

**KABK610029652025**



**IN THE COURT OF CIVIL JUDGE AND JMFC,  
BANAHAATI**

**PRESENT: Smt. SAUMYA HOOLI**  
**B.A.,LL.B.**  
**Civil Judge & JMFC,**  
**BANAHAATI**

**O.S.No.225/2025**

**Dated this the 19<sup>th</sup> day of December-2025**

**PLAINTIFF:**

Subhas S/o Vithal Mavarakar,  
Age: 50 years, Occ: Agriculture,  
R/o: Sameerwadi, Tq: Rabakavi-Banahatti,  
Dist.: Bagalkot.

**(By Sri R.N.K., Advocate)**

**//Versus//**

**DEFENDANT:**

Giramallappa S/o Ramappa Mirji,  
Age: 45 years, Occ: Agriculture,  
R/o: Bisanal, Tq: Rabakavi-Banahatti,  
Dist.: Bagalkot.

**(By Sri S.C.U., Advocate)**

**PARTIES ON I.A.No.II****Applicant/Plaintiff:**

Subhas S/o Vithal Mavarakar,  
Age: 50 years, Occ: Agriculture,  
R/o: Sameerwadi, Tq: Rabakavi-Banahatti,  
Dist.: Bagalkot.

**//Versus//**

**Opponent/ Defendant**

Giramallappa S/o Ramappa Mirji,  
Age: 45 years, Occ: Agriculture,  
R/o: Bisanal, Tq: Rabakavi-Banahatti,  
Dist.: Bagalkot.

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**ORDER ON IA.2**

1. The applicant/plaintiff filed IA No.2 U/sec.94(e) R/w sec.151 of CPC seeing the court to issue directions to the Tahsildar to provide protection for the plaintiff from the defendants since the defendants are causing obstruction to the plaintiff from cutting sugarcane crops.

2. In the affidavit annexed to IA No.2, the plaintiff has averred that, the plaintiff has instituted suit for permanent injunction and that plaintiff is in the possession of land bearing RS No.41/7 measuring 2 acre 31 guntas. The plaintiff has purchased the said suit property via registered sale deed. Further it is the case of the plaintiff that, the defendants are causing obstructions to the plaintiff from cutting sugarcane crops grown in RS No.41/7. Thus, the plaintiff has filed the above said application.

3. The defendant No.1 has appeared through his counsel wherein the counsel for defendant No.1 has orally objected the said application contending that still the possession of the suit property is not decided and thus the court cannot grant the said protection to the plaintiff. The counsel for defendant No.1 also submitted that, there is a suit for partition pending before another court with respect to the same suit property.

4. Upon hearing the arguments and on perusal of materials placed on record, the following points that arise for consideration are;

(1) Whether the present application is maintainable ?

(2) Whether the plaintiff has made out sufficient grounds to allow the IA No.2?

(3) What order?

5. The findings of this court to the above points are as under;

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : As per final order for the following;

### **REASONS**

**6. Point No.1 & 2:-** Since these points are interlinked, they are taken together for discussion.

In brief, it is the case of the plaintiff that, he has filed this suit for permanent injunction and therefore the plaintiff seeks direction to Tahsildar to grant protection to the plaintiff from cutting sugarcane crops. In the instant case, the court

has granted ex-parte temporary injunction against defendant restraining him from causing obstruction to cut the sugarcane crops grown in suit property. It is relevant to note that the said temporary injunction is granted based on the documents placed on record. Merely grant of temporary injunction does not conclusively mean that the plaintiff has established his case. The instant application is filed to grant protection to plaintiff from Tahsildar. In the instant case, the plaintiff himself has produced documents wherein on perusal of the sugarcane bills, it is forthcoming that, the defendant has transported the sugarcane to the factory from land bearing RS No.41/7 which itself raises doubt though plaintiff counsel contends that the said sugarcane is sent in the name of defendant from the plaintiff's land. During the course of argument of defendant's counsel, it is forthcoming that the suits pertaining to the suit property are pending which is not pleaded by this plaintiff. Moreover merely on ex-parte temporary injunction the court, cannot conclusively decide as to in which portion of the land in suit property the defendant

is causing obstruction to the plaintiff from cutting the sugarcane crops. In addition when the sale deed produced by the plaintiff is perused, it is forthcoming that, the land of defendant is towards southern side of the suit property. The plaintiff has however produced the complaint addressed to SP Bagalkot, complaint addressed to DYSP, complaint addressed to PSI and MLC reports of plaintiff along with MLC's of plaintiff's family. The plaintiff has also placed several photographs on record to show the assault on plaintiff's family. No doubt there has been assault on plaintiff's family but merely on the said bills and private complaint lodged before court of Sr. Civil Judge, Banahatti this court cannot conclusively determine the possession of the plaintiff. On perusal of the sugarcane bill produced by the plaintiff, it is forthcoming that, the said bill amount is dispersed in the name of defendant No.1 and in the transporter ID column the name of defendant is mentioned which means to say that the defendant has supplied the sugarcane crops grown in suit property to the factory from which the doubt arises as to

when the defendant has cut the sugarcane crops grown in the suit property without the knowledge of the plaintiff. Such questions are to be determined based on the evidence. In addition, it is to be noted that the plaintiff has not exhausted other provisions provided in CPC and merely because sec.94(e) of CPC is analogous to sec.151 of CPC this court cannot on ex-parte temporary injunction grant protection from Tahsildar who is the revenue authority. The Tahsildar cannot be directed to give protection. The present application is not maintainable in the eyes of law and when such is the case this court by exercising inherent powers cannot merely pass order directing Tahsildar to grant protection. The inherent powers of the court are to be exercised in a limited manner and judiciously. Such being the case, at the initial stage of the suit, this court cannot pass the order on the application which is not maintainable under the eyes of law wherein the plaintiff was supposed to exhaust the other provisions provided in CPC. When the application itself is not maintainable, there is no question of granting any relief to

the plaintiff on the said application. Hence, this court answered point No.1 & 2 in the Negative.

7. **Point No.3:** For the foregoing reasons assigned in point No. 1 & 2, this court proceeds to pass the following :

**ORDER**

IA No. 2 filed by the plaintiff/  
applicant U/sec.94(e) R/w sec.151 of  
CPC is hereby rejected.

No order as to cost.

(Dictated to the stenographer directly on computer typed by him, corrected by me, then pronounced in the open court on this the 19<sup>th</sup> day of December, 2025)

Sd/-  
**(SAUMYA HOOLI)**  
**Civil Judge & JMFC**  
**Banahatti**