



**IN THE COURT OF CIVIL JUDGE & JMFC., AT: AFZALPUR.**

**PRESENT**

**Sri. ANIL AMATE**, B.A. L.LB(Hon's) .  
Civil Judge & JMFC.,  
AFZALPUR.

**Dated this the 20<sup>th</sup> day of December -2024**

**O.S.No.26/2024**

**Plaintiffs:** Megharaj & another

***(By Sri. S.G.H. Advocate)***

**V/s**

**Defendants:** Govinda Bhat

***(By Sri. A.D.C Advocate)***

**PARTIES IN I.A.NO.I**

**Applicants:** Megharaj & another

**V/s**

**Opponents:** Govinda Bhat

**ORDERS ON APPLICATION UNDER ORDER XXXIX RULE 1  
AND 2 R/w. SEC.151 OF C.P.C.**

The plaintiffs have filed suit for perpetual injunction against the defendant and filed the above said application seeking to grant ad-interim temporary injunction order in favour of them and as against the defendant by restraining him or his men or servants or any other person through and claiming under him from not to



interfere in the cutting of sugarcane grownup in the plaintiff's suit property bearing Sy. No.14/1 measuring 02 acres 24 guntas Khata R.A. of Rs.8-30 Ps boundaries are:EAST:Land of defendant WEST:Land of Mallamma. NORTH:Land of of Mallama. SOUTH: Land of of Rajashekar property situated at Havanur village in Afzalpur taluka.

2. In support of above said application the applicants/ plaintiffs filed affidavit stated that, the applicant/plaintiff has filed suit for perpetual injunction against the defendants in the suit property and the applicants/ plaintiffs are residing at Nandagiri village, the defendant is the owner of the land Sy. No.15/2, which was purchased by him from one Siddaling Patil , that defendant's the property is situated at eastern side of the suit property, the plaintiff grown up the sugarcane in his suit property, which is ready for cutting but the defendant through gundas obstructing the sugar cutting, if the the grown up sugarcane not cut within the season it will cause heavy loss to the plaintiff, therefore the constrained file present application for restrain the defendant or his agent or henchman from not obstruct or interference in the sugarcane cutting in the suit property, the plaintiffs requested the defendant to not to interfere but the defendant not ready to heed the request of the plaintiff's. Hence present IA is filed for avoid the multiplicity of litigation, if the IA is allowed no harm or loss cause to the defendant, if not allowed it will cause more loss and hardship to the applicants/plaintiffs. Further



submitted they have got prima-facie case, balance of convenience, hence, prayed for the allow the application.

3. On the other side the defendant has filed objection to IA No.II. The plaintiffs have filed this IA for harass the defendant, the plaintiff show suit property different in description of suit property as 14/1 and in prayer shown as Sy.No.24/1 and as per the suit schedule property is 14/1. this Hon'ble court already rejected the same application filed by the plaintiffs. The falsely alleging that defendant interfering and restraining plaintiffs to cut the sugar cane, the defendant is always ready for conduct the survey and fix the boundaries therefore, the the applicants/plaintiffs are filed the false suit against him for harass him, he never tried to remove or encroach the boundary as alleged by the applicants/plaintiffs. Hence prayed for the reject the application.

4. Heard both sides arguments, defendant filed written argument, perused documents available on record.

5. In view of above the following points that would arise for consideration on I.A.No.1 is as follows:-

1. Whether the plaintiffs have made out a prima-facie case lies in their favour?
2. Whether the plaintiffs prove the balance of convenience lies in their favour?
3. Whether the plaintiffs prove that in event of not allowing I.A.No.II they will be put to



- irreparable loss and injury?  
4. What Order?

6. Answers to the above points is as follows:-

Point No.1:In the Negative.  
Point No.2:In the affirmative  
Point No.3:In the affirmative  
Point No.4:As per final order  
for the following:-

### **REASONS**

7. **Point No.1 to 3:-** Since these points are inter alia, same are taken together for common discussion.

8. The applicants/ plaintiffs filed the suit for perpetual injunction against the defendant, and the plaintiffs grown up the sugarcane in his suit property, which is ready for cutting but the defendant through gundas obstructing the sugar cutting, if the the grown up sugarcane not cut within the season it will cause heavy loss to the plaintiff, therefore the constrained file present application for restrain the defendant or his agent or henchman from not obstruct or interference in the sugarcane cutting in the suit property, the plaintiffs requested the defendant to not to interfere but the defendant not ready to heed the request of the plaintiff's. On the other



hand defendant contention that admitted fact that he is the owner of the Sy. No.15/Aa which is situated at easter side of the suit property and he is in the possession of the property. denied the all the contention of the applicants/plaintiffs, and the the applicants / plaintiffs are filed the false suit against him for harass him ,he never tried to interfered with plaintiff sugarcane cutting as alleged by the applicants/ plaintiffs. Hence prayed for the reject the application.

9. It is well settled principles of law that, in order to decide the application filed under order XXXIX Rules 1 & 2 of CPC, the basic principles that are to be considered are prima-facie case, balance of convenience and irreparable loss shall be taken into consideration.

10. So far as the prima-facie case, balance of convenience and irreparable loss are concerned, that the as per the documents produced by applicants/plaintiff's ROR of suit schedule property which is standing in the name of one Rajashekar who is the father of the plaintiffs and the counsel for defendant submitted at argument that defendant never interfering with the plaintiff suit land, plaintiffs falsely filed this IA for with intention to harass him,



his no objection cut the sugar cane grown up in their property, but the plaintiffs not interfere in his land bearing Sy. No. 15/1, at this stage the applicant/plaintiff have not established the prima-facie case. However, looking to the facts and circumstances of the case and the documents produced by the applicants/plaintiff's, the balance of convenience lies in favour of the applicants/plaintiffs' the grown up sugarcane is to be cut within specific period or season otherwise it will lose the weight as well as rate given for the sugarcane. Under the circumstances, this court is of opinion that, the balance of convenience in favour of the applicants/plaintiff's rather than the defendant.

11. So far as irreparable loss is concerned, it is the specific case of the applicants/plaintiffs' that, the defendant is interfering and obstructing the cutting of sugarcane therefore, the applicants/plaintiffs at this stage under apprehension of the threat of interference of defendant, If in case an injunction is granted, it will cause any harm or prejudice to the defendant and therefore the applicants/ plaintiffs partly proved the basic elements to grant ad-interim injunction. Hence, this court answer the points No.1 in negative and 2 to 3 in the affirmative.



12. **Point No.4**:- In view of the findings on points No.1 to 3, this court proceed to pass the following:

**: ORDER :**

I.A.No.II filed by the applicants/  
plaintiffs under Order XXXIX Rule-1 and 2 of  
C.P.C. is hereby allowed.

Hereby restraining defendant or his  
henchman or his servants or any other person  
claiming under him from not to interfere in the  
cutting of sugarcane in the plaintiff's suit  
property bearing Sy. No.14/1 measuring 02  
acres 24 guntas.

No order as to cost.

*(Dictated to the Stenographer, directly on computer, typed by him, corrected by me, signed and then pronounced in open court on this the 20<sup>th</sup> Day of December -2024)*

**(Sri. Anil Amate)**  
**Civil Judge & JMFC,**  
**Afzalpur.**