

KADG220016292025



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

**PRESENT: SMT. MAHALAKSHMI G M.A. L.L.B.,
Prl Civil Judge & JMFC, Channagiri.**

Dated: This the 07th Day of April 2026

O.S.No.351/2025

PLAINTIFF : Sri. S.K Shivamurthyappa @ S.K
Murthyappa and another

V/s

DEFENDANT : Agarabannihatti Gramapanchayath By its
Panchayath Development Officer,
Agarabannihatti Village, Channagiri Taluk.
and Others

I.A. NO.III & V

Applicant/Plaintiff : Sri. S.K Shivamurthyappa @ S.K
Murthyappa and another

V/s

Opponent/Defendant : Agarabannihatti Gramapanchayath
and Others

1.	Provision under which the application is filed	Under Order 39 Rule 1 and 2 R/w Sec.151 of CPC
2.	Relief sought for	Ad Interim Temporary Injunction
3.	Date on which the application is filed	16.12.2025

4.	Number of the application	I.A.No.III and V
5.	Date on which the objections are filed by different opponents	19.12.2025
6.	The date on which the orders is passed	07.04.2026

ORDER ON I.A.NO.III and V

The learned counsel for plaintiff filed two applications under Order 39 Rule 1 and 2 R/w Sec.151 of the Code of Civil Procedure 1908, seeking for temporary injunction restraint order against the defendants for restraining them from demolishing the existing construction and making any new constructions in the plaint / application schedule properties till disposal of the suit.

2. The brief facts of the affidavit is as under:

In support of the applications, the plaintiff No.1 sworn an common affidavit and he stated that, the plaintiff No.2 is his younger brother, he sworn this affidavit on behalf of his brother also and treat the plaint averments as part and parcel of this affidavit. They have filed present suit against the defendants claiming the relief of the declaration of their absolute ownership over the suit schedule properties and to restrain the defendants from demolishing the existing structure and making any new construction in the plaint schedule properties. Alternatively, to declare that plaintiffs are the owners of the plaint schedule properties for possession of plaint schedule properties after the demolition of the existing structure in the plaint schedule properties under due process of law.

3. The applicant further stated that, one Nagappa S/o Basappa died by leaving his only son by name Basappa. The said Basappa died by leaving his 2 sons by name Sankappa and Banappa. Said Sankappa died by leaving his only son by name Shivalingappa. The said Shivalingappa and Mallamma are couple and they are his parents. They last their breath by leaving 2 sons who are plaintiffs and 5 daughters by name Prema, Pushpa, Baby, Shivalingamma, Shashikala. They have filed in present suit against the defendants for themselves and on behalf of their 5 sisters for the relief of claimed as prayed in the plaint.

4. The another son of Nagappa namely Banappa died by leaving his 5 daughters Eramma, Rathnamma, Basamma, Ningamma, Kamalamma. Said Sankappa, Banappa divided very long back. The original propositus of their family namely Nagappa S/o Basappa purchased kana property bearing No.B2 of Agarabannihatti Village, Channagiri Taluk measuring East-West 35 yards, North- South 60 yards through Register sale deed dated:28.05.1900 vide SRO No. 378/1899-1900 from Basappa S/o Pariyal Basappa. The said property enjoyed by their original propositus /Nagappa through out his life time and after his death same was inherited by his sons. Subsequent to death of Sankappa and Banappa inherited the same and effected partition among them on which the kana property measuring East-West 85 feet, North- South 135 feet was allotted to the share of Sankappa. Out of said 85 feet x 135 feet property, the West-North corner property measuring East-West 4.07 mtrs, North-South 12 meter was given to one Nanjundappa.V to run a saloon by

the plaintiffs. The said V.Nanjundappa constructed a shed in the said property and illegally entered in his name in the Panchayath records. After the death of Nanjundappa the name of his wife Rathnamma was entered in the said records in the panchayath.

5. The plaintiffs further stated that, they have filed suit bearing O.S No.2/2016 before the Hon'ble Senior Civil Judge and JMFC Court, Channagiri against one B.S Nagendrappa, B.K Omkarappa, Maralasiddappa, Gurumurthappa, Rathnamma W/o late Nanjundappa and Jayappa S/o Kenjedappa, Malleshi S/o Late Kenjedappa and seeking relief of declaration of their title and consequential relief of permanent injunction with respect to property bearing No. 130, SL.No. 144, B/2 measuring East- West 115 feet, North- south 198 feet. The said suit was dismissed on merits. The defendants herein are not the parties to the said suit. They have contended in para No.5 of the plaint as they have constructed two rooms with red tiled roofing in the northern side of the purchased property as mentioned in the said suit schedule. The said property given to run a library and a nursery school from 10 years back earlier to the filing of the said suit. The said two rooms constructed as given by the plaintiffs are the subject matter of the present suit. In the said western room the defendant No.6 running a library and in the eastern room defendant No.5 and 6 running a Anganavadi kendra.

6. The plaintiff further stated that, defendant No.1 allotted property No.131, katha No. 152 in the name of defendant No.5

illegally. In turn the defendant No.5 also gave as legal entry with property No. 132, katha No.133 in the name of Veerashaiva Samaja Kattada Grantalaya, Agarabannihatti Village for the year 2023-24. As per the entries in demand register extract in the name of defendant No.4 as there is no any existence of such kind of sangha and library in the said property. The said DCB register extracts in the name of defendant No.5 and 6 are not create any rights or interest, title to the defendants over the said properties.

7. The plaintiff further stated that, earlier suit bearing O.S No. 62/18 filed against the defendant No.1 and one Kuberappa S/o Rangappa on the file of this court which dismissed by the court on 28.11.2023. On the other hand the defendant No.1 admits the title, possession of the said plaint schedule property and same is not a suit for declaration of title or ownership and the said suit is only suit for bare injunction. Thus, present suit filed by the plaintiff against the defendant is maintainable under law.

8. The property bearing No. 132, katha No. 153, wherein the defendant No.6 running a library for few years with a permission of the plaintiff in the house of the plaintiff and the said plaint schedule item No.1 property is dilapidated red tiled property measuring East-West 15.4 mtr, North – South 35 feet the plaint schedule item No.2 property bearing No.131, katha No. 152 measuring East- West 19.5 mtr, North – South 35 feet. Neither the plaintiff nor their predecessors executed or transferred any kind of deeds in favour of defendant at any point of time till date much less to the defendants.

The plaintiff gave the plaint schedule item No. 1 and 2 properties to the defendant No.5 and 6 are during 2006 only with out any consideration. The defendant No. 5 and 6 have left the plaint schedule item No.1 and 2 properties about 4 years back by delivering the possession of the said properties to them as the construction made in the plaint schedule item No. 1 and 2 properties are damaged due to the heavy rain fall.

9. The plaintiff further submitted that, the defendants claiming their title over the plaint schedule item No. 1 and 2 properties with bonafide motive and intention to get wrongful gain. The defendant created katha in the name of defendant No.4 illegally without any authority. The defendants demolished the existing rooms in the plaint schedule properties after filing the suit and on 13.11.2025 in between 2.00 to 8.00 PM with the help of machines. The said illegal acts resisted by them, but, they unable to raise their voice against the defendants. Who are intending to construct RCC building having no such rights. Hence, it is necessary to pass an restraint order against the defendants from making any building construction in the suit property.

10. The plaintiff further stated that, the application filed by the defendant No.1 to make entry of their names in the panchayath records with respect to property No. 130 and only gave confirmation letter on 13.04.2015 as the plaintiff No.1 is having the property in Sl.No.144, property No.130 and also issued endorsement to issue E-katha on 20.01.2015 for the said 85 x 135 feet property. The

members of Grama Panchayath and other persons who are not in good terms with them supported the defendants to make illegal constructions. The defendants have no any manner of right, title, interest continued construction of building. Defendant No.1 approached defendant No.2 and 3 on 03.10.2025 to with letter to the Assistant Executive Engineer dated: 08.01.2024 and also referred the letter dated 14.08.2024 of the defendant No.3. In the said letters it is clearly mentioned as Anganavadi building is damaged completely and A.E.E and PWD department proposed to demolish the same. The Government also granted Rs. 10,00,000/- for the new construction of Anganavadi Kendra. Defendant No.1 obtained grants from the Government and trying to put up construction work in the suit schedule properties.

11. The plaintiff further stated that, there is great hardship and legal injury caused to them if the defendants permitted to construct building in the suit schedule property. Thus, it is necessary to restrain the defendants from making any construction till disposal of the suit. The defendant No.5 and 6 are running Shishuvihara and library in the house of Maralu Siddaiah and in the office of the defendant No.1 respectively since from 4 years till date. Thus, they have made out prima facie case. The balance of convenience is in their fever. If this application is allowed no hardship will be caused to other side if not allowed the very purpose of filing the present suit will eroded and it will change the nature of suit schedule property interm the plaintiffs are put into great loss and legal injury. Thus, prays to allow the application.

12. STATEMENT OF OBJECTION FILED BY THE DEFENDANT NO.3, 7 and 8 AS UNDER:

In response to the suit summons the defendant No.3, 7 and 8 appeared through AGP and filed statement of objection by denying the entire averments of the plaint and alleged interference and constructions by them as stated by the plaintiff. The specific contention of the defendant can be gathered at para No.6 wherein they stated that, the plaintiff have no any right, in property bearing No. 131, 132 which belongs to Government. Wherein they running Anganavadi and library since from 25 years. Thus, the Government as sanctioned grants to put up new building by demolishing old structure in the suit schedule properties. Accordingly on 12.11.2025, the CDPO officer demolished the said existing Anganavadi Kendra and library with assistance of Assistant Executive Engineer, PWD department, Channagiri. The plaintiffs have no any right of possession in and over the suit schedule property from making hectic efforts to grab the same by causing interference for the peaceful possession and enjoyment of the property by them which is used for public purpose. The earlier suit preferred by plaintiff bearing O.S No. 62/2018 already dismissed. On which the plaintiff has not preferred any appeal before the appellant court. Thus, the present suit filed by the plaintiff is not maintainable. Thus, prays to dismissal of the application.

13. STATEMENT OF OBJECTION FILED BY THE DEFENDANT NO.1 AS UNDER:

The defendant No.1 filed statement of objection that, the plaintiffs have reiterated the plaint averments in the interim application. The contents of the written statement filed by the defendant may be read as part and parcel of this objections.

14. The defendant No.1 further contended that, the plaintiffs have not produced the genealogical tree or any Succession Certificate to establish that they are the legal heirs at the relevant stages of succession. They have also failed to produce death certificates of the deceased persons is concerned. The plaintiffs have not placed on record any documentary evidence whatsoever to establish that they are the lawful heirs, nor have they proved the same before this Hon'ble Court. Only the two plaintiffs have filed the present suit, without impleading all other legal heirs of the family.

15. The plaintiffs have made baseless allegations against the Government without any cause of action and not approached this Court with clean hands. The plaintiffs failed to make out a prima facie case for the grant of temporary injunction. The balance of convenience does not lie in their favour.

16. The Plaintiffs, with an ulterior motive to create confusion in respect of the suit schedule property and to unlawfully claim rights over property vested in the Government, have made false, frivolous, and untenable averments with an intention to mislead this Court. The property in question, being an Anganwadi property recorded in

the Panchayat records and falling within the ambit of E-Swathu, is a Government-owned property.

17. The earlier suit filed by the Plaintiff bearing O.S.No. 62/2018 before this Court, on 20-03-2018, seeking relief of permanent injunction against the Defendants. In the said suit, the Plaintiffs failed to establish any lawful right, title, or interest over the suit schedule property. The Plaintiffs had wrongfully claimed the Anganwadi property, which is reflected in the Panchayat records as Government property, as their own and attempted to assert rights thereon without any legal basis. The Judgment and Decree has attained finality and is binding upon the Plaintiffs.

18. The plaintiffs allegedly dumped debris and obstructed the free flow of drainage passage. The defendants issued a statutory notice calling upon them to remove the obstruction. The plaintiffs received said notice but failed to comply with the same. In turn issued a reply notice dated 31-08-2017.

19. It is submitted that the officials of the Gram Panchayat were prevented from discharging their lawful duties in maintaining the Panchayat property. Due to the obstruction caused, inconvenience and damage were occasioned to the Anganwadi Centre situated on the said property. The plaintiffs, by their acts, caused interference and public nuisance affecting the said Anganwadi Centre and its maintenance. In view of said circumstances, the first

defendant contested the earlier suit O.S. No. 62/2018. the Hon'ble Court was pleased to dismiss the suit, holding that the plaintiffs had failed to establish their claim and that the contents of the plaint were not legally sustainable. Accordingly, the suit filed by the plaintiffs was dismissed by passing judgment and decree. Despite dismissal of the suit, the plaintiffs have neither admitted their mistake nor ceased from causing public obstruction and interference.

20. Against the said judgment and decree of dismissal passed in the said suit the plaintiffs have not preferred any appeal. Consequently, said decree attained finality. Therefore, the plaintiffs have no right to institute a fresh suit on the same cause of action. The plaintiffs, having no subsisting right, filed the present suit repeatedly.

21. The 1st defendant in the present suit further submits that a reply notice was issued to Sri D.R.J, Adv, by the 1st defendant – Agarabannihatti Gram Panchayat Office – on 07-10-2017. It is further submitted that the Gram Panchayat had earlier issued a notice dated 28-08-2017, stating that the plaintiffs had dumped garbage on a vacant site adjacent to the Anganwadi and Library premises. Due to the said dumping of waste, mosquitoes had increased, causing health hazards to the Anganwadi children and the general public. Hence, the plaintiffs were directed to remove the garbage.

22. The office of the said Gram Panchayat, issued a reply dated 07-10-2017 to the representation submitted by the plaintiff. In the said reply, it was intimated that if the plaintiff failed to immediately remove the obnoxious and health-hazardous garbage causing nuisance to the public, action would be initiated by the Gram Panchayat under Section 75(2) of the Karnataka Panchayat Raj Act. In the meantime, on 03-10-2017, the plaintiff had dumped garbage adjacent to the library premises, as a result of which the western wall of the library building completely collapsed. It was further stated that the building sustained substantial damage and that a loss of approximately ₹2,00,000/- had been caused. The plaintiff was held liable to compensate the said loss to the authority.

23. As stated above, if the plaintiff was aggrieved by any action or proceedings of the Gram Panchayat, he ought to have preferred an appeal before the Taluk Panchayat Office under the provisions of the Karnataka Panchayat Raj Act. However, no such appeal has been filed. Merely issuing a notice through an advocate to the office of Defendant No.1 does not divest the authority vested in the said office under the Panchayat Raj Act.

24. The plaintiff has failed to plead or demonstrate judicial balance/equitable grounds before this Hon'ble Court. The plaint does not disclose any necessity for interference by the Civil Court. There is no averment in the plaint that the suit has been filed with clean hands and on equitable grounds. The plaintiff has been repeatedly filing suits on the same subject matter without any valid cause,

causing unnecessary loss and hardship to the 1st Defendant Panchayat Office. Thus prays to dismissal of suit as well as application filed by the plaintiff.

25. Based on the rival contentions raised by the respective parties, the following points would emerge for my consideration;

POINTS

1. Whether the plaintiff has made out prima facie case?
2. Whether the balance of convenience lies in favour of plaintiff?
3. Whether the plaintiff will be put to irreparable loss, if the order as prayed for is not granted?
4. What order?

26. Heard the learned counsels appearing for the plaintiff and defendant. Perused the records and on perusal of the same, my findings to above said points are as under :

POINTS

- Point No.1 : In the Partly Affirmative
Point No.2 and 3 : Lies on Both Parties
Point No.4 : As per final order,
for the following ;

REASONS

27. POINT No.1:- Since these points are incumbent upon each other and as such the same are taken together for common discussion.

28. Admittedly, the present suit filed by te plaintiff seeking relief of declaration of their title over the suit schedule properties and consequential relief of permanent injunction and alternative relief sought by the plaintiff at Sl.No. 2 of Para No.17 of the plaint.

17. Prayer for judgment and decree;

The plaintiffs most humbly pray for judgment and decree in their favour and against the defendants for the following reliefs:-

1(a). To declare that the plaintiffs are the absolute owners with posseses of the plaint schedule properties.

1(b). To restrain the defendants, their men, servants, or any other persons on their behalf form demolishing the constructions of the plaint schedule properties by means of permanent injunction order.

1(c). To restrain the defendants, their men, servants, successors or any other persons on their behalf from making any constructions, buildings in the plaint schedule properties by means of a permanent injunction order.

1(d). For court costs, and for such other relief's which are deem fir to grant under the circumstances of the case in the interest of justice and equity.

29 . Alternatively, if the Hon'ble court comes to conclusion that the plaintiffs are not in possession and enjoyment of the plaint schedule properties, the plaintiffs further prayed to declare that they are the owners of the plaint schedule properties and for possession of the plaint schedule properties from the defendants after the demolition of the existing constructions in the plaint schedule properties under due process of law and to grant such other reliefs, costs which are deem fit to grant under the circumstances of the case in the interest of justice and equity.

30. To establish prima facie case of the plaintiffs, the plaintiffs have placed copy of sale deed and certified copy of Translated registered sale deed in SR No. 378/1899-1900 dated: 28/05/1900, certified copy of notice dated: 28.08.2017 issued by Agarabannihatti Village Panchayath to the plaintiff No.2, certified copy of reply notice dated: 31.08.2017 issued to plaintiff No.2 to defendant No.1, copy of certificate dated: 16.04.2015, copy of endorsement by the defendant No.1 dated: 28.04.2025, certified copy of the DCB register extract for pertaining to the year 2023-24 to property No. 131, katha No. 152 discloses the name of Anganavadi kendra, Agarabanni hatti Village, certified copy of DCB register extract for 2023-24 to property No. 132 discloses the name katha holder Veera Shaiva Samaja, certified copy of the DCB register extract for 2021-22 to property numbers 131, 132 discloses the name Anaganvadi Kendra and Veerashaiva Samaja, copy of letter submitted by the defendant No.1 Taluk Panchayath dated: 03.10.2025 regarding demolition of dilapidated building, Certified copy of judgment and decree passed in O.S No.

62/2018, copy of colour xerox seven photographs along with bill dated: 17.12.2025 by Suma online Computer Centre.

31. The defendant disputed the claim of the plaintiff and prays to register of I.A insupport of contention of defendant No.1 he is filed digital E- Swattu documents dated: 31.05.2024 consistence form No.9 and 11(A) pertaining to property No. 131 discloses the name of Anganavadi Kendra Agarabannihatti Village as owner of the said property. Certified copy of DCB regiser extract pertaining to the year 2023-24 the property No. 131, certified copy of DCB register extract consisting the year 2023-24, Copy of DCB register extract pertaining to the year 2004-05 bearing katha No.144 property No. 131 discloses the name of Anganavadi Kendra bhaga -1. certified copy of letter dated: 08.01.2024 issued by the office of Assistant Executive Engineer PWD, Sub Division, Channagiri copy of order memorandum of notice dated: 06.03.2024 issued by Jilla Panchayath, Davanagere regarding grants of various Anganavadi are concerned in the district. Copy of 4 colour print photographs, copy of FIR register in crime No. 768/2025 of Channagiri P.S along with complaint, 4 colour print photographs, copy of judgment and decree passed in O.S No. 62/2018 dated: 28.04.2023.

32. Having taken note of the prima facie pleadings and materials available on record furnished by both parties in the present case both the plaintiff and defendants claiming their right over the suit schedule properties. The plaintiff claiming is title over suit property on the basis of registered sale deed bearing SRO No. 378/1899-1900 the said document already furnished by plaintiff in

O.S No. 2/2016 as well in O.S No. 62/18. On the other hand the defendants which are government entities claiming ownership rights over the suit schedule property on the basis of revenue records. It is admitted facts that the earlier suits filed by the plaintiff bearing O.S No. 62/2018 against the defendant No.1 by the present plaintiff seeking the relief of perpetual injunction was dismissed by the court on 28.11.2023. In the present case very plaintiff claiming the ownership right over the suit schedule property after lapse of 7 years of passing judgment by the court. It is also contention of the defendant and learned AGP that, the plaintiffs have not preferred any appeal before the appellant court upon the judgment passed by this court in O.S No. 62/2018 which dismissed on 28.11.2023 thus the said judgment is attains finality. The plaintiff also not in possesses over the entire extent of suit schedule property as alleged by him.

33. Having keen consideration of pleadings as well prima facie materials available on record this court is of the opinion that at this initial stage as per available records at hand this court can not form any opinion with regard to reliefs sought by the both parties and it requires full fledged trial. The plaintiff has filed the comprehensive suit and relief which is declaratory in nature. If the relief sought by the plaintiff in I.A No. 3 and 5 are granted it will definitely change the nature of the suit schedule property when the court passes is the final decision definitely it will change the nature of suit schedule property. Hence, as per the documents available on record there is serious disputes over the suit schedule property like title, possession, limitation and legality of Registered instrument and the Revenue records are concerned. which requires full fledged trial this

court at this initial stage can not conduct mini trial. Hence, the I.A No. III and V are allowed definitely the defendants will construct new building in and over the suit schedule property which is definitely change the suit property which collapses the very purpose of filing present suit. If the plaintiffs succeeds at the end, the defendants being Government bodies and public money involved to construct building it will destroys very purpose of filing the suit and balance of convenience and loss of public funds. That apart the main relief sought by the plaintiff in present suit and interim relief sought I.A No. 3 and 5 are one at the same. Hence this court answered the point No.1 in the **Partly Affirmative.**

34. **Point No.2 and 3:** In the case at hand Admittedly defendants are the local Bodies whoc running Anganawadi centre and Library to surve the Public at large. Hence balance of convenience and irreparable factors lies in both parties of case. Thus, **Point No. 2 and 3 answered as above.**

35. **Point No.4:-** As a result, I proceed to pass the following:

ORDER

The I.A. No.III and V filed by the plaintiff U/O.39 Rule 1 and 2 R/w Sec.151 of CPC is hereby Partly Allowed.

Both parties are hereby directed to maintain status-quo of the suit property as

**it is as on the date of filing of the suit till
further orders.**

No order as to costs.

(Dictated to the stenographer typed by her, corrected by me and then pronounced in the open court on this the **7th Day of April, 2026**)

Sd/-
(Smt. Mahalakshmi G)
C/C Pri. Civil Judge & JMFC.,
Channagiri.