

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

15th day of April 2026

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

OS.No. 127/2026

Plaintiff : Sri. A. Thimma Reddy & another,

V/s.

Defendant : Sri. Srinivasaiah & others,

IA No.II

Plaintiff/ Applicant : Sri. A. Thimma Reddy & another,

V/s.

Defendant/Opponent : Sri. Srinivasaiah & others,

*_*_*

ORDERS ON IA No.II

The present application filed by the plaintiffs U/o.XXXIX Rule 1 & 2 of CPC praying to grant an interim order of temporary injunction restraining the defendant No.1 and his men from putting up any further construction in and over the suit "B" schedule property pending disposal of the suit.

2. Brief facts of the plaintiffs case is set out hereunder;

Plaintiffs are the owners in possession of suit "A" schedule property. Towards southern-side of suit "A" schedule property, suit "B" schedule property is in existence. Suit "B" schedule

property is public road/way. The defendant No.1 has no manner of right, title or interest over the suit "B" schedule property.

Further case of the plaintiffs that plaintiffs have to access suit "A" schedule property through suit "B" schedule road and plaintiffs have no other alternative road to access to their suit "A" schedule property. Such being the case, few days earlier the defendant No.1 started construction illegally in suit "B" schedule property. Hence, plaintiffs constrained to file OS No.836/2025 on the file of Learned IV Addl. Civil Judge & JMFC, Anekal along with IA No.I under order XXXIX Rule 1 and 2 of CPC. However, said IA No.I dismissed by Learned IV Addl. Civil Judge & JMFC, Anekal on the ground that plaintiffs suit for bare injunction is not maintainable and plaintiffs ought to have sought the relief of declaration and permanent injunction. Therefore, plaintiffs by withdrawing the aforesaid suit constrained to file the present suit for declaration and permanent injunction along with present application for the aforesaid relief.

3. Brief facts of the defendant No.1 case is set out hereunder:-

Defendant No.1 denied the case of the plaintiffs in toto. Defendant No.1 contends that suit "B" schedule road is not at all in existence and boundaries as shown by the plaintiffs to suit "A" schedule and "B" schedule properties are incorrect.

It is further case of the defendant No.1 that in the earlier suit of the plaintiffs i.e., OS No.836/2025 on the file of Learned IV Addl. Civil Judge & JMFC, Anekal dismissed on IA No.I filed by the plaintiffs U/s. XXXIX Rule 1 and 2 of CPC and thereby the present suit and IA No.I not maintainable. Further contends that plaintiffs have not placed any prima-facie material to show that suit "B" schedule road is in existence and also contends that sale deeds dated 17-08-1990 and 23-05-1990 do not disclose the existence of "B" schedule road. Further specifically contends that alleged suit "B" schedule road is not at all in existence and defendant No.1 is putting up construction in his property and the plaintiffs have no manner of right, title or interest over the defendant No.1 property. Such being the case, plaintiffs have filed the present false and frivolous suit only with an intention to harass the defendant No.1. Accordingly, among these and other

grounds defendant No.1 prayed to dismiss the present application with cost.

4. Brief facts of the defendant No. 4's case is set out hereunder;

Defendant No.4 in his written statement stated that existence of B schedule road is true and correct and exact measurement of the same is to be ascertained by conducting survey. Accordingly, he prayed to dispose the suit in accordance with law.

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

1. Whether the plaintiffs have made out prima-facie case in their favour?
2. Whether the irreparable injury would be caused to the plaintiffs, if present application is disallowed?
3. Whether the balance of convenience lies in-favour of plaintiffs?
4. What order?

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

POINT No.1 :- In the Affirmative,

POINT No.2 & 3 :- Partly in the Affirmative,

POINT No.4

:- As per final order,
for the following ;

REASONS

7. Point No.1:- In support of their case, plaintiffs produced the following documents;

- i.** RTC in respect of suit "A" Schedule property,
- ii.** Copies of sale deeds dated 17-08-1990 and 23-05-1990,
- iii.** Copy of Hissa Tippani in respect of Sy.No.113,
- iv.** Copy of representation dated 15-02-2025 given by 1st defendant to the concerned PDO,
- v.** Copy of partition deed dated 05-06-1927,
- vi.** Copy of sale deed dated 20-12-1948,
- vii.** Copy of sale deed dated 26-08-1946,
- viii.** Copy of village map, photographs etc.,

7(a). On the other hand, in support of his case, the defendant No.1 produced following documents;

- i.** Copies of survey records,
- ii.** Copy of village map,
- iii.** Copies of sale deeds dated 29-07-1970 & 17-08-1990,
- iv.** Copies of RTC extracts,
- v.** Copies of form No.9,

vi. Copies of tax paid receipts,

vii. Copies of information,

viii. Copy of representation dated 15-07-2025,

ix. Photographs,

x. Copy of order sheet, plaint, IA No.I, written statement, IA No.2, objections and order dated 27-01-2026 etc.,.

7(b). At the outset on perusal of the RTCs and copies of sale deeds dated 17-08-1990 & 23-05-1990, prima-facie go to show that suit "A" schedule property belongs to plaintiffs. Further, the defendant No.1 has not set up any claim in respect of suit "A" schedule property and it is not the specific case of the defendant No.1 that suit "A" schedule property not belongs to plaintiffs. Thus, prima-facie clear that suit "A" schedule property belongs to plaintiffs and plaintiffs are in possession of the suit "A" schedule property.

7(c). On perusal of the representation dated 15-03-2025 given by 1st defendant to the PDO of Byagadadenahalli Panchayath, prima-facie appears that suit "B" schedule property/road is in existence. Further, on perusal of sale deeds dated 20-12-1948 and 26-08-1946 prima-facie go to show that suit "B" schedule road is in existence.

7(d). On the other hand, the learned defendant No.1 counsel vehemently argued that copies of sale deeds dated 17-08-1990 and 23-05-1990 do not disclose the existence of suit "B" schedule property and he also argued that on 27-01-2026 the Learned IV Addl. Civil Judge & JMFC, Anekal dismissed the IA No.I in OS No.836/2025 and thereby the present application deserves to be dismissed. On perusal of aforesaid sale deeds dated 17-08-1990 and 23-05-1990, same do not prima-facie disclose with regard to existence of suit "B" Schedule property. However, as pointed above in the representation dated 15-03-2025 given by defendant No.1 to the PDO of Byagadadenahalli Panchayath clearly stated existence of suit "B" schedule property/road. Furthermore, sale deeds dated 20-12-1948 & 26-08-1946 also prima-facie go to show existence of suit "B" schedule property/road.

7(e). Further, in the order dated 27-01-2026 passed in OS No.836/2025 at para No.15 observed that defendant No.1 not succeeded to prove the prima-facie case that suit "B" schedule property/road belongs to him. In addition to that, as of now the defendant No.1 not produced any katha extract or any other

documents to show that suit "B" schedule property stands in his name. Further, in the aforesaid order court observed in para No.17 that suit of the plaintiffs for permanent injunction alone is not maintainable without seeking the relief of declaration and easementary right in respect of suit "B" schedule property/road. In the circumstance, filing of present suit by the plaintiffs for comprehensive reliefs inevitable. Therefore, dismissal of the IA No.I in OS No.836/2025 itself is not bar to file the present suit with present application for the aforesaid reliefs. As such, the aforesaid argument of defendant No.1 counsel cannot be acceptable. Moreover, the learned counsel for the plaintiffs vehemently submitted during the course of his argument that representation dated 15-03-2025 given by 1st defendant to the PDO of Byagadadenahalli Panchayath and copies of sale deeds dated 20-12-1948 & 26-08-1946 not produced by the plaintiffs in the aforesaid suit due to inadvertently and thereby the learned IV Addl. Civil Judge & JMFC, Anekal had no opportunity to consider those documents while deciding the IA No.I in the aforesaid suit and thereby the contention of the defendant No.1 to be rejected. The said submission of learned plaintiffs counsel appears to be

justifiable, as the said documents said to have not produced by the plaintiffs in the aforesaid suit. In the circumstance, the aforesaid arguments of the defendant No.1 counsel unacceptable at this stage. Furthermore, the said documents produced by the defendant No.1 do not clear that suit "B" schedule road is not in existence. Further, the averments of written statement of defendant No.4 fully supports the case of plaintiffs. In the circumstance, whether suit "B" schedule road belongs to defendant No.1 or whether suit "B" schedule road is not at all in existence as per the version of defendant No.1 to be determined after full pledged trial and same cannot be decided at this stage by holding mini trial. However, as pointed above the plaintiffs have made out prima-facie case with regard to existence of suit "B" schedule property/road. Therefore, this court opines that the plaintiffs have made out arguable and triable case in their favour. In the result, point No.1 answered in the Affirmative.

8. 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 plaintiffs have made out prima-facie with regard to existence of suit "B" schedule

property/road. In the circumstance, defendant No.1 continued the construction of RCC building in the alleged suit "B" schedule property/road during the pendency of the suit, same would create multiplicity of proceedings between parties to the *lis*. On the other hand, photographs produced by the defendant No.1 go to show that still defendant No.1 laid foundation and construction not fully commenced. In the circumstance, defendant No.1 not to put up further construction in the suit "B" schedule property pending disposal of the suit, no injustice would be caused to the defendant No.1. Otherwise, if plaintiffs succeeded in the suit and obtained decree in their favour, then the defendant No.1 ought to have demolished the proposed constructed building in the suit "B" schedule property and same causes huge monetary loss to the defendant No.1 and same creates multiplicity of proceedings. Under these circumstances, if both parties directed to maintain status quo in respect of suit schedule property pending disposal of the suit, same would meet the ends of justice. With this discussion, point No.2 and 3 answered partly in the Affirmative.

9. **Point No.4:-** For the reasons assigned in point No.1 to 3, this court proceeds to pass the following:-

ORDER

IA No-II filed by the plaintiffs under Order XXXIX Rule 1 and 2 of CPC is hereby allowed in part.

Accordingly, both parties to the *lis* (plaintiffs and defendant No.1) are hereby directed to maintain status quo in suit "B" Schedule property pending disposal of the suit.

(Directly dictated to steno, corrected, signed and pronounced by me in Open Court on this the 15th day of April 2026.)

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