



**IN THE COURT OF THE CIVIL JUDGE AND JMFC.,**  
**SEDAM**

**Present:-**

**SRI. BALU**

**B.A.,LLB.,**

**Civil Judge and JMFC. Sedam.**

**Dated this the 14<sup>th</sup> Day of August-2025**

**O.S. NO.33/2025**

**BETWEEN:-**

1. Shivanand S/o Basawaraj Mathpati,  
Age: 48 Years, Occ: Legal Practitioner,  
R/o Sedam, Tq: Sedam,  
Dist: Kalaburagi.

**...Plaintiffs**

**AND:**

1. Smt. Manjula W/o Srinivas Madival,  
Age: 40 Years, Occ: Household,  
R/o Vidya Nagar Sedam,  
Tq: Sedam, Dist: Kalaburagi.
2. The Chief Officer TMC Sedam,  
Tq: Sedam, Dist: Kalaburagi.

**...Defendants**

**I.A.No. I**

**BETWEEN:-**

1. Shivanand S/o Basawaraj Mathpati

**Applicants/ Plaintiffs**

**AND:**

1. Smt. Manjula W/o Srinivas Madival  
and another

**Opponents/Defendants**



**:- ORDER ON IA NO.I :-**

Plaintiff has filed the IA No.I under Order XXXIX Rule 1 and 2, R/w 151 of CPC., seeking ad interim temporary injunction order by restraining the defendant No.1 and her men, agents, servants or any body from constructing the building in suit property i.e. towards Northern side of plot No.19 in land Sy. NO.915 total measuring 9X12 meters situated at Vidyanagar Sedam, Tq: Sedam, Dist: Kalaburagi till disposal of the suit.

2. The plaintiff averred in the affidavit annexed to the application that, he has filed the above said suit for perpetual injunction against the defendants and the contents of plaint may be read as part and parcel of this affidavit. In the plaint it is contended that, the plaintiff is owner and possessor of suit property. The plaintiff was purchased the suit property from one Siddayya S/o Sharanayya Kukkunda totally measuring 30X40 feet vide registered document NO.2002/2008-09 dated 19.02.2009. After purchasing the above said plot constructed the house in the year 2012-13 and enjoying and residing in the above said house. Further it is contended that, at the time of construction of house the plaintiff left 1 ½ feet space towards northern side for the purpose of using the drainage, flowing rainy water and easy moving of the entire building water. The defendant NO.1 is no way concerned to the suit property. The defendant No.1 is started the construction of house in her plot No.17 and 18 without leaving any space towards northern side of the plaintiff's property. The defendant No.1 intentionally encroached 1 ½ feet of suit property of the plaintiff and trying to construct the building in the suit property. The plaintiff so many time requested to the defendant NO.1 not to do illegal construction in the suit property, but the defendant No1 intentionally trying to started illegal construction work in the suit property. Further it



is contended in the affidavit that, the defendant No.1 has no right to construct the illegal building in the suit property of the plaintiff by encroaching 1 ½ feet. If such act of the defendant No.1 can not be prevented by granting the temporary injunction against the defendant NO.1 then the plaintiff will be put to heavy loss which can not be compensated in terms of money and which is really harmful to the plaintiff. The plaintiff has made out prima facie case and balance of convenience lies in his favour therefore prayed to allow the application.

3. On the other hand, the defendant No.1 have appeared before the court and filed WS and also filed a memo stating that contentions of WS may be treated as objections to the I.A. No.1. In written statement, they denied the case of the plaintiff as false and stated that, the defendant No.1 not at all making any illegal construction by abiding the conditions imposed by the defendant No.2. The plaintiff in order to harass the defendant No.1 making the objection. The defendant No.1 not making any illegal construction. The plaintiff has constructed his house against the Karnataka Municipality act and rules . The plaintiff has not left any set back and constructed against the approved map. Therefore, the plaintiff has suppressed the truth and misrepresented the facts. The plaintiff has not come to court with clean hands. Therefore, he is not entitled for equitable relief of injunction. Hence, prayed to reject the IA No.1.

4. In view of material facts and documents available on record the points that arise for my consideration are as follows.,

**-::POINTS::-**

1. Whether plaintiff has made out prima facie case for the relief of temporary injunction?



2. Whether the plaintiff proves that the balance of convenience in his favour?
3. Whether the plaintiff will be put to irreparable loss or injury if an order of temporary injunction is not granted?
4. What order?

5. Heard the learned counsels appearing for the plaintiff and defendants. Perused the records and on perusal my findings to above said 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::-**

6. **POINT NO.1 :-** The plaintiff has filed the present suit against the defendants for the relief of Perpetual Injunction with respect to the suit property.

7. The court has to keep in mind the three principles governing the field of grant or refusal of interim injunction, while entertaining the application for temporary injunction, such as prima facie case balance of convenience and irreparable loss. It is settled law that while entertaining the application seeking interim injunction the court is not expected to hold mini trial on the issue brought by the parties. The court has to see that the suing party has made out prima facie case for trial, once the suing party made out prima facie a case for trial the court has to foresee the effect of grant or refusal of the interim



injunction. In other words, the court has to see that the injunction is refused the situation would become irreversible at that time when suit is taken up for final disposal. Therefore, to keep intact the property and the right of the parties the interim injunction could be issued.

8. Therefore, with this backdrop of settled law, I proceed to examine the document tendered by the parties.

9. At this stage the plaintiff has produced documents in order to prove the prima facie case, those are Registered sale deed bearing document No.2002/8-9 dated 19.02.2009 along with map, construction permission issued by the TMC Sedam dated 30.01.2012, proposed plan for construction sanctioned by the chief officer Sedam dated 30.01.2012, copy of objection dated 02.05.2025 and photos on the other hand the defendant No.1 has produced the copy of notice dated 19.07.2025 issued by the chief officer TMC Sedam to the plaintiff.

10. It is contended by the plaintiff that, he is the owner he has filed the above said suit for perpetual injunction against the defendants and the contents of plaint may be read as part and parcel of this affidavit. In the plaint it is contended that, the plaintiff is owner and possessor of suit property. The plaintiff was purchased the suit property from one Siddayya S/o Sharanayya Kukkunda totally measuring 30X40 feet vide registered document NO.2002/2008-09 dated 19.02.2009. After purchasing the above said plot constructed the house in the year 2012-13 and enjoying and residing in the above said house. Further it is contended that, at the time of construction of house the plaintiff left 1 ½ feet space towards northern side for the purpose of using the drainage, flowing rainy water and easy moving of the entire building water. The defendant NO.1 is no way concerned to the suit property.



The defendant No.1 is started the construction of house in her plot No.17 and 18 without leaving any space towards northern side of the plaintiff's property. The defendant No.1 intentionally encroached 1 ½ feet of suit property of the plaintiff and trying to construct the building in the suit property. The plaintiff so many time requested to the defendant NO.1 not to do illegal construction in the suit property, but the defendant No1 intentionally trying to started illegal construction work in the suit property. Further it is contended in the affidavit that, the defendant No.1 has no right to construct the illegal building in the suit property of the plaintiff by encroaching 1 ½ feet. If such act of the defendant No.1 can not be prevented by granting the temporary injunction against the defendant NO.1 then the plaintiff will be put to heavy loss which can not be compensated in terms of money and which is really harmful to the plaintiff.

11. On the other hand the defendant NO.1 has contended that, the defendant No.1 not at all making any illegal construction by abiding the conditions imposed by the defendant No.2. The plaintiff in order to harass the defendant No.1 making the objection. The defendant No.1 not making any illegal construction. The plaintiff has constructed his house against the Karnataka Municipality act and rules . The plaintiff has not left any set back and constructed against the approved map. Therefore, the plaintiff has suppressed the truth and misrepresented the facts. The plaintiff has not come to court with clean hands.

12. In order to substantiate his oral contention the defendant has produced the document as stated supra. On perusal of the Registered sale deed produced by the plaintiff it clearly goes to show that the plaintiff has purchased the suit property from one Siddayya S/o Sharanayya Kukkunda on 19.02.2009 for valuable consideration amount of Rs.66,000/-. Accordingly, the vendor of the plaintiff



delivered the possession of the suit property in favour of plaintiff. Further on going through the construction permission and approved sketch map sanctioned by the TMC Sedam it is forthcoming that, the plaintiff has left the one meter of space towards northern side of his house. Therefore, the court can easily draw inference that, the plaintiff has left the one meter of space towards the northern side of the plot No.18 which belongs to defendant No.1. Further, on perusal of the objection filed by the plaintiff before TMC Sedam dated 02.05.2025 it reveals that, the plaintiff has an apprehension of encroachment and construction of compound wall over the suit property. Further, on going through the photographs produced by the plaintiff there is no space is left in between the house of plaintiff and the construction taken up by the defendant No.1 in the plot No.17 and 18. The registered sale deed and the construction permission along with approved sketch map being the public document have presumptive value in the law until and unless contrary is proved. Therefore, at this stage of discussion I have no impediment to hold that the plaintiff has successfully established the prima facie case to grant the injunction.

13. The counsel for defendant No.1 has argued at the time of argument by placing reliance on the document produced by the defendant No.1 i.e. notice dated 19.07.2025 issued by the TMC Sedam that, the plaintiff himself has encroached the plot No.18 and overlapped the roof slab. Therefore, when the plaintiff himself encroached the one feet of plot No.18 he is not entitled to get the equitable relief of injunction. I am of the opinion that, at this stage this court can not hold mini trial which is subject matter of full pledged trial. The objection raised by the defendant No.1 can be decided only after full pledge of trial. Therefore, in the absence of material evidence at this stage of proceeding it can not be said that, the plaintiff has



encroached the space in the plot No.18 belongs to the defendant No.1. Further it is evident from the photographs produced by the plaintiff the construction is at initial stage therefore if the injunction is not granted at this stage the plaintiff will be suffer with irreparable loss. As stated above it is well settled principle of law that, while deciding the application for temporary injunction the court can not hold many trial on the issues brought by the parties.

14. The every object of granting temporary injunction in favour of the parties is to protect the property until the rights of the parties are adjudicated by full-fledged trial. In this suit the obstruction/interference with the right of the plaintiff to enjoyment of the suit property of the plaintiff is supported by the affidavit and documents as such if injunction is not granted to the plaintiff, it affects the interest of the plaintiff and it may lead to the cause hardship to the plaintiff. At this stage plaintiff has made out prima facie case accordingly, this court answers Point No.1 in “**Affirmative**”

15. **Point No:2** At this stage, if injunction is not granted there may be chances of loose the suit property. Apart from If Injunction is not granted, it is unable to enjoy the property to the plaintiff. On weighing both side, if the injunction is not granted to the plaintiff, he may be put more inconvenience than the defendant No.1. The balance of convenience lies in favour of the plaintiff accordingly, this court answers Point No.2 in “**Affirmative**”

16. **Point No:3** If the defendants are not restrained, the plaintiff will put to irreparable loss and hardship which cannot be compensated in terms of money. At these circumstances it is necessary and proper to restrain the defendant No.1 from constructing the building in the suit property till the rights of the parties are adjudicated by full fledged trial.



Hence, this court answers point No.3 in the “**Affirmative**”.

17. **Point No.4:** It is further clarified that the observations made in this order would not have a effect or bearing on merits of the case and the observations are limited only for the purpose of this IA No.1. For the foregoing reasons, this court proceed to pass the following.

**ORDER**

**The I.A. No.1 filed by the plaintiff U/o. XXXIX Rule 1 and 2 R/w 151 of C.P.C. is hereby allowed.**

**The defendant No.1 and her men, agents, servants or any body is hereby restrained by way of temporary injunction from constructing the building in suit property i.e. towards Northern side of plot No.19 in land Sy. NO.915 total measuring 9X12 meters situated at Vidyanagar Sedam, Tq: Sedam, Dist: Kalaburagi till disposal of the suit.**

**No order as to cost.**

(Directly dictated to the stenographer on the computer, Computerized by her. Then corrected, signed and then the order is pronounced by me in the open court this 14<sup>th</sup> day of August,2025)

**Sd/-  
(Balu)  
C.J. & JMFC., Sedam.**

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