

KAHS200008582023



**IN THE COURT OF THE CIVIL JUDGE AND JMFC.,
AT ALUR.**

Dated this 1st day of August 2025

Present:

Smt. Sneha M., B.A. LL.B.,
Civil Judge and J.M.F.C.,
Alur.

O.S.No.331/2023

Plaintiff/s : Smt.Manjula

-V/s-

Defendant/s : Sri.H.S.Puttachari and others

RANK OF THE PARTIES ON I.A-II

Applicant/Plaintiffs : Smt.Manjula

(By **Sri.R.B.S.**, Advocate)

-V/s-

Opponent/Defendants : Sri.H.S.Puttachari and others

(By **Sri.M.B.R.**, Advocate)

ORDERS ON I. A. No.II

I.A.No.II is filed by the Learned Counsel for the plaintiff under Order 39 Rule 1 and 2 of CPC seeking an order of temporary injunction, in favour of applicant/plaintiff, thereby restraining the opponent/defendants, his agents, servants, henchman, workers etc., from interfering in applicant/plaintiff's peaceful possession and enjoyment of the application/suit schedule property in any manner and grazing cattle's inside the suit schedule property towards eastern side till the disposal of the above suit.

2. The plaintiff sworn to an affidavit in support of the application, wherein he has stated that, she has filed the present suit for permanent injunction. It is further stated that, the Sy.No.68/2 measuring 0.26 guntas situated at Honnavalli Village, Palya Hobli, Alur Taluk is ancestral property of the plaintiff as per M.R.H.20/2011-12. The plaintiff has produced khatha and Revenue documents standing in her name. The plaintiff being in the possession of the suit schedule property has grown Arecanut and Jower plants. But, the defendants are trying to interfere in plaintiff possession from eastern side of suit schedule property by grazing cattle's and also obstructing agricultural activities of the

plaintiff. The defendants by forming unlawful assembly and using political influence are trying to interfere in the plaintiff peaceful possession over the suit schedule property. The plaintiff has given complaint to the police. But, they have not taken any action by stating that the matter is Civil in nature. Without, the aid of the Court it is impossible for the plaintiff to stop the illegal activities of the defendants. Hence, prayed to allow the application.

3. The learned counsel for the defendants have filed written statement and adopted the same as objections. It is contended that the plaintiff has owned only 22 guntas in Sy.No.68/2 but, she has created documents pertaining to 26 guntas and there is a road existing towards eastern side of the suit schedule property, which is used by the villagers and the defendants from 80 years. The defendants are owning land in Sy.No.1/2 measuring 2 acres 30 guntas and in Sy.No.111/2 measuring 1.7 acres and also constructed RCC house in Sy.No.111/2 bearing khata No.275 and the said road is the only way to reach the house in Sy.No.111/2. The plaintiff with an intention to block the said road has planted Arecanut plant in the said road. It is further contended that, their existence easmentary right of the defendants and villagers to the said road and suit is barred by law of Limitation. The Government

has passed official Gazette Notification No.RD23LGP2022 dated 20.10.2023 stating that any byway, road should not be closed by the land owners and if they do such act, they will be legally liable and action should be taken by DC, Revenue Commissioner, Deputy Director of land record office, Assistant commissioner and Thasildar. The defendants and other villagers are using the said road for cattle's grazing, taking Bulakcart, tractors and tillers and other farm animals for agricultural purpose. The devotees of Marikatte Amma are also using the said road. When the plaintiff has blocked the said road the villagers have given complaint to the Grama Panchayathi, Thasildar, Assistant Commissioner of Sakaleshpura and they have also complained to the PSI of Alur , wherein the said PSI has given warning to the plaintiff that she shall not to encroach the road and use fences to block the road. The defendants have supported to BJP in the recent election so, they are made has parties. But, still the plaintiff has to include 25 to 30 necessary parties. With these contentions it is prayed to dismiss the application.

4. Heard the arguments of the learned counsels appearing for the parties and perused the materials on record and written arguments filed by the counsel for defendants.

5. Now the following points arise for consideration of this court are.

Point No.1: Whether the plaintiff has made out prima facie case for grant of temporary injunction as prayed?

Point No.2: Whether the balance of convenience lies in favour of the plaintiff?

Point No.3: Whether the plaintiff will be put to great hardship and irreparable loss if temporary injunction is not granted as prayed?

Point No.4: What Order?

6. The 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 the final order for the following;**

REASONS

7. Point No.1 :

The specific case of the plaintiff is that, the suit schedule property is her ancestral property and she is in the possession of

the suit schedule property by growing Arecanut and Jower. But, the defendants without having any right are trying to interfere in her possession by grassing cattle's towards eastern side of the suit schedule property and also obstructing her agricultural activities.

8. To prove the same plaintiff has produced RTC pertaining to the suit schedule property wherein, it is standing in the name of the plaintiff, mutation register mutated in the name of the plaintiff. Handubastu sketch, village map, reports, receipt and photo.

9. The contention of defendants is that, the plaintiff is having land in Sy.No.68/2 only measuring 22 guntas, but she has created documents pertaining to 26 guntas and towards the eastern side of the suit schedule property there is a road which is used by the villagers and the defendants from their ancestral period for reaching their agricultural property. Further, the defendant No.2 is having property in Sy.No.1/2 measuring 2 acres 30 guntas and in Sy.No.111/2 measuring 1 acre 7 guntas and they have constructed an RCC house in Sy.No.111/2 and in order to reach this house the said road is the only way but, the plaintiff

by planting Arecanut plants has blocked the said road. To prove the same defendants have produced copy of notification.

10. The counsel for plaintiff argued that, there is no road in suit survey number, which is also elicited in the Village Map and defendants are trying to interfere in the possession of plaintiff.

11. The counsel for defendants argued that, there is a road in suit Sy.No.68/2 and the plaintiff is in the possession of only 22 guntas but, she has created documents pertaining to 26 guntas and if the application is allowed then the defendants will be put greater hardship and it will violate the easmentary right of the defendants and other villagers.

12. The defendants have contended that, the plaintiff is owing only 22 guntas in suit Sy.No.68/2. But, plaintiff has created documents pertaining to 26 guntas. The RTC and mutation register pertaining to suit schedule property are standing in the name of plaintiff to an extent of 26 guntas, at this stage there are no documents to show that the plaintiff has created documents pertaining to 26 guntas.

13. Further, it is contended that there is a road towards eastern side of suit schedule property and it is used by the defendants and other villagers. But, at this stage there are no documents to show the existence of said road towards the eastern side of suit schedule property. On the other hand the plaintiff has produced the reports given by Village Administrator and Revenue Inspector, ADLR and Thasildar, in the said report it is stated that, there is no road existing in Sy.No.68/2 measuring 26 guntas. So, these documents prima-facie shows that there is no road existing in suit Sy.No.68/2. The counsel for the defendants also argued that Government has passed Gazette Notification RD22LGP2022 by stating that no land owners shall close the road used by the public. It is true that there is a notification passed by the Government but, in the case on hand even though the defendants have contended that, road is existing towards the eastern side of suit schedule property they have not produced any documents to show the existence of said road and further, they have also contended that plaintiff in order to block the said road has planted Arecanut plant. So, at this stage the documents produced by the plaintiff prima-facie shows the plaintiff's possession over the suit schedule property. Whether there is a road towards eastern side of suit schedule property or not has to be decided at the trial and it

is subject matter of trial. Since, at this stage there are no documents to show the existence of the road and the report given by the Revenue Inspector and Thasildar show that there is no road existing in Sy.No.68/2, this Court is of the opinion that plaintiff has made out prima-facie case. Hence, this Court **Point No.1** in the **Affirmative**.

14. Point No.2: The documents produced by the plaintiff, more particularly RTC pertaining to the suit schedule property prima-facie discloses that she has got a triable case. Therefore, if the Temporary Injunction is not granted in favour of the plaintiff it would cause more inconvenience to the plaintiff rather than the defendants. Therefore the balance of convenience lies in favour of the plaintiff. Accordingly, this court answer **Point No.2** in the **Affirmative**.

15. Point No.3: It is already stated *supra* that the plaintiff has made out prima-facie case and also balance of convenience lies in her favour. Therefore, if temporary injunction is not granted much hardship and irreparable

injury would cause to the plaintiff, which cannot be compensated in terms of money. On the other hand, no hardship would be caused to the defendants if temporary injunction is granted in favour of the plaintiff. Accordingly, this court answer **Point No.3** in the ***Affirmative***.

16. Point No.4: In view of the above findings and discussions, this Court proceeds to pass the following:

ORDER

I.A. No.2 filed under Order 39 Rule 1 and 2 read of C.P.C by the plaintiff, is here by allowed.

The defendants their agents, representatives or anybody on their behalf are hereby temporarily restrained from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property, till disposal of the suit.

No order as to costs.

(Dictated to the Stenographer directly to the computer, then corrected and pronounced by me in the open Court on this the 1st day of August 2025)

(Smt. Sneha M.)
Civil Judge and J.M.F.C.,
Alur.