



**IN THE COURT OF PRL.CIVIL JUDGE & JMFC,
KUNIGAL**

**PRESENT: SMT. SUJATHA A.B.
B.A.L, LL.B.
PRI. Civil Judge & JMFC,
KUNIGAL**

DATED: THIS THE 1st DAY OF AUGUST, 2026

ORIGINAL SUIT NO.143/2023

BETWEEN:

Plaintiff-

Sri. Jagadeesh J.G
(By Sri.BRR., Advocate)

AND:

Defendants-

Sri. Smt. Mayamma and another
(By Sri.KNS., Advocate)

I.	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2 of CPC
II.	Relief sought for	To grant an exparte ad-interim order of temporary injunction order against defendants
III.	The date on which the application is filed	15.02.2023



IV.	Number of the application	I
V.	The date on which the objections are filed by	26.06.2023
VI.	The date on which the order were passed on the said application	01.08.2026.

RANKS OF THE PARTIES ON IA No.I

Applicant/Plaintiff-

Sri. Jagadeesh J.G

Vs.

Opponent-

Smt. Mayamma (defendant No.1)

ORDERS ON I.A.No.I

I.A.No.I is filed by the applicant/plaintiff under Order XXXIX Rule 1 and 2 of CPC, to pass an ad-interim order of temporary injunction against defendants or their agents, servants, attorneys or anybody acting on their behalf from interfering with the plaintiff's peaceful possession and enjoyment of the



suit schedule property, in any manner pending disposal of the suit.

2. The plaintiff has sworn to an affidavit and contended that he is the absolute owner of the suit schedule property and he has acquired the same through his family arrangement took place between him and defendant and his brother it was reduced into writing on 25.02.1998. In view of E-katha accepted in the name of plaintiff, he is in possession and enjoyment of the suit schedule property from the date of partition as absolute owner and he is paying tax regularly and now Jinnagere gram panchayath accepted E-katha in his name by virtue of partition. The plaintiff stated that after the partition 20 X 50 fallen to the share of the defendants towards western side of plaintiff property. Plaintiff had constructed a foundation in the suit schedule property and he wants to construct



a new residential house in the suit schedule property and thereafter he had obtained license from Jinnagere gram panchayath for new residential house in the suit schedule property.

3. Plaintiff stated that the defendants are the utter stranger to the suit schedule property they are not having any right, title, interest or muchless possession over the same. But the defendants being the adjacent owner she is trying to interfere with plaintiff peaceful possession and enjoyment over the suit schedule property and defendants on 10.02.2023 came near the suit schedule property and obstructed to construction for the residential house over the suit schedule property and the plaintiff and his family members with the help of the neighbors resisted the illegal acts of the defendants. The defendants while taking back their illegal acts, they threatened to repeat



their high handed act. The plaintiff has approached the Amruthur police station and informed the same, but they have not taken any action against the defendants and they orally directed to him to approach the competent civil court. Hence plaintiff constrained to file the suit and prayed to allow the application.

4. In pursuance of the suit summons, defendants have appeared through their counsel and defendant No.2 has filed her written statement and same was adopted by her as objections to the above application. The defendant No.1 has adopted the written statement filed by the defendant No.2 on her behalf. In the written statement the defendants denied the contentions of the plaintiff as well as cause of action for the suit. The defendants stated that suit schedule property and written statement schedule properties originally comes under the



Sy.No.60/4A, totally measuring 0-04 guntas and originally belongs to Gooligowda of Jinnagara Village, Kunigal Taluk. The said Gooligowda had 2 sons by name Ramakrishnaiah who is husband of 1st defendant and father of defendant No.2 and Jagadeesha who is the plaintiff. After the demise of Ramakrishnaiah, the plaintiff and defendant No.1 equally divided the said survey number property, towards eastern side 0-02 guntas fallen to the share of plaintiff and towards western side 0-02 guntas of property fallen to the share of defendant No.1. After the partition held between plaintiff and defendant No.1 the suit schedule property revenue documents are mutated in the name of plaintiff as per MR.No.8/2005-06 and written statement schedule property revenue documents are mutated in the



name of defendant as per MR.No.45/1998-99. Then the defendants are the absolute owner in possession and enjoyment of the written statement schedule property without any obstruction.

5. Defendants contended that they have constructed a residential house in the year 1999 in some portion of written statement schedule property, at that time the concerned Jinnagara Gramapanchayath officials are wrongly mutated the katha to give lower extent and wrong boundaries to the written statement schedule property of the defendants and mutated the Katha of the suit schedule property of the plaintiff with higher extent. The above said fact was recently came to the knowledge of the defendants and after knowing the said facts the defendant No.1 filed a appeal against



the both Kathas before Executive Officer Taluk Panchayath Kunigal in VPC.No.52/2022-23, after verified the documents produced by the defendant No.1 the Executive Officer Taluk Panchayath Kunigal stayed the katha of the suit schedule property of the plaintiff. The said VPC appeal is still pending before Executive Office Taluk Panchayath Kunigal for further adjudication.

6. Defendants contended that the panchayath officers wrongly mentioned in the eastern side of the written statement boundary in Katha extract mentioned as Galli and J.K.Jagadeesh instead of remaining property of defendants. But defendants are in possession and enjoyment over the written statement extent property. The defendants contended that they have perfected their title and



possession and they cannot be disturbed by plaintiff or anybody otherwise. The defendants are in peaceful possession and enjoyment of the written statement schedule property without any obstruction till today. The plaintiff is having the property towards eastern side of the written statement schedule property. The plaintiff is not having any sort of right over the written statement schedule property of the defendants. The plaintiff has filed this suit just to knock off the written statement schedule property of the defendants and also for wrongful gain and plaintiff with an intention to harass them by created the cock and bull story and given wrong extent and wrong boundaries and filed this suit on fiction of the plaintiff and same is not maintainable. Among these grounds they prayed to reject the application.



7. Heard arguments from plaintiff sides. The counsel for the defendants have relied upon decisions in (2008)4 SCC 594, (2019)4 SCC 608 and (2021 SCCR 1018. Perused the materials available on record.

8. The points that would arise for my consideration are:-

(1) ***Whether the plaintiff has made out a prima facie case to grant temporary injunction as sought?***

(2) ***Is the balance of convenience lies in favour of plaintiff?***

(3) ***Whether the plaintiff will be put to irreparable loss and injury in the event of refusal of temporary injunction sought?***

(4) ***What order?***

9. My findings on the above Points are as follows:

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative

***Point No.4 : As per final orders
For the***

following:

**REASONS**

10. Point No.1:- Admittedly the plaintiff has filed this suit for the relief of permanent injunction. According to plaintiff he has acquired the suit schedule property under partition. Plaintiff in order to support his case has produced certified copy of E-katha which is in respect of property bearing No.499 which is the suit property and in the same measurement is shown as east-west: 13.41mtrs., and north-south: 19.5072 mtrs., and its mode of acquisition is shown as ancestral property. The plaintiff has produced license issued by the Gramapanchayath in favour of plaintiff, on perusal of said license which was issued on 04.07.2005 but in the plaint averments plaintiff has pleaded that he has obtained license to construct new residential house and on 10.02.2023 defendants came near the suit schedule property caused obstruction to construction



for his new residential house. But it is noted that plaintiff has obtained license in the year 2005 and till 2023 why plaintiff has not proceeded with construction. Further plaintiff has license of the year 2005 whether same holds good for making construction in the year 2023 is also not made out. Further in the said license towards western side 2 feet Galli and defendant No.1 name is shown which is same as narrated in the plaint schedule.

11. Plaintiff has also produced photocopy of MR No.8/2005-06 and in the same khatha of property No.541 allotted in favour of plaintiff and his name came to be mutated in respect of said Khata No.541. The plaintiff has also produced house tax assessment list of property bearing No.541/2 and as per MR No.8/005-06 , the plaintiff name came to be mutated. The plaintiff has also produced tax paid receipt in



respect of property No.499/(541/2). The plaintiff has also produced photocopy of parikath dated 25.02.1998 which was affected between the plaintiff and defendant No.1 and in the same Khaneshumari No.541 was allotted to plaintiff and in the same extent shown as 45 X 66 feet and again measurement shown in the suit schedule property is not at par compared to measurement mentioned in the said parikath.

12. Further, the plaintiff has also produced photocopy of house assessment list and in the same as per MR No.3/005-06 the plaintiff name came to be mutated in respect of property No.541 in respect of 49 X 64 and the said measurement is not shown in the suit schedule property but suit schedule property shown as 44 X 64 feet. The plaintiff has also produced acknowledgment issued by Amurthur police and in the same present plaintiff has given complaint against the



defendants by stating that suit property was allotted to him in the partition. But the defendants due to the reason of non selling of the same to them, has put shed and tied up cattle, buffaloes and goats therein and hence prayed to take necessary action against them.

13. Again plaintiff has also submitted letter to the PDO of Jinnagere Gramapanchayath and on perusal of the same plaintiff contended that defendants illegally put up shed and requested the said authority to remove the same. So this indicates that as on the date of filing the suit the defendants have put up shed in the suit property but the plaintiff has filed the suit only for the relief of permanent injunction and claimed his possession but he has not at all pleaded the said fact in plaint.



14. Again plaintiff has also produced letter issued by the Gramapanchayath Jinnegere to the executive officer Taluk Panchayath Kunigal dated 08.01.2025 and in the same it was intimated that plaintiff name was mutated in respect of property bearing property to the extent of 44ft X 64ft and license was issued in favour of plaintiff on 04.07.2005 and when they have visited the said property on 08.01.2025 they noticed that out of 44 X 64, 30 X 40 measurement foundation noticed and they further intimated that they have not mutated higher extent in the name of plaintiff.

15. The defendant has also produced photographs by claiming that same is their property along with partition deed and It is not not clear with regard to allotment of property bearing No.540 in favour of defendants. On perusal of said document



which is not clear with regard to VPC number of written statement. It is also noted that defendants have also produced photocopy of order passed by the executive officer dated 03.02.2026 in VPC.No.52/2022-23 which was preferred by the present defendant No.1 against the PDO of Jinnagere against present plaintiff and said appeal preferred by the defendant No.1 was came to be allowed and executive officer has ordered to mutate 4 guntas each in the name of present plaintiff and defendant No.1 and in the said order executive officer has observed that the present plaintiff had east-west:45 feet, north-south:66 feet and defendant No.1 had 20 X 51 feet. The counsel for plaintiff filed memo along with WP.No.17300 by arguing that plaintiff has challenged order passed in VPC No.52/2022-23 before Hon'ble High court of Karnataka, but in the same no stay has been granted.



16. Further the defendants have produced order passed by the Assistant commissioner in NCR.CR.33/1976-77 dated 27.06.1977 and in the same petitioner was the Tahasildar of Kunigal and respondent who was the father of the plaintiff has constructed house and installed a Huller in Sy.No.60/4 without getting the land converted for non-agricultural purpose and it was held that the respondent guilty of converting the land in Sy.No.60/4 without getting the land for non-agricultural purpose and he was charged fine amount in that regard under sec.96 of the Karnataka land revenue Act 1964. Further the defendants have also produced photocopy of partition deed and in the same at Sr. No.2 “ ಮಿಲ್ಲಿನ ಮನೆಯಲ್ಲಿ” 4 guntas was allotted to the defendant No.1. The defendants have also produced MR No.45/1998-99 and as per the said MR the defendant No.1 name came to



be mutated in respect of 269/2B, 64/33A, 60/4A, 60/4A and 168/11. The defendants have also produced RTC of Sy.No.60/4A which discloses that present defendants name are appearing as per MR No.45/1998-99 by deleting father of the plaintiff name Goolaiah to the extent of 2 guntas.

17. Again defendants have also produced demand registrar of property bearing No.540 and in the same defendant No.1 name is appearing to the extent of 35ft X 61ft and written statement property is shown as 20ftX51ft and again same is not matches with the said demand register extent. Further defendants have also produced photocopy of 11B form, in which defendant No.1 name is appearing to the property No.540 and boundaries shown as towards eastern side Galli and plaintiff name is shown. Defendants further contended that Gramapanchayath



officials wrongly mutated katha and given lower extent for her and she was challenged the same as per VPC No.52/2022-23 and to that effect she has produced photocopy of appeal in VPC and in the same present defendant No.1 requested the cancel E-katha of 499 and as already discussed by this court said appeal was allowed in favour of defendant No.1

18. It is noted that the police acknowledgment produced by the plaintiff dated 20.05.2023 discloses that plaintiff has submitted the complaint after filing of this suit, since suit is filed in the year 2023 and cause of action shown on 10.02.2023. So on perusal of documents and rival contentions of the parties it is clear that there exists a measurement dispute between the parties and it is important to note that without plaintiff himself pleaded before the police as well as given application to the PDO by contending that the



defendants put up cattel shed in the schedule property but in the present plaint he has not pleaded about the same and also he has not sought for recovery of possession as well at this stage and when the defendants have put up shed in the suit schedule property and in the entire plaint averments plaintiff pleaded that defendants came near the suit schedule property and obstructed him to dig foundation. Moreover, the plaintiff at para No.5 of his plaint contended that at the time of digging the foundation, the defendants have obstructed. The report of PDO of Jinnagere of the executive officer which is produced by the plaintiff himself discloses that he has laid foundation to the extent of 30 X 40 and same was noticed by them on 08.01.2025. So on perusal of photographs produced by both the parties foundation appearing in the said property laid very long back. So



on considering above discussion at this stage the plaintiff had failed to made out prima facie case in his favour. Hence I answer point No.1 in the **Negative.**

19. Point No.2 and 3:- Since these points are involves common facts so in order to avoid the repetition of facts, I combined these two points together for my discussion.

In light of above, on perusal of entire pleadings and documents at this stage it can be held that there is a dispute between the parties with regard to measurement and to consider the possession of the plaintiff as well as alleged interference by the defendants, conducting a trial is much needed one and in the present situation if the present IA No.I is allowed, certainly it will cause hardship to the defendants and in turn if present application is not allowed then there is not much hardship and inconvenience would be caused



to plaintiff. Hence I answer, Point No.2 and 3 in the
Negative.

20. Point No.4:- In view of the reasons assigned
above, I proceed to pass the following;

ORDER

The I.A.No.1 filed by the
plaintiff under Order XXXIX Rule 1
and 2 of C.P.C. is hereby rejected.

No orders as to costs.

(Dictated to the stenographer, transcribed and typed by her,
corrected by me and then pronounced in the open Court, this the
1st day of August, 2026.)

**Sd/-
(SUJATHA A.B.)
Prl. Civil Judge & JMFC,
KUNIGAL.**