

**IN THE COURT OF THE PRL. CIVIL JUDGE &
JMFC., AT GUNDLUPETE**

: PRESENT :

**SRI. DEEPU M.T, B.A.L. LL.B.,
Prl. Civil Judge & J.M.F.C.,
Gundlupet.**

Dated on this the 15th day of JUNE, 2026

OS No.305/2025

Plaintiffs : 1. Venkateshetty
S/o Late. Devashetty
Aged about 81 years

2. Kalashetty
S/o Venkateshetty
Aged about 50 years

3. Devashetty
S/o Venkateshetty
Aged about 38 years

All are R/at:
Kutegowdanahundi Road
Kabbahalli Village
Beguru Hobli, Gundlupete Taluk
Chamarajanagara District.

[By Sri. GR, Advocate]

V/s

Defendants : 1. Nagamma
W/o Late. Javanappa
Aged about 70 years

2. Natesha

S/o Late. Javanappa
Aged about 50 years

3. Mahadeva

S/o Late. Javanappa
Aged about 48 years

4. Mahesha

Aged about 45 years
S/o Siddappa

The defendant No.1 to 4
are R/at: Marigudi Beedi
Kabbahalli Village, Beguru Hobli
Gundlupete Taluk
Chamarajanagara District.

5. Mangalagowri

W/o Nagaraju K
Aged about 52 years
R/at: Door No.2038, 2nd Main
2nd Cross, MCEC Layout
Phase to Shivaramakaranatha Nagar
Jakkur, Bengaluru – 560064.

[Sri. PSG, Advocate for D1 to 4]

[Sri. CK, Advocate for D5]

Parties to I.A No.I

Applicant : Venkatashtetty
- Plaintiff No.1

V/s

Opponent : Nagamma and Others
- Defendants

i.	Provision under which the application is filed	XXXIX Rule 1 and 2 R/w Section 151 of Code of Civil Procedure
ii.	Relief sought for	Temporary Injunction
iii.	The date on which the application is filed	27.10.2025
iv.	Number of the application	I
v.	The date on which the objections are filed by different opponents	29.01.2026
vi.	The date on which the orders were passed on the said application	15.06.2026

Stage : For written statement

ORDER ON IA NO.I UNDER ORDER XXXIX RULE 1 AND 2 OF CPC RW 151 OF CPC

The plaintiffs have filed this application praying to grant temporary injunction order against the defendants by restraining them from interfering with the peaceful possession and enjoyment of the plaintiffs over the plaint schedule properties. The description of application/plaint schedule properties is as hereunder:

SCHEDULE PROPERTIES

- 1.** Dry land bearing Survey No.262/2 measuring 0-34 ½ guntas (0.34.08.00) having assessment of Rs. 0.81 paisa, situated in the Village of

Kabbahalli, Begur Hobli, Gundlupete Taluk, Chamarajanagara District. The land is bounded by

- East by : Land belongs to Subbashetty
- West by : Land bearing Survey No.261/1 belongs to Nagamma
- North by : Land bearing Survey No.263/2 belongs to Devashetty
- South by : Land bearing Survey No.262/3 belongs to Kalashetty.

2. Dry land bearing Survey No.262/3 measuring 0-34½ guntas (0.34.08.00) having assessment of Rs.0.81 paisa, situated in the Village of Kabbahalli, Begur Hobli, Gundlupete Taluk, Chamarajanagara District. The land is bounded by

- East by : Land bearing Survey No.262/1 belongs to Subbashetty
- West by : Land bearing Survey No.261/1 and Survey No.262/2 belongs to Nagamma and Mangalagowri
- North by : Land bearing Survey No.262/2 belongs to Venkatasetty
- South by : Land bearing Survey No.262/4 belongs to Devashetty.

3. Dry land bearing Survey No.262/4 measuring 0-34 ½ guntas (0.34.08.00) having assessment of Rs. 0.81 paisa, situated in the Village of Kabbahalli, Begur Hobli, Gundlupete Taluk, Chamarajanagara District. The land is bounded by

East by : Land bearing Survey No.262/1
belongs to Subbashetty
West by : Land bearing Survey No.261/1
and Survey No.262/2 belongs
to Mangalagowri
North by : Land bearing Survey No.262/3
to Kalashetty
South by : Road

4. Dry land bearing Survey No.263/2 measuring 0-23 guntas (0.23.00.00) having assessment of Rs. 0.55 paisa, situated in the Village of Kabbahalli, Begur Hobli, Gundlupete Taluk, Chamarajanagara District. The land is bounded by

East by : Land bearing Survey No.262/1
belongs to Subbashetty
West by : Land belongs to Gowrishankara
North by : Land belongs to Gurubasappa
South by : Land belongs to Venkatasetty

2. In the annexed affidavit to the application, the plaintiff No.1 has sworn that, the plaintiffs have filed this suit against the defendants for the relief of permanent injunction in respect of plaint schedule properties. The plaint schedule properties are ancestral properties of plaintiffs. Originally, the land bearing Survey No.262/2 of Kabahalli Village is measuring totally 5 acres 7 guntas. The father of the plaintiff No.1 Devashetty was in possession of the said land and

after his demise, khatha of the said land transferred to the name of the plaintiff No.1. Thereafter, the plaintiff No.1 has given share to his brother Subbashetty and accordingly, Subbashetty is in possession of 2 acres, 23 guntas land and the plaintiff No.1 is in possession of 2 acres 23 guntas of land. During the year 2012-13, the plaintiff No.1 and his two sons i.e. plaintiff No.2 and 3 got divided the said land equally. Accordingly, land measuring 34½ guntas in Survey No.262/2 fallen to the share of the plaintiff No.1, land measuring 34½ guntas in Survey No.262/3 fallen to the share of the plaintiff No.2 and land measuring 34½ guntas in Survey No.262/4 fallen to the share of the plaintiff No.3. Apart from this, the plaintiff No.1 has made a gift deed in favour of the plaintiff No.2 in respect of land bearing Survey No.263/2 measuring 23 guntas. Accordingly, since the date of partition, the plaintiffs are cultivating the schedule land. The defendants have no manner of right, title, interest and possession over the schedule properties. Despite of the same, the defendants are preventing the plaintiffs from ploughing the schedule land. On 01.08.2025, the defendants have obstructed the plaintiffs from ploughing the schedule land. Even though earlier also, the defendants have prevented the plaintiffs from

ploughing the plaint schedule properties demanding the plaintiffs to leave road in their land. The defendants are very powerful person and having the support of political people and bad elements of the Village. The plaintiffs have also lodged the police complaint against the defendant No.1 to 4, but, the defendants have not care and the police informed the plaintiffs to approach the Civil Court as the matter is in civil nature. The plaintiffs are having lawful possession and enjoyment of plaint schedule properties from the last 40 years. The defendants have illegally interfering with the possession of plaintiffs over schedule properties. The defendants are not allowing the plaintiffs to cultivate the land from last 3 months. Therefore, the plaintiffs are not in a position to protect their land and resist the illegal interference of the defendants. The plaintiffs have made out prima-facie case, balance of convenience lies in their favour and if the application is not allowed, the plaintiffs will be put to great hardship. Hence, on all these grounds prayed to allow the application.

3. On the other hand, the defendant No.1 to 4 have appeared through their counsel and filed the written statement with memo praying to treat the said

written statement as objection on IA No.I. The defendant No.5 also appeared through his counsel and filed his separate written statement and memo praying to treat the said written statement as objection to IA No.I. In the written statement, the defendant No.1 to 4 have denied the case of plaintiff as not maintainable either in law or facts. It is further submitted that, the land bearing Survey No.262 measuring 5 acres 7 guntas of Kabbahalli Village, Beguru Hobli, Gundlupete Taluk is situated adjacent on the Eastern side of land in Survey No.261 measuring 4 acres 34 guntas of Kabbahalli Village, Gundlupete Taluk. The land bearing Survey No.262 measuring 5 acres 7 guntas belongs to the father of the plaintiff No.1 by name Devashetty and subsequently, it has been divided into two equal parts. Out of each, Southern part measuring 2 acre 23½ guntas belongs to the plaintiff No.1 and subsequently, in favour of plaintiff No.1 to 3 and now, the said lands are comprised in Survey No.262/2, 262/3 and 262/4. Northern half measuring 2 acre 23½ guntas fallen to the share of the brother of the plaintiff No.1 by name Subbashetty and now, the said Subbashetty is in possession and enjoyment of said property. The land bearing Survey No.262/2 measuring 23 guntas is situated on the Eastern side of

land belongs to the Subbashetty. The said land in Survey No.263/2 is belongs to the plaintiff No.1.

4. It is further submitted, the land bearing Survey No.261 measuring 4 acre 34 guntas belongs to the Lingappa of Kabbahalli Village. Subsequently, the said land has been divided between the Javanappa and Nanjappa who are the children of Lingappa. Accordingly, Southern half measuring 2 acres 17 guntas fallen to the share of Nanjappa and khatha also mutated in his name. The wife and children of Nanjappa have sold the same on 03.02.2012 through a Registered Sale Deed in favour of G Girish Babu. Subsequently, the said G. Girish Babu has sold the above property in favour of Dhanushree M. L W/o B. N Puneeth Kumar through Sale Deed dated 27.03.2024. The said Dhanushree M. L has sold the said property in favour of Ashalatha through Sale Deed dated 23.08.2024. The said Ashalatha has sold the said property in favour of defendant No.5 through Registered Sale Deed dated 01.03.2025. The said land is bounded on East by road measuring East - West : 18 feet, the said road reaches to the land belongs to the defendant No.1 to 3, West by land belongs to Bellappa, North by land belongs to the defendant No.1

to 3 and South by road. From the date of partition affected between Nanjappa and Javanappa, the said Javanappa and defendant No.1 to 3 are using the said road existed on the Eastern side of the land in Survey No.261/2, so the defendant No.1 to 3 are having the easementary rights over the above said road and they are continuously using the said road from the last 45 years. Except the said road, the defendants No.1 to 3 have no other pathway to reach their land in survey No.261 and the defendant No.1 to 3 are cultivating the said land in all the time of the year. The plaintiffs have put up the fencing stone to their land in No.262/2, 262/3, 262/4 and now, the plaintiffs have claiming that, the road existing on Eastern side of land in Survey No.262/2 belongs to them and the plaintiffs have no right, interest or possession over the above said road existing between Survey No.261/2, 262/2, 262/3 and 262/4. The plaintiffs have filed this suit by concocting the false facts and forged documents in order to grab the road existing in the land bearing Survey No.261/2. The plaintiffs have mentioned wrong boundary in the plaint schedule. The plaintiffs have suppressed the above said material facts. Hence, the plaintiffs are not entitled for equitable relief for permanent injunction. The plaintiffs have not

approached this Court with clean hand. Hence, on all these grounds prayed to dismiss the application.

5. On the other hand, the defendant No.5 has denied the case of the plaintiffs as false and frivolous. It is further submitted that, the defendant No.5 is a senior citizen married to Mr. Nagaraju K. The defendant No.5 suffers from medical ailments and also not educated to understand the Court proceedings. However, on the day to day affairs are completely taken care by his elder son Mr. Dhananjaya N and hence, the defendant No.5 has appointed her son as a power of attorney to represent herself in this case. During the February-2025, the defendant No.5 was looking to purchase certain agricultural land for cultivating and to benefit of her family. Accordingly, the defendant No.5 noticed that, on Youtube by a channel name 'Vishu agricultural properties' there was video which was posted on the channel regarding sale of agricultural land in and around Begur. Subsequently, the defendant No.5 contacted the proprietor of 'Vishu agricultural properties' i.e., Mr. Srinivas to gather more information on the properties. Upon several visits of many other properties, the defendant No.5 finalized the purchase of property

bearing Survey No.261/2 measuring 2 acres 17 guntas situated at Kabbahalli Village, Beguru Hobli, Gundlupete Taluk. Before the purchase of land, the defendant No.5 along with her family members visited the property several times and met the neighbours to understand if there was any pending litigation on the said property and learnt from the locals there that no such pending litigation on the property. During the due diligence process, the defendant No.5 verified all such important documents and upon verification, all the mother deeds, subsequent deeds, survey sketches, haddubasthu, etc., defendant No.5 purchased the property from Smt. Ashalatha through Sale Deed dated 01.03.2025. Accordingly, said property got mutated to the name of the defendant No.5 and revenue entries also mutated to the name of the defendant No.5. One of the erstwhile owner's of the property bearing Survey No.261/2 i.e., Dhanushree M. L had filed an application seeking survey and haddubastu before the Tahasildar, Gundlupete and upon inspection and surveying, upon the notices to adjacent survey numbers, the officials had conducted haddubastu and subsequently, haddubastu was drawn by the officials on 13.05.2024, which clearly indicates that, the property bearing Survey No.261/2 has no

such encroachment and it is properly measured as per Mula/Hissa Tippani. On the date of purchase i.e., 01.03.2025 the property bearing Survey No.261/2 at Kabballi Village was already fenced by the erstwhile land owner of the property based on the haddubastu report. Upon the purchase of the said land, the defendant No.5 has neither touched the fence nor changed the boundaries. Accordingly, to substantiate the same, the defendant No.5 has certain photographs before the purchase of the property and same will be placed before this Court at the appropriate time. It is clear from the documents produced by defendant No.5 that, the said property has no such encroachment and the plaintiffs are trying their best to encroach the land as the defendant No.5 is not a local resident and also the plaintiffs demanded a ransom money before initiating this suit and threatened the defendant No.5 and their families with life and limb along with local goons. The plaintiffs are being rich and influential persons with men and muscle power at their disposal have already meted out a gruesome injustice on the defendant No.5 without any manner of genuine right, title or interest over the alleged encroached land and on the basis of misrepresentations and fabricated documents. Hence, there is all possibility of them

repeating such acts of injustice. Based on the haddubastu dated 13.05.2024, it is clear that Survey No.261/2 is well within the measurement and total land extent as per Mula/Hissa Tippani. Hence, there is strong case in favour of defendant No.5 and the balance of convenience also lies in favour of defendant No.5. Hence, on these grounds, prayed to dismiss the application.

6. Heard arguments of plaintiffs and defendants.
Perused the materials on record.

7. The following points arise for consideration of this Court :

- 1.** Whether the plaintiffs have made out a prima-facie case?
- 2.** Whether the plaintiffs prove that, the balance of convenience lies in their favour?
- 3.** Whether the plaintiffs establishes that, they would be put to irreparable loss and injury if temporary injunction is not granted?
- 4.** What order?

8. Findings 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

9. Point No.1 to 3:These points are interlinked with each other and they are taken up together for common discussion to avoid the repetition of facts and discussion.

10. In order to consider the application under Order XXXIX Rule 1 & 2, the Court should satisfy three ingredients namely, prima-facie case, balance of convenience and irreparable injury to the plaintiffs if injunction is not granted. The existence of a prima-facie goes 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 plaintiffs would fall at the very first stile itself. But if there was a prima-facie case then other consideration 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 plaintiffs 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 *executant debitiae justitiae*, 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 though the plaintiff might have an unbeatable prima-facie case. Keeping these principles I would like to discuss the facts of the present case on hand.

11. The plaintiffs in order to succeed in this application has to prove prima-facie case in his favor and balance of convenience which has to be in favor of the plaintiff and also he is called upon to prove the irreparable loss and injury, which would be caused to him if this application is rejected. With this basic principles in mind, now let me analyze the factual matrix on the basis of materials placed on record.

12. The plaintiffs have filed this suit for the relief of permanent injunction against defendants in respect of plaint schedule properties. It is the case of the plaintiffs that, it is specific case of the plaintiffs that, the plaint schedule properties are the ancestral properties of the plaintiffs. The land bearing Survey No.262 of Kabbahalli Village is total measuring 5 acres 7 guntas in extent. The father of the plaintiff No.1 Devashetty was in possession of said land as absolute owner. The Devashetty had two sons by names Venkatasetty (plaintiff No.1) and Subbasetty. After death of Devashetty, the khatha of said land transferred in the name of elder son Venkatasetty i.e., plaintiff No.1. Accordingly, khatha also mutated to his name. Subsequently, plaintiff No.1 and his brother Subbasetty divided land equally and Subbasetty is in lawful possession of 2 acres 23½ guntas land on the Eastern side and the plaintiff No.1 was in possession of Western side of 2 acres 23½ guntas land. Accordingly, revenue entries mutated to their names. During the year 2012-13, the plaintiff No.1 to 3 have partitioned the land in family settlement. Accordingly, item No.1 of schedule property allotted to the share of the plaintiff No.1, item No.2 allotted to the share of the plaintiff No.2, item No.3 of plaint schedule property

also given to the plaintiff No.3 and item No.4 of schedule property gifted to the plaintiff No.3, under the Registered sale Deed dated 09.01.2025 executed by the plaintiff No.1. Accordingly, the plaintiffs are in possession and enjoyment of plaintiff schedule properties. The defendants are the adjacent land owners of plaintiff schedule property and tried to interfere to the possession of the plaintiffs and ploughing the plaintiff schedule land by the plaintiffs. The defendants are interfering to the possession of plaintiffs over plaintiff schedule properties. Hence, filed this application. In support of the application, the plaintiffs have furnished copies of RTC extracts, survey sketch, Dishaank Map and photographs, Aakaar band, mutation register extract.

13. On the other hand, the defendant No.1 to 5 have denied the case of the plaintiffs as false and frivolous and denied the application filed by the plaintiffs contending that, the plaintiffs are trying to encroach the land of the defendants by filing this suit. The defendants have never interfere to the possession of plaintiffs over the plaintiff schedule properties. In support of their contention, the defendants have

furnished copies of documents i.e., survey sketch, photos, sale deed, RTC extract and gift deed.

14. I have perused the pleadings, application, objections, materials available on record, arguments of Learned Counsel for plaintiffs and defendants. On perusal of the materials, at this stage, it is undisputed fact that, the plaint schedule properties belongs to the plaintiffs and adjacent properties bearing Survey No.261/1 and 261/2 belongs to the defendants. It is the contention of the plaintiffs that, the defendants are trying to interfere to the possession of the plaintiffs over plaint schedule properties and also interfere to ploughing the plaint schedule properties by the plaintiffs. On perusal of the RTC extracts available on record, it depicts that, item No.1 to 3 of plaint schedule properties stands in the name of the plaintiff No.1 to 3 respectively and item No.4 of plaint schedule property stands in the name of plaintiff No.3. A perusal of RTC extract furnished by the defendants depicts that, property bearing Survey No.261/1 belongs to the defendant No.1 to 4 and Survey No.261/2 belongs to the defendant No.5. On perusal of the survey sketches and photographs depicts that, the properties of the plaintiffs and defendants situated adjacent to each

other and it appears that there is road to reach the property of the defendant No.5 over the properties of the defendant No.1 to 4. The lands of the parties to the suit are fencing by stone pillar and barbed wire.

15. Further, from the perusal of sale deed on records, they depicts that the defendant No.5 has purchased property bearing Survey No.261/2 measuring 2 Acre, 17 guntas through sale deed dated 01.03.2025. Accordingly revenue entry of the said land stands in the name of defendant No.5. As per the column number 9 of RTC extracts furnished by the plaintiffs Khata of Schedule properties stands in the name of plaintiffs. Therefore, on perusal of the materials available on record, at this state, it appears that, the plaintiffs have made out prima-facie case. If, the materials on record clearly shows that the balance of convenience lies in favour of the plaintiffs. If the temporary injunction is not granted, the plaintiffs will be put to hardship than the defendants. With these observations, this Court is of the opinion that, the plaintiffs have made out prima-facie case, balance of convenience and irreparable loss lies in their favour. With these observations, this Court has answered **point No.1 to 3 in the affirmative.**

16. Point No.4: In view of the reasons and discussions made on Points No.1 to 3, this Court proceed to pass the following :

ORDER

The I.A.No.I filed by the plaintiffs under Order XXXIX Rule 1 and 2 R/w Section 151 of Civil Procedure Code is hereby allowed.

The defendants are hereby temporarily restrained from interfering to the possession of plaintiffs over plaint schedule properties in any manner what-so-ever till pending disposal of the suit.

In view of the facts and circumstances of the case, no order as to costs.

[Dictated to the Stenographer, transcribed by her, corrected by me and then pronounced in the open Court on this the **15th day of JUNE, 2026**]

(DEEPU M. T)
Prl. Civil Judge & JMFC.,
Gundlupet.