



**IN THE COURT OF THE II ADDITIONAL CIVIL JUDGE AND
J.M.F.C. AT: DEVANAHALLI.**

::PRESENT::

SRI. KENCHANAGOUDA PATIL

BA.LL.B

II Addl. Civil Judge and J.M.F.C.
Devanahalli.

ORIGINAL SUIT NO. 76/2021

Dated this the 17th Day of March, 2026.

BETWEEN:

Plaintiff/s

: Sri. Narayanaswamy.M,
S/o. Late. Muninanjappa,
Aged about 65 years,
R/at: Channarayapatna Village,
Channarayapatna Hobli,
Devanahalli Taluk.

(Rep by Sri. R. T. Nanjegowda -Advocate)

V/s

Defendant/s

: 1. The chief Executive Officer,
Taluk Panchayath,
Devanahalli Taluk,
Bangalore Rural District.

2. The Panchayath Development Officer,
Channarayapatna Gramapanchayath,
Devanahalli Taluk,
Bangalore Rural District.

(Rep. by Sri. M.S. Devaraj-Advocate)

**PARTIES TO I.A. NO. I****Applicant/ Plaintiff** : Sri. Narayanaswamy**V/s****Opponents/Defendants** : 1. The Chief Executive Officer
and another

I.	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2 of C.P.C.
II.	Relief sought for	To restraining the defendants, it agents, or anybody acting through them from demolishing the plaintiff's building premises in the suit schedule property in any manner, till pending disposal of the suit.
III.	The date on which the application is filed	06-02-2021
IV.	Number of the application	One
V.	The date on which the objections are filed by different opponents	29-07-2022
VI.	The date on which the orders was passed on the said application	17-03-2026

**ORDERS ON I.A NO. I FILED BY THE PLAINTIFF UNDER
ORDER XXXIX RULE 1 AND 2 OF CPC**



The plaintiff has filed I.A No. I under Order XXXIX Rule 1 and 2 of Code of Civil Procedure praying for grant an ad-interim order of temporary injunction restraining the defendants, its agents, or anybody acting through them from demolishing the plaintiff's building premises in the suit schedule property, till pending disposal of the above suit.

SCHEDULE

All that part and parcel of the property bearing Junjure No. 45/28, property No.35 measuring to an extent of East to West: 18 X 27= 45.14 ft and North to South: 18 X 96+ 160.53 ft coming under the purview of Channarayapatna Grama Panchayath Comprises old Stone building and vacant site and newly constructed RCC Building situated at Channarapatna Village, Channarayapatna Hobli, Devanahalli Taluk, Bangalore District and bounded with:

East by : Property of Nanjappa;

West by : Property of Narayanaswamy;

North by : Own House;



South by : Road;

2. Brief facts of the plaintiff's case are as follows:

That the plaintiff has filed an affidavit in support to I.A No. I, wherein he has stated that, the plaint averments may be read as part and parcel of this affidavit to avoid repetition of facts and that he is in possession and enjoyment of the suit schedule property since from past 30 years and he had obtained all the relevant documents from the concerned authorities and the defendants being the authorities and government servants have no manner of right, title or interest over the same to demolish the suit schedule property illegally and that he has paid up to date taxes and constructed the house by investing huge amount but the defendants being the government servants and without issuing notice or without verifying the documents and without proper survey blindly comes to wrong conclusion and trying to demolish the suit schedule property illegally and he has made out prima-facie case no harm or injury will be caused to the defendant if his



application is allowed. the balance of convenience is lies in his favour. **With these assertions, the Plaintiff has sought for allowing I.A. No. I.**

3. On the other hand, in response service of suit summons the defendant No. 1 and 2 have appeared before the Court through their counsel and filed their common detailed written statement by denying the case of the plaintiff along with adoption memo and thereby adopted the contents of written statement treated as objections to this application. In the written statement it is contended that the plaintiff has not come before this Court with clean hands and therefore he is not entitled to claim any relief and much less order of injunction against the defendants and the plaintiff has not produced any document of title to show that he has inherited the suit schedule property and the revenue records are not the documents of title of the plaintiff and therefore, the plaintiff is not entitled for the relief of permanent injunction in respect of the suit schedule property for which he is not the owner and



that the plaintiff is not at all the owner of the suit schedule property and he has not produced any documents to prove that he is the owner of the suit schedule property and that the plaintiff has not produced any iota of document to prove that his ancestors have acquired right, title, interest and possession of the suit schedule property and that the revenue records produced by the plaintiff cannot in any way prove or substantiate that he is the owner of the suit schedule property. Paying tax, holding Form No-9 and 11 are based on the documents of title to the property and when the plaintiff is not holding an documents of title, these documents would not come to his rescue to prove that he is the owner of the suit schedule property and again the plaintiff, if he is the owner of the suit schedule property would have applied for construction license and submitted plan for approval to the defendant No.2 and he has constructed the house without obtaining license and approved plan and this conduct of the plaintiff disentitle him from claiming the relief of injunction against the



defendant and that obtaining electricity cannot create a right of ownership on the suit schedule property in favour of the plaintiff and it is denied that permission letter is a substitute for obtaining plan and license and that the second defendant never intimated anything orally and being a government servant he is required to follow the guidelines of the government and he is answerable to his superiors and the plaintiff states "three days back" the second defendant orally intimated and the plaintiff has not disclosed the exact date because he is making a false statement and he is not aware whether PDO was available in office/on duty on the date if he mentions in the plaint and the suit is premature and liable to be dismissed and cooked up story of the plaintiff to approach this Court to claim right, title interest and possession over the suit schedule property which do not belong to him and that the plaintiff has filed to produce any documents of title and also making a false allegation on the defendant No.2. if he has documents to show that he has acquired right, title, interest,



possession over the suit schedule property by hereditary right, he could have showed the same to the defendant No.2 and resisted his move instead of filing this suit and that contents of paragraphs No.7 of the plaint are imaginary in nature and there are no materials to show that the defendant No.2 has threatened of demolition of the building and simply such allegations are made to gain the sympathy of this Court and plaintiff states that three days back the defendants No.2 has orally intimated to the plaintiff to quit and vacate the suit schedule property to demolish the building and that the other to restrict the government servants questioning/challenging the unauthorized occupation/ encroachment over the government lands and the defendants have every right to visit the suit schedule property if the property is not owned by him and if any encroachment has happened on the panchayath/government land and the plaintiff cannot question the right of the defendants granted by the Government under the Karnataka Panchayath Raj Act and that if the plaintiff is



having documents of the title and obtained plan and license from the defendant No.2 and has constructed the building in accordance with the sanctioned plan and building he need not be afraid of the visit of the defendant No.2. Because the defendant do not have any documents to establish his right, title, interest and possession over the suit schedule property and that he has filed this suit on imaginary apprehensions, making out a false case on the defendants. Further it is contended that the sought by filing application for temporary injunction restraining the defendants, their agents not to interfere with the peaceful possession and enjoyment of the suit schedule property by the plaintiff and not to demolish the construction in the suit schedule property cannot be granted in favour of the plaintiff as there is every likelihood of the plaintiff under the guise of temporary injunction any resist the lawful actions of the defendants against him and that because the plaintiff is not the owner of the suit schedule property, the said reliefs cannot be granted in his favour and that the



plaintiff by filing the present suit want to establish his right, title, possession and interest over the suit schedule property as he has no documents of title to substantiate or claim his rights over the suit schedule property and such an attempt by the plaintiff filing the suit with ulterior motives and oblique intentions is a misuse of law. Therefore, the suit is to be dismissed with exemplary costs. **With these contentions the defendants have sought for rejection of I.A. No. I.**

4. On perusal of the pleadings and list of documents produced along with pleadings, application, affidavit and statement of objections, the following points that arise for the Court consideration:

POINTS

1. **Whether the plaintiff has made out a prima facie case for grant of an order of equitable relief of temporary injunction against the defendants on I.A. No. I?**



2. Whether the balance of convenience lies in favour of the plaintiff?

3. Whether the plaintiff would suffer irreparable loss or injury if the Court refuses to grant temporary injunction against the defendants on IA No. I?

4. What order?

5. Despite of granting sufficient opportunities, neither party has addressed arguments on this application. Therefore, arguments on this application from both side were taken as nil. Nevertheless, this Court has carefully considered the pleadings and documents available on record before deciding the application.

6. On perusal of pleadings averments and list of documents, the Court answers to the above said points are as hereunder:

Point No. 1	:	In the Affirmative.
Point No. 2	:	In the Affirmative.
Point No. 3	:	In the Affirmative.
Point No. 4	:	As per the final order for the following reasons.



::REASONS::

7. Point No.1: This suit is filed by Plaintiff against Defendants for seeking the relief of permanent injunction to restraining the defendants or its agents, workers, or anybody claiming on behalf of them from interfering with the peaceful possession and enjoyment of the suit schedule property by the plaintiff and grant such other relief etc.,

8. That the plaintiff to prove a prima facie case has produced various documents i.e. Copy of the Katha extract, copy of the (mane katada Anumathi Patra) House construction license, copy of the " Akshepana Rahitha Drudikaran Patra", copy of the Tax paid receipt, Copy of the Electrical Bill, copy of the Objection, Photographs and C.D.

9. Apart from that the defendants in support of their defense have not produced any documents before the Court.

10. Despite of granting sufficient opportunities, neither party has addressed arguments on this application. Therefore,



arguments on this application from both side were taken as nil.

11. That the rival contentions of the parties as already are stated above, therefore, it is not necessary to repeat the rival contentions.

12. On careful perusal of the entire pleadings and materials placed before the Court, it appears to the Court that main dispute between the parties is that whether the defendants are trying to demolish the house constructed by the plaintiff in the suit schedule property and thereby causing interferences/ dispossession to the plaintiff's peaceful possession and enjoyment over the suit schedule property?

13. On careful perusal of the pleadings and documents produced by the both parties it appears to the Court that, the plaintiff claiming right and possession over the suit schedule property by virtue of Tax Assessment register extracts, Tax paid receipts, Form No. 9 and 11 issued by the Panchayath,



electricity connection records and Photographs of the building. Though these documents may not conclusively establish title, they prima facie indicate that the plaintiff is in possession of the suit schedule property. It is well settled that in a suit for injunction, the question of possession is more relevant than title at the interlocutory stage.

14. On the other hand, the defendants have specifically disputed the ownership and alleged that the plaintiff has no title. But the defendants have not placed any records before the Court that the suit schedule property is belongs to Govt. or Panchayath. However, whether the plaintiff has valid title or whether the property belongs to the Government are matters that require detailed evidence during trial. At this interlocutory stage, the material produced by the plaintiff is sufficient to show prima facie possession over the suit schedule property by the plaintiff. Hence, the plaintiffs have established a prima facie case. At this juncture without going to the merits of the case, if the temporary injunction is not granted in favour of the



plaintiff, there may be a chance of the defendants may interfere and demolish the building in the suit schedule property and very purpose of the suit will become infructuous and also the plaintiff has made out grounds to pass necessary orders on this application. Therefore, this Court is of opinion that the plaintiff has made out a prima facie case for grant of temporary injunction. With these observations this Court has answered the Point No. 1 in the **affirmative**.

15. Points No. 2 and 3: That the Point No.2 and 3 are inter-connected with each other, hence in order to avoid repetition of facts, the above said points are taken up for common discussion.

16. The existence of a prima facie case alone does not entitle the applicant/plaintiff for grant a temporary injunction. The applicant/plaintiff must further satisfy the Court about the second and third condition by showing that the applicant/plaintiff will suffer inconvenience and irreparable



injury, if the temporary injunction as prayed is not granted and that there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury.

17. The plaintiff specifically asserts that he has constructed a residential building by investing huge amount and he and his family members are residing in the same. If the defendants proceed to demolish the structure during the pendency of the suit, the plaintiff would be deprived of his residence and would suffer serious hardship. Further, if the alleged demolition is carried out before adjudication of the suit, the structure would be lost permanently, which cannot be adequately compensated damages. On the other hand, granting temporary injunction would not cause irreparable loss to the defendants because the defendants, being authorities, are always at liberty to take appropriate action in accordance with law after due process. Hence this Court is of the opinion that balance of convenience tilts in favour of the Plaintiff and if temporary injunction is not granted in favour of Plaintiff, then



Plaintiff will be put to irreparable loss and hardship and the same cannot be compensated in terms of money at later stage.

With these observations this court has answered Point No.2 and Point No.3 in the **Affirmative**.

18. Point No. 4: For the above said reasons and discussions on point No. 1 to 3, this Court proceed to pass the following order:

ORDER

The interim application No. I filed by the plaintiff Under Order XXXIX rule 1 and 2 of CPC is hereby allowed.

The defendants/opponents, their agents, or anybody acting through them are hereby temporarily restrained from demolishing the plaintiff's building premises in the suit schedule property, till pending disposal of the above suit.

However, this order shall not prevent the defendants from taking action strictly in accordance with law and after following due process of law.



No order as to cost.

(Typed by me directly on my laptop and the same is revised, corrected and then order pronounced by me in the open court on this **17th day of March, 2026.**)

Place: Devanahalli.

Date: 17.03.2026.

[Sri. Kenchanagouda Patil]
II Addl. Civil Judge and J.M.F.C.
Devanahalli.





(ORDER PRONOUNCED IN THE OPEN COURT)
(VIDE SEPARATE)
::ORDER::

The interim application No. I filed by the plaintiff Under Order XXXIX rule 1 and 2 of CPC is hereby allowed.

The defendants/opponents, their agents, or anybody acting through them are hereby temporarily restrained from demolishing the plaintiff's building premises in the suit schedule property, till pending disposal of the above suit.

However, this order shall not prevent the defendants from taking action strictly in accordance with law and after following due process of law.

No order as to cost.

II Addl. Civil Judge and J.M.F.C.
Devanahalli.

