

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

Present: **Smt.Hema Pastapur**, B.A., LL.B.
Senior Civil Judge and JMFC,
Shahapur.

OS No.229/2025

Dated this the 02nd day of June-2026

Plaintiff:- Hanumantha S/o Bhimappa Kavali,
Age 65 years, Occ. Agri, R/o Hayyal (K),
Tq. Vadagera, Dist. Yadgir.

(By Sri. R.H.K., Advocate)

Versus

Defendant:- Devindramma D/o Mareppa W/o
Siddappa, Age 50 years, Occ. Agri, R/o
Yakshinthe, Tq. Vdagera, Dist. Yadgir.

(By Sri. R.M.H., Advocate)

IA No.I

Dated: 11-12-2025

Memo filed on 15-04-2026 for adopting
the contents of written statement as
objections to IA No.I.

Disposal off IA No.I dated 02-06-2026.

ORDER

1. That, the Plaintiff filed the application under Order XXXIX
Rule 1 and 2 of the Code of Civil Procedure, with a prayer to
restrain the defendant from interfering in his peaceful
possession and enjoyment over the suit properties till the
disposal of the present suit.

2. That, the plaintiff in his affidavit has contended that he
had acquired the suit properties from his grandfather and great

grandmother and the Revenue authorities without any basis have passed the illegal entries and which has caused conflict between him and the defendant. That, the plaintiff further contended that the defendant without having any knowledge about the said suit lands and on the basis of the said illegal entries filed the suits in respect of the suit properties and suppressing the material facts had obtained the exparte decree from this Court in OS No.22/2022 and trying to disposes him from the suit properties. Hence, it is very much necessary to restrain the defendant from interfering in his peaceful possession over the suit properties.

3. That, the defendant has filed her written statement and has contended that the suit properties are her ancestral properties and the plaintiff filed the Crl.Misc.No.655/2018 and 672/2018 for getting the death certificates of one deceased Sri. Bhimappa S/o Balappa and deceased Sri. Balappa S/o Ramappa alleging that they were his uncles and on the basis of said death certificates had got mutated his name in RORs in respect of the suit lands and for which she and her mother have instituted the suit in O.S.No.22/2022 and in said suit though, summons were duly served upon the present plaintiff but, he intentionally not appeared before the Court and the said matter is till pending for adjudication.

4. That, the defendant has further contended that before this Court suit in O.S.No.136/2025 is pending for adjudication and the same has been filed for the relief of Specific Performance and in the said suit it had been contended that one Hanumanth S/o Rangappa is the owner and possessor of the suit land bearing Sy.No.87/5 measuring 01 acre 26 guntas and he agreed to sell the same to one Hanamanth S/o Bhimappa for a valuable sale consideration of Rs.6,50,000/- and executed a Registered Agreement of sale document bearing No.1759/2023-24 dated 20-06-2023 and a some of Rs.5,92,000/- had been received as an earnest money. That, the defendant has further contended that in alleged suit it has been contended that the plaintiff had requested the said Hanamanth S/o Bhimappa for executing Registered Sale Deed by taking balance sale consideration amount and the said suit is pending for disposal. If such being the case, if the interim relief is granted it leads to multiplicity of litigations. Hence, the defendant has prayed for dismissing the suit with cost.

5. That, the defendant filed a memo on 15-04-2026 for adopting the said written statement as objections to IA No.I.

6. That, I have heard the arguments and perused the materials placed on record.

7. That, the following points arise for My consideration and determination:-

1. Whether the plaintiff has made out that, a prima facie case and balance of convenience tilts in his favour and irreparable injury causes to him if interim relief is not granted in his favour?

2. What order?

8. That, My answer to the aforesaid points are as under :-

Point No.1:- In the **AFFIRMATIVE**.

Point No.2:- As per the final order for the following :-

:- R E A S O N S :-

9. **Point No.1:-** It is pertinent to noted here that, the primary purpose of granting the interim relief is the preservation of the property in dispute till legal rights and conflicting claims of the parties before Court are adjudicated. In other words, the object of making an order regarding the interim relief is to evolve a workable formula to the extent called for by the demands of situation, keeping in mind the pros and cons of the matter and striking a delicate balance between two conflicting interests i.e. injury and prejudice. That, generally before granting the interim injunction the Court must be satisfied about the following slots :-

(a) **Prima facie case:-** That, the Court must be satisfied that there is a bonafide dispute raised by the applicant. That, the existence of a prima facie right and infraction of such right is a condition precedent for grant of temporary injunction.

(b) **Irreparable Injury :-** That, the existence of the prima facie case alone does not entitle the applicant for a temporary injunction. That, the Court must be satisfied that refusal to grant injunction would result in irreparable injury to the party seeking the relief and he needs to be protected from the consequences of the apprehended injury. That, the irreparable injury means that the injury must be a material one i.e. which cannot be adequately compensated by damages.

(c) **Balance of convenience:-** That, the third condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. That, in other 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 then that which is likely to be caused to the opposite party by granting it. That, the Court must weigh one need against another and determine where the balance of convenience lies.

10. It is significant to note here that, interim relief is an equitable relief and the party who seeks the equity must do the equity.

11. It is to be noted here that, the plaintiff is claiming for issuing temporary injunction order against the defendant to restrain him from interfering in his peaceful possession over the suit properties. It is to be noted here that, the defendant in support of her said contentions has submitted certified copy of Judgment and Decree passed in O.S.No.22/2022, office copy of Legal notice and certified copies Petitions filed U/s. 13(3) of Birth and Death Registration Act in CrI.Misc.No.655/2018 and 672/2018 and also furnished the Orders passed in the said petitions. It is to be noted here that, the present suit is one for Declaration and Injunction. It is to be noted here that, the plaintiff is claiming that, he is the owner and possessor of the suit property and the same are his ancestral properties and the defendant suppressing the material facts had got obtained the decree in O.S.No.22/2022 and on the basis of the said decree is trying to interfere in her peaceful possession and enjoyment over the said properties. It is to be noted here that, the contentions urged by the defendant require full fledged trial. It is to be noted here that, if the defendant is not restrained from interfering in peaceful possession of the plaintiff over the suit

property then irreparable injury causes to him. Hence, without much discussion, I hold that, the plaintiff has made out a prima facie case and balance of convenience tilts in his favour and if the interim relief is not granted then irreparable injury causes to him. Hence, without much discussion, I answer point No.1 in the **AFFIRMATIVE**.

12. **Point No.2** :- That, as discussed on points No.1 and 2, I proceed to pass the following:-

:- O R D E R :-

That, the application filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC-I.A.No.I is hereby allowed.

That, the defendant is restrained by way of temporary injunction from interfering in peaceful possession and enjoyment of the plaintiff over the suit properties, til final disposal of the suit.

That, no order as to costs.

(Directly dictated to the typist-copyist, typed by him, corrected by me and then pronounced in the open Court on this 02nd day of June-2026).

(Hema Pastapur)
Sr. Civil Judge & JMFC,
Shahapur.