

IN THE COURT OF I ADDL. CIVIL JUDGE AND JMFC.,
SORABA.

PRESENT:- Smt. Jyoti B. Kaginakar.,
B.Sc., LL.B.,
Civil Judge and JMFC, Soraba.

Dated on this the 8th day of June, 2026

O.S.No.90/2025

PLAINTIFF:

Sri. Nazir Sab Gaus Sab,
aged about 75 years, Occ:Agriculturist,
R/o Tevarateppa Village, Ennekoppa Post,
Anavatti Hobli, Soraba Taluk.

(By Sri. P.N.C., Advocate)

// V/s //

DEFENDANTS:

1. Ramappa S/o Erappa,
aged about 57 years, Occ: Teacher.
2. Arun S/o Erappa,
aged about 52 years, Occ:Agriculturist.
3. Ashok S/o Erappa,
aged about 57 years, Occ:Agriculturist.
4. Nagaraj S/o Manjappa,
aged about 45 years, Occ: Agriculturist.
5. Jayappa S/o Devendrappa,
aged about 55 years, Agriculturist.

6. Manohara S/o Devendrappa,
aged about 50 years, Occ: Teacher.
7. Parameshwara S/o Devendrappa,
aged about 49 years, Occ: Agriculturist.
8. Satish S/o Pakkirappa,
aged about 39 years, Occ: Pion.
9. Vinaya S/o Jayappa,
aged about 35 years, Occ: Agriculturist.
10. Kantesha S/o Manjappa,
aged about 52 years, Occ: Agriculturist.
11. Shantappa S/o Manjappa,
aged about 54 years, Occ: Agriculturist.
12. Chandrappa S/o Devendrappa,s
aged about 55 years, Occ: Agriculturistj,
All are R/o Tevarappa-Vaddigere Village,
Ennekoppa Post, Anavatti Hobli, Soraba Taluk.

(By Sri. G.M.P., Advocate)

PARTIES TO I.A.I

APPLICANT/S: Sri. Nazir Sab Gaus Sab.
...Plaintiff.

//V/s//

OPPONENT/S: Smt. Ramappa S/o Erappa and
others.
...Defendants.

i	Provision under which the application	:	Under Order 39 Rule 1 and 2 of CPC
ii	Relief sought for	:	Not to disturb the peaceful possession and enjoyment of the suit property by the plaintiff till disposal of the suit.
iii	The date on which the application is filed	:	18.03.2025
iv	Number of the application	:	01
v	The date on which the objections are filed by different opponents	:	23.06.2025.
vi	The date on which the orders were passed on the said application	:	08.06.2026

(Smt. Jyoti B.Kaginakar)
I Addl. Civil Judge and JMFC.,
Soraba.

ORDER ON IA No.I

This is an application filed by the plaintiff under Order XXXIX Rules 1 and 2 of CPC praying to issue an ex-parte temporary injunction restraining the defendants, their agents, servants, representatives, or

any other persons claiming authority under them, from unlawfully entering upon the schedule property and from in any manner interfering with or causing obstruction to the peaceful possession and enjoyment of the schedule property by the applicant, pending disposal of the application.

2. The plaintiff, in the affidavit filed in support of I.A. No.1, has contended that the suit schedule property bearing VPC No.35 originally belonged to one Parasappa S/o Channappa and that he purchased the same under a registered Sale Deed dated 28-08-1972. It is his case that ever since the purchase, he has been in lawful possession and enjoyment of the suit schedule property.

3. The plaintiff further contends that after purchasing the property, he constructed a residential house thereon and has also put up a cattle shed, haystack and firewood stack. He asserts that he has been residing in the property with his family and has been paying taxes and other charges to the Gram Panchayat. Though he has made several applications seeking mutation of the khata in his name, the Gram Panchayat authorities have not effected the transfer,

and the property continues to stand in the name of the original owner.

4. It is further averred that the defendants have no manner of right, title, interest or possession over the suit schedule property. According to the plaintiff, on 02-03-2025, the defendants, along with their associates, unlawfully entered the suit property, removed and damaged the haystack and paddy bags with the help of a JCB machine, attempted to assault his family members, abused them in filthy language and threatened them with dire consequences. It is alleged that the defendants were subsequently driven away with the assistance of neighbours and family members. The plaintiff further contends that the defendants again entered the suit property on 15-03-2025 and attempted to put up a fence, compelling him to lodge a complaint before the Anavatti Police Station.

5. The plaintiff further asserts that despite police intervention, there is a continuing threat of interference by the defendants, who are stated to be influential persons in the locality. He apprehends that the defendants may again trespass upon the suit

schedule property and disturb his peaceful possession and enjoyment thereof.

6. The plaintiff has further contended that he has a prima facie case, that the balance of convenience lies in his favour, and that he would suffer irreparable loss and injury if temporary injunction is not granted. On these grounds, he has sought an order of temporary injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit schedule property pending disposal of the suit and **has prayed for allowing I.A. No.1.**

7. The defendants have filed a written statement and a memo seeking to treat the written statement as their objections to I.A. No.1. The defendants contend that the suit property forms part of an ancestral property belonging to the family of their common ancestor, Erappa. They have set out the genealogy of the family and contend that defendants Nos.1 to 12 are the legal heirs and descendants of the branches of the family descending from Erappa through his sons Sannappa and Ramanna.

8. The defendants further contend that the property bearing Khata No.35 situated at Devarateppa

Village is an ancestral family property. According to them, though separate khatas came to be entered in the names of Parasappa, son of Channappa, and Puttappa, son of Ramanna, for administrative purposes, there was never any partition between the branches of the family and the property continued to be jointly enjoyed by the family members. It is their specific case that the khatas continue to stand in the names of the deceased persons and have not been transferred in favour of their legal heirs.

9. The defendants further assert that the properties standing under separate khata numbers are contiguous portions of the original property bearing Khata No.35 and form a single block of ancestral property. According to them, the schedule property described in the written statement is in the joint possession and enjoyment of the defendants and other family members, who have been using the same as an open yard for storing grass, leaves, firewood, manure and other agricultural materials.

10. It is further contended that the property described by the plaintiff in the plaint schedule is, in fact, a portion of the ancestral property belonging to and possessed by the defendants. The defendants

allege that the plaintiff has wrongly described and claimed a portion of their property as the suit schedule property and has no exclusive right over the same.

11. On these grounds, the defendants contend that the plaintiff has failed to establish a prima facie case, balance of convenience or irreparable injury and, therefore, seek dismissal of I.A. No.1 with costs.

12. Heard the arguments of the Learned Counsels appearing for the parties and perused the materials on record.

13. The learned counsel for the plaintiff has filed a memo along with a copy of the judgment in **Civil Appeal No. 2197 of 2007, Suraj Bhan and Others v. Financial Commissioner and Others, decided on 16.04.2007.** Reliance is placed on the observations made therein that entries in revenue records do not confer or establish title in favour of a person whose name appears in the Record of Rights. It is observed in the said judgment that revenue entries are maintained primarily for fiscal purposes, namely for assessment and collection of land revenue, and do not by themselves create or extinguish ownership rights. The question of title to immovable property can be adjudicated only by a competent Civil Court on the

basis of substantive evidence. Accordingly, the learned counsel submits that mere revenue entries cannot be treated as conclusive proof of title.

14. Now the following points arise for consideration of this Court are.

POINTS

1. *Whether the plaintiff has made out a prima facie case?*
2. *Whether the balance of convenience lies in his favour?*
3. *Whether the plaintiff suffer from irreparable damage if TI is not granted?*
4. *What order?*

15. Perused all the available materials on record. Heard the learned counsel for the plaintiff.

16. Having done so, the answers to the aforesaid points are as hereunder;

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative

Point No.4 : As per final Order for the following;

REASONS

17. POINTS NO.1 TO 3: Since, these points are inter connected to each other, in-order to avoid the repetition of facts & findings, all these points are taken up together from common discussion at one stretch.

18. The plaintiff has sought an order of temporary injunction on the basis of his alleged possession over the suit schedule property. According to him, he purchased the suit property from Parasappa S/o Channappa under a registered Sale Deed dated 28.08.1972 and has been in possession and enjoyment thereof ever since. It is his further case that he has constructed a residential house, cattle shed, haystack and firewood stack in the suit property and that the defendants recently attempted to interfere with his possession.

19. The defendants have seriously disputed the plaintiff's claim. According to them, the suit property forms part of a larger ancestral property belonging to their family and is in their joint possession and enjoyment. It is specifically contended that the property described by the plaintiff is in fact a portion of the ancestral property of the defendants and that the plaintiff has wrongly described the same as his exclusive property. The defendants have also questioned the identity, boundaries and description of the suit schedule property.

20. At the stage of considering an application under Order XXXIX Rules 1 and 2 CPC, the Court is not required to finally determine the rights of the parties. The limited enquiry is whether the plaintiff has established a prima facie case of possession, whether the balance of convenience lies in his favour and whether refusal of injunction would result in irreparable injury.

21. The principal document relied upon by the plaintiff is the registered Sale Deed dated 28.08.1972. Undoubtedly, the sale deed may be relevant to establish the source of his claim. However, for the purpose of grant of temporary injunction, mere production of a sale deed is not sufficient when possession itself is seriously disputed. The plaintiff is required to place prima facie material before the Court to show that he was and is in actual possession and enjoyment of the suit property as on the date of the suit.

22. Though the plaintiff contends that he has constructed a residential house in the suit property and has been residing therein with his family for several decades, no supporting material has been produced to substantiate such possession. No building licence, sanctioned plan, house assessment extract, electricity bills, water bills, tax paid receipts, ration card, voter records, Aadhaar-linked address proof, or

any other contemporaneous documents evidencing occupation of the property have been produced before the Court. Even the alleged payment of taxes to the Gram Panchayat has not been substantiated by production of any tax receipts.

23. Significantly, the plaintiff himself admits that despite repeated applications, the khata of the suit property has never been transferred to his name. The material available on record discloses that the revenue records continue to stand in the names of Parasappa and Puttappa, who are admittedly the predecessors-in-interest of the defendants. Though revenue entries by themselves do not confer title, they nevertheless constitute relevant evidence regarding possession and enjoyment. In the present case, the plaintiff has not placed any material to demonstrate that he has been recognized by any public authority as being in possession of the suit property.

24. The learned counsel for the plaintiff has relied upon the decision of the Hon'ble Supreme Court in **Suraj Bhan and Others v. Financial Commissioner and Others** to contend that revenue entries do not confer title. There can be no dispute with the proposition laid down therein. However, the controversy involved in the present application is not merely one of title but one of possession. The said decision only lays down that title cannot be decided solely on the basis of revenue entries. It does not dispense with the requirement of establishing prima facie possession for the purpose of obtaining temporary injunction.

25. Further, the defendants have raised a substantial dispute regarding the identity and boundaries of the suit schedule property. According to them, the property claimed by the plaintiff overlaps with a portion of the ancestral property in their possession. The pleadings disclose serious disputes

relating to the description and identification of the property. Such disputed questions require detailed evidence and adjudication during trial. At this interlocutory stage, the Court cannot record a finding in favour of the plaintiff merely on the basis of the sale deed when the actual possession and identity of the property remain seriously contested.

26. The grant of temporary injunction is an equitable and discretionary relief. A party seeking such relief must place sufficient prima facie material before the Court demonstrating existing possession and imminent interference. In the present case, except the sale deed and self-serving assertions made in the plaint and affidavit, no independent material has been produced to establish actual possession of the suit property as on the date of filing of the suit.

27. In these circumstances, this Court is of the considered opinion that the plaintiff has failed to establish a prima facie case warranting grant of

temporary injunction. Once the plaintiff fails to establish a prima facie case, the questions of balance of convenience and irreparable injury lose significance. Even otherwise, in view of the serious dispute regarding possession and identity of the property, this Court is unable to hold that the balance of convenience lies in favour of the plaintiff.

28. Accordingly, the plaintiff has failed to satisfy the essential requirements for grant of temporary injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. **Hence, Point Nos.1, 2 and 3 are answered in the Negative.**

29. Point No.4:- In view of my findings on above points No.1 to 3, I proceed to pass the following;

ORDER

I.A. No.1 filed by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure is hereby rejected

Note: Any observations/findings made in this order is confined only to the disposal of this IA. None of the parties are permitted to take the benefit of the findings/observations of this order during the course of trial or for any other purposes.

(Directly typed by me on my laptop, corrected, then printed and pronounced in the Open Court on this the 8^h day of June-2026)

**(Smt. Jyoti B.Kaginakar)
I Addl. Civil Judge and JMFC,
Soraba.**

ISSUES

1. Whether the plaintiff proves that he is in lawful and peaceful possession and enjoyment of the suit schedule property as on the date of the suit?
2. Whether the plaintiff proves the alleged interference by the defendants with his peaceful possession and enjoyment of the suit schedule property?
3. Whether the plaintiff prove that the description, identity and boundaries of the suit schedule property as furnished in the plaint are correct?
4. Whether the plaintiff is entitled to the relief of permanent injunction as sought?
5. Whether suit of the plaintiff in the present form is maintainable?
6. What Order or Decree?

Note: Issue No.5 is treated as preliminary issue.

(Order pronounced in the open court
vide separate order)

ORDER

I.A. No.1 filed by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure is hereby rejected

Note: Any observations/findings made in this order is confined only to the disposal of this IA. None of the parties are permitted to take the benefit of the findings/observations of this order during the course of trial or for any other purposes.

(Smt. Jyoti B.Kaginakar)
I Addl. Civil Judge and JMFC,
Soraba.(08.06.2026)