

KAKB620011712023

**IN THE COURT OF THE CIVIL JUDGE & JMFC., JEWARGI*****Present*****Sri. Kashinath V. Uppar****B.Sc. LL.B.**

Civil Judge & JMFC., Jewargi.

Dated on this the 6th day of November-2025**Civil Misc.No. 02/2024**

PLAINTIFFS:- 1. Bhimappa S/o Revanappa
Age: 49years, Occ: Agriculture,
R/o Bennur, tq: Yadrami, dist; Gulbarga
Now at Gulbarga.

2. Madivalawwa W/o Revanappa
Age: 75years, Occ: Household,
R/o Bennur, tq: Yadrami, dist; Gulbarga

(By. Sri. J.V.Hatti., Advocate)**V/s.**

DEFENDANT:- 1. Shivappa S/o late Irappa Solapur,
Age: 35years, Occ: Agriculture,
R/o Bennur, tq: Yadrami, dist; Gulbarga.

2. Vijayakumar S/o late Irappa Solapur,
Age: 32 years, Occ: Agriculture,
R/o Bennur, tq: Yadrami, dist; Gulbarga.

3. Ambanna S/o late Irappa Solapur,
Age: 28 years, Occ: Agriculture,
R/o Bennur, tq: Yadrami, dist; Gulbarga.

(By Sri. P.K., Advocate)

PARTIES TO I.A. No.1**APPLICANT/S**
Respondent

: Shivappa S/o Irappa Solapur & another

V/S

OPPONENT/
Petitioner

: Bhimappa S/o Revanappa & another

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**ORDERS ON IA.No.1**

The Learned Counsel for the respondent has filed I.A.No.1 U/Sec.151 of CPC, restraining the petitioner from causing any kind of interference in to the suit property of the applicant.

2. The respondent No.1 has sworn to an affidavit in support of the application, wherein he has stated that, one Parvati W/o Sidramappa purchased the suit property from Chandram Bhimasha Naikodi in respect of land survey No.48 measuring 02 acre 13 guntas vide registered document 879/1981-82 dated 23-11-1981 in one bit and in another bit vide registered document 37/78-79 from Chandrama S/o Bhimappa in favour of Parvathi, since the Parvathi W/o Sidramappa was absolute owner and possessor and same possession has been delivered, after death said Parvati the property are succeeded by the family of respondents, now respondents are the possession in the suit property. The petitioner has no title and nor in possession, with the active support of the police and illegal order of the Tahasildar for the protection of survey, destroyed and existed 20 days crop by illegal tress pass with the help

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of Tractor and police, the tractor arranged to brought on the without its registration number board either on the trial or on the front side engine with his unsocial elements, police, surveyor and misusing the orders for which it is made. Petitioners are by taking undue advantages of illegal assistance of police, surveyor, and unsocial elements he may at any time to destroy all standing crops grown on the suit property. To avoid multiple litigation, by misleading of the fact, obtaining only injunction without title, causing all hurdles and illegal interference into the properties of respondent in respect of suit property. Hence, just and proper to restrain the petitioner respondents and other respondents, his agents or servants or any person claiming through him interfering to the properties of me in the affidavit and I.A. mentioned. With these grounds respondents are prays to allow the application.

3. The learned Counsel for the petitioner filed objections to the application wherein, he has contended that, the respondent No.1/applicant has no right to file the present application in this Misc. petition. The present Misc. petition is filed to protect the peaceful

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possession and enjoyment of suit property Sy.No.48/A/1, measuring 02 acre 27 guntas including phot Kharab of 28 guntas. The petitioners have filed the suit in O.S.No.28/2010 on the file of this court for perpetual injunction against the father of respondents by name Irappa S/o Sidramappa Solapur. The said suit was decreed on 07-07-2010. The said judgment and decree has not been challenged by the father of respondents and respondents, hence the same has become final and conclusive and binding on them. The respondents are not ready to obey the judgement and decree in O.S.No.28/2010 in that regard the petitioner have given the application to the Tahasildar, Jewargi, PSI Jewargi, CPI Jewargi and SP, Kalaburagi to give police protection. The Tahasildar Yadrami has passed an order on 15-06-2023 to give police protection to the petitioner, inspite of that the respondent are not ready to obey the judgement and decree and they have no regard to the order passed by the Hon'ble court. The petitioner have filed the application for survey the land Sy.No.48/A/1 old (new Sy.No.48/3) to the ADLR. The ADLR has conducted the survey and fixed the boundaries (Hadbust) after

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giving notice to the concerned persons. The copy of survey records are filed herewith. The respondent No.1/applicant to drag on the matter and to mislead the Hon'ble court has given false application by alleging that the petitioners have destroyed the crops sown by the Shivappa. The property of petitioners and property of respondents are having separate boundaries hence the respondent No.1 has no right to seek the injunction order against the deponent. The respondent No.1 may agitate his remedy by filing the separate suit hence the application filed by the respondent No.1 fit to be reject as prayed for. With these contentions, the Defendant has sought for rejection of I.A No.1.

4. Heard the Learned Counsels appearing for the parties and perused the materials on record.

5. Now the following points arise for consideration of this Court are.

1. Whether the applicant has made out grounds for allowing I.A.No.1 as sought for ?
2. What Order?

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6. The findings of this Court on the above points are as under:

Point No.1 : In the Negative

Point No.2 : As per the final order for the following:

REASONS

7. **Point No.1:-** Admittedly, this petition is filed by the petitioner against the respondent for seeking the relief of police protection in view of judgement passed in O.S.No.28/2010. The present respondent have filed this application for a relief of temporary injunction against the petitioner from causing any kind of interference into the property of the applicant. It is the contention of applicant that, one Parvati W/o Sidramappa has purchased the suit property from Chandram S/o Bhimsha Naikodi, in Sy.No.48, measuring 13 guntas, vide registered document No.1879/1981-82, in one bit and in another bit vide registered document No.37/1978-79 from one Chadramappa S/o Bhimappa. Since the Parvati W/o Sidramappa was absolute owner and possessor of suit schedule property. After death of said Parvati W/o Sidramappa the suit properties are succeed by the family of the respondent and the present respondents are the possession over the suit property. It is further contention

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that, the petitioner taking a undue advantage of judgement of O.S.No.28/2010 and active support of police and protection order of Tahasildar, the petitioner has destroy the 20 days crops by help of police and other officials. Per-contra, the petitioner has filed objection that, the petitioner has filed this petition for protect the peaceful possession and enjoyment of suit property Sy.No.48/A/1, measuring 02 acre 27 gunas, include phot-kharab 28 guntas. The petitioner has filed the suit in O.S.No.28/2010, against the father of respondent by name Irappa S/o Sidramappa Solapur. The said suit was decreed on 07-07-2010. The judgement of O.S.No.28/2010 binding upon the present respondents.

8. Petitioner produced the judgement copy of O.S.No.28/2010 wherein this hon'ble court has granted injunction against the father of respondents by name Irappa S/o Sidramappa in respect of land bearing Sy.No.48/A/1. This court hon'ble court was also observe in para No.5 that, the present petitioners are possession over the suit schedule property. Respondents are fails to produce the relevant documents to show that, they are in

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possession in the suit schedule property. This hon'ble court already decide the rights of parties in O.S.No.28/2010. The defence set-up by the respondent/applicant is required full pledged trial. This petition has very limited scope. If respondent have right, title and interest over the suit schedule property he has filed another suit to decide the price of the parties. More ever, this court cannot be go against judgement passed in O.S.No.28/2010. Therefore, the application filed by the respondent deserves to be dismissed. Hence, I answer Point No.1 in the Negative.

9. **Point No.2:** For the aforesaid discussion on Point No.1, this Court proceeds to pass the following:

ORDER

I.A.No.1 filed by the respondents
U/Sec.151 of CPC, is hereby rejected.

For steps.

(Dictated to the Stenographer directly on computer, typed by him revised and corrected by me and then pronounced in the open court on this the 6th day of November 2025)

(Kashinath V. Uppar)
Civil Judge & JMFC,
Jewargi.

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