



IN THE COURT OF THE PRL. CIVIL JUDGE AND JMFC.,
MUDIGERE

Present: **Sri. Vishwanath A.,** B.B.A., L.L.B.
Prl. Civil Judge & JMFC.,
Mudigere.

DATED: THIS THE 19th DAY OF DECEMBER 2025

ORIGINAL SUIT No: 27/2025

BETWEEN :

1. Smt.Bhagya,
Aged about 47 years,
W/o late Ganga.
2. Sri.Bharath.G,
Aged about 27 years,
S/o late Ganga.

Both are R/o Bilagula Village,
Hesgal Post, Kasaba Hobli,
Mudigere Taluk.

.... Plaintiffs
(By Sri.H.K.Devaraj, Adv.,)

AND :

1. Smt.Susheelamma,
Aged about 51years,
W/o late Gangadhara.
2. Smt.Ganga,
Aged about 35 years,
D/o late Gangadhara,
W/o Sri.Vishwa.
3. Sri.Raju,
Aged about 33 years,
S/o late Gangadhara.

Defendants No.1 to 3 are
R/o near Chowdeshwari Temple,
Aravindanagara, Basavanahalli,
Chikkamagaluru City.



4. Sri.Aruna,
Aged about 30 years,
S/o late Gangadhara,
R/o Lehandi Thalopp.
Bhovi Colony,
Shanthinagara,
Chikkamagaluru.
5. Smt.Kariyamma,
Aged about 48 years,
W/o late Gangadhara.
6. Sri.Aravinda,
Aged about 22 years,
S/o late Gangadhara.
7. Smt.Deepa,
Aged about 20 years,
D/o late Gangadhara.
8. Kum.Chandana,
Aged about 19 years,
D/o late Gangadhara.
9. Kum.Pavithra,
Aged about 18 years,
D/o late Gangadhara.
10. Smt.Gangamma,
Aged about 45 years,
D/o late Konthyappa,
W/o late Nagaraj.

Defendants No.5 to 10 are
R/o Vivekananda Nagara,
Bilagula Village, Hesgal Post,
Kasaba Hobli, Mudigere Taluk.

.... Defendants

(By Sri.Prathap Kumar.H.M., Adv.)

PARTIES ON I.A.NO.I

BETWEEN :

Smt.Bhagya & Anr.

... Applicants

**AND :**

Smt.Susheelamma & Ors.

... Opponents

i	Provision under which the application is filed	Order XXXIX Rule 1 and 2 of CPC
ii	Relief sought for	Temporary injunction
iii	The date on which the application is filed	15.02.2025
iv	Number of the application	I
v	The date on which the objections are filed by different opponents	Written Statement dated 10.07.2025 is treated as objection.
vi	The date on which the orders were passed on the said application	19.12.2025

(Vishwanath A.)
Prl. Civil Judge & JMFC,
Mudigere.

ORDERS ON I.A.NO.I

The plaintiffs have filed the present application seeking for temporary injunction restraining the defendants No.1 to 6, their men, agents, servants or any other persons claiming through them from constructing any building in the suit schedule property without the consent of the plaintiffs, pending disposal of the suit.

2. It is the case of plaintiffs that the plaintiff No.1 is the second son of Gullemma W/o late Konthyappa. The said Gullemma got three children by name Ganga, Gangadhara and



Smt.Gangamma the defendant No.10. Defendant No.1 is the first wife and defendant No.5 is the second wife of the said late Gangadhara. The defendants No.2 to 4 are the children of said Gangadhara through first wife and defendants No.6 to 9 are the children through second wife. The plaintiff further contends that they and the defendants belong to Hindu undivided family and that the suit property was acquired by the said Gullemma during her lifetime. The said Gullemma died in the year 2004 leaving behind the plaintiffs and defendants as her legal heir who have inherited the suit property, the khatha of which is still in the name of said Gullemma. The defendant No.1 and 6 are trying to construct the house in the suit property without the knowledge of plaintiffs and other defendants and also trying to obtain the khatha to their names. Therefore, the plaintiffs had requested for partition, but the defendants who have refused for partition, proceeded to put up construction over the suit property. On the above averments, the plaintiffs have sought for allowing the application.

3. The defendants have filed a memo adopting the written statement as objections to the present application. It is the defendant No.6 who has filed the written statement and the same is adopted by the other defendants. In the written statement, the defendants have admitted the relationship between the parties as pleaded in the plaint and also the fact that they belong to joint Hindu family. All other plaint averments are denied by the defendants. It is further contended that the defendant No.5 was in unauthorized occupation of the house property measuring 20x40 feet in Sy.No.77 of Hesgal Village. Her unauthorized occupation has



been regularized by the Tahsildar, Mudigere, vide order dated 24.01.2025 and accordingly, 'hakku-pathra' bearing No.123/2024-25 is also been issued. The boundary to the suit property is towards east-house of Ramaswamy, west-house of Shanthamma Nagara, north and south-road. The house situated in the said property was old and therefore, the defendant No.5 has demolished the said house and laid foundation to construct a new house. The plaintiffs though got no right, title and interest over the said property, have obstructed the construction of house in the said property belonging to the defendant No.5. In this regard, the defendant No.5 has lodged complaint on 21.02.2205 with the PDO of Hesgal village panchayath, but no action has been taken. Accordingly, the defendants seek for dismissal of the application.

4. Having heard the arguments addressed on behalf of the respective parties, this Court has carefully perused the entire materials available on record. In view of the above contentions, the following points arise for consideration:

- 1. Whether the plaintiffs have made out prima-facie case in their favour to grant temporary injunction as sought for?**
- 2. Whether the balance of convenience lies in favour of the plaintiffs?**
- 3. Whether the plaintiffs will be put to irreparable injury if the temporary injunction is not granted in their favour?**
- 4. What order?**

5. The answers of this Court on the above points are as under:



Point No.1 : **In the Partly Affirmative,**

Point No.2 : **In the Partly Affirmative,**

Point No.3 : **In the Partly Affirmative,**

Point No.4 : **As per final order**

for the following:

REASONS

6. POINTS No.1 TO 3: Since these points require common consideration of facts and materials, they are taken for common discussion so as to avoid repetitions.

The relationship between the parties is not in dispute and in support of the plea with respect to the relationship between the parties, the plaintiffs have produced an affidavit showing the genealogical tree. As per the plaintiffs, the suit property which is a house site measuring 6.60x5 meters bearing property Sl.No.273 of Hesgal Village, situated at Bilagula Village, Kasaba Hobli, Mudigere Taluk was acquired by one Gullemma and after her death, the plaintiffs and defendants have inherited the same as they have got legitimate share over the said property. The plaintiffs have produced the demand register extract pertaining to property No.262 and the khatha extract pertaining to house property measuring 6.50x5 meters in Sl. No. 272 as described in the plaint schedule, which is in the name of Gullemma. The plaintiffs case is that the defendants denying the share of plaintiffs over the suit property, are trying to put up construction of house in the said property.



7. On the other hand, the defendants have contended that the defendant No.5 who has got regularized her unauthorized occupation of house property measuring 20x40 feet in Sy.No.77 of Hesgal Village, has demolished her old house and putting up construction of new house by obtaining necessary permission from the concerned panchayath. In support of their contention, the defendants have produced the copy of 'hakku-pathra' dated 24.01.2025 which goes to show that the house property to an extent of 20x40 feet in Sy.No.77 is granted to the defendant No.5, pursuant to her application for regularization of her unauthorized occupation. The recitals of the 'hakku-pathra' and also the sketch goes to show that the boundary to the property granted to defendant No.5 is towards east-house of Ramaswamy, west-house of Shanthamma Nagara, north and south-road. As per the defendants, the suit property is said to be situated at Bilagula Village while the property of defendant No.5, wherein the construction of house is being put up, is situated at Hesgal Village.

8. The documents on record at this stage is to the effect that the house property as described in the plaint schedule is in the name of one Gullemma who has died leaving behind the plaintiffs and defendants as her Lrs. It is also apparent at this stage that the defendant No.5 has got house property to an extent of 20x40 feet in Sy.No.77 of Hesgal Village. As per the plaintiffs, the defendants are putting up construction of house in the suit property but the defendants' contention is that the construction of house is being put up in the property belonging to the defendant No.5. It is clear that the suit property and the property granted to defendant No.5



are different having different extent and boundaries. There are no documents at this stage which would specifically indicate as to on which property the defendants are putting up construction. Therefore, whether or not the construction of house is being put up in the suit property or the property of defendant No.5, requires consideration after full fledged trial.

9. Pausing the construction of house by the defendants till conclusion of trial may cause hardship to them. On the other hand, if it is found on a trial than the construction of house put up by the defendants is over the suit property, then the absence of an order regarding equity may also cause hardship and injury to the plaintiffs. Therefore, this court is of view not to grant the relief sought in the above application however to dispose of the application with a direction to the defendants that they shall not claim equity if it is found that the construction of house is put up over the suit property. Hence, point No.1 to 3 are answered in **partly Affirmative.**

10. Point No.4: In view of the above findings recorded on points No.1 to 3, this Court is of view to pass the following;

ORDER

I.A.No.I filed by the plaintiffs under Order XXXIX Rules 1 & 2 of Code of Civil Procedure, is hereby disposed of.

It is hereby directed that the defendants shall not claim equity if it is



found on a trial that the construction of house put up by then is over the suit property.

For issues by: 22.01.2026.

(Dictated to the Stenographer, typed by him on computer, corrected and then pronounced by me in the open court on this the **19th day of DECEMBER, 2025**).

(Vishwanath A.)
Prl. Civil Judge & JMFC.,
Mudigere.

VP

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