

KADG320069702024



**IN THE COURT OF
II ADDL. CIVIL JUDGE AND JMFC
AT, HARIHAR**

(Presided Over by SMT. JYOTI ASHOK PATTAR)

O.S. No.197/2024

Dated this the 09th day of October, 2025

Smt. Bhargavi Mekha

....PLAINTIFF

Vs.

Smt. Aparna .M. and others.

....DEFENDANTS

PARTIES TO I.A.NO.I

Smt. Bhargavi Mekha

**....APPLICANT/
PLAINTIFF**

Vs.

Smt. Aparna .M. and others.

**....OPPONENT/
DEFENDANTS**

i	Provision under which the application is filed	U/O XXXIX Rule 1 and 2 R/w Sec.151 of CPC
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ii	Relief sought for	For Temporary Injunction
iii	The date on which the application is filed	26.09.2024
iv	Number of the application	01
v	The date on which the objections are filed by the defendants opponents	05.02.2025
vi	The date on which the orders were passed on the said application.	09.10.2025

ORDER ON I.A.No.I

The present application is filed by the plaintiff U/O XXXIX Rule 1 and 2 R/w Sec.151 of CPC along with suit, seeking an order to grant temporary injunction against the defendant, their agents, servants, assignee, executors, nominees or any other person or persons claiming right over the application schedule property restraining them from interfering in the peaceful possession and enjoyment of the suit schedule property by the plaintiff till disposal of the suit.

2. In the affidavit accompanying with the I.A.No.I, it is stated that the plaintiff is the absolute owner of the suit schedule property and she is in peaceful possession and enjoyment of the suit schedule property since its date of purchase. But the defendants without having right, title

and interest over the suit schedule property are trying to interfere in her peaceful possession and enjoyment of suit schedule property. The specific case of the plaintiff is that there is a public road and channel at the eastern side of the suit schedule property, but the defendants are restraining her to use the said road. Therefore the plaintiff got measured her property by the concerned authority, but the defendants are continued to interfere in her peaceful possession and enjoyment of suit schedule property. Hence the suit and present application.

3. On the other hand the defendant No.1 filed objection to the said application. Wherein the defendant No.1 denied the averments made in the application and contended that, the land of the defendant No.1 is situated in the southern side of the land of the plaintiff and towards the northern side of the land of the plaintiff there is a land in Sy.No.40/2 which is described in the plaint, I.A. No.1 as La.hi.2. The said La.hi2 means the land in Sy.No.40/2. The said land in Sy.No.40/2 is standing in the name of Halasabalu Basappa S/o Nagappa. The said Halasabalu Basappa was the owner, kathedar of the land measuring 8 gunta in Sy.No.40/2 which is situated towards the eastern side of the land of the plaintiff and the defendant No.1. The said Halasabalu Basappa died in the year 1986 and after his death the said 8 gunta of land in

Sy.No.40/2 of Bhudihalu village, Harihar Taluk is possession and enjoyment of the legal heirs of the said Halasabalu Basappa. The land of the plaintiff is not touching the alleged road as described in the plaint schedule, I.A No.1 schedule. There is a land measuring 8 gunta in Sy.No.40/2 belongs to the legal heirs of the above said Halasabalu Basappa and the said legal heirs have constructed the "Mylaralingeshawara and Renukayallamma Temple", alongwith the other trustee persons of the village in the part of the said 8 gunta and also in the part of the land of the defendant No.1 in north-east corner of her land. As such the land of the plaintiff is not touching the channel road. The lands of the plaintiff and the defendant No.1 are bounded in the eastern side with the land measuring 8 gunta in Sy.No. 40/2 as stated above and after the said land there comes the channel which is running south to north and then after the said channel, in the eastern side there comes the channel road. As such the said channel road is not touching the lands of the plaintiff and the defendant No.1 in the eastern side. Under the guise of the purchasing the land in Sy.No. 40/11 as stated above, by the plaintiff, the plaintiff tried to make use of the above said 8 gunta of land in Sy.No. 40/1. The plaintiff is having no manner of rights, title, interest to make use of the said 8 gunta of

land belongs to the family members of the defendant No.3 in the eastern side. There is a Samadhi of Halasabalu Basappa in the east-north corner of the said 8 gunta of land, in the eastern side of the land of the plaintiff, in Sy.No.40/2. The said Samadhi is situated in the said 8 gunta of land in the eastern side of the land of the plaintiff. Hence, on these grounds defendants prays to reject the application.

4. Heard arguments of both the side.

5. The following points arise for the Court determination;

- 1 Whether the plaintiff has made out prima-facie case?
- 2 Whether plaintiff has made out the balance of convenience in her favour?
- 3 Whether the plaintiff will be put to irreparable injury, if the temporary injunction as claimed by her refused?
- 4 What Order?

6. This Court findings on the above points are as under:

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: In the Negative

Point No.4: As per final order,

for the following;

REASONS

7. Point No.1 to 3: In order to get the order of temporary injunction the plaintiff has to show that, prima facie case is in her favour and balance of convenience lies in her favour. Further she has to show that in case of temporary injunction order as sought by is not granted, she will be put to heavy and irreparable loss, which cannot be compensated in terms of money.

8. Keeping the above cardinal principles in mind, this Court has gone through the materials placed on record. The specific case of the plaintiff is that, she is in peaceful possession and enjoyment of suit schedule property since its purchase and relied on the following documents i.e., original sale deed dated: 14.07.2022, RTC extract of Sy.No.40/1, mutation register, original sale deed dated: 22.10.2022, mutation register, Digital copy of sale deed dated:22.10.2020, RTC extract of Sy.No.40/1, Digital copy of sale deed dated:02.04.2018, copy of RTC extract in Re.Sy.No.40/2, Haddbastu application C.R. No.1/2024-25 dated: 09.07.2024, certified copy of Haddbastu Appeal C.R. No.1/2024-25 dated:21.08.2024, certified copy of sketch, certified copy of Akarband, copy of acknowledgment, complaint, endorsement, photos, pen-drive, survey report and letter dated: 16.04.2024.

9. Per contra the defendants denied the boundaries mentioned in the plaint schedule. The defendants relied on following document i.e., Registered partition deed dated: 07.06.1991, RTC of Sy.No 40/1P for the year 1998-99 dated: 12.08.1999, RTC of Sy.No 40/1P3 for the year 2000-01 dated: 18.07.2001, Registered sale deed dated: 02.04.2018, Mutation register MR No.H 15/2017-18, Mutation register MR No. H 14/2020-21, Mutation register MR No.H 12/2020-21, Registered sale deed dated: 27.12.2006, survey notice dated: 24.04.2024, objections to survey report dated:24.04.2024, Endorsement dated: 19.07.2024, complaint copy dated:22.08.2024, acknowledgment dated:23.08.2024, Endorsement dated: 26.08.2024, certified copy of RTC of Sy.No.40/1 for the year 2024-25, certified copy of RTC of Sy.No.40/2 for the year 2024-25, certified copy of RTC of Sy. No.40/3 for the year 2024-25, six photos, Registered sale deed dated:22.10.2020 and Registered sale deed dated: 22.10.2020.

10. The specific case of the plaintiff is that she is the absolute owner in possession and enjoyment of suit schedule property by virtue of sale deed dated: 14.07.2022. But the defendants are trying to interfere in her peaceful possession and enjoyment of suit schedule property. The plaintiff has specifically relied on the registered sale deed dated: 14.07.2022. Wherein it reveals that the suit schedule property is purchased by the plaintiff from one Bhavyashri on 14.07.2022. And the said aspect is not denied by the defendants, the only contention of the defendants is that at the eastern side of the plaintiff's property there is 8 guntas of land which is standing in the name of one Halasabalu Basappa and his legal heirs are in peaceful possession and enjoyment of the same. That an RTC produced by the defendants reveals that in Sy.No.40/2 which is situated at Adapur village, an extent of 8 guntas of land is standing in the name of one Halasabalu Basappa S/o Nagappa and 10 guntas of land is standing in the name of KNNL. The documents produced by the plaintiff herself reveals that in Sy.No.40/2 an extent of 10 guntas land is acquired by KNNL out of 18 guntas. That means there remains 8 guntas of land in Sy.No.40/2. But at the eastern side of the plaint schedule property boundary is shown as road and channel and there is no pleading regarding the remaining

8 guntas of land where it comes. Therefore there is a cloud in respect of the eastern side of boundary shown in the suit schedule property. The contentions taken by the both the parties are matter of trial. Thus the matter needs trial and at the stage Court cannot held mini trial. With this observations, this Court is of the opinion that the plaintiff has failed to establish prima facie case in her favour.

11. At this juncture, any opinion on merits of the case will prejudice the mind of the parties. Therefore, without going to the merits of the case. As stated above there is no clarity regarding the boundaries of the suit schedule property. Hence, considering the material placed on record, it can be said that, the plaintiff has not made out prima facie case.

12. That the plaintiff has failed to establish prima facie case in her favour, Hence the other two principles i.e. balance of convenience and irreparable loss does not taken into consideration. That keeping open the contention of the both the parties for the trial. This Court opines that, the plaintiff failed to establish prima facie case in her favour for the reasons stated supra. Hence the other two principles i.e. balance of convenience and irreparable loss does not taken for consideration. Hence the point No.1 to 3 are answered in the Negative.

13. Point No.4: In view of the above discussion, this Court proceed to pass the following:

ORDER

I.A.No.I filed by the plaintiff
U/o XXXIX Rule 1 & 2 R/w Sec. 151 of
CPC., is rejected.

No order as to costs.

(Dictated to the Stenographer directly on computer, typed by her, revised and corrected by me and then pronounced in the open Court on this the 09th day of October, 2025)

(Jyoti Ashok Pattar)
C/c II Addl. Civil Judge & JMFC,
Harihar.