

**IN THE COURT OF THE III ADDL. CIVIL JUDGE &
JMFC, AT DHARWAD**

PRESENT

Sri. Yallappa Kallapur, B.A., LL.B, LL.M.,
C/C III ADDL.CIVIL JUDGE & JMFC,
DHARWAD

DATED THIS THE 30th DAY OF APRIL-2026

O.S. NO.10/2026

PLAINTIFF/S : Smt.Mamata W/o Mohan Walvekar

-Vs.-

DEFENDANT/S:Krutika M.T. D/o Mudiraddi
Tabaraddi

I.A.No.IV and V.

(Ori) PLAINTIFF/S/APPLICANT/S:

Smt.Mamata W/o Mohan Walvekar

(By Sri.BMS.,Advocate)

-Vs-

Ori DEFENDANT/S/OPPONENT/S:

Krutika M.T. D/o Mudiraddi Tabaraddi

(By Sri. RHA Advocate)

**COMMON ORDERS ON I.A. NO. IV AND V FILED U/O
39 RULE 1 AND 2 OF CPC and 39 RULE 4 OF CPC**

The plaintiff filed IA.IV filed under Order XXXIX
Rule 1 and 2 CPC, prayed to restrain the defendant,
her henchmen or any persons on her behalf not to evict
forcibly/interfere with her peaceful possession in the

suit property without following any due process of law, till disposal of suit.

2. IA No. V filed by defendant under Order XXXIX Rule 4 CPC. prayed to vacate ad-interim ex-parte temporary injunction granted on 31.12.2025 for vacating of stay, by allowing this application.

3. Plaintiff swear to an affidavit and pleaded that, the defendant with an intention to evict her and her family members from suit property trying to interfering with her peaceful possession and even given threatened her to vacate the premises forcibly without following due process of law by taking the law in to their own hands. Further swear that, in the month of November 2025 the defendant and her close relative by name Shrikant Patil attempted to evict her forcibly through Jurisdictional Police Sub Urban Police Inspector, anyhow she rescued from evicting the premises, as she was given a time by the defendant to evict the rented premises and they have given a dead line on or before 28th December 2025 to vacate the house without any legal process. She is having prima facie case and balance of convenience lies in her favour. If TI is not granted there is every chance, the defendant will take law in to their hands and evict/vacate her from the suit property, then the purpose of filing of this suit will be defeated and herself and his ill-health husband and family

members will be put to irreparable loss and hardship will be caused, which cannot be compensated in terms of money. Hence, prayed to pass ad interim temporary injunction.

4. After proper service of summons, defendant appeared through his counsel and filed the written statement to IA No. IV. The defendant contended that, the plaintiff has filed the suit by suppressing the material facts and filed a false, vexatious, dubious suit by making averments in the plaint. It is falsely contended that, there was oral agreement of rent in August 2025 a monthly rent of Rs.9000/- instead of Rs.18,000/- for two months only on requirement of construction of their house. It is falsely contended that, the plaintiff has paid Rs.1,00,000/- as deposit for the suit property. But the cheque was not deposited by her. But the plaintiff has not paid rent till today but purposefully they transferred an amount of Rs.9,000/- for the false claim. The plaintiff by creating a false story has filed a false suit against her. She deny that there was an oral agreement for long term tenancy and the tenancy commences at August 2025 and she has put the plaintiff in possession of the property only on 22.08.2025 and the plaintiff has agreed to vacate the suit premises as on or before 28.11.2025 as per vide document named and styled as well opige patra duly signed by the plaintiff and her son in the presence of

the witness on 28.10.2025. The plaintiff having accepted the terms and conditions imposed in the letter has will-fully avoiding the promise made by her and now by creating false story only to get an order of the injunction from this court. The plaintiff is having the habitual background of non vacating the house and previously there were criminal cases recorded in the name of plaintiff for the same matter. Hence, prayed to dismiss the application.

5. In support of IA No.5 Defendant swear to an affidavit and pleaded that, the plaintiff has filed the suit by suppressing the material facts and filed a false, vexatious, dubious suit by making false averments in the plaint. It is falsely contend that, there was oral agreement of rent in August 2025 a monthly rent of Rs.9,000/-. Instead of Rs.18,000/- for two months only on requirement of construction of their house. It is falsely contended that, the plaintiff has paid Rs.1,00,000/- as deposit for the suit property (Rs.5,000/- in cash + Rs.95,000/- in cheque). But the cheque was not deposited by her on the request of the plaintiff. But, the plaintiff has not paid rent till today but purposefully the plaintiff has transferred an amount of Rs.9,000/- for the false claim. The plaintiff by creating a false story has filed a false suit against her. She deny that there was an oral agreement and the tenancy is for long term tenancy and the tenancy

commences at August 2025. She herself has put the plaintiff in possession of the property on 22.08.2025. The plaintiff has agreed to vacate the suit premises as on or before 28.11.2025 as per vide document named and styled as well opige patra duly signed by the plaintiff and her son in the presence of the witness on 28.10.2025. The plaintiff having accepted the terms and conditions imposed in the letter but she is willfully avoiding the promise made by her and now by creating false story only to get an order of the injunction from this court. The plaintiff is having the habitual background of non vacating the house and previously there were many criminal cases recorded in the name of plaintiff for the same matter. Hence, prayed to vacant the TI order.

6. Now the points arise for consideration for I.A.No.IV are:

1. Whether the plaintiff made out prima-facie case?
2. Whether balance of convenience lies in favour of the plaintiff?
3. Whether plaintiff will suffer irreparable injury, if injunction is rejected?
4. What order?

7. Now the points arise for consideration for I.A.No.V are:

1. Whether the defendant made out the grounds to allow the application?
2. What order?
8. Heard. Perused materials placed before Court.

9. Answer to above points for I.A.IV are as below:

Point No.1 – In Affirmative,
Point No.2 – In Affirmative,
Point No.3 – In Affirmative,
Point No.4 - As per order for the following;

10. Answer to above points for I.A.V are as below:

Point No.1 – In Negative,
Point No.2 – As per order for the following;

REASONS

11. COMMON POINTS NO.1 to 3 in I.A.No.IV and POINT NO.1 IN IA NO.V: - These points are inter linked with each other. Therefore, they are taken-up together for common discussion.

On going through the contention of the learned counsels for the plaintiff and having regard to the material on record this court find that, grant of interim injunction during the pendency of legal proceedings is

a matter resting with the excise of description of the court.

On going through the materials on record and contents of the parties to the suit, it is not disputed by both the parties to the suit that, plaintiff is the tenant, defendant is the land lord and further it is not disputed that the plaintiff is in possession of the suit property on the rent basis as a tenant.

12. In order to made out the prima facie case, plaintiff has produced 09 documents, document No.1 is the property register card, wherein in owners column name of the defendant is appeared as owner in possession of the suit schedule property, document No.2 is the electricity bill and payment receipts, document No.3 is the gas book wherein the name of the plaintiff is appeared as holder of the card for domestic purpose wherein address is appeared as C/o Krutika M.T. plot No.51-D/115 lake city Khushi Nagar Dharwad, document No.4 is the Neft copy, plaintiff produce this copy in order to show that, they have paid rent for the month of December on 24.12.2025, document No.5 is the medical reports of the husband of the plaintiff, document No.6 is the aadhar card of the plaintiff, document No.7 is the property card, document No.8 is tax paid receipt and document No.9 is Mutation copy.

13. It is not disputed by both parties to the suit that, the plaintiff is in possession of suit schedule property and further the documents i.e., gas book clearly discloses that, the plaintiff is in possession of the suit schedule property. Further, after careful perusal of these are documents at this stage, prima facie discloses that, the plaintiff is in possession of suit premises and she is in possession of the suit schedule property as tenant. Further, after careful perusal of the document No.4 i.e., NEFT copy at this juncture it prima facie goes to show that, the plaintiff has paid the rent amount through the NEFT to the account of the defendant. At this stage, it reflects that the plaintiff has paid the rent amount pertaining to the month of December. These are all documents at this stage, discloses that, the plaintiff is in the possession of the suit schedule property as on the date of the suit and it is also admitted by the defendant that, plaintiff is in the possession of suit schedule property.

14. In order to rebut the prima-facie case, defendant has produced as many as documents. Document No.1 is the agreement regarding the vacant the possession of the rented house. Wherein it appears that, the consent agreement executed by the Devaraj Valvekar in favour of the Kritika M.T. who is the defendant in this case. Further, it reflects that, the said Devaraj Valvekar and Mamata Valvekar are residing in the house bearing

No.51/B/115 of Doddanayakanakoppa Dharwad as a tenant. They are going to vacate this house within one month from 28.10.2025 for their personal convenience. At the time of vacating the house, they will pay the entire rent amount and arrears of rent and further it reflects that, they will hand over the possession of the property to them, how it was at the time of they were taking the house for rent as it is. From this document, itself reflects that, the plaintiff is in the possession of the suit schedule property as a tenant on rent basis. Further, produce the photographs pertaining to the obtaining the signature on agreement, which is for handing over the possession of the suit property and produced Federal Bank A/c statement i.e, account statement of the Shrikant Patil.

15. Learned counsel for the defendant argued that, as per the oral agreement only for few month the plaintiff has taken the suit property for rent and also agreed to vacate the possession, if the plaintiff is continued then that amounts to illegal unauthorised and amounts to wrongful possession from 28.11.2025 onwards. As per the provision of law and it is settled principle of law that, if any person in settled possession of the properties then that has to be protected and even against the true owner also. Here, admittedly the plaintiff is in possession of the suit schedule properties as on the date of the suit. During the pendency of suit,

onwards 28.11.2025 the possession of the plaintiff will not become illegal and unauthorised, if it is legal before 28.11.2025 how its become illegal and unauthorised onwards. Hence, the contention of the defendant is not taken in to consideration at this stage. It is settled principle of law that the owner can evict the tenant with due process of law. Here case on hand, the defendant has not produced any document to show that, they have initiated the eviction proceedings against the plaintiff. Under these circumstances if the defendant evict the plaintiff without following the due process of law, then that amounts to illegal. Under these circumstances and from these all documents produced by the both parties to the suit at this juncture prima-facie clear that the plaintiff has made out the prima-facie case, balance of convenience lies in her favour. Hence, plaintiff is entitle for interim relief as sought. Hence, I answer Point No.1 to 3 in I.A.IV in the Affirmative and point No.1 in I.A.No.V in the Negative.

16. POINT NO. 4 in I.A.No.IV and POINT NO.2 in I.A.No.V:- On the above discussion on Point No.1 to 3 in IA No.IV and point No.1 in IA No.V, I proceed to pass the following;

ORDER

I.A.No.IV filed by the plaintiff
U/o.XXXIX Rule 1 and 2 R/w
sec.151 of CPC are hereby
allowed.

Defendant, her henchmen or any
persons on behalf of her not to
evict forcibly/interfere the
plaintiff's peaceful possession over
the suit property without following
any due process of law.

I.A.No.V. filed by the defendant
U/o 39 rule 4 of CPC is hereby
rejected.

No order as to costs.

(Dictated to the stenographer directly on computer, typed by him, corrected,
signed & pronounced by me in open court on this 30th day of April, 2026)

(YALLAPPA KALLAPUR)
C/C III ADDL.CIVIL JUDGE JMFC,
DHARWAD