

**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC
AT CHIKKANAYAKANAHALLI**

Present : Smt.Aparna.R, B.Com, LLB
Prl. Civil Judge & JMFC.,

Dated this 10th Day of November, 2025

O. S. No. 109 / 2024

PLAINTIFFS : 1. NARENDRA BABU
S/o Pandurangaiah
A/a 42 years
R/o Thimmanahalli Village,
Kandikere Hobli,
C.N.Halli Taluk

2. VEDAMURTHY
S/o Pandurangaiah
A/a 47 years
R/o Belavadi Village,
Huliyar Hobli,
C.N.Halli Taluk

- Vs -

DEFENDANT : NARASIMHAIAH
S/o Puradappa
A/a 60 years
R/o Mylakabbe Village,
Kandikere Hobli,
C.N.Halli Taluk

I.A.No.2**APPLICANTS**

:

1. P. NARASIMHAIAH

S/o Puradaiah

A/a 70 years

2. SHANTHAMMA. T. N

D/o P.Narasimhaiah

A/a 47 years

Both are R/o Mylakabbe Village,
Kandikere Hobli,
C.N.Halli Taluk

3. S. B. BORAMMA

W/o Late Rajaiah.P

A/a 85 years

4. T. R. KRISHNAMURTHY

S/o Late Rajaiah.P

A/a 46 years

Both are R/o Thimmanahalli Village,
Kandikere Hobli,
C.N.Halli Taluk

-VS-**OPPONENTS**

:

1. NARENDRA BABU

S/o Pandurangaiah

A/a 42 years

R/o Thimmanahalli Village,
Kandikere Hobli,
C.N.Halli Taluk

2. VEDAMURTHY

S/o Pandurangaiah

A/a 47 years
R/o Belavadi Village,
Huliyar Hobli,
C.N.Halli Taluk

3. RANGANATHAIAH

S/o Late Rangaiah
A/a 62 years
Retd. School Clerk

4. UMESHA. T. H

S/o Late Horakerappa
A/a 52 years,

Both are R/o Thimmanahalli Village,
Kandikere Hobli,
C.N.Halli Taluk

PREAMBLE

i	Provision under which the application is filed	Under Order 39 Rule 1 and 2 of CPC
ii	Relief sought for	Temporary Injunction
iii	Date on which the application is filed	05/06/2025
iv	Number of the application	IA No.2
v	Date on which objections are filed by different opponents	15/09/2025
vi	Date on which orders were passed on the said application.	10/11/2025

ORDERS ON I.A.No.2

The plaintiffs have filed this suit against the defendants for the relief of permanent injunction. The present application is filed by the Defendant along with 3 other third parties under Order XXXIX Rule 1 and 2 of CPC, praying to pass an order of temporary injunction restraining the plaintiffs and 2 others from interfering with the actual peaceful, lawful possession, cultivation, occupation and enjoyment of joint ownership of the counter claimants in counter claim schedule property, harvesting of tamarind crop of the tamarind trees found on counter claim schedule property, until pending disposal of the counter claim.

1. In the affidavit annexed to this application, the Defendant No.1 contends that he along with 3 other applicants have filed this application seeking interim relief as sought for. That on land in Sy.No.11/9 measuring 0-15 guntas there are 2 big and 2 medium sized fruit bearing tamarind trees, which are being harvested by the counter claimants for the past 70-80 years, which were never questioned by the plaintiffs or caused any

interference. That during 2024, the plaintiffs have wrongly restrained these applicants from harvesting the tamarind fruits, due to which these applicants suffered monetary loss to an extent of Rs.40,000/-. That the tamarind fruits have remained unharvested and in the verge of deterioration and the plaintiffs with the help of goonda elements would attempt to restrain these applicants from harvesting the tamarind fruits in the coming days. That this application is filed not only to protect the counter claim schedule property from the plaintiffs but to harvest the tamarind fruits from the tamarind trees on the counter claim schedule property. That the plaintiffs have been making all attempts to interfere with the applicants' possession over the counter claim schedule property without having any right, title or possession over the same and hence the application.

2. Per contra, the plaintiffs have resisted this application by filing statement of objections. It is contended that the application is not maintainable in law or on facts and is beyond the scope of the provision of Order 39 Rule 1 & 2 of CPC, that this application preferred by the defendant in the suit filed by the plaintiffs for

bare injunction is not maintainable as the defendant is seeking injunction against the persons who are not parties to this suit, that the property described in the application is imaginary one and boundaries are all wrong, that no counter claim is made in the written statement and no schedule of property is mentioned in the written statement and hence this application is neither maintainable in law or on facts and hence prays to dismiss the application.

3. Upon hearing both sides and perusal of the documents placed on record, the following points arise for consideration of this Court.

(1) Whether the applicants have made out a prima facie case for grant of temporary injunction against the plaintiffs and others as prayed for?

(2) Whether the balance of convenience lies in favour of the applicants?

(3) Whether the applicants would be put to irreparable loss and injury if temporary injunction is not granted in their favour?

(4) What Order?

4. This Court answers aforesaid points are as follows:

Point No.1 to 3 : In the Negative

Point No.4 : As per final order, for the following,

REASONS

5. **Point No.1 to 3 :** To avoid repetition of facts, Points No.1 to 3 are taken up for common discussion.

6. This suit is filed by the plaintiffs seeking relief of permanent prohibitory injunction against the sole defendant to restrain him from interfering with their lawful possession and enjoyment of the suit schedule property. The plaint averments disclose that the suit schedule property being Thimmanahalli Sy.No.11/9 measuring 0.07 ½ guntas was purchased by plaintiffs' grandfather Karerangaiah S/o Matarangaiah vide registered sale deeds dated 26/12/1960 and 10/11/1961 and accordingly the revenue documents came to be mutated to his name and since then the plaintiffs' grandfather has been in continuous possession

and enjoyment of the suit schedule property and post his death on 07/02/1989, the plaintiffs' father Panduranagaih and the plaintiffs continued to be in possession of the suit schedule property and post the death of Pandurangaiah on 21/01/2006, the plaintiffs have been in possession and enjoyment of the suit schedule property. It is further contended that there are 2 tamarind trees on the suit schedule property the usufructs of which have been made use of by the plaintiffs, however the revenue documents still stands in the name of said Kareranagaiah, grandfather of plaintiffs and these plaintiffs have filed necessary applications before the revenue authorities for change of the same to their names, which is pending consideration. That when things stood thus, the defendant who has no manner of right, title or interest on the suit schedule property and having knowledge of the plaintiffs' right, title and possession have made attempts to pluck the tamarind fruits and thereby caused interference with the plaintiffs' possession over the suit schedule property. It is based on these facts and circumstances, the plaintiffs are before this Court with this suit seeking relief of injunction simplicitor.

7. That in response to the suit summons, the defendant appeared and filed written statement on 19/10/2024 denying the entire case of the plaintiffs and contending that Thimmanahalli land in Sy.No.11/9 belongs to the family of the defendant and his deceased brother P.Rajaiah, who have constructed houses on the said land and are in lawful possession and enjoyment of the same by growing tamarind trees, mango and jackfruit trees from time immemorial and till date the suit property is the joint family property of the defendant and his family members. That the sale deeds averred in the plaint are all concocted and fabricated ones and the plaintiffs are not at all in possession of the suit schedule property and the revenue documents are also concocted and that the plaintiffs' are not aware if their forefather is Motarangaiah or Matarangaiah. That the Plaintiff No.1 is a Court bird and habitual offender involved in concocting several documents by forging his sister's signature, whose whereabouts are not known and have sold several properties and wrongfully utilized the consideration and similarly has concocted the documents pertaining to Mylakabbe Sy.No.47, 48 measuring 16 acres belonging to

defendant's brother Rajaiah for which OS No.176/2022 is filed along with several other criminal cases and based on these grounds, the defendant prays to dismiss the suit.

8. At this juncture, it is pertinent to notice here that on the same day of filing of written statement, the defendant along with the applicants under this application have filed counter claim against the plaintiffs and two others who are not the parties to this suit, claiming relief of declaration of title and other reliefs. Pertinently, the Applicant No.2 to 4 and Opponent No.3 & 4 under the present application are not the parties in the original suit. However the present application is filed seeking reliefs against the plaintiffs including those persons who are not parties to this suit.

9. At this juncture, it is beneficial to refer to Rule 1 of Order XXXIX, which states as follows:

1. Cases in which temporary injunction may be granted.—Where in any suit it is proved by affidavit or otherwise—

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or intends, to remove or dispose of his property with a view to 4 [defrauding] his creditors,

(c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit,

the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the Court thinks fit, until the disposal of the suit or until further orders. .

On plain reading of the aforesaid provision, it is evident that the clause (b) and (c) of Rule 1 categorically provides for the

plaintiff to seek relief against the Defendant. However, clause (a) of the said Rule is a special provision, which enables any party to the suit to move the Court seeking temporary injunction in respect of any property in dispute.

10. In the case on hand, the applicants are seeking relief of temporary injunction in respect of the schedule property mentioned in the present application, which is evidently not the suit schedule property. Although the parties to this suit claim to be in possession of Thimmanahalli Sy.No.11/9, the extent claimed by them and the boundaries are completely different, which prima facie discloses that the reliefs claimed are in respect of different properties. Now the issue before this Court is whether in the suit for bare injunction filed by the plaintiffs, can the defendant along with third parties seek relief of temporary injunction against the plaintiffs and other third parties?

11. As per Rule 1 of Order XXXIX of CPC, the provision enables either party to the suit to seek temporary injunction against the other in respect of the suit schedule property. This

provision aids the defendant as well to seek temporary injunction against the plaintiff in order to protect the suit schedule property and maintain status quo, however it does not enable the defendant to seek relief to any other property except the suit schedule property and also against any other person who is not a party to the suit. In the case on hand, undoubtedly, the defendant has moved this application seeking relief of temporary injunction, however the relief sought is against the plaintiffs including 2 others who are not at all the parties to this suit. In fact the relief is sought by the defendant including those persons who are not the parties to this suit. If persons other than the defendant is aggrieved by the acts of the plaintiffs including any other persons acting through them, the same forms a different cause of action, the applicants have to resort to filing of different suit. The applicants herein cannot seek any temporary injunction, much less any other reliefs in the suit of the plaintiffs, in respect of the property that is claimed to be in the possession of the applicants. In addition to this, no temporary injunction order can be passed against those persons who are not before the Court. In the light of

these facts and circumstances, this Court opines that that the application is not maintainable in law and is devoid of merits.

Accordingly, ***Points No.1 to 3 are answered in the Negative.***

12. Point No.4 : Based on the discussions and observations made in the preceding paragraphs and answers to points No.1 to 3, this Court proceeds to pass the following:

ORDER

***I.A.No.2 filed by the applicants under
Order XXXIX Rule 1 & 2 is hereby
dismissed.***

(Directly typed by me onto my Laptop, corrected and then pronounced by me in open Court this 10th Day of October, 2025)

Sd/-
(Smt.Aparna.R)
Prl. Civil Judge & JMFC, C.N.Halli