

**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 28th day of January-2026****O.S. No.134/2024****PLAINTIFF:**

Shantgouda S/o Siddanna Dyama
Age: 39 years, Occ: Agriculture,
R/o Nandihalli, tq: Yadrami, Dist: kalaburagi.

(By. Sri. B.D.K., Advocate)**V/s.****DEFENDANTS:**

1. Sangamma W/o Ningannagouda Dyama
Age: 84 years, Occ: Agriculture,
2. Mallamma @ Mallammagoudati W/o Dhulappa Dyama
Age: 72 years, Occ: Agriculture,
3. Sharanagouda S/o Gurupadappagouda Dyama
Age: 53 years, Occ: Agriculture,
4. Ayyannagouda S/o Gurupadappagouda Dyama
Age: 50 years, Occ: Agriculture,
5. Siddanna S/o Mahadevappa Dyama
Age: 66 years, Occ: Agriculture,
6. Ninganna S/o Mahadevappa Dyama
Age: 55 years, Occ: Agriculture,

R/o Nandihalli, tq: Yadrami, dist: Kalaburagi.

(D-1 to 4 By Sri. B.M.P., Advocate)**(D-5 By Sri. H.R.K., Advocate)****(D-6 Placed Ex-parte)**

PARTIES TO I.A. NO.I**APPLICANT/S**
PLAINTIFF

: Shantgouda S/o Siddanna Dyama

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V/S

OPPONENT/ : Sangamma W/o Ningannagouda
DEFENDANTS Dyama & others

1	Provision under which the application is filed	U/O.39 Rule 1 & 2 of CPC.
2	Relief sought for	Not to create another road
3	The date on which the application is filed	Along with suit
4	Number of application	I.A.No.1
5	The date which the objection are filed by different opponents	30-11-2024
6	The date on which the orders were passed on the said application	28-01-2026

ORDER ON I.A No.I & II FILED BY PLAINTIFF
U/O 39 RULE 1 OF C.P.C.

The plaintiffs have filed I.A No.I under Order 39 Rule 1 of C.P.C., to grant an ex-parte temporary injunction against defendants to use the road in the land bearing Sy.No.60/*/1 measuring 02 acre 00 guntas, other than existing road as per village map, till disposal of suit.

2. The plaintiff sworn affidavit of I.A.No.1 they stated that, the plaintiff has purchased the 02 acres of land Sy.No.60/*/1, situated at Nandihalli village, tq: Yadrami, dist: Kalaburagi, from Smt. Laxmibai W/o Mallanna, R/o Om Nagar, Jewargi for rs. 4,68,000/- as per the document No.5353/2024-25 dated 05-09-2024 and it was duly mutated in the name of deponent on 17-09-2024, and the name of deponent is appearing in ROR dated 17-09-2024.

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Plaintiff further contended that, Sy.No.45/1 and 45/2 and 50/2 are the fields of adjacent owners situated in Nandihalli. That, there is an existing road in the suit property as per the village map and for agricultural activities and surrounding land holders are also using the same for which defendants have never objected, but now they are not ready to use the road as per village map, as the contrary the defendants are adamant and not ready to heed anybody and moving in the suit property with their vehicle such as tractor, jeep and with other agricultural equipments as per their will and wish causing crop loss of the plaintiff and when deponent requested to use the road as per village map, defendants start to quarrel with the plaintiff. That the existing road starts from Nandihalli village from North to South and passes many survey numbers, and there was no any dispute in between the villagers. In fact recently the defendants are intentionally moving in the suit property causing loss of crop and undue interference in peaceful possession and enjoyment of deponent. That, the plaintiff requested the defendants on 12-09-2024 to use road as per the village map, but they are moving as per their will and will and not ready to use the village map road. If ex-parte ad-interim temporary

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injunction is granted as the defendants have access to their lands through the road as per the village map. That the plaintiff has made out a prima-facie case and the balance of convenience lies in the favour of the plaintiff hence, ex-parte temporary injunction may kindly be passed as prayed in the interest of justice and equity.

3. In pursuance of suit summons, defendant No.1 to 4 appear through their counsel and filed their written statement and memo that, the contents of the written statement is a objections to I.A.No.1 that, the defendants are denied the existence of suit property. Defendant admitted that, they are the adjacent owner of land bearing No.45/1, 45/2 and 50/2 of Nandihalli village. Defendant further contended that, there is a road in land bearing Sy.No.60 and same is for the access of the general public as such the road belongs to the government and neither the plaintiff nor defendant have any right to prevent other from using the said road as per village map. Defendant denied that, they are intentionally moving in the suit property causing a loss of crop and undue interference in peaceful possession and enjoyment of the plaintiff. When there is a road as per village map, there is no any necessity to the causing interference over the suit property belongs

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to the plaintiff does not arise. The present defendant No.1 to 4 are filed a suit against plaintiff. With these grounds defendants sought a rejection of I.A.No.1.

4. On considering the I.A No.I, affidavit and objections/written statement to I.A No.I, the points that would arise for my consideration are as under:

POINTS

1. Whether the plaintiffs/applicant has made out prima-facie case for grant of temporary injunction?
2. Whether the balance of convenience is lies in favour of plaintiff/applicants?
3. Whether the irreparable loss and injury would be caused to the plaintiffs /applicants if the temporary injunction is refused?
4. What order?
5. The Learned Counsel for plaintiff has produced the RTC's and village map. And argued that, the plaintiff has made out prima-facie case and balance of convenience lies in favour of the plaintiff. If temporary injunction is not granted the plaintiff would be put to heavy and untold hardship. Therefore, the temporary injunction may be granted to the plaintiff.

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6. On the other hand the defendants counsel has argued that, they are ready to use the road as per village map.

7. My answer to the above 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 final order for the following:

REASONS

8. **Point No.1:** I have already set out in brief as to what the case of the plaintiffs is and as to what the objection of the defendants.

9. It is well established and settled position of law that the following propositions are to be established in order to invoke the jurisdiction of the court to grant an interlocutory order of injunction U/O 39 Rule 1 and 2 of C.P.C. (1) plaintiff has to establish a prima-facie case, (2) the balance of convenience is in favour of the party seeking the relief and (3) that the party seeking the relief will suffer irreparable injury if injunction is refused. The ingredients are to be established by the party who seeks injunction in his favour. The grant of injunction being a discretionary relief, the

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party should come to court with clean hands and place all the materials before the court so that, the court will be satisfied about the prima-facie case in favour of the party seeking the order.

10. I have considered the documents produced by the plaintiff and defendants. Plaintiff has produced the RTC's of land bearing Sy.No.60/9 measuring 02 acre 00 guntas, which is standing in the name of plaintiff. Plaintiff further produced the registered sale-deed, plaintiff further produced the Nandihalli village map. Wherein it clearly shows that, there is a cart way existence in the suit property. Plaintiff filed this suit for mandatory injunction for defendant shall used road as per village map. Defendant take a contention that, there is a government road existing in the land bearing Sy.No.60/2 therefore, there is no any necessity to use another road. On considering the both the pleadings and documents this court is opinion that, plaintiff made out a prima-facie case. Hence, I answer Point No.1 in the Affirmative.

11. **Point No.2 and 3** :- Both these points are taken up together for common discussion to avoid repetition of facts.

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The court has to see that does the applicant will sustain such injuries which cannot possibly and adequately remedied by way of damage and the said damage would be in adequate in case of the success of the applicant. Considering the question of balance of convenience is concerned the court has to see the mischief or inconvenience of either parties or otherwise it is necessary or proper to maintain status-quo till the adjudication of dispute finally decided. The ingredients are to be established by the party who seeks injunction in his favour. The grant of injunction being the discretionary relief the party who claims such relief should come to the court with clean hands and place all the materials before the court so that court will satisfy about the case in favour of the party seeking the order.

12. It is to be noted here that the plaintiff has sought for temporary injunction against defendants from use a road as per village map and not created another road in land bearing Sy.No.60/2 of Nandihalli village. The village map clearly shows that, there is cart way situated at middle portion of the land bearing Sy.No.60/2. If defendant create another road then the standing crops will be destroyed. It will be cause more loss to the plaintiff. Therefore, this court

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is opinion that, balance of convenience and irreparable loss lies on the plaintiff. Hence, I answer Point No.2 and 3 in the Affirmative.

13. **Point No.4**:- In view of my findings on Points No.1 to 3, the plaintiff is entitled to the relief of temporary injunction which he has sought for. Hence, I proceed to pass the following:

ORDER

I.A.No.1 filed by the plaintiffs under Order 39 Rule 1 & 2 of C.P.C., is hereby allowed.

The defendants are hereby restrained by an order of temporary injunction from to use a only road as per village map road, in Sy.No.60/2 of Nandihalli village and not to use or not to create another road in the portion of suit schedule property till further order.

For issues by 28-02-2026.

(Dictated to the Stenographer, directly on computer, typed by him, corrected and then pronounced by me in the Open Court on this 28th Day of January-2026).

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

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