



**IN THE COURT OF CIVIL JUDGE AND JMFC AT
HUKKERI**

Present: ADITYA R. KALAL., B.A.L. LL.B. LL.M (Symbiosis)
Civil Judge and JMFC., Hukkeri

Dated on this 18th day of July, 2026

ORIGINAL SUIT No.140/2025

Between:

Appasaheb Sidram Khot and others

... PLAINTIFFS

-AND-

Suresh Mallappa Sutagannavar and others

... DEFENDANTS

PARTIES IN I.A.No.II

Between:

Appasaheb Sidram Khot and others

... Applicant/Plaintiff

-AND-

Suresh Mallappa Sutagannavar and others

....Opponents/Defendants

ORDER ON I. A. No.II FILED UNDER ORDER

XXXIX RULE 1 AND 2 R/W SECTION 151 OF CPC

1. The Advocate for the plaintiffs has filed this application under Order XXXIX, Rule 1 and 2 of CPC, to restrain the defendants or anybody acting under them from putting any type of any illegal or unauthorized construction by opening the main door towards the northern side of the suit property as shown by the letters E, F, G, H in the suit hand sketch map.

2. In the affidavit annexed to the application, the plaintiff No.1, Appasaheb Siddram Khot, has stated that he has filed this suit seeking the relief of perpetual injunction against the defendants and he has further stated that they are the actual owners in possession of the property bearing CTS No.3203, which is left for common use and enjoyment for ingress and egress for their houses bearing CTS No. 3202, 3210 and 3204 situated at Hallad Keri, Hukkeri town, which is described as A, B, C, D in the rough sketch. It is said that the defendants are intending to put a door in the portion E, F, G, H as shown in the hand sketch.

3. The plaintiffs submit that they are the exclusive owners in actual physical possession, use, and enjoyment over the suit property for their family members and also cattle, and plaintiffs are also the owners of the adjacent CTS No. 3202, 3210 and 3204 and the said properties are their ancestral family properties. After the death of the father of the plaintiffs, the names of the plaintiffs are authorizedly entered in the city survey records of the suit properties and they have constructed their houses over the said properties.

4. The plaintiff No.1 states that he belongs to an agriculturist family and they have left the suit property open space for ingress and egress for their cattle and family members to move to their respective houses and that is the only way to approach the respective houses of the plaintiffs. It is said that the plaintiffs are in enjoyment of the suit property for more than 70 years without anybody's obstruction or disturbance.

5. It is further stated that the plaintiffs are agriculturists and they do not know about the worldly affairs and are innocent. And by taking undue advantage of their illiteracy, the defendants have made an attempt to disturb and

obstruct the peaceful possession over the suit property in the year 2021-22. And later, a survey was conducted and the property was measured and the plaintiffs and the elders warned the defendants to keep quiet and give an undertaking that they would not disturb the possession.

6. It is stated that in the last week of April 2025, all of a sudden, the defendants removed the roof of their house and kept the tiles in the suit property to make illegal construction. And after noticing the same, the plaintiff No. 1 asked the defendants as to why they were violating their own undertaking given on earlier occasions before the elders that they would not leave any door or windows towards the suit property, but the defendants did not listen to the advice and, all of a sudden, the defendants are making an attempt to make a door which towards the northern side, which is shown in the letters E, F, G, H in the rough sketch.

7. It is said that the defendants are having main door towards the eastern side and without any authorization, they are opening the door on the northern side of their property without any permission from the TMC, Hukkeri.

8. The plaintiffs approached the jurisdictional police station and informed about the illegal activities of the defendants and the plaintiffs also warned the defendants not to proceed with the illegal construction towards the northern side of their suit property. But on 08-05-2025, the defendants kept all the building materials and red tiles in the suit property, causing disturbance and inconvenience to the plaintiffs and the defendants threatened that they have managed the police and, as there is two days' holidays, they would complete the construction.

9. The plaintiffs again approached the police and also the TMC, Hukkeri, and also informed the Chief Officer, TMC, and they came to know that the defendants have not taken any permission from the TMC, Hukkeri. Therefore, the plaintiffs have filed this suit seeking relief of perpetual injunction to restrain the defendants from putting any illegal or unauthorized construction by opening the main door towards the northern side of the suit property shown in the letters E, F, G, H.

10. After the service of the suit summons, the defendants have appeared and they have filed their written

statement. The defendants have filed the memo to treat the written statement as the objections to the said IA. The defendants have denied the entire plaint averments and allegations made by the plaintiffs. The defendants have produced a written statement and a sketch.

11. The defendants submit that they are in the physical possession and enjoyment of CTS 3197, 3198 and 3200. And the defendant No.1's father, deceased Mallappa Basawant Sutagannavar, was the owner of CTS 3198 and it was measuring 13.75 square meters. And after his death, the name of defendant No.1 has been entered.

12. It is also stated that in CTS 3196, which is measuring 21 square meters, the defendant No.1's uncle, Ramappa Basawant Sutagannavar, sold the said property to the defendant No.1 on 2-7-2003 through registered sale deed for Rs.28,000/-. And from then onwards, the defendant No.1 is in possession and enjoyment of the said property. It is further stated that Defendant No. 2 purchased CTS 3200 which is a black tiled house measuring 26 square meters on 25-4-2018 for Rs.1,50,000/- from the legal heirs of deceased Bhimappa

Sutagannavar namely Mahantesh Bhimappa Sutagannavar and Mala Bhimappa Sutagannavar. It is said that at the time of the purchase by the defendants there were two doors to the said house CTS 3200, one on the eastern side and one on the northern side. It is also stated that CTS 3197 is the property of the defendants and the properties bearing CTS No. 3196, 3197 and 3198 and 3200 belongs to the defendants only. It is stated by the defendants that CTS 3203 is a common passage and the defendants are also using the said passage to go to their house. It is further stated that CTS 3200 house is an 80 years old house and the defendants have not made any new construction and they have not put any new doors in the said house. It is said that there is always a door on the northern side as well as on the eastern side to the said house 3200. It is stated that CTS 3200 belongs to the defendants and it is said that CTS 3203 is a common passage which is used by the defendants and other people. With all these contentions, they pray to dismiss the application.

13. Heard the learned advocates appearing for the plaintiffs as well as the defendants.

14. The points that arises for the consideration of this Court is as under:

1. Whether the plaintiffs have made out a prima facie case for grant of injunction?

2. Whether the balance of convenience lies in favour of the plaintiffs?

3. Whether irreparable loss will be caused to the plaintiffs if the injunction is not granted?

4. What order?

15. This court answers the above points No.1 to 3 in the **Affirmative** for the following:

REASONS

16. **Point No.1:** The question in issue is whether CTS 3203 is a common passage or it exclusively belongs to the plaintiffs. The plaintiffs submitted that CTS 3203 belongs to them and it is left for the common use and enjoyment for ingress and egress to the houses bearing CTS 3202, 3210 and 3204. It is seen that CTS 3202 and CTS 3204 are on the northern and western side of the said passage respectively. The

plaintiffs have not described the extent of CTS 3203 but they only say that it is measuring 26.40 square meters as shown in the CTS record. There is no dispute regarding the title of other properties namely CTS 3202, 3210 and 3204 and it belongs to the plaintiffs and it is admitted by the defendants also.

17. The defendant's property is bearing CTS No. 3200 and it was earlier belonging to the Mahantesh Bhimappa Sutagannavar and Mala Bhimappa Sutagannavar who are the legal heirs of Bhimappa Sutagannavar and this property was purchased by the defendant No.1's wife Jayashree Suresh Sutagannavar which is a black tiled house measuring 26 square meters for Rs 1,50,000/- through registered sale deed dated 25-4-2018. It is said that before the purchase of the house there were two doors to the said property, one on the eastern side and one on the northern side. It is also said that in CTS 3196 which is measuring 21 square meters was also purchased by the defendant No.1 from his uncle Ramappa Basawant Sodikaddanavar. It is said that the properties bearing CTS 3197, 3198 and 3200 are the properties belonging to the defendant's family and the plaintiffs have no right over the same. According to the defendants, they are using the said CTS

3203 as a common passage for ingress and egress to their house. The defendants further submit that they have not left any door or are making any new construction in CTS 3200.

18. On perusal of CTS 3203 rule card, it shows that in the year 1976 the said property was standing in the name of the family of the plaintiffs Mallappa, Shankar and Bhimappa sons of Parappa Khot and Appasaheb, Balappa, Parappa children of Sidram Khot and also Gangawwa wife of Sidram Khot. There was a partition in the year 1991 and now the said property is standing in the name of Gangawwa wife of Sidram Khot and Appasaheb, Balappa, and Parappa sons of Sidram Khot who are the plaintiffs in this case. The said property is measuring 26.40 square meters as per the CTS record. The CTS 3202 is on the western side of CTS 3203 and it is standing in the name of plaintiff's family Appasaheb Sidram Khot and earlier in the year 1976 it was standing in the name of Mallappa, Shankar, Bhimappa and CTS 3204 which is on the northern side of the passage also belongs to the family of the plaintiffs and it is standing in the names of Mallappa, Shankar, and Bhimappa who were the sons of Parappa Khot and in the partition , the property is standing in the name of Indrawa, wife of Kallappa

Khot, and Basavaraj Kallappa Khot. And CTS 3210 also belongs to the family of the plaintiffs. Therefore, it is clear that the suit property is standing in the name of the plaintiffs' family. Whereas, the property of the defendants, i.e. CTS 3200 was standing in the name of Baswantappa Sutagannavar, and it was their ancestral property, which belonged to their ancestors Bhimappa and Ramappa. And on 14-5-2018, it has been mutated in the name of Jayashree Suresh Sutagannavar, who is the wife of the defendant No.1, after its purchase.

19. The CTS Survey sketch also shows the position of CTS 3203 as shown in the plaint rough sketch. It is clear that the CTS 3203 is a property belonging to the family of the plaintiffs exclusively. Adjacent to CTS 3203 on the southern side is the house of the defendants, which was purchased by them recently and it is numbered as CTS 3200. It is seen that there is a main door on the eastern side. On the eastern side, there is public road which goes from Belagavi to Hukkeri. And to the said CTS 3200, there is also a door shown in the written statement rough sketch on the northern side. As such, there is no property of the defendants on the northern side of CTS 3200.

20. The photos also show that earlier, the said house was a red-tiled house and it has been now dismantled in order to make a new construction. From the photographs shown in the plaint, it is seen that there was no door on the northern side of that CTS 3200, and the said passage 3203 was left open.

21. It is, therefore, clear that there is no door or any right over the CTS 3203 to the defendants, as it exclusively belongs to the plaintiffs. Therefore, I am of the opinion that the plaintiffs have made out a prima facie case for grant of injunction at this stage. If the defendants put a door in their northern side of their property, it would only hamper the plaintiffs' rights and invade their privacy. Therefore, in order to restrain the defendants, it is necessary to grant injunction. Hence, the point number 1 is answered in the **affirmative**.

22. Points No. 2 and 3 : *Since these points are inextricably linked and dependent on a common matrix of facts, they are taken up together for collective discussion to avoid repetition.*

23. The balance of convenience also lies on the plaintiffs. If the injunction is not granted, then there are

chances that the defendants may put a door on the northern side and they may invade the privacy of the plaintiffs. It is also seen that to the said CTS 3200, which belongs to the family of the defendants, there is a main door on the eastern side. As there is a main door on the eastern side, there is no necessity of another door on the northern side. If that is put, then it would hamper the plaintiff's privacy. If the defendants are restrained from putting the door on the northern side of their property, they would not be put to any loss. Moreover, there is no right to the defendants on the northern side as the said property exclusively belongs to the plaintiffs as could be seen from the CTS records. It is pertinent to note that the defendants have not made any claim over the said passage, but they only state that they have been using the said passage from last 80 years. Mere use of the road does not assert a title over that property to the defendants, unless it is adverse to the knowledge of the plaintiffs. There is no adverse possession claimed by the defendants as well. Therefore there is no case made out by the defendants to claim their right over the CTS 3203. Therefore the balance of convenience lies in favour of the plaintiffs rather than the defendants. If the injunction is not granted the

plaintiffs would be put to irreparable loss and injury. Therefore the Points No.2 and 3 answered in the Affirmative.

24. POINT No.4:- In view of the above discussions made herein above and also for the reasons given to the points No.1 to 3, this court proceeds to pass the following:

ORDER

The I.A.No.II filed by the plaintiffs U/o XXXIX Rule 1 and 2 of CPC is hereby allowed.

The defendants, or anybody acting under them, or their henchmen are hereby restrained from putting any door on the northern side of CTS No.3200 or using the passage bearing CTS No.3203 either for their use for Ingres and egress to their property in CTS No.3200 or CTS No. 3201 till disposal of the suit.

No order as to costs.

(Dictated to the Stenographer, typed by her and the transcript revised and corrected by me and pronounced in the open Court, on this 18th day of July 2026)

(ADITYA R. KALAL)
Civil Judge & JMFC,
Hukkeri.

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(Order pronounced in open court,
vide separate order)

ORDER

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No order as to costs.

**Civil Judge & JMFC
Hukkeri**