

**IN THE COURT OF PRL.CIVIL JUDGE AND PRL.JMFC,
DHARWAD**

-: PRESENT :-

**Sri.AVINASH GHALI.,
B.A. LL.B.,
Prl. Civil Judge & .J.M.F.C., Dharwad**

Dated this the 21st day of April - 2026

Original Suit No.293/2023

BETWEEN

Plaintiff : Smt. Rajashri Shrishail Ujinikoppa.

(By Sri. B.D.N., Adv.)

V/s.

Defendant: Sri. Yalappa Fakkirappa Ramdurga & others.

(Deft. By Sri.G.S.S. Adv.)

PARTIES TO I.A.NO.II

Applicant : Smt. Rajashri Shrishail Ujinikoppa.
(Ori Pltff)

V/s.

Opponents : Sri. Yalappa Fakkirappa Ramdurga & others.
(Ori Dfts)

1.	Provision under which the application is filed	I.A No.II U/O XXXIX Rule 1 & 2 R/w Sec. 151 of CPC
2.	Relief sought for	Prayer to grant temporary

		injunction.
3.	The date on which the applications are filed	19-04-2023
4.	Number of the applications	I.A No.II
5.	The date on which the objections filed by different opponents	11-08-2023
6.	The date on which the orders were passed on the said application	21-04-2026

ORDER ON I.A. NO.II

The plaintiff has filed the present application under Order XXXIX Rule 1 and 2 R/w section 151 of CPC with prayer to grant the temporary injunction by restraining the defendants from causing any disturbance and obstruction in the peaceful possession and enjoyment over the Schedule A and B properties till disposal of suit.

2. In the affidavit annexed with present application, it is stated by plaintiff that, she is the absolute owner of Schedule A and B property being in possession and there were no interventions from anybody till date. Further, it is stated that she is the absolute owner of Schedule A and B property by virtue of the E-Swattu. Further, she stated that

she has obtained the permission from the concerned authority for the purpose of construction of house in A and B schedule property. Further stated that she has obtained the huge loan from the Canara Bank, Dharwad and registered the memorandum of deposit of title deed. Further she has obtained the blue print of the plan for the purpose of construction of house and estimated cast of the construction of residential building in A and B schedule properties from the authorized engineer.

3. Further it is stated that the defendants do not have any right over the Schedule A and B property. But disturbing in the peaceful possession over the Schedule A and B property and obstruction in the construction of house in the Schedule A and B properties with local powerful peoples without any cause and reasons.

4. It is further stated that the defendants are residing in Survey No.221/B1 measuring 45 x 15 meters and defendants are no way concerned to the properties of plaintiff. Sons of defendant no.1 are working at Police Department and by taking the undue advantage of the position, defendants are trying to obstruct in the peaceful possession and also obstructing in the construction of house over the scheduled A and B property. The defendant no.2 had visited the scheduled A and B property with police department. Which are clearly goes to show that defendants

are obstructing in the peaceful possession of the Schedule A and B property. Defendant no.2 and 4 are misusing their power with respect to job.

5. It is further averred that the plaintiff has approached the local elders of the villagers along with family members and defendants are not listening the words of the plaintiff and elders of the villagers. The plaintiff has got prime-facie case, even balance of convenience lies in favour of the plaintiff. Hence if temporary injunction is not granted, the more hardship and irreparable loss will be caused to the plaintiff. Hence pray to allow the present application.

6. After service of summons, defendants appeared through their counsel and defendant no.2 has filed the written statement which has been got adopted by other defendants and also said a written statement has also been got adopted by the defendants as objection to the present application by filing the memo, as per Order sheet dated: 11.08. 2023.

7. It is contented by defendants that the descriptions of suit property and also map alleged with the plaint are not true and correct. The measurements mentioned in the suit property and VPC number are also not correct. It is denied that plaintiff is the absolute owner of the suit schedule properties. And denied that plaintiff is in

possession of the suit schedule properties. It is admitted that, the defendants are residing at a property bearing Grama Panchayath No.221/B1 situated at Rampur Village. It is admitted that sons of defendant no.1 are working at police department and also contended that there is no cause of action to file the present suit and also contended that the plaintiff in colluding with the Grama Panchayath and PDO has created the documents.

8. It is further contended that the defendants have produced the map to show the correct picture of the property of plaintiff and defendants. The properties belonging to the defendants are VPC No.221B and 221B1A situated at Rampur Village. The said properties are actual in possession of the defendants. The VPC No.221B/2 is a house property and VPC No.221B1A is open space, same is using by the defendants for collecting the manure. The family of defendants are agriculture family and suit properties are in possession of the defendants.

9. Further it is contented that the plaintiff in colluding with the PDO and Grama Panchayath officials has got deleted the VPC No.221B1A without any resolution and has given new number as 175/B. The VPC properties are not having measurements. The measurements shown in the VPC records are false. The PDO is not having any right to measure the suit properties and prepare a map without any

title deed as alleged. Hence plaintiff is not in possession of VPC No.175/B. Hence the relief of permanent injunction cannot be granted.

10. Heard the learned counsel for plaintiff and also learned counsel for defendants. Perused the records. The learned counsel for plaintiff has filed the written arguments.

11. The following points that would arise for consideration by this Court.

1. Whether plaintiff has made out a prima-faice case?
2. Whether balance of convenience lies in favour of plaintiff?
3. Whether irreparable injury and hardship would cause to the plaintiff, if temporary injunction is not granted?
4. What order?

12. The answer to the aforesaid 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

13. Point No.1 to 3 : These points are taken together for common discussion in order to avoid the repetition of facts and discussion.

14. The present suit is filed by the plaintiff for relief of permanent injunction for restraining the defendants, their men, and anybody acting on behalf of defendants interfering to the possession of plaintiff over suit schedule property and causing disturbance and obstructions in the peaceful possession and enjoyment of Schedule A and B property.

15. It is pertinent to note that the plaintiff is claiming that she is owner in possession of Schedule A and Schedule B properties. Whereas the defendants are owners of the Schedule C property bearing Property No.221/B1 measuring 45x15 meters. It is also significant to note that the plaintiff has pleaded that 'A' schedule property bearing Survey No.175/A measuring east-west 5.40 meters and north-south 7 meters. Schedule 'B' property bearing Survey No.175/B measuring 10.50 meters north-south and 7 meters. Both A and B schedule property claimed to be in ownership and in possession of the plaintiff.

16. It is pertinent to note that the defendants have disputed the title of the plaintiff over the Schedule A and B property and contented that the Survey No.175/B has been created by the plaintiff in colluding with the Grama Panchayath officials and PDO. Even defendants have disputed the measurement of both A and B Schedule property.

17. It is to be noted that the defendants are specifically contented in the written statement that plaintiff is not in possession of Schedule B property bearing VPC No.175/B as the VPC No.221B1A has been given new number as VPC No.175/B by colluding with the PDO and President of Grama Panchayath.

18. On going through documents produced by the defendants, it is evident that the VPC No.221/A is standing in the name of Basappa Ramdurga and whereas the property bearing VPC No.221/B1 is standing in the name of Fakirappa Ramadurg. Thereafter the said property has been divided into VPC No.221/A and property bearing 221/B. Whereas from the Grama Panchayath records for the year 09.03.1994 with respect to tax register, the property bearing VPC No.221A is standing in the name of Basappa S/o

Fakkirappa Ramdurg, whereas property bearing VPC No.221/B is standing in the name of defendant No.1.

19. Whereas on going through the endorsement/certificate issued by the Grama Panchayath dated 12.07.2021 produced by the defendants, it is evident that the property bearing VPC No.175/B is standing in the name of plaintiff. Whereas the property bearing VPC No.174 is standing in the name of one Ansuya W/o Sangappa Ujanikoppa. Further it is also evident that the property bearing VPC No.221B/1 is standing in the name of Gamavva Yallappa Ramdurg as per the certificate issued by the PDO dated 30.06.2021. Whereas the Gamavva Yallappa Ramdurg died on 10.10.2018 as per the certificate. Accordingly the names of legal heirs of Gamavva i.e. names of defendants are mutated in VPC No.221B/1.

20. It is pertinent to note that the defendants have not produced any documents to show that the VPC No.221B1A has been deleted from the Grama Panchayath records and assigned the new number as 175/B. It is significant to note that the plaintiff has produced E-Swattu of Schedule A property bearing VPC No.175A and the boundaries stated in the VPC No.175A, it is evident that the properties of defendant is not situated adjacent to the VPC

No.175A. Whereas the boundary stated in the E-Swattu of VPC No.175A is South-North-East-West is 5.40 meters and North-South is measuring 7 meters. Further, the Grama Panchayath PDO has issued the map of the VPC No.175A. Even the plaintiff has paid the property tax of VPC No.175A on 23.12.2021.

21. It is also relevant to note that as per the E-Swattu of VPC No.175B, which is shown as measurement east-west 10.50 meters, north-south 7 meters. Further the PDO has issued the map of the 175B. Even the plaintiff has paid the property tax of the VPC no.175B on 23.02.2021. It is relevant to note that even the plaintiff has taken the permission for construction of the house in VPC No.175B and also in VPC No.175A.

22. It is also pertinent to note that, as per the records of Grama Panchayath, the VPC No.221B/1 is standing in the name of Gamavva Yallappa Ramadurg. Whereas the property bearing 221B/1A which is empty place standing in the name of Yallappa Fakkirappa Ramadurg. It is significant to note that the defendants have not produced any documents to show that their property has been got deleted from the records bearing VPC No.221B1A and has got a assigned new number as VPC No.175/B. Whereas the

defendants have also failed to show the E-swattu of their properties. But earlier there is only one property bearing VPC No.221A, which was standing in the name of Basappa Ramdurg as per the tax registered for the year 2004-2005, which is produced by the defendants. Even in the year 1994, it is shown as the property bearing VPC No.221/B1 has been got assigned property number 221A and 221B. But there are no measurement documents of the property of dependents. Even there is no E-Swattu of their properties produced by the defendants.

23. It is significant to note that the E-Swattu issued by the PDO itself goes to show that there is existence of property A schedule property and B schedule property which are belonging to the plaintiffs. Even the plaintiff has produced memorandum of title deeds, Memorandum of deposit of title deeds, whereas the plaintiff has also produced the estimation for construction of the house by the engineer. Even a map has also been produced by the plaintiff to show the area of the construction of a building in property VPC No.175B and 175A. As per the sketch produced by the plaintiff dated 02.09.2023, itself goes to show that the properties of bearing VPC No.221A and 221/B1 and property bearing VPC No.222/2 and property bearing 222/1 are situated adjacent to each other and

thereafter the properties of the plaintiff being VPC No.175A and 175B are situated. Though the plaintiff's defendants have disputed the said sketch but have not produced any documents to disbelieve the map produced by the plaintiff.

24. Further the photographs produced by the plaintiffs, itself goes to show that the VPC No.175A and 175B are the vacant properties. Further, from the endorsement issued by the Rural Police Station, Dharwad dated 21.11.2023 itself goes to show that the defendants are obstructing in the possession of the plaintiffs and also when plaintiff had demolished the old house and went to construct house in the Schedule A and B property, the defendants obstructed.

25. It is important to note that the defendants have not produced the substantial documents to support their contention that the plaintiff in colluding with the PDO and President of Grama Panchayath has got deleted the VPC No.221/B1A without resolution and has got assigned new number as VPC No.175B. On going to enter documents and records, it goes to show that the plaintiff is having E-Swattu of A and B property which has been issued by the PDO of Grama Panchayat and the plaintiff has obtained the permission from the Grama Panchayat for construction of

the house. Whereas the defendants have also not supported their contention that the Suit B schedule property is belonging to them. Under those circumstances, from the documents under record, it itself goes to show that plaintiff is in possession of A and B schedule property. But defendants are obstructing by claiming the Schedule B property bearing VPC No.175B is belonging to them, without supporting any documents. At this stage, in light of discussion held above, the plaintiff has made out a prima-facie case to grant the temporary injunction. From the documents on record itself goes to show that the plaintiff has got a prima-facie case, even balance of convenience lies in favour of plaintiff.

26. Further it is relevant to note that if a temporary injunction is not granted, the plaintiff would put great hardship and irreparable loss which cannot be compensated in terms of money. Thus, in view of aforesaid discussion, this Court is of the opinion that the plaintiff has made out a prima-facie case to grant the temporary injunction. Thus, in view of discussion held above, **Point No.1 to 3 are answered in the Affirmative.**

27. Point No.4: For the forgoing reasons, discussion and finding on Point No.1 to 3, this Court proceeds to pass following:

ORDER

The IA No.II filed by the plaintiff under Order XXXIX Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

The defendants are hereby restrained from causing any disturbance and obstruction in the possession and enjoyment of plaintiff over suit Schedule A and B properties till disposal of suit.

For Settlement Talks/Compliance of Section 89 of CPC.

By: 08-06-2026.

(Dictated to the Adalat AI and Stenographer, same is transcribed by her, then corrected, signed by me and pronounced in the open Court dated this **21st day of April 2026**).

(Avinash M. Ghali)
Prl., Civil Judge & JMFC.,
Dharwad.