



**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 June 2026
ORIGINAL SUIT NO. 720/2025

Plaintiffs :- Sri. Santhosh H. R., & Anr.,

(By **Sri. H.B.Y.** Advocate)

--V/s--

Defendants :- Sri. Venkataramanaiah & Anr.,

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

PARTIES TO I.A.NO.1

Applicant : Sri. Santhosh H. R., & Anr.,

Vs.

Opponent : Sri. Mahesh Kumar (D2)

ORDER ON I.A.NO.1

The applicants/plaintiffs has filed this interlocutory application under Order XXXIX Rule 1 and 2 of CPC., for the relief of temporary injunction restraining the defendant No.2



from not to alienate the suit schedule properties anybody else and not creating any charge on the suit schedule properties by mortgaging the same before any nationalized bank or before private persons 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 the above suit against the defendants for the relief of declaration, possession and consequential relief of permanent injunction with respect to the suit schedule properties. The plaintiffs are the absolute owners and in possession of the landed properties in bearing Sy.No.103/1, measuring 0-16 guntas including 01 gunta of karab net measuring 0-15 guntas and in another Sy.No.103/3 measuring in total 0-30 guntas including 02 guntas of karab net measuring 0-28 guntas, situated at Maruru Village, Kudur Hobli, Magadi Taluk, Ramanagara District. Originally the suit schedule properties are belonged to one Nanjundaiah



@ Nanjunda S/o Basavaiah @ Basappa. The above said Nanjudnaiah @ Nanjunda was in of the said properties as owner and khata also stood in his name. On 28.03.1953 when the father of the plaintiffs namely Rudraiah was 08 years child, the above said Nanjundaiah @ Nanjunda S/o Basavaiah @ Basappa has adopted Rudraiah as his adopted son through registered adoption deed as per S.R.No.4616/1953-54. Thereafter Rudraiah became the owner and LR., to the assets left behind by deceased Nanjundaiah @ Nanjunda S/o Basavaiah @ Basappa. Accordingly, being the adopted son Rudraiah continued the possession of the suit schedule properties, and khata of the suit schedule properties have mutated into the name of Rudraiah as per RR No.2217 and RR No.2218, thus the above said Rudraiah became the owner of the suit schedule properties.



3. It is further stated that, in the meanwhile the father of the plaintiffs by name Rudraiah fell ill, hence he left Maruru village and came to Hosuru Doddaghatta Village, Javagal Hobli, Arsikere Taluk, Hassan District and resided there due to his severe ill-health for some days, thereafter he has to stay for some years temporarily at Hosuru Doddaghatta village, by taking the undue advantage of the said fact, the 1st defendant - Venkataramaiah @ Kariya S/o Late. Hanumanthaiah, even though he is not belonged to their family or not the relative of deceased Rudraiah and he is no way concerned with the suit schedule properties nor he is not their family member. Even though Rudraiah has not executed any deed in favour of the 1st defendant, by misusing the fact that Rudraiah has resided temporarily away from the suit schedule properties, the 1st defendant has colluded with revenue authorities and changed the khata of the suit schedule properties into his name behind back of Rudraiah in



order to knock off his valuable properties. But the said changing of khata and mutation entries into the name of the 1st defendant will not derive any right to him over the suit schedule properties and the said mutation entries and RTC are liable to be rejected. Even though and they are not binding on their rights.

4. It is further stated that, after death of his father Rudraiah, he came to know the fact that khata of the suit schedule properties have changed into the name of 1st defendant illegally, he has filed the revenue appeal before the Assistant Commissioner Court at Ramanagara in [R.A.No. 335/2022-23](#) and the Assistant Commissioner has ordered to challenge the same before civil courts, as the matter is with respect to the ownership of the property. Accordingly the regular appeal filed by Rudraiah has closed.

5. It is further stated that, even though the defendants No.1 and 2 have no right much-less possession over the suit



schedule properties. On the strength of the created documents and by misusing the RTCS standing in the name of 2nd defendant and also taking the undue advantage of death of Rudraiah on 15.09.2025 the defendants No.1 and 2 have illegally tried to enter into the suit schedule properties by dispossessing the plaintiffs from the suit schedule properties illegally, but the plaintiffs however resisted the illegal acts of the defendants No.1 and 2 with efforts. That the defendants are powerful by having men and money behind their back, but the plaintiffs are poor Agricultural persons and they are not having any support in the locality except the order of this Court. Hence the present suit filed against the defendants for the relief of declaration and permanent injunction.

6. It is further stated that, after the 2nd defendant illegally changed the khata of the suit schedule properties into his name, he has been hurriedly attempting to dispose



the properties and also making attempts to create charge on the suit schedule properties by mortgaging the suit schedule properties before Banks and Private persons. If the defendant No.2 may succeed in his attempts, the plaintiffs will be put into great deal of hardship and injury, the purpose of filing the suit will not survive. Hence it is just and necessary to grant injunction against the defendant No.2. Hence, this I.A.

7. The copy of I.A., was served to the other side, the counsel for the defendant No.2 has filed the detailed statement of objection and totally denied the plaintiffs' case and interalia contended that, the suit schedule properties are originally belongs to one Nanjundappa, he was adopted one Rudraiah who is the father of the 1st plaintiff and husband of 2nd plaintiff as per register adoption deed No.SR.No.4616/1953/54 when he was adopted the family of Nanjundappa the Rudraiah get katha of the properties in his name as per RR No.1217 and 1218. It is further contended



that, when the katha of the properties are changed in the name of Rudraiah he was minor he was care and custody of his adopted mother by name Eramma who is the wife of Nanjundappa, she was in possession and enjoyment over the properties along with his adopted son by name Rudaraiah who is the father of 1st plaintiff and husband of 2nd plaintiff.

8. It is further contended that, when the father of 1st plaintiff and husband of 2nd plaintiff was minor his mother was facing financial problems and she was decided to mortgage the property bearing Sy.No.103/1 measuring extent of 0.15 guntas situated at Maruru village, Kudur Hobli, Magadi taluk, for their legal necessities in favour of Venkataramanaiah, who is the 1st defendant through the register mortgage deed dated 1-5-1958.

9. The defendant No.2 further contended that, when the property bearing Sy.No.103/3 measuring extent of 0.15 guntas property mortgage in favour of 1st defendant at that



time the possession of the property also delivered in favour of 1st defendant by Eramma who is the mother of the Rudraiah. It is further contended that, after that the mother of the Rudraiah by name Eramma was decided to sell the property bearing Sy.No.103/1 measuring extent of 0.15 guntas in favour of 1st defendant, the defendant No.1 also purchased the property bearing Sy.No.103/1 measuring to an extent of 0.15 guntas property through the register sale deed dated 28-3-1959, at the time of sale of the property in favour of 1st defendant the father of 1st plaintiff and husband of 2nd plaintiff by name Rudraiah was minor, his mother by name Eramma was put the signature on behalf of her minor son by name Rudraiah in the said sale deed dated 28-3-1959, when the property purchase by the 1st defendant through the register sale deed dated 28-03-1959 the katha of the property also changed in the name of 1st defendant and he was in



possession and enjoyment over the property as an absolute owner along with his family members.

10. It is further contended that, the property bearing Sy.No.103/3 measuring extent of 0.30 guntas including 0.2 guntas kharab land situated at Maruru village, Kudur Hobli, Magadi taluk is originally belongs to Rudraiah who is the father of 1st plaintiff and husband of 2nd plaintiff during the life time of said Rudraiah he had sold the property in favour of 1st defendant through the registered sale deed dated 08-11-1966, on the basis of registered sale deed the katha of the property bearing Sy.No103/3 measuring to extent of 0.30 guntas land including 0.2 guntas kharab land also changed in the name of 1st defendant on the basis of registered sale deed dated 8-11-1966, when the property purchased by 1st defendant he was in possession and enjoyment over the property as an absolute owner along with his family members.



11. It is further contended that, during the life time of said Venkataramanaiah he was purchased the suit schedule properties through his valuable vendors the suit schedule properties are self-acquired properties of Venkataramanaiah, the said Venkataramanaiah was died on 25-07-2024, during the life time of said Venkataramanaiah he was executed the register gift deed in favour of 2nd defendant who is the grandson of deceased Venkataramanaiah in respect of suit schedule properties through the register gift deed dated 14-03-2023, on the basis of registered gift deed the katha of the suit schedule properties are also changed in the name of 2nd defendant in MR.No.H25/2022-23 when 1st defendant executed registered gift deed in favour 2nd defendant, on the basis of registered gift deed the 2nd defendant is in possession and enjoyment over the suit schedule properties as an absolute owner without any obstruction.



12. It is further contended that, these facts is very well known to the plaintiffs, but the plaintiffs have suppressed the true facts and filed this false suit before this court for the purpose of grab property belongs to these defendant. The plaintiffs have not filed the suit with in time, the father of 1st plaintiffs and husband of 2nd plaintiff by name Rudraiah and his mother by name Eramma already given possession to the defendant No.1 in the year 1958 without possession and title of the property the plaintiffs cannot seeking declaration and permanent injunction in respect of the suit schedule property it self suit is not maintainable same is dismissed in limine. Hence, the defendant No.2 prays to dismiss the above I.A.

13. Heard the arguments of both sides.

14. On perusal of the rival contentions of both the parties and other 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?

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, originally suit schedule properties were belongs to one Nanjudnaiah @ Nanjunda S/o. Basavaiah @ Basappa. The father of the plaintiff No.1 and husband of the plaintiff No.2 namely Rudraiah was the adopted son of said Nanjudnaiah @ Nanjunda by virtue of the registered Adoption Deed dated: 28.03.1953. After demise of Nanjudnaiah @ Nanjunda, the khata of the suit schedule properties were mutated in the name of Rudraiah. The said Rudraiah was also died, the plaintiffs being his legal heirs, during the life time of said Rudraiah he has not executed any deeds in favour of defendant No.1 and more over defendant No.1 is not belongs to family of the plaintiffs. The defendant No.1 colluded with the revenue officials and got obtained the khata in his name in respect of suit schedule properties. On the strength of the alleged khata stands in the name of defendant No.1, the defendants are making attempts to



alienate the suit schedule properties in order to deprive the rights of the plaintiffs over the suit schedule properties.

17. In order to substantiate the case of the plaintiffs, at this stage they have produced the documents i.e., notarized copy of the Genealogical Tree, C.C. of the Adoption Deed dated: 28.12.1953, C.C. of the M.R. Extracts, RTC Extracts, Death Certificate of Rudraiah, C.C. of the Order dated: 26.09.2024 passed by the Assistant Commissioner, Ramanagara Sub-Division, Ramanagara in R.A.No.335/2022-23.

18. On the other hand, the defendants have contended that, the defendant No.1 has purchased the item No.1 and item No.2 of the suit schedule properties by virtue of the registered Sale Deed dated: 28.03.1959 and 08.11.1966. The defendant No.1 is in peaceful possession and enjoyment of the suit schedule properties by exercising all sorts of



ownership. The said facts are well known to the plaintiffs, but they have filed the false suit against the defendants.

19. In order to substantiate the case of the defendants, at this stage the defendants have produced certified copies of the Mortgage Deeds dated: 01.05.1958 and 28.03.1959, registered Sale Deed dated: 28.03.1959 and 08.11.1966, registered Gift Deed dated: 14.03.2026, Death Certificate of defendant No.1 and RTC Extracts.

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 them and also other materials placed on record. In order to show the prima-facie case, at this stage the plaintiffs have produced certified copy of the hand written RTC Extracts



1976-1999. On perusal of the same, the khata of the item No.2 of the suit schedule property is stands in the name of the father of the plaintiff No.1 and husband of the plaintiff No.2 namely Rudraiah. The plaintiffs have produced the RTC Extracts for the year 2022-23. On perusal of the same, the khata of the suit schedule properties stands in the name of defendant No.1. It is very relevant to note that, the plaintiffs have not produced any documents pertaining to item No.1 of the suit schedule property which was stands in the name of Rudraiah, who is none other than the father of the plaintiff No.1 and husband of the plaintiff No.2. In the absence of the same, at this stage it cannot be held that, the item No.1 of the suit schedule property is also belongs to Rudraiah. On the other hand, the defendants have taken a contention that, the defendant No.1 has purchased the suit schedule properties from Rudraiah by virtue of the registered Sale Deed dated: 28.03.1959 and 08.11.1966 respectively. No doubt at this



stage the rights of the parties cannot be adjudicated, it needs full fledged trial.

21. Looking in to the pleadings and documents produced by the both parties, at this stage it appears that, the plaintiffs have not made out the prima-facie case. The plaintiffs have not made out a prima-facie case for grant of injunction and once that 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 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 :



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 **29th day of June, 2026.**)

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