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IN THE COURT OF PRL. CIVIL JUDGE AND J.M.F.C, TARIKERE

PRESENT: Sri. Rahul Shettigar, B.Com (Hons.), LL.B
Prl. Civil Judge & J.M.F.C, Tarikere

DATED THIS THE 15th DAY OF JULY, 2026

ORIGINAL SUIT No. 541/2025

BETWEEN:

Sri. S. Manjunatha Achar,
S/o. Late. Sri. Seenachar,
Aged about 63 years,
Agriculturist,
R/o. Kasayyana Street,
Lakkavalli Village,
Lakkavalli Hobli,
Tarikere Taluk.

PLAINTIFF

(By Sri. B.N. Kiran Kumar, Advocate)

-AND-

Smt. T. Shanthamma,
W/o. Sri. T.K. Basavaraj,
Aged about 55 years,
Agriculturist,
R/o. Uppara Street,
Lakkavalli village,
Lakkavalli Hobli,
Tarikere Taluk.

DEFENDANT

(By Sri. K.S. Vasantha, Advocate)

IN I.A.NO.I

Sri. S. Manunatha Achar

APPLICANT/ PLAINTIFF

-AND-

Smt. T. Shanthamma

OPPONENT/ DEFENDANT

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PARTICULARS

<i>i</i>	<i>Provision under which the application is filed</i>	<i>Order XXXIX Rule 1 and 2 R/w. S.151 of CPC</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Order of T.I</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>17.12.2025</i>
<i>iv</i>	<i>Number of the application</i>	<i>I.A.No.I</i>
<i>v</i>	<i>The date on which the objections are filed by Opponents/ Defendant</i>	<i>29.04.2026</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>15.07.2026</i>

ORDERS ON I.A. NO.I

1. Applicant/ Plaintiff has filed the instant application under Order XXXIX Rules 1 & 2 r/w. Section 151 of C.P.C seeking the relief of temporary injunction by restraining the Opponent/ Defendant, her supporter, henchmen, agents, etc., from unlawfully interfering with the Plaintiff's peaceful possession and enjoyment of the suit schedule property, pending disposal of the suit.
2. In the affidavit accompanying the application, it is contended that the Plaintiff is the absolute owner and is in possession of the suit schedule property having purchased the same under a registered sale deed executed in the year 2000 for valuable consideration. It is further contended that, pursuant to the

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said sale deed, the khata has been mutated in the name of the Plaintiff and that he has been regularly paying the property taxes. It is stated that the Defendant, who owns the property situated on the southern side of the Plaintiff's property, has been causing interference on the allegation that the Plaintiff has encroached upon her land. In that regard, the Defendant had filed an application for fixation of boundaries, pursuant to which the Surveyor attached to the office of the Tahasildar visited the property and prepared a sketch allegedly showing encroachment by the Plaintiff to an extent of 3 guntas. It is further contended that, on appeal, the Deputy Director of Land Records, Chikkamagaluru, upheld the said sketch. Aggrieved thereby, the Plaintiff preferred a revision before the Joint Director of Land Records, Mysuru, wherein the orders passed by the Assistant Director of Land Records and the Deputy Director of Land Records were set aside and the matter was remanded with a direction to prepare a fresh sketch. Pursuant thereto, the Assistant Director of Land Records, after issuing notice to both parties and conducting a fresh survey in November 2025, prepared a

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sketch wherein no encroachment was found. It is contended that, being aggrieved by the said proceedings, the Defendant is now attempting to interfere with the peaceful possession and enjoyment of the Plaintiff over the suit schedule property. On these grounds, it is contended that the Plaintiff has established a prima facie case, that the balance of convenience lies in his favour, and that he would suffer irreparable injury if an order of temporary injunction is not granted. Accordingly, the Plaintiff has prayed for allowing the application.

3. *Per contra*, the Defendant has filed a memo requesting that the written statement be treated as objections to I.A. No. I. In the written statement, while denying the averments made in the plaint, it is contended that the Defendant has purchased her property under a registered sale deed of the year 2000 and has been in peaceful possession and enjoyment thereof without any interference from anyone. It is further contended that the Plaintiff has got prepared a false sketch with an intention to unlawfully encroach upon the Defendant's property. According to the Defendant, she has left a road on

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the western side of her property for the purpose of transporting agricultural produce, and the Plaintiff, having an oblique motive, is attempting to lay claim over the said portion by colluding with the survey authorities and by relying on a false and fabricated sketch. It is further contended that the Plaintiff has never been in interference of the Defendant's possession, but is attempting to take undue advantage of the present proceedings to unlawfully appropriate the Defendant's property. It is also contended that the proceedings before the JDLR were conducted without proper notice to the Defendant and that the orders passed therein are not binding. According to the Defendant, subsequent survey proceedings have also been conducted behind her back without proper notice, and the Plaintiff has misused such proceedings to create false records and institute the present suit. On these grounds, the Defendant has prayed for dismissal of the application.

- 4.** Heard both sides. Learned Counsel for Defendant banks on the following Judgment in support of his contention –

a. 2023(5) KCCR 789

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5. Having heard the rival contention and on perusal of the materials, the points that would now arise for my consideration are as under-

- Point No.1** : Whether the Plaintiff has made out a prima-facie case as against the Defendant?
- Point No.2** : Whether the balance of convenience lies in favour of Plaintiff?
- Point No.3** : Whether denial of temporary injunction would cause irreparable injury or hardship to the Plaintiff?
- Point No.4** : What Order?

6. Now, my finding on the above points are as follows-

Point No.1 : In the Negative
to 3

Point No.4 : As per the final order, for the following -

REASONS

7. **Point No.1 to 3:** The instant suit is filed seeking relief of permanent injunction restraining the Defendant, her supporter, henchmen, agents etc., from unlawfully interfering with the Plaintiff's peaceful possession and enjoyment of the suit schedule property and such other ancillary reliefs. The instant application is filed seeking an order of temporary

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injunction with the prayer which is same as that of the main relief.

8. Before advertng to the factual matrix any further, it would be beneficial to first understand the overall concept of temporary injunction. The grant of temporary injunction is governed by Specific Relief Act of 1963 as well as the C.P.C. Section 37(1) of the Specific Relief Act of 1963 provides that the grant of temporary injunction would be regulated by C.P.C. Order XXXIX Rules 1 & 2 and Section 94 (c) of C.P.C provide circumstances under which an order of temporary injunction can be granted. That apart, it is now settled that Sections 151 of C.P.C also can be invoked sparingly to grant an order of temporary injunction to meet the ends of justice if the circumstances are not covered either under Order XXXIX Rules 1 & 2 or Section 94 (c) of C.P.C (See **MANOHAR LAL CHOPRA VS RAI BAHADUR RAO RAJA SETH HIRALAL** reported in **AIR 1962 SC 527**). Though the above provisions provide the circumstances under which an order of temporary injunction could be granted, the principles governing grant of an order of temporary injunction is evolved by judicial

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pronouncements. The Hon'ble Supreme of Court of India in

GUJARAT BOTTLING CO. LTD. V. COCA COLA CO. reported

in **(1995) 5 SCC 545** has held at Para No.43 as under –

"The grant of an interlocutory injunction during the pendency of legal proceedings is a matter requiring the exercise of discretion of the court. While exercising the discretion the court applies the following tests – (i) whether the Plaintiff has a prima facie case; (ii) whether the balance of convenience is in favour of the Plaintiff; and (iii) whether the Plaintiff would suffer an irreparable injury if his prayer for interlocutory injunction is disallowed. The decision whether or not to grant an interlocutory injunction has to be taken at a time when the existence of the legal right assailed by the Plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. Relief by way of interlocutory injunction is granted to mitigate the risk of injustice to the Plaintiff during the period before that uncertainty could be resolved. The object of the interlocutory injunction is to protect the Plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection has, however, to be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated. The court must weigh one need against another and determine where the "balance of convenience" lies. [See:Wander Ltd.v.Antox India (P) Ltd.[1990 Supp SCC 727] , (SCC at pp. 731-32.) In order to protect the defendant while granting an interlocutory injunction in his favour the court can require the Plaintiff to furnish an undertaking so that

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the defendant can be adequately compensated if the uncertainty were resolved in his favour at the trial”.

9. In GOWRISHANKARA SWAMIGALU V. SRI

SIDDHAGANGA MUTT reported in **1989 SCC ONLINE KAR**

116, the Hon’ble High Court of Karnataka has held at Para

No.18, 25 & 26 as under –

(i) Grant of ad-interim injunction has to course through the following slots : (i) prima facie case; (ii) balance of convenience; (iii) irreparable injury to the Plaintiff, and (iv) lastly, all injunctions being absolutely discretionary in nature whether there was any overriding consideration that supported the refusal of the injunction by the Court-below.

(ii) The existence of a prima facie case in the matter of granting injunction is really the harbinger or the all clear sign to go ahead in investigating other aspects of the question governing the grant or refusal of injunction. If there was no prima facie case at all or the case put forward was so weak and tainted having very little prospect of being accepted by the Court, further questions of balance of convenience and irreparable loss need not be considered since the Plaintiff would fall at the very first stile itself. But if there was a prima facie case then other considerations governing the grant of injunction would come into play and will also have to be evaluated before granting or refusing the injunction. In other words the existence of a prima facie case or even a very strong prima facie case does not permit, leap-frogging by the Plaintiff directly to an injunction without crossing the other hurdles in between....Even granting that the Plaintiff has an invincible prima facie case, he will not be entitled ex debitaie justiciae, to the grant of an injunction, unmindful of other consequences. If the consequences of granting an injunction are detrimental in nature then an injunction will not be granted even

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though the Plaintiff might have an unbeatable prima facie case.

- 10.** These two celebrated judgement one of the Hon'ble Supreme Court of India and the other of the Hon'ble High Court of Karnataka beautifully encapsulate the principles underlying the grant of temporary injunction and there arises no necessity to look any further.
- 11.** In order to be entitled for an order of temporary injunction, the Applicant has to first satisfy the court that he has a prima-facie case in his favour. Prima-facie case is the harbinger or the all clear sign to go ahead in investigating other aspects and on failure to establish it, further questions of balance of convenience and irreparable loss would fade into insignificance. Prima facie case, however, should not be confused with a case that is required to be proved to the hilt. The Court while examining if the Applicant has a prima facie case or not while deciding question of his entitlement for an order of temporary injunction, should not examine the merits of the case closely because at that stage, it is not expected to decide the suit finally. Once prima-facie case is established, the other aspects would have to be examined first being

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balance of convenience which in other words mean that the Court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the Applicant by refusing the injunction will be greater than that which is likely to be caused to the Opposite Party by granting it. Next, the applicant must further satisfy the Court by showing that he will suffer irreparable injury if the injunction as prayed is not granted, and that there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury. The expression irreparable injury however does not mean that there should be no possibility of repairing the injury. It only means that the injury must be a material one, i.e., which cannot be adequately compensated by damages. Apart from these principles, the grant of temporary injunction being purely discretionary, other aspects would also factor in while considering entitlement for temporary injunction. The relief of temporary injunction may be refused on the ground of delay, laches or acquiescence or where the Applicant has not come with the clean hands or has suppressed material facts, or

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where monetary compensation can be an adequate relief. Establishing prima-facie case though is harbinger in examining other aspects, even where prima-facie case is established, it would not automatically entitle the Applicant to an order of temporary injunction unless he establishes the other aspects aforesaid. With these principles in mind, it would now be appropriate to delve into the essential facts of the case only to the extent necessary for disposal of this application.

- 12.** The case of the Plaintiff is that he has purchased the suit schedule property under a registered sale deed dated 13.03.2000 and, since then, has been in possession and enjoyment of the said property. It is further contended that the khata of the suit schedule property stands mutated in his name. The Defendant, who owns the property situated towards the southern side of the suit schedule property, had earlier obtained a sketch from the Survey Department alleging that the Plaintiff had encroached an extent of 3 guntas of her land. It is stated that though the said sketch was initially upheld by the Deputy Director of Land Records,

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Chikkamagaluru, the same was set aside in revision proceedings before the Joint Director of Land Records, Mysuru. Pursuant to the directions issued by the Joint Director of Land Records, Mysuru, a fresh survey was conducted, which revealed that the Plaintiff had not encroached upon any portion of the Defendant's land. Despite the same, it is contended that the Defendant, with a malafide intention, has started interfering with the peaceful possession and enjoyment of the Plaintiff over the suit schedule property, thereby necessitating the institution of the present suit.

- 13.** On the other hand, the Defendant contends that she has also purchased her property under a registered sale deed dated 13.03.2000 and has been in possession and enjoyment thereof since then. It is further contended that the earlier survey proceedings indicated encroachment by the Plaintiff and that the Plaintiff, having obtained an adverse order before the Joint Director of Land Records, Mysuru, behind the back of the Defendant, has colluded with the survey authorities and obtained a favourable sketch. It is contended that the present

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suit is based on false and fabricated allegations and is liable to be dismissed.

- 14.** In the light of these rival contentions, it becomes necessary to examine the documents produced by both parties. The Plaintiff has produced a copy of the sale deed dated 13.03.2000, RTC extracts, copy of RP No.159/2024 before the Joint Director of Land Records, Mysuru, copy of Haddubast sketch, photographs, CD, copy of notice, survey sketch, and statement. On the other hand, the Defendant has produced a copy of the sale deed dated 13.03.2000, sketch, and copy of order passed by the Deputy Director of Land Records, Chikkamagaluru in R.A. No.133/2023-24.
- 15.** A perusal of the pleadings as well as the documents produced by both sides indicates that the Plaintiff and Defendant are adjoining landowners. The survey records further indicate that there is a boundary dispute between the parties, with conflicting survey reports supporting each side. The survey proceedings appear to have resulted in divergent conclusions at different stages.

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16. In these circumstances, this Court is of the considered opinion that the dispute between the parties requires adjudication after a full-fledged trial, and at this stage, it would not be appropriate to grant the relief of temporary injunction.
17. Accordingly, upon consideration of the materials placed on record, this Court is of the opinion that the Plaintiff has not made out a prima-facie case for grant of temporary injunction at this stage. The judgment relied upon by the Defendant is also taken into consideration, which pertains to the principle that injunction cannot be granted where the identity and extent of property are seriously in dispute. The same is found to be applicable to the facts of the present case.
18. The Applicant/ Plaintiff having failed to prove prima-facie case which is the harbinger in examining other aspects, there is no necessity to examine the questions of balance of convenience or irreparable injury in view of dictum laid down in **GOWRISHANKARA SWAMIGALU V. SRI SIDDHAGANGA MUTT(supra)**. With these observations, the **Point No.1 to 3** which have arisen for my consideration are also answered in the **Negative**.

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19. Point No.4: For the foregoing reasons, I proceed to pass the following -

ORDER

*I.A No.I filed by the Applicant/ Plaintiff
under Order XXXIX Rules 1 & 2 r/w. Section 151 of
C.P.C is hereby dismissed.*

Costs made easy.

(Dictated to Stenographer, after transcription, print out corrected and then pronounced by me in the Open Court on this the 15th of JULY, 2026)

sd/-

**(Rahul Shettigar)
Prl. Civil Judge & J.M.F.C,
Tarikere.**