



**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: 29th Day of November 2025

ORIGINAL SUIT NO.25/2025

Plaintiff

:- Sri. Shivanna R.,
S/o. Late. Rudraiah,
Aged about 78 years,
R/at: Dollenahalli Village,
Kudur Hobli, Magadi Taluk,
Ramanagara District.

(By **Sri. B.S.R.** Advocate)

--V/s--

Defendants

- :-**
1. Sri. Nagaraju S. C.,
S/o. Late. S. C. Chandrashekaraiah,
Aged about 54 years,
R/at: Honnashri Nilaya,
1st Main, Near Dattatreya Temple,
Tumkur Town & District,
Tumkur - 572 101.
 2. Sri. Maruthi Kumara H.,
S/o. Hanumantharayappa,
Aged about 27 years,
R/at: Kananurupalya Village,
Kudur Hobli, Magadi Taluk,



Ramanagara District,
Ramanagara – 561 101.

(By **Sri. R.G.** Advocate)

PARTIES TO I.A.NO.1

Applicant : Sri. Shivanna R.,
Vs.
Opponents : Sri. Nagaraju S. C., & Anr.,

ORDER ON I.A.NO.1

The applicant/plaintiff has 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 or their agents, workers, henchmen, officials or anybody acting on their behalf from alienating or encumbering the suit schedule property in any manner pending disposal of this suit.

2. In the accompanying affidavit to the I.A.No.1, the plaintiff states that, he has filed the above suit for reliefs of declaration, permanent injunction and other consequential



reliefs against the defendants. The plaintiff is the absolute owner of the suit schedule property. Originally the lands bearing Sv. Nos. 54, 55, 58, 56, 64 and 63 are belongs to the father of plaintiff by name Sri. Rudraiah, who acquired the same under the registered Partition Deed dated: 10-10-1947. Thereafter, the father of the plaintiff was in peaceful possession and enjoyment of the above said properties. Due to his family necessities the said Rudraiah for self and on behalf of his minor children he was leased out the above said properties under the registered Lease Deed/Mortgage Deed dated: 07-11-1951 in favour of Sri. Channaveera Shetti S/o. Belli Shetti. Based on the Mortgage Deed the revenue documents effected in the name of Channaveera Shetty.

3. It is further submitted that, in the year 1962 the plaintiff got job in State Bank of Mysore and thereafter he mobilized funds and repaid the lease/mortgage amount to Channaveera Shetty and redeemed the properties mortgaged



by his father and the said Channaveera Shetty has received entire mortgage amount on 12-01-1975 and he has given no objection for transfer of revenue documents in the name of legal heirs of Rudraiah and he has re-delivered the possession of the above said properties along with the possession of the schedule property. The plaintiff further submitted that, since the entire mortgage amount was paid by the plaintiff from his hard earned money, his brothers and sisters have orally allotted the schedule property to the plaintiff and they have promised that they are not going to claim any share over the schedule property. Thus, the plaintiff became absolute owner of the suit schedule property.

4. It is further submitted that, thereafter due to busy official work of plaintiff, the plaintiff has not concentrated about the revenue documents and kept quiet for all these days. When one of brother Sri. Basavarajaiah had filed a suit in O.S. No. 565/2022 before the Senior Civil Judge, Magadi,



against the plaintiff and other family members for the relief of partition and separate possession. In the said suit also the brother of the plaintiff by name Basavarajaiah had not included the suit schedule property, since the plaintiff had paid entire mortgage amount and hence all his brothers and sisters have agreed that they will not going to claim any right, over the suit schedule property. Thereafter, the 1st defendant being a grandson of Channaveera Shetty had obtained Phavathi Khatha vide M.R.No.T-11/2024-25 by colluded with revenue authorities without knowledge of the plaintiff, though till today the plaintiff is in peaceful possession and enjoyment of the schedule property. The plaintiff is suffering from old age ailments and also the children are busy in their works and this advantage taken by the 1st defendant, he intentionally obtained the revenue entry by colluding with revenue authorities in his name.



5. It is further submitted that, though the 1st defendant has not having any right, title or interest over the schedule property, he has obtained the revenue records by managing the revenue authorities, but the grandfather of the 1st defendant received entire and mortgage amount and re-delivered the possession of all the mortgaged properties including the schedule property on 12-01-1975 and from 12-01-1975 the plaintiff is in physical possession and enjoyment of the schedule property without any disturbance.

6. It is further stated that, when the plaintiff visit the suit schedule property along with his children, the 1st defendant came near the suit schedule property and made a galata against the plaintiff. In this regard, the plaintiff questioned the 1st defendant, then the plaintiff proclaimed that the suit schedule property is belongs to him and the revenue record was standing in his name and at the intervention of the well-wishers the 1st defendant went back



with a threat that he will again come with large men and dispossess the plaintiff from the suit schedule property forcibly. Immediately the plaintiff obtained the revenue documents and verified the same then only the plaintiff came to know that the 1st defendant had obtained the alleged revenue records in his favour by colluding with the revenue officials. The 1st defendant only to knock of the valuable property belongs to the plaintiff has played a fraud and obtained the alleged revenue documents in his name and immediately based on the said alleged revenue document he had sold the schedule property under the registered Sale Deed dated: 29-11-2024 in favour of 2nd defendant herein with an intention to create third party interest over the schedule property.

7. It is further submitted that, the defendant No.2 by taking undue advantage of alleged registered Sale Deed and he is trying to alienate the suit schedule property and



bringing the third parties to see the suit schedule property and trying to negotiate the same by suppressing the true facts. The defendants are very powerful persons and having money and muscle power and the plaintiff is unable to resist the illegal acts of the defendants. If the defendants proceeded to alienate the suit schedule property the very purpose of filing the above suit become in-fractious and it leads to multiplicity of proceeding. Hence, this application.

8. After service of suit summons, the defendants have appeared through their counsel and filed detailed written statement/counter claim and resisted the suit of the plaintiff. The defendants have filed the memo adopting the written statement averments as objection to I.A.No.1. The defendants in their written statement/counter claim they have resisted the plaint averments and interalia contended that, the Grandfather of the Defendant No.1 got the property through registered mortgage from the father of the Plaintiff in the year



1951 as per the recital of the mortgage within 12 years, father of Plaintiff has not come forward to clear the pledge amount and give consent to the father of the Defendant to cultivate the land. Hence, the father of the Plaintiff has lost his right in the year 1964 itself. Thereafter, also Plaintiff has not come forward to challenge the same before the competent authority and as per the records and possession the Defendant No.1 has got revenue entries, mutation and possession. Later 2024 the Defendant No.1 sold the property to the Defendant No.2 and handover the possession to the Defendant No.2 vide sale deed dated 27-11-2024, thereafter, katha was transferred in the name of Defendant No.2 such being the case, the Plaintiff is herein allegedly claiming that the son of Rudraiah without having any proof filed the suit against the Defendant No.1 and 2 in order to extract money from the Defendants and filed frivolous suit the Defendant No.2 is the rightful owner of the property and having documents the Revenue Registered in respect of Sy.No.63 in the name of the Channaveera Shetty



Grandfather of the Defendant No.1 and the old RTC Sy.No.63/1 shows the name of the Grandfather of the Defendant No.1 and the RRT order clearly shows that the Defendant No.1 is in possession and enjoyment of the property and present RTC in the name of Defendant No.2 and the tax paid receipt and patta book and mutation all are clearly shows that the Defendants are in peaceful possession and enjoyment of the property. Such being the case, the Plaintiff herein without having any right, title of the property falsely claiming the property in question without seeking possession suit for declaration cannot be maintainable. For all these grounds, the defendants have prayed to reject the above application.

9. Heard the arguments of plaintiffs' side. The defendants counsel has filed the memo adopting the written statement averments of defendants as written arguments to



I.A.No.1 and also furnished list with documents before office on 29.11.2025, the same is taken on record.

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

11. My answer to the above points 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 the Order,

for the following:



REASONS

12. **POINT NO.1 TO 3:** These points are inter related with each other. Hence, these points are taken up together for common discussion in order to avoid repetition of facts and findings. It is the urge of the plaintiff that, the plaintiff is the absolute owner of the suit schedule property. Originally the suit schedule property belongs father of the plaintiff, he was acquired the same by virtue of the registered partition deed dated: 10.10.1947. During the life time of the father of the plaintiff in order to meet his family necessities, he has executed the registered mortgage deed/lease deed dated: 07.11.1951 in favour of Channaveera Shetty. Based on the Mortgage Deed, the revenue documents in respect of suit schedule property effected in the Channaveera Shetty. It is further urge of the plaintiff that, the plaintiff alone has paid the entire mortgage amount to the mortgagee. On 12.01.1975 the mortgagee has delivered the possession of the property in question in favour of the plaintiff. But, the khata of the suit



schedule property is not transferred in the name of plaintiff. The plaintiff is in peaceful possession and enjoyment of the suit schedule property. When such being the case, the khata of the suit schedule property stands in the name of defendant No.1. He has sold the suit schedule property in favour of defendant No.2 by virtue of the registered Sale Deed dated: 29.11.2024 by suppressing the real facts. Now the defendant No.2 is trying to alienate the suit schedule property to the third parties in order to deprive the rights of the plaintiff over the suit schedule property.

13. In order to substantiate the case of the plaintiff, at this stage the plaintiff has produced the certified copy of the Mortgage Deed dated: 28.10.1951, certified copy of the RTC Extracts, certified copy of the Survey Sketch, certified copy of the Mutation Extract in M.R.No.11/1974-75, certified copy of the RTC Extract for the year 2024-25 and certified copy of the registered Sale Deed dated: 29.11.2024.



14. On the other hand, the defendant No.1 & 2 have contended that, the grandfather of the defendant No.1 got the suit schedule property through the mortgage deed from the father of the plaintiff in the year 1951. As per the recitals of the Mortgage within 12 years the father of the plaintiff has not come forward to clear the mortgage amount and he has given consent to the father of the defendants to cultivate the land. Hence, the father of the plaintiff has lost his right over the suit schedule property in the year 1964 itself. The khata of the suit schedule property was mutated in the name of defendant No.1, in turn he has sold the same in favour of defendant No.2 by virtue of the registered sale deed dated: 27.11.2024. In pursuance of the said registered sale deed, the khata of the suit schedule property was mutated in the name of defendant No.2 and he is in peaceful possession and enjoyment of the suit schedule property by exercising all sorts of ownership. The plaintiff has filed this suit for the relief of



declaration without seeking the recovery of possession, hence the suit of the plaintiff is not maintainable.

15. To substantiate the contents of the defendant No.1 & 2, at this stage they have produced the xerox copy of the R.R., RTC Extracts, M.R. Extracts, xerox copies of the Tax Paid Receipts, xerox copy of the registered Sale Deed dated: 27.11.2024 and xerox copy of the order passed by the Thasildar of Magadi Taluk in RRT (D) 71/2024-25.

16. 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 pleadings and documents produced by both the parties. The plaintiff in order to show the prima-facie case, at this stage he has produced the certified copy of the Mortgage Deed dated: 07.11.1951. On perusal of the same, at this stage it appears



that, the father of the plaintiff has executed the mortgage deed in favour of Channaveera Shetty in respect of suit schedule property. On the other hand, the defendants have contended that, the grandfather of the defendant No.1 got the suit schedule property from the father of the plaintiff in the year 1951. As per the recitals of the mortgage deed, within 12 years the father of the plaintiff has not come forward to clear the mortgage amount and given consent to father of the defendant to cultivate the land. Hence, the father of the plaintiff has no right over the suit schedule property. At this stage, it appears that, the father of the plaintiff has executed the mortgage deed in favour of grandfather of the defendant No.1 namely Channaveera Shetty in respect of suit schedule property. The plaintiff has produced the RTC Extract for the year 2024-25. On perusal of the same at this stage it appears that, the khata of the suit schedule property is stands in the name of defendant No.1. The plaintiff has produced the photo copy of the registered sale deed dated: 27.11.2024. On



perusal of the same, at this stage it appears that, the defendant No.1 has sold the suit schedule property in favour of defendant No.2. At this stage, the evidenciary value of the documents produced by the defendants cannot be considered, the same may be considered at the time of final adjudication of the matter. It is the apprehension of the plaintiff that, the defendants have no manner of rights, title, interest over the suit schedule property and they are trying to alienate the suit schedule property to the third parties.

17. Admittedly, it is a suit for declaration and injunction against the defendants in respect of suit schedule property. At this stage the rights of the parties cannot be adjudicated, it needs full fledged trial. In order to avoid multiplicity of proceedings and also to keep suit schedule property intact till disposal of the suit. Hence, it is just and necessary to pass an order of temporary injunction restraining the defendants from alienating or encumbering



the suit schedule property to any body in any manner till disposal of this suit. Looking into the pleadings and documents adduced by both the parties, at this stage it appears that, the plaintiff has made out the prima-facie case and balance of convenience is also lies in favour of the plaintiff. If this I.A., is not allowed, the plaintiff will be put to great hardship and injury. On the other hand, if this I.A., is allowed, there is no harm caused to the other side. For considering all these reasons the Point No.1 to 3 is answered in the Affirmative.

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

ORDER

I.A.No.I filed by the plaintiff/applicant under Order XXXIX Rule 1 and 2 r/w. Sec.151 of CPC is hereby allowed.

Consequently, the defendants are hereby temporarily restrained from alienating or



encumbering the suit schedule property to anybody in any manner till disposal of this suit.

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 **29th day of November, 2025.**)

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