



**IN THE COURT OF THE II ADDITIONAL CIVIL JUDGE AND
JMFC, KADUR.**

Present: -Sri. Thahakaleel K.A., B.A., LL.B.,
II Addl. Civil Judge & JMFC.,Kadur.

Dated: This 1st Day of April 2026

O.S.No.241/2025

PLAINTIFF/S: Smt.ShashiRekha.B.S
W/o B.R.Shivaprasad,
Aged about 60 years, House wife,
R/o Railway Station Road, Birur
Town, Kadur Taluk,
Chikkamagalur District.

(Rep. By Sri. K.A.S., Advocate)

V/S

DEFENDANT/S 1. Suresh,
S/o Nagoji Rao,
Aged about 55 years,
fruit vendor, R/o Shivaji Nagara,
Birur Town, Kadur Taluk,
Chikkamagalur District.

2. G. Nagaraja
S/o T. Govindappa,
Aged 59 years, Flower Vendor,
R/o Neharu Nagara, Birur Town,
Kadur Taluk.

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3. B.G, Koteshappa
S/o T.H. Gangappa,
Aged about 55 years,
R/o Old Aijampura Road, Birur
Town, Kadur Taluk,
Chikkamagalur District.
4. B.T. Manjunath,
S/o R. Thimmaiah,
Aged about 55 years,
R/o Neharu Nagara, 3rd Cross,
New Ajjampura Road, Birur
Town, Kadur Taluk.
5. D.G. Chandrashekar,
S/o D.V. Govindaraju,
Aged about 53 years, R/o Opp.
Govt. Hospital, Siddamariyappa
Badavane, Birur Town, Kadur
Taluk.
6. H.Y. Sumashree
W/o J.S. Venkatesh,
Aged about 48 years,
R/o Margada Camp, Birur Town,
Kadur Taluk.
7. J.S. Venkatesh,
S/o Subramanya,
Aged about 56 years,
R/o Margada Camp, Birur Town,
Kadur Taluk.
8. K.N. Rajanna
S/o Late Ningappa,
Aged about 57 years,

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- Agriculturist, & Advocate,
Venkateshwara Nagara, Kadur
Town, Kadur Taluk.
9. H.M. Basavarajappa,
S/o Late Mallappa,
Aged about 75 years,
Agriculturist,
R/o K. Hosahalli, Kadur Town
10. Parameshwarappe,
S/o Late.Gangappa,
Aged about 73 years,
Agriculturist.
R/o Bantaganahalli Village,
Kadur Taluk.
11. A.N. Krishnamurthy,
S/o Adi Narayanashetty,
Aged about 60 years,
R/o Choultry Street, Kadur
Town, Kadur Taluk
12. Siddaraju,
S/o Nageshashetty,
Aged about 75 years,
R/o Hosadurga Town,
Chitradurga District.
13. Dinesh,
S/o Late D.S.Halappa,
Aged 58 years, Agriculturist,
R/o Kamanakere village, Kadur
Taluk.

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14. The Chief Officer,
Town Municipal Council, Birur,
Birur Town, Kadur Taluk,
Chikkamgalur District.

(D-1,3&4 Rep. By Sri. K.N.R., Advocate
D-9 to 13 Rep. By Sri. K.V.M, Advocate
D-8 Dismissed
D-5 Abated
D2,6&7 Exparte)

Parties to I.A No.I

Applicant/s : Smt. Shashirekha.B.S.

V/S

Opponent/s : Sri. Suresh and others

Sl. No.	Subject	Remarks
1	Provision under which the application is filed	Order 39 Rule 1 and 2 R/w Section 151 CPC
2	Relief sought for	Temporary Injunction
3	The date of which the application is filed	20.03.2025
4	Number of the application	I.A.No.I
5	The date of which the objections are filed by different opponents.	11.07.2025
6	The date of Order.	01.04.2026

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**ORDERS ON IA No.I FILED BY THE PLAINTIFF UNDER
ORDER XXXIX RULE 1 AND 2 OF CIVIL PROCEDURE
CODE, 1908.**

The plaintiff has instituted the present suit seeking a decree of permanent injunction restraining the defendants, their agents, servants or anybody claiming under them from trespassing upon and interfering with the peaceful possession and enjoyment of the suit schedule property. Along with the suit, the plaintiff has filed I.A.No.1 under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, praying to grant a temporary injunction restraining defendant Nos.1 to 13 from interfering with or trespassing into the suit schedule property and from disturbing the plaintiff's peaceful possession and enjoyment of the same, pending disposal of the suit.

2. In the affidavit filed in support of the application, the plaintiff has stated that she purchased the suit schedule property from one P.K. Satyanathan, S/o Krishna Nair, under

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a registered sale deed dated 01.02.2006 bearing SR No. 2952. At the time of purchase, the property was a vacant site situated within the limits of Hullehalli Grama Panchayat, and subsequently it came under the jurisdiction of Town Municipal Council, Birur. It is further stated that the municipal khata stands in the name of the plaintiff and she has been paying taxes regularly. The plaintiff has constructed a shed in the suit schedule property and is running a timber business therein under the name “Abhishek Saw Mill.” The plaintiff contends that defendant Nos. 1 to 13 have no manner of right, title or interest over the suit schedule property. It is further stated that defendant Nos. 1 to 13 had earlier filed a suit for permanent injunction in O.S. No. 248/2010 before the Court of Additional Civil Judge at Kadur, which came to be dismissed with costs on 10.12.2018. Despite the said dismissal, defendant Nos. 1 to 13 are attempting to interfere with the plaintiff’s possession,

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trying to trespass into the property and threatening to dispossess her. The plaintiff claims that she has resisted such illegal acts with great difficulty. It is contended that she has a prima facie case, that the balance of convenience lies in her favour, and that if the temporary injunction is not granted, she will suffer irreparable loss and injury which cannot be compensated in terms of money and would result in multiplicity of proceedings. Hence, she has prayed to allow the application.

3. In response to the suit summons, defendant Nos.1, 3, 8 to 13 have appeared before the Court and filed their written statement along with objections to I.A. No.1. The defendants have denied the plaint averments and contended that the suit schedule property is not properly described, and the boundaries mentioned in the plaint are incorrect. It is contended that there exists a road measuring about 30 feet

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in width on the western side of the suit schedule property. The defendants further state that defendant No. 1 owns house properties bearing Assessment Nos.6308/6317, 6364/6370 and 6358/6364 situated at Veerabhadreshwara Nagara Extension, Birur Town, and is in peaceful possession and enjoyment of the same. It is contended that the said properties are accessed through a 30 feet wide road connecting to NH-206, which has been in use by defendant Nos. 1 to 13 and other landowners for more than 30 years without any obstruction. The defendants further contend that the lands originally belonged to one C.V. Rudrappa, who formed a layout after obtaining necessary permissions from the competent authorities including the Tahsildar, Assistant Commissioner and Town Planning Authority. The layout was formed in several survey numbers and necessary provisions for roads, drainage and other infrastructure were made. It is contended that the road measuring about 30 x 660 feet was

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formed for public use, with portions of land contributed by the previous owners including the vendor of the plaintiff.

4. The defendants further contend that the plaintiff has illegally blocked the said road by putting up a compound wall in the month of March 2025, thereby reducing the width of the road and causing inconvenience to defendant Nos. 1 to 13 and other residents in accessing their properties. It is stated that several complaints have been lodged before various authorities including the police, municipal authorities and higher officials, but no effective action has been taken. The defendants further allege that the plaintiff has not obtained proper license to run the sawmill/timber business and has violated the provisions of the Town Planning Authority and Urban Development Authority. It is also alleged that the plaintiff has colluded with certain municipal officials and fabricated documents. The defendants

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contend that the suit is filed on the basis of false allegations with an intention to grab the road. They assert that they have never interfered with the possession of the plaintiff and on the contrary, it is the plaintiff who has obstructed the lawful use of the road by defendant Nos.1 to 13 and other landowners. Hence, they have prayed for dismissal of I.A.No.1.

5. Heard the arguments advanced by the learned counsel for the plaintiff and the learned counsel for defendant Nos. 1 to 13. Perused the materials available on record. The documents produced by the plaintiff consist of a copy of the registered sale deed dated 01.02.2006, assessment and tax paid receipts, GST Registration Certificate, trade licence issued by the Forest Department, photographs, and a certified copy of the judgment and decree passed in O.S.No.248/2010. On the other hand, the

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documents produced by defendant Nos.1 to 13 consist of a copy of the agreement, photographs, copy of the communication issued by the Town Municipal Council, copy of the Commissioner's report along with the sketch in O.S.No.248/2010, and copies of complaints submitted before various authorities.

6. The following points arise for consideration of this Court:

1. Whether the plaintiff has made out a prima facie case for grant of temporary injunction?
2. Whether the balance of convenience lies in favour of the plaintiff?
3. Whether the plaintiff would suffer irreparable injury if the temporary injunction is not granted?
4. What order?

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7. The answer of this court for 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 the final Order for the following ;

:: R E A S O N S ::

8. **Point No.1 to 3:-** Upon careful consideration of the pleadings, documents and submissions of both parties, it is evident that the plaintiff has produced the registered sale deed dated 01.02.2006 along with revenue records and other supporting documents to prima facie establish her possession over the suit schedule property. Further, the earlier suit in O.S.No.248/2010 filed by defendant Nos.1 to 13 came to be dismissed, which also lends support to the plaintiff's contention regarding possession.

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9. At this interlocutory stage, this Court is only required to examine whether a prima facie case exists and not to adjudicate upon disputed questions of title or easementary rights in detail. The material placed on record indicates that the plaintiff is in possession of the suit schedule property. Hence, a prima facie case is made out.

10. With regard to the balance of convenience, if the defendants are not restrained, there is a likelihood of interference with the plaintiff's possession, which would lead to multiplicity of proceedings. On the other hand, no irreparable prejudice would be caused to the defendants if they are restrained from interfering with the plaintiff's possession, as their rights, if any, can be adjudicated during trial. Therefore, the balance of convenience lies in favour of the plaintiff. As regards irreparable injury, any interference with possession would cause injury which cannot be

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adequately compensated in terms of money. Hence, the plaintiff would suffer irreparable loss if injunction is not granted.

11. However, it is made clear that this Court is not expressing any opinion regarding the existence or otherwise of the alleged road or the rights of the defendants over the same. If the plaintiff has obstructed any public or legally enforceable right of way, it is open to the defendants to seek appropriate remedy in accordance with law. Accordingly, **Point Nos. 1 to 3 are answered in the Affirmative.**

12. Point No.4:- In view of the above, I proceed to pass following ;

ORDER

The I.A No.1 filed by the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure is hereby allowed.

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The defendant no.1 to 4, 6, 7, 9 to 13, their agents, servants or anybody claiming under them are hereby restrained from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property, until disposal of the suit.

It is made clear that this order shall not be construed as expressing any opinion on the alleged road or rights claimed by the defendants, and the defendants are at liberty to seek appropriate relief in accordance with law.

(THAHAKALEEL K.A)
II Addl. Civil Judge & JMFC
Kadur.

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