

KACM210010902022



**IN THE COURT OF THE I ADDL. CIVIL
JUDGE & JMFC AT KADUR**

**PRESENT: Sri Aravindra B. C., B.A., L.L.B.,
I Addl. Civil Judge & JMFC
Kadur.**

Dated this the 25th day of May, 2023

O.S. No.143/2022

1. V.C. Manjunatha,
S/o Chandrappa,
aged about 59 years,
Agriculturist,
2. Patel Marulappa,
S/o Rudrappa,
aged about 78 years,
Agriculturist,
3. V.R. Chandrappa,
S/o Ramalingappa,
aged about 62 years,
Agriculturist,
4. Onkarappa,
S/o Mallappa,
aged about 68 years,
Agriculturist,

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5. Jagadeesh,
S/o Late Chandegowda,
aged about 40 years,
Agriculturist,

all are R/o Vittalapura Village,
Yagati Hobli, Kadur Taluk.

.....Plaintiffs

(By Sri S.N.G., Advocate)

-Versus-

1. Chandrashekhar,
S/o Shasppa,
aged about 28 years,
Agriculturist,
2. Shasappa,
S/o Hanumanna,
aged about 65 years,
Agriculturist,

Both are R/o Vittalapura Village,
Yagati Hobli, Kadur Taluk.

.....Defendants

(By Sri C.V.S., Advocate)



ORDERS ON I.A. No.6

The Plaintiffs have filed this application under Section 151 of Code of Civil Procedure and prays for directing the Yagati Police Station to render police help to the plaintiffs to enforce the order of temporary injunction dated 17.10.2022.

2. In the affidavit it is stated that the plaintiffs filed a suit for relief of permanent injunction in respect to the suit schedule property morefully described in the plaint schedule contending that the suit schedule property is a public road and the defendants caused interference to usage of the said road. Therefore, the plaintiff filed suit along with application under Order 39 Rule 1 and 2 of C.P.C. seeking temporary injunction



restraining the defendants from disturbing the usage of the plaint schedule road. On contest the application filed by the plaintiffs allowed and granted temporary injunction. Further it is stated that after granted the order of temporary injunction the defendants have trying to close the schedule road by disobedience of the order passed by this Court. Upon these grounds plaintiffs prays for allow the application and provide police help to enforce temporary injunction.

3. On the other hand, the defendants have filed objection to application contending that they have not disobedience of the order of temporary injunction. The plaintiffs have filed false application, which intention to harassment to the defendants and they have trying to



formed new road over the schedule property. Accordingly, prays for dismiss the application filed by the plaintiff.

4. The light of aforesaid contention of the parties the points that arise for consideration of this Court as arise under;

1. Whether the plaintiffs made out a ground the defendants have disobeyed the order of temporary injunction?

2. What order?

5. On examination of pleadings available on record and after hearing from the parties, the findings of this Court on above points as follows;

Point No.1 : In the affirmative

Point No.2 : As per the final order
For the following;



REASONS

6. **Point No.1:** It is the case of the plaintiffs is that, they have filed suit for permanent injunction in respect of the schedule property morefully described in the schedule contending that the suit schedule property is public road except suit road no other way to proceed the lands of the defendants. The defendants have trying to obstructing the plaintiffs to usage the said road. Hence the present suit was filed. In the said suit the plaintiffs have also filed application under Order 39 Rule 1 and 2 for temporary injunction. The said application was resisted by the defendants by filing objection. This Court considering the entire materials on record by order dated 17.10.2022 granted temporary injunction holding that



the plaintiffs prima facie proved that the suit schedule property is public road and balance of convenience lies in favour of plaintiffs. Accordingly temporary injunction was granted in vide order dated 17.10.2022. Admittedly, the said order not challenged by the defendants.

7. It is pertinent to note that, the plaintiffs filed present application under Section 151 of C.P.C. for police protection and to direct Yagati Police Station to render police help to implement the interim order dated 17.10.2022 and contended that the defendants have disobeyed the order of temporary injunction. In this regard the plaintiffs have given complaint before the Station House Officer, Yagati Police Station on 16.11.2022 stating that the defendants have obstructing



to the plaintiffs usage of the plaint schedule road. Admittedly, the defendants have not challenge the order of temporary injunction before Appellate Court. In the objection statement the defendant stated that there is no orders of remove the thorny shrubs. The said objections taken into consideration, it is clearly discloses that the defendants have intentionally obstructing the plaintiffs to usage the road. The counsel for defendants submits that, if the plaintiffs have disobeyed the order of temporary injunction the plaintiffs have remedy under order 39 Rule 2(A) of C.P.C. At this juncture this Court relied upon the decision of Hon'ble High Court of Karnataka in case of **Mahadeva Prasad M.S. and others Vs. Mahadevaiah and others** reported in **ILR 2001 KAR 462**, wherein the Hon'ble Court was held that the police protection can be



given to enforce the orders passed by the trial Court granting temporary injunction and the Court has got power to enforce the same. Therefore, the contention of the defendants cannot be accepted at this stage and remedy under order 39 Rule 2(A) of C.P.C. is not exhaustive. The Court can pass order if necessary for police protection to enforce the order of the Court. Therefore, the contention taken by the defendants not acceptable. If the police protection is not granted the plaintiffs and other public have great hardship, loss and injury. Therefore in the interest of justice and equity it is necessary to provide police help to the plaintiff to enforce temporary injunction. Hence this Court answered point No.1 in the **Affirmative.**



8. **Point No.2:** For above said reasons this court proceed to pass the following;

::ORDER::

The application filed the Plaintiffs filed by the application under Section 151 of C.P.C. is allowed.

The Station House Officer, Yagati Police Station is directed to give protection to the Plaintiffs with respect to the plaint schedule property by using the schedule road.

[Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the Open Court on this the **25th day of May 2023.**]

Sd/-
I Addl. Civil Judge & JMFC.,
KADUR.