



**IN THE COURT OF THE ADDL. CIVIL JUDGE AND JMFC.,
MUDIGERE**

DATED: THIS THE 28th DAY OF NOVEMBER 2024

Present: Sri. Vishwanath A., B.B.A., L.L.B.
C/c Addl. Civil Judge & JMFC.,
Mudigere.

ORIGINAL SUIT No: 40/2024

BETWEEN :

Smt. Vedavathi,
Aged about 38 years,
W/o Sri. U.B. Manjunath,
R/o Urubage Village & Post,
Gonibeedu Hobli, Mudigere Taluk.

.... Plaintiff

(By Sri. H.K. Raghu, Adv.,)

AND :

- 1.** Sri. G.B. Ramesh Shetty,
Aged about 51 years,
S/o Late Biliga Shetty.
- 2.** Smt. Revathi,
Aged about 40 years,
W/o G.B. Ramesh Shetty.
- 3.** Sri. Raghavendra,
Aged about 21 years,
S/o G.B. Ramesh Shetty.
- 4.** Smt. Saroja,
Aged about 45 years,
W/o Late Umesh Shetty.
- 5.** Sri. Chethan,
Aged about 21 years,
S/o Late Umesh Shetty.



Defendants No.1 to 5 are
RR/o Urubage Village & Post,
Gonibeedu Hobli, Mudigere Taluk.

.... Defendants

(By Sri. Siddaiah D., Adv.,)

PARTIES ON I.A.NO.I

BETWEEN :

Smt. Vedhavathi

... Applicant

AND :

Sri. U.B. Ramesh Shetty & 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	16.04.2024
iv	Number of the application	I
v	The date on which the objections are filed by different opponents	Objections not filed.
vi	The date on which the orders were passed on the said application	28.11.2024

(Vishwanath A.)

C/c Addl. Civil Judge & JMFC,
Mudigere.

ORDERS ON I.A.NO.I

This application is filed by the plaintiff seeking an interim order of temporary injunction restraining the defendants, their men, servants, agents, and any other persons claiming right through



them, not to trespass into the suit property, from digging the latrine pit or causing any acts of damage to the suit property and in any way interfering with the plaintiff's peaceful possession, occupation and enjoyment of the schedule property, pending disposal of the above suit.

2. The plaintiff has contended that she is the owner in possession, occupation and enjoyment of the suit schedule property having constructed a house therein. The occupation of said property is regularized by the Tahsildar, Mudigere, and he has also issued grant certificate under Section 94C. In the remaining vacant portion of the suit property, the plaintiff has constructed a cattle shed on the southern side of her house wherein the plaintiff and her family members are residing. The defendants have got no manner of right, title or interest in the suit schedule property and also its vacant portion. This being the case, the defendants having taken advantage that the plaintiff has left some portion of suit property vacant, on 04.04.2024, they have tried to trespass into the suit property from the southern side and also tried to dig latrine pit. On these averments, the plaintiff has sought for allowing the present application.

3. On the other hand, the defendants have not filed their written statement as well as objections to the present application, even on providing sufficient opportunities.

4. Heard the arguments addressed on behalf of the plaintiff as well as defendants and also carefully perused the entire materials



available on record. In view of the above contentions, the following points arise for consideration:

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

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

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

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

Point No.3 : **In the 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.

In order to show the prima-facie case in respect to her possession over the suit property as well as the obstruction by the defendants, the plaintiff has produced the Hakkupatra dated 07.10.2023 wherein it discloses that the property to an extent of 40



X 30 feet in Sy. No.30 of Urubhage Village, is granted to the plaintiff. The boundaries mentioned in the Hakkupatra tallies with the plaint schedule. The plaintiff has also produced E-Khatah in Form No.9 which would disclose that the khatha of suit property is in the name of plaintiff and that out of total extent of 111.48 square meters, she has put up construction in a land only to an extent of 44.80 square meters. The boundaries mentioned in the khatha would also tally with the boundary mentioned in the plaint schedule.

7. It is the case of plaintiff that, the defendants having taken undue advantage of the fact that the land towards southern side of suit property is vacant, they have tried to remove the fence of suit property towards southern side and to trespass into and encroach upon the vacant land and also tried to dig latrine pit. As noted earlier, out the total extent of suit property, the plaintiff has put up construction only to an extent of 44.80 square meters and thus as per the khatha, there is a vacant land in the suit property. The plaintiff has further alleged that on 04.04.2024, the defendants along their men have tried to trespass into the suit property towards southern side and tried to dig latrine pit. The plaintiff has also produced the photographs which would show the vacant land, but these photographs whether relates to suit property, needs consideration after full-fledged trial.

8. The defendants have not filed the written statement and also the objections to the present application even on granting sufficient opportunities. Thus, the contentions of plaintiff are not in dispute at this stage. The documents produced by the plaintiff would



at this stage show prima-facie case in his favour. The specific case of plaintiff is that the defendants are trying to dig latrine pit in the vacant land of suit property. This Court by its order dated 19.04.2024 has granted ad-interim order of temporary injunction against the defendants. Thus, keeping in view the undisputed apprehension pleaded by the plaintiff alongside the above observation that the plaintiff has made out prima-facie case at this stage, this Court also finds the balance of convenience in favour of plaintiff with respect to suit property. If the temporary injunction is not granted, it is the plaintiff who will be put to injury. Thus for the foregoing, this Court answers the Points No.1 to 3 in **Affirmative**.

9. POINT No.4: In view of the above findings recorded on points No.1 to 3, this Court is of view to allow the present application. Hence, the following;

ORDER

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

Temporary injunction is hereby granted restraining the defendants, their men, agents, servants, supporters or anybody claiming through them, from trespassing into the suit schedule property, from digging the latrine pit or



causing any from causing any acts of damage to the suit property and in any way interfering with the plaintiff's possession of suit property, pending disposal of the above suit.

**For Plaintiff Evidence by:
11.12.2024.**

(Dictated to the Stenographer, typed by him on computer, corrected and then pronounced by me in the open court on this the **28th day of November, 2024**).

(Vishwanath A.)
C/c Addl. Civil Judge & JMFC.,
Mudigere.

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