

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

18th day of March 2025

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

OS.No. 116/2025

Plaintiff : Anurag S Shetty,

V/s.

Defendant : V Somashekar Reddy and others.

IA No.III

Plaintiff/ Applicant : Anurag S Shetty,

V/s.

Defendant/Opponent : V Somashekar Reddy and others.

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ORDERS ON IA No.III

The plaintiff has filed the present application U/o.XXXIX Rule 1 & 2 R/w Sec.151 of CPC seeking an interim order of temporary injunction restraining the defendants and their men from carryout further construction of building in the suit schedule property pending disposal of the suit.

2. In the affidavit annexed to the present application, the PA holder of plaintiff stated that the plaintiff is the absolute owner of suit schedule property by virtue of sale deed dated 24-12-1997 and he is in possession of the same. He further stated

that plaintiff obtained permission for construction of residential building in the suit property from concerned authority and started construction in the suit schedule property. It is further stated that construction of the three floors building completed and only plastering works and fixation of doors are pending. Such being the case, though the defendants have no manner of right, title or interest over the suit schedule property, in the last week of December 2024 the defendants disturbed to carryout further construction of building in the suit schedule property. Therefore, the plaintiff constrained to file the present suit for permanent injunction along with present application for the aforesaid relief.

3. The present suit opposed by the defendants by filing written statement and also filed memo praying to adopt the written statement as objection to present application. Accordingly, written statement treated as objection to present application. In the written statement, the defendants denied the case of the plaintiff and contends that defendant No.2 is the owner of site No.76/A, katha No.715/76A measuring east - west 12.19 mtrs and north - south 9.14 mtrs (total measurement is

1200 square feet) situated at Sri Raghavendra Swamy Layout, Yadavanahalli village, Attibele Hobli, Anekal Taluk and Bangalore Urban District and further contends that the defendant No.3 & 4 are herein owners of site No.75/A katha No.714/75A measuring east - west 9.4 mtrs and north - south 12.19 mtrs (total measurement 1200 sq. feet) situated Sri Raghavendra Swamy Layout, Yadavanahalli village, Attibele Hobli, Anekal Taluk and Bangalore Urban District and further contends that the plaintiff disturbed to defendant No.2 to 4's peaceful possession and enjoyment of said properties. Hence, defendant No.2 to 4 filed the two suits at OS No.46/2025 and 47/2025 before this court against the plaintiff herein and same are pending for adjudication. With these averments, the defendants prayed to dismiss the present application with cost.

4. Having heard both side and on perusal of material available on record, the following points arise for consideration;

1. Whether the plaintiff has made out prima-facie case in his favour?
2. Whether the balance of convenience lies in-favour of plaintiff?

3. Whether the irreparable injury would be caused to the plaintiff, 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 to 3 :- In the Affirmative,

POINT No.4 :- As per final order,

for the following ;

REASONS

6. Point No.1:- It is the case of the plaintiff that, he is the owner in possession of suit schedule property and he started construction in the suit schedule property by obtaining permission from concerned authority. Such being the case, few days ago the defendants said to have disturbed construction activity in the suit schedule property. Hence, he constrained to file the present suit and present application for the aforesaid relief. In support of plaintiff's case, PA holder of plaintiff produced copy of SPA dated 25-01-2025, copy of sale deed dated 24-12-1997, katha extract, building construction approval letter, tax paid receipt & photographs in respect of suit property. On perusal of the said documents, prima-facie go to show that the

plaintiff has purchased the suit schedule property from one G.Chandrashekaraiyah under the registered sale deed dated 24-12-1997 and in view of said sale deed katha transferred to the name of the plaintiff and he has obtained permission from concerned authority for construction of building and put up 3 floors building and only plastering works and fixation of doors are pending.

On the other hand, it is not the case of the defendants that plaintiff has not constructed the 3 floors building in suit schedule property; rather the case of the defendants only denial of plaintiff averments and claiming that the defendant No.2 to 4 are the owners of site No.76/A & 75/A in aforesaid layout. In the circumstance, it can be said that the plaintiff proved the prima-facie case with regard to his possession over the suit schedule property and he also made out a case for a trial. Therefore, point No.1 answered in the Affirmative.

7. Point No.2 & 3:- In order to avoid repetition of facts, these two points are taken up together for consideration;

In Point No.1 this court comes to the conclusion that plaintiff has established prima-facie case that he is in possession of suit

schedule property and constructed 3 floors building in suit schedule property and only fixation of doors and plastering works are pending. In the circumstance, if the defendants are not allowed the plaintiff to complete the further construction works ie., plastering work & fixation of doors, definitely huge monetary loss would be caused to the plaintiff as partly constructed building in the suit property would damage for sunlight and rain and same cannot be compensated in any manner. On the other hand, it is not the case of the defendants that they have any right, title or interest over the suit schedule property. That being the case, it can be said that balance of convenience lies in favour of plaintiff and irreparable injury would be caused to the plaintiff, if present application is disallowed. Therefore, this court of the view that, the plaintiff has made out a case that balance of convenience lies in his favour and irreparable injury would be caused to him, if present application is disallowed. With this discussion, point No.2 and 3 are answered in the Affirmative.

8. Point No.4: For the reasons assigned in point No.1 to 3, the plaintiff is entitled the relief of temporary injunction as

prayed in the present application. Therefore, this court proceeds to pass the following:-

ORDER

IA No-III filed by the plaintiff under Order XXXIX Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

By granting temporary injunction, the defendants and their men are hereby restrained from carryout further construction by the plaintiff in suit schedule property pending disposal of the suit.

(Directly dictated to steno, corrected, signed and pronounced by me in Open Court on this the 18th day of March 2025.)

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