

KABR610089442021



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

Dated this the day 1st day of July, 2026

**PRESENT: Sri. Manju.M, B.Sc., L.L.B.,
I Addl. Civil Judge & JMFC.,
Nelamangala.**

O.S.No.394/2021

Plaintiff: M/s. Karnataka Postal and Telecom
Employee and Housing Co-operative
Society Ltd. R/at No.7, Sandesh
Bhavana, 3rd Main, 1st stage, Postal
Colony, Sanjay Nagara, Bengaluru-560
Rep. by its Repd by its Authorized
Officer and Secretary
Mahesh M.N.

[By Sri R.P/L.K.S., Advocate]

V/s

Defendant: Shankaranayarana R
S/o late Ramaiah,
Aged about 72 years,
R/at Hyadalu Village, Kasaba Hobli,
Nelamangala Taluk,
Bengaluru Rural District

[By Sri A.S., Advocate]

PARTIES IN IA NO.1 and 2

Applicant/Plaintiff : M/s. Karnataka Postal and
Telecom Employee and Housing
Co-operative Society
Rep. by its Authorized
Officer and Secretary Mahesh M.N.

V/s.

Opponent/Defendant: Shankaranayarana R.

**ORDERS ON I.A.NO.1 and 2 FILED BY THE PLAINTIFF
UNDER ORDER 39 RULE 1 AND 2 OF CPC.**

I.A.No.1 filed by the plaintiff Under Order 39 Rule 1 and 2 of CPC and prays to pass an order to restraining the Defendant, his agents, servants, henchmen or anybody claiming on behalf of him from interfere to the suit schedule property in any manner whatsoever, till disposal of the suit.

I.A.No.2 filed by the plaintiff Under Order 39 Rule 1 and 2 of CPC and prays to pass an order to restraining the Defendant, his agents, servants, henchmen or anybody claiming on behalf of him from further damaging the layout formed in the suit schedule

property in any manner whatsoever, till disposal of the suit.

2. I.A.No.1 and 2 is supported by an affidavits of the plaintiff and submitted that the suit schedule property is the absolute property of plaintiff society and the plaintiff is in possession and enjoyment of the suit schedule property. Further, it is submitted that the plaintiff society has purchased the suit property under registered sale deed dated 06.01.2011. Further, it is submitted that the plaintiff society in order to allot sites to its members and got approved the layout of residential sites from the Nelamangala planning authority on 17.10.2013 and had developed the layout as per the approved plan. Further, it is submitted that the defendant having no manner of right, title or possession has interfere to the suit schedule property. Hence, prays to allow the applications.

3. Further, the Applicant raises the usual plea of prima facie case and balance of convenience and

irreparable loss and injury. Further, the Applicant has also contends that if this application is allowed no prejudice would be caused to the Defendants. By contending so, the Applicant has prayed for allowing this application.

4. I.A.No.1 and 2 is opposed by defendant by filing memo to adopt the written statement as objection to I.A.No.1 and 2 and denied the allegation of facts made by the plaintiff and contended that the suit schedule property bearing Sy.No.101/1 measuring 37 guntas of Hyadalu village is the ancestral property of the defendant. Further, it is submitted that the defendant is the son of late Ramaiah and he has acquired the said property under registered partition deed dated 30.05.1974. Further, it is contended that the defendant cultivating the suit property and the disputed property allotted to defendant share as D schedule property. Further, it is contended that the alienation made by Hanumantharayappa in favour of plaintiff vendor is not

a valid transaction. Further, it is contended that the plaintiff on the basis of forged and fabricated records claiming the suit property illegally against the true owners. Further, it is contended that the defendant has filed a suit in O.S.No.625/2015 before Hon'ble Senior Civil Judge, Nelamangala and the Hon'ble court stayed the transaction regarding the alienation. In view of that, the plaintiff suppressing the said facts and filed this suit for wrongful gain. Hence, prays to dismiss the application.

5. The counsel for plaintiff submits that arguments may be taken as heard. The counsel for defendant has not addressed the arguments. Perused the documents on record.

6. Following points arise for my consideration.

1. Whether the Plaintiff has made out a prima facie case for grant of temporary injunction?

2. Whether the Plaintiff will be put to irreparable loss and hardship, if the injunction is not granted?
3. Whether the balance of convenience lies in favour of the Plaintiff?
4. What order?
7. My findings on the above points are as follows:-
 - Point No.1: In the Affirmative**
 - Point No.2: In the Affirmative**
 - Point No.3: In the Affirmative**
 - Point No.4: As per final order for the following:-**

REASONS

8. **Point No.1 to 3:** Since these points are interlinked to each other, they are taken up together for common discussion in order to avoid repetition of facts and circumstances.

9. The law relating to grant of temporary injunction is well settled. The Plaintiff who approaches the court has to prove three basic principles namely existence of prima facie case, balance of convenience and irreparable loss and injury. The court must be satisfied that there must be a prima facie case in favour of the

Plaintiff that there is balance of convenience in favour of the Plaintiff and if the temporary injunction is refused the Plaintiff would be put to irreparable loss and injury. Apart from this the conduct of the party approaching the court has also to be considered. Injunctive relief is a discretionary relief and an equitable relief. Thus being the case, the person who seeks equity must do equity. In order to grant relief of temporary injunction the Plaintiff has to establish that three vital aspects, i.e., prima facie case, balance of convenience lies in his favour and that they would be put to irreparable loss and injury in case injunction is not granted.

10. In order to prove plaintiff contention, the plaintiff has produced certified copy of extract of mutation register, RTC extracts in respect of Sy.No.101/1, photocopy of sale deed dated 21.08.2008 executed by Hanumantharayappa in favour of H.K.Gopalakrishna (vendor of plaintiff) in respect of suit property, extract

of mutation register and it is discloses that the katha of the suit property had been mutated into the name of H.K.Gopalakrishna, RTC extracts in respect of suit property, photocopy of conversion order in respect of suit property, photocopy of sale deed dated 06.01.2011 executed in favour of plaintiff society in respect of suit property, photocopy of layout plan, photocopy of relinquishment deed, photocopy of order sheet in RA No.78/2009-10, photocopy of FIR and photos.

11. On the other hand, the defendant has not produced any documents.

12. Having considered the materials available on record, it is relevant to note that in order to show the acquisition of the suit property, the plaintiff has produced the photocopy of sale deed dated 06.01.2011 executed in favour of plaintiff society. Further, the plaintiff also produced the sale deeds dated 21.08.2008 of his vendor. Further, the plaintiff has produced copy

of conversion order in respect of suit property. Further, at this stage, the defendant in order to substantiate his contention has not produced any documents. In order to appreciate the contention of the defendant, a full fledged trial is required.

13. At this stage, the plaintiff has made out a prima facie case and balance of convenience lies in favour of the Plaintiff. This court opinions that, in the present case the equitable relief of temporary injunction has to be granted till the disposal of suit. Therefore, this court of the opinion that at this stage, the plaintiff established mandatory requirements to avail relief of temporary injunction at this stage. In view of this, the court opinions that the balance of convenience lies in favour of the Plaintiff and also the court feels that if an order of temporary injunction is not granted in favour of the Plaintiff, he will be put to loss and hardship. If an order of temporary injunction is granted no hardship will be

caused to the defendant. Accordingly, I proceed to answer **point No.1 to 3 in the Affirmative.**

14. **POINT NO.4:** In view of my findings on point No.1 to 3, I proceed to pass the following;

ORDER

I.A.No.1 and 2 filed by the Plaintiff under Order 39 Rule 1 and 2 of CPC are hereby allowed.

The Defendant, his agents or any other person acting on his behalf are hereby temporarily restrained from interfere to the suit schedule property and also restrained from further damaging the suit schedule property in any manner whatsoever till disposal of the suit.

Under the circumstances parties shall bear their own cost.

(Dictated to the Stenographer directly on computer, typed by him, corrected and signed by me and then pronounced in the open Court, on this **1st day of July, 2026**)

Sd/-

I Addl. Civil Judge & JMFC,
Nelamangala.