

IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.,
HANGAL

PRESENT: Smt.Aishwarya Chidanand Pattanshetti, B.COM, LL.M.,
Civil Judge & J.M.F.C., Hangal.

O.S.No.201 of 2025

DATED THIS THE 13th DAY OF NOVEMBER 2025

Plaintiffs : Kariyavva W/o Junjappa Bhovi
Age: 80 years, Occ: House hold work
R/o: Inam Yallapur, Tq: Hangal, Dist: Haveri.
And 5 others.

(By Sri.D.N.Kolkar – Adv.)

V/s.

Defendants : The Deputy Commissioner
Deputy Commissioner Office,
Devagiri, Haveri, Dist: Haveri.
and another.

(AGP)

PARTIES TO I.A.No.II

**Applicant/
Plaintiff:** Kariyavva W/o Junjappa Bhovi
And 5 others.

- V/s -

**Opponent/
Defendants:** The Deputy Commissioner
and another.

I	Provision under which the application is filed	U/o.XXXIX Rule 1 & 2 of C.P.C.,
II	Relief sought for	Temporary injunction
III	Date on which the application is filed	03-07-2025
IV	Number of application	I.A.No.II
V	The date of which objections filed by the different opponents	25-09-2025
VI	Date on which the order was passed on said application	13-11-2025

(Smt.Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC.,
Hangal.

ORDERS ON I.A.No.II FILED U/O XXXIX RULE 1 AND 2
OF C.P.C

The applicants/plaintiffs have filed this application U/o.XXXIX Rule 1 & 2 of C.P.C., seeking to restrain the defendant No.1 and 2 or anybody claiming under them from interfering with the peaceful possession and enjoyment of the plaintiffs over the suit schedule property till the disposal of the suit by way of ad-interim temporary injunction.

2. In the affidavit annexed to the application, the applicant/plaintiffs by reiterating facts asserted in the

plaint, have deposed to the facts that originally the suit schedule property in R.Sy.No.66 measuring 9 acres 21 guntas and 8 anna of Inamyallapur village of Hangal Taluk belongs to them by virtue of occupancy rights by order of Land Tribunal on 17-10-1981 its LRMSR:95:47+57+52+54 and same has been regranted on 30-07-2002 to Nagindrappa @ Nagappa S/o Junjappa Bhovi. It is stated that from that date to till this day the plaintiffs are cultivating and are in possession of the suit schedule property since last 44 years and it is an inherited property standing in the names of the plaintiffs.

(b) The plaintiffs have further submitted that, on 03-06-2025 the Deputy Commissioner, Haveri send the notice to them and stating that the private property in R.Sy.No.66 measuring 2 acres 5 guntas is proposed by Tahasildhar, Hangal as to form a residential area in the name of Gangaparmeshwari Nagar and they are not following specific procedures and transparency in acquisition of suit property as per Rehabilitation and Resettlement laws in an inadequate manner and the plaintiffs are depending upon the income derived out of the suit land. The plaintiffs have stated that they have filed objection to the notice issued by Deputy Commissioner, Haveri office on 17-06-2025 and the same copy forwarded

to the defendant No.2, but even before that some part of their agricultural land is used for road and they have not got any compensation from the defendants.

(c) The plaintiffs have further stated that the defendants are trying to create new road line map in their private land without their consent and without following the procedure and they have not adapted declaration of acquisition compensation, award/possession in a legal framework due to law. It is stated that the plaintiffs have made out a prima facie case, the balance of convenience lies in their favour and the irreparable loss will be caused to them if the present application is not allowed. On these grounds, the plaintiffs have prayed to allow the present application.

3. In response to suit summons, the defendant No.1 and 2 have appeared through AGP and resisted the present application by filing objections. In the objections it is contended that since from 20-25 years, 2 acres 5 guntas was used for residential purpose. As per section 38A of Land Reforms Act 2016, unauthorized residential houses in agricultural lands were entered under Gavatana properties and as such, R.Sy.No.66 measuring 2 acres 5 guntas out of 19 acres 29 guntas is residential house entered into

Grvatana properties and there are total 65 families in residential houses in land in R.Sy.No,66, 67/1, 5B, 6 and it is named as "Gangaparameshawari Revenue Sub village" and said matter was reported to the concerned department. It is contended that the plaintiffs have not produced sufficient and cogent documents to prove their case. On these grounds, the defendants prayed to dismiss the present application with cost.

4. Having heard and on perusal of the materials on records, the following points that would arise for my consideration:

1. ***Whether the plaintiffs have made out prima-facie case?***
2. ***Whether the balance of convenience lies in favour of plaintiffs?***
3. ***Whether the comparative hardship and injury caused to the plaintiffs is more when compared the same to the defendants?***
4. ***What order?***

5. My findings 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 final order,
for the following;***

:- R E A S O N S :-

6. **Point No.1 to 3:-** Since, these three points are interconnected with each other, the determination of which requires common facts and materials. Hence, these points are taken together for common discussion, in order to avoid repetition of facts. Admittedly, the plaintiffs have filed the present suit for the relief of permanent injunction and other reliefs against the defendants in respect of the suit schedule property.

7. Before having discussion on the merits of the application, it is just and necessary to bear in mind that, the interim order of injunction would be granted as an aid to the main relief. It is pertinent to note that, at this budding stage of the proceedings the Court need not conduct a mini trial. It is also necessary to bear in mind that, even after placing of the requisite materials in respect of aforesaid three ingredients, the Courts are required to consider the conduct of the parties, their approach in seeking equitable relief and has to exercise its discretionary power while granting an order of Temporary injunction as per the provisions of Specific Relief Act.

8. Before discussing the merit of the application, it is appropriate to highlight the admitted facts of this case. The plaintiffs have claimed that the suit schedule property R.Sy.No.66 measuring 9 acres 21 guntas and 8 anna of Inamyallapur village of Hangal Taluk belongs to them by virtue of occupancy rights by order of Land Tribunal on 17-10-1981 its LRMSR:95:47+57+52+54 and same has been regranted on 30-07-2002 to Nagindrappa @ Nagappa S/o Junjappa Bhovi. Further there is no dispute that the plaintiffs are in possession and enjoyment of the suit schedule property and that the defendants are trying to form a residential area in the name of Durgaparameshwari nagar in 2 acres 5 guntas in Sy.No.66.

9. On the other hand the learned AGP has contended that the since from 20-25 years, 2 acres 5 guntas was used for residential purpose. As per section 38A of Land Reforms Act 2016, unauthorized residential houses in agricultural lands were entered under Gavatana properties and as such, R.Sy.No.66 measuring 2 acres 5 guntas out of 19 acres 29 guntas is residential house entered into Grvatana properties and there are total 65 families in residential houses in land in R.Sy.No,66, 67/1, 5B, 6 and it is named as "Gangaparameshawari Revenue Sub village" and said matter was reported to the concerned department.

10. The plaintiffs have produced the copies of the notice dated 03-06-2025 given by the defendant No.1, objections filed by the plaintiffs, property extract, Re-grant order, Form No.10, Phodi record, Genealogical Tree, Death certificate of Sri.Nagappa Bhovi and Mutation Register respectively. On the other hand the learned AGP at the time of arguments has produced the 12 certificates issued by PDO Kallapura Grama Panchayath in respect of house tax paid by various persons to the Kallapura Grama Panchayath from the year 2001- 2025, but the date of issue is not mentioned. The learned AGP has also produced the true copy of the letter given by the defendant No.1 to the defendant No.2 dated 20-08-2025, wherein it is stated about the pendency of the present suit and WP.No.107932/2024 before the Hon'ble High Court of Karnataka, Dharwad and also directed the defendant No.2 to take permission from this Court for formation of Upa-Grama and submit a report.

11. The learned AGP has also produced the 11 certificates in respect of residents in Sy.No.66 dated 10.08.2025 issued by the PDO Kallapura Grama Panchayath, copy of details of the families residing in Sy.No.66, certified copies of the proposal for formation from Inamayallapura Village to Durgaparameshwari nagar, proposal of the Tahshildar, proposal of the Revenue

Inspector, 2- e Format, Check list, notifications, Dishank map, copies of Gazettes of Karnataka Government, circular of the Karnataka Government and map of residential area respectively.

12. In a suit for permanent injunction the burden is heavily on the plaintiff to prove that he/she is in the possession and enjoyment of the suit schedule property on the date of filing the suit. In the present suit on the basis of the documents the plaintiffs have shown that they are possession and enjoyment of the suit schedule property. It is pertinent to note that the plaintiffs have stated clearly that the defendants have not followed the due procedure, specific procedures and transparency in acquisition of the suit schedule property as per Rehabilitation and Resettlement laws in an adequate manner and they are depending upon the income derived from the suit schedule property.

13. At this stage it is quite evident that the concerned authorities have to follow the procedure before acquiring the lands for formation of a new nagar and further option is also available to give adequate compensation to the plaintiffs as they are depending upon the suit schedule property for their survival. Till necessary procedure is undertaken the plaintiffs cannot left without any remedy.

Further the defendants have not produced any documents to show the present status of the Writ Petition pending before the Hon'ble High Court of Karnataka as mentioned in the letter of the defendants.

14. At the time of arguments the learned counsel for the plaintiffs has relied upon the judgment of the Hon'ble High Court of Karnataka in (2023) 3 KCCR 2397 between K.V.Srinivas Rao Vs State of Karnataka dated 17-01-2013 wherein it is held that if at all the State wants properties the acquisition process under 2013 Act is the only course open.

15. Further the learned counsel for the plaintiffs has relied upon the judgment of the Hon'ble High Court of Karnataka in 2024 : KHC - K : 7366 between Smt. Jagadevi V/s State of Karnataka and others dated 25-09-2024, wherein it is held that the petitioner should not be deprived of compensation due to inter- departmental disputes.

16. It is to be noted that as per **GUJARAT BOTTLING CO.LTD V/s COCA COLA COMPANY 1995(5) SCC 545-** wherein the Hon'ble Apex Court held that the object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be

adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial.

17. Further as per **Order 39 of CPC** any order made temporarily prohibiting the defendant not to alienate, or to change or to damage the property in dispute during the pendency of the suit is called temporary injunction. In the case on hand, on the basis of the documents produced by the parties to the suit, at this juncture this Court has to ascertain what are the fair chances of plaintiff succeeding in the suit after termination of trial?. The plaintiffs have placed sufficient materials before the Court that, there exist a triable issue and the determination of which requires a trial. Therefore, as per the settled principles, when there exists a triable issue, it amounts to establishing of the prima facie case. The Temporary Injunction would be granted as an ancillary or an aid to main relief to protect the rights of the parties as per the settled principles.

18. The comparative hardship and irreparable loss or injury, which would be caused to the plaintiffs is more if an order of Temporary Injunction is not granted, when compared the same to the hardship and irreparable injury which would be caused to the defendants if an interim order of Temporary Injunction is granted. It is to be noted

in **2015(1) ICC 376- SMT.SHAKUNTHALAMMA AND OTHERS V/s SMT. KANTHAMMA AND OTHERS-** wherein the Hon'ble High Court of Karnataka, has held that Scope of Interim injunction, when can be granted, Court empowered to grant three types of orders under three different and distinct situations, firstly when the property was in danger of being wasted, damaged, alienated or wrongfully sold in execution of a decree, secondly when the disputed property was under the threat of being removed or disposed off by the defendant with the intention of defrauding his creditors and thirdly when the defendant threatens to dispossess the plaintiff or otherwise causes injury to the plaintiff in respect of disputed property.

19. In view of ratio held in above said decisions and my discussions, I am of the considered opinion that, the plaintiffs have made out a prima-facie case at this stage to grant temporary injunction as prayed. When, the plaintiffs have made out prima-facie case, then certainly balance of convenience also lies in favour of plaintiffs. In such circumstances, if temporary injunction as prayed is not granted in favour of plaintiffs, the irreparable hardship will be caused to the plaintiffs than the defendants. With these observations, I answer the **Point No.1 to 3 in the AFFIRMATIVE.**

20. **Point No.4:-** In view of my findings to the Point No.1 to 3, I proceed to pass the following;

ORDER

***I.A.No.II filed by the plaintiffs
U/o.XXXIX Rule 1 & 2 of C.P.C., is
hereby allowed.***

***Consequently, the defendant No.1
and 2 or anybody claiming under
them are hereby restrained from
interfering with the peaceful
possession and enjoyment of the
plaintiffs over the suit schedule
property till the disposal of the suit
by way of ad-interim temporary
injunction.***

***The parties shall bear their own
costs.***

(Dictated to Stenographer, directly typed by him on computer, once corrected and later initialed by me and then pronounced by me in the open court on this the 13th day of November - 2025)

***(Smt.Aishwarya Chidanand Pattanshetti)
Civil Judge & JMFC.,
Hangal.***