



**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE & JMFC.,
GUBBI.**

Dated on this the 9th day of February, 2026

**PRESENT: SMT. POORNIMA .K. YADAV,
B.A.LL.B., LL.M.,**

**Addl. Sr. Civil Judge & JMFC,
Gubbi.**

ORIGINAL SUIT NO. 388/2024

Plaintiff/s : Sri Basaveshwara Rural
Education Society (Regd.)
Kondli Cross, Nittur Hobli,
Gubbi Taluk by its President
M.N. Kariyapa
S/o Nanjappa,
Aged about 79 years,
R/at Mavinahalli,
Nittur Hobli,
Gubbi Taluk.

(By Sri. C.R.B Adv.)

Vs.

Defendant/s: 1. L.G. Shekar,
S/o Gurumurthaiah,
Aged about 65 years,

2. Basavaraju
S/o Gurumurthaiah,
Aged about 60 years,

Both are R/at N. Hosahalli,
Nittur Hobli,
Gubbi Taluk.

(D1 by Sri K.S.S. Adv.,)

**PARTIES TO I.A.NO.III**

Applicant: Sri. Basaveshwara Rural Education
Society (Regd.) R/ by it's President
M.N. Kariyappa
(Plaintiff)

Vs.

Opponents: L.G. Shekar
(Defendant No.1)

Provision under the Application	Under Order 39 Rule 1 and 2 of CPC
Application Relief sought for	Temporary injunction restraining the defendant No.1 from alienating the suit schedule property till disposal of the suit.
The date of the application is filed	04.07.2025
Interlocutory Application Number	III
Date of memo filed by the defendants	15.11.2025
Date of order passed	09.02.2026

Sd/-
(POORNIMA K. YADAV)
Addl. Senior Civil Judge &
JMFC, Gubbi.

ORDERS ON IA NO. III

The president of the plaintiff society filed this
application Under Order 39 Rule 1 and 2 of CPC



restraining the defendant No.1 from alienating the suit schedule property till disposal of the suit

PLAINT SCHEDULE PROPERTY

The land bearing Sy. No. 19/5 measuring 2 acres 8 guntas situated at Hindiganahalli, Nittur Hobli, Gubbi Taluk.

2. The application is accompanied with the affidavit of the of the president of the plaintiff society, wherein it is stated that, the plaintiff society started High School in Kondli Cross, Nittur Hobli, Gubbi Taluk to promote Education facilities to the Rural Children. Originally land bearing Sy. No. 19 of Hindiganahalli belonged to one Narasimhajois who sold 3 acres of land to one Gurumurthappa S/o Linganna. On the southern side of the said 3 acres of land, the said Narasimhajois sold lands to one Ningappa and Siddappa. The said lands are situated adjacent to each other and it is situated at Kondli Cross. The plaintiff Society wanted to construct school building in Kondli Cross as such, they wanted land and



the plaintiff Society approached the said Gurumurthappa and others seeking to donate the land to the plaintiff society for construction of buildings for High School and for play ground. On the request made by the plaintiff society, the said Gurumurthappa and others agreed to donate the lands purchased from Narasimhajois, as such, in the year 1966 the said Gurumurthappa and others donated the land to the plaintiff society by executing registered Gift Deed. On the basis of the Gift Deed, the plaintiff society became the absolute owner, in possession and enjoyment of the said property. On the basis of Gift Deed, the revenue documents came to be transferred in the name of the plaintiff society. The katha of the property gifted by Gurumurthappa was not entered in the name of the plaintiff society and it continued in the name of the said Gurumurthappa. After the death of the said Gurumurthappa, his son i.e., the defendant No.1 even though aware of the gift deed, got changed katha and pahani of the suit schedule property into his name. The



plaintiff society challenged the said revenue entry before the Assistant Commissioner, Tumakuru wherein the appeal was allowed. Thereafter the defendant No. 1 preferred revision before the Deputy Commissioner, Tumakuru wherein the petition came to be allowed by directing the plaintiff society to approach the Civil Court. By taking advantage of the revenue records standing in the name of the defendant No. 1, he got converted the suit schedule property for non -agriculture purpose and the defendant No.1 is trying to form sites with an intention to alienate the property. If the application is not allowed, it will cause hardship which cannot be compensated. Hence, sought to allow the application.

- 3.** On the other hand, the counsel for the defendant No. 1 filed Memo to treat written statement as objection to IA No.3.
- 4.** The defendant No. 1 in the written statement admitted the sale deed of his father but contended that the said Gurumurthappa i.e., the father of the defendants was



cultivating land bearing Sy. No. 19/5 measuring 39 guntas and Sy No. 19/20 measuring 1 acre 4 guntas situated Hindaganahalli Village, Nittur Hobli, Gubbi Taluk. On the basis of possession, the survey officials phodid land bearing Sy. No. 19/5 as Sy. No. 19/5 and 19/20. The said Gurumurthappa was carrying on cultivation in the suit schedule property till his death on 25.11.2009. Thereafter, the defendant No. 1 got the suit schedule property under partition. The revenue records of the suit schedule property continued in the name of the said Gurumurthappa, thereafter the revenue records continued in the name of the defendants. The defendants are in possession and enjoyment of the suit schedule property peaceful, openly, continuously. The defendants partitioned their properties on 03.07.1993 wherein the suit schedule property fell to the share of defendant No.1. The defendants acquired absolute title by way of adverse possession. The defendants are in peaceful possession and enjoyment over the suit schedule property and the



plaintiff did not question the possession of the defendants till 2018. Hence, the suit filed by the plaintiff is not maintainable.

5. Heard both the counsel.
6. Upon hearing both the counsel and on perusal of the materials available on record, the points that arise for my consideration are;

1. ***Whether the plaintiff society has made out a prima facie case in their favour?***
2. ***Whether the plaintiff society will be put to irreparable loss ?***
3. ***Whether the balance of convenience lies in favour of the plaintiff society?***
4. ***What order?***

7. My findings to the above points are as under:

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



8. **POINT NO.1** : The plaintiff society filed this suit seeking relief of declaration of title and consequential relief permanent injunction in respect of suit schedule property on the basis of gift deed dated 25.06.1966 executed by Gurumurthappa.
9. The claim of the plaintiff over the suit schedule property is objected by the defendant No.1 on the ground that the said Gurumurthappa was in possession of the suit schedule property and he was cultivating the said property till his death, after the death of Gurumurthappa, the defendants succeeded to the suit schedule property wherein the defendant No.1 got the said property under partition. The defendants pleaded that they are in continuous possession of the suit schedule property since 1966 and they have perfected their title over the suit schedule property by way of adverse possession.
10. At this juncture, I would like to place reliance on the ratio of the Hon'ble High Court of Rajasthan in **AIR 2003 RAJ**



21 between Sukka Singh Vs. Mahal Singh, wherein it is held that,

“ While considering the question of prima facie case, it is not to be confused with prima facie title. What is required is that the plaintiff has to show that he has bonafide raised a substantial question, which needs to be adjudicated at the trial of the suit.”

- 11.** Hence, it is clear that prima facie case means showing that there is dispute between the parties which has to be decided in a full fledged trial.
- 12.** The said pleadings of the parties shows that the plaintiff society is claiming their absolute rights over the suit schedule property on the basis of registered Gift Deed dated 25.06.1966 whereas the defendants are claiming their absolute rights over the suit schedule property by way of adverse possession.
- 13.** The said facts discloses that there is dispute between the parties with respect to the title over the suit schedule



property which requires adjudication by way of trial which shows existence of a prima facie case for trial. Accordingly,

Point No.1 is answered **in the Affirmative.**

14. **POINT NO.2 & 3:** These points are taken up for discussion together as they are inter related to each other.
15. Mere existence of prima facie case is not the ground for grant of temporary injunction and existence of balance of convenience as well as irreparable injury in favour of the plaintiff is mandatory to grant such an order. Hence, it is necessary to examine if in this case there is balance convenience and irreparable injury in favour of the plaintiff.
16. The plaintiff through this application sought for restraining defendant No.1 from alienating suit schedule property till disposal of the suit.
17. Order 39 Rule 1 of CPC, provides for grant of Temporary Injunction till disposal of the suit, when the subject matter of the suit is in the danger of being alienated, damaged or wasted by the defendant or when the defendant threatens



or intends to remove or dispossess his property to defraud his creditors or the defendant threatens to dispossess the plaintiffs or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, for the purpose of staying and preventing such alienation, damage or wastage, sale, removal or disposition of the property or dispossession of the plaintiff or causing injury to he plaintiff in relation to any property in dispute in the suit.

- 18.** The materials on record discloses that the claim of the plaintiff over the suit schedule property is on the basis of registered Gift Deed dated 25.06.1966 executed by Gurumurthappa wherein the revenue records were not transferred in the name of the plaintiff society on the basis of Gift Deed and it continued in the name of the said donor Gurumurthappa.
- 19.** The written statement filed by the defendant No.1 shows that his father Gurumurthappa was cultivating the suit schedule property till his death on 25.11.2009 and after his death the suit schedule property fell to the share of the



defendant No.1 in the partition. That apart, the defendants contended that they have perfected their title over the suit schedule property by way of adverse possession.

- 20.** The plaintiff society alleged that the defendant No.1 got converted the suit schedule property into non agriculture land and he is trying to form sites and sell the same. The documents produced by the defendant No.1 discloses that revenue records of the suit schedule property continued in the name of the Gurumurthappa on the basis of Sale deed dated 12.08.1958. It is the case of the plaintiff society that the said Gurumurthappa purchased the suit schedule property from Narasimhajois on 12.08.1958 and the said property was gifted to the plaintiff Society on 25.06.1966. Hence, the documents produced by the defendant No.1 corroborates the fact of acquisition of title over the suit schedule property by the said Gurumurthappa on the basis of Sale deed.
- 21.** The mutation entry order No. H1/2012-13 dated 19.12.2012 shows that the suit schedule property came to



be mutated in the name of the defendant No.1 on the basis of partition. Further, defendant No.1 has produced order of the Deputy Commissioner dated 30.01.2023 and 22.11.2024 as per which 39 guntas of land in Sy. No. 19/5 and 1 acre 4 guntas of land in Sy. No. 19/20 is converted for non agriculture purpose.

- 22.** The said documents discloses that the defendant No.1 is intending to form sites in the suit schedule property. The claim of either of the parties over the suit schedule property i.e., by the plaintiff on the basis of registered gift deed dated 25.06.1966 and by the defendants on the basis of adverse possession is yet to be decided. In the said circumstances, if the defendant No.1 succeed in selling the suit schedule property, it will change the nature of the subject of the suit and in the said circumstances, the very purpose of filing the suit will be defeated and it will cause irreparable injury to the plaintiff society which cannot be compensated in terms of money, as such, the balance of convenience tilts more in favour of the plaintiff Society



than the defendant No. 1. Accordingly, Point No. 2 and 3 are answered in the **Affirmative**.

23. POINT NO.4: In view of the reasons assigned above, I proceed to pass the following;

O R D E R

IA No. III filed by the plaintiff Society under Order 39 Rule 1 and 2 of CPC is hereby allowed.

The defendant No. 1 or anybody claiming through him are hereby temporarily restrained from alienating the suit schedule property till disposal of the suit.

Parties to bear their own costs.

(Directly dictated to the stenographer on the computer, printed through steno, corrected by me and then pronounced in the open court on this the **9th day of February, 2026**)

Sd/-
(POORNIMA. K. YADAV)
Addl. Sr. Civil Judge & JMFC,
Gubbi.