



**IN THE COURT OF I ADDL SENIOR CIVIL JUDGE &  
JMFC, DEVANAHALLI.**

**Present: Sri Lokesh M.G., B.A.L.,LL.B.,**

**O.S.NO.600/2022**

**Dated this the 13<sup>th</sup> day of June, 2025.**

**PLAINTIFF:** Sri. Krishnappa  
(By Advocate Sri.N.K.G.)

Vs.

**DEFENDANTS:** Buddappa @ Rajanna  
(D5 – By Advocate Sri.M.M.,)

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**ORDER ON IA.NO.V**

I.A.5 is filed by the defendant No.5 under order 39 rule 4 of C.P.C. to vacate the interim order passed by this Court.

**2.** It is stated in the accompanying affidavit that the plaintiff has illegally obtained the interim order against



defendants and defendant No.5 is unnecessarily made as party in this case with mala fide intention. Plaintiff has suppressed material facts to harass defendant No.5. plaintiff has not produced any sketch and document to show the encroachment by the defendants in respect of suit property at any point of time. As per the report of the commissioner, plaintiff has illegally encroached property of defendant No.5 and property of others to the extent of 0.01/4. Plaintiff has not approached the Court with clean hands and obtained ex parte interim order against defendants and started to put up construction on the plaint schedule property by violating and misusing the order of the Court. Hence, question of defendant No.5 trying to encroach the schedule property doesn't arise. There is no prima facie case in favour of the plaintiff. There is prima facie case in favour of the defendants. If the interim order is not vacated, there will be hardship to the defendants. Hence, it is prayed to allow the application.



**3.** The plaintiff has filed the objections stating that application is not maintainable. Boundaries mentioned in the application are wrongly shown in the Northern side. With malafide intention, application is filed. Plaintiff has filed the suit for Declaration and Permanent Injunction restraining the defendants from interfering with the property of the plaintiff. Plaintiff is the owner in possession and enjoyment of Sy.No.287/3 measuring 26 Guntas having purchased the same under different Sale Deeds in the year 1977 and 1978. Revenue records are also changed in the name of plaintiff. Plaintiff continued to be in possession and enjoyment of the schedule property without interference of anybody. Defendants are having properties in the Eastern side and Southern side to the suit property. All of a sudden, on 14.05.2022, they caused interference to the possession and enjoyment of suit property and trying to dig the soil and erect the stone slabs without having any right. There is prima facie case in favour of the plaintiff. If the application is not allowed, no hardship will be caused to the defendant No.5. Plaintiff has not violated the order. Plaintiff has constructed the



farm house in the Northern side of the suit property. Accordingly, it it prayed to dismiss the application.

4. Heard the both and perused the materials on record.

5. The points that arise for consideration.

1. Whether the defendant No.5 has made out the grounds to vacate the interim order of injunction?

2. What order ?

6. My answers to the above points are as under;

Point No.1 : In the Affirmative.

Point No.2 : As per the final order for the following :

### **REASONS**

7. **POINT NO.1** :- The plaintiff has filed the suit for Declaration to declare that he is the absolute owner in possession and enjoyment of suit property and for Permanent Injunction restraining the defendants from



interfering with the peaceful possession and enjoyment of suit property. It is stated in the plaint that plaintiff has purchased the suit property through Sale Deeds in the year 1977 and 1978 and he continued the possession. It is also stated that defendants are having properties towards Eastern and Southern side of suit property and they are causing interference by digging soil and erecting stone slabs. When the plaintiff questioned about their act, they threatened the plaintiff. Hence, suit came to be filed. By considering the dispute between the parties to the suit, this Court has already passed order calling for the report from the commissioner. Report is filed. Memo with photographs is also filed. In the report, it is mentioned that plaintiff has encroached the property in Sy.No.287/4, 287/6 and 287/7. The property of the plaintiff is Sy.No.287/3. In the sketch, it is shown about the alleged encroachment. It is fact that the case is not proved at this time. The evidence is led by the plaintiff. Although the sketch is not conclusive proof at this stage, it is prima facie document to consider the application filed by the defendant No.5 at this stage. It prima facie helps the defendant No.5. In the objection also, plaintiff has stated



that towards Northern side, farm house is being constructed. This Court passed order earlier by directing the both parties to maintain status-quo with respect to schedule property. It has been extended till further order. Now, by considering the entire materials on the record, it is found that plaintiff is trying to put up construction on the property of defendants. Hence, it is necessary to vacate the said interim order. In the written statement filed by defendant No.5, it is alleged that plaintiff and his family members tried to assault defendant No.5 and her husband with respect to property dispute. It is also alleged that plaintiff is trying to dump the wastage in the property of defendant No.5 illegally and without knowledge. It is also stated that plaintiff has suppressed material facts. It is also stated that plaintiff has pleaded imaginary boundaries and extent. By considering all these aspects and report of the commissioner at this time, I am of the opinion that there are grounds in the application to vacate the interim order passed in this case. Otherwise, plaintiff may take undue advantage. There are grounds in the application. Hence, objection is not sustainable. As per the entire materials on the record, I am of the opinion that



application is liable to be allowed. Interim order is to be vacated. Accordingly, I answer Point No.1 in the **"AFFIRMATIVE"**.

**8. POINT NO.2 :-** As per the above discussion, I pass the following;

**ORDER**

I.A.No.5 filed by the defendant  
No.5 under order 39 rule 4 R/w  
Sec.151 of C.P.C is hereby allowed.

Interim Status-quo order  
passed in this case is vacated.

(Dictated to the Stenographer, transcribed and computerized by her, transcript revised, corrected and pronounced by me, in the Open Court, dated this the **13<sup>th</sup>** day of **June, 2025**).

Sd/-  
**(Lokesha.M.G.)**  
**I Addl Sr.Civil Judge & Jmfc.,**  
**Devanahalli.**