



**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 15th Day of December 2025

O.S.No.378/2024

PLAINTIFF/S: 1. Smt.Maheshwaramma
W/o Late.B.M.Marulasiddappa,
Since dead by her LR's
1(a) Veeresha V. M.
S/o Late.B.M.Marulasiddappa,
Aged about 35 years,
Agriculturist,
R/o Vaderahalli Village,
Yagati Hobli, Kadur Taluk,
Chikkamagalur District.
(Rep. By Sri. S.C.N., Advocate)

V/S

DEFENDANT/S 1. Prakash
S/o Veerabhadrapa V.G.
Aged about 45 years,
Agriculturist and surveyor,
2. Smt. Lalithamma
W/o Veerabhadrapa V.G.
Aged about 80 years, Housewife,
Both are Ro Vaderahalli Village,
Yagati Hobli, Kadur Taluk,
Chikkamagaluru District,

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3. Lakshamma
W/o Shanmukabhovi.
Aged about 55 years,
House wife.
4. Shanmukabovi
S/o Late. Bhoothbhovi.
Aged about 63 years,
Contractor,
- Defendants no. 3 and 4 are
G.B.Hatti, Bidare Post, Singatere
Hobli, Kadur Taluk,
Chikkamagaluru District.
- (D-3 & 4 Rep. By Sri. T.G.S, Advocate
D-1 & 2 Exparte)

Parties to I.A No.I

Applicant/s : Smt. Maheswaramma

V/S

Opponent/s : Sri. Prakash 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	11.06.2024

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4	Number of the application	I.A.No.I
5	The date of which the objections are filed by different opponents.	I.A.No.I on 28.11.2024 by the defendant No.3&4.
6	The date of Order.	15.12.2025

ORDER

The plaintiff has filed the present suit against the defendant seeking a declaration that the plaintiff is the absolute owner of the suit-schedule property described in Schedule-C, which forms part and parcel of the suit Schedule-B property, and further prays for delivery of possession of the said Schedule-C property.

2. The plaintiff has also filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking an ad-interim temporary injunction restraining the defendants, their agents, servants, successors, or any person claiming under them, from trespassing upon, altering, or interfering with the peaceful possession and enjoyment of the

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plaintiff over the suit Schedule-C property, and from carrying out any quarrying, or similar activities over the said property, pending disposal of the suit on merits.

3. In support of I.A. No.1, the plaintiff has asserted that the suit Schedule-A and Schedule-B properties are her absolute properties and form part and parcel of the suit transaction. It is her contention that she is the absolute owner of the landed property bearing Sy. No.69/4 measuring 1 acre 20 guntas, property measuring 4 acre 38 guntas, Sy. No.69/2, new Sy. No.69/1p, 69/* as described in Schedule-A and Schedule-B of the plaint.

4. Originally, the Schedule-A property belonged to one M. Thimmaiah who sold the said Schedule-A property in favour of the plaintiff under a registered sale deed dated 06.05.1980, bearing S.R. No.1924/1980-81, and delivered possession of the Schedule-A property to the plaintiff.

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5. The Schedule-B property originally belonged to one Doddaveeramma who sold the said Schedule-B property in favour of the husband of the plaintiff, Sri. B.M. Maurulasiddappa and his mother, Smt. Nanjamma, under a registered sale deed dated 07.08.1972, bearing S.R. No.1365/1972-73, and delivered possession of Schedule-B property to the plaintiff's husband and his mother.

6. The plaintiff contends that her family members have been in peaceful possession and enjoyment of the suit Schedule-A and Schedule-B properties without any interference from any person until the year 2016. The plaintiff is an illiterate and aged woman suffering from age-related ailments, and she has no knowledge regarding revenue or survey proceedings. However, her family members have continuously been in possession and enjoyment of the suit Schedule-A and Schedule-B properties.

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7. It is further stated that defendant No.1, who is working as a surveyor and is also an agriculturist, and defendant No.4, who is an ex-Village Panchayat Member, are influential persons having money and political power. Taking undue advantage of their position, defendants No.1 and 4, by misusing certain documents pertaining to the plaintiff's land in Survey No.69/2 measuring 4 acres 38 guntas, have illegally, without the plaintiff's knowledge or consent, manipulated the records and changed the survey numbers in respect of portions of the suit property. They have also illegally commenced and continued mining and quarrying operations over the Schedule-B property.

8. It is alleged that defendants No.1 and 2 are situated adjacent to the suit property, but they have no manner of right, title or interest over the suit Schedule-A and Schedule-B properties of the plaintiff. In spite of this, on

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13.10.2021, the defendants, in collusion with each other, illegally trespassed into the Schedule-B property, encroached upon the suit land from the western side, and have been carrying out mining and quarrying activities over the encroached portion described in the plaint as Schedule-C property. Hence, the plaintiff has been constrained to file the present suit.

9. It is further stated that unless the defendants are restrained by an order of temporary injunction, the plaintiff will suffer irreparable loss and injury, which cannot be compensated in terms of money. Therefore, the plaintiff prays that I.A. No.1 filed under Order XXXIX Rules 1 and 2 CPC be allowed.

10. On the other hand, the defendants have filed their statement of objections contending that the plaintiff has filed the present suit with false and baseless allegations only to

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harass the defendants. They specifically deny that they have encroached upon the suit Schedule-C property or that they are carrying out any mining operations in the said property. According to the defendants, the plaintiff has approached the Court on imaginary and fabricated grounds.

11. It is further stated that the 4th defendant has purchased certain extent of land in Survey No.109/2, measuring 3 acres, and she is in lawful possession and enjoyment of the same. The plaintiff, with an ulterior motive, is attempting to encroach upon the land of the 4th defendant.

12. The defendants contend that towards the western side of the plaintiff's property there exists a 200-meter wide government land land, and only thereafter the land belonging to Smt. Lalithamma situated in Survey No.51/2 measuring 4 acre. Out of the said land, the 4th defendant holds a Special

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Power of Attorney in respect of an extent measuring 1 acre 20 guntas, and he is in peaceful possession and enjoyment of that property.

13. It is further contended that the 3rd defendant, who is the wife of the 4th defendant, has obtained a registered General Power of Attorney dated 27.12.2019 in favour of Smt. Lalitamma and Sri Prakash in respect of land bearing Survey No.51/2, measuring 1 acre 20 guntas. The said attorneys have been carrying on mining activities over the said property after obtaining a valid mining licence dated 16.02.2018 for a period of 20 years, along with all other necessary statutory permissions. Therefore, the mining activities being carried out by the defendants or their attorneys are strictly within their own property and in accordance with law, and not on the plaintiff's property as falsely alleged. Hence, the

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defendants pray that I.A. No.1 filed under Order XXXIX Rules 1 and 2 CPC be dismissed with costs.

14. Heard the arguments of the learned counsel for both parties and perused the materials available on record. The following points arise for determination of this Court:

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

15. The plaintiff, in support of her contention, has produced documents such as the Extract of Pattedar Book, RTCs, tax-paid receipts, photographs, and a CD to

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demonstrate her possession over the suit Schedule-A and Schedule-B properties and the alleged encroachment over the Schedule-C property. On the other hand, the defendants have produced RTCs of their lands, the copy of the registered General Power of Attorney, and documents showing that they have obtained a valid mining licence. The defendants have also produced a letter addressed to the Geologist informing that no quarrying activity has been carried out in their property for the past three years due to waterlogging.

16. 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; |

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REASONS

17. Point Nos.1 to 3:- These points are taken up together for common discussion as they are interconnected and relate to the grant of temporary injunction under Order XXXIX Rules 1 and 2 CPC.

18. The plaintiff has approached this Court seeking a declaration of title over the suit Schedule-C property, which she claims forms part of the larger Schedule-B property, and has also sought a temporary injunction restraining the defendants from trespassing, quarrying, or interfering with her peaceful possession. The plaintiff has specifically asserted that she is the absolute owner in possession of the Schedule-A and Schedule-B properties by virtue of the registered sale deeds of the years 1980 and 1972 respectively, and that she and her family members have been

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in continuous, peaceful possession of the said properties until the alleged interference in 2021.

19. In order to establish a prima facie case, the plaintiff has relied upon the Extract of Pattedar Book, RTCs, tax-paid receipts, photographs and CD. These documents, at this stage, lend support to her assertion of possession over the suit properties. The plaintiff has also alleged specific acts of encroachment and quarrying by the defendants on the western side of her property, forming the alleged Schedule-C encroached portion. At this interlocutory stage, the Court is not required to adjudicate upon the absolute title or correctness of rival survey boundaries; it is sufficient if the plaintiff establishes a plausible claim supported by material on record. The documents produced by the plaintiff do create a prima facie inference that she has been in possession of the suit properties and that her possession is now under threat.

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Therefore, the Court is of the opinion that the plaintiff has successfully made out a prima facie case for grant of temporary injunction.

20. Coming to the aspect of irreparable loss and injury, the plaintiff has specifically alleged that the defendants have illegally commenced quarrying and mining activities over the suit Schedule-C property, which, if permitted to continue, would result in removal of the earth, excavation of stone, and permanent alteration of the nature and character of the land. Such damage cannot be compensated in monetary terms, particularly when the very substratum of the property is at risk of being destroyed. Quarrying is an activity of irreversible impact. Thus, unless the defendants are restrained, the plaintiff will suffer irreparable injury. As regards the balance of convenience, the defendants contend that they are carrying out mining

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operations only within Survey No.51/2 based on a mining licence issued in the year 2018, and not in the plaintiff's property. They further contend that an extent of 200 meters of government land exists between the plaintiff's land and the land in which they are conducting mining activities. However, these are factual disputes that require full-fledged trial, survey, and evidence. At this stage, it cannot be conclusively determined whether the alleged mining activities are within or outside the plaintiff's land. The materials placed by the plaintiff indicate a threat to her possession, whereas the defendants' documents do not prima facie establish that their activities are completely unconnected to the suit property. In matters involving immovable property, particularly where possession is asserted and supported by revenue documents, the balance of convenience ordinarily lies in favour of protecting the existing possession until final adjudication. Allowing continued quarrying in the disputed area would

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cause greater hardship to the plaintiff than restraining the defendants temporarily until the suit is decided. Thus, the balance of convenience lies in favour of the plaintiff. For the foregoing reasons, this Court holds that all three requirements for grant of temporary injunction—prima facie case, irreparable injury, and balance of convenience—stand satisfied. Accordingly, **Point Nos. 1 to 3 are answered in the Affirmative.**

21. Point No.4:- In view of my discussion, I proceed to pass following;

ORDER

I.A. No.1 filed by the plaintiff under Order XXXIX Rules 1 and 2 CPC is hereby allowed in part.

The defendants, their agents, servants, representatives, attorneys, successors, or any person claiming

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under them are restrained by an order of temporary injunction from Carrying out any quarrying, mining, excavation or similar activities in or over the suit Schedule-C property, pending disposal of the suit on merits.

It is clarified that this temporary injunction is restricted only to quarrying/mining activities in the suit Schedule-C property and shall not affect the defendants' lawful activities within their own properties, provided such activities do not extend into or affect the suit Schedule-C property.

No Order as to cost.

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

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