

KAKB220041242024



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

PRESENT

**SMT.SUMAN CHITARGI, B.COM., L.L.M.,
PRL. CIVIL JUDGE & JMFC
ALAND**

DATED THIS THE 8TH DAY OF DECEMBER - 2025

ORIGINAL SUIT No.83/2024

PLAINTIFFS:

1. Kashinath S/o Saibannappa Jamadar,
Aged: 56 years, Occ: Agriculture,
 2. Hawanappa S/o Shivasharanappa Zanjare,
Aged: 42 years, Occ: Agriculture,
 3. Mallayya S/o Hanamayya Guttedar,
Aged: 65 years, Occ: Agriculture,
 4. Sunil S/o Mandan Rao Mugale,
Aged: 27 years, Occ: Agriculture,
- Above all are R/o Village Shukrawadi, Tq: Aland,
Dist: Kalaburagi.

(By Sri.P.V.Apte Advocate)



V/s.

DEFENDANTS:

1. Mohan S/o Gopalchand Pawar,
Aged: 42 Years, Occ: Agriculture,
2. Naganna S/o Basanna Kore,
Aged: 65 Years, Occ: Agriculture,
3. Baburao S/o Basanna Kore,
Aged: 72 Years, Occ: Agriculture,
4. Shivaputra S/o Shamrao Biradar,
Aged: 72 Years, Occ: Agriculture and Retd. Govt.
Servant,
5. Shivalingappa S/o Sharanappa Kore,
Aged: 68 Years, Occ: Agriculture,
6. Gurunath S/o Sidramappa Kore,
Aged: 52 Years, Occ: Agriculture,
7. Ishwar S/o Shivayogappa Kamalapur,
Aged: 42 Years, Occ: Agriculture,
All are R/o Village Honnalli, Tq: Aland,
Dist: Kalaburagi.
8. Assistant Executive Engineer,
PRE-Sub Division, Aland
Near B.R.Patil, Higher P. School, Aland,
Dist: Kalaburagi.



9. Madanrao S/o Namadev Mulge,
Aged: 54 Years, Occ: Agriculture,
10. Megharaj S/o Mahantappa Busanoor,
Aged: Major, Occ: Agriculture,
11. Laxmikant S/o Baburao Ladanti,
Aged: 30 Years, Occ: Agriculture,
12. Shrishail S/o Baburao Harakud,
Aged: 30 Years, Occ: Agriculture,
13. Mallappa S/o Appanna Dudge,
Aged: 72 Years, Occ: Agriculture,
14. Shantappa S/o Kallappa Patil,
Aged: 78 Years, Occ: Agriculture,
15. Shambhuling S/o Yeshwantrao Bhusnoor,
Aged: 46 Years, Occ: Agriculture,
16. Bandeppa S/o Shivapujappa Mardi,
Aged: 44 Years, Occ: Agriculture,
17. Jayaraj S/o Laxman Mane,
Aged: 54 Years, Occ: Agriculture,
18. Ishwar S/o Baburao Dudge,
Aged: 37 Years, Occ: Agriculture,
19. Prakash S/o Naganna Dudge,
Aged: 41 Years, Occ: Agriculture,
20. Savitri W/o Shrimant Bhusanure,
Aged: 35 Years, Occ: Household,



21. Kavita W/o Mohan Mugale,
Aged: 52 Years, Occ: Household,
22. Nagamma W/o Suryakant Ranjeri,
Aged: 47 Years, Occ: Household,
23. Ratnabai W/o Dattatreya Ranjeri,
Aged: 57 Years, Occ: Household,
24. Siddamma W/o Manohar Ladanti,
Aged: 52 Years, Occ: Household,
25. Shantabai W/o Veerbhadrapa Ranjeri,
Aged: 49 Years, Occ: Household,
26. Sunita W/o Janardhar Bhalke,
Aged: 52 Years, Occ: Household,
27. Siddamma W/o Naganna Belekere,
Aged: 52 Years, Occ: Household,
28. Savita W/o Shrimant Bhusnure,
Aged: 35 Years, Occ: Household,
All are R/o Shukrawadi, Tq: Aland,
Dist: Kalaburagi.

**(D1 to 4 & 7 - by Sri.A.W.A, Advocate,
D5, D6 & D9 to 28 - by Sri.R.M.T.Advocate
& D8 - by Sri.Z.H.T, Advocate)**



ORDER ON I.A.NO.III

The plaintiffs have filed application under Order XXXIX Rule 1 and 2 of C.P.C. seeking an exparte order of temporary injunction restraining the defendants their agents, servants and any other persons claiming through them from causing any sort of obstruction in the user of the public road leading from Honnalli village to Shukrawadi in west to east direction, till the disposal of the suit on merits.

2. In the affidavit annexed to the application, the plaintiffs have reiterated the plaint averments and further stated that they have made out existence of prima facie case and balance of convenience leans in their favour and also stated that if the said application is not allowed, they will be put to loss and hardship.

3. The defendants No 1 to 4 and 7 have appeared through their counsels and filed written statement-cum-objections to the said I.A. The defendants have stated that the suit and application filed by the plaintiffs are not maintainable under



law. It is further stated that the suit of the plaintiffs are totally false and baseless and among all grounds, the defendants sought for rejection of the application with costs. Defendant No.8 and Defendant No.5, 6, 9 to 28 are not objecting the claim of the plaintiff.

4. Based upon the above said respective contentions of the rival parties to the suit, the following points would arise for consideration of the Court:

1. Whether the plaintiffs have established the existence of prima facie case in their favour at this stage of the suit?
2. Whether the plaintiffs have established the existence of balance of convenience in their favour?
3. Whether the plaintiffs further prove that the order of temporary injunction is not granted, they will be put to great and irreparable loss and hardship?
4. If so, what order?



5. I have heard Shri.PVA advocate for plaintiff, Shri.AWA, RMT and Shri.ZHT advocates for defendants. After hearing both the parties and on perusal of the records, the court proceeds to answer aforesaid 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 the final order

for the following:

REASONS

6. **POINTS NO.1 TO 3:-** These points taken together, for discussion in order to avoid repetition of facts as they are interconnected with each other.

On perusal of the records, it reveals that, plaintiffs have filed this suit for the relief of Declaration and Consequential relief of Injunction in respect of public road against defendants. Now plaintiffs have filed this application seeking temporary injunction order against defendants their agents, servants and any other persons claiming through them from



causing any sort of obstruction in the user of the public road leading from Honnalli village to Shukrawadi in west to east direction.

7. It is the specific case of the plaintiff that, the suit property is a Government Road running from West to East which is leading to Shukrawadi village of the plaintiffs which is coming from Honnalli village and passing through the lands belonging to the defendants bearing Sy.No.14/3 and Sy.No.15/E, Sy.No.17/2A, Sy.No.29 and Sy.No.30 of Honnalli village which is a public road and being used by all the people at large of neighboring village. The public road is shown as A-B in suit schedule "A" called as suit property. The suit is of the nature of public interest at large this suit being filed by the plaintiffs in representative capacity. The plaintiffs are residents of village Shukrawadi and using the suit public way running from west to east to reach their village Shukrawadi from Aland and the said road is in existence since time immemorial and the same is used by the



people to reach their respective lands. The KSRTC buses from Aland to Shukrawadi are also running on the same suit property as convenience to the people of the neighboring villages. The defendants without any reasons putting obstacles to either side of the road thereby blocking the traffic on the said A-B road. Recently some of the defendants have give notice to the Depot Manager Aland and Division Commissioner of KSRTC Kalaburagi with mentioning that there is some court decree and as per the said decree they requested them to stop the running of busses on the suit property. The said decree which is obtained by misrepresenting the facts against someone and under the grab of that decree they are trying to restrain the people at large from making use of the public road which is meant for public at large. On 25.04.2024 the defendants have made blockage on the road by putting the obstacles and started to restrain the people to make use of the road on the basis of some decree which is not at against the plaintiffs. The public



road is having mention in the survey records and on the spot there is well beaten metal road is existing on the spot since more than 40 to 50 years and using the same by public without any interruption either by defendants or their ancestors. The plaintiffs have made out prima facie case and balance of convenience lies in their favour and they have approached before the court with clean hands. The defendants are strong and not law abiding persons. Hence the illegal activities of defendants will not be checked in time it will lead to hardship and inconvenience for the people at large and it will lead to multiplicity of litigation. Hence, prayed to allow the IA and to grant TI as prayed for.

8. On the other hand, the defendants No.1 to 4 and 7 have filed their separate written statement and filed their adoption memo to treat the contents of written as objection to the IA-3 and in the written statement they have denied the entire contents of plaint as false and prays to dismiss the suit with exemplary cost of Rs.25,000/-. Further contended that



defendants are the owners in possession of agricultural lands bearing Sy.No.14/3, 15/E, 17/2A, 29 and 30 of Honnalli village and in the year 2014 the Zilla and Taluka Panchayat Authorities had tried to lay a road from the said lands of defendants without acquiring and without paying compensation so defendants had filed the suit for perpetual injunction against the said Authorities in O.S.No.42/2014 and on merits the said suit came to be decreed on 20.12.2014 and the said authorities perpetually restrained from interfering into the possession of defendants over their properties and also perpetually restrained from laying road in defendants land. Till today the said judgment and decree not challenged and it has become final. The public road starts from Tadakal proceed to Shukarwadi then to Honalli then to Aland it passes from land Sy.No.31, 32, 28, 16, 19, 20, 22, 81, 80 and 38 of Honalli village, Tq: Aland, the said public road is shown in the village map of Honalli. Public at large, buses, trucks, tractors and other vehicles ply on the said



road to reach Shukrawadi, Honalli and Aland which is existing since time immemorial days and it is a permanent pakka tar road. Plaintiffs and the persons claiming through them uses this road to reach their respective destinations. The alleged suit road as alleged by the plaintiffs is not at all existing in the lands of defendants. The malafide plaintiffs by misleading the court wants to the court to believe the said Tadkal, Shukrawadi, Honalli to Aland road to the situated in the defendants land i.e. far away from truth and reality. The documents submitted by the plaintiffs false and concocted one, hence prays to dismiss the petition. Likewise the defendants No.10 and 16 who filed their separate consent written statement which was adopted by defendants No.5, 6, 9, 11 to 15 and 17 to 28 and thereby have prayed to decree the suit filed by the plaintiffs. Likewise the defendant NO.8 also filed consent WS seeking decree of the suit.

9. In support of their case plaintiffs produced Certified copy of Honalli village Map, five photographs along with



compact disc and the receipt produced by the photographer, certified copies of the report filed by the Taluka Surveyor dated 16.02.2023 and copy of notice by the defendants issued to the Depot Manager of KSRTC, Aland.

10. On the other hand, the defendants have produced ROR and certified copy of the judgment and decree passed in O.S.No.42/2014 dated: 20.12.2014.

11. Having heard the learned counsel for the plaintiff and the defendants, I have bestowed my thoughtful consideration to the rival contentions and also the materials available on record, it reveals that it is specific case of the plaintiff that the suit property is the public road which is existing from time immemorial and from 30-40 years there existing well beaten metal road and the defendants obstructing to use the said road but the defendants contended that they obtained the decree in O.S.No.42/2014 on 20.12.2014 against concerned authorities and the said authorities perpetually



restrained from interfering into the possession of defendants over their properties and also perpetually restrained from laying road in defendants land also contended that there is a another permanent road which is passes through Sy.No.31,32,28,16,19,20,22,81,80 and 38 and people at large including the plaintiffs using the said road. It is further case of the defendants that, the defendant No.1 to 4 and 7 using the vahivat way to reach their land and other persons are not permitted to use the said land, inspite of that the plaintiffs approached the court with malafide intentions with false documents hence prays to reject the application.

12. It is important to note that, on going through the documents relied by the plaintiffs and the defendant No.8 it appears that the tar road is already existing and it is not appears to be vahivat road only used for the private purpose. It is also important to note that the plaintiffs also relied on the Judgment and decree passed in O.S.No.203/2009 which was filed by the defendant No.2 and 3 against defendant No



5 and others for declaration and injunction to declare them as owners of land Sy.No.29/1 po9 and 29/po 11 and injunction for not to interfering into the suit properties. In the said suit the defendant them selves pleaded about existing of tar road between the plaintiffs and defendant and the said suit was dismissed and appeal filed against said judgment in RA.No.4/2017 was also dismissed therefore it appears that defendants are hiding something before the court. It is also important to note that no doubt there is a injunction order passed in O.S.No.42/2014 which was not against plaintiffs, but it was against the taluka panchayat and others regarding not to lay any road in suit property but the photographs and documents relied by the plaintiffs and defendant No.8 shows that already the tar road is in existence. It is important to note that, whether the suit property is existing from time immemorial or from 30-40 years or there is any alternative road requires full fledged trial. At this stage when it prima facia appears that the road



is already existing and the plaintiffs having lands adjacent to the suit road they require to pass through the suit property if they are prevented they will be put to loss and therefore, the plaintiffs have made out a prima-facia case, balance of convenience lean in their favour and if injunction is not granted they will be put to irreparable loss. **Hence I answer points NO.1 to 3 in the affirmative.**

13. **POINT No.4:-** In view of the aforesaid findings on points No.1 to 3, the court proceeds to pass the following:

ORDER

I.A.No.III filed by the plaintiffs Under Order XXXIX Rule 1 and 2 of C.P.C is hereby allowed.

Consequently the defendants their agents, servants and any other persons claiming through them are hereby restrained from causing any sort of obstruction in the user of the public



road leading from Honnalli village to
Shukrawadi village in the East-West
direction, till further orders.

No order as to costs.

(Dictated to the Stenographer on Computer directly, typed by him, Order corrected and signed by me, then pronounced by me in the Open Court on this the 8th day of December - 2025)

Date: 08.12.2025

(SUMAN CHITARGI)
PRL.CIVIL JUDGE & JMFC
ALAND

Dictated on : 08.12.2025
Checked on : 08.12.2025
Signed on : 08.12.2025

(SUMAN CHITARGI)
PRL.CIVIL JUDGE & JMFC
ALAND

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