



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE
JMFC, VIRAJPET.**

***PRESENT : Sri. PRADIP POTADAR, B.COM. L.L.B.,
Prl.Civil Judge & JMFC.,
Original Suit No.152/2023***

Dated this the 20th day of August 2025.

PLAINTIFF: :Sri.M.C. Subbaiah
S/o: Late M.B. Chinnappa
Aged about 70 years
R/o Grandview Estate
Badaga-Banangala Village and
Post, Siddapur.

(By Sri.M.K Dinesh, Advocate)

DEFENDANT: -Vs-
Jackson Rosario Jack
S/o Late Rosario Jack
Aged about 42 years
Badaga-Banangala Village and
Post, Siddapur.

(By Sri.C.K. Poovanna, Advocate)

PARITIES TO I.A.II

**PLAINTIFF/
APPLICANT** : Sri.M.C. Subbaiah,

**DEFENDANTS/
OPPONENT :** -V/s.-
Jackson Rosario Jack,

Provision under which the
application is filed

U/Order XXXIX Rule 1 & 2 of
Civil Procedure Code,



Relief sought for	To pass an order of exparte temporary injunction.
Date on which application are filed	22.11.2023
Number of the application	IA-II
Date on which objection is filed by the opponent,	29.05.2024
Date on which the order is passed	20.08.2025

**ORDER ON I.A.NO.II FILED BY THE PLAINTIFF
UNDER ORDER XXXIX RULE 1 AND 2 OF CIVIL
PROCEDURE CODE.**

The present application is filed by the plaintiff seeking to pass an order of exparte temporary injunction to restraining the defendant, his men, agents, servants or representatives from continuing the illegal acts of interference over the suit schedule properties.

2. In the affidavit annexed to the application, the plaintiff stated that plaintiff has filed this suit for permanent injunction. The plaintiff is in exclusive possession and enjoyment over the schedule



properties. Since 2019, the defendant has been taking illegal steps with the help of his accomplices to forcibly dispossess plaintiff from the schedule properties. Plaintiff's sons Sri Sandeep Cariappa and plaintiff are the absolute owners of the suit schedule properties. The plaintiff is in physical possession and enjoyment over the schedule properties which consists of multiple crops like coffee, pepper etc., and also valuable age old trees. The defendant is residing adjacent to the schedule properties has no right, title or interest over the schedule properties and has often illegally trespassed into the properties along with his accomplices. On 19.09.2019, the defendant trespassed into the schedule properties and stole age old silver oak trees along with his accomplices. In this regard case was registered in Crime No.87/2019. On 26.10.2023, the defendant again trespassed into his properties, destroyed the access road in between his



estate and stolen the electric fence poles and damaged crops. The plantation workers in plaintiff's estate prevented the defendant from causing further damages by chasing him. Without being able to resist the unlawful acts of the defendant, plaintiff has rushed to Coorg and lodged a complaint at Siddapur Police Station in Crime No.94/2023. The defendant has been committing numerous offenses against plaintiff and has also threatened plaintiff that he would be harvesting the crops and remove the entire timber in the schedule property of 5.00 acres. The defendant is a habitual offender and has criminal records. He is making frantic and organized efforts to illegally occupy the schedule properties for his unlawful gain. The plaintiff has got a prima facie case. The balance of convenience is in his favour. The defendant may at anytime enter property/schedule properties and dispossess plaintiff from his land by force and deceit.



The plaintiff has complained many times about the criminal behavior of the defendant to the police, but the police have drastically failed to curb the illegal activities of the defendant. **On all these grounds plaintiff prays to allow the application.**

3. In this case the defendant has appeared through his counsel and filed objection to the IA.No.II. In the objections it is contended that the plaintiff has filed suit for the relief of permanent injunction against the defendant. The suit properties value is more than Rs.3 crores. This court has no jurisdiction to entertain this suit. The aforesaid properties are consisting 2 labor line, staff quarters, bungalow and other structures. The plaintiff has suppressed the facts. The pleading of the plaint is not accurate he has not approached clean hands before this court. The ingredient of injunction suit not properly pleaded. This suit utterly defective no



cause of action arise to file suit. The IA is not maintainable either in law or on facts, it may be dismissed. **On all these grounds defendant prays to dismiss the application.**

4. Heard arguments from both sides. Perused material available on record.

5. On perusal, following points are arise for my consideration:-

1. Whether the plaintiff has made out a prima-facie case?

2. Whether the balance of convenience lies in favour of plaintiff?

3. Whether irreparable injury would be caused to the plaintiff if an order of temporary injunction is not granted?

4. What Order?

6. My answers to the aforementioned points are as under :

Points no.1to 3 : In the AFFIRMATIVE.



**Point No.4 : As per the final order
for the following:-**

REASONS

7. **POINT NO.1 to 3 :-** These points are interconnected to each other, hence they are taken together for discussion in order to avoid repetition of facts. The brief facts of the affidavit and objection filed by the defendants is already stated above. The plaintiff has filed this suit against defendant for the relief of permanent injunction. Along with this suit the plaintiff has filed I.A.No.II U/Order 39 Rule 1 & 2 of Civil Procedure Code.

8. In order to prove prima facie case plaintiff has produced certain documents. Those documents are copy of RTC extracts pertaining to land bearing Sy.No.123/1 and 125. Copy of FIR No.87/2019. Photographs and copy of FIR No.94/2023. On the other hand, the defendant did not produce any



document.

9. I have gone through RTC extracts of suit schedule properties bearing Sy.No.123/1 and 125. On perusal it revealed that the suit schedule properties are jointly standing in the name of plaintiff and his son. Further, I have perused copy of FIR registered before Siddapur Police Station in Crime No.87/2019. On perusal it revealed that plaintiff has given complaint to the Siddapur Police against the accused stating that defendant has illegally trespassed into the suit schedule properties and cut down 7 silver trees. Among 7 trees, 2 silver trees have been converted into logs with the help of labourers and sold by defendant. Further, the plaintiff has produced photographs and one more copy of FIR registered before Siddpaur Police Station in Crime No.94/2023 dated: 30.10.20123. On perusal of copy of FIR, it alleged that the defendant has removed the fence of the plaintiff and trying to



trespass into the suit schedule properties. In this regard case is registered against the accused. All these documents produced before the court are very much transpires that the defendant is trying to interfere into the suit schedule properties. The documents produced by the plaintiff disclosed that the plaintiff has made out prima facie case at this stage to grant temporary injunction order against the defendant. If the injunction order is granted against the defendant no loss or prejudice will be caused to the him. If in this case, injunction order is not granted, the plaintiff will be suffer great loss or hardship. In order to avoid multiplicity of proceedings this court is in the considered opinion that to allow the application. As such, the application filed by the plaintiff is deserves to be allowed. **Hence, I answered point no.1 to 3 in the AFFIRMATIVE.**

10. **POINT No.4:-** In view of the forgoing observations



and discussions, i proceed to pass the following :-

O R D E R

The interlocutory application No.II filed by the plaintiff under Order XXXIX Rule 1 and 2 of Civil Procedure Code is hereby allowed.

The defendant, his men, agents or anybody acting under him are hereby temporarily restrained from interfering over the suit schedule properties till disposal of this suit.

No order as to cost.

(Dictated to the stenographer, transcribed and computerized by her, then corrected, signed and pronounced by me in open court on this the 20th day of August 2025)

Sd/-
(Pradip Potadar)
Prl.Civil Judge & JMFC.,
Virajpet.



(Vide separate Order pronounced in open Court)

O R D E R

The interlocutory application No.II filed by the plaintiff under Order XXXIX Rule 1 and 2 of Civil Procedure Code is hereby allowed.

The defendant, his men, agents or anybody acting under him are hereby temporarily restrained from interfering over the suit schedule properties till disposal of this suit.

No order as to cost.

**(Pradip Potadar)
Prl.Civil Judge & JMFC.,
Virajpet.**