



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C., AT MAGADI.**

Present: Sri. Shivakumar R., B.A.L., LL.B.,
Additional Senior Civil Judge & JMFC, Magadi.

Dated: 26th Day of February 2026
ORIGINAL SUIT NO.662/2025

Plaintiffs :- Sri. Ramakrishnaiah & Ors.,

(By **Sri. S.M.** Advocate)

--V/s--

Defendants :- Smt. Sunandamma & Ors.,

(D1 to 3 by **Sri. S.C.R.** Advocate)
(D4 **Exparte**)

PARTIES TO I.A.NO.1

Applicants : Sri. Ramakrishnaiah & Ors.,

Vs.

Opponents : Smt. Sunandamma & Ors.,

ORDER ON I.A.NO.1

The applicants/plaintiffs have filed this interlocutory application under Order XXXIX Rule 1 and 2 r/w Section 151



of CPC for the relief of temporary injunction restraining the defendants, their agents, servants, followers, henchmen, supporters, power of attorney holder or anybody claiming through them from interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule property in any manner till disposal of this suit.

2. The I.A., supported with the accompanying affidavit of the plaintiff No.1. It is stated in the affidavit that, the plaintiffs have filed this suit against the defendant for the relief of declaration and permanent injunction and other reliefs with respect to suit schedule property. The plaintiffs are the absolute owners and they are in enjoyment of the suit schedule property. Originally the property in land bearing Sy.No.17 is a Gomala land and the father of the plaintiff by name Thimmarayigowda @ Thimmarayappa was cultivating the land measuring to an extent of 1 acre 23 guntas i.e., suit schedule property as a Bagar Hukumdar. Accordingly, during



the life time of their father, he was cultivating the suit schedule property under Bagar Hukum Saguvali and accordingly the Taluk surveyor was also conducted the survey of the suit schedule property and demarked the possession of their father and issued survey report. Accordingly, the government also treated the father of the plaintiffs by name Thimmarayigowda @ Thimmarayappa as a Bagar Hukumdar Saguvalidara. Accordingly during the life time of the father of the plaintiffs by name Thimmarayigowda @ Thimmarayappa, he was in possession and enjoyment over the suit schedule property along with his family members, but their father being an illiterate and ignorant person having no worldly knowledge, hence during his life time he was not made any attempt to get change the revenue records of the suit schedule property in his name or not move any application for grant of the suit schedule property in his name. Later, the father of the plaintiff by name Thimmarayigowda @ Thimmarayappa was died on 2-7-2020 by leaving behind the



plaintiffs as his sole legal heirs and after his death they have inherited and succeeded the estate of Thimmarayigowda @ Thimmarayappa and they become the absolute owner in possession and enjoyment over the suit schedule property. But, the plaintiffs are also being an illiterate and ignorant persons having no worldly and legal knowledge, hence the plaintiffs were not made any attempt to get change the revenue records of the suit schedule property in their name as per inheritance or not move any application for grant of the suit schedule property in their name. But even to this day the plaintiffs are in possession and enjoyment over the suit schedule property and even to this day the revenue records of the suit schedule property is continued as government Gomala. Moreover, the plaintiffs are also perfected their right over the suit schedule property under Khas possession as the possession of the plaintiffs over the suit schedule property is more than 50 years.



3. The plaintiffs further stated that, the plaintiffs are in possession and enjoyment of the suit schedule property along with their family members by growing Ragi, Hurali and other allied crops without any interruption. Further on 23-2-2019, the plaintiffs also moved the application before the Tahasildar, Magadi for grant of the suit schedule property under Akrama Sakrama Yojane and the same is still pending for consideration. When such being the true facts, during the year 2021, the husband of the first defendant and father of the other defendants by name G K Maruthi is tried to interfere with their peaceful possession and enjoyment of the suit schedule property and made a hasty arrangement to encroach the portion of the suit schedule property, hence without alternative, the plaintiffs got filed the suit against him in OS No.137/2021 in respect of the suit schedule property for the relief of permanent injunction on the file of Principal Civil Judge and JMFC at Magadi and in the said suit the said G K Maruthi failed to appear before the Court and contest the



matter on merits, hence the Court placed him exparte and passed the judgment and decree in favour of the plaintiffs by its judgment and decree dated 11-7-2022, later the said GK Maruthi had filed the regular appeal in RA No. 16/2022 on the file of the Additional Senior Civil Judge at Magadi against the judgment and decree dated 11-7-2022 passed in OS.No.137/2021 and the same was allowed and remand back the said OS No.137/2021 for fresh enquiry. But during the above case the said G K Maruthi was died on 30-7-2025 by leaving behind the defendants as his legal heirs. Hence the suit in OS No. 137/2021 was abated by its order dated 19-8-2025.

4. The plaintiffs further stated that, the defendants are utter strangers to the suit schedule property, the defendants have no any manner of right title interest nor possession over the suit schedule property. Though the defendants have no any manner of right, title, interest nor possession over the suit schedule property, after passing the abatement order in



OS No. 137/2021 on 26-8-2025 when the plaintiffs were in suit schedule property, at that time the defendants were came near by the suit schedule property and interfered with their peaceful possession and enjoyment of the suit schedule property, the same was resisted by the plaintiffs with the help of neighbors. At that time the defendants have left the spot by stating that they have created the revenue records of the suit schedule property in their favour and again they will come near the suit schedule property along with huge supporters and oust the plaintiffs from their possession over the suit schedule property and denied the title of the plaintiffs over the suit schedule property. The defendants have no manner of right title, interest or possession or what so ever to do with the suit schedule property. The plaintiffs being poor persons and they are not in a position to resist the illegal acts of the defendants always and on the other hand the defendants are powerful persons and they have men and money power and also they are powerful person in the locality, the plaintiffs



cannot resist the illegal acts of the defendants without the aid of this Court. In this regard, the plaintiffs are also made a complaint before the jurisdictional police, but the police have not taken any action and told that to approach the jurisdictional civil court for proper remedy as the matter is of civil in nature, hence without any alternative the plaintiffs filed this suit for permanent injunction and declaration. Hence, this I.A.

5. In spite of service of suit summons, the defendant No.4 called out remained absent and placed exparte.

6. After service of suit summons, the defendants No.1 to 3 have appeared through their counsel and filed the detailed written statement and resisted the suit of the plaintiffs. The defendants No.1 to 3 have filed the memo adopting their written statement averments as objection to this I.A. The defendants No.1 to 3 in their written statement they have totally denied the plaintiffs' case and interalia



contended that, the description with respect to its number, extent and boundaries of the schedule property as given in the plaint schedule are not correct. The Identity of the suit property is very much disputed. The alleged sketch as referred in the plaint is false and created for the purpose of the suit. There are no documents produced by the plaintiffs to establish their ownership and lawful possession over the suit schedule property. The plaintiffs are not the owners and in possession and enjoyment of the suit schedule property at any point of time. The Plaintiffs having no any kind of right, title, interest and possession over the suit schedule property. Hence, the suit of the plaintiffs is not maintainable for want of lawful possession and ownership over the suit schedule property.

7. These defendants further contended that, the husband of the defendant No.1 and father of the defendant No.2 & 3 by name deceased G. K. Maruthi was in possession



and enjoyment of the suit schedule property and its attached property measuring in all 4 acres 0-20 guntas in Sy No.17 of Mallasandra Village, Thippasandra Hobli, Magadi Taluk, Ramanagara District, Now, Bengaluru South District as Bagarhukkum Saguvalidara. Accordingly, the said property granted by the government in favour of deceased G.K. Maruthi vide its order No.LNDUCR(3)55/1993-1994 dated 24.06.1994 S.C.No.74/1995-96 and accordingly issued Saguvali chit in favour of deceased G.K. Maruthi as he was cultivated the property as Bagharhukkum Saguvalidara. As per the ownership and possession, the revenue authority accepted the mutation vide MR No.3/1995-96 in the name of deceased G.K. Maruthi and his name was found a place in RTC column No.9 and 12(2). Such is the material true facts, suppressing the same and filed false suit on false and frivolous grounds before the this Court with a view to knock off the property belongs to these defendants. The deceased G. K. Maruthi regularly paid the revenue tax to the Government



with respect to property granted by the Government in favour of him as stated supra.

8. The defendant No.1 to 3 further contended that, the husband of the defendant No.1 and father of the defendant No.2 and 3 by name deceased G. K. Maruthi during his life time had developed the granted property measuring 4 acre 0-20 guntas in Sy No.17 (17/P6) of Mallansandra Village by Investing huge amount by obtained loan of Rs.2,00,000/- from VSSN society Doddasomanahalli by mortgaged the above said property and thereby put up Hallo bricks wall and stone pillars with barbed wire fence the frame work of four corner of the property Including the suit schedule property and also made provision or putting an iron gate providing only access to reach the road by investing huge money. Further, the Government has acquired the property measuring 0-2 1½ guntas out of 4 acres 0-20 guntas in Sy.No.17/P6 of Mallansandra village for Installation of pipe line under



Hemavathi project for filling of water to 83 Lakes/Kere at Ramanagara District.

9. The defendants further contended that, the husband of the defendant No.1 and father of the defendant No.2 and 3 by name deceased G.K. Maruthi dead on 30.07.2025 leaving behind his wife and children as his legal heirs. As such, the defendant No.1 to 3 are lawful successor of deceased G. K. Maruthi. After his demise, the suit schedule property and its adjacent property in Sy.No.17 as stated supra succeeded by the defendant No.1 to 3 by succession as per law and they are in lawful possession and enjoyment of the property left by deceased G. K. Maruthi including the suit schedule property as joint owners by growing Ragi, Huruli and other allied crops without any interruption.

10. These defendants further contended that, the plaintiffs filed the above suit with a deliberate intention to knock off the property belongs to these defendants. There was



no occasion for the plaintiffs to have any right, title, interest or possession over the suit schedule property in any manner. The plaintiffs without having physical possession better title over the suit schedule property approached this Court with a frivolous allegation asserting a frivolous claim is unsustainable in law and for any reason this Court cannot extend the relief of declaration and permanent injunction in favour of a stranger to the property, particularly the plaintiffs herein. It is as such, the suit of the plaintiffs is unsustainable in law, devoid from merit and deserves to be dismissed. Hence, the defendant No.1 to 3 pray to reject the above I.A.

11. Upon hearing arguments and on perusal of materials placed on record, the following points that would arise for my consideration are as under:

- 1) Whether the plaintiffs have made out a prima-facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiffs?



- 3) Whether the plaintiffs will be put to irreparable loss and injury, if the temporary injunction is not granted as prayed in the I.A.?
- 4) What order?

12. My answer to the above points are 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 the Order,

for the following:

REASONS

13. **POINT NO.1 TO 3:** As these points are interconnected and interlinked with each other, these points are taken up together for common discussion to avoid repetition of facts. The plaintiffs have filed the instant I.A., for the relief of temporary injunction restraining the defendants or their agents, henchmen or anybody acting on their behalf from interfering with the plaintiffs' peaceful possession and enjoyment over the suit schedule property till disposal of this suit.



14. It is the case of the plaintiffs that, the plaintiffs are absolute owners and in peaceful possession and enjoyment of the suit schedule property. Originally suit schedule survey number is a Gomala land. The father of the plaintiffs cultivating the land measuring to an extent of 1 acre 23 guntas as Bagarhukumdar. Accordingly, the Taluka Surveyor was also conducted survey of the suit schedule property and demarcate the possession of the same in favour of father of plaintiff. Due to illiteracy the plaintiffs have not changed the khata of the suit schedule property in the name of their father or in the name of plaintiffs and they have not filed application for grant of the suit schedule property. When such being the case, the defendants have no manner of right, title and interest over the suit schedule property, they are trying to interfere with the peaceful possession and enjoyment of the suit schedule property.



15. In order to substantiate the case of the plaintiffs, at this stage they have produced the xerox copies of the Sketch, Family Tree, Applications filed by the plaintiff No.1 to the Assistant Commissioner, Ramanagara South Sub-Division, Ramanagara. Application filed by the plaintiff No.1 to the Thasildar, Magadi Taluk, Assistant Commissioner, Ramanagara Sub-Division, Ramanagara, Deputy Commissioner, Ramanagara District, Police Acknowledgment, Death Certificate, Photographs, Judgement dated: 11.07.2022 passed in O.S.No.137/2021, Endorsement, FIRs., xerox copy of the Judgement dated: 02.06.2025 in R.A.No.16/2022, Photographs, Complaint dated: 05.02.2026 lodged by the plaintiff No.1 against the defendants before the Superintendent of Police, Bangalore South District.

16. On the other hand, the defendants have denied the title and possession of the plaintiffs over the suit schedule property and contended that, they are the absolute owners



and in possession to an extent of 4 acres 20 guntas in land bearing Sy.No.17 of Mallasandra Village, Thippasandra Hobli, Magadi Taluk, Bangalore South Taluk.

17. The defendants to substantiate their contention, have produced the certified copy of the Saguvalichit, Mutation Register Extract, Notice, Encumbrance certificate, Hiduvali Certificate, RTC Extract and Notice issued by the Land Acquisition Officer.

18. At this stage, without going through the merits of the case and conducting mini trial, the court is considering the aspect of prima-facie. At this stage, this court makes very clear that this court is looking towards prima-facie case and not for the prima-facie title. I have carefully perused the rival contentions of both the parties and also documents produced by both the parties in the above matter. In the instant suit, the plaintiffs are claiming title and possession over the suit schedule property. In order to show the prima-facie case, the



plaintiffs have produced the xerox copy of the Sketch prepared by the Taluka Surveyor on 18.11.1993. Except this document, the plaintiffs have not produced any iota of documents to show that, the plaintiffs are in possession of the suit schedule property as on the date of suit. It is to be noted that, on perusal of the averments of annexed I.A., the plaintiffs categorically stated that, either their father nor the plaintiffs have not moved the application before the concerned authority to grant the suit schedule property in their names. In the absence of the same, it holds no water in the eye of Law. Mere self-swearing statement itself is not sufficient to substantiate the case of the plaintiffs at this stage. The defendants in their written statement they have totally denied the title and possession of the plaintiffs over the suit schedule property and they further contended that, they are the absolute owners to an extent of 4 acres 20 guntas in land bearing Sy.No.17 of Mallasandra Village, Thippasandra Hobli, Magadi Taluk. No doubt at this stage in the instant suit, the



rights of the parties cannot be adjudicated, it needs full fledged trial. Under all these facts and circumstances, the question of this Court granting an order of injunction in respect of subject matter, which is not even before the Court could not arise and consequently it would have to be held that, the plaintiffs have not made out a prima-facie case and balance of convenience not lies in favour of plaintiffs and if this application is not allowed, there is no hardship cause to the other side. On the other hand, if this application is allowed, the great hardship and injury cause to the other side, which cannot be compensated at any means. For grant of injunction and once that he is the admitted circumstances, question of this Court having to advert to the other aspects would not arise which is what has been held by the Hon'ble Apex Court in **Kashi Math Samsthan Vs. Shrimad Thirtha Swamy**, reported in **(2010) 1 SC 689**, wherein it has been held as under;



“It is well settled that, in order to obtain an order of injunction, the party who seeks for grant of injunction has to prove that, he has made out a prima-facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But, it is equally well settled that when a party fails to prove prima-facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima-facie case to go for trial, it is not open to the court to grant injunction in his favour. Even if, he has made out a balance of convenience being in his favour and would suffer irreparable loss and injury, if no injunction order is granted. Therefore, keeping these principles in mind, let us now see whether the appellant has been able to prove prima-facie case to get on order of injunction during the pendency of the two appeal in the High Court.”

In the light of the aforesaid discussion, I answer Point No.1 to 3 in the Negative.



19. **POINT NO.4** : In the light of the above discussion on Point No.1 to 3, I proceed the following :

ORDER

I.A.No.1 filed by the plaintiffs/applicants under Order XXXIX Rule 1 and 2 r/w. Section 151 of CPC is hereby rejected.

No order as to cost.

(Dictated to the Typist directly on computer, typed by her, corrected by me and then pronounced in the open Court, on this the day of **26th day of February 2026.**)

**(SHIVAKUMAR R.,)
ADDITIONAL SENIOR CIVIL JUDGE &
J.M.F.C., MAGADI.**