



**IN THE COURT OF THE II ADDL.CIVIL JUDGE & JMFC,
AT MAGADI
PRESENT**

Smt.Ranjitha G.B B.B.A, LL.B. (Hons)

**II Addl.Civil Judge & JMFC,
Magadi**

Dated this 9th day of September, 2025

OS No.209/2024

PLAINTIFF : Smt.S Rathnamma
W/o Sri.Chikkagangaiah,
Aged about 60 years,
R/at Torepalya, Kalaari Post,
Kasaba Hobli,
Magadi Taluk,
Ramanagara District.

-V/s-

DEFENDANTS : 1. Sri.Huchahanumegowda,
S/o Nanjundaiah,
Aged about 43 years,
R/at Hosapalya, Kalari Kaval,
Magadi Taluk, Ramanagara District.

2. Smt.Jayamma
D/o Late.Honnaiah @ Jabbaiah,
W/o Late.Mariyanna,
Aged about 55 years,



3. Sri.Byraiah
S/o Smt.Jayamma and Late.Mariyanna,
Aged about 35 years,
4. Sri.Chandrashekar
S/o Smt.Jayamma and Late.Mariyanna,
Aged about 33 years,
5. Smt.Nagarathna,
D/o Smt.Jayamma & Late.Mariyanna,
Aged about 30 years,

Defendants No.2 to 5 are
R/at Janagere,
Thippasandra Hobli,
Magadi Taluk,
Ramanagara District.
6. Sri.Krishnappa,
S/o Late.Honnaiah,
Aged about 60 years,
7. Sri.Nagaraju,
S/o Nanjundaiah,
Aged about 53 years,
8. Sri.Hanumanthaiah
S/o Nanjundaiah,
Aged about 30 years,



Defendants No.6 to 8 are
R/at Thorepalya, Kalari Post,
Kasaba Hobli, Magadi Taluk,
Ramanagara District.

IA No.I

**APPLICANT /
PLAINTIFF**

: Smt.S Rathanamma

-V/s-

**OPPONENTS /
DEFENDANTS**

: Sri.Huchachanumegowda & Others

<i>i</i>	<i>Provision under which the application is filed</i>	<i>Order XXXIX Rule 1 and 2 of CPC</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Temporary Injunction</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>14.06.2024</i>
<i>iv</i>	<i>Number of the application</i>	<i>IA No.I</i>
<i>v</i>	<i>The date on which the objections are filed by different opponents</i>	<i>Objection not filed</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>09.09.2025</i>

**II Addl.Civil Judge & JMFC,
Magadi**



**ORDER ON IA No.I FILED BY THE PLAINTIFF
UNDER ORDER XXXIX RULE 1 AND 2 OF CPC**

This Application filed at the time of filing the suit. The Plaintiff has filed this application under Order XXXIX Rule 1 and 2 of CPC, seeking for the relief of temporary injunction by restraining the Defendants from interfering with the possession of the Plaintiff over the suit schedule properties.

2. The Plaintiff has filed the present suit as against the Defendants for the relief of Permanent Injunction. In support of IA No.I, the Plaintiff has filed an affidavit and stated that, the Plaintiff is an absolute owner of the suit schedule property and in possession of the same. The Plaintiff had purchased the suit schedule properties through registered Sale Deeds. From the date of purchase, the Plaintiff is in possession of the suit schedule properties and she is regularly paying taxes to the concerned authority in respect of the suit schedule properties. Further, the Plaintiff has also built a residence in one of the suit schedule properties and she is staying there along with her family.



The Plaintiff has raised crops like arecanut, coconut, mango, chikku and other trees in the suit schedule properties. The Plaintiff had acquired 2 items of the suit schedule properties by way of filing a suit in OS No. 193/2001.

3. The Defendants are having no manner of right, title or interest over the suit schedule properties. The only intention of the Defendants is to grab the properties. The Plaintiff and her family members have spent enormous amount to improve the suit schedule properties. When such being the situation, on 01.06.2024, the Defendants came near the suit schedule properties and picked-up quarrel with the Plaintiff and her family members and thereby entered into the suit schedule properties. The said act of the Defendants was resisted by the Plaintiff with great difficulties. In this regard, the Plaintiff has lodged a complaint before the jurisdictional police. In-turn, the jurisdictional police gave endorsement stating to seek remedy by way of filing the suit before the jurisdictional Civil Court. With no other alternatives, the Plaintiff has filed this application seeking to restrain the Defendants from



interfering with the possession of the Plaintiff over the suit schedule properties. If this application is not allowed, the Plaintiff will be put to great hardship & on the other hand, no hardship will be caused to the Defendants, as they can always contest the matter on merits. Hence, prayed to allow the application.

4. Heard the Counsel for Plaintiff. Perused the material on record.

5. This Court arises the following points for determination:

1. Whether the Plaintiff has made out prima-facie case?
 2. Whether the balance of convenience lies in favor of the Plaintiff?
 3. Whether irreparable loss and injury would be caused to the Plaintiff, if an order of temporary injunction is not granted?
 4. What order?
6. The findings to the above Points are as follows:
- Point No.1** : In the **'Negative'**



- Point No.2** : In the '**Negative**'
- Point No.3** : In the '**Negative**'
- Point No.4** : As per the final order,
for the following:

REASONS

7. **POINT No.1**: The Plaintiff has filed this application under Order XXXIX Rule 1 and 2 of CPC, seeking for the relief of temporary injunction by restraining the Defendants from interfering with the possession of the Plaintiff over the suit schedule properties.

8. The case of the Plaintiff is that, the Plaintiff is an absolute owner of the suit schedule property and in possession of the same. The Plaintiff had purchased the suit schedule properties through registered Sale Deeds. From the date of purchase, the Plaintiff is in possession of the suit schedule properties and she is regularly paying taxes to the concerned authority in respect of the suit schedule properties. Further, the Plaintiff has also built a residence in one of the suit schedule properties and she is staying there along with her family. The Defendants are having no manner of right, title or interest over the suit schedule



properties. The only intention of the Defendants is to grab the properties. On 01.06.2024, the Defendants came near the suit schedule properties and picked-up quarrel with the Plaintiff and her family members and thereby entered into the suit schedule properties. The said act of the Defendants was resisted by the Plaintiff. In order to prove the case of the Plaintiff, she has produced the documents such as Sale Deeds dated 24.06.2003, 28.01.2004 & 27.12.2011, Rectification Deed dated 03.10.2003, copies of order sheet, plaint, compromise petition and decree in OS No.193/2001, mutation registers & RTC extracts.

9. On perusal of Sale Deed dated 24.06.2003, it reveals that, the Plaintiff had purchased the property bearing Sy.No.120/3 measuring to an extent of 15 guntas from Sri.Nanjundaiah and his children. Further, the Rectification Deed dated 03.10.2003 reflects that, due to oversight, the survey number in Sale Deed dated 24.06.2003 was wrongly mentioned as 120/3 instead of 20/3. As such, as per the aforesaid Sale Deed, the Plaintiff had purchased the Item No.1 of the suit schedule properties. On perusal of Sale Deed dated 28.01.2004, the



Plaintiff had purchased the Item No.2 of the suit schedule properties from Sri.Nanjundaiah and his children. Further, as per MR No.4/98-99, the Plaintiff had acquired Item No.4 of the suit schedule properties through oral partition.

10. The learned Counsel for Plaintiff has argued that, the Plaintiff had acquired Item No.3 of the suit schedule properties by way of filing a suit in OS No.193/2001. At this juncture, it is important to refer to the documents relating to the suit in OS No.193/2001 and on perusal of the same, it reveals that, the Plaintiff had filed a suit seeking for the relief of Declaration and Adverse Possession and as against Sri.Nanjundaiah and others. In the said suit, the parties have entered into a compromise and as per the said compromise, the Plaintiff was declared as the absolute owner of Item No.3 of the suit schedule properties. Accordingly, the RTC extracts from the year 2001-2003 reflects that the Item No.3 of the suit schedule properties is standing in the name of the Plaintiff. Further, the RTC extracts from the years 2006 to 2019 reflects that, Item No. 1 and 3 of the suit schedule properties is standing in the name of the Plaintiff. Further, the RTC extracts from the



year 2015 to 2019 reflects that, Item No.2 of the suit schedule properties is standing in the name of the Plaintiff and the RTC extracts from the year 2020 to 2025 reflects that, Item No.1 to 4 of the suit schedule properties is standing in the name of the Plaintiff.

11. On perusal of MR No.T16/2021 and T37/2023-24 reflects that, the Sy.No.20 was phoded and a sub-numbered. Accordingly, Item No.1 to 4 of the suit schedule properties is standing in the name of Plaintiff. No doubt, the aforesaid documents clearly reflects that, the Plaintiff is in possession of Item No.1 to 4 of the suit schedule properties. At this juncture, it is relevant to state that, the present suit is filed with respect of six properties, but, the Plaintiff has not produced any single document in respect of Item No.5 and 6 of the suit schedule properties. As such, in absence of production of documents pertaining to the Item No.5 and 6 of the suit schedule properties, this Court is unable to ascertain in whose name the said properties are standing. Therefore, at this juncture, without conducting full-fledged trial, this Court is unable to ascertain who is in possession of Item No.5 & 6 of suit schedule properties. By considering



the above reasons, this Court is of the opinion that, the Plaintiff has prima-facie failed to prove her possession over the suit schedule property. Hence, this Court proceeds to answer Point No.1 in the “**Negative**”.

12. **POINT No.2 & 3**: These two points are interrelated, hence, taken up together for discussion with regard to balance of convenience and irreparable loss is concerned, this Court is relying upon the decision passed by the **Hon'ble High Court of Karnataka in Gowrishankar Swamigalu V/s Siddaganga Mutt & others, reported in ILR 1989 KAR 1701**, the relevant portion of the decision is extracted below for reference:

“...The existence of a prima facie case in the matter of granting injunction is really the harbinger or all the clear sign to go ahead in investigating other aspects of the question governing the grant or refusal of injunction. If there was no prima facie case at all or the case put forward was so weak and tainted having very little prospect of being accepted by the Court, further questions of balance of convenience and irreparable loss need not be considered since the Plaintiff would fall at the very first stile itself...”



Thus, when the prima facie case itself is not proved by the Plaintiff, then it is clear that balance of convenience is not in favour of the Plaintiff and no loss will be caused to them. Hence, this Court proceeds to answer Point No.2 & 3 in the “***Negative***”.

13. **POINT No.4:** In view of the aforesaid reasons, this Court proceeds to pass the following :

ORDER

IA No.II filed by the Plaintiff
under Order XXXIX Rule 1 and 2 of
CPC is hereby rejected.

No order as to cost.

(Dictated to the stenographer directly on computer, corrected, signed and then pronounced by me in Open Court on this 9th day of September, 2025)

(Smt.Ranjitha G.B)
II Addl.Civil Judge & JMFC,
Magadi