



**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: 23rd Day of March 2026
ORIGINAL SUIT NO.492/2024

Plaintiffs : Sri. P. C. Lingappa & Ors.,
(By Sri. K.N.S. Advocate)

---V/s---

Defendants : Sri. Devaraju P. A. & Ors.,
(By Sri. H.T.U. Advocate)

PARTIES TO I.A.NO.1

Applicant : Sri. P. C. Lingappa & Ors.,

Vs.

Opponent : Sri. Devaraju P. A. & Ors.,



ORDER ON I.A.NO.1

The applicants/plaintiffs have filed this interlocutory application under Order XXXIX Rule 1 and 2 of CPC for the relief of temporary injunction restraining the defendants from alienating 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 No.2 states that, the plaintiffs are the absolute owners of the property bearing Sy.No.156 measuring to an extent of 1-10 guntas situated at Kurubarahalli Village, Thavarekere Hobli, Bangalore South Taluk. the suit schedule property was originally belonged to one Hanumanthaiah S/o Lingaiah, who is the grand father of the plaintiff No.1 and great grand father of the plaintiff No.2 to 5. During the lifetime of Hanumanthaiah S/o Lingaiah has purchased the suit schedule property from Shanthappa S/o Channabasappa through registered sale deed dated 28/04/1930. Since the



date of purchase the plaintiff No.1 grand father plaintiff No. 2 to 5 great grand father Hanumanthaiah was in lawful possession and enjoyment of the schedule property. Subsequently the said Hanumanthaiah was dead, after the demise of the said Hanumanthaiah his children namely Hanumaiah and Chilkarevanna were in lawful possession and enjoyment of the suit schedule property as an absolute owners. Subsequently said Hanumaiah and Chikkarevanna also dead. After the death of the Hanumaiah, his children namely Bengaluraiah, Hanumanthaiah, Puttarevaiah and Venkataramaiah are cultivating and enjoying the above said property and after the demise of Chikkarevanna his son plaintiff No.1 is in lawful possession and enjoyment of the portion of the suit schedule property. The children of Hanumaiah namely Bengaluraiah, Hanumanthaiah, Puttarevaiah and Venkataramaiah have partitioned the suit schedule property and other family properties through unregistered Panchayathi Palupatti dated 11/02/1998.



According to the said partition 0-32 guntas in Sy. No. 156 is fallen to the share of Bengaluraiah, during the life time of Bengaluraiah was cultivating and enjoying the 0-32 guntas in Sy. No. 156. Subsequently the said Bengaluraiah also dead. after his demise his children plaintiff No.2 to 5 are in lawful possession and enjoyment of the 0-32 guntas in Sy. No. 156 remaining 0-18 guntas in Sy. No. 156 is under the possession of plaintiff No.1. Accordingly, the plaintiffs are in lawful possession and enjoyment of the suit schedule property, but due to their lack of legal knowledge they could not get khatha in respect of the suit schedule property but till today the plaintiffs are in lawful possession and enjoyment of the suit schedule property as an absolute owners.

3. The plaintiffs further stated that, at any point of time the defendants are not in possession of the suit schedule property, they have created the revenue documents in respect



of the suit schedule property and trying to interfere with the suit schedule property illegally and unlawfully.

4. The plaintiffs further stated that, the defendants have no manner of right, title or interest over the suit schedule property. They are strangers to the suit schedule property and to their family. At any point of time the defendants are not in possession of the suit schedule property, but they are unnecessarily trying to interfere with the suit schedule property illegally. But, the plaintiffs resisted the same with great difficulty, the defendants are rich and powerful persons in the locality and they have got men and money and they are quite capable of doing anything and everything, whereas the plaintiffs are poor and law abiding citizen, they have support in the locality and on the illegal acts of the defendants, the plaintiffs have lodged complaint before the jurisdictional police. But the Jurisdictional police have not taken any action against the defendants.



5. Further, the plaintiffs have stated that, the plaintiffs are the absolute owner of the suit schedule property but the defendants have created the revenue documents and trying to alienate the suit schedule property to some third parties. Hence, this application.

6. After service of suit summons the defendants, they appeared before this Court through their counsel and filed detailed written statement and resisted the suit of the plaintiffs. The defendants have filed the memo adopting the written statement averments as objection to I.A.No.1. The defendants in their written statement they have totally denied the plaintiffs' case and interalia contended that, the plaintiffs approached this court not with clean hand, they suppressed all the material facts and filed the false suit. In respect of the very same property, these Defendants already approached this court in O.S.No.622/2023 against the plaintiffs for seeking a permanent injunction. After appreciating the prima-



facie and balance of convenience, this court was pleased to grant an temporary injunction restraining the plaintiffs and their agents and servants from interfering the peaceful possession of these Defendants. Being aggrieved by the said order in M.A. No.39/2024 was filed before the Hon'ble Prl. District and Sessions Judge Ramanagara. The said MA No.39/2024 is still pending for consideration and no order has been passed by the Hon'ble Prl. District and Sessions Judge Ramanagara.

7. The Defendants further contended that, the said interim order passed in O.S. No. 622/2023 is still operating against the plaintiffs. When the Plaintiffs utterly failed to get the vacating of the interim order, they filed the false suit in respect of the very same property against these Defendants.

8. The Defendants further contended that, these Defendants' great grandfather Sri. Gattaiah was cultivating the land bearing Sy. No. 156 measuring 1 acre 9 guntas and



Sy. 146 measuring 3 acres 36 guntas situated at Kurubarahalli Village, Tavarekere Hobli, Bengaluru South Taluk. After his death, his son Sri. Revanna had acquired the same and was cultivating the above land by inheritance. The said Sri. Revanna was in the lawful possession and cultivating the said land, he was also paying rent for the long time in the form of an assessment fixed by the survey department. Therefore, the said Sri. Revanna S/o. Late. Gattaiah was ordered to be registered as kadim tenant under Section 4 of Inam Abolition Act and he was granted under the said Inam Abolition Act in case No.79/56-57 by the Deputy Commissioner on 22-08-1958.

9. The Defendants further contended that, the said Sri. Revanna is none other than the grandfather of Defendants herein. From the date of the grant the said Sri. Revanna S/o. Late. Gattaiah was in the lawful possession and enjoying the said Properties as a lawful owner without any hindrance.



After the said grant, the revenue entry of the suit Schedule Property stood in the name of Late. Sri. Revanna S/o. Late. Gattaiah. The revenue tax was paid in the name of Late. Sri. Revanna S/o. Late. Gattaiah to the Channenahalli Gram Panchayath, Kurubarahalli Dhakale, Tavarekere Hobli. In view of the order passed by the Deputy Commissioner under inam abolition Act, the suit Schedule Property was mutated in the name of said Sri. Revanna S/o. Late. Gattaiah as MR 15/58-59.

10. The defendants further contended that, the said Sri. Revanna S/o. Late Gattaiah died leaving behind his son by name Sri. P. R. Anjanappa as LR and who was only class one legal heir. The said Sri. P.R. Anjanappa had succeeded to the estate of deceased his father Late. Sri. Revanna S/o. Late. Gattaiah and he was continued in the possession and cultivating the said land. The revenue entries were also transferred in the name of Sri. P. R. Anjanappa who is the



father of the Defendants herein. He was paying regular revenue tax to the said gram Panchayath. The said property was mutated in the name of Sri. P.R. Anjanappa S/o. Late. Revanna in MR H 28/2011-12 and his name was also reflected in the RTC.

11. The Defendants further contended that, the Defendant's father Sri. Anjanappa P.R. died on 03-01-2020, leaving behind these Defendants as LR's. After the death of the said Sri.P.R. Anjanappa these Defendants are continued to be in the possession and cultivating the said land and the inheritance Khatha was mutated in the name of these Defendants. Now the application is filed before the Deputy Commissioner to convert said land from agricultural to non-agricultural, which is still pending for consideration.

12. The Defendants further contended that, such being the facts the plaintiffs are nowhere concerned to the suit Schedule Property they are not the owners to the said land



and they are the owners of adjacent land bearing Sy. No.155 measuring 2 acres 37 guntas. Taking the undue advantage of this, the plaintiffs are trying to occupy these Defendants land. The plaintiffs along with their servants illegally entered into the Defendants suit Schedule Property and committing criminal trespass immediately the Defendants and their family members arrived at the place and great difficulty resisted the illegal act of the plaintiffs. When the Defendants enquired about the illegal acts of the plaintiffs, the plaintiffs threatened the Defendants with dire consequences. There was a Panchayathi held at the instance of village elders in which the plaintiffs told the elders that the suit Schedule Property is the part of Sy. No.155 which belongs to them hence, they would not allow the Defendants to be in the peaceful possession of the suit Schedule Property. Thereafter, the Defendants complained about the said incident to the local police. The local police have refused to register the complaint and advised the Defendants to approach the competent Civil



Court as the said dispute is in civil in nature. Therefore, the above suit in O.S No.622/2023 was filed against the plaintiffs for permanent injunction. During the existence of the interim order against the plaintiffs, the present suit came to be filed, the above suit itself is hopeless, barred by limitation and devoid of merits, hence the above suit is deserves to be dismissed. For all these grounds, the above said defendants have prayed to reject the above application.

13. Heard the arguments of both sides.

14. 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/applicants have made out a prima-facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiffs/applicants?
- 3) Whether the plaintiffs/applicants will be put to irreparable loss and injury, if the temporary injunction is not granted as prayed in the I.A.?



4) What order?

15. 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

16. **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. I have already narrated in brief what is the case of the plaintiffs is and what is the defense of the defendants is. According to plaintiffs, they are the absolute owners and in possession and enjoyment of the suit schedule property. When such being the case, the defendants have no manner of right, title, interest and possession of the suit schedule property, they are trying to interfere with the suit



schedule property illegally. The defendants have created the revenue documents in their names in respect of suit schedule property and trying to alienate the suit schedule property to the third parties.

17. In order to substantiate the case of the plaintiffs, at this stage the plaintiffs have produced documents i.e., xerox copy of Registered Sale Deed dated: 28.04.1930, Panchayath Palu Patti dated: 12.09.1998, xerox copy of the Sketch and Endorsement dated: 15.11.2023 and four photographs.

18. On the other hand, the defendants have contended that, their grand-father Sri. Revanna and his great-grand-father Sri. Gattaiah had been in possession and enjoyment of the suit schedule properties. That, Sri. Revanna was ordered to be registered as khadim tenant U/S.4 of Inam Abolition Act and he was granted the said land under Inam Abolition Act by the Order of Deputy Commissioner in case No.79/1956-57.



That, after the said grant revenue entries of the suit schedule properties stood in the name of Sri. Revanna. That, the revenue taxes were paid in the name of Late. Sri. Revanna. That, on the death of Sri. Revanna his son by name P. R. Anjanappa succeeded to the said estate. That, the revenue entries were transferred in the name of Sri. P. R. Anjanappa. That, Sri. P. R. Anjanappa also died leaving behind plaintiff to succeed to the estate. That, the defendants are noway concern to the suit schedule properties and they are adjacent owners of land bearing Sy.No.155, measuring 2 acres and 37 guntas. That, taking undue advantage, the defendants are trying to dispossess the plaintiff from the suit schedule properties. Hence, the plaintiff has filed the aforesaid application seeking for the aforesaid reliefs.

19. In order to substantiate the case of the defendants, at this stage they have produced the interim order passed in O.S.No.622/2023, Survey Sketch, M. R. Extract, RTC



Extracts, NCR dated: 03.08.2024, copy of the Appeal Memo in M.A.No.39/2024 and objection.

20. 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 of both the parties and documents produced by both the parties and also other materials placed on record. It is very relevant to note that, the defendants in their written statement they have taken a contention that, they have filed the suit against the plaintiffs herein for the relief of declaration and injunction in respect of same subject matter of the suit in O.S.No.622/2023 on the file of this Court. In the said suit this Court has passed the exparte temporary injunction order restraining the plaintiffs herein not to interfere with the possession of the defendants herein in



respect of suit schedule property, the said property is also subject matter of this present case on hand. In order to substantiate the said contention, the defendants have produced the certified copy of the I.A., U/O.39 Rule 1 & 2 r/w. S.151 of C.P.C. On perusal of the same, at this stage it appears that, in O.S.No.622/2023 and present case on hand the parties and subject matter and also relieves sought in both the suits are one and the same. It is well settled Law that, granting of injunctive relief is a discretionary relief of Court. It is to be noted that, the plaintiffs either in their plaint nor in their supportive affidavit of the annexed I.A., they have not disclosed about the O.S.No.622/2023 pending on the file of this court with regard to same subject matter and parties to the both the suits are one and the same and also the reliefs sought in both the suits are one and the same. Hence, the plaintiffs have not approached this court with clean hand, they have suppressed the material facts before this court. Under these facts and circumstances, the



plaintiffs are not entitle for equitable relief of temporary injunction as sought in the I.A. It is relevant to note that, at this stage the rights of the parties cannot be adjudicated, it needs full pledged trial.

21. Looking into the pleadings and documents produced by the plaintiffs, at this stage it appears that, the plaintiffs have not made out the prima-facie case and also balance of convenience does not lies in favour of the plaintiffs. The plaintiffs have not made out a prima-facie case for grant of injunction and the 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 obtained 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.

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

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O.S.No.492/2024(Or.)

ORDER

I.A.No.1 filed by the plaintiffs/applicants
under Order XXXIX Rule 1 and 2 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 **23rd day of March, 2026.**)

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