



**IN THE COURT OF C/C I ADDL CIVIL JUDGE & JMFC.,**  
**SAKALESH PURA**

**-.PRESENT:-**

**Sri. Lakshmi Narasimha R.V. B.A.L., LL.B.,**

C/c I Addl. Civil Judge & JMFC., Sakaleshpura.

**Dated this the 19<sup>th</sup> day of January, 2026**

**O.S. No.268/2023**

**PLAINTIFF** : **Smt. Gowramma**

**V/s.**

**DEFENDANTS** : **Sri. Rajaiah and another**

**I.A. No.II**

**Plaintiff/Applicant** : **Smt. Gowramma**

**V/s.**

**Defendants/Opponents** : **Sri. Rajaiah and another**

**ORDERS ON APPLICATION FILED BY THE PLAINTIFF**  
**UNDER ORDER XXXIX RULE 1 AND 2 OF C.P.C.**

The plaintiff has filed this application under order XXXIX Rule 1 and 2 of CPC praying this court to pass an order of an ad-interim temporary injunction restraining the defendants, their agents, men or anybody claiming through



them from interfering and causing damage to the fence and crops in the suit schedule properties till the disposal of the suit.

**2.** In the affidavit annexed along with the application, plaintiff has averred that, she has filed present suit for the relief of permanent injunction in respect of suit schedule property. The suit schedule property is the ancestral property her husband, acquired under the partition. After his demise, the revenue records of the suit schedule property got mutated in the name of the plaintiff. Thus, she became absolute owner in possession of the suit schedule property by growing the crops thereon by constructing the fence around the suit schedule property. The defendants having no any right, title or interest over the suit schedule property, have tried to encroach and tried to damage the crops and fence towards southern side of the suit schedule property. The defendants have threatened the plaintiff to disposes from the suit schedule property. In spite of approaching the



jurisdictional police, went in vain. The plaintiff has got prima-facie case and balance of convenience in her favour. If the application is not allowed, she will be put to irreparable loss and injury. Hence prayed to allow the application.

3. Upon the service of summons, the defendants have appeared before the court through their counsel and filed objections by denying the averments of the application in *toto*. It is the contention of defendants that the land bearing Sy No.55 is belonging to the defendants. Now it is renumbered as Sy No.74. The plaintiff with intention to grab the property defendants, has filed this suit. The plaintiff is interfering with the possession of the property of the defendants. In spite of the request, went in vain. The plaintiff has not made out prima-facie case and balance of convenience in her favour of the plaintiff. Accordingly, prayed to dismiss the application.

4. On basis of the application, plaint, written statement and documents on record, the following points that arise for the determination of this court.



1. Whether the plaintiff has made out prima-facie case in her favour?
2. Whether the balance of convenience lies in favour of the plaintiff?
3. Whether the plaintiff will be put to great hardship and irreparable loss if, order of temporary injunction is not granted?
4. What order?

5. Heard arguments. Perused the application, affidavit, objections and records placed before this court.

6. My finding on above points are as follows:-

**Point No.1** : In the *Negative*

**Point No.2** : In the *Negative*

**Point No.3** : In the *Negative*

**Point No.4**: As per the final order for the

following

**::REASONS::**

7. **Point No.1 to 3**: Since these points are inter connected with each other, they are taken together for the



discussion in order to avoid the repetition of the facts and circumstances.

**8.** The plaintiff has filed the present suit for the relief of permanent injunction in respect of suit schedule property. The plaintiff has contended that the suit schedule property was acquired by her husband under the partition and after this demise, the revenue records got mutated in the name of plaintiff. On the other hand, the defendants have contended that the land bearing Sy No.55 was granted in their favour and thereafter it was renumbered as Sy No.74. As per the records it appears on prima-facie that the property of Mallegowda is situated towards western side of Sy No.55 measuring 2 acres. The plaintiff has also produced RTC extracts in respect of Sy No. 74, which was appearing the name of said Mallegowda S/o Subbegowda and thereafter in the name of the plaintiff.

**9.** At the time of arguments, the learned counsel for defendants has produced Survey sketch in respect of



Sy No.74. On perusal of the same, it appears on prima-facie that the plaintiff had applied for Haddubastu and upon the survey , it was found that the land to an extent of 20 guntas has been encroached by the occupants of Sy no. 55. Thereafter the plaintiff has filed the present suit. Whereas, at this stage the plaintiff has not disclosed anything about the alleged survey and encroachment. Hence, at this stage, it appears that there is a cloud as to boundaries and encroachment, which requires full fledged trial.

**10.** Further, it appears on prima-facie that there is a cloud as to encroachment and boundaries. Hence, at this stage, if the application is allowed, it is the defendants who would put to irreparable loss and injury than in comparison with the plaintiff. Accordingly Point No.1 to 3 are answered in the ***Negative.***

**11. Point No.4:** For the above discussed reasons, this court proceeds to pass the following:

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**::ORDER::**

Application No.II filed by the  
plaintiff under order XXXIX Rule 1 and  
2 of C.P.C. is hereby dismissed.

No order as to costs.

[Dictated to the stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 19<sup>th</sup> day of January, 2026]

[Lakshmi Narasimha R.V,]  
C/c I Addl. Civil Judge and JMFC,  
Sakaleshpura.