

KABK710051852024



O.S./286/2024

IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC,
AT: JAMKHANDI.

PRESENT

Smt.Shreedevi,
B.Com LLB,
Addl. Civil Judge & JMFC,
Jamkhandi.

Dated this the 10th day of October – 2025

O.S. No.286/2024

1. Shri.Beerappa S/o Parasappa Dolli,
Age: 50 years, Occ: Business,
R/o. Kannolli village,
Tq: Jamkhandi, Dist: Bagalkot.

.....Plaintiff.

(By Shri.M.M.D., Advocate)

- Vs -

1. The Panchayat Development Officer,
Gram Panchayat,
Kannolli village,
Tq: Jamkhandi, Dist: Bagalkot.

.....Defendant.

(By Shri.R.M.J., Advocate)

I.A.No.II

1. Shri.Beerappa S/o Parasappa Dolli,
Tq: Jamkhandi, Dist: Bagalkot.

.....Applicant/Plaintiff.

- Vs -

1. The Panchayat Development Officer,
Gram Panchayat,
Kannolli village,
Tq: Jamkhandi, Dist: Bagalkot.

.....Opponent/Defendant.

Sl. No.	Details	Particulars
1	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC
2	Relief sought for	Temporary Injunction
3	The date on which the application is filed	30-09-2024
4	Number of the applications	I.A.No.II
5	The date on which the objections are filed by the different opponent/s	28-11-2024
6	The date on which the orders were passed on the said application/s.	10-10-2025

ORDER ON IA.No.II

The plaintiff has filed an interim application under Order XXXIX Rules 1 and 2 R/w Section 151 of CPC, seeking

a temporary injunction restraining the defendant and his servants, subordinates, hirelings and any other persons on his behalf from doing any act of demolishing the suit schedule 'ABCD' property of the plaintiff as shown in the schedule map, till disposal of the suit.

2. In the accompanying affidavit to the interim application, the Plaintiff has stated that he is the owner and person in possession of the property bearing VPC No.12 of Kannolli Village, which was allotted to him by the Gram Panchayat, Kannolli, several years ago. He has constructed a permanent shed and subsequently built a residential house on the said property with a tin roof, along with other villagers. He further states that he has been regularly paying property tax to the Panchayat Authority, which has issued receipts in his name, and his possession and construction have been within the knowledge of the said authority. The Plaintiff asserts that he has been in peaceful, continuous, and uninterrupted possession and enjoyment of the suit

property for the past 20 years without any objections from any person or authority.

3. The Plaintiff further submits that the Panchayat Authority, in collusion with his ill-wishers, has passed an illegal resolution vide Order No. ಕ್ರಸಂಗ್ರಾಪಂಕ/ಸಾ.ದೂ./ಕಟ್ಟಡ/2023-2024, targeting him alone, while no such action has been taken against his neighbours who have also constructed houses and are similarly paying property tax. It is submitted that the Defendant Authority has now planned to demolish the Plaintiff's property in a high-handed and arbitrary manner, without any lawful authority, and solely with a mala-fide intention to harass him at the instigation of certain vested interests and ill-wishers. The Plaintiff submits that there is absolutely no necessity to demolish the suit property, and such action is unwarranted, discriminatory, and illegal.

4. The Plaintiff submits that the Defendant Authority, acting with an ill-motive, has issued a notice solely to him while no such notice has been served upon his neighbouring property owners who have also constructed buildings in the

same vicinity. This selective action amounts to a violation of the principles of natural justice and is arbitrary and discriminatory. The Plaintiff further states that he had obtained permission from the Panchayat Authority at the time of constructing the building on the suit property. Despite this, the Defendant has now planned to demolish the 'ABCD' portion of the suit property in a high-handed and illegal manner, solely with the intention of harassing the Plaintiff.

5. It is further submitted that the Plaintiff has made a request to the Defendant Authority to refrain from taking such illegal action; however, the Defendant has failed to consider his request and is proceeding with the proposed demolition of the 'ABCD' portion of the suit property, as shown in the map, thereby threatening to cause serious and irreparable damage to the Plaintiff's valuable property. The Plaintiff submits that he has a prima-facie case in his favour, and the balance of convenience also lies in his favour. If the interim relief sought is not granted, the Plaintiff will suffer

irreparable loss and injury, whereas no prejudice will be caused to the Defendant. Hence, the Plaintiff respectfully prays that the application may be allowed in the interest of justice.

6. In response to the suit summons, the Defendant has appeared through his counsel and filed objections to I.A. No.II, wherein he has denied all the allegations and contentions raised by the Plaintiff. It is specifically contended that the Plaintiff is not the original owner of the 'ABCD' suit property and has no legal right, title, or possession over the said property. It is further submitted that the Hon'ble High Court of Karnataka, Dharwad Bench, has dismissed W.P. No.103539/2024 (LB-Res) by order dated 31-08-2024, which operates against the Plaintiff. The Defendant contends that the Plaintiff has failed to establish a prima facie case and that the interim relief sought in I.A. No.II is identical to the main relief claimed in the suit, and therefore, cannot be granted at an interlocutory stage without a full-fledged inquiry. It is also submitted that if the application is allowed,

the Defendant will suffer greater hardship and prejudice. Hence, it is prayed that I.A. No.II be dismissed in the interest of justice.

7. Heard arguments advanced by the both the counsels appearing for the plaintiff and the defendant. In view of the material placed before this court and the rival contentions raised by the parties, the following points arise for determination:

P O I N T S

1. Whether the applicant/plaintiff has made out a prime-facie case for the grant of the TI as prayed?
 2. Whether the balance of convenience lies in favor of plaintiff?
 3. Whether irreparable loss would be caused to the applicant/plaintiff. If the instant interlocutory application is not allowed?
 4. What order?
8. My answer to the above points are as under;
- Point No.1:-** In the Negative,
- Point No.2:-** In the Negative

Point No.3:- In the Negative and

Point No.4:- As per final order,
for the following;

// R E A S O N S //

9. **Point No.1 to 3:-** These points are taken up together for a common discussion and to avoid repetition of facts. The complete facts of the interim application have already been narrated at the beginning of this order; therefore repetition is avoided here.

Note: It is made clear that, at this stage, any of the observations made herein do not affect the merits of the case, and the parties are at liberty to prove their respective contentions. These observations have been made solely for the purpose of disposing of this application and shall not carry any weight in the final disposal of the suit.

10. I have carefully perused the plaint, affidavit, objections, and all documents available on record. The Plaintiff has not produced any construction permission obtained from the Defendant authority, nor has he submitted any documents establishing ownership over the suit property,

except for a few property tax paid receipts. It is observed that the Hon'ble High Court of Karnataka, Dharwad Bench, in W.A. No.100397/2024 (arising out of W.P. No. 103539/2024), filed by the present plaintiff in relation to property bearing No.12 the same property and the same issue involved in the present case has already adjudicated the matter. The said writ appeal was dismissed, and the Hon'ble Court held at paragraph No. 6 as follows:

“The material available on record indicates that the appellant was given notices i.e., on 02.01.2024, 06.01.2024 and 08.02.2024. by suppressing the notices issued by the authorities, the writ petition was filed and interim order was obtained. The material available on record indicates that every construction of structure by the appellant is illegal, hence question of claiming any rights over such property by the appellant would not arise.”

11. Despite the aforementioned order, the plaintiff has again filed an application seeking a temporary injunction

restraining the defendant, its servants, subordinates, hirelings, and any other persons acting on its behalf, from demolishing the suit schedule property described in the 'ABCD' boundaries. This Court is of the opinion that the plaintiff has failed to establish a prima-facie case, or demonstrate the existence of irreparable loss or injury, or that the balance of convenience lies in his favour for the grant of a temporary injunction. Furthermore, the Hon'ble High Court of Karnataka, Dharwad Bench, in W.A. No.100397/2024 (arising out of W.P. No. 103539/2024), has already dismissed the plaintiff's claim in respect of the same property and issue. The present application, therefore, amounts to an abuse of the process of law. Accordingly this court answered the Point No.1 to 3 in the '**Negative**'.

12. **Point No.4:-** The plaintiff has not made out a prima-facie case and has not established both hardship and the balance of convenience in his favor. This Court is of the opinion that the plaintiff is not entitled to the discretionary and equitable relief of temporary injunction as prayed for.

Hence, for the aforesaid reasons, this court proceeds to pass the following;

: O R D E R :

I.A No.II filed by the plaintiff under
Order XXXIX Rule 1 and 2 R/w Sec.151
of CPC is hereby rejected.

No order as to cost.

*(Dictated to the Stenographer directly on computer and typed by him, and corrected, printout taken, signed by me and then pronounced in the open court on this the **10th day of October - 2025**)*

**Sd/-
(Smt.Shreedevi),
Addl. Civil Judge & JMFC,
Jamkhandi.**