

**IN THE COURT OF PRL. CIVIL JUDGE AND JMFC, ANEKAL.**

**06<sup>th</sup> day of July 2026**

**PRESENT:** Sri. Shankarareddy.D.V., L.L.B., PGD in IR & PM.,  
Prl. Civil Judge and JMFC, Anekal.

**OS.No. 218/2025**

**Plaintiffs** : Mr. Devaraja.M and another,

**V/s.**

**Defendants** : Sri. N.Sashidhar & others.,

**IA No.III**

**Plaintiffs/ Applicants** : Mr. Devaraja.M and another,

**V/s.**

**Defendants/Opponents:** Sri. N.Sashidhar & others.,

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**ORDERS ON IA No.III**

IA No.III filed by the defendant No.1 to 3 U/o.XXXIX Rule 1 & 2 R/w Sec.151 of CPC seeking an interim order of temporary injunction restraining the plaintiffs and their men from putting up any construction in the suit schedule property pending disposal of the suit.

**2. Brief facts of defendant No.1 to 3's case is set out hereunder:-**

Property bearing Sy.No.259, measuring 2 acre 9 guntas belongs to said Annaiyappa situated at S. Bingipura village,

Jigani Hobli, Anekal Taluk, Bangalore Urban District belongs to said Annaiyappa. The said Annaiyappa had five sons and one daughter namely A.Narayanappa, A.Krishnappa, A.Venkataswamy, A.Sampangi, A.Narasimhamurthy & Venkatalakshmi. The said A.Narayanappa died and the defendant No.1 to 3 herein are his children. The defendant No.4 is daughter of said A.Krishnappa. The defendant No.5 is the son of said A.Venkataswamy.

It is further case of the defendant No.1 to 3 that the said Annaiyappa sold the said 2 acre 9 guntas in Sy.No.259 to one Mohammed Yusuff. Subsequently, the said Mohammed Yusuff sold the same to one Sandyag Kumar under the sale deed dated 19-12-2006. Thereafter, the said Sandyag Kumar sold the same to R.Prabakar Reddy under the sale deed dated 12-06-2012. Subsequently, the said R.Prabhakar Reddy formed the residential layout in the said land without obtaining approvals from concerned authorities and suit schedule site said to have sold to Fahmeeda Bano under the sale deed dated 23-06-2012. Then, the said Fahmeeda Bano sold the same to the plaintiffs under the sale deed dated 10-01-2024.

It is further case of the defendant No.1 to 3 that said Annaiyappa belongs to SC/ST community and said land granted to him by the concerned authority. But, without obtaining prior permission from concerned authority, the said Annaiyappa sold the same to Mohammed Yusuff. Therefore, defendant No.1 to 3 and other some of his family members initiated proceedings at PTCL No.41/2023 before the Assistant Commissioner, Bengaluru South in respect of said 2 acre 9 guntas of Sy. No.259 of S.Bingipura village, Anekal Taluk and said proceedings are pending for adjudication.

Further case of the defendant No.1 to 3 that the defendants and their family members retained 2 acres in the said survey number, to which the plaintiffs herein tried to interfere and plaintiffs are putting up construction in the suit property without obtaining any approvals. Therefore, defendant No.1 to 3 constrained to file the present application for the aforesaid relief.

**3. Brief facts of the plaintiffs case is set out hereunder;-**

Originally property bearing Sy.No.259, measuring 2 acre 9 guntas situated at S.Bingipura village, Jigani Hobli, Anekal Taluk, Bengaluru District belongs to M.Annaiyappa S/o

Munivenkatappa. He sold the same to one Mohammed Yusuff under the sale deed dated 12-08-1997. In turn, the said Mohammed Yusuff sold the same to one Sandyag Kumar under the sale deed dated 19-12-2006. Thereafter, the said Sandyag Kumar sold the same to R.Prabakar Reddy under the sale deed dated 12-06-2012. Subsequently, the said R.Prabhakar Reddy formed the residential layout in the said land and suit schedule site sold to one Fahmeeda Bano under the sale deed dated 23-06-2012. The said Fahmeeda Bano sold the same to plaintiffs under the sale deed dated 10-01-2024. Accordingly, katha transferred to the name of plaintiffs and they are in possession of the same. The defendants have no manner of right, title or interest over the suit schedule property. Such being the case, on 11-11-2024 the defendants disturbed to the plaintiffs peaceful possession of suit schedule property. Hence, plaintiffs constrained to file the present suit for permanent injunction in respect of suit schedule property along with IA No.I U/o.XXXXI Rule 1 and 2 of CPC and same came to be allowed vide order dated 12-02-2026. Therefore, the present application filed by the defendant No.1 to 3 not maintainable either in law or facts. Accordingly, prayed to dismiss the present application.

4. Having heard both side on IA No.III and on perusal of material available on record, the following points arise for consideration;

1. Whether the defendant No.1 to 3 have made out prima-facie case in their favour?
2. Whether the balance of convenience lies in-favour of defendant No.1 to 3 ?
3. Whether the irreparable injury would be caused to the defendant No.1 to 3, if present application is disallowed?
4. What order ?

5. On appreciation of material available on record, the above points are answered as under;

**POINT No.1** :- In the Negative,

**POINT No.2 & 3** :- Do not survive for consideration,

**POINT No.4** :- As per final order,

for the following ;

### **REASONS**

6. **Point No.1:-** Learned plaintiffs counsel by relying the judgment reported in **2014 Supreme (Kar) 513 – Smt. Shakunthalamma W/O Chinnappa V/s Smt. Kanthamma W/o Late Bheemanna** submitted that present application filed by the defendant No.1 to 3 not maintainable. In the said decision the Hon'ble High Court of Karnataka observed that “(i) Both the plaintiff and the defendant can maintain an application U/o XXXIX

Rule 1(a) of the Code for the reliefs set out in the said provision, (ii) Insofar as relief U/o. XXXIX Rule 1(b) and (c) is concerned, such a relief is available only to the plaintiff and the defendant cannot maintain an application for the said reliefs in a suit filed by the plaintiff, irrespective of the fact that his right to such relief arises either from the same case of action or a cause of action that arises subsequent to filling of the suit". In the case on hand, admittedly defendant No.1 to 3's claim does not fall under the purview of Order XXXIX Rule 1(a) of CPC. Therefore, as rightly argued by the plaintiffs counsel the present application is not maintainable.

Moreover, IA No.I filed by the plaintiff U/o.XXXIX Rule 1 and 2 of CPC came to be allowed vide order dated 12-02-2026. In the said order, all the contentions taken by the defendant No.1 to 3 herein have been considered. In the circumstance, considering the very same contentions once again herein would amounts to repetition. Therefore, this court does not inclines to reconsider the very same contentions once again.

It is to be noted here that in the aforesaid order dated 12-02-2026, this court opines that plaintiffs made out prima-facie case with regard to their possession over the suit schedule property.

Such being the case, the present application filed by the defendant No.1 to 3 unsustainable. With this discussion, this court opines that defendant No.1 to 3 failed to made out prima-facie case in their favour. In the result, point No.1 answered in the Negative.

**7. Point No.2 and 3:-** In **Kashi Nath Samsthan Vs Shrimad Sudhindra Thirtha Swamy (2010) I SCC 689** – The Hon’ble Supreme Court observed that “Prima-facie case must precede an order of injunction. Only when prima-facie case is established that the court will consider other factors. If applicant fails to prove prima-facie case, he is not entitled to temporary injunction”. In the case on hand, defendant No.1 to 3 failed to made out prima-facie case in their favour. Therefore, consideration of these two points do not arise, in view of aforesaid dictum of Hon’ble Apex Court. Accordingly, point No.2 & 3 answered as do not survive for consideration.

**8. Point No.4:-** The defendant No.1 to 3 failed to made out prima-facie in their favour. Therefore, the defendant No.1 to 3 are not entitled the relief of temporary injunction as prayed for. Accordingly, this court proceeds to pass the following:-

**ORDER**

IA No-III filed by the defendant No.1 to 3 U/o.XXXIX Rule 1 and 2 R/w Sec.151 of CPC is hereby dismissed.

*(Directly dictated to steno, corrected, signed and pronounced by me in Open Court on this the 06<sup>th</sup> day of July 2026.)*

**(Sri. Shankarareddy D.V)**  
**Prl. Civil Judge & JMFC., Anekal.**