

KARN420017452023



**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 6<sup>th</sup> day of June, 2025

**OS No.251/2024**

**PLAINTIFF**

:

Smt.Gangamma  
W/o Late.Gangappa,  
Aged about 80 years,  
R/at No.3750,  
4<sup>th</sup> 'A' Main Road,  
2<sup>nd</sup> Floor,  
Rajajinagara,  
Bengaluru.

Represented by her  
GPA holder,  
Sri.Shivanna H.H,  
S/o Late.Honnaiah,  
Aged about 68 years,  
R/at No.3750, 1<sup>st</sup> Floor,  
New Municipal No.14/1,  
PID No.9-43-14-1,  
4<sup>th</sup> 'A' Main Road,  
Subramanyanagara 'B' Block,  
Bengaluru-560021.



**-V/s-**

**DEFENDANTS** :      1. Sri.Kemparaju,  
S/o Late.Gangamuniyappa,  
Aged about 29 years,  
  
2. Smt.Vijayamma  
W/o Late.Gangamuniyappa,  
Aged about 65 years,  
  
Both are R/at Solur Hobli,  
Magadi Taluk,  
Ramangara District.

**IA No.I**

**APPLICANT /**  
**PLAINTIFF** :      Smt.Gangamma

**-V/s-**

**OPPONENTS /**  
**DEFENDANTS** :      Sri.Kemparaju & Another

<i>i</i>	<i>Provision under which the application is filed</i>	<i>Order XXXIX Rule 1 and 2 read with Sec.151 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>10.07.2024</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>28.11.2024</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>06.05.2025</i>

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

**ORDER ON IA No.I FILED BY THE PLAINTIFF  
UNDER ORDER XXXIX RULE 1 AND 2 READ WITH  
SEC.151 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 read with Sec.151 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 property.

2. The Plaintiff has filed the present suit as against the Defendants for the relief of Permanent Injunction. At the time of filing the suit, this application is filed, along with accompanying affidavit and sworn that, the Plaintiff is an



absolute owner and in possession of property bearing Sy.No.1/2, renumbered as Sy.No.1, khata No.25, measuring to an extent of 1 acre 20 guntas, situated at Ranganabette Village, Chikkayyanapalya, Solur Hobli, Magadi Taluk, Ramanagara District, which is morefully described as the suit schedule property. The Plaintiff had purchased the suit schedule property vide registered Sale Deed dated 29.12.1983 from Sri.Nanjappa. After purchasing the said property, the suit schedule property was mutated in the name of Plaintiff and she is regularly paying taxes to the concerned authority.

3. In the month of December, 2022, the Plaintiff has received a summons through RPAD in Ex.P No.29/2022 and at that time, the Plaintiff came to no about the decree passed in OS No.93/2015. When such being the situation, in the month of September, 2023, the Defendant No.1 with an intention to harass the Plaintiff as illegally tried to interfere with the possession of the Plaintiff. In that regard, on 20.07.2023, 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.

4. Again, on 07.07.2024, the Defendants have tried to interfere with the possession of the Plaintiff over the suit schedule property. The Plaintiff is not having any support in the locality and the Plaintiff is unable to resist the illegal act of the Defendants. 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 property. 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.

5. The Defendants have filed objection and admitted that, the Plaintiff is an absolute owner of the suit schedule property. The Defendants have contended that, in order to meet the family and legal necessity, the Plaintiff had sold the suit schedule property in favour of Defendant No.1 vide Sale Agreement dated 05.07.2014 for sum of Rs.3,00,000/-



and also received Rs.2,90,000/- as advance sale consideration and agreed to execute the Sale Deed within three months. In spite of request made by the Defendant No.1, the Plaintiff did not come forward to execute the registered Sale Deed in favour of the Defendant No.1. On 06.12.2014, the Defendant No.1 issued a legal notice calling upon the Plaintiff to execute the Sale Deed and the said notice was duly served on 09.12.2014. Even then, the Plaintiff had not executed the Sale Deed.

6. With no other alternatives, the Defendant No.1 had filed a suit in OS No.93/2015 before Hon'ble Prl.Civil Judge, Magadi as against the Plaintiff. In the said suit, the Plaintiff was placed *ex parte* and the decree was passed in favour of the Defendant No.1. In spite of that, the Plaintiff did not come forward to execute the Sale Deed. Thereafter, on 10.11.2022, the Defendant No.1 filed Ex.P No.29/2022 and the said petition is pending for consideration. In the said petition, the Plaintiff had entered appearance and also filed objection. During the pendency of the said petition, the Plaintiff was making hectic attempt to alienate the suit schedule property. Thereafter, the Defendant No.1 filed an



application under Order XXXIX Rule 1 & 2 of CPC, seeking to restrain the Plaintiff from alienating the suit schedule property and the said application was allowed.

7. In order to harass the Defendant No.1, the Plaintiff has filed a petition before the Hon'ble Prl.Civil Judge, Magadi in Mis.No.3/2023 after the lapse of 7 years. The Plaintiff has filed the present suit with an intention to harass the Defendants. The Plaintiff was never in possession of the suit schedule property. If this application is allowed, the Defendants will be put to hardship and the same cannot be compensated in terms of money. Hence, prayed to reject the application.

8. Heard both sides. Perused the material on record.

9. In order to prove the case of the Plaintiff, she has relied on the following decisions:

**1. H.B Narappa and Others V/s H.B Nagaraj, reported in 2024 (3) AKR 575**

**2. R.Maranna V/s Siddappa, Kalegowda, reported in 2024 (3) AKR 709**

**3. K.Jnanesh & Another V/s Ningaraju Marilinegowda, reported in 2024 (3) AKR 712**



10. 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?

11. The findings to the above Points are as follows:

- Point No.1** : In the '**Affirmative**'  
**Point No.2** : In the '**Affirmative**'  
**Point No.3** : In the '**Affirmative**'  
**Point No.4** : As per the final order,  
for the following:

### **REASONS**

12. **POINT No.1:** The Plaintiff has filed the present suit seeking for Permanent Injunction as against the Defendant, along with an application under Order XXXIX Rule 1 & 2 of CPC read with Sec.151 of CPC, seeking for the

KARN420017452024



relief of temporary injunction by restraining the Defendants from interfering with the possession of the Plaintiff over the suit schedule property.

13. The case of the Plaintiff is that, the Plaintiff is an absolute owner and in possession of the suit schedule property. The Plaintiff had purchased the suit schedule property vide registered Sale Deed dated 29.12.1983. After purchasing the said property, the suit schedule property was mutated in the name of Plaintiff and she is regularly paying taxes to the concerned authority. In the month of September, 2023, the Defendant No.1 with an intention to harass the Plaintiff as illegally tried to interfere with the possession of the Plaintiff. Again, on 07.07.2024, the Defendants have tried to interfere with the possession of the Plaintiff over the suit schedule property. The Plaintiff is unable to resist the illegal act of the Defendants. In order to prove the case of the Plaintiff, she has produced the documents such as GPA, Sale Deed dated 21.12.1982, RTC extract, mutation registers, encumbrance certificates, tax paid receipt, copy of interlocutory application filed under Order XXXIX Rule 1 & 2 of CPC in Ex.29/2022, copy of

KARN420017452024



petition in Misc.P No. 03/2023, acknowledgment dated 20.07.2023 & photographs.

14. On the other hand, the Defendants have admitted that, the Plaintiff is an absolute owner of the suit schedule property. In order to meet the family and legal necessity, the Plaintiff had sold the suit schedule property in favour of Defendant No.1 vide Sale Agreement dated 05.07.2014. The Plaintiff has filed the present suit with an intention to harass the Defendants. The Plaintiff was never in possession of the suit schedule property. To prove the contentions of the Defendants, they have produced the documents such as Sale Deeds dated 29.12.1983 & 22.12.1988, encumbrance certificate, RTC extract, Agreement of Sale dated 05.07.2014, legal notice dated 06.12.2014, postal receipt, postal acknowledgment, copy of order sheet, plaint, judgment and decree in OS No.93/2015, copy of order sheet, petition, application and order in Ex.P No.29/22, GPA dated 26.12.1988, death certificate, tax paid receipt & acknowledgment dated 20.07.2023.

15. On perusal of Sale Deed dated 29.12.1983, it reveals that, the Plaintiff had purchased the suit schedule



property from Sri.Nanjappa. Based on the said Sale Deed, as per MR No.9/83-84, the suit schedule property was mutated in the name of Plaintiff. Accordingly, the RTC extract for the year 2014-15 and 2023-24 reflects that, the suit schedule property is standing in the name of the Plaintiff. The encumbrance certificate demonstrates that, there is no encumbrance in respect of the suit schedule property.

16. The learned Counsel for Defendants has argued that, the father of the Defendant No.1 is an owner of the suit schedule property. At this juncture it is important to refer to Sale Deed dated 22.12.1988 and on perusal of the same, it reveals that, the father of the Defendant No.1 had purchased the suit schedule property for sum of Rs.6,500/- and the possession of the suit schedule property is also delivered in favour of the father of Defendant No.1. The General Power of Attorney dated 26.12.1988 reflects that, the Plaintiff had appointed the father of the Defendant No.1 to look after the suit schedule property. As per death certificate, the father of the Defendant No.1 died on 06.03.1989.

KARN420017452024



17. The learned Counsel for Defendants has argued that, the Defendants are in possession of the suit schedule property. On perusal of Sale Agreement dated 05.07.2014, it reveals that, the Plaintiff had agreed to sell the suit schedule property in favour of Defendant No.1 for sum of Rs.3,00,000/-, but, as per recitals of the said agreement, the possession of the suit schedule property is not delivered in favour of the Defendant No.1. Further, at this stage, it is important to refer to the documents pertaining to the suit in OS No.93/2015 and on perusal of the said documents, it is noticed that, the Defendant No.1 had filed a suit for Specific Performance of Contract as against the Plaintiff in respect of aforesaid Sale Agreement. In the said suit, the Plaintiff was placed exparte and the suit was decreed in favour of the Defendant No.1. Based on the said decree, the Defendant No.1 had filed Ex.P No.29/2022. In the said petition, on 27.01.2024, an order of temporary injunction was granted restraining the Plaintiff from alienating the suit schedule property. At this stage, it is important to note that, the present suit is filed seeking for the relief of Permanent Injunction and the aforesaid suit is filed seeking for Specific Performance of Contract. Therefore, the documents

KARN420017452024



pertaining to the aforesaid suit is not applicable to the present case on hand. With due respect, the decisions relied by the Plaintiff is not applicable to the present case on hand, as the facts and circumstances are different.

18. As discussed above, the Defendants have not produced any documents to prove that, they are in the possession of the suit schedule property and on the other hand, the documents produced by the Plaintiff prima-facie established that, she is in possession of the suit schedule property. Hence, this Court proceeds to answer Point No.1 in the “**Affirmative**”.

19. **POINT No.2 & 3:** In respect of balance of convenience and irreparable loss is concerned, if the Defendants try to interfere with the suit schedule property, it will cause hardship and injustice to the Plaintiff and same cannot be compensated in terms of money. If the Defendants continued to interfere with the peaceful possession of the Plaintiff in respect of suit schedule property, the right of the Plaintiff to enjoy the suit schedule property will be curtailed. By considering all these



circumstances, the balance of convenience is in favor of the Plaintiff and if this act of the Defendants are continued, then it will cause irreparable loss to the Plaintiff. Hence, this Court proceeds to answer Point No.2 and 3 in the **“Affirmative”**.

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

### **ORDER**

IA No.I filed by the Plaintiff under Order XXXIX Rule 1 and 2 read with Sec.151 of CPC, restraining the Defendants, their agents, servants henchmen or anybody acting on their behalf from interfering over the suit schedule property is hereby allowed till the disposal of the suit.

No order as to cost.

(Dictated to the stenographer directly on computer, corrected, signed and then pronounced by me in Open Court on this 6<sup>th</sup> day of June, 2025)

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