

Application is filed under Order XXXIX Rule 1 and 2 of CPC seeking relief of Ex-parte Ad-interim Temporary Injunction by the plaintiff in order to restrain the defendant from changing the nature of the suit property by way of construction.

2. Facts sworn in the affidavit appended to the I.A are summarized as under;

It is the case of the plaintiff that suit is filed seeking the relief of perpetual injunction as against the defendant. The plaintiff submits that he is the absolute owner and in possession of the suit property. On 05-06-2025 the defendant along with his henchman had trespassed over the suit property disrupting the legitimate rights of the plaintiff. Further it is stated that the said land is joint family property and it has to be partitioned. Hence, this I.A. is filed to prevent the defendant from interfering with peaceful possession and enjoyment of the suit property by way of putting up construction.

3. Heard plaintiff's counsel Shri. P.S.S. who submitted the averments mentioned in the plaint. The following points arise for the fair adjudication of this Court;

POINTS

1. Whether the I.A No.I filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC deserves to be allowed?

2. What order?

4. On perusal of records placed before the Court and upon hearing the counsel for plaintiff on the merits of the said application, this Court answers the aforementioned points as below;

Point No.1: In the Affirmative

Point No.2: As per the final order
for the following:

REASONS

5. **Point No.1:-** Considering the nature of the application, it is pertinent to note that the main aspect in dispute are not to be dealt at this stage. Moreover, perusal of the documents which are RTC extract in respect of Sy. No. 619 and P.T. Sheet and the copy of plaint filed before the Hon'ble Prl. Sr. Civil Judge and CJM Belagavi in O.S.No. 416/2022. The suit lands are agricultural lands and moreover the claim of the plaintiff in respect of the aspect of the trespass and interference at the hands of the

defendant show that the plaintiff has made out prima facie case. Moreover preservation of the suit property is just and convenient to prevent the multiplicity of proceedings. Moreover the hardship will be caused to both the parties if the nature of the property is altered during the pendency of proceedings. Passing any observations on the merits of the case at this stage is not appropriate. Other matters in issue has to be decided at the time of final adjudication. Hence, the Court is of view that apprehension of plaintiff is to be met with by passing suitable orders.

6. In view of the aforementioned observations the relief of Exparte Ad-interim Temporary Injunction cannot be granted at this stage. **Hence, Point No.1 is answered in the Affirmative.**

7. Point No.2: In view of the reasoning mentioned to arrive at Affirmative finding on Point No.1, this Court proceeds to pass the following order;

ORDER

***I.A No.I filed by the plaintiff
under Order XXXIX Rule 1 and 2
of CPC is hereby allowed.***

***The defendant or any other
person acting on their behalf is***

hereby restrained from changing the nature of the suit property by way of construction over the suit property till next date of hearing.

Plaintiff is hereby directed to comply mandate contemplated under Order XXXIX Rule 3(a) of CPC.

Issue suit summons along with notice of I.A and order of Temporary Injunction to defendant. R/by 14-07-2025

SD/-

**IV Addl. C. J. & JMFC,
Belagavi.**