

KABG040001522026



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC,
AT : BELAGAVI.**

PRESENT : Smt. Preeti L. Malavalli, B.B.A.,LL.B. (Hons.)
Prl. Civil Judge & JMFC.,
Belagavi.

DATED THIS THE 18TH DAY OF MARCH-2026

ORIGINAL SUIT NO.78/2026

PLAINTIFF :

1)	Shri. Chandrashekar S/o. Bhimrao Nilaji, Age : 67 years, Occupation : Retired, R/o : At : Plot No.116-2, Out of R.S.No.195/2, situated at Laxmi Nagar, Hindalga Village, Taluka and District : Belagavi.
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Vs.

DEFENDANTS :

1)	Shri. Shanwaji Imamsab Asalatkhan, Age : 43 years, Occupation : Business, R/o : H.No.31891, Mulla Plot, Chikkodi, District : Belagavi.
2)	Nikita D/o. Mahadev Badmanji, Age : 34 years, Occ : Private Service, R/o : At Plot No.88, out of R.S.No.195, situated at Laxmi Nagar, Hindalaga, Belagavi.

3)	The Panchayat Development Officer, Hindalga Gram Panchayat, Hindalga Village, Taluka and District : Belagavi.
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PARTIES TO I.A.NO.I

Applicant/Plaintiff :

1)	Shri. Chandrashekar S/o. Bhimrao Nilaji.
	(By Shri. B. R. Pattanashetti, Adv.)

Vs.

Opponents/Defendants :

1)	Shri. Shanwaji Imamsab Asalatkhani & others.
	(Defendant No.1 by Miss. R. M. Ghiwari, Adv.)

1.	Provision under which application is filed	U/O. XXXIX Rule 1 & 2 R/w. Sec.151 of C.P.C.
2.	Relief sought for	Temporary Injunction
3.	The date on which the application is filed	22.01.2026
4.	Number of application	I
5.	The date on which the objections are filed by different opponent	07.02.2026

6.	The date on which the orders were passed on the said application.	18.03.2026
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**ORDER ON I.A.NO.I FILED BY PLAINTIFF U/O.XXXIX
RULE 1 AND 2 R/W. SEC.151 OF C.P.C.**

The present application is filed by plaintiff seeking the relief of ad-interim temporary injunction to restrain the defendant No.1 from encroaching upon the suit property, pending disposal of the suit.

2. It is the case of plaintiff that the suit schedule property i.e., public road measuring 30 feet wide within the limits of Laxmi Nagar, Hindalga Gram Panchayat, Belagavi is situated between the properties of defendant No.1 and defendant No.2. That the mother of plaintiff purchased the Plot No.116/2 out of R.S. No.195/2 under registered sale deed dated 20.01.1980 and she was in lawful possession and enjoyment of the same during her lifetime. The said Sy.No.195/2 of Hindalga Village, Belagavi was converted into non-agricultural use by order of Deputy Commissioner, Belagavi on 03.05.1964. After death of mother of plaintiff, the plaintiff being his legal heir has inherited the said property and he has been in peaceful possession and enjoyment of the same by constructing a house therein after obtaining necessary permission from Hindalga Gram Panchayat. The

aforesaid property is bounded by 15 feet wide road on northern side and 30 feet wide road on southern side. The defendant No.2 is also running a tiles polishing and cutting machine business in his property referred to as schedule 'B-2' property after obtaining licence and the said property is corner plot bounded by 30 feet wide road on northern side and 30 feet wide road on eastern side. The suit property i.e., the public road is situated on western side of the defendant No.1's property and towards eastern side of property of defendant No.2. The defendant No.1 has purchased his property i.e., Plot No.101 out of R.S.No.195 of Hindalga Village, Belagavi from one Adarsh Shivaji Muchandi on 04.08.2025 with boundaries towards East by Plot No.103, towards West by 30 feet road, towards North by 30 feet road and towards South by 30 feet road and it is situated adjacent to the eastern Plot bearing No.103. That as per the property extract and layout plan, there exists a 30 feet wide public road abutting the property of defendant No.1 and the said public road was formed pursuant to approved layout plan. The said road is meant for public use and has been continuously utilized by residents of locality including the plaintiff, defendant No.2 and the general public. That now the defendant No.1 is claiming that the suit property i.e., public road is situated between the property of defendants No.1 and 2 and he is hurriedly making preparations for construction of house thereon, which is infact a public road.

Upon learning the said facts, the plaintiff immediately gave report to defendant No.3 and also to Taluka Panchayat, Belagavi calling upon them to prevent any construction work to be carried on by defendant No.1 on the suit schedule public road. But, the said authorities have not taken any steps to prevent the said act. The suit schedule property being public road, no individual has any exclusive ownership or right to encroach upon the same. The defendant No.1 with an intention to illegally extend his property, has encroached upon the said 30 feet public road and has started unauthorized construction over the road area, thereby obstructing the free movement of plaintiff and public. Hence, the plaintiff has filed the present suit seeking the relief of permanent injunction and mandatory injunction and the present application has been filed seeking the relief of temporary injunction to restrain the defendant No.1 from encroaching upon the suit property, till disposal of the suit. The plaintiff has also stated in the affidavit annexed to the application that the prima facie case and balance of convenience lies in favour of plaintiff and that he would suffer irreparable loss and injury if temporary injunction is not granted in his favour. On these grounds, the plaintiff has prayed to allow the present application.

3. Per contra, the defendant No.1 has filed written statement-cum-objection to the said application. In the said objection

statement, the defendant No.1 has denied the entire case of plaintiff except the fact that the defendant No.1 is absolute owner of Plot No.101 in R.S.No.195 within the boundaries mentioned in the plaint. The defendant No.1 has admitted that he purchased the said property from its erstwhile owner Shri. Adarsh Shivaji Muchandi on 04.08.2025 under registered sale deed. However, the defendant No.1 has denied the case of plaintiff that he has been encroaching upon the suit road which is 30 feet public road as narrated in the plaint. He has further stated that he has been constructing building in his property by investing huge amount and he has already put the pillar work and it is completed till plinth level and that the construction of building is going on within the compound wall which is constructed about 13 years ago by the earlier owner of the plot and further that the defendant No.1 has obtained permission from Gram Panchayat, Hindalga, Belagavi for carrying out said construction work. He has further stated that the plaintiff and defendant No.2 have colluded with each other and though they have no interest of any nature over the suit property, they have been disturbing the actual physical possession over property of defendant No.1 and that there are other cases also which are filed by defendant No.2 and others against one Vimal Bharmaravji and after filing the said suits, the present suit is filed in the name of plaintiff with an intention to

harass defendant No.1. On these grounds, the defendant No.1 has prayed to dismiss the present application with costs.

4. Heard arguments of learned counsel for plaintiff and the learned counsel for defendant No.1.

5. Based on the contentions taken by plaintiff and defendant No.1, the following points arise for my consideration :

POINTS

i) *Whether the plaintiff has made out prima facie case for grant of temporary injunction as sought for ?*

ii) *Whether balance of convenience lies in favour of the plaintiff to grant temporary injunction against the defendant No.1 ?*

iii) *Whether irreparable loss or injury would be caused to the plaintiff if temporary injunction is not granted ?*

iv) *What order ?*

6. My answer to 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 final order for the following :

REASONS

7. **Point No.1** : It is the case of the plaintiff that the suit road i.e., public road which is 30 feet wide, situated within limits of Laxmi Nagar, Hindalga Gram Panchayat, Belagavi is the road meant for public use and it is being continuously utilized by residents of locality including the plaintiff, defendant No.2 and the general public, but the defendant No.1 is trying to encroach upon the said road under the guise of making construction in his Plot bearing No.101 out of R.S.No.195 of Hindalga Village, Belagavi. Per contra, the defendant No.1 admits his ownership over Plot No.101 by virtue of purchase of the same from one Adarsh Shivaji Muchandi under registered sale deed dated 04.08.2025, but according to him, he has been putting up construction within his property and within the compound wall constructed to his property about 13 years ago by his earlier owner, but the plaintiff and defendant No.2 by colluding with each other have filed this suit in order to harass the defendant No.1. The defendant No.1 has also taken up contention that the plaintiff and defendant No.2 do not have any sort of interest over the suit property.

8. But in support of his case, the plaintiff has produced the property extract pertaining to his property bearing Plot No.116/2, the RTC Extract pertaining to R.S.No.195 and the copy of sale deed under which the mother of plaintiff purchased Plot No.116/2 of Hindalga Village which is situated in R.S.No.195/2. The plaintiff

has also produced the copy of registered sale deed dated 04.08.2025 under which the defendant No.1 is said to have purchased Plot bearing No.101 in R.S.No.195 of Laxmi Nagar, Hindalga village, Belagavi from one Adarsh Shivaji Muchandi. It is pertinent to note that the defendant No.1 admits the said sale deed under which he is said to have purchased Plot No.101. The defendant No.1 has also admitted the boundaries given in the said sale deed, in the course of his written statement-cum-objection to the present application. Such being the case, the boundaries shown in the said sale deed pertaining to the property of defendant No.1 remain undisputed and the said sale deed reveals that towards western side of the property of defendant No.1 i.e., to the western side of Plot No.101, there exists 30 feet wide road. It is this 30 feet wide road which is the suit schedule property in the present suit and according to plaintiff, the defendant No.1 is trying to encroach upon the said road. As such, there is no dispute regarding existence of road to the western side of property of defendant No.1. However, the learned counsel for defendant No.1 has vehemently argued that the plaintiff has not produced layout plan which is approved by competent authority to show that there exists suit road. But, in view of the sale deed of defendant No.1 which is not disputed by him, the existence of a road to the western side of Plot No.101 of defendant No.1 is not in dispute. The defendant No.1 has also

stated in the objection that the plaintiff and defendant No.2 do not have any interest over the suit road, but by producing the copy of sale deed under which the mother of plaintiff purchased Plot No.116/2 out of R.S.No.195/2, the plaintiff has made out prima facie case that he is residing in the said locality where the suit road is situated and where the property of defendant No.1 is situated. Such being the case, it appears that at an undisputed point of time, it was mentioned in the sale deed of Plot No.101 which was purchased by defendant No.1 that there exists 30 feet wide road towards western side of the property of defendant No.1. Though the defendant No.1 has also stated that he has been constructing within the boundaries of his property and within the compound wall which was constructed by his erstwhile owner about 13 years ago, it is pertinent to note that the plaintiff has made out prima facie case that there exists 30 feet wide road towards the western side of the property of defendant No.1 and it is being used by the plaintiff and other persons of locality. Such being the case, though the photographs produced by defendant No.1 and the Gram Panchayat permission issued in favour of defendant No.1 reveal that the defendant No.1 is having authority to construct building within the boundaries of his property, the said construction work should not cause any obstruction to the general public in using the said suit road. The defendant No.1 has not produced any documents which could prove any contrary

theory. Instead, the defendant No.1 has stated in the course of his written statement-cum-objection to present application that the plaintiff and defendant No.2 have been disturbing the actual peaceful possession of defendant No.1 over suit property. It is pertinent to note that the suit property is a public road measuring 30 feet and it is not exclusive property of defendant No.1 and hence it appears that defendant No.1 is laying claim over the suit road. As such, the plaintiff has made out prima facie case for grant of temporary injunction in his favour to restrain defendant No.1 from encroaching upon the suit property i.e., 30 feet wide road situated towards western side of property of defendant No.1 i.e., Plot bearing No.101 as described in the schedule to the plaint. Accordingly, I answer **Point No.1 in the Affirmative.**

9. Point No.2 and 3 : These points are interlinked with each other, hence they are taken up together for common discussion in order to avoid the repetition of facts.

10. The balance of convenience lies in favour of plaintiff since it would cause great inconvenience to the plaintiff if temporary injunction is refused when the plaintiff has made out prima facie case that the suit road is public road which is being used by plaintiff and other persons of the locality. Refusal of temporary injunction in favour of plaintiff would also cause irreparable loss and injury to plaintiff, because otherwise there are chances of

defendant No.1 encroaching upon the same at the time of putting up construction in his property. It is not in dispute that the defendant No.1 has started construction over the property of defendant No.1 since the plaintiff has stated in his plaint that the defendant No.1 has started construction in his property and also the defendant No.1 has stated in his objection statement that he has made huge investment for construction work and the said work is under way. However, the defendant No.1 will not be put to any loss or hardship if temporary injunction is granted, because this order would only restrain defendant No.1 from encroaching upon the suit road and not from putting up construction within the boundaries of his property by leaving the area of suit road i.e., 30 feet wide public road. Therefore at this stage, the balance of convenience lies in favour of plaintiff and also irreparable loss and injury would be caused to plaintiff if the order of the temporary injunction is refused at this stage. Accordingly I answer **Point No.2 and 3 in the Affirmative.**

11. Point No.4 : For the above discussed reasons, I proceed to pass the following :

ORDER

The interim application No.1 filed by applicant/plaintiff against the defendant No.1 U/O.XXXIX Rule 1 and 2 R/w. Sec.151 of C.P.C. is hereby allowed.

The defendant No.1 or anybody claiming rights under him are hereby restrained from encroaching upon the suit road i.e., 30 feet wide public road within the limits of Laxmi Nagar, Hindalga Gram Panchayat, Belagavi which is situated towards western side of the property of defendant No.1 i.e., Plot No.101 and in between the property of defendant No.1 and defendant No.2, till disposal of this suit.

(Dictated to the stenographer directly on computer, revised by me & after corrections pronounced in the open Court on this the 18th day of March-2026.)

**(Smt. Preeti L. Malavalli)
Prl. Civil Judge & JMFC,
Belagavi.**