



IN THE COURT OF THE ADDL.CIVIL JUDGE AND
JMFC., Sira

Present: **Sharmila E.J.** BALL.B, LL.M.,
 Addl. Civil Judge & JMFC., Sira

Dated this the **4th** day of **August 2026**

Original Suit.No.478/2025

Plaintiff : Smt.Lakshamma
 (By Sri.R.V., Advocate)

-V/S-

Defendants : Sri.Mahadevaiah and others
 (By Sri.B.E., Advocate)

I.A. No.I

Applicant : Smt.Lakshamma (Plaintiff)

-V/s-

Opponents : Sri.Mahadevaiah and others Defendants)

i	<i>Provision under which the application is filed</i>	<i>Order XXXIX Rules 1 and 2 of CPC.</i>
ii	<i>Relief sought for</i>	<i>Temporary Injunction</i>
iii	<i>The date on which the application is filed</i>	<i>29.10.2025</i>
iv	<i>Number of the application</i>	<i>IA.No.I</i>
v	<i>The date on which the objections are filed by different opponents</i>	<i>03.02.2026</i>
vi	<i>The date on which the order was passed on the said application</i>	<i>04.08.2026</i>



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

The plaintiff has filed I.A.No.I under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking a temporary injunction restraining the defendants, their agents, servants, or anybody claiming through or under them from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, pending disposal of the suit.

2. It is averred in the affidavit filed in support of the application and in the plaint that the suit schedule property was originally granted in favour of the plaintiff's father. After the demise of her father, the revenue records were mutated in the name of her mother, who continued to be in lawful possession and enjoyment of the suit schedule property. It is further stated that, after the death of her mother, the plaintiff and her sister succeeded to the property and continued in possession and enjoyment thereof. It is further contended that disputes arose between herself and her sister regarding the suit schedule property and the plaintiff instituted suit in O.S.No.187/2019 seeking partition and separate possession. The said suit was subsequently settled by way of a lawful compromise, and a compromise decree came to be passed. Pursuant to the said compromise decree, the plaintiff claims to have become the absolute owner and to be in exclusive lawful possession of the suit schedule property. According to the plaintiff, despite having no manner of



right, title, interest or possession over the suit schedule property, the defendants are attempting to deny the plaintiff's title and interfere with her peaceful possession. It is specifically alleged that the defendants are making attempts to cultivate in the suit schedule property. It is asserted that the plaintiff has established a prima facie case, that the balance of convenience lies in her favour, and that if the defendants are not restrained by an order of temporary injunction, she would suffer irreparable loss and injury which cannot be adequately compensated in terms of money. On these grounds, the plaintiff has prayed for allowing the application.

3. Per contra, the defendants have filed their written statement as well as objections to the present application contending that the suit schedule property is a Government-granted property and that the plaintiff has suppressed the true facts of the case. It is their specific contention that their original propositus, Chinnobaiah was in possession and enjoyment of the suit schedule property. After his demise, his eldest son Obalanayaka, who is the father of the plaintiff and her sister, submitted an application seeking grant of the suit schedule property for the benefit of the joint family. Pursuant thereto, the Government granted the suit schedule property in favour of Obalanayaka and issued a Saguvali Chit in his name. However, according to the defendants, though the grant stood in the name of Obalanayaka, it was obtained for and on behalf of the entire



joint family, and therefore the suit schedule property constitutes joint family property descended from the original propositus, Chinnobaiah. The defendants further contend that they have already instituted O.S.No.131/2019 seeking partition and separate possession of the joint family properties, wherein the present suit schedule property has been included as Item No.14 of the plaint schedule. It is submitted that the plaintiff and her sister have entered appearance in the said suit and are contesting the proceedings through their counsel. It is further contended that, despite having full knowledge of the pendency of O.S.No.131/2019 and the claim therein that the suit schedule property is a joint family property, the plaintiff and her sister instituted O.S.No.187/2019 for partition and separate possession by claiming that the suit schedule property is the exclusive property of their father. According to the defendants, the said suit was collusively compromised and a compromise decree came to be passed on 13.07.2019, behind the back of the other coparceners. The defendants further submit that upon coming to know of the said compromise decree, the plaintiffs in O.S.No.131/2019 filed an application under Order VI Rule 17 of the Code of Civil Procedure seeking amendment of the plaint to incorporate a challenge to the compromise decree passed in O.S.No.187/2019 by pleading that the said compromise decree is null and void and not binding upon them and the said partition suit is still pending adjudication. It is



therefore contended that the title and nature of the suit schedule property are seriously disputed and are the subject matter of adjudication in the earlier partition suit. According to the defendants, the plaintiff, being only one of the members claiming through the joint family, cannot seek an order of temporary injunction against the other co-sharers or persons claiming co-ownership in respect of the joint family property. On these grounds, the defendants contend that the plaintiff has failed to establish a prima facie case, balance of convenience, or irreparable injury, and accordingly pray for dismissal of the present application.

4. Upon hearing both the learned counsel appearing for the plaintiff and defendants and perusing the materials available on record, the following points would arise for the determination of this court:

1. Whether the plaintiff has made out prima-facie case for grant of temporary injunction as sought for?
2. Whether the balance of convenience lies in favour of the plaintiff?
3. Whether the plaintiff will be put into irreparable loss and hardship if interim application is not allowed?
4. What order?

5. The findings of this Court to the above Points are as under:

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

6. Point No.1: Before proceeding further, it is made clear that the observations made herein are only for the purpose of deciding the present interlocutory application and shall not be construed as an expression of opinion on the merits of the suit, the title, or possession of the suit schedule property.

7. It is a settled principle of law that the grant of interim injunction during the pendency of legal proceedings is not a matter of right, but lies within the judicial discretion of the Court and is governed by three essential factors: (i) existence of a prima facie case, (ii) balance of convenience, and (iii) likelihood of irreparable injury if the relief is denied.

8. The present suit has been instituted by the plaintiff seeking the relief of permanent injunction restraining the defendants from interfering with her peaceful possession and enjoyment of the suit schedule property. It is the specific case of the plaintiff that the suit schedule property was originally granted in favour of her father and that, pursuant to the compromise decree passed in O.S. No.187/2019 between herself and her sister, she has become the



exclusive owner and is in lawful possession of the suit schedule property. In support of her claim, the plaintiff has produced copies of the RTC extracts, mutation register extracts, grant certificate, certified copy of the compromise decree passed in O.S.No.187/2019, copies of the orders passed in the RRT(A) proceedings, and the acknowledgment and endorsement issued by the Kallambella Police Station.

9. Per contra, the defendants contend that though the suit schedule property was granted in the name of the plaintiff's father, the grant was obtained for the benefit of the entire joint family and therefore, the suit schedule property is ancestral/joint family property. It is their further contention that they are in joint possession of the property and that O.S.No.131/2019, filed by them for partition and separate possession of the joint family properties, wherein the suit schedule property is also included, is pending adjudication before the competent Court. The defendants have produced the geneogical tree, copy of the plaint in O.S. No.131/2019 and copy of order passed on the application filed under Order VI Rule 17 of the Code of Civil Procedure in the said suit, to demonstrate that the compromise decree relied upon by the plaintiff is under challenge and that the question regarding the nature and character of the suit schedule property is already the subject matter of adjudication in the earlier partition suit.



10. On perusal of the material on record, it is evident that the title and possession of the suit schedule property are seriously disputed which requires evidence to be led during trial. As it is well settled principle of law that the court cannot conduct a mini trial at the time of deciding upon an application seeking temporary injunction. It is well settled that when both sides claim possession and title on the basis of documentary evidence, the Court, at the interlocutory stage, cannot finally adjudicate such issues.

11. In the present suit, the plaintiff claims exclusive possession over the suit schedule property on the basis of the compromise decree passed in O.S.No.187/2019. However, the defendants have placed on record the plaint in O.S. No.131/2019 to demonstrate that even prior to the compromise decree, they had already instituted a comprehensive suit for partition and separate possession claiming the suit schedule property as joint family property. It is also noticed from the records that the validity and binding nature of the decree relied upon by the plaintiff has been questioned in the said partition suit by way of amendment, which has been permitted by the competent Court. At this interlocutory stage, this Court cannot ignore the pendency of the earlier partition suit involving the very same property. The documents produced by the defendants prima facie disclose that the nature and character of the suit schedule property and the rights of the respective parties therein are already



pending before a competent civil court. Therefore, the claim of the plaintiff that she is the exclusive owner in possession of the suit schedule property cannot be accepted at this stage without recording evidence and adjudicating the rival claims. It is equally well settled principle of law that an order of temporary injunction cannot be granted merely because the plaintiff has produced certain revenue records or a compromise decree when the title and possession are seriously disputed by rival documentary evidence. Whether the compromise decree passed in O.S. No.187/2019 is binding upon the defendants, who were admittedly not parties to the said proceedings, is itself a matter requiring adjudication and cannot be decided at this interlocutory stage. Further, the defendants have specifically asserted that they are co-sharers claiming through the common ancestor and are in joint possession of the suit schedule property. Whether the suit schedule property is the exclusive property of the plaintiff or a joint family property is the principal issue that falls for determination in the pending litigation. At this stage, this Court cannot record a finding that the plaintiff alone is in settled possession of the suit schedule property. The evidentiary value and legal effect of the documents relied upon by both parties can be determined only after appreciation of evidence during trial. In the absence of clear prima facie material establishing the plaintiff's lawful possession over the suit schedule property, this Court is of the opinion that the plaintiff has failed to establish a prima facie



case for grant of temporary injunction. **Accordingly, this Court answers Point No.1 in the Negative.**

12. Point Nos.2 and 3: These two points being interrelated are taken up together for discussion. With regard to balance of convenience and irreparable loss, this Court places reliance upon the judgment of the Hon'ble High Court of Karnataka in *Gowrishankar Swamigalu V/s Siddaganga Mutt & others*, reported in ILR 1989 KAR 1701, wherein it has been held:

“...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...”.

In the present suit, as Point No.1 has been answered in the negative, it follows that the plaintiff has failed to establish a prima facie case. Consequently, the balance of convenience is also not in her favour, and she is not likely to suffer irreparable loss if the relief sought is refused. **Accordingly, this Court answers Point Nos.2 and 3 in the Negative.**



13. Point No.4: In view of the findings given on the above said points, this Court proceeds to pass the following;

O R D E R

**I.A.No.I filed by the plaintiff under Order
XXXIX Rules 1 and 2 of the Code of Civil
Procedure, 1908 is hereby dismissed.**

No order as to costs.

(Dictation given to the Stenographer, transcribed and computerized by him, then corrected, print out taken, signed by me and pronounced in the open court on this the 4th day of **August 2026**).

Sd/-
(Sharmila E.J.)
Addl. Civil Judge & JMFC.,
Sira.