

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.  
AT RANEBENNUR.**

**PRESENT: Smt. Anitha O.A., B.A., L.L.M.,  
Prl. Civil Judge & JMFC,  
Ranebennur**

**Dated this the 11<sup>th</sup> day of July 2022**

**O.S. No.102/2021**

Plaintiff:- Prakash W/o Nagappa Humbi  
Age: 31 years, Occ: Agriculture,  
R/o. Shidaganala, Tq: Ranebennur,  
Dist: Haveri.

[By Sri. V.S.M., Advocate]

**-V/s-**

Defendant:- Channappa S/o Neelappa Pujar  
Age: 48 years, Occ: Lecturer,  
R/o. Shidaganala, Tq: Ranebennur,  
Dist: Haveri.

[Dft. By Sri. P.R.K., Advocate]

**I.A. No. I**

Plaintiff/Applicant :- Prakash W/o Nagappa Humbi

V/s

Opponents:- Channappa S/o Neelappa Pujar



## **ORDERS ON I.A. NO.1**

The applicant/plaintiff has filed I.A. No.1 U/O.39 Rule 1 and 2 of CPC for the relief of temporary injunction restraining defendant his agents, servants, attorneys or anybody on behalf of him from interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule property till pending disposal of the suit.

2. In the accompanying affidavit, it is submitted that, the suit schedule property bearing VPC No. 55 situated at Guddadanveri Ranebennur Tq: bounded by East: road, West: property of Rudraiah, Hiremat, North: Property of Channappa, Neelappa Pujar and South: Ravanasiddappa V. Hiremat is ancestral property of plaintiff and is residing over the same by constructing house. Towards eastern side of said house there is vacant place left by the plaintiff, after that there is a public road which is used by the plaintiff to reach main road towards western to eastern side. After due process the documents were mutated in the name of plaintiff and he is in possession of the same. Such being the situation, the defendant who is no way concern to suit schedule property, by stating that he is owner of adjacent property towards eastern side of suit schedule property causing obstruction to the plaintiff to use public road. Hence, this suit and application.
  
3. On the other hand, the defendant filed his objection by way of written statement, by denying plaint averments submitted that, since the



ancestors of the plaintiff and defendant, they are enjoying the properties respectively as a neighbor owners, towards southern side of defendants property there is no any vacant space as shown in the hand sketch, the plaintiff filed this suit for mere injunction unless declaration of disputed property, the suit for injunction is not maintainable. By creating e-swattu, utar beyond back of the defendant the plaintiff by stating wrong measurements filed this suit which is not maintainable. Hence, prays for dismissal of the same.

4. I have heard the arguments of both sides and perused the entire records. Based on the averments of the application and written statement, the points that arise for consideration of this court are:

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 would suffer irreparable loss and injury if the temporary injunction is not granted as prayed by them?
4. What order?

5. My answer to 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:

**::REASONS::**

6. **Points No.1 to 3:-** As these points are interlinked with each other, to avoid repetition of facts, they are taken together for discussion.

7. It is specific contention of the plaintiff that, he is absolute owner in possession of suit schedule property, such being the situation the defendant who is wrongly stating that, adjacent property owner towards northern side of suit schedule property restraining the defendant from using public road situated towards eastern side of suit schedule property. By denying the same, the defendant contended that by mentioning wrong boundaries obtained e-swattu document without due process of law, unless seeking for declaration over disputed property suit for mere injunction is not maintainable.

8. To substantiate his version, the plaintiff furnished documents such as copy of e-swattu, Original death certificate of father of plaintiff and original consent deed. On the other hand the defendant has not furnished any documents.

9. On keen perusal of documents furnished by the plaintiff it is found that, the property bearing VPC No. 55 measuring 250.85 Sqr. Feet vacant space, 107.10 Sqr. Feet house situated at Guddadanveri village bounded by East: road, West: property of Rudraiah, Hiremat, North:



Property of Channappa, Neelappa Pujar and South: Ravanasiddappa V. Hiremat, standing in the name of father of plaintiff i.e., Nagappa Humbi. The said Nagappa Humbi reported to be died on 17.12.2020. After his demise the plaintiff being his son is in possession and enjoyment of the same. The consent deed is alleged to be executed by brothers of Nagappa Humbi to mutate the suit schedule property in the name of plaintiffs father. Further, on keen perusal of copy of e-swattu there is no dispute with regarding ownership of the plaintiff over the suit schedule property and as admitted by the defendant also. But it is specific contention of the defendant that plaintiff colluding with panchayat officials without conducting survey, by mentioning wrong boundaries obtained e-swattu document. There is no any vacant space or road as contended by the plaintiff. But to substantiate the same the defendant not furnished any document. Further, there is no dispute that the defendant is adjacent property owner towards northern side of suit schedule property as per the hand sketch furnished by the plaintiff. Accordingly there is clear dispute is with regarding identification of the road as contended by the defendant and dispute with regarding boundaries of suit schedule property which has to be decided only after full fledged trial, until that if the defendant is succeeded restraining or obstructing the plaintiff from using public road as contended in the application it will cause irreparable loss to the plaintiff. Accordingly, it is just necessary to restrain defendant from



obstructing the plaintiff from using the alleged road to reach main road. Hence, I answer **Point No.1 to 3** in the **Affirmative**.

10. **Point No. 4:-** Based on the above reasons and discussions, I proceed to pass the following:-

**::ORDER::**

IA No.I filed by the plaintiff under Order 39 Rule 1 and 2 is hereby allowed.

The defendant and his agents, servants attorneys or anybody acting on behalf of him are hereby restrained by way of temporary injunction from obstructing the plaintiff from peaceful possession and enjoyment over the over suit schedule property till disposal of the suit.

No order as to costs.

(Dictated to the stenographer directly on the computer, typed, printout taken by him and corrected and then pronounced by me in the open court on this the 11<sup>th</sup> day of July 2022.)

Sd/-  
(Anitha O.A.)  
Prl. Civil Judge & JMFC.,  
Ranebennur.