

IN THE COURT OF ADDL. CIVIL JUDGE & JMFC,
AT: SHIDLAGHATTA.

Dated this the 04th day of August – 2025.

Present:Smt. Ranjitha S.,
M.SW., LL.B.,
Addl. Civil Judge & JMFC,
Shidlaghatta.

O.S. NO. 130/2025

PLAINTIFF/S: Sri. C.H.Sriramappa & Others.
(By Sri. S.A., Advocate)

- V/S -

DEFENDANT/S: Sri. M. Manjunath
(By Sri. T.V.C., Advocate)

PARTIES TO I.A. NO.2

Applicant/Plaintiffs : Sri. Sriramappa & Others.

-VS-

Opponents/Defendants: Sri. M. Manjunath.

ORDERS ON I.A. NO.2

The counsel for applicant/plaintiff has filed I.A. No.2 under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking temporary injunction against defendant, restraining

the defendants, his agents, henchmen, workmen, servants from creating or put up any fencing/compound wall obstructing the plaintiffs by using the road/pathway measuring to an extent of east to west 500 feet and north to south 8 feet, running from eastern side to western side to reach properties of plaintiffs till pending disposal of the suit.

2. The plaintiff has sworn to an affidavit in support of the application and has stated that, the plaintiffs have filed the suit against the defendant inter alia praying for grant of a judgment and decree declaring that they have acquired easement of necessity on the road as described in the schedule property for ingress and egress to their properties, against the defendant. The plaintiffs have following agricultural properties as stated in the plaint from the date of having rights they are in the physical possession and enjoyment over the said properties till today and they are having all the revenue document in their favour. From times immemorial the pathway/road running from southern side to northern side, on the eastern side of the property Sy. No. 39/1 as shown in the village map of Chokkandahalli Village. The defendant has having the rights in Sy. No. 39/1, measuring to an extent of 2-14 guntas, including east to west 500 feet and north to south 8 feet road, are adjacent to each other and the only approached to the plaintiffs properties

which is land looked on all the four sides is only through and over the property and the same is easementary rights enjoyed by the plaintiffs and other land owners of their village and same has been recognized by the defendant and all the persons claiming through him.

3. It is further stated that, it is well known fact that nobody has got any right to block the pathway in question so as to prevent them from having any access to the adjoining properties. The law declared by various courts repeatedly held that the owner of the land adjoining the public street/pathway has got a right of access at ever point, where his or her land adjoins public street. They have always commonly and lawfully used the 500 X 8 feet road formed in the defendant property. A road/pathway is also meant to provide access to and from the tenements which on either side. This right of immediate access from private property to public road to a private right of them. They have a right of passing a re-passing thereon and an exercise that right in a reasonable way without transgressing the usual ode in which such right is normally exercised. Being the owners of the plaint schedule properties for their beneficial enjoyment, the right is created to use the 8 feet road/pathway which is already in existence from time immemorial. There is no absolutely necessity using the same from times immemorial,

as shown in the sketch produced. There is no other alternative road/pathway in existence or can be formed, adjacent properties to reach the main road. Hence, it is absolutely necessary for them to protect the existing the 500 X 8 feet road as mentioned in the sketch. The defendant intentionally to interfere with enjoyment of the easementary rights by them over the property for the reasons best known to him. Hence, prays to allow the application.

4. Per contra, after service of summons the defendant has appeared before the Court through his counsel and filed the objections to I.A.No.2, wherein he has denied the contents of the affidavit sworn to in support of the application as false, frivolous and vexatious one. There is no any alleged road/pathway passed towards northern side of the defendant's land bearing Sy. No. 39/1 of Chokkandahalli Village, Jangamakote Hobli, Sidlaghatta Taluk and there is no alleged pathway is existing in the defendant's land at any point of time. The defendant suit schedule land bearing Sy. No. 39/1 is measuring an extent of 2-16 acres including 0-02 guntas karab is the irrigation land and towards western half of his land was having mulberry crop since from 20 years and recently the defendant has removed the said mulberry crop in order to raise the grape garden and thereby now he is erect the stone pillars in the said portion. Remaining half portion

towards eastern side of his suit schedule land, the defendant using the same for growing vegetable crops and in the said eastern portion the defendant left 4 feet space middle of his land towards east-west direction as the pipeline is fixed under the land for the purpose of fixing drip pipes in both sides from the middle of his said land. The defendant's suit schedule land bearing Sy. No. 39/1 east-west 600 feet length is existing towards northern side and north-south 172 feet width is existing towards western side of his land. Such being the measurements are situated, the plaintiffs knowingly, intentionally filed this false and frivolous suit claiming the pathway/road in the defendants land falsely as there is no such claimed pathway is existing in the suit schedule land.

5. It is further contended that, the alleged plaintiffs lands are not adjacent lands towards western side of suit schedule property, but the plaintiffs intentionally, knowingly shown the wrong boundary towards western side. Towards western side of the suit schedule property the land bearing Sy. No. 38/1 of Papanna's land and Sy. No. 37/1 of Munishamappa's land are situated, but the plaintiffs falsely shown the western boundary of the suit property i.e., properties belongs to plaintiffs. There is no plaintiffs lands are situated adjacent to the suit land at any side. The defendant has left the 25 feet

width land towards eastern side of his suit land for the road purpose and the said road is passed north-south direction from the Baktharahalli to Kolar-Sompura highway road via Hosahalli, Yeddalathippenahalli Hosapete. There is a pathway/road is situated in access the plaintiff's lands which is lead from said Bhaktharahalli-Hosapete main road to plaintiff's lands and more than 100 of others lands and the said pathway is existing from centuries. Both the neighboring Chokkandahalli Yeddalathippenahalli villagers and other public at large were/are using the said road to reach their farm houses and also their lands and also for cattle, sheep, goats and other domestic animals are passed to the Badanakere lake area for the purpose of growing and drinking water in the lake and the said lake area and lake is situated towards western side of the plaintiffs lands narrated in the plaint. Such being the road/pathway is situated to access the plaintiff's lands have filed this false suit in order to give trouble and harm and harass the innocent defendant by claiming non-exiisting alleged pathway/road in the suit property. Hence, prays to reject the application.

6. Heard the arguments of learned counsel appearing for the plaintiff and defendants perused the materials on record.

7. On the basis of the above contentions, the following

points arise for my consideration.

i. Whether the plaintiff has made out prima-facie case to grant order of temporary injunction as sought for in IA No.2?

ii. Whether the plaintiff shows that, balance of convenience lies in his favour?

iii. Whether the plaintiff shows that irreparable loss and injury would be caused to him, if order of temporary injunction is not granted?

iv. what order?

8. My findings to the above points are as under;

Point No. 1 : In the Negative

Point No. 2 : In the Negative

Point No. 3 : In the Negative

Point No. 4 : As per the final orders for following;

REASONS

9. **Point No.1 to 3:** This is a suit for Declaration and permanent injunction filed by plaintiffs against defendants.

10. It is important to note that while dealing with the application of this nature, the only function of the Court is to see whether the applicants have made out a prima-facie case and in whose favor the balance of convenience/inconvenience lies and in case of refusal to grant temporary injunction,

which side would suffer the most irreparable loss and injury. Prima facie case means that the plaintiff should have a arguable case before proceeding further. It is a well settled principle of law that when there is a doubt regarding the case of the plaintiff, injunction cannot be granted. Let consider the documents produced by the parties.

11. To support the case of the plaintiffs, they have produced, sketch, village map, RTC extracts, MR, photos in 4 number, google map sketch.

12. Per contra, the defendants have produced as many as documents such as, photos, google map, village map RTC extracts, Hissa Survey Attlas, Hadbastha Survey Sketch, mahazar and survey notice, survey dishank map, NCR, CD.

13. Admittedly, the plaintiffs have filed this suit against the defendants for the relief of Declaration and Permanent injunction with respect to suit schedule properties. However, plaintiffs contends that they are in peaceful possession and enjoyment over the land bearing Sy. No. 36/3B2, 36/10, 36/13, 36/4. Further contended that, they are using the suit schedule property from immemorial time by way of path way or road running from southern side to northern side, on the Eastern side of the property Sy. No. 39/1 as shown in the village map. Further contended that, the defendants having

the rights in Sy. No. 39/, measuring to an extent of 02-14 guntas, including east-west 500 feet and north-south 8 feet road are adjacent to each other and the only approached to the plaintiffs properties which is land lawful and all the forth sides. Further contended that, they have right of passing and repassing thereon and an exercise that right in a reasonable way without transgressing draw usual ode in which such rate is normally exerciser. Being the owner of the plaint schedule properties for their beneficial enjoyment, the right is created to use the 8 feet road or path way which is already in existence from the immemorial time. If is further contended that, there is no other place for them to reach their lands. On the other hand, the defendants contend that, there is no any alleged road or pathway passed towards the northern side of the defendants land bearing Sy. No. 39/1 and there is no alleged pathways existing in the defendants land at any point of time. Further contended that, in the Sy. No. 39/1, an extent of 02-16 guntas and including 02 guntas karab is the irrigation land and towards the western side was having malbury crops since 20 years and recently defendant has removed the said mulbary crops in order to raise the graphs garden and thereby he is erect the stone pillars in the said portion remaining portion he using the same for growing vegetable crops. Further contended that, the alleged

plaintiffs land are not adjacent lands towards western side of the suit schedule property. But, the plaintiffs intentionally shown the wrong boundaries towards the western side. Further contended that, towards the wester side of the schedule property the land bearing Sy. No. 38/1 and 37/1 are situated, but the plaintiffs falsely shown the western boundary of the suit schedule property i.e., properties belongs to them. Further contended that, the defendants has left the 25 feet width lands towards the eastern side of his land for road and said road is passed north-south direction from the Bhaktharahalli to Kolar Highway. Further contended that, there is a path way or road is situated to access the plaintiffs land, which is lead from above said Bhaktharahalli, Hosapete main road to plaintiffs lands and more then 100 of others lands and said pathway is existing from centuries. Therefore, according to the defendants, there is no necessity for the plaintiffs to claim or create a new pathway through the defendants land. Upon a perusal of the documents produced by the plaintiffs at this preliminary stage, there appears to be no reference to any easementary right over the defendants property. In the absence of such material evidence, the existence of the property described in the suit schedule and the question of whether the plaintiffs possess any easementary rights over the defendant property

are matters that cannot be determined at this stage. These issues involve disputed questions of fact and law, and therefore, must be adjudicated upon after a full-fledged trial. Hence, this court is of the opinion that, at this stage this court can not come to conclusion that, whether the plaintiffs have an easementary right over the defendant property without conducting a full-fledged trial. However, for proper appreciation of the documents produced by the parties, this Court cannot undertake a mini-trial while deciding the present application. The issues raised require detailed examination and the leading of evidence during the full-fledged trial. Furthermore, the plaintiffs have failed to establish a prima facie case. As one of the essential conditions for granting a temporary injunction is not satisfied, this Court is of the view that the balance of convenience does not lie in favor of the plaintiffs. It is also observed that the plaintiffs would not suffer irreparable loss or injury if the temporary injunction is refused. In the absence of prima facie evidence, this Court is not inclined to grant the relief of temporary injunction in favor of the plaintiffs. It is also a settled principle of law that the equitable relief of temporary injunction cannot be granted when the plaintiffs case, at the preliminary stage, appears doubtful and does not present an arguable issue. However, the plaintiff is

at liberty to adduce cogent oral and documentary evidence in support of their claim regarding the suit schedule property during the course of trial. The pleadings and documents filed by the plaintiffs do not disclose a prima facie case at this stage. Accordingly, **Points No.1 is answered in the Negative.**

14. **Point NO.2 & 3:** Since, plaintiffs have failed to prove their prima-facie case the question of considering balance of convenience and irreparable injury doesn't arise at all. Hence, this court as answer **Point No.2 and 3 in the Negative.**

15. **Point No. 4:** For the reasons stated supra, this court proceed to pass the following;

ORDER

IA. No.2 filed by the applicant/
plaintiff U/o 39 Rule 1 and 2 R/w
Section151 of CPC is hereby rejected.

(Dictated to the **Stenographer Grade-III** directly on computer, typed by her, corrected and then pronounced by me in Open Court, on this the **04th day of August - 2025**).

(Ranjitha S.,)
Addl .Civil Judge & JMFC,
Shidlaghatta.

**Order pronounced in open court
(Vide separate sheet)**

ORDER

I.A. No.2 filed by the applicant/
plaintiff U/o 39 Rule 1 and 2 R/w
Section 151 of CPC is hereby rejected.

For order on IA. No.3.

Call on by: 25.09.2025.

04.08.2025

**Addl. Civil Judge and JMFC,
Shidlaghatta.**