

KAUK510004672025



Presented on : 26-03-2025

Registered on : 26-03-2025

Decided on :16-10-2025

IN THE COURT OF CIVIL JUDGE & JMFC, HALIYAL
AT: HALIYAL, UTTARA KANNADA

Dated this 16th day of October, 2025

PRESENT

Smt. Geeta. B.A.LL.B (Hon's) LL.M.,
Civil Judge and JMFC,Haliyal

ORIGINAL SUIT NO.43/2025

BETWEEN:

1. Yallari S/o Punnappa Shignolakar,
Age: 40 years, Occ : Agriculture,
R/o : Kalaginakoppa Village,
Tq: Haliyal, Dist: Uttar Kannada

.....**Plaintiff**

(By Shri. A.C.C., Advocate)

AND:

1. Satish S/o Martu Mahale,
Age : 45 years, Occ: Agriculture,
R/o : Sambrani, Tq: Haliyal,
Dist: Uttar Kannada.

.....**Defendant**

(By Sri. B.N.R/Sri. D.K.J, Advocates)

I.A.No.II

**Applicant/Pliff : Yallari S/o Punnappa
Shignolakar
-Vs.-**

Opponent/Deft : Satish S/o Martu Mahale

ORDERS ON I.A.No.II

The plaintiff filed I.A.No.II under Order XXXIX Rule 1 and 2 of C.P.C praying to grant temporary injunction restraining the defendant, his henchmen, or any person acting on his behalf from obstructing peaceful possession and enjoyment of suit property till disposal of the suit.

2. In the affidavit the plaintiff stated that, the suit property bearing R.S.No.18 measuring 4 acres is part and parcel of R.S No.20B/12 measuring 4 acres situated at Ajamanal Village and said property belongs to State Government. The ancestors of plaintiff have started to cultivate the said land since 65 to 70 years, after their death, the plaintiff alone is cultivating the said land since 20 years. The fact of cultivation of suit property by the plaintiff is within the knowledge of Government as well as public at large. In the year 2023, the plaintiff came to know that, one Vachappa S/o Takappa Lamani and others have filed W.P

No.85634-647/2013 and obtained order from the Hon'ble High Court of Karnataka against the plaintiff and others on 10.12.2014. Thereafter, the plaintiff continued his possession over the suit property and also filed many applications before the concerned authority to grant said land in his favour and same are pending for consideration.

3. Such being the case, the defendant colluding with revenue officials had surveyed the suit property and other properties and created some documents including maps. As per created documents and maps, property bearing Survey No.20B/12 situated at Ajamanal Village is converted into Block No.18 of Venktapura Village as per survey order No.10030124306213, dated 13.11.2024. In the said survey, it is mentioned that, the plaintiff has encroached the property measuring 4 acres in Survey No.18 i.e., present suit property. In reality, the plaintiff never encroached any property but, the plaintiff and his ancestors cultivating the suit property since longtime till this date without any obstructions. The suit property is not at all concerned to defendant but, he colluding with revenue officials has created maps and entered his name in the record of rights of R.S No.18 illegally. On the basis of illegal entry, the defendant is trying to dispossess the plaintiff from the

suit property. Hence, the plaintiff filed several applications before the Tahasildar, Deputy Commissioner, Police officials and also other Departments regarding illegal acts of defendant and his henchmen. All the while, the defendant gave threat of dispossession from suit property and also trying to destroy standing crops grown in the suit property. Therefore, the plaintiff requested defendant not to do such illegal activities stating that, the plaintiff is having every right to cultivate and protect his possession. The plaintiff and his ancestors are cultivating the suit property and elders of the locality are also advised defendant not to do illegal activities but, the defendant not heed the request of elders. On the contrary, gave threat to the plaintiff stating that, he already managed revenue officials and officials of other department. Hence, the plaintiff filed this suit along with this application. The plaintiff contended that, he has prima-facie case, balance of convenience lies in his favour and he has every chance of success in the case. With these contentions, he prayed to allow the application.

4. After issuance of suit summons, the defendant appeared through his counsel and filed written statement along with memo to consider written statement as objections to I.A No.II. In the written statement, the defendant denied the description of the

suit property and stated that, suit being one for bare injunction, in the absence of correct description, suit is not maintainable. The defendant contended that, suit property is not part and parcel of property bearing R.S.No.20B/12 but it is part and parcel of property bearing R.S.No.20B/112. The defendant contended that, after the death of ancestor of the plaintiff i.e., Punnappa Shignolkar, his five sons succeeded Block No.20B and other four LRs are not made as parties to this suit, therefore, the suit is not maintainable. The defendant admitted that, he and others had filed Writ Petition and obtained orders on 10.12.2014 and not against the plaintiff but, against State of Karnataka, Deputy Commissioner, Karwar and Tahasildar, Haliyal. Further, the plaintiff and others preferred Writ Appeal No.100536/2022 and same was disposed on 08.08.2023 observing that, they are not parties to Writ Petition and same is not binding on them. It is further observed that, said order does not cause prejudice or affect their alleged right, title or interest in any way and reserved liberty to take recourse to law. Further, the order passed in Writ Petition No.85634-85647/2013, dated 10.12.2014 was not set aside and they were not restrained from carrying out the survey work. Therefore, it is clear that, the claim of plaintiff is contingent, simply by making application to grant the

land will not invest him with any right to initiate any legal proceedings that too against the third party i.e., the defendant without perfecting his rights against the Government. As per the Order of the Hon'ble High Court of Karnataka, the survey work is conducted, the defendant being ordinary person, he colluding with revenue officials and creating documents and maps etc., are false.

5. The defendant contended that, the Government is the original owner of Block No.20B, in order to show that, from whom and how plaintiff derives right or interest in the suit land has not been stated. The Government is necessary party and it ought to have made as party after complying formalities under Section 80 of C.P.C. The suit property is granted to father of defendant by Government on 30.05.1971, since then he was in actual possession and enjoyment of the same. The plaintiff has no title to the suit property and he is not concerned to the same. The suit property is earlier Government land subsequently granted to the ancestors of the defendant, the plaintiff with malafide intention is attempting to grab the same by falsely contending that, he is cultivating the suit land since 65 to 70 years. There is no evidence to show that, the plaintiff is cultivating the suit land since 65 to 70 years and he is in possession. Admittedly, the suit is

Government land and the plaintiff is claiming right and interest over the suit land unless Government and survey authorities are made as parties, the suit for bare injunction cannot be adjudicated. Further, suit filed by the plaintiff without seeking the relief of declaration against the Government is not maintainable. The plaintiff has not disclosed how he derived right, interest and title over the suit property.

6. It is contended by the defendant that, originally Block No.20/B of Ajamanal Village was vast land totally measuring 574 acres, same belonged to Government and lying fallow. In order to bring the same under cultivation, the Government decided to grant the same to poor, fit and landless persons and invited applications. Accordingly, granted the same to 142 landless persons under its Order No.LGL-SR-1646. The father of defendant had also applied for grant of land and 4 acres of land was granted to him. After survey, as per order of the Hon'ble High Court of Karnataka, same is numbered as R.S No.18. As per grant, the name of father of defendant is entered as M.E No.173 and after the death of father of plaintiff by name Matru, there was family arrangement and suit property fallen to the share of defendant and his name entered as per M.E No.553. Since the date of grant, father of defendant was in possession and after his

death, the defendant is in possession of said land. As per nature of land, the defendant is in possession of the land less than actual extent of land granted by the Government. Since the grantees are large in number, many of the grantees was not in possession of their actual extent of land and some were in possession of more than their actual extent. Therefore, including defendant, many of the grantees made several representations to D.C and Survey authorities to measure, demarcate and fixed Hudbust but, the concerned authorities did not take any action. Therefore, some of the grantees including defendant have filed W.P No.85634 to 85647/2013 for issuing necessary directions to concerned authorities. The said petition was disposed on 10.12.2014 and issued direction to the concerned authorities to review applications filed by each grantees in the year 1999 or earlier seeking Hudbust of lands and to compare the same with original grant order and ensure that, each of the grantee is put in possession of the extent of land granted to him. It is further observed that, while conducting said exercise none of the grantee shall entitled to seek retention of excess land in their cultivation on the ground that, they have sunk well or made out any improvement or construction or any development activities in the said extent.

7. It is further contended that, the ancestors of the plaintiff are also granted 4 acres of land by the Government, after the death of original grantee, the plaintiff and his brothers succeeded the same. It is simply contended that, they are cultivating the said land since 65 to 70 years and may the representation to the concerned authorities for grant of the same. In the year 1979 itself, defendant's father is granted 4 acres i.e., suit land after 8 years, the plaintiff and 55 others challenged the order of the Hon'ble Court in Writ Appeal No.100534/2022 on the ground that, they are cultivating lands claimed by the defendant and others. On 8.8.2023, said appeal came to be disposed of holding that, the plaintiff and others are not parties to said order and said order is not binding upon them by reserving liberty to take recourse to law. The W.P No.85634 to 85647/2013 were filed against State of Karnataka, the Deputy Commissioner, Karwar and Tahasildar, Haliyal and order dated 10.12.2014 passed by the Hon'ble High Court of Karnataka in W.P No.85634 to 85647/2013 were not specifically set aside. Therefore, the concerned authorities had proceeded with survey work as per direction in W.P No.85634 to 85647/2013. The plaintiff has no title to suit property or in possession, the land is already

granted to father of defendant, therefore, the suit is not maintainable.

8. It is further contended that, as per the observations in Writ Petition, the Deputy Commissioner and Survey authorities took steps for measurement, demark the boundaries of each grantees and put them in actual possession as per original grant order. After demarcation and fixing boundaries of 4 acres, same is handed over to defendant together with encroached area and possession certificate is also issued to defendant on 29.09.2024. The defendant was in possession of the suit land but, in less extent. Such being the case, the plaintiff in order to lay false claim over the defendant's land by colluding with revenue officials got created false documents and maps etc., therefore, suit is liable to be dismissed.

9. It is contended that, as per the plaint averments, suit property belongs to Government, the plaintiff has not disclosed how he derived right, title, interest over the suit suit property and what basis and he is claiming adverse possession over the suit property has not been stated. Therefore, until he claims the relief of declaration over the suit property, suit for bare injunction is not maintainable. With these

contentions, the defendant prayed to dismiss the application.

10. Heard both counsel and perused the records.

11. Now the points that arise for consideration are as under;

1. Whether the plaintiff has made out prima facie case to grant of temporary injunction?

2. Whether the plaintiff proves balance of convenience lies more in his favor?

3. Whether the plaintiff proves irreparable loss will be caused more to him, if temporary injunction is not granted?

4. What order?

12. Answers on 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 final order

for the following;

REASONS

13. **POINT NO.1 TO 3:-** In order to avoid the repetition of facts and for the sake of convenience these points are taken together for discussion.

It is the case of the plaintiff that, he is in possession and enjoyment of suit property i.e., R.S/Block No.18 measuring 4 acres situated at Venktapura Village. Initially, said property is part and parcel of R.S No.20B/12 and now it is renumbered as R.S No.141. The plaintiff's ancestors were in possession of suit property since 65 to 70 years and plaintiff is in possession and cultivation of suit property since 20 years. The defendant colluding with revenue officials has got surveyed suit property and created some documents and maps, thereby, threatening plaintiff of dispossession and trying to destroy the crops standing in the suit property. The defendant denied the contentions of the plaintiff and also specifically denied the description of suit property and stated that, suit property was granted to his father by the Government on 30.05.1971, since then he is in possession and enjoyment of suit property. As per grant order, the name of father defendant by name Matru was entered as per M.E No.173, after his death, in family arrangement, suit property fallen to his share and his

name entered in revenue records as per M.E.No.553, since then he is in possession of suit property. As per the nature of and, the defendant is possession of less than the actual extent of land granted by government. Some of the grantees were not in possession of the land granted to them and some of them were in less extent and some of them were in possession of more than the actual grant, therefore, they approached the Hon'ble High Court of Karnataka by filing Writ Petition No.85634 to 85647/2013. Thereafter, the Hon'ble High Court of Karnataka directed the Deputy Commissioner and survey authorities to take steps for measurement, demark the boundaries of each grantees and put them in actual possession as per the grant order. After survey and demarcation, grantees were put in possession and a new R.S number is given to Block No.20B/112 as R.S No.18 and handed over the possession of the granted land including encroached area to defendant and possession certificate is also issued to him on 29-09-2024. The defendant was in possession of suit land but less in extent. In order to lay false claim over the defendant's land plaintiff filed this suit, therefore, the suit and the application filed by the plaintiff are not maintainable.

14. In order to prove his contention, the plaintiff produced RTC extract with respect to land bearing

Survey No.18/** of Venktapur Village of Sambrani Hobli, Haliyal Taluk for the year 2023-24, in which land measuring 4 acres stands in the name of defendant. RTC extract with respect to land bearing Survey No.20*/B12 of Ajamanal Village of Sambrani Hobli, Haliyal Taluk for the year 2012-13, in which 4 acres stands in the name of Savitri W/o Mallappa Nagashree. The plaintiff produced Hudbust/Survey Map, in which it is clearly mentioned that Block No.18 is encroached by the owners of Block No.17. The plaintiff produced Letter dated 28.02.2025, certified copy of Order in W.P Nos.85634-85647/2013(KLR-RES), certified copy of Order in Writ Appeal no.100536 of 2022 (KLR-RES), copy of Letter dated 24.07.2017, copies of Postal Acknowledgments, copy of Photo, copy of Form No.57, copy of Ration Card, copy of Aadhaar Card of plaintiff, copy of Objection filed to application for Hadbastu, copy of Requisition letter dated 24.06.2024, copy of Form No.57 dated 24.06.2024, copy of complaint, copy of Postal receipts.

15. In order to prove his contention, the defendant produced copy of Form No.V dated 05.08.2015, as per this document R.S.No.20B/112 was granted to father of defendant on 02.05.1971. The defendant also produced certified copy of M.E No.173, certified copy of M.E No.553, MR No.22/2009-2010, MR

No.11/2008-09, as per these documents, after grant, the name of father of defendant entered in revenue records, after his death in family arrangement said property was fallen to the share of defendant and his name entered in revenue records. The defendant produced possession certificate dated 29.09.2024 and Survey map, as per these documents possession of Block No.18 was handed over to defendant on 29.09.2024. The defendant produced RTC extract with respect to land bearing Survey No.18/** of Venktapur Village of Sambrani Hobli, Tq: Haliyal for the year 2024-25, in which name of defendant shown as owner. The defendant produced computerized copies of Photos, Survey map, MR No.T10-2012-13, as per these documents, 4 acres of land out of Block No.20/** was shown in the name of defendant. As per MR No.T9/2023-24 land measuring 4 acres granted to defendant is numbered as R.S.No.18. The defendant produced RTC extract with respect to land bearing Survey No.17/** of Venktapur Village of Sambrani Hobli, Tq: Haliyal for the year 2024-25, which stands in the name of plaintiff and his brothers jointly. The defendant produced RTC extract with respect to land bearing Survey No.19/** of Venktapur Village of Sambrani Hobli, Tq: Haliyal for the year 2024-25, Tax Paid Receipts, Khata Utar of Khata No.60 and Block

No.18 of Venktapur Village of Sambrani Hobli, Tq: Haliyal.

16. On perusal of entire records, it is true that, suit land i.e., Block No.20B/112 measuring 4 acres was granted to father of defendant on 22.5.1971 and his name entered in the revenue records and to that effect M.E No.173 dated 06.07.1971 was effected. Thereafter, said property was fallen to the share of defendant and his name was entered in the revenue records and to that effect M.E No.553 dated 08.03.1985 was effected. RTC extract with respect to said land also stands in the name of defendant and he is paying tax to the Government. However, on perusal of documents produced by the plaintiff, it appears that, though the suit property was granted to the father of defendant in the year 1971, said land was not in possession of father of defendant and defendant. As per survey report dated 03.09.2024, it is in possession of owners of Block No. 17 i.e., plaintiff. Though the possession certificate was issued to defendant on 29.09.2024, but at this stage, there are no documents produced to show that possession was taken from plaintiff and handed over to defendant.

17. Further, the defendant and others filed Writ Petition No.85634 to 85647/2013 against State of

Karnataka, Deputy Commissioner, Karwar and Tahasildar, Haliyal alleging that, the Government had called for applications from the landless agricultural coolies in the year 1977 and they have filed applications, based on which, an extent of 4 acres was granted to each of the applicants in R.S No.20 and R.S No.5 of Ajamanal Village. Though the grant was made in the year 1971 but, the respondent no.2 and 3 i.e., D.C, Karwar and Tahasildar, Haliyal did not take proper steps for identifying the extent of land granted to each grantees by conducting Hudbust of said land and they sought Hudbust of lands granted to each grantees. In view of said Writ Petition, the Hon'ble High Court of Karnataka directed the respondent no.2 i.e., Deputy Commissioner, Karwar to review the applications filed by each grantees in the year 1999 and earlier seeking Hudbust of land and same shall be compared to original grant order and shall ensure that, each of the grantee is put in possession of the extent of land granted by the Government under original grant order. But, the defendant and others have not made plaintiff and others as party to said Writ Petition. Therefore, though the plaintiff and others have preferred Writ Appeal No.100536 of 2022, the Hon'ble High Court of Karnataka, Dharwad Bench observed that, the order passed in Writ Petition No.85634 to 85647 of 2013 is

not binding on the appellants i.e., present plaintiff and others reserving the liberty to take recourse to such remedies as available under the law.

18. Therefore, it is proved that, though the suit property was granted to defendant in the year 1971 but, he was not in possession of suit land. The defendant himself admitted in the written statement that he was in possession of less extent of land. Further, on 03.09.2024 Surveyor, ADLR Office, Haliyal submitted report stating that, R.S No.18 is encroached by the land owners of Block No.17. The plaintiff being owner of Block No.17 has encroached Block No.18. Therefore, prima-facie it is proved that, the plaintiff is in possession of suit land by way of encroachment.

19. Though the suit land is granted to father of defendant in the year 1971 but, at present, it appears that, plaintiff is in possession of the suit property. Therefore, possession of plaintiff is to be protected till he is vacated from the suit land through due process of law. Further, there are no documents to show that, Tahasildar, Haliyal or D.C, Karwar or Surveyor has taken possession from plaintiff before issuing possession certificate to defendant. Under these circumstances, it is proper to protect the possession of

the plaintiff over the suit property till he is vacated as per law.

20. In ***Smt. A.Y. Satyavati vs. Sri. Danushree and another, MFA No.4702/2025 dated 22.07.2025***, the Hon'ble High Court of Karnataka held that, it is well settled principle that, possession, even if not rooted in absolute title, is nonetheless a right in itself. Possession lawfully obtained must be protected against unlawful interference. Even a person in possession without title is entitled to protect his possession against the whole world except the rightful owner. In the case on hand, it prima-facie appears that, the plaintiff is in possession of suit land. Though the suit land is granted to defendant, but from the records, it appears that, he is not in possession of the suit property. Under these circumstances, the possession of plaintiff is to be protected until he vacated through due process of law.

21. In ***Dalpat Kumar vs Prahlad Singh (1992) 1 SCC 719***, the Hon'ble Supreme Court held that, it is settled law that, the grant of injunction is a discretionary relief, the exercise thereof is subject to the Court satisfying that, (1) there is serious disputed question to be tried in the suit and that the act, on the facts before the Court, there is probability of his being

entitled to the relief asked for by the plaintiff/defendant. (2) The Courts interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would enure before the legal right would be establish at trial. (3) That the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it.

22. In the case on hand, the plaintiff prima-facie proved his possession over the suit property and the defendant is contending that, suit land is granted to him and he is in possession of the same since the date of grant. Therefore, there is a question to be tried at trial. Further, admittedly, the suit property is an agricultural land and plaintiff sought the relief of permanent injunction alleging that, he is in possession of the suit property and defendant is trying to dispossess him and destroy the crops standing in the suit property. From the records, it appears that, the plaintiff is in possession of the suit property, at this stage, if temporary injunction is not granted and if defendant interferes with the plaintiff's possession and destroy crops standing in the suit land, certainly the comparative hardship will be more to plaintiff. Moreover, the plaintiff sought for the relief of injunction

simplicitor, from the records, it appears that, the plaintiff is in possession of the suit property, therefore, the balance of convenience lies in favour of the plaintiff. Therefore, at this stage, the plaintiff has made out prima-facie grounds to grant temporary injunction.

23. Further, the defendant contended that, description of suit property and boundaries shown in the plaint are not correct. It is well settled principle of law that, while considering application for grant of temporary injunction, the Court has to consider prima-facie case to go for trial and at this stage, it cannot conduct mini trial. Therefore, at this stage, the plaintiff is entitled for grant of temporary injunction.

24. Under these circumstances, at this stage, the plaintiff has made out prima-facie case. From the documents, the balance of convenience lies in favour of the plaintiff, if temporary injunction is not granted, the defendant may dispossess plaintiff from the suit property without due process of law. Therefore, till conclusion of the suit, possession of the suit has to be protected. Hence, the plaintiff has made out grounds to allow the application. Hence, **I answer Point No.1 to 3 in the Affirmative.**

25. POINT NO.4:- In view of the discussion on Points No.1 to 3 and for the reasons stated therein, I proceed to pass the following;

ORDER

I.A.No.II filed by the plaintiff under Order XXXIX Rule 1 and 2 of C.P.C., is hereby allowed.

The defendant, his henchmen or any person acting on his behalf are hereby restrained from obstructing peaceful possession and enjoyment of suit property by the plaintiff till disposal of the suit.

No order as to costs.

(Dictated to the Stenographer directly on computer, typed by her, then corrected, signed and pronounced by me in the Open Court on this the **16th day of October, 2025**)

Sd/-
(GEETA)
Civil Judge and JMFC.,
Haliyal