

KABG040013742026



29.04.2026

O.S.No.416/2026

ORDERS ON I.A.NO.I

I.A.No.I is filed by the plaintiff U/O. XXXIX Rule 1 and 2 R/w. Sec.151 of C.P.C. seeking ad-interim ex-parte temporary injunction restraining the defendants from putting up any construction in the suit property and thereby encroaching upon the suit property, pending disposal of the suit.

It is the case of plaintiff that the suit property originally belonged to his mother Gangavva Siddappa Godalkundaragi who purchased the suit property from one Mushappa Laxman Talwar and Parasappa through registered sale deed in the year 1957

and after death of his mother, the plaintiff and his brother are in joint possession and enjoyment of suit property. Further that the defendants who are claiming to be owners of the property under unregistered document, are trying to encroach upon the suit property by taking up unauthorized construction therein in order to put up illegal road and to construct house in the suit property. Hence, the present suit for permanent injunction and mandatory injunction and present application.

Heard the learned counsel for plaintiff.

In support of his case, the plaintiff has produced the sale deed of the year 1957 through which his mother purchased the suit schedule property. The plaintiff has also produced mutation diary showing mutation entry dated 05.07.1998 which prima facie reveals that the names of present plaintiff and his brother Tukaram came to be entered in the record of rights pertaining to suit property. The plaintiff has also produced RTC Extract for the year 2025-26 which also prima facie reveals

that the plaintiff and his brother are owners in possession of the suit schedule property as their names are entered in Column No.9 and 12 of RTC Extract. The plaintiff has also produced the letter correspondence made to PDO, Gram Panchayat and the complaint lodged by brother of plaintiff against the defendants and they have also produced photographs to show that construction is being undertaken in the suit schedule property. It is the case of plaintiff that the defendants are trying to put up illegal construction over suit property and thereby encroaching upon the suit property in order to put up road and house therein and that the defendants are not adjacent owners towards any side of the suit property. As such, it is necessary to protect the nature of suit property until the other side appear and submit objection.

By producing the aforesaid documents, the plaintiff has made out prima facie case that the plaintiff is in possession of suit property. As such, the plaintiff has made out a case for

grant of ex-parte temporary injunction as prayed for in I.A.No.I to restrain the defendants from putting up any construction of permanent or temporary structure over the suit property.

Issuance of notice to defendants before granting T.I. as per I.A.No.I would defeat the very purpose of suit since the plaintiff is shown to be in prima facie possession over suit schedule property. Also, if the present application is not allowed, then it would lead to multiplicity of proceedings. Hence, at this stage, the plaintiff has made out prima facie case to allow the I.A.No.I for granting ex-parte T.I. Hence, I proceed to pass the following :

ORDER

***I.A.No.I filed by applicant/
plaintiff is hereby considered and
the defendants, their agents,
henchmen acting on their behalf are
restrained from putting up any
construction of permanent or
temporary structure over the suit
property and thereby encroaching***

upon the suit property, till next date of hearing.

The applicant/plaintiff shall comply the requirements U/O.XXXIX Rule 3(a) & (b) of C.P.C. and shall report such compliance in the office.

Office to issue the copy of this order to plaintiff only on such compliance.

Issue suit summons and notice on I.A.No.I U/O.XXXIX Rule 1 and 2 of C.P.C. to defendants returnable by 09.06.2026.

**Prl. Civil Judge & JMFC
Belagavi.**