

ORDERS ON I.A. No. IV & V FILED BY THE
PLAINTIFFS U/S. 151 OF CPC.

The plaintiffs have filed the I.A No. IV & V praying to order for police protection and to direct the defendants to demolish the structure constructed upon suit property by the defendants.

2. The interim applications are supported by affidavits filed by the plaintiffs, wherein plaintiffs stated that, this Court granted Temporary injunction by allowing the I.A.No.I against the defendants by restraining the defendants to not to make any sort of construction in the suit property. But the defendants have not obeyed the Temporary Injunction orders passed by this Court. The defendants have continued

illegal construction over the suit property. Hence, plaintiffs filed the present applications seeking the police protection. Further, the plaintiffs are also seeking to direct the defendants to demolish the illegal construction made by them over the suit property by disobeying the order of this Court.

3. The defendants have filed objections to the interim applications and contended that applications filed by the plaintiffs are all false and contended that the suit property mentioned in the plaint is no way concerned to the on going construction by the defendants and defendants are constructing the building in their own land and well within the boundaries which is in their possession and ownership. Further, defendants have filed IA No.II and Court commissioner was appointed to ascertain the extent of the suit property held by the plaintiffs and defendants as per the pleadings. Further, the

plaintiffs has questioned the order on IA No.II before the Hon'ble High Court of Karnataka in Writ Petition No.105285/2023 and it shows that plaintiffs are not willing to accept the true facts. With other contentions prays to reject the applications.

4. I have heard both the sides and perused the materials on record. The following points arise for my consideration:

POINTS

1. Whether the plaintiffs have made out grounds to allow the IA No.IV & V?

2. What order?

5. My answer on the above points are as follows:

Point No.1 : In the affirmative.

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

REASONS

6. **Point No.1:-** The plaintiffs have filed this suit for the relief of declaration of their title and

consequential relief of permanent injunction against the defendants. The plaintiffs claims that they are the owners in possession of property bearing No.348 measuring 320 Sq. yards situated at Tigadolli village of Kittur Taluk. The plaintiffs submits that the property of defendants is situating abutting to suit property and the same is undisputed fact. The plaintiffs submits that the defendants are trying to trespass over the suit property.

7. The defendants have denied the plaint averments and contentions of plaintiffs. The defendants contends that the suit property is different and property owned and possessed by defendants are different. That defendants have not interfered with the possession of plaintiffs or trespassed over the suit property.

8. That the plaintiffs have filed IA No.I U/Order XXXIX Rule 1 and 2 R/w Sec.151 of CPC praying to restrain the defendants from causing interference to the peaceful possession of plaintiffs over the suit property. The said IA No.I was allowed and ad-interim injunction order against the defendants is in force. However, now the plaintiffs have come up

with present applications that inspite of injunction orders of this Hon'ble Court the defendants have continued to trespass over the suit property and defendants have encroached upon the suit property and constructing the house. The plaintiffs have also relied upon present photos of suit property as per which it can be seen that a house is under construction.

9. Under such circumstances, it is necessary to grant to police protection to the plaintiffs and also to enforce the orders of this Court. Further, it is also necessary to ascertain the encroachment made by the defendants over the suit property by violating the orders of this Court. The ascertainment of extent of encroachment of suit land is necessary so as to direct the defendants to remove the illegal construction made over the portion of suit property which will also be the piece of evidence in deciding the separate miscellaneous case initiated against the defendants for violating the injunction orders in this case. Hence, the present applications filed by the plaintiffs deserves to be allowed. **Hence, point No.1 is answered in the affirmative.**

10. Point No.2:- With these observations, I proceed to pass the following;

ORDER

The IA No.IV & V U/Order 151 of CPC filed by the plaintiffs are hereby allowed with costs.

The office is directed to issue intimation to the PSI, Kittur PS to demarcate the boundaries of suit property by measuring the same and also to demarcate and ascertain the extent of encroachment made by defendants in the suit property bearing VPC No.348 measuring 320 Sq. yards situated at Tigadolli village of Kittur Taluk and to provide police help to the plaintiffs for enforcement of temporary injunction order until further orders.

For the sake of this orders the PSI, Kittur PS, may take the assistance of Surveyor and file the report of police help

and encroachment accordingly to the Court
within next date of hearing.

Await report by 25.03.2025.

15.03.2025
**Civil Judge & JMFC,
Kittur.**