



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

Dated on this the 02nd day of March 2026

**Present: Sri. ADITHYAKUMAR H.R, B.A.LL.B.
Prl. Civil Judge & JMFC.,Ranebennur.**

ORIGINAL SUIT NO.392/2025

Plaintiff: Sri. Rudrappa Basappa Harihar.
(Rep. By Sri. R.B. Adv.)

V/s

Defendants: Sri. Chandrappa S/o Basavanthappa
& others.
(Rep. By Sri. S.S.B. Adv.)

I.A. NO. I CAUSE TITLE.

Plaintiff/

Applicant : Sri. Rudrappa Basappa Harihar.

-Vs.-

Opponent/

Defendants: Sri. Chandrappa S/o Basavanthappa
& others.

**ORDER ON IA NO. I**

The present application is filed by the Plaintiff under Order XXXIX, Rules 1 and 2, read with Section 151 of the Civil Procedure Code, seeking to restrain the Defendants and any person claiming under them from interfering with his possession and enjoyment of the suit schedule property and from forming any new road thereon until the disposal of the suit.

2. Brief facts of the case necessary for the purpose of disposing the application are as under:

The Plaintiff has filed this suit seeking a permanent injunction restraining the Defendants from interfering with his possession and enjoyment of the suit property. *In brief*, the Plaintiff's case is that the parties are descendants of a common ancestor, and by virtue of an oral partition dated 26.02.1989, the suit property fell to the Plaintiff's share. Revenue entries were effected, and the property allotted to the Plaintiff was renumbered by way of Phodi Durasthi. Since then, he has been in possession and enjoyment of the suit property. The Defendants, in order to illegally remove and transport sand, are attempting to form a new road on the suit property and are interfering with the Plaintiff's possession. Hence, the



present suit.

2.1. In support of the application, the Plaintiff has sworn an affidavit reiterating the averments of the plaint and contended that the Defendants, by taking undue advantage of his innocence, are attempting to dispossess him and are trying to form a new road on the suit property. He further submitted that, if such dispossession occurs, the very purpose of filing the suit will be frustrated, and he will suffer irreparable loss. On the other hand, no harm or prejudice would be caused to the Defendants if the interim relief sought is granted. On these grounds, the Plaintiff prayed that the Court allow the application as filed.

3. Upon due service of summons, Defendants No. 1 to 3 appeared through counsel and filed their written statement, which is treated as their objection to the present application. They admitted the fact of the oral partition by metes and bounds. It was contended that the application is neither maintainable in law nor on facts, that the Plaintiff has not approached the Court with clean hands, has failed to establish a prima facie case for granting a temporary injunction, and that the balance of convenience is not in his favor. It was



specifically submitted that the boundaries described in the plaint schedule are incorrect, that there is a cart road being used by the Defendants for ingress and egress to their properties, and that there is no alternative route. The Defendants further contended that the grant of a temporary injunction is not maintainable and denied the cause of action. Accordingly, they prayed for dismissal of the application.

4. Heard the arguments of Counsel for either side, perused the materials available on record.

5. After carefully analyzing and upon the perusal of the plaint, affidavit sworn to the application and the objection put forth by the defendants and other materials available on record, the following points arise for my consideration.

I. Whether the plaintiff has made out a prima facie case to grant the relief as sought for in the IA-I.?

II. Whether the plaintiff proves that balance of convenience lies in his favour as regards the IA-I.?

III. Who will be put to irreparable loss and injury if the IA-I is rejected or granted.?

IV. What order?



6. After giving its anxious consideration and after carefully perusing the documents produced at this stage of the matter, this court answers the aforesaid points as under:

Point No.1 : In the Affirmative.

Point No.2 & 3 : In the Affirmative.

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

REASONS

7. POINT NO.1:

At the outset, it is incumbent upon this Court to note that the plaintiffs seek to invoke the provisions of Order XXXIX Rules 1 and 2 of the Civil Procedure Code. Upon perusal of the prayer made in IA-I, it is clear that the case of the plaintiffs falls within **Clause (c)** of Order XXXIX Rule 1, which verbatim reads as follows:

*"Where in any suit it is proved by affidavit or otherwise:-
(inter alia).*

***(c)** that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit."*

The reason this Court considers that the relief sought in this application falls within the ambit of **Clause (c)** is that the clause is intended to protect an applicant from two



apprehensions: either dispossession or causing injury to the applicant's property. Since the plaintiff seeks to restrain the defendant from interference, it is evident that the apprehension is that the defendant's actions, if not curtailed, would cause injury to the plaintiff's possession of the suit schedule property. It is needless to state that, to successfully maintain this application, the plaintiffs must first demonstrate the existence of a prima facie case in their favor.

7.1. It is also necessary to clarify that the requirement for the court to be satisfied that the plaintiff has a prima facie case before granting a temporary injunction does not mean that the court must examine the merits of the case in detail or conclude that the plaintiff is likely to succeed. The court need only satisfy itself that, on the face of it, the applicant has a case that requires consideration and is not bound to fail due to any apparent defects.

7.2. Keeping the above principles in mind, the Court now turns to the materials and pleadings on record. It appears that the Plaintiff claims a prima facie case over the suit property based on the prior family partition by metes and bounds and his lawful possession. However, mere possession and ownership



do not entitle him to succeed in an application for an interim injunction. The Plaintiff must demonstrate, through prima facie evidence or supporting documents, the existence of a case in his favor. Additionally, he must show the nature and imminence of the threat posed by the Defendants that necessitated the relief of injunction.

7.3. In their objection, the Defendants have admitted the prior partition by metes and bounds and the Plaintiff's possession of the suit property. However, they specifically contended that there exists a cart road to approach their respective properties and claimed rights of easement over the suit property. Although the Defendants asserted rights of easement by necessity, there are no specific pleadings in the written statement, nor any prima facie documents to show that such rights were reserved at the time of the oral partition. They have only produced photographs, which merely depict the formation of a new road.

7.4. The Plaintiff has produced mutation and RTC extracts, which prima facie establish that, by virtue of the family partition, the suit property fell to his share and the revenue entries were effected accordingly. On perusal of the



mutation entry, which was based on the Varadi of the oral partition, no rights of easement were reserved for any party. The suit property fell to the Plaintiff's share, and the records do not indicate the existence of a cart road as claimed by the Defendants. In the absence of any counterclaim or specific pleadings regarding easement rights, the Defendants' contention cannot be accepted at this stage. Accordingly, this Court is of the considered opinion that the Plaintiff has established a prima facie case.

7.5. It is settled law that the grant of an injunction is a discretionary relief. Such discretion is exercised only when the Court is satisfied that there is a serious disputed question to be tried, that there is a probability of the applicant being entitled to the relief claimed, and that interference is necessary to protect the party from irreparable injury. In other words, the Court must be satisfied that withholding the injunction would likely cause greater hardship, mischief, or inconvenience than granting it. Without delving into the merits of the case or conducting a mini-trial, this Court is of the considered view that the Plaintiff has made out a prima facie case for the grant of a temporary injunction as claimed. Accordingly, Point No. 1 is answered in the **affirmative**.



8. POINTS NO.2 and 3:

The second condition for granting an interim injunction is that the balance of convenience must lie in favor of the applicants. In other words, the court must be satisfied that the comparative mischief, hardship, or inconvenience likely to be caused to the applicants by refusing the injunction would be greater than that likely to be caused to the opposite party by granting it.

8.1. The existence of a prima facie case alone does not entitle an applicant to a temporary injunction. The applicant must further satisfy the court of the third condition by showing that he will suffer irreparable injury if the injunction is not granted and that no other remedy is available to protect them from the consequences of the apprehended injury.

8.2. The learned counsel for the Plaintiff argued that, if the Defendants are not restrained from interfering, the risk of his dispossession and the formation of a new road encroaching the suit property cannot be ignored, and the Plaintiff would suffer great hardship. In support, he relied on the Plaintiff's possession and the admitted facts. Conversely, the learned counsel for the Defendants contended that granting the



injunction could cause obstruction and potential damage to the Defendants.

8.3. While granting or refusing an injunction, the Court must exercise sound judicial discretion to assess the potential mischief or injury likely to be caused to the parties if the injunction is refused, and compare it with the injury likely to be caused to the opposite party if it is granted. If, upon weighing these competing possibilities, the Court finds that the subject matter should be preserved in its existing state pending the suit, an injunction may be issued. In doing so, the Court is not required to examine the merits of the case in detail at the stage of deciding a temporary injunction.

8.4. As discussed, it is apparent that the Plaintiff has demonstrated possession and enjoyment of the suit property, which the Defendants have also admitted. This Court has already held that the contention regarding easement rights and the existence of a road are matters to be adjudicated at trial. If such interference were permitted at this stage, the Plaintiff would suffer significant hardship, and his rights would be curtailed. Conversely, restraining the Defendants from interfering with the Plaintiff's possession would not cause them



any hardship or damage.

8.5. Thus, this Court is of the opinion that if IA No. 1 is not allowed, greater mischief and hardship will be caused to the plaintiffs, who have succeeded in establishing a prima facie case. Considering all aspects, the Court finds that the plaintiffs would suffer irreparable loss and hardship greater than that which the defendants might incur, and such loss cannot be adequately compensated in terms of money. Accordingly, the Court answers these two points in the **affirmative**.

9. POINT NO. 5:

For the foregoing reasons and in view of the finding given by this court on Point No. I to III, this court proceeds to pass the following:

ORDER

“ I.A. No. 1 filed by the plaintiffs under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC is hereby allowed.

Defendants, their legal representatives, agents, servants, or anyone acting on their behalf are temporarily restrained from causing any kind of interference with the possession and enjoyment of the plaintiff and forming any new road in the suit property until the disposal of the suit.



The parties are directed to cooperate for the early disposal of the case.

No order as to cost.”

(Dictated to the Stenographer directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 02nd day of March 2026).

Sd/-

**(ADITHYAKUMAR H.R)
Prl. C.J. & JMFC Court,
Ranebennur.**



(Order pronounced in open court vide separate order)

ORDER

“ I.A. No. 1 filed by the plaintiffs under Order XXXIX Rules 1 and 2 read with Section 151 of the CPC is hereby allowed.

Defendants, their legal representatives, agents, servants, or anyone acting on their behalf are temporarily restrained from causing any kind of interference with the possession and enjoyment of the plaintiff and forming any new road in the suit property until the disposal of the suit.

The parties are directed to cooperate for the early disposal of the case.

No order as to cost.

For hearing on FCMH by; 13.03.2026.”

**Prl. C.J & JMFC Court
Ranebennur.**