



IN THE COURT OF PRL. CIVIL JUDGE & I ADDL. JMFC.,
RANEBENNUR.

Dated on this the 05th day of July 2025.

Present: Sri. ADITHYAKUMAR H.R, B.A.LL.B.

Prl. Civil Judge & I Addl. JMFC.,Ranebennur.

ORIGINAL SUIT NO.364/2024

Plaintiff: Irappa S/o Shankrappa Nagavatha

(Rep. By Sri. S.B.S., Advocate)

V/s

Defendants: P.D.O., Gramapanchayath,
Nukapur and others.

(Dft.No.2 to 5 By A.G.P.)
(Dft.No.1 By A.A.P.)

I.A. NO. II CAUSE TITLE.

Plaintiff/
Applicant: Irappa S/o Shankrappa Nagavatha

-Vs.-

Defendants/
Opponents: P.D.O., Gramapanchayath,
Nukapur and others.



ORDER ON IA NO.II

The application under consideration is filed by the plaintiff under Order XXXIX Rule 1 and 2 R/w. Sec. 151 of CPC, seeking that the defendants or their men, agents, servants or henchmen be restrained from interference in the possession and enjoyment of the plaintiff in the suit schedule property or from removing the betel plants grown by the plaintiff in the suit property till the disposal of the suit.

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

2.1). The Plaintiff has filed this suit for permanent injunction and such other reliefs. It is averred in the plaint that, he has purchased the suit property from his erstwhile owner through a registered sale deed dated; 20-04-2009 and he has been in possession and enjoyment of the suit property growing the betel plants for his livelihood. The defendants being the government authorities colluding with some local people all of sudden came to the spot and conducted a survey holding that, the plaintiff has encroached 0.10 guntas of adjacent public land which was reserved for graveyard. Further also attempted to remove the crops and dispossess him from the suit property. Despite several approaches, defendants continued with their hostile attitude and making illegal



attempts to remove the betel plants grown by the plaintiff. Hence, the plaintiff constrained to approach this court by filling this suit.

2.2). In support of the application, the Plaintiff has sworn to the affidavit by reiterating the plaint averments and he has further contended that, despite having no rights or interest the defendants by taking undue advantage of innocence of the plaintiff and colluding with local people, they are trying to obstruct the peaceful possession and enjoyment of Plaintiff in the suit property and also trying to remove the betel plants grown by him. If the application is not allowed, they will put to great hardship and on the other hand, no harm or prejudice will be caused to the defendant if the interim order as sought for by the plaintiff is granted. Among these grounds, the applicant seeks that this Court be pleased to allow the application as prayed for.

3). Upon due service of the suit summons the defendant No.1 has appeared through the Counsel and filed written statement and adopted the same as objection to the application contending that, the Plaintiff has suppressed true facts before the Court and filed this false suit and application is liable to be dismissed as not maintainable. Further also denied the cause of action to this suit. It is further contended that, as per survey records, the defendant has encroached 0.10 guntas of



graveyard area. In order to protect his illegal encroachment, he has filed this false suit and application. Among these grounds sought to dismiss the application with cost.

4). Heard the arguments on application by the 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.

POINTS

1. Whether the plaintiff has made out a prima facie case to grant the relief as sought for in the IA-2.?

2. Whether the plaintiff proves that balance of convenience lies in their favour as regards the IA-2.?

3. Who will be put to irreparable loss and injury if the IA-2 is rejected or granted.?

4. 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 afore raised 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:

7.1). At the outset it is incumbent upon this Court to note here that, the provision that the Plaintiff seeks to invoke here is Order XXXIX Rule 1 and 2 of Civil Procedure Code. After perusal of the prayer sought in the IA-I it is needless to state that the case of the Plaintiffs, as regards the IA-I falls within Clause (c) of Order XXXIX Rule 1 of Civil Procedure Code, 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 why this court considers that the relief sought by way of this application falls within the ambit of clause (c) is because, the said clause seeks to protect the applicant from two apprehensions either dispossession or causing injury to the plaintiff's property; and because



the relief sought by the plaintiff by way of this application is to restrain the defendant from interference, it becomes obvious that the apprehension of the plaintiff is that the activities of the defendant if not curtailed would cause injury to the plaintiff's possession over the suit schedule property. Needless to state in order to successfully maintain this application the plaintiff should first demonstrate existence of *prima facie* case in their favor.

7.2). The rule that before the issue of a temporary injunction, the court must satisfy itself that the plaintiffs have a *prima facie* case, it does not mean that, the court should examine the merits of the case closely and come to a conclusion that the plaintiff has a case in which he is likely to succeed. All that, the court has to see is that on the face of it the person applying for an injunction has a case which needs consideration and which is not bound to fail by virtue of some apparent defects.

7.3). Keeping the above principles in mind, let this court turn to the materials and pleadings available on record. With these aspects in mind when the records are perused, it becomes evident that the plaintiff claims *prima facie* case on the suit property based on the registered sale deed and his lawful possession therein. However,



merely because the documents are in the name of the plaintiff, he cannot maintain an application for interim injunction successfully, instead he has to demonstrate through some prima facie materials or documents in support of their case. In addition to this, he has to show what is the imminent threat from the defendants that prompted him to seek the relief of injunction.

7.4). On going through rival claim, the sale deed executed in favour of plaintiff and his ownership and title is not under dispute. Further, the possession of Plaintiff within the description of property appearing in the sale deed and plaint schedule is also not under dispute. More importantly, the lawfulness of possession over the extent appearing in the sale deed is noway disputed any of the defendants. But, it is the contention of defendants that, apart from the property purchased by the plaintiff he has made alleged encroachment and cultivating the same.

7.5). Though defendant No.1 contended as the plaintiff has encroached the graveyard, there is no piece of materials before the court to show that, the plaintiff has encroached the alleged portion and he has been in possession of the property exceeding the extent purchased by him. If the contentions of defendants was true, they



could have produce any prima facie materials or survey materials before the court that, the plaintiff is in actual possession exceeding the extent he purchased. The plaintiff has filed this suit seeking the injunction to restrain defendants within the boundaries appearing in the undisputed registered sale deed. Such being the case, it prima faice establishes that, the Plaintiff is in lawful possession of suit property. Further, photographs produced by the plaintiff prima facie proves the existence of betel plants in the suit property.

7.6). It is a very well settled law that, the grant of injunction is a discretionary relief, the exercise thereof is subject to the Court satisfying that there is a serious disputed question to be tried in the suit and that an act, on the facts before the Court, there is probability of his being entitled to the relief asked for by the plaintiff/defendant and the court's interference is necessary to protect the party from the species of injury. In other words, irreparable injury or damage would ensue, before the legal right would be established at the trial and further that, the comparative hardship or mischief or inconvenience which is likely to occur from withholding the injunction will be greater than that would be likely to arise from granting it.



7.7). The arguments of Counsel for defendant No.1 with regard to existence of graveyard within the boundaries of sale deed or plaint schedule or validity of registered sale deed cannot be decided at this stage. The same can be proved by way of full pledged trial. Hence, at this stage, without going into the merits of the case or going through the title or holding a mini trial, this court has considered the aspect of Prima facie case. The primary purpose for granting interim relief is the preservation of the things in dispute till legal rights and conflicting claims of the parties before the court are adjudicated. As such at this stage of the suit, without giving any expression on merits of the case, it is the firm opinion of the Court that, the plaintiff has been in possession of suit property within the boundaries appearing in the sale deed and plaint schedule and he has succeed to make out a prima-facie case in his favour. Wherefore this court finds no hesitation in holding the Point for Consideration No.(I) in the **Affirmative**.

8). Points No.2 & 3:

8.1). The second condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. In other words, the court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant



by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.

8.2). The existence of the prima facie case alone does not entitle the applicant for a temporary injunction. The applicant must further satisfy the court about the third condition by showing that he will suffer irreparable injury if the injunction as prayed is not granted and that there is no other remedy open to her by which he can protect himself from the consequences of apprehended injury.

8.3). The Learned Counsel for the Plaintiff argued before the Court that, since the plaintiff is the owner in possession of the suit property, he has grown betel plantation and the same is very much necessary for his livelihood. It is further contended that, if the application is not allowed, the defendants will remove the betel plants and may causes damages to the suit property.. Hence the Defendants have to be temporarily restrained, otherwise the Plaintiff will be put to irreparable loss and hardship. In support of his case the counsel for plaintiff again relied upon the sale deed and photographs to show the existence of betel plantation. Per contra, the Counsel for the Defendant No.1 contended that, if the defendants are restrained, the plaintiff will enjoy



the property in which encroachment is made.

8.4). The court while granting or refusing to grant injunction should exercise sound judicial discretion to find the amount of substantial mischief or injury which is likely to be caused to the parties, if the injunction is refused, and compare it with that which is likely to be caused to the other side if the injunction is granted. If on weighing competing possibilities or probabilities of likelihood of injury and if the court considers that, pending the suit, the subject matter should be maintained in status quo, an injunction would be issued. Thus this court has to exercise its sound judicial discretion in granting or refusing the relief of ad interim injunction pending the suit. At the stage of deciding the application for temporary injunction, the Court is not required to go into the merits of the case in detail.

8.5). This court has gone through the pleadings and materials on record, as already discussed apparently it is clear that, the Plaintiff has been in the possession of the suit property within the boundaries appearing in the sale deed and also clear that, he has grown betel plants over the same. In such circumstances, if the defendants are not restrained until disposal of this suit, the chances of removal of plantation and causing damages to the possession of plaintiff cannot be



ignored. Hence, at this juncture this court feels to opinion that, if the defendants are not restrained from their interference to the possession of Plaintiff, he will be put to great hardship and loss more than the loss causing to the defendants. Further, the legality of sale deed or its extent cannot be decided at this stage without a full pledged trial to form a conclusive opinion.

8.6). In these circumstances this Court is of the opinion that if IA No.1 is not allowed more mischief and hardship will be caused to the Plaintiff who is succeeded to prove his prima faice possession and he will be put to great hardship. By considering all these aspects this Court is of the opinion that if the application is not allowed, the Plaintiff will be put to irreparable loss and hardship more than the defendants and the same can not be compensated in terms of money. Hence, this Court proceeds to answer these two points in the **Affirmative.**

9) POINT No.IV:

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.2 filed by the plaintiff U/O 39 Rule 1 and 2 R/w. Sec. 151 of CPC is hereby allowed.

The defendants, their legal representatives, agents, servants or anybody acting on their behalf are hereby temporarily restrained from interfering with the possession and enjoyment of the plaintiff in the suit schedule property and also restrained from causing damages to the betel plants grown in the suit property till the disposal of the suit.

It is hereby made it clear that, the parties shall not take any disadvantage of this order to cause the delay of proceedings.

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 05th day of July, 2025).

Sd/-

**(ADITHYAKUMAR H.R)
Pri. C.J. & I Addl. JMFC.,
Ranebennur.**

