. The



appellants have contended that, the trial court filed to find the actual and physical possession of the appellant over the suit schedule property. The Khatha of the suit schedule property stands in name of Muddegowda who is the husband of 1st defendant and father of the 2nd defendant. Therefore, the appellant pray for allow the appeal.

9. In response to the notice of appeal, the respondents have appeared through his counsel.

10. Heard the argument of learned counsel for the appellant and the respondent and both appellant and respondent have file notes of arguments.

11. I have perused the pleadings and material as well as impugned order.

12. The points that arise for my consideration are:

- 1. Whether the appellants/defendants proves that, the learned trial court has erred in allowing the I.A.No.II filed by**



the plaintiff and hence, interference of this court is necessary?

2. What order?

13. My findings to the above points are as under:

Point No.1 : In the **NEGATIVE**
Point No.2 : As per final order
For the following:-

REASONS

14. POINT No.1: On perusal of entire material evidence available on record, the suit filed by the plaintiffs as well as written statement filed by the defendants, shows that, as per the contention of the defendants, plaintiffs are not in possession plaint schedule property. suit schedule property is belongs to the defendants.

15. The appellants produced written RTC extract and copy of the order of LNDRA, Acknowledgment and copy of photos, copy of E.C. The respondents have produced

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from No.1, resurvey Tippiani, Akarband, M.R, copy of partition deed, RTC extract.

16. The contention of the appellant that, the trial court has failure to find the actual physical possession over the suit schedule property and not applying the legal principle law. But the document produced by the plaintiffs i.e., from No.1 and survey Tippiani, RTC extract and Akarband which clearly shows that, Sy.No.40 is re-number as Sy.No.188, said property granted in favour of father of the plaintiff No.4 and 5. Therefore, resurvey is also conducted, the Akarband and M.R produced by the plaintiffs clearly shows that, plaint schedule property stands in the name of Joginingegowda who is the father of plaintiff No.4 and 5. The appellants have produced RTC extract in Sy.No.40 said RTC extracts shows that, Sy.No.40 is Gomala land. Appellants are also produced copy of order

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of D.C, after said order no Khatha has been mutated. The appellants have not produced any supported documents to prove the contention of the appeal memo as well as the written statement.

17. As already staged above the RTC extract produced by the respondents clearly shows that, after death of Joginingegowda who is the father of plaintiff No.4 and 5 plaint schedule property mutated in the name of Ningamma who is wife of Joginingegowda. Thereafter, the children Ningamma and Joginingegowda have partition the plaint schedule property through registered deed dated 10.08.2015 as per the said partition deed Khatha is also mutated. Upon going through the RTC extract produced by the respondents till 2011 suit schedule property is stands in the name of Ningamma who is mother of plaintiff No.4 and 5.



18. The main contention of the defendants that, the trial court failure to find out the actual and physical possession and defendants . But in order to prove the above contention the defendants have not produced any iota documents. The RTC extract produced by the the plaintiffs which clearly shows that, the plaintiffs have made out prima-facie case. Though the defendants have produced photos, said photos cannot conform possession over the suit schedule property. The defendants have produced E.C., with respect to Sy.No.172 but suit schedule property survey number is 40. The grant certificate produced by the plaintiffs clearly shows that, plaint schedule property granted to in favor fo Joginingegowda. Thereafter, said property is re-survey and survey number is also change and re-survey number 188 is given and also issued mutation registered and RTC extract. AT this stage the document produced by the plaintiffs which clearly



reveals that, the plaintiffs have made out a prima-facie case. Hence, the contention raised by the defendants untenable.

19. The material would reveals that, the defendants is claiming possession over the plaint schedule property based on his physical possession but the defendants have not produced any iota documents they have made out a prima-facie case. Expect photos the defendants have any documents with regard to the suit schedule property. Therefore, it the application is allowed injury will be caused to the plaintiffs, if the order of injunction is granted in favour of the plaintiffs. Hence, for the praefatus reasons, this court is of the view that, the plaintiffs have made out prima-facie case, balance of convenience lies in their favour and irreparable injury will be caused to the plaintiffs, if the order of temporary injunction is not granted in their favour. The material would clearly reveals that, the trial court has

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considered the matter in right perspective and allow the application filed by the plaintiffs. Hence, interference of this court is not called for. As such, I am answering Point No.1 in the **NEGATIVE**.

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

ORDER

The appeal filed by the appellants/ defendants U/o XLIII Rule 1(R) of C.P.C. is hereby dismissed.

The impugned order dated:20.11.2021 passed by the learned Pri. Civil Judge & J.M.F.C., Channapatna on I.A.No.II filed by the plaintiff under Order XXXIX Rule 1 & 2 and section 151 of C.P.C. in O.S.No.141/2021 is hereby confirmed.

In the result I.A.No.I stands disposed.

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**Considering the facts and circumstances
of the case, the parties are directed to bear
their own cost.**

Send copy of this order to trial court.

**(Dictated to the Stenographer, directly on the computer and signed by
me and then pronounced in the Open Court on this 13th day of March 2026)**

(Sandesha.K.)

**Addl. Senior Civil Judge & J.M.F.C.
Channapatna.**

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***(JUDGMENT PRONOUNCED IN THE OPEN COURT
(ON /11/03/2026)
(VIDE SEPARATE ORDER)***

ORDER

The appeal filed by the appellants U/o

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XLIII Rule 1(R) of C.P.C. is hereby dismissed.

The impugned order dated:20.11.2021 passed by the learned Prl. Civil Judge & J.M.F.C., Channapatna on I.A.No.II filed by the plaintiff under Order XXXIX Rule 1 & 2 and section 151 of C.P.C. in O.S.No.141/2021 is hereby confirmed.

In the result I.A.No.I stands disposed.

Considering the facts and circumstances of the case, the parties are directed to bear their own cost.

Send copy of this order to trial court.

**Addl. Senior Civil Judge & J.M.F.C.
Channapatna.**

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