

COMMON ORDERS ON IA No.II TO IV

I.A.No.II is an application filed by the applicants/plaintiffs under **Section 91 R/w Order 1 Rule 8(1) (A) of CPC**, praying this Court to preserve the representative nature of suit schedule properties in the interest of public and permit them to proceed with the suit in the representative capacity on behalf of other persons of the public in the interest of justice and equity. The plaintiffs have also filed IA.No.III under **Order 1 Rule 8(2) of CPC**, seeking permission to issue paper publication in daily Kannada newspaper 'Hosadiganth' to enable the general public to join the plaintiffs in the present suit.

2. The plaintiffs have also filed an application under **Order 39 Rule 1 and 2 of CPC** as IA.No.IV seeking an ad-interim order of temporary injunction restraining the defendant No.1 and 2 or anybody claiming under from using the suit 'A' schedule properties which were reserved as Gomala land/Pasturage/Hullugavalu land in the year 1958 by constructing any iron shed/house in any manner and from preventing the cattle from grazing in the said land which is/ are used by the villagers for grazing their cattle and for communal purpose till the disposal of the suit in the interest of justice and equity.

3. In the affidavit filed in support of the said applications, the plaintiff No.1 averred that, they have filed the present suit

against the defendants for the relief of Declaration, Mandatory Injunction and Permanent injunction in respect of the suit 'A' schedule properties restraining the defendant No.1 to 4 from changing the nature of property from Gomala/Hulugavalu without due process of law and that the suit schedule lands are to be declared as Gomala/Hulugavalu and also that the Government is absolute owner of the said Gomala/Hulugavalu. The plaintiffs have sought a direction to defendant No.1 to 4 that, the defendant No.1 and 2 have to remove the shed constructed in the suit schedule A(2) property and consequential relief of permanent injunction restraining the defendants or anybody claiming under them from peaceful use and enjoyment of the suit schedule A property through grazing their cattle by the plaintiffs and also the villagers of the Belagalapet.

4. The learned counsel for the plaintiffs has argued that the local politician by ignoring the public at large has succumbed to the needs of a particular community only by sending letter to the Tahshildar to grant funds and some lands of the Government to the said community. The learned counsel for the plaintiffs has argued that the local politician and the defendant No.1 to 4 are trying to grab the Government land by putting up structures in the Gomala causing interruption to the plaintiffs and other Villagers of the Belgalapete Village from grazing their cattle in the suit 'A' schedule properties. It is averred that the plaintiff No.1 and 2 are the residents of the Belgalapete Village and that they may be permitted to proceed with the suit in a representative capacity

and also preserve the representative nature of the suit 'A' schedule properties. Hence, prayed to allow the applications in interest of public welfare and interest.

5. The photocopy of the Aadhar cards show that the plaintiff No.1 and 2 are the residents of the Belgalapete Village and the suit 'A' schedule properties are alleged to be Gomala/pasturage for grazing cattle of the said Village and the grievance of the plaintiffs is sustainable to permit them to proceed the suit in representative capacity. It is pertinent to note that the defendant No.3 to 5 are Public Officers representing the Government. And already IA.No.I filed by the plaintiffs under Section 80 (2) of CPC dispensing statutory notice to the defendant No.3 to 5 is allowed and it was ordered to register as OS, looking to the emergent nature and urgency in the matter. But at this stage the plaintiffs have not made prima facie case in respect of IA.No.IV filed under **Order 39 Rule 1 and 2 of CPC**, as it would be appropriate to hear the defendants before passing any orders on IA.No.IV. Accordingly, I proceed to pass the following:-

ORDER

I.A.No.II and III filed by the plaintiffs under Section **91 R/w Order 1 Rule 8(1) (A) of CPC** and **Order 1 Rule 8(2) of CPC** are hereby allowed.

No order as to costs.

The plaintiffs are permitted to proceed with the case as a representative suit.

Office is hereby directed to issue paper publication after verifying the draft furnished by the plaintiffs.

Issue suit summons and emergent notice on **I.A.No.IV** to defendants returnable by **14.07.2026.**

Civil Judge & JMFC,
Hangal.