



**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC,  
AT MAGADI.**

**-.Present:-**

Sri. Shrinivasa.K.R B.A.L., LL.M.,  
Prl. Civil Judge & JMFC.,  
Magadi.

**Dated this the 10<sup>th</sup> day of April, 2026**

**O. S. No.99/2025**

**PLAINTIFF**

: Smt.Rangalakshamma  
W/o Subbanna.

**:Vs:**

**DEFENDANTS**

: Smt.Parvathamma  
W/o Late G.Narayanappa and  
others.

**I.A. No.I**

**APPLICANT/PLAINTIFF**

: Smt.Rangalakshamma,  
W/o Subbanna,  
Aged about 71 years,  
Residing at Vitalapura Village,  
Kalya Post, Kasaba Hobli,  
Magadi Taluk,  
Ramanagara District.

**(By Sri.A.S.S., Advocate)**

**:Vs:**



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**OPPONENTS/DEFENDANTS:** 1.

1. Smt.Parvathamma,  
W/o late G.Narayanappa,  
Aged about 78 years,  
Residing at Kerekattiganuru  
Village,  
Sompura Hobli,  
Nelamangala Taluk,  
Bengaluru Rural District.
2. Sri.K.N.Gangadhar,  
S/o Late G.Narayanappa,  
Aged about 55 years,  
Residing at house No.7,  
1<sup>st</sup> cross, Kuvempur  
Badavane, Hesaragatta road,  
Chikkasandra Post,  
Bengaluru-560057.
3. Smt.K.N.Manjula @  
Manjulamma.N,  
W/o C.H.Krishnappa,  
S/o Late G.Narayanappa,  
Aged about 54 years,  
Residing at Anjananagara,  
Pipe line road,  
Vishwanedam Post,  
Bengaluru North,  
Bengaluru-560091.
4. Smt.Nayana.K.M,  
S/o Late K.N.Mohan Kumar,  
W/o Ravikumar,  
Aged about 25 years,  
Residing at house No.10,  
Avalakuppe Village,



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Kasaba Hobli,  
Nelamangala Taluk,  
Bengaluru Rural District.
  
5. Smt.K.N.Anusuya,  
W/o Rajashekar.T.M,  
S/o Late G.Narayanappa,  
Aged about 48 years,  
Residing at house No.217,  
Sondekoppa Bypass,  
Chikkanna Badavane,  
Nelamangala Town,  
Bengaluru Rural District.
  
6. Sri.Chandrashekar,  
S/o Late G.Narayanappa,  
Aged about 41 years,  
Residing at Kerekattiganuru  
Village, Sompuru Hobli,  
Nelamangala Taluk,  
Bengaluru Rural District.
  
7. Sri.Rajanna,  
S/o Hanumaiah,  
Aged about 60 years,
  
8. Smt.Mahalakshmi,  
W/o Rajanna,  
Aged about 55 years,
  
9. Sri.Premakumar,  
S/o Rajanna,  
Aged about 35 years,  
Residing at Vitalapura Village,  
Kasaba Hobli,



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Magadi Taluk,  
Ramanagara District.

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

1	Provision under which the application is filed	Under Order 39 Rule 1 and 2 R/w Sec.151
2	Relief sought for	Not to interfere the suit schedule property.
3	The date on which the application is filed	20.03.2025
4	Number of the application	I.A.No.I
5	The date on which the objection is filed by different opponents	08.07.2025
6	The date on which the orders were passed on the said application	10.04.2026

**(Sri. Shrinivasa.K.R)**  
**Prl. Civil Judge & JMFC,**  
**Magadi.**

**ORDER ON IA.NO.I FILED U/O 39 RULE 1 AND 2 R/W SEC.151**  
**OF CPC**

The applicant/plaintiff has filed application U/O. 39 rule 1 & 2 R/w Sec.151 of CPC, with a prayer to restrain the opponents/defendants, their agents or any person claiming under



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them from interfering with peaceful possession and enjoyment of the suit schedule property. The suit schedule property is land bearing Sy.No.79/2 measuring to an extent of 3 acre 5 guntas situated at Vitalapura Village, Kasaba Hobli, Ramanagara Taluk bounded as:

East by : Land of Yathish and Hanumantharayappa.

West by : Land of Veerachikkaiah.

North by : Land of Shivakumar.

South by : Land Manjunatha.

2. The application is supported with an affidavit sworn to by the applicant/plaintiff stating that, the plaintiff is in peaceful possession and enjoyment of suit schedule property. The husband of defendant No.1 by name Narayanappa filed suit for the relief of partition and separate possession against the husband of plaintiff and others in O.S.No.415/2012 and the said suit decreed on 28.04.2017. The husband of plaintiff by name Subbanna filed appeal against judgment and decree of O.S.No.415/2012 before Hon'ble Senior Civil Judge, Magadi in R.A.No.18/2018 and the



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Hon'ble Senior Civil Judge, Magadi allowed the appeal and remanded the said suit with direction to adduce evidence and accordingly said suit restored in it is original number but, in the said suit, plaintiffs not appeared before the court hence, suit of plaintiffs dismissed. The husband of plaintiff canceled the revenue entire as per judgment and decree dated 27.07.2017 and transferred the khatha in his name and accordingly husband of plaintiff was in possession and enjoyment of suit schedule property. The husband of plaintiff executed registered gift deed dated 25.10.2024 infavour of plaintiff and delivered the possession of suit schedule property and accordingly khatha mutated in the name of plaintiff and she is enjoying the suit schedule property as absolute owner and she is in possession over the suit schedule property. The defendants have no right, title, interest and possession over the suit schedule property but, the defendants tried to trespass the suit schedule property and tried to interfere the peaceful possession and enjoyment of suit schedule property. The plaintiff filed complaint against defendants on 09.12.2024 before jurisdictional police satition and concerned police station issued



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endorsement stating the dispute is in civil nature hence stated to approach civil court. Hence, prays to allow the application.

3. In pursuance to suit summons, the defendants appeared through their counsel and filed written statement along with memo stating the written statement of defendants may be treated as objection. The defendants in their written statement stated that, it is true that, the husband of defendant No.1 by name Narayanappa filed suit in O.S.No.415/2012 before Hon'ble Civil Judge and JMFC, Magadi and the same has been decree on 28.04.2017. The husband of the defendant No.1 by name G.Narayanappa and father of the defendant No.2 to 6 filed the suit for the relief of partition and separate possession in O.S.No.415/2012 before the Hon'ble Civil Judge and JMFC, Magadi in respect to family properties against the husband of the plaintiff by name Subbanna and Smt.Gangamma D/o Maragamma W/o Ramakrishnaiah, Gowramma, Marigamma, Vanajakshamma and others and in pursuance of the suit summons, the defendant No.1 to 5 have appeared through their counsel and the defendant No.5 has filed his written statement by



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admitting the relationship between the parties and contended that, already partition taken place between the Narayanappa, Ramakrishna and defendant No.5 as per partition deed dated 20.01.1974. Accordingly, item No.5 of the suit schedule property i.e., present suit schedule property fallen to the share of plaintiff. In the said suit the defendant No.5 failed to cross examine and further he failed to lead the evidence in support of his contention hence, the Hon'ble Civil Judge and JMFC, Magadi had decreed the suit.

Further contended that, the Narayanappa borrowed loan for growing the crops in the suit schedule property and he by deleting the entry of loan in the RTC extract get the register gift deed with an intention to knock of the suit schedule property which is belongs to defendants. The husband of plaintiff has no manner of right, title, interest or possession over the suit schedule property to execute the alleged gift deed in favour of plaintiff and as per alleged gift deed the plaintiff not acquired any manner of right or possession over the suit schedule property.



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Further contented that, the husband of defendant No.1 and the father of defendant No.2 to 6 were in possession and enjoyment of the suit schedule property as an absolute owner till their death. The husband of defendant No.1 by name Narayanappa was died on 27.06.2013 and after his death, the defendants have inherited and succeeded the suit schedule property and they are continued in possession and enjoyment of the suit schedule property as co-owners. The plaintiff is utter stranger to the suit schedule property and she had no manner of right, title, interest or possession over the suit schedule property and she has not entitled for any relief as claimed in the suit. Hence, prays reject the application.

4. Heard by counsel for plaintiff and defendants counsel.

5. Upon hearing arguments and materials placed on record,

following points that arise for my consideration:

1. Whether plaintiff has made out a prima-facie case?
2. Whether balance of convenience lies in favour of plaintiff?
3. Whether irreparable injury and hardship would cause to the plaintiff, if temporary injunction is not granted?



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4. What order?

6. My answer to the above points are as under.

**Point No. 1 to 3** : In the **Affirmative**.

**Point No. 4** : As per order

for the following :

**REASONS**

7. **POINT NO.1**: Law relating to grant or refusal to grant temporary injunction has been culled out by the Hon'ble Supreme Court of India in AIR 1999 SUPREME COURT 3105 (Colgate Palmolive (India) Ltd., v. Hindustan Lever Ltd.,) it is held as under:

*“Civil P.C. (5 of 1908), O. 39,R.1:*

*Certain specific considerations to be noted in the matter of grant of interlocutory injunction, the basic being non-expression of opinion as to the merits of the matter by the Court, since the issue of grant of injunction usually, is at the earliest possible stage so far as the time frame is concerned. The other considerations which ought to weigh with the court hearing the application or petition for the grant of injunctions are as below:- (i ) Extent of damages being an adequate remedy; (ii )*



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*Protect the plaintiff's interest for violation of his rights though, however, having regard to the injury that may be suffered by the defendants by reason therefor; (iii) The Court while dealing with the matter ought not to ignore the factum of strength of one party's case being stronger than the others; (iv) No fixed rules or notions ought to be had in the matter of grant of injunction but on the facts and circumstances of each case-the relief being kept flexible; (v) The issue is to be looked from the point of view as to whether on refusal of the injunction the plaintiff would suffer irreparable loss and injury keeping in view the strength of the parties case; (vi) Balance of convenience or inconvenience ought to be considered as an important requirement even if there is a serious question or prima facie case in support of the grant; (vii) Whether the grant or refusal of injunction will adversely affect the interest of general public which can or cannot be compensated otherwise."*



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8. Keeping in mind the well settled legal principles regarding granting or refusal for granting Temporary Injunction enunciated in the above cited decision, let me advert to consider the case of the parties. The applicant/plaintiff has filed suit for the relief of perpetual injunction to restrain the opponents/defendants from interfering into peaceful possession of applicant/plaintiff over the suit schedule property.

9. The contention of plaintiff counsel is that, the suit schedule property originally belongs to husband of plaintiff but, husband of defendant No.1 by name Narayanappa filed suit against the husband of plaintiff and others for the relief of partition but, in the said suit husband of plaintiff not adduced evidence hence, suit decreed on 28.04.2017 and the husband of plaintiff challenged said decree then the decree of O.S.No.415/2012 set aside and remanded back to the court for fresh trail after restoring of suit, the plaintiff of O.S.No.415/2012 not appeared before court hence, suit was dismissed and after dismissal of suit the husband of plaintiff get the khatha in his name and executed gift deed in favour of plaintiff. The plaintiff is in possession and enjoying of suit schedule



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property. The defendants without having any right, title and interest causing interference. The plaintiff produced all necessary documents and established prima-facie in his favour. Hence, prays to allow the application.

10. On the other hand defendants counsel contended that, the plaintiff is not in possession and enjoyment of suit schedule property. The husband of plaintiff not paid cost as per order of Hon'ble Senior Civil Judge, Magadi hence, without payment of cost the husband of plaintiff cannot proceed the suit of O.S.No.415/2012. Since from the date of partition dated 20.01.1974, husband of defendant No.1 and father of defendant No.2 to 6 were in possession and enjoyment of suit schedule property and after the death of husband of defendant No.1, defendants inherited the suit schedule property and they are in possession and enjoyment of the suit schedule property as co-owners. The husband of plaintiff had no right to execute gift deed in favour of plaintiff. The plaintiff is not in possession over the suit schedule property. Hence, prays to reject the application. The defendants counsel filed decision of Hon'ble High Court of Himachal



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Pradesh held in Piaro Devi Vs. Ananth Ram and others and contended that, the husband of plaintiff not paid cost as per order of Hon'ble appellate court hence, they cannot take advantage of dismissal of suit. Hence, prays to reject the application.

11. The applicant/plaintiff in support of her contention has produced the copy of RTC extracts, agricultural pass book, mutation registrar, certified copy of sale deed dated 07.07.1975 and 28.07.1975, gift deed dated 25.10.2024, tax paid receipts, certified copy of order sheet, plaint, written statement, judgment and decree of O.S.No.415/2012 and certified copy of order sheet, petition and objection of RA.No.18/2018 and acknowledgment and endorsement.

The defendants in order to prove their contention produced the copy of plaint and order sheet of OS.No.706/2024, copy of final decree in O.S.No.415/2012, RTC extract, copy of order sheet in O.S.No.415/2012 and acknowledgment issued by Magadi police.

12. I have carefully gone through the records it is admitted fact that, the husband of defendant No.1 by name Narayanappa



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filed suit against husband of plaintiff and others for the relief of partition and suit schedule property of present suit is also one of the suit schedule properties of O.S.No.415/2012 and the said suit initially decreed and stated that, plaintiff No.1 to 6 of O.S.No.415/2012 are jointly entitled full property of item No.5 of suit schedule property and the item No.5 of property is suit schedule property of present suit.

13. The husband of defendant No.1 challenged the decree of O.S.No.415/2012 before the Hon'ble Senior Civil Judge, Magadi and Hon'ble Senior Civil Judge set aside the judgment and decree of O.S.No.415/2012 and remanded to trial court and accordingly the said suit restored and the plaintiffs as well as defendants of O.S.No.415/2012 appeared before the Hon'ble I Addl. Civil Judge and JMFC, Magadi and in the said suit the plaintiffs of O.S.No.415/2012 failed to appear before the court to adduce evidence hence, suit was dismissed for non-prosecution. Therefore, the judgment and decree of O.S.No.415/2012 is not in existence. The contention of defendants counsel is that, the husband of defendant No.1 not paid cost of Rs.5000/- as per order of Hon'ble



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Senior Civil Judge, Magadi hence, they cannot take advantage of dismissal of suit. No doubt the cost is condition precedent but, the defendants must take such defence in the said suit and they cannot take such defence in the present suit. Hence, the contention of defendants is not acceptable and moreover, defendant No.4 filed suit for partition against husband of plaintiff and others before Hon'ble Senior Civil Judge, Magadi with respect to suit schedule property in O.S.No.706/2023 and said suit still is pending for consideration. Therefore, whether the suit schedule property is ancestral property of plaintiff and defendants has to be adjudicate with proper evidence.

14. The husband of plaintiff by name Subbanna executed gift deed dated 25.10.2024 in favour of plaintiff with respect to suit schedule property and said gift deed duly registered and as per said gift deed, the khatha of suit schedule property mutated in the name of plaintiff as per MR.No.H10/2024-25. As per **section 133 of Land Revenue Act** it is presumed that, any entry in the records of rights and a certified entry in the register of mutation shall be presumed to be prove until the contrary is proved. Therefore, on



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perusal of documents, at this juncture the plaintiff has established prima facie in her favour. The prima-facie case is totally different from prima-facie title. Opponents/Defendants have not challenged the prima-facie material placed by applicant/plaintiff, by placing documents in support of her contention. Under the circumstances, I am of the opinion that plaintiff has made out prima-facie case in her favour. Accordingly, I answer point No.1 in the **Affirmative**.

15. **POINT No.2 and 3:** These points are taken up together for discussion for the sake of convenience. The person who approaches the court for equitable remedy of temporary injunction, besides making out strong prima-facie and must necessarily show that balance of convenience lies in his/her favor and shall also satisfy that irreparable loss and hardship would be caused to him/her, which can not be compensated in terms of money. Therefore, it is incumbent upon the applicant/plaintiff to show that the balance of convenience lies in her favor.

16. In considering the question of balance of convenience, the court has to consider to whom more hardship or inconvenience



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would be caused. If temporary injunction is granted the defendants would not be put to loss and hardship. Has discussed supra applicant/plaintiff has very well established prima-facie possession over suit schedule property. If an order of temporary injunction is not granted, the opponents/defendants will be successful in interfering the applicant/plaintiff from the suit schedule property. In such an event the applicant/plaintiff would be left no where. Therefore balance of convenience and comparative hardship is more on the applicant/plaintiff than the opponents/defendants. Accordingly, I answer points 2 and 3 in the **Affirmative**.

17. **POINT No. 4:** In view of my findings to points No.1 to 3, I am of the considered opinion that, applicant/plaintiff has made out prima-facie case and also made out a fit case for trial. Besides this the applicant/plaintiff has also established that balance of convenience lies in her favour and irreparable injury would be caused to her, if an order of temporary injunction is denied. Therefore, the applicant/plaintiff is certainly entitled for the relief of temporary injunction. Accordingly, I proceed to pass the following;



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**ORDER**

I.A. No.I filed by the applicant/plaintiff under Order XXXIX Rule 1 & 2 R/w Section 151 of CPC is hereby allowed.

Consequently, the opponents/defendants, their agents or any person claiming under them are hereby restrained by way of temporary injunction from interfering the suit schedule property, until the final disposal of the suit.

No order as to cost.

(Directly dictated to stenographer, typed by her, then corrected and pronounced by me in the open Court on this the **10<sup>th</sup> Day of April, 2026.**)

**Prl. Civil Judge & JMFC,  
Magadi.**