



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

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

Dated this the **15<sup>th</sup>** day of **April 2026**

**Original Suit.No.440/2022**

**Plaintiff** : Smt.S.N.Susheelamma and another

(By Sri.J.A., Advocate)

-V/S-

**Defendant** : Sri.Dasappa and others

(By Sri.H.N., Advocate)

**I.A. No.I**

**Applicant** : Smt.S.N.Susheelamma and another (Plaintiffs)

-V/s-

**Opponent** : Sri.Dasappa and others (Defendants)

|     |                                                       |                                        |
|-----|-------------------------------------------------------|----------------------------------------|
| i   | <i>Provision under which the application is filed</i> | <i>Order XXXIX Rule 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>12.09.2022</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>14.10.2022</i> |
| vi | <i>The date on which the order was passed on the said application</i>    | <i>15.04.2026</i> |

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

The present application is filed by the plaintiffs under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, seeking an order of ad-interim temporary injunction restraining the defendants, their agents, servants, or anybody claiming through or under them, from interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule properties, including preventing them from using and enjoying the usufructs of the yielding coconut and arecanut trees, pending final disposal of the suit.

**2.** It is averred in the affidavit filed in support of the application and in the plaint that the plaintiffs are the absolute joint owners in possession and enjoyment of the suit schedule properties, having succeeded to the same by way of inheritance after the death of late G. Lakshminarayana. It is contended that the suit properties were allotted to the share of the said G. Lakshminarayana under a registered partition and, after his demise, the plaintiffs have been in continuous, lawful possession and enjoyment of the same. It is further averred that the plaintiffs have developed the suit schedule



properties by investing substantial amount, dug a borewell, installed a pump set, and cultivated coconut and arecanut trees, which are yielding. The plaintiffs claim that they have been enjoying the usufructs of the said trees without interruption. The plaintiffs contend that the defendants, though divided co-parceners of the family, are attempting to interfere with their peaceful possession and enjoyment of the suit schedule properties and are trying to prevent them from using and enjoying the usufructs of the coconut and arecanut trees. The plaintiffs have further submitted that they have made out a strong prima facie case, the balance of convenience lies in their favour, and they would suffer irreparable loss and injury if the injunction is not granted. Hence, they have prayed for allowing the present application.

**3.** Per contra, the defendants have filed their written statement and objections to the application, contending that the plaintiffs have no exclusive right, title, or possession over the suit schedule properties. The defendants assert that the properties are joint family properties of which their branch is also entitled to a legitimate share. They contend that the revenue entries relied upon by the plaintiffs are the result of fraudulent and collusive acts committed by certain family members, excluding the branch of Thimmadasappa, who was entitled to a 1/4<sup>th</sup> share. According to the defendants, no valid partition had taken place among the sons of



Odorangappa @ Rangappa during their lifetime, and therefore the alleged registered partition deed and subsequent revenue mutations are not binding on their branch. The defendants further submit that Defendant No.1 has already challenged the revenue entries by filing RRT Appeal before the Assistant Commissioner, Madhugiri, and that a dispute is pending before the Tahsildar, Sira. They also allege that the plaintiffs have suppressed the material facts, including the pendency of O.S.No.62/2022 before the Hon'ble Senior Civil Judge, Sira. On these grounds, the defendants pray for dismissal of the application.

**4.** Upon hearing the learned counsel appearing for the plaintiffs and the defendants and upon perusal of the material available on record, the following points would arise for consideration of this Court;

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



5. The findings of this court on above Points are as under:

**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**

6. **Point No.1:** Before proceeding further, it is hereby made clear that, this order is passed without expressing any opinion on the merits, ownership, or possession of the suit schedule properties.

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. In the present suit, the plaintiffs have filed the suit seeking relief of permanent injunction against the defendants claiming that they are the absolute joint owners in possession and enjoyment of the suit schedule properties, having succeeded to the same by way of inheritance after the death of late G. Lakshminarayana, who



allegedly acquired the properties under a registered partition deed. They contend that they are in continuous possession of the properties and have developed the same by digging a borewell, installing a pump set, and cultivating coconut and arecanut trees, which are yielding. In support of their claim, the plaintiffs have produced copies of mutation extracts, RTC extracts, the registered partition deed, and photographs showing cultivation.

**9.** On the other hand the defendants contend that the suit schedule properties are joint family properties and that their branch is entitled to a legitimate share therein. They dispute the validity and binding nature of the partition deed relied upon by the plaintiffs and contend that no valid partition had taken place among the sons of the common ancestor. The defendants have produced the genealogical tree to establish their lineage, certified copies of the plaint and order sheet in O.S.No.62/2022 pending before the Hon'ble Senior Civil Judge and JMFC, Sira, and copies of RRT appeals and revenue dispute proceedings pending before the Assistant Commissioner and Tahsildar.

**10.** It is well settled that while deciding an application for temporary injunction, the Court cannot conduct a mini trial. At this interlocutory stage, the Court is not required to adjudicate upon the correctness or validity of the rival claims in detail. The Court must only examine whether a prima facie case is made out, without



entering into a determination of prima facie title. In the present suit, though the defendants dispute the validity of the partition deed and assert co-parcenary rights over the suit schedule properties, the revenue records produced by the plaintiffs, particularly the RTC extracts, prima facie disclose the name of the plaintiffs' predecessor and thereafter the plaintiffs in the cultivation and possession column. The mutation entries are also standing in their favour. The documents produced by the plaintiffs, including the mutation extracts, RTC extracts and the registered partition deed, prima facie indicate their claim over the suit schedule properties. At this stage, the Court is only required to examine whether a prima facie case is made out and not to determine the rights of the parties conclusively. The materials placed on record are sufficient to establish that the plaintiffs' claim is not frivolous and that it raises a triable issue which requires adjudication after full-fledged trial. It is no doubt that the defendants have produced genealogical records and copies of proceedings pending before the revenue authorities and the Civil Court. However, mere pendency of RRT appeals or other proceedings does not, by itself, dislodge the prima facie possession reflected in the revenue records, unless there is material to show joint cultivation or actual physical possession by the defendants. In the present suit, there is no material placed before this Court to demonstrate that the defendants are in joint cultivation or in actual physical possession of the suit schedule properties. On the contrary,



the revenue records and photographs produced by the plaintiffs prima facie indicate that they are in possession and cultivation of the coconut and arecanut trees standing on the suit schedule properties. Whether the defendants are in actual joint cultivation or physical possession of any portion of the suit schedule properties, and the effect of the RRT appeals said to be pending before the Assistant Commissioner, Madhugiri, as well as the revenue dispute pending before the Tahsildar, Sira, are matters which require detailed evidence and proper adjudication. Such disputed questions cannot be conclusively decided at this interlocutory stage and can be determined only after full-fledged trial. At this interlocutory stage, without adjudicating on title, this Court is satisfied that the plaintiffs have made out a prima facie case for consideration. Accordingly, this court answers **Point No.1 in the affirmative.**

**11. Points Nos.2 and 3:-** As these two points are interconnected to each other, these points are taken together for consideration in order to avoid repetition of facts. The second contention for grant of temporary injunction is that the balance of convenience must be in favour of applicant. In other words the Court must satisfy that if the injunction is not granted in favour of applicant, the mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing injunction will be greater than that which is likely to be caused by opposing party by granting



it. The object of the temporary injunction is to protect the plaintiff against the injury by violating of his right for which he could not be adequately compensated if issues were resolved in his favour in the trial.

**12.** In the present suit, the plaintiffs have placed material to show that they are in settled possession and cultivation of the suit schedule properties and are enjoying the usufructs of the coconut and arecanut trees. The photographs and revenue records prima facie indicate that standing crops and yielding trees exist on the properties. If the defendants are permitted to interfere with the same during the pendency of the suit, it would result in disturbance of existing possession and may lead to multiplicity of proceedings and breach of peace. On the other hand, if an order of temporary injunction is granted, the defendants would not be put to any irreparable hardship, as such order would only maintain the possession of the suit schedule properties until the final adjudication of rights. Therefore, the balance of convenience in favour of the plaintiffs. If the injunction is not granted, they may suffer irreparable loss which cannot be compensated by money, whereas granting the injunction will only maintain the present state of possession until the case is finally decided. In view of the above discussion this court answers **Point Nos. 2 and 3 in the affirmative.**



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

**ORDER**

**IA No.I filed by the plaintiffs under Order 39 Rule 1 and 2 of CPC is hereby allowed.**

**The defendants, their agents, servants, or anybody claiming through or under them, are restrained by way of temporary injunction from interfering with the plaintiffs' peaceful possession and enjoyment of the suit schedule properties including their right to use and enjoy the usufructs of the coconut and arecanut trees standing thereon, pending disposal of the suit.**

**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 15<sup>th</sup> day of April 2026)

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