

KADK400002862026



Presented on : 08.04.2026
Registered on : 15.04.2026
Decided on : 06.08.2026
Duration : 00/03m/22days

IN THE COURT OF SENIOR CIVIL JUDGE & JMFC.,

AT : SULLIA, D.K

PRESENT : SMT. TATTANDA DAMAYANTI SOMAYYA,
B.A.,LL.B.,

Senior Civil Judge & JMFC
Sullia, D.K.

Dated on this 6th day of August 2026

M.A.No.1/2026

APPELLANT
DEFENDANT

: **Subramanya Grama Panchayath**
Subramanya, Kadaba Taluk,
D.K. Rep., by its PDO
Mr. Mahesh G.L.

-V/s-

RESPONDENTS
PLAINTIFFS

: **1. Chandrahasa Bhat,**
S/o. Damodhara Bhat
Aged about 78 years,
2. Sanath Bhat,
S/o. Chandrahasa Bhat
Aged about 38 years,
Both are R/o Vidyanagar,
Kallapane Subramanya Village
of Kadaba Taluk, D.K.

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Appellant Rep. By : Sri. Sudhakar Nettar, Advocate,
Respondents Rep. By : Sri.D.Subraya Bhat, Advocate.
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Date of institution of appeal	08.04.2026		
Nature of judgment/order appealed against which	Against the orders passed by the Prl. Civil Judge & JMFC., Sullia on I.A.No.1 on 28.02.2026 in O.S.No.64/2022		
Date of pronouncement of judgment	06.08.2026		
Total duration	<u>Year/s</u> 00	<u>Month/s</u> 03	<u>Day/s</u> 22

ORDERS ON MAIN MATTER
[DELIVERED ON 06.08.2026]

The appellant has filed this miscellaneous appeal U/O. XLIII Rule 1 R/w. Sec.104 of C.P.C., BY questioning the correctness of the orders passed by the Prl. Civil Judge & J.M.F.C., Sullia on I.A.No.1 in O.S.No.64/2022 on 28.02.2026.

2. The appellant was the defendant and respondents were the plaintiffs before the Prl. Civil Judge & JMFC, Sullia. For the sake of convenience and to avoid confusion, they will be referred in the same ranking before this Court.

3. The plaintiffS had filed I.A.No.1 U/O.XXXIX Rule 1 & 2 R/w Sec.151 of CPC seeking an order of temporary ad interim

injunction restraining the defendant, its men or servants or any person claiming through or under it from closing down or interfering with theIR business in 'A' schedule property otherwise than by due process of law, till the disposal of the suit.

4. The plaintiffs contend that, the first among them is the absolute owner of 'A' schedule property, he acquired the same by virtue of Saguvali chit issued by Tahasildar Sullia in Form No.7 in NCRSR 114/1998-99 & 202/1998-99 dated 20.10.2014. In view of the said grant, RTC was mutated in his name and he is in exclusive possession of 'A' schedule property. They are carrying on the business of building materials in a building bearing Door No.1-435 situated in 'A' scheduled property. Since the year 1994, the first among them has been carrying on the business in that property. He had also obtained a trade licence from the defendant panchayath in the year 1994-95 vide license No. 82/1994-95. At that time, the door number of the building was II-248. The said license was renewed from time to time. The defendant panchayath after renewing the licence in the year 2005 have issued licence number 148/2005-06 in

the name of first among them. By then, the door number was changed as 1-435. Subsequently, the trade licence was renewed from time to time. In the year 2022 also, first among them applied for the renewal of licence. The defendant panchayath has not his renewed. All these years, right from the year 1992-93, his license was being renewed. He has been conducting the business strictly as per the license issued by defendant panchayath. They suspect that defendant at the instigation of persons enimical with them are intending to close down their business. In fact, the PDO of the defendant panchayath has indicated that, he is not going to renew the license and warned them to close down the business. The said action of the PDO is illegal. In fact, the PDO as the CEO of Taluk Panchayath issued notices asking them to produce the documents. Accordingly, he has produced all the documents. There is absolutely no irregularity or illegality in the business carried out by them. They are paying building tax, license fee regularly and there was no default on their part. They have not violated any rules of panchayath. There is absolutely no reason for not

renewing their license or to close down the business. They apprehend that, the defendant panchayath at the instigation of some powerful persons is planning to close down their business. On 04.08.2022, the first among them applied for renewal of licence. Instead of renewing his licence, the defendant refused to renew the license and threatened that they are going to close down the business. Accordingly, the plaintiff prayed the court to grant temporary injunction against the defendants.

5. The defendant filed memo and prayed the court to consider his written statement as objection to I.A.No.I. The defendant in his written statement has denied the plaint averments and contends that, it is a local authority of Grama Panchayath Subramanya. The local resident by name Mr. Sudeep Kumar B objected the trading of plaintiff No.1 on the ground of nuisance in the residential area and sought for cancellation of his trading licence by filing an application before the CEO of Taluk Panchayath, Sullia, by filing petition No.C.R/A3/2022-23. After hearing the complainant, 1st plaintiff and also Grama Panchayat, the CEO of Taluk Panchayath

passed an order cancelling the trading licence bearing No.148/2005-06 vide order dated 07.05.2022 holding that, the plaintiff No.1 obtained a trade licence illegally and causing public nuisance in the residential area. In view of the passing of orders by the CEO of Taluk Panchayath, he issued notice dated 29.07.2022 calling upon the 1st plaintiff to produce required documents for fresh licence if required or to close the business as per the orders of CEO. It appears that, the plaintiffs have violated the conditions of grant of land, illegally secured trading license by suppressing the fact as observed by CEO of Taluk Panchayath. An enquiry was commenced on 09.12.2021 to 08.02.2022 before the CEO and after hearing both the parties, the CEO passed orders on 07.05.2022 holding that M/s. Panchami Enterprises has misused the licence and hence the license was cancelled. The plaintiff has not challenged the orders passed by the CEO of Taluk Panchayath and hence it becomes final. The plaintiffs deliberately suppressed all these facts such as orders passed in C.R/ A3/2022-23 and order of closure of business. In fact there is no license at present either to

plaintiff No.1 or to M/s. Panchami traders to carry on business in 'A' scheduled property. Accordingly The defendant prayed the court to dismiss the application.

6. After hearing the arguments of both the counsels, the trial Court formulated 3 points for consideration and answered all the 3 points in affirmative and thereby allowed the application filed by the plaintiffs.

7. Being aggrieved by the orders passed by the Prl. Civil Judge & JMFC., Sullia on 28.02.2026 on IA No.1 in O.S.No. 64/2022, the defendant has preferred this appeal on the grounds that, the impugned order is against the principles of equity and justice. The trial court failed to note that, the suit of the plaintiffs is suppression of material facts and there is no prima-facie case at all. The trial court failed to note that, the orders passed by the CEO of Taluk Panchayath is a legal process as per the Karnataka Panchayat Raj Act and Rules. The trial court failed to note that, the orders passed by CEO of Taluk Panchayath is not challenged by the plaintiffs. After passing of the impugned order, the plaintiffs continued the

illegal business without obtaining license from local authority. Restraining the defendant from executing the order of CEO is not permitted under law and it virtually amounts to restraining the legal process. By obtaining impugned order, the plaintiffs are controlling the authority of the defendant. The trial Court has ignored the provisions of Sec.38 of Specific Relief Act. Accordingly, the defendant prayed the court to set aside the impugned order passed by the Principal Civil Judge & JMFC, Sullia, on IA No.1 filed U/O. XXXIX Rule 1 and 2 R/w. Sec.151 of CPC on 28.02.2026 and thereby allow his appeal.

8. After filing of this appeal by the appellant, this court issued notice to the respondents/plaintiffs. In response to the service of notice, the respondents/plaintiffs appeared before the court through their counsel and they are supported by the findings given by the trial Court.

9. I have heard the arguments of both the counsels on this miscellaneous appeal.

10. On the basis of contentions taken by the appellant in his appeal memo, the following points arise for my consideration:

1. Whether the trial Court is justified in allowing I.A.No.1 filed by the plaintiffs U/O. XXX1X R. 1 & 2 R/w. Sec.151 of CPC in O.S.No.64/2022?
2. Whether the interference of this Court is required?
3. What order?

11. On the basis of the pleadings of both the parties and documents produced before the Court, my answers to the above points are as under:

Point No.1 : In Negative

Point No.2 : In Affirmative

Point No.3 : As per final orders for the following:

REASONS

POINT No.1 & 2: As these two points are inter related, I take both the points together for common discussion to avoid repetition.

12. The defendant has questioned the correctness of the orders dated: 28.02.2026 passed by Prl. Civil Judge& JMFC., Sullia on I.A.No.1 in O.S. No.64/2022. In order to seek an order of

temporary injunction, the person claiming such relief must establish that he has got a prima facie triable case as against the opposite party and the balance of convenience lies in his favour. Likewise, he has to establish that, he would be put to great hardship in the event of rejection of this application.

13. By filing O.S.No.64/2022, the plaintiffs have sought permanent prohibitory injunction order restraining the defendant, its men, servants or any person claiming through it from closing down their business which is being carried out in 'A' schedule property, without due process of law. By allowing I.A.No.1, the trial court has authorized the plaintiffs to carry on their business without there being trade license.

14. **Sec.38 of Specific Relief Act** deals with perpetual injunction, which reads thus:

[1]. Subject to the other provisions contained in or referred to by this Chapter, a perpetual injunction may be granted to the plaintiff to prevent the breach of an obligation existing in

his favour, whether expressly or by implication.

[2]. When any such obligation arises from contract, the court shall be guided by the rules and provisions contained in Chapter II.

[3]. When the defendant invades or threatens to invade the plaintiffs right to, or enjoyment of, property, the court may grant a perpetual injunction in the following cases,

[a]. where the defendant is trustee of the property for the plaintiff,

[b].where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion,

[c].where the invasion is such that compensation in money would not afford adequate relief,

[d]. where the injunction is necessary to prevent a multiplicity of judicial proceedings.

15. Sec.41 of Specific Relief Act deals with Injunction when refused – An injunction cannot be granted

[a]. to restrain any person from prosecuting a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless

such restraint is necessary to prevent a multiplicity of proceedings,

[b]. to restrain any person from instituting or prosecuting any proceeding in a court not subordinate to that from which the injunction is sought,

[c]. to restrain any person from applying to any legislative body,

[d]. to restrain any person from instituting or prosecuting any proceeding in a criminal matter,

[e]. to prevent the breach of a contract the performance of which would not be specifically enforced,

[f]. to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance,

[g]. to prevent a continuing breach in which the plaintiff has acquiesced,

[h]. when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust,

[i]. when the conduct of the plaintiff or his agents has been such as to disentitle him to the assistance of the court,

[j]. when the plaintiff has no personal interest in the matter.

16. By granting injunction, the trial court has restrained a local body from executing the orders passed by CEO of Taluk Panchayath. As admitted by PW.1 in his pleadings, 'A' schedule property was acquired by first among them by virtue of Saguvali chit issued by the Tahsildar Sullia in Form No.7 in NCRSR No.114/1998-99 and 202/1998-99 dated: 20.10.2014. Based on the grant, the RTC is mutated in his name.

17. By perusing Form No.7 issued by the Tahasildar, Sullia, it appears that, an agricultural land was granted in favour of plaintiff No.1, wherein it is clearly stated that, ಸಾಗುವಳಿ ಚೀಟಿ ನೀಡಿದ ದಿನಾಂಕದಿಂದ 6 ತಿಂಗಳೊಳಗೆ ಮಂಜೂರಾತಿದಾರನು ತನ್ನ ಖರ್ಚಿನಲ್ಲಿ ಪ್ರತಿ ಎಕ್ರೆಗೆ 4 ಮರಗಳಂತೆ ಅಥವಾ 1 ಹೆಕ್ಟೇರಿಗೆ 10 ಮರಗಳಂತೆ ನೆಟ್ಟು ಕಾಯ್ದುಕೊಂಡು ಬರತಕ್ಕದ್ದು, ನೆಟ್ಟ ಮರ ಸತ್ತಲ್ಲಿ ಅಥವಾ ಬಿದ್ದು ಹೋದಲ್ಲಿ, ಬೇರೆ ಮರವನ್ನು ನೆಟ್ಟು ಸಲಹತಕ್ಕದ್ದು. ಮಂಜೂರಿದಾರನು ಜಮೀನನ್ನು ಸ್ವತಃ ಸಾಗುವಳಿ ಮಾಡತಕ್ಕದ್ದು. ಮೇಲಿನ ಯಾವುದೇ ಶರ್ತ

ಉಲ್ಲಂಘನೆಯಾದಲ್ಲಿ, ಮಂಜೂರಾತಿಯನ್ನು ರದ್ದುಪಡಿಸಿ ಜಮೀನನ್ನು ಸರಕಾರದ ಸ್ವಾಧೀನಕ್ಕೆ ಋಣಭಾರ ಶಿವ್ಯ ಪಡೆಯಲು ಸಹಾಯಕ ಕಮಿಷನರರು ಅಧಿಕಾರ ಹೊಂದಿರುತ್ತಾರೆ. On this condition, it can be gathered that, the agricultural land measuring 1.57 acres in Sy.No.121/P2 of a Subramanya Village was granted in favour of plaintiff No.1 on 20.10.2014.

18. Accordingly, the name of plaintiff No.1 came to be entered in the RTC extract. The plaintiff has produced copy of trade license issued by the Secretary of Subramanya Village Panchayath vide license No.82/1994-95. As per the license granted to the plaintiff No.1, the defendant panchayath permitted the plaintiff No.1 to sell tiles, cement, coconut, dried coconut, and honey at building No.II-248E. Subsequently, the PDO of defendant panchayath issued License No.148/2005-06 to sell building materials in building No.1-435. After the 2022, his license was not renewed.

19. The defendant has produced copy of order dated: 07.05.2022 passed by the CEO of Taluk Panchayath, Kadaba Taluk, D. K. By perusing the same, it appears that complainant/Sudeep Kumar,

the plaintiff No.1 and PDO of the panchayath were present at the time of enquiry. The CEO considered the complaint filed by the complainant Sudeep Kumar and ordered that, ಈಗಾಗಲೇ ಅಕ್ರಮವಾಗಿ ಪಡೆದುಕೊಂಡಿರುವ ಚಂದ್ರಹಾಸ ಭಟ್ ಬಿನ್, ದಾಮೋದರ ಭಟ್ ರವರ 148/2005-06 ರ ಲೈಸೆನ್ಸ್ ನ್ನು ರದ್ದುಪಡಿಸುವುದು ಮತ್ತು ಮಾಲಕರು ಪಂಚಮಿ ಎಂಟರ್ ಪ್ರೈಸಸ್ ಕಲ್ಮಪಣಿ ಬಳಿ ಸುಬ್ರಹ್ಮಣ್ಯ ಗ್ರಾಮದವರಿಗೆ ಅನಧಿಕೃತವಾಗಿ ನಡೆಸುತ್ತಿರುವ ಉದ್ಯಮಕ್ಕೆ ದೂರುದಾರರಿಗೆ ಅನಾನುಕೂಲವಾಗದಂತೆ ಶರ್ತಬದ್ಧ ಪರವಾನಿಗೆ ನೀಡಲು ಸಮರ್ಪಕ ದಾಖಲೆಗಳೊಂದಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಲು 15 ದಿವಸಗಳ ಕಾಲಾವಕಾಶದೊಂದಿಗೆ ನೋಟೀಸು ನೀಡುವುದು. ನಿಗದಿತ ದಿನಗಳೊಳಗಾಗಿ ಉದ್ಯಮ ಪರವಾನಿಗೆಗೆ ಸಮರ್ಪಕ ದಾಖಲೆಗಳೊಂದಿಗೆ ಅರ್ಜಿ ಸಲ್ಲಿಸದಿದ್ದಲ್ಲಿ ನಿಯಮಾನುಸಾರ ತೆರವುಗೊಳಿಸಲು ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಪಂಚಾಯತ್ ಅಭಿವೃದ್ಧಿ ಸುಬ್ರಹ್ಮಣ್ಯ ಗ್ರಾಮ ಪಂಚಾಯತ್ ರವರಿಗೆ ಆದೇಶಿಸಿದೆ. On the basis of that order, the PDO of defendant panchayath issued a notice to the plaintiff No.1 on 29.07.2022 and thereby informed that his license is cancelled as the plaintiffs were carrying on business in the residential area and noise pollution was developed due to the business carried out by them.

20. By issuing notice dated: 29.07.2022, the PDO informed the plaintiffs to stop their business and to apply for license afresh after

obtaining NOC from Environment Board and conversion Orders. It is pertinent to note here that, the CEO of Taluk Panchayath passed orders under Karnataka Panchayath Raj Act. That was an order passed in a proceeding held by following due process of law.

21. In order to implement that orders, the defendant had issued notice to plaintiff No.1. Instead of applying for fresh license, the plaintiffs filed this suit and obtained injunction order against the local body. Implementation of orders passed by the CEO of Taluk panchayath is also called as following due process of law contemplated under Karnataka Panchayath Raj Act. By allowing IA No.1, the trial Court granted injunction against the local body and allowed the plaintiffs to carry on business without there being trade license, which is in violation of Sec.41 of Specific Relief Act.

22. The plaintiffs did not challenge the orders passed by the CEO of Taluk panchayath. By passing orders, the CEO granted sufficient time to the plaintiff No.1 to apply for fresh license. Without applying for fresh license, the plaintiffs filed O.S.No.64/2022. The plaintiffs did not press IA No.1 U/O.XXXIX

R.1 and 2 of CPC till 18.02.2026. On that day, they got advanced the case and submitted their arguments on IA No.1 and succeeded in getting injunction order against the local body and by misusing that order, they are carrying on business without obtaining trade license. This makes the Court to believe that, the plaintiffs have not approached the Court with clean hands.

23. The trial Court ought to have considered that, the CEO of Taluk Panchayath passed orders by following due process of law. By granting injunction, the trial Court authorized the plaintiffs to carry on business in the residential area that too without obtaining trade license. They are running business without obtaining license. Therefore, the trial court is not justified in allowing I.A. No.1. There are sufficient materials on record to interfere with the findings of the lower Court. Accordingly, I answer point No.1 in negative and point No.2 in affirmative.

POINT NO.3: For the aforesaid reasons, I proceed to pass the following:

ORDER

The miscellaneous appeal filed by the appellant U/O.XLIII Rule 1 R/w.Sec.104 of C.P.C is hereby allowed with costs.

Orders passed by the Prl. Civil Judge and JMFC, Sullia, D.K on 28.09.2026 on I.A. No.1 in O.S.No.64/2022 is hereby set aside.

In the result, the I.A. No.1 filed by the plaintiffs before the trial Court U/O. XXXIX Rule 1 and 2 of C.P.C is hereby rejected.

Office to send the copy of this order to the trial Court along with TCR.

06.08.2026

[TATTANDA DAMAYANTI SOMAYYA]
SENIOR CIVIL JUDGE & JMFC.,
SULLIA, D.K.

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Dictated on : 05.08.2026

Transcribed on : 06.08.2026

checked on : 06.08.2026

Signed on : 06.08.2026

[TATTANDA DAMAYANTI SOMAYYA]
SENIOR CIVIL JUDGE & JMFC.,
SULLIA, D.K.

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