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**IN THE COURT OF THE CIVIL JUDGE AND JMFC
AT SIDDAPUR.**

Dated this 20th day of August, 2026.

**Present : SRI. HARISHKUMAR.M, B.Com., LL.B.,
Civil Judge and JMFC, Siddapur.**

O.S. No. 31/2026

PLAINT CAUSE TITLE

PLAINTIFF:-

Sri. Ishwar Rama Naik,
Aged about 65 years,
Occ: Agriculturist,
R/at Gijagara,
Muttige Village(Gunjagoda),
Gunjagoda Post,
Siddapur Taluk,
Uttara Kannada District,
(By Sri.R.P.B., Advocate)

V/s.

DEFENDANT/S:-

1. Sri. Raghupati Rama Naik,
Aged about 55 years,
Occ: Agriculturist,
R/at Gijagara,
Muttige Village(Gunjagoda),
Gunjagoda Post,
Siddapur Taluk,
Uttara Kannada District.



2. Sri. Rajkumar Rama Naik,
Aged about 50 years,
Occ: Agriculturist,
R/at Harakanahalli,
Gunjagoda Post,
Siddapur Taluk,
Uttara Kannada District.
(By Sri. R.K.N., Advocate)

IA. NO. 1 CAUSE TITLE

Applicant/Plaintiff:-

Sri. Ishwar Rama Naik,
Aged about 65 years,
Occ: Agriculturist,
R/at Gijagara,
Muttige Village(Gunjagoda),
Gunjagoda Post,
Siddapur Taluk,
Uttara Kannada District,

V/s.

Opponents/Defendants:-

1. Sri. Raghupati Rama Naik,
Aged about 55 years,
Occ: Agriculturist,
R/at Gijagara,
Muttige Village(Gunjagoda),
Gunjagoda Post,
Siddapur Taluk,
Uttara Kannada District.

AND ANOTHER..

1	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2 of CPC.
2	Relief sought for	Seeking to grant temporary injunction against the



		defendants restraining them from interfering in the peaceful possession and enjoyment of the schedule property, till the disposal of the suit.
3	The date on which the application is filed	06.04.2026
4	Number of the application	1
5	The date on which the objections are filed by different opponents	Nil
6	The date on which the orders were passed on the said application.	20.08.2026

ORDER ON INTERLOCUTORY APPLICATION NO.1 UNDER ORDER XXXIX RULES 1 AND 2 OF CODE OF CIVIL PROCEDURE FILED BY THE PLAINTIFF.

1. The plaintiff herein filed interlocutory application under Order XXXIX Rule 1 and 2 of Civil Procedure Code as per IA.No.1, seeking to grant temporary injunction against the defendants restraining them from interfering in the peaceful possession and enjoyment of the schedule property, till the disposal of the suit.
2. The plaintiff herein filed this suit for the relief of permanent injunction restraining the defendants from interfering in the



peaceful possession and enjoyment of the suit schedule property and such other reliefs.

3. On the other hand, the defendants have appeared before the Court through their counsel, but they have not filed written statement and objections to IA No.1.
4. Heard arguments of learned counsel for plaintiff and the defendants have not addressed their arguments and this Court perused the material available on records.
5. This Court has framed the following points for consideration;
 - 1. Whether plaintiff has made out prima-facie case for grant of temporary injunction in his favour?**
 - 2. Does the balance of convenience lies?**
 - 3. Whether the plaintiff would suffer irreparable loss or injury, if temporary injunction is refused?**
 - 4. What order?**
6. Findings of this Court on these 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 the final order for the following;



REASONS

7. **POINT NO.1:-** It is a matter of record that the plaintiff herein filed this suit for the relief of permanent injunction restraining the defendants from interfering in the peaceful possession and enjoyment of the suit schedule property based on the ground that, the plaintiff is the owner of the the suit schedule property and the same has been acquired by way of partition. The defendants are the brothers of plaintiff and they are also having 0-13-00 guntas of land each which are adjacent to the suit schedule property and they are trying to interfering in the peaceful possession and enjoyment of the same. Hence, the plaintiff herein filed this suit.
8. The plaintiff has also filed interlocutory application under Order XXXIX Rule 1 and 2 of Civil Procedure Code as per IA.No.1, seeking to grant temporary injunction against the defendants restraining them from interfering in the peaceful possession and enjoyment of the schedule property, till the disposal of the suit and prays to grant temporary injunction as prayed for.
9. On the other hand, the defendants herein appeared before the court through their counsel, but they have not filed their written statement and they have not filed statement of objections to IA No.1.



10. The plaintiff has produced the RTC extracts, mutation register extracts, survey Sketch in support of his case. On the other hand, the defendants have not produced any documents .
11. The learned counsel for the plaintiff has addressed his arguments on IA.No.1 and he has reiterated the facts mentioned in the pleadings. Per contra, the learned counsel for defendants has not addressed his arguments.
12. At this stage, it is pertinent to note that, to grant or not to grant the interim injunction has to be taken, a time when the existence of the legal right assailed by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. Relief by way of interim injunction is granted to mitigate the risk of injustice to the plaintiff during the period before the uncertainty could be resolved. The object of interim injunction is to protect plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection has, however, to be weighted against the corresponding need of the defendant to be protected against injury resulting from preventing him exercising legal right for which he could not adequately be compensated.



13. The primary purpose of granting interim relief is the preservation of the property in dispute till legal rights and conflicting claims of the parties before the court are adjudicated.
14. At this stage, it is profitable to refer the provisions of order XXXIX Rule 1 of CPC as hereunder;

Rule 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 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.

An injunction is a judicial process whereby a party is required to do, or to refrain from doing, any particular act. It



is a remedy in the form of an order of the court addressed to a particular person that either prohibits him from doing or continuing to do a particular act or orders him to carry out a certain act.

15. Order XXXIX Rule 1 of C.P.C., enumerates the circumstances in which temporary injunctions could be granted. Where in any suit it is proved by affidavit or otherwise. A Plaintiff could seek an ex-parte temporary injunction where he is able to convince the court that one or the more of the circumstances enumerated in Order XXXIX Rule 1 of CPC exists and delay would defeat the claim. On being satisfied that the claim of the plaintiff is probable ex-parte injunction could be granted by the court after recording the existence of the circumstances referred to in Order XXXIX Rule 1 of CPC.
16. At this stage it is profitable to refer the provisions of Section 37 of Specific Relief Act as hereunder;

Section 37. Temporary and perpetual injunctions.—

(1) Temporary injunctions are such as are to continue until a specific time, or until the further order of the court, and they maybe granted at any stage of a suit, and are regulated by the Code of Civil Procedure, 1908 (5 of 1908).

(2) A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit; the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.



17. By applying the above principles, in the instant case, the plaintiff herein claiming temporary injunction against the defendants based on the fact that, the plaintiff herein peaceful possession and enjoyment of suit schedule property and the defendants herein interfering in the peaceful possession and enjoyment of the suit schedule property. In support of his case, he has produced the RTC extracts, the RTC extracts reveals that, the land bearing Sy. No. 26/2 measuring 0-14-00 Guntas of land standing in the name of plaintiff and the same has been mutated as per MR.No.T-27/2016-17 and the name of the plaintiff is appearing in the cultivators column. The Survey sketch reveals that the property bearing Sy.NO26 has been phoded as per survey No.26/1, 26/2, 26/3 and 26/5. On the other hand, the defendants have failed to contest the IA No.1 and failed to file written statement.
18. In the present case, the main issue is that, whether the plaintiff is in possession and enjoyment of the suit schedule property as alleged in the plaint and there is an alleged interference by the defendant as alleged in the plaint? In order to suffice the same, the plaintiff has produced the RTC extracts, mutation register extract and survey sketch. If the plaintiff herein succeeded to prove his case, obviously he is entitle for the relief as prayed for, if not the suit may be dismissed. Under such circumstances, the court has to



apply judicious mind while adjudication of IA No. 1. It is the duty of the Court to protect the rights of both the parties.

19. Based on the above observation, the plaintiff has made out grounds to grant temporary injunction as prayed, hence this Court answers Point No.1 in the affirmative.
20. **POINTS NO.2 AND 3:-** The second condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. In other words, the Court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.
21. The existence of the prima facie case alone does not entitle the applicant for a temporary injunction. The applicant must further satisfy the Court about the third condition by showing that he will suffer irreparable injury if the injunction as prayed is not granted and that there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury.
22. By applying the above principles, in order to ascertain the balance of convenience and irreparable loss and injury, this Court has carefully perused the materials on record. Based on the materials available on record and based on the above observations as well as observation made in point No. 1, this



Court is of the opinion that if the temporary injunction is not granted, more hardship will be caused to the plaintiff, but if the injunction is granted no hardship will be caused to the defendants and it is necessary to protect the rights of both parties to the suit, with these observations this Court answers Points No.2 and 3 in the affirmative.

23. **POINT NO.4:-** For the aforesaid discussions as mentioned in the Points No.1 to 3, this Court proceed to pass the following order;

ORDER

Interlocutory Application No.1 filed by the plaintiff under Order XXXIX Rules 1 and 2 of Code of Civil Procedure is hereby allowed.

Accordingly, the defendants are hereby temporarily restrained from interfering in the peaceful possession and enjoyment of the suit schedule property of the plaintiff till the disposal of the suit.

Considering the facts and circumstances of the case parties shall bear their own cost.

(Dictated to the stenographer directly on the computer, transcript corrected by me, initialed by me and then pronounced in the open Court on this 20th day of August, 2026).

**20.08.2026
Civil Judge & JMFC,
Siddapur.**