

KACN020009552026



**IN THE COURT OF THE I ADDL. SENIOR CIVIL JUDGE
AND JMFC., AT CHAMARAJANAGARA**

Dated this the 6th day of July, 2026

Present: Sri. Sunil .R, B.Com., LL.B.,
I ADDL. SENIOR CIVIL JUDGE & JMFC.,
CHAMARAJANAGARA.

M.A. No:6/2026

Appellants

- : 1. Smt. Sakamma
W/o Late. Chikkamadanaika,
Aged about 72 years,
2. Sri. Venkatesh
S/o Late. Chikkamadanaika,
Aged about 47 years,
3. Smt. Rajamma
W/o Kemparajanaika,
D/o Late. Chikkamadanaika,
Aged about 45 years,
R/at Bhogapura Village,
Kasaba Hobli,
Chamarajanagar Taluk,
Chamarajanagar District.
4. Sri. Siddaiah
S/o Late. Puttamadaiah,
Aged about 72 years,
5. Sri. Sundarashetty
S/o Late. Puttanna @ Puttannashetty,
Aged about 40 years,

Appellant No.1, 2, 4 & 5 are

R/at:

Udigala Village, Harave Hobli,
Chamarajanagar Taluk,
Chamarajanagar District.

[By Sri. Paramesh .N Advocate]

V/s

- Respondents** : 1. Sri. Puttaswamy
S/o Late. Puttanna
@ Puttanashetty,
Aged about 52 years,
R/at Udigala Village,
Harave Hobli,
Chamarajanagar Taluk,
Chamarajanagar District.
2. Smt. Bhagyamma
D/o Late. Chikkamadanaika,
W/o Siddarajanaika,
Aged about 52 years,
R/at Kelasuru Village,
Terekanambi Hobli,
Gundlupet Taluk,
Chamarajanagar District.
3. Sri. Gurusiddashetty
S/o Late. Madashetty,
Aged about 68 years,
R/at Udigala Village,

Harave Hobli,
Chamarajanagar Taluk,
Chamarajanagar District.

[R-1 by Sri. M.N.S., Advocate]
[R-2 & R-3: Ex-parte]

Nature of the Appeal : An Appeal under Order 43 Rule 1 of CPC against the Order dated 09.03.2026 passed by the Learned Addl. Civil Judge and JMFC, Chamarajanagar on I.A.No.I filed by the appellants/defendant No.1 to 3, 5 and 6 under Order 39 Rule 1 and 2 r/w Sec.151 of CPC in the said O.S.No.209/2024.

Date of Presentation of Appeal : 01.04.2026

Date of Judgment/Order : 06.07.2026

Total Duration : Year Month Days
 00 03 05

ORDER ON APPEAL MEMO

The present appeal is filed by the appellants/defendant No.1 to 3, 5 and 6 under Order 43 Rule 1 of CPC by challenging the order passed by the Learned Addl. Civil Judge and JMFC., court, Chamarajanagar on IA.No.I filed by the respondent No.1/plaintiff under Order 39 Rule

1 and 2 r/w Sec.151 of CPC in O.S.No.209/2024, dated:09.03.2026.

The appellants are the defendant No.1 to 3, 5 and 6 and respondent No.1 is the plaintiff before the learned trial court. The parties are referred to their ranks assigned to them before the learned trial court, for the sake of convenience is continued the same in the instant appeal.

2. The brief grounds of the appellants/ defendant No.1 to 3, 5 and 6 in the miscellaneous appeal are as follows:

The order passed by the learned trial court in OS No.209/2024 is perverse, erroneous, vexatious, capricious and opposed to principles of natural justice. The respondent/plaintiff has filed the original suit before the learned trial court for seeking the relief of permanent injunction. But, the learned trial court has granted temporary injunction infavour of the respondent/ plaintiff in respect of suit schedule properties. At the time of passing the order on IA No.I, the learned trial court grossly erred in allowing the IA No.I without considering the actual facts and circumstances of the case. The

respondent/plaintiff is not in possession and enjoyment of the suit schedule properties.

3. The brief facts of respondent No.1/plaintiff on IA No.I is as follows:

The respondent No.1/plaintiff has averred that he is in possession and enjoyment of the suit schedule properties by changing the khatha of the same as absolute owner. He is growing banana and other crops by using the borewell which is digged in the suit schedule properties. The defendants are the adjacent owners of suit schedule properties. On 07.05.2024, the land surveyor came and measured the suit schedule properties. At that time, the defendant No.5 to 7 are present and put his signature to the mahazar which is grown by the land surveyor. The defendant No.1 to 4 have refused to put their signature on mahazar. On 08.07.2024, he put stone fencing around the suit schedule properties. At that time, the defendants are obstructed to put up fencing. Thereafter, he approached the jurisdictional police and lodged a complaint but, the concerned police orally instructed to approach the competent civil court as the dispute is of civil in nature.

Further, he is having prima-facie case and balance of convenience is lies in his favour. Hence, he prays to allow the IA No.I.

4. On the other hand, the appellants/defendant No.1, 3, 5 and 6 are appeared through their counsel and filed objection statement.

In the objection statement, the appellants/defendant No.1, 3, 5 and 6 have denied the entire averments made in the accompanying affidavit of IA No.I. The appellants/defendant No.1, 3, 5 and 6 have contended that they are the adjacent owners of suit schedule properties and they are cultivating their lands since many years. The plaintiff called the land surveyor to his landed property to measure the same but, the land surveyor instructed the plaintiff that he will come other day and survey the land. Thereafter, on 07.07.2024, the plaintiff all of a sudden fixing the stone fencing at night by using the JCB and also acquired their landed property. Then, they have lodged a complaint before the Udigala Sub-police station against the plaintiff. The said police called them and plaintiff to the police station and advised them to survey the landed properties and fix the hadbasth.

But, without survey work, the plaintiff has filed the original suit before the learned trial court with a mala fide intention to harass them. The respondent No.1/plaintiff did not have a prima-facie case or balance of convenience to obtain the injunction order against them. Hence, they pray to reject the IA No.I.

5. After hearing the arguments and perusing the materials placed before the court, the learned trial court has allowed the IA No.I filed under Order 39 Rule 1 and 2 r/w Sec.151 of CPC. It is that order which is impugned in this appeal.

6. The learned counsel for the appellants/defendant No.1, 3, 5 and 6 has not advanced his arguments. On the other hand, the learned counsel for the respondent No.1/plaintiff has advanced his arguments. Perused the materials placed before the Court.

7. Now the points that arise for my consideration are as follows:

1. Whether the learned trial court was justified in holding that the plaintiff is in possession and enjoyment of the suit schedule properties as on the date of institution of the suit?

2. Does the finding of the learned trial court call for any interference?

3. What Order?

8. Now my answers to above points are as follows:

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

Point No.2: **In the Negative**

Point No.3: **As per final order,
for the following:**

REASONS

9. Point No.1 and 2: Since these two points are inter-linked to each other, taken together for common discussion in order to avoid repetition of facts and evidence. On appraisal of rival contentions of the parties and pleadings as well as grounds set out in the present miscellaneous appeal, it is made clear that, the respondent No.1/plaintiff has brought the original suit for seeking the relief of permanent injunction against the appellants/defendant No.1, 3, 5 and 6 and respondent No.1 and 2 before the learned trial court in respect of landed properties bearing Sy. No.625/3 measuring 1 acre 17 guntas and Sy. No.625/1 measuring 34 guntas, totally 2 acres 11 guntas

situated at Udigala Village, Harave Hobli, Chamarajanagar Taluk i.e., suit schedule properties.

10. In the plaint, the respondent No.1/plaintiff has stated that he acquired the suit schedule properties through registered sale deed dated: 24.07.2017 and registered partition deed dated: 18.01.2016. In support of his contention, the respondent No.1/plaintiff has produced the documentary evidence before the learned trial court. On perusal of xerox copy of registered sale deed dated:24.07.2017, it is noticed that the respondent No.1/plaintiff had purchased the landed property bearing Sy. No.625/3 measuring 1 acre 17 guntas from one U.M. Madesh S/o Late. M. Mahadevappa for sale consideration of ₹.1,70,000/-. Further, on perusal of registered partition deed dated:18.01.2016, it is evident that in the family partition, the landed property bearing Sy. No.625/1 measuring 34 guntas has fallen to the share of respondent No.1/plaintiff.

11. On perusal of RTC extracts for the year 2023-24 and 2024-25, it is noticed that the landed properties bearing Sy. No.625/3 measuring 1 acre 17

guntas and Sy. No.625/1 measuring 34 guntas i.e., suit schedule properties are standing in the name of respondent No.1/plaintiff through 'sale' and 'partition'. Therefore, this court is of the opinion that the respondent No.1/plaintiff clearly established his possession and enjoyment of the suit schedule properties by producing the documentary evidence.

12. Further, on perusal of statement recorded by the land surveyor, it is noticed that at the time of measurement of the landed property bearing Sy. No.625/3, the respondent No.1/plaintiff and defendant No.6 and 7 are present and affixed their signatures on the said statement by accepting the survey work and and fixation of hadbath in the presence of witnesses. The witnesses also put their signatures on the said statement. Therefore, it is clear that the respondent No.1/plaintiff conducted the survey work to his property through land surveyor.

13. On the other hand, in order to substantiate their contention, the appellants/defendant No.1, 3, 5 and 6 produced an GSC endorsement dated: 22.04.2026 issued by the Rural PS, Chamarajanagar.

On perusal of the same, it is evident that the defendant No.1, 3, 5 and 6 have approached the police regarding the obstruction caused by the respondent No.1/plaintiff to access their landed properties. But, on perusal of GSC endorsement, it is noticed that the defendant No.3, 5 and 6 had approached the police after passing of the temporary injunction order by the learned trial court.

14. In view of the aforesaid discussions, this court is of the opinion that except endorsement, the appellants/defendant No.1, 3, 5 and 6 have not produced any title and revenue documents to show that they are the owners and in possession and enjoyment of the landed properties. Hence, at this stage, only on the sole basis of GSC endorsement, it cannot be held that the respondent No.1/plaintiff obstructed the appellants/defendant No.1, 3, 5 and 6 to access their lands.

15. Further, the documents placed by the respondent No.1/plaintiff, at this stage, it prima-facie appears that he is in possession and enjoyment of the suit schedule properties as on the date of institution of

the original suit before the learned trial court. In view of the above discussions, this court is of the opinion that the learned trial court has properly analyzed the materials available on record and arrived at a proper conclusion. Hence, the order of the learned trial court does not requires interference by this court. Hence, this court answered the **Point No.1 in the Affirmative and Point No.2 in the Negative.**

16. Point No.3: In view of the above discussions and finding on Point No.1 and 2, this court proceed to pass the following:

ORDER

The Miscellaneous Appeal filed by the appellants/defendant No.1, 3, 5 and 6 under order 43 Rule 1 of CPC is hereby dismissed.

Accordingly, the order passed by the learned trial court on I.A.No.I filed U/o 39 Rule 1 and 2 r/w Sec.151 of CPC in O.S.209/2024 is hereby confirmed.

No order as to cost for the

circumstances of the case.

*[Dictated to the Stenographer directly on the computer, typed by her and corrected by me and then pronounced in the open Court on this **6th day of July, 2026**]*

**[Sunil .R]
I Addl. Sr. Civil Judge & JMFC.,
Chamarajanagara.**

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