

IN THE COURT OF THE CIVIL JUDGE & JMFC, AT SANDUR

:: PRESENT ::

Sri. Md. Shaiz Chouthai,

B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur

Dated: 11th day of December 2025

O.S. No.131/2024

Plaintiff/s : Chandrappa S/o Hanumanthappa,
Aged about 41 years,
R/o Gowrammanakatte,
Gollalingammahalli village,
Sandur Taluk, Ballari District.

(By Sri. M.M.M., Advocate)

V/S

Defendant/s : Rudra S/o Choudappa,
and others.

(By Sri. A.V.K., Advocate)

I.A.No.II

Applicant : Chandrappa S/o Hanumanthappa
(Plaintiff)

V/s

Opponents : Rudra S/o Choudappa,
and others.
(Defendants)

ORDER ON I.A.No.II FILED UNDER ORDER XXXIX**RULE 1 AND 2 R/W Sec. 151 OF C.P.C.**

The plaintiff has filed this application U/O XXXIX Rule 1 and 2 R/w Sec. 151 of C.P.C., seeking to restrain the defendant No.1 to 8 from causing interference the possession of plaintiff over the suit property, till the disposal of the suit.

2. According to plaintiff, he is the absolute owner, in possession and enjoyment of the suit land bearing Sy. No.292/2, measuring 2.35 acres, situated at Gollalingammanahalli village, Choranur hobli, Sandur taluk. The said land is ancestral property of the plaintiff. He derived the suit land in a family partition that took place on 10.04.2023. In the said partition, the plaintiff is allotted the suit land, followed by mutation of his name in the concerned revenue records vide MR No. H-17/2022-23 Dt. 30.05.2023. The plaintiff is regularly paying taxes to the concerned authorities while remaining in possession.

3. It is alleged that the defendants without having any

right or documents in their favour are trying to interfere while demanding to lay the cart track road in the suit land. In fact, there is no any way or cart road existing the suit land at any point of time, and therefore, the plaintiff refused to permit them to lay cart track road. The plaintiff gave letter to Tahasildhar, Sandur on 24.04.2024 alleging the illegal acts of the defendants. But, the Tahasildhar has not taken any action but he asked the plaintiff to move to the competent civil court.

4. According to plaintiff, the defendants are very powerful and influential persons having political support and thereby unnecessarily causing trouble to the plaintiff. On 31.03.2024 at about 11:00 AM, the defendants tried to dispossess the plaintiff and in furtherance of this, they cut down the banana and other trees and caused monetary loss. With the help of neighbors, the plaintiff could stop the illegal and highhandedness act of the defendants. The plaintiff approached the jurisdictional police but it yielded no benefit. Even the panchayath was summoned in the village, but the defendants did not heed to their

advise to not to cause interference. With no other alternative the plaintiff instituted this suit and maintained the present application. It is submitted that the plaintiff has got *prima-facie* case and balance of convenience in his favour. If the injunction is not granted irreparable loss and injury will be caused to him. On these grounds, he prays to allow the application.

5. After service of summons, defendant No.1 to 8 appeared, and defendant No.1 filed written statement which is adopted by defendant No.2 to 8. They filed memo to consider the written statement as also objections to I.A. No.II.

6. The defendants denied the entire averments of the plaint and the allegations made in the application. It is submitted that the plaintiff is not the owner and in possession of the suit land. The plaintiff has not acquired any property in a partition deed Dt.10.04.2023.

7. At the same time, the defendants contend that there is 14 feet road in the suit land since time immemorial for the past

100 years. The said road is from Bommalogunda village towards Baramadagu road. The Gram Panchayath authorities of Gollalingammanahalli have laid road in the suit land from Bommalogunda village to Baramadagu. The said road is formed on 04.04.2022. In this regard the PDO Gram Panchayath, Gollalingammanahalli gave work order to the contractor.

8. It is submitted that the plaintiff has illegally closed the road, and in this regard the defendants and other villagers have given representation to Tahasildhar, Sandur. Thereafter the Revenue Inspector has inspected the spot on 08.02.2024 and removed the barbed fencing and gave report to the Tahasildhar, Sandur on 29.02.2024. In his report, the Revenue Inspector has shown the cart road in the suit land. As per the order of the Government, the Tahasildhar, Sandur has ordered to remove the illegal fencing put by the plaintiff. The said cart road is being used by the public for movement of vehicles and carts since time immemorial. The plaintiff has no *prima-facie* case and balance of convenience in his favour. In addition to this it is contended that

the plaintiff has not made Government as necessary party and therefore the suit is bad for non-joinder of necessary parties. Further, it is contended that without seeking the relief of declaration, a suit for permanent injunction is not maintainable. Further, the defendants have disputed the boundaries as described in the plaint. Amongst other grounds, the defendants pray to dismiss the application.

9. Heard the argument of learned counsel for the plaintiff and defendants. Perused the records.

10. The points that arise for my consideration are:-

1. Whether the applicant proves that he has *prima-facie* case in his favour to the grant the interim relief as sought for?
2. Whether the applicant proves balance of convenience in his favour?
3. Whether the applicant proves that he would suffer irreparable loss if injunction is not granted as sought for?
4. What order?

11. My answer to the above points are as under:-

- Point No.1** : In the Affirmative
Point No.2 : In the Negative
Point No.3 : In the Negative
Point No.4 : As per final order
for the following:-

REASONS

12. **POINT NO.1 TO 3:-** All these points are taken together for common discussion to avoid repetition of facts and appreciation of materials on records.

13. The plaintiff strengthen his ownership and possession over the suit land bearing Sy. No.292/2, measuring 2.25 acres, situated at Gollalingammanahalli village, Sandur taluk, on the basis of Registered Partition Deed Dt. 10.04.2023. The plaintiff has produced digital copy of Registered Partition Deed No.192/2023-24 Dt. 10.04.2023, wherein the plaintiff and his family members have effected partition in respect of the family properties wherein the suit land bearing Sy. No.292/2, to the extent of 2.35 acres out of 7.60 acres fell to the share of plaintiff.

On the basis of the Registered Partition Deed, the mutation is effected vide MR No.H-17/2022-23 Dt. 24.04.2023. The name of the plaintiff is also mutated in the revenue records separately in respect of the suit land. Even 11E sketch is also available in respect of the portions fell to the plaintiff and other family members in the said land. These documents favours the case of the plaintiff to come to the conclusion that the plaintiff got the suit land in a partition within his family members. The boundaries described in the plaint schedule tally with the boundaries given in the Registered Partition Deed and also in 11E sketch and the proceedings conducted therein.

14. What is need to be seen is whether there is any road passing the suit land which is being used by the villagers of Gollalingammanahalli village from time immemorial. The existence of such road in the suit land cannot be found either in the partition deed, ROR or 11E sketch.

15. The defendants have filed the certified copy of the

order passed by the Tahasildhar, Sandur on 29.02.2024 on the appeal given by the villagers of Bommalagundi village. On perusal of the said order, it appears that the Revenue Inspector had inspected the land Sy. No.292/2, measuring 2.35 acres and found that there is cart road in the said land which is informed to him that it is being used by the residents of the said village for the past 80 years. The Revenue Inspector also observed that the plaintiff had put fencing on the road which blocked the residents from moving further. He ordered for removal of said obstruction. The photographs furnished by the defendants *prima-facie* reveal the passage of road which appears to be used from long time. The village map filed by the plaintiff *prima-facie* disclose the road passing through the suit land. Though the plaintiff has *prima-facie* case to conclude that the suit land is standing in his name but, if the road which pass through his land is blocked it will cause hardship to many of the residents of the village for their movement and the movement of carts. It will cause undue inconvenience to the defendants and the other residents of the

village. The balance of convenience tilt in favour of the defendants. When the road is said to be in existence time immemorial, if the injunction is not granted no hardship will be caused to the plaintiff. It is trite that for the grant of injunction, it is not only the *prima-facie* case which has to be looked into but also the other two important ingredients i.e., the balance of convenience and irreparable loss. Both these ingredients tilt in favour of the defendants. As such, I answers Point No.1 in the **AFFIRMATIVE** and Point No.2 and 3 in the **NEGATIVE**.

16. **POINT NO.4:-** In view of the above findings and discussions, I proceed to pass the following:-

ORDER

I.A. No.II filed by the applicant– plaintiff
U/O XXXIX Rule 1 and 2 R/W. Sec. 151 of
C.P.C., is hereby rejected.

The observations made in this order shall
not come in the way of, affect or cause

prejudice to the rights of the parties to prove their case by leading evidence during the trial.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 11th day of December-2025).

(Md. Shaiz Chouthai)
Civil Judge & JMFC, Sandur.