



**IN THE COURT OF PRL. SENIOR CIVIL JUDGE,
& C.J.M., CHIKAMAGALUR.**

Present : Smt. Kumari Sujatha.

B.com.L.L.B.,

Prl. Senior Civil Judge & CJM.,
Chikkamagaluru

O.S. No.30/2025

Dated : 4th day of July 2025

Plaintiff : H.C.Lokanath
S/o Late Channappa Gowda,
Aged about 62 years,
Agriculturist,
R/o Hiremagaluru,
Kalyana Nagara,
Chikkamagaluru City.

(By Sri. H.M.Sudhakar, Advocate)

V/s.

Defendant: C.J.Vishwanatha
S/o Late Jayaram,
Aged about 55 years,
Agriculturist,
R/o Channapura road,
Kote, Chikkamagaluru
City.

(By Sri. D.B.Sujendra, Advocate)

**PARTIES TO I. A..No.I**

Applicant: H.C.Lokanath

V/s

Opponent: C.J.Vishwanatha

ORDER ON I.A No.I

The instant application is filed by the learned counsel for the plaintiff under Order XXXIX Rule 1 and 2 read with Section 151 of CPC, praying for granting temporary injunction restraining the defendant, his men, agents, servants or anybody claiming through him from cutting, transporting or removing the standing timber trees from the schedule property till pending disposal of the suit.

2. On the other hand, the learned counsel for the defendant has filed his detailed objection with a prayer to dismiss the application.

3. Heard both sides. Perused IA, affidavit, objection, plaint and the materials available on record.

4. Now, the point arises for the determination of this Court are as follows:



- 1. Whether the Plaintiff has made out Prima Facie Case?***
- 2. Whether the balance of convenience lies in favour of the plaintiff?***
- 3. Whether Plaintiff will be put to irreparable loss and hardship if, the Temporary Injunction is not granted?***
- 4. What order?***

5. My answer to the above Points are as follows:

Point No.1 : In the Affirmative

Point No.2 : In favour of the Plaintiff

Point No.3 : In the Affirmative

**Point No.4 : As per the final order
for the following:**

REASONS

6. **Points No.1 to 3:** All these Points are taken together for common discussion as they are inter linked with each other and to avoid repetition of facts.



7. The instant application is filed by the learned counsel for the plaintiff praying for temporary injunction restraining the defendant, his men, agents, servants or anybody claiming through him from cutting, transporting and removing the standing timber trees from the schedule property till pending disposal of the suit.

8. This application is supported by an affidavit of the plaintiff stating that his plaint averments may be treated as part and parcel of the affidavit to avoid the repetition of facts. He further stated that he has filed suit against the defendant for the relief of declaration, possession and permanent injunction. He further stated that he is the absolute owner of the plaint schedule property and the same was granted in his favour by Akrama Sakrama Samithi, Chikkamagaluru bearing No. Kasaba TT.2463/1991-92 dated 04.09.1993. On the basis of the same the katha of the plaint schedule property has been mutated to his name. Ever since then, he is the absolute owner in possession, occupation, enjoyment and cultivation of the plaint schedule property. He has cultivated Plaint schedule property with coffee, pepper and also grown silver oak and other shade bearing trees. He further stated that he



also fenced the plaint schedule property all around with barbed wire along with stone and wooden pillars. Except him, nobody have got any kind of right, title or interest in or over the plaint schedule property. He further stated that on the eastern side of the plaint schedule property, the defendant has got his property. He further stated that he has harvested the entire coffee in the plaint schedule property in the month of December 2024. After harvesting the Coffee in the plaint schedule property, he was out of station in order to take treatment for his ailment. By taking advantage of his absence in the place and also taking advantage of his ill health, the defendant trespassed into the plaint schedule property by removing the fence of the plaint schedule property on the Western side of the plaint schedule property and thereby cut and removed the standing silver oak trees from the plaint schedule properties on 10.01.2025. The said fact was brought to his notice by his neighbors. After hearing the same, he came to the plaint schedule property and enquired with the defendant.

9. He further stated that during that time the defendant agreed to hand over the possession of the plaint schedule property in his favour. Believing the



words of the defendant he kept quiet. But the defendant failed to comply the assurance and promise given by him. The defendant also failed to hand over the possession of the plaint schedule property in his favour and the defendant left his workers to cut and remove the standing timber trees from the plaint schedule property stating that the said property belongs to him and he refused to hand over the possession of the plaint schedule property in his favour. Now the defendant is hurriedly trying to cut and remove the remaining standing timber trees in the plaint schedule property, as the defendant is a powerful and influential person. If the defendant succeed to cut and transporting the standing timber trees from the plaint schedule property, then the value of the plaint schedule property will be diminished. Hence it will cause untold hardship, injury and inconvenience to him which cannot be compensated in terms of money.

10. He further stated that he has made out prima facie case and the balance of convenience also lies in his favour and if the application is not allowed, then, he will be put to great hardship. Hence, he has prayed to allow the application.



11. On the other hand, the defendant has filed his detained objection inter alia contended that the application filed by the plaintiff is not maintainable either in law or on facts. He further contended that no document is produced by the plaintiff in support of the boundaries mentioned in the schedule and the given boundaries are wrong and consists more extent of lands. The schedule given in the application is not the schedule of the plaint. He further contended that the plaintiffs do not have a prima facie case and the balance of convenience also does not fall in his favour and no hardship will be caused to the plaintiff in the case of IA is rejected. On the other hand, the defendant would be put to irreparable injury, as he is having prima facie case and balance of convenience. He further contended the lands of the defendant are also fraudulently included in the given boundaries. No land as per the given boundaries has been granted in favour of the plaintiff. The plaintiff is intending to grab more lands belonging to him and with the malafide intention the present suit is filed. Further he contended that the plaintiff has not come to the court with clean hands. At no point of time he has interfered or trespassed or attempted to cause damages forcibly to the suit schedule properties as alleged. The plaintiff has filed



suit alleging falsehood with an intention to have wrongful gain to him by misleading the court. On these grounds, he has prayed to dismiss the application.

12. I have gone through the materials available on record.

This suit is filed by the plaintiff against the defendant for declaration to declare that he is the absolute owner of the plaint schedule property as per the Orders of Akrama Sakrama Samithi, Chikkamagaluru bearing No. Kasaba TT. 2463/1991-92 dated 04.09.1993 and also for the possession of the plaint schedule property and for a permanent injunction restraining the defendant, his men, agents, servants or anybody claiming through him from cutting, removing and transporting the standing timber trees from the plaint schedule property. The plaintiff has shown the Schedule as under.

SCHEDULE

Property situated at Halasabalu Village, Kasaba Hobli, Chikkamagaluru Taluk, bearing Sy.No.25/1, Coffee, measuring 4 acres 30 guntas, assessed at Rs.305-21, bounded on the East: Property of the



Defendant, West: Property of Jhon, North: Government Road, South: Property of Jagadeesh.

13. In order to support the contention of the Plaintiff, he has produced Certified Copy of Saguvali chit, RTC, Certified copies of Mutation Register Extract, Akar Band, Sketch, Patta Book, Tax paid receipt, Photographs with C.D.

14. On the other hand, the Defendant has produced the xerox copy Petition submitted before the Court of Assistant Commissioner, Chikkamagaluru, List of documents, xerox copies of Mutation Register Extract i.e., M.R.No.H65/2018-19, RTC's pertaining to the Sy.No.192/2, 193/3 of Kuruvangi Village, RTC in respect of Sy.No.367 standing in the name of the mother of the Plaintiff and copies of Application submitted seeking Lease grant by the Defendant, copy of Endorsement dtd: 18.09.2024 and RTC's bearing Sy.No.25/1 and 219.

15. Party to the litigation who seeks an injunction must satisfy the Court that there is a serious question to be tried at the hearing of the suit and every probability tilts in his favour for the relief sought for i.e. prima facie is in his favour. What the



Court has to determine is whether there is a bonafide contention between the parties, whether there is fair and substantial question to be decided as to what the rights of the parties are.

16. The prima-facie ought to be considered in relation to the available relevant material on record to examine the probability of plaintiffs ultimate success in the suit. In considering the balance of convenience, the court is to consider the comparative mischief or inconvenience of both the parties. The grant of injunction being an equitable relief, the plaintiff must come with clean hands. The plaintiff/applicant has to satisfy the Court that its interference is necessary to protect him from that species of injury which the Court calls irreparable before his legal right can be established on trial.

17. Further, it is well settled principle of law that, in order to obtain the order of Injunction, the party who seeks for grant of such injunction has to prove that, he has made out a prima-facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury, if injunction is not granted.



18. But, it is equally well settled that, when a party fails to prove prima-facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, i.e., to say, if that party fails to prove prima-facie case to go for trial, it is not open to the Court to grant injunction in his favour even if, he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury of no injunction order is granted.

19. By applying this principle, let us first consider whether the Plaintiff is having established prima-facie case in his favour. The contention of the Plaintiff is that he is the absolute owner of the Plaintiff Schedule Property and the same was granted in his favour by Akrama Sakram Samithi, Chikkamagaluru bearing No.Kasaba.TT.2463/1991-92 dated 04.09.1993. Prima-facie to prove the same, he has produced the Certified Copy of Saguvali chit which shows that he was granted 4 acre 30 guntas in Sy.No.25 as per Order No.Kasaba.TT.2463/1991-92 dtd: 04.09.1993. The RTC also shows that the Suit Schedule Property i.e., Sy.No.25/1 measuring 4



acres 30 guntas stands in the name of the Plaintiff. Mutation Register Extract also shows the name of the Plaintiff in respect of the Suit Schedule Property.

20. Further, it is specific contention of the Plaintiff that when he was out of station in order to take treatment for his ailment, the Defendant by taking advantage of his absence trespassed into the Plaintiff Schedule Property by removing the fence and also cut and removed the standing Silver oak trees from the Plaintiff Schedule Property. Further he stated that when he got the knowledge of the same, he went to the Plaintiff Schedule Property and enquired with the Defendant about the same and during that time the Defendant agreed to handover the possession of the Plaintiff Schedule Property in his favour. But, subsequently he failed to handover the possession of the Plaintiff Schedule Property. Further, he stated that the Defendant has left his work at cut and remove the standing timber trees from the Plaintiff Schedule Property stating that the same was belongs to him and he refused to handover the possession of the Plaintiff Schedule Property. Hence, if the Defendant is not restrained by an Order of Temporary Injunction



it would cause hardship to him which cannot be compensated in terms of money.

On the other hand, it is the specific defence of the Defendant that the boundaries shown by the Plaintiff in IA and the Plaint are different and the Plaintiff has shown incorrect boundaries and given boundaries which consists more area than mentioned in the Schedule. The lands in his possession are also fraudulently included in the given boundaries. Further, he contended that no land as per the given boundaries has been granted in favour of the Plaintiff. The Plaintiff with an intention to grab more lands belonging to him and with the malafide intention has filed the Suit. Further, he contended to treat his Written Statement contentions as part of the affidavit.

Upon going through the documents produced by the defendants i.e., xerox copy of Petition for cancellation of illegal grant, mutation entry and RTC under Karnataka Land Revenue Act and Rules and Karnataka Land Grant Rule before the Court of Assistant Commissioner at Chikkamagaluru shows that the same is unnumbered and the same was filed on 09.07.2025 i.e., after filing of this Suit. Further, it



shows that when the matter was posted for Plaintiff evidence, the Written Statement was filed by the Defendant and also filed Objection to the IA No.I and when the matter was posted for hearing on this application, the present Petition was filed before the Court of Assistant Commissioner, Chikkamagaluru, wherein the Plaintiff is also one of the Respondent. It is worth to note here that the said Petition was unnumbered.

21. The Plaintiff has also produced Photos and CD in order to show that the Defendant has cut the standing trees in the Suit Schedule Property. However, the Defendant raised his defence about the incorrect boundaries mentioned by the Plaintiff in the Plaint. But, the same needs trial to know whether the boundaries are correct or not. When the Defendant himself has stated that, he has filed Petition before the Assistant Commissioner's Court seeking cancellation of the alleged grant under Rule 108(K) of Karnataka Land Revenue Rules, then the plaintiff has made out there is a serious question to be tried at the hearing of the Suit. Therefore, the available materials on record shows that, the Plaintiff has made out prima-facie case at this stage and



balance of convenience lies in favour of the Plaintiff and if the Defendant is not restrained by an order of Temporary Injunction from cutting and transporting the standing trees in the Suit Schedule Property, certainly it would cause irreparable hardship to the Plaintiff than the Defendant. Therefore, at this juncture, if the T.I is not granted certainly the plaintiff would put to irreparable hardship. Accordingly, I answer Point No.1 to 3 in the **“Affirmative”**.

22. **Point No. 4**: As per my detailed discussion to Point No.1 to 3 as stated supra, and my answer to the above Point No.1 to 3 is **“in the Affirmative”**, I proceed to pass the following:

ORDER

I.A.No.I filed by the Plaintiff Under Order XXXIX Rule 1 & 2 CPC is hereby allowed.

The Defendant, his men, agents, servants or anybody claiming through him is hereby restrained by an Order of Temporary Injunction from cutting, transporting or removing the standing



**timber trees from the Plaint Schedule
Property till pending disposal of the
Suit.**

No order as to cost.

(Dictated to the stenographer, computerized and Print-out
taken by her, Script corrected, signed and then pronounced by me
in the open Court on this day 04th day of August 2025)

Sd/-

(Smt. Kumari Sujatha.)

Prl. Senior Civil Judge & C.J.M.,
Chikkamagaluru.