

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

**PRESENT: Sri.RAVI BETAGAR B.A.LL.B.(Hons.)
II Addl Civil Judge & J.M.F.C.,
Doddaballapura
Bengaluru Rural District**

Dated this the 6th Day of March - 2025

O.S.No.4/2022

Plaintiff/s : 1.Sri.S.Mahadeva Sharma
S/o Late.Siddappa,
Aged about 59 years,
and another.

(By Sri.G.R.S., Advocate)
- V/s. -

Defendant/s : 1.Sri.P.M.Hemanth Kumar
S/o Late Parashivamurthy,
Aged about 52 years,
and others.

(By Sri.L.I.N., Advocate for defendants)

**Orders on I.A. U/o 39 Rule 1 & 2 of C.P.C filed by
the Plaintiff**

Applicant / : 1.Sri.S.Mahadeva Sharma
Plaintiff /s S/o Late.Siddappa,
Aged about 59 years,
and another.

V/s.

Opponents / : 1.Sri.P.M.Hemanth Kumar
Defendants S/o Late Parashivamurthy,
Aged about 52 years,
and others.

Orders on I.A.No.I U/o 39 Rule 1 & 2 of C.P.C filed by the Plaintiff

The plaintiff filed the IA u/o XXXIX Rule 1 and 2 of CPC seeking the relief of the ad-interim injunction against the defendants and restraining the defendants or anybody claiming under them from interfering with the peaceful possession and enjoyment of the suit schedule property of the plaintiffs, pending disposal of the suit and in support of the application he filed the affidavit.

2.Plaint schedule properties are hereunder:-

Suit Schedule "A" Property

All that piece and parcel of agricultural land measuring 18% Guntas in Sy.No.21/7 situated at Nagenahalli Village, Kanasavadi Grama Panchayath, Madure Hobli, Doddaballapura Taluk, Bangalore Rural District, bounded on the:

East by : Huchhabasavaiah and Honnappa's Land,
West by : Obalaiah and Dasappa's Land
North by : Huchhabasavaiah Land,
South by : Hemanth Kumar's Land.

Suit schedule "B" property

All that piece and parcel of agricultural land measuring 9 1/4 Guntas in Sy.No.21/7 situated at Nagenahalli Village, Kanasavadi Grama Panchayath, Madure Hobli, Doddaballapura Taluk, Bangalore Rural District, bounded on the:

East by : Kempavenkataiah's Land,
West by : N G Basavarajaiah's Land
North by : Huchhabasavaiah Land,
South by : Dasappa's Land.

Suit schedule "C" property

All that piece and parcel of agricultural land measuring 9 1/4 Guntas in Sy.No.21/7 situated at Nagenahalli Village, Kanasavadi Grama Panchayath, Madure Hobli, Doddaballapura Taluk, Bangalore Rural District, bounded on the:

East by : Kempavenkataiah's Land,
West by : N G Basavarajaiah's Land
North by : Obalaiah's Land,
South by : Hemanth Kumar's Land.

3.The defendants no 1 to 4 filed their written statement and adopted the same as the objections to the IA filed by the plaintiff and prays to reject the same.

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

5.The following points arise for the consideration:-

POINTS FOR CONSIDERATION

1. **Whether the plaintiff has prima-facie case in his favour?**
2. **Whether the balance of convenience lies in favour of plaintiff?**
3. **Whether irreparable loss would be caused to the plaintiff if the temporary injunction**
4. **What order?**

6.This court proceeds to answer the aforementioned points as hereunder:

ANSWERS

POINT No.1 to 3 : In the affirmative

POINT No. 4 : As per the final order for the following,

REASONS

7.POINT No.1: At the stage of considering temporary injunction applications it is well established a rule that the court is not expected to hold a minute trial. Further, as per the decision of the Hon'ble High Court of Karnataka in Life Insurance Corporation vs Bangalore L.I.C. Employees Housing, reported in ILR 1988 KAR 2817, held that,

"The preventive remedy of injunction is thus granted as an instant antidote to stop or prevent the invasion of the plaintiff's rights in regard to which a complaint is made. The Court having regard to the expediency involved should not embark upon a nit-picking operation at that stage by holding a mini trial to lay thread-bare the case of the plaintiff to find out if a prima facie case is made out or not. It would be sufficient if the Court is assured that questions raised by the plaintiff are not vexatious or too casual, but are such

as to merit serious consideration at a subsequent stage."

8.The plaintiff's case is that, they are the absolute owners of the plaint schedule A to C properties under two registered sale deeds dated 29-5-1998. Since then the plaintiffs are in peaceful possession of the said properties and also all the revenue records are mutated in their name. Such being the case the defendants came near the plaint schedule properties on 30-12-2021 at the morning about 10.30 am and tried to fix the stone pillars by fencing the properties and started to work by trying to encroach the southern part of the plaint schedule properties. When the plaintiffs questioned the said act and the defendants failed to substantiate their right over the properties. Despite that, the defendants continued their work and threatened the plaintiffs with dire consequences. The plaintiffs resisted the acts and approached the jurisdictional police, but they stated to approach the civil court as the dispute is civil in nature. Hence the plaintiff filed the present suit and the present IA against the defendants.

9.The defendants deny the plaintiffs case in toto and they take specific contention that, the defendant No 2 is the absolute owner of the property bearing Sy.No.21/6 measuring 1 acre and 5 ghuntas, situated at Nagenahalli Village, Madhure Hobli, Doddaballapura Taluka. He acquired the same under the registered gift deed dated 16-8-2010, which was executed by the 1st defendant in her

favor. In pursuant to the said deed the defendant no 2 is in possession and enjoyment of the said property. The plaintiffs filed the suit by suppressing the facts. Further in the RTC there is mentioned as 0.37 in the names of the plaintiff no 1 and 2, but the plaintiffs have mentioned the wrong measurements as $0.09 \frac{1}{4}$ and $0.09 \frac{1}{4}$ with the wrong boundaries. There is no availability of the land as mentioned by the plaintiffs. Further persons named Jayaprakash s/o Basavarajaiah, Mahadevsharma, Dhananjaya and Sangamesh gave their statement before the Doddabelavangalla Police station, and admitted that, their side peoples have demolished the compound walls, addubasth walls and the defendants are no way concerned with the said incident. Those persons despite having knowledge about the interim order of the court they intentionally demolished the same. Also with respect to the Sy.No.26/1 there is technical issue towards the Eastern Side as the documents are overlapped, as such the defendants have surveyed the land in 2017. The plaintiffs misused the same and more than 5 times the survey authorities have appeared but plaintiffs did not let them to conduct the survey. The border of Kannamangala and Nagenahalli which overlaps both the properties i.e., Sy No.26/1 and Sy.No.21/7. The plaintiffs land is lesser to than what is showed. Further the plaintiffs are making attempts to encroach the defendants property with an intention to illegally grab it. The plaintiffs filed the false suit against the defendants. The defendants never

committed any act as alleged by the plaintiff. Hence prays to dismiss the IA filed by the plaintiff.

10.To prove their case the plaintiffs have produced the following documents, the original sale deed dated 29-05-1999, copy of mutation register, copy of RTC, photographs and C.D. The defendants apart from their pleadings they failed to provide any documents.

11.The plaintiffs sale deed dated 29-5-1998 shows that, they purchased the plaint schedule properties and the mutation extract and the RTC extracts produced by the plaintiffs shows that, the plaint schedule properties being standing in their names. All these aspects by the plaintiffs shows about existence of the prima facie case in their favor and even though defendants have taken several contentions but apart from the allegations they have not produced any documents to support their contention. There is no impediment to accept the plaintiffs version at this stage. Hence this court is of the considered opinion that, the plaintiffs have shown the existence of the prima facie case in their favor. **Accordingly the Point No.1 is answered in the Affirmative.**

12.Point No:-2 and 3 :- When assessing the balance of convenience the Court should see as to the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant is greater than that, which is likely to be caused to the opposite party by granting it. "The

term 'irreparable injury' means injury which is substantial and could never be adequately remedied or atoned for by damages, injury which cannot possibly be repaired. It implies a substantial and continuous injury for which there does not exist any standard for ascertaining the actual damage likely to be caused. It is most apposite to mention here that irreparable injury, however, does not mean that there must be no physical possibility of repairing the injury, but means only that the injury must be a material one that cannot be adequately remedied or compensated by way of damages.

13. When the plaintiff has made out prima facie case if the temporary injunction is not granted if the property or life gets damaged then it would effect the legal right of the plaintiff which cannot be measured in terms of money and therefore the injury is irreparable in nature. Hence, balance of convenience lies in favour of the plaintiff. Therefore **Point No.2 and 3 are answered in the Affirmative.**

14. Point No.4:- For the afore mentioned reasons this Court proceeds to pass the following:-

ORDER

The I.A. filed by the plaintiff
u/o 39 rule 1 and 2 is hereby
allowed.

The defendants or anybody
claiming under them from

interfering with the peaceful possession and enjoyment of the suit schedule property of the plaintiff's, pending disposal of the suit.

(Typed, computerized and corrected by me. Then signed and pronounced in open court on this 6th the day of March- 2025)

(Sri.Ravi Betagar)
II Addl.Civil Judge & JMFC.,
Doddaballapura.