

KAKL510011392022



IN THE COURT OF I ADDL. CIVIL JUDGE AND J.M.F.C.,
AT : K.G.F.

Present:

Smt. Shemida.K, B.A.(Law), LL.B.,
1st Addl. Civil Judge and J.M.F.C,
KGF

Original Suit No.249/2022

Dated this the 17th day of September, 2025

Plaintiff : Sri. Peter M Doss,
Aged about 60 years,
S/o Late A Rathna Doss,
No.25, Naidu Layout,
Vijanapura,
Dooravaninagar Post,
Bangalore.

(Rep. By Sri.B.M.V., Advocate)

V/s

Defendant : Smt. Lakshmi,
Aged about 45 years,
D/o Late Nandi,
Sreeramnagar,
Oorgaumpet Post,
KGF.

(Rep. By Smt.D.J., Advocate)

IA No.VI

APPLICANT : Sri. Peter M Doss,
Sri.I.Vijay Kumar (GPA Holder of plaintiff)

V/s

OPPONENT : Smt. Lakshmi.
(Defendant)

i. Provision under which the application is filed	Under Sec.151 of CPC filed by the GPA holder of plaintiff
ii. Relief sought for	Seeking police protection
iii. The date on which the application is filed	21.08.2025
iv. Number of the application	IA.No.VI
v. The date on which the objections are filed by different opponents	01.09.2025
vi. The date on which the orders were passed on the said application	17.09.2025

∴ ORDER ON I.A No.VI :

The GPA holder of plaintiff has filed the present application under Section 151 of CPC as I.A.No.VI seeking to direct jurisdictional police to give police protection to the plaintiff to put fence/ compound in around the suit schedule property, in the interest of justice and equity.

2. In the affidavit filed in support of the said application, the GPA holder of plaintiff has stated that the original plaintiff has filed the present suit for the relief of Permanent Injunction against the defendant. Further stated that the defendant has interfered the possession of the plaintiff. Hence he has filed an application seeking temporary injunction which was dismissed on 21.11.2023, hence he has preferred an appeal before Hon'ble Senior Prl. Civil Judge, K.G.F. in M.A.07/2024 which came to be allowed and interim injunction order was granted in favour of plaintiff on 12.07.2024.

Further stated that the plaintiff intend to put fencing /compound in the suit schedule property in order to protect the same, at that time on 01.08.2025 at about 9-00 a.m., the defendant attempted to interfere and obstruct the plaintiff for the said work. Hence the plaintiff has given first information to jurisdictional Robertsonpet Police station, but in this regard they only issued NCR to the plaintiff and not taken any action. Hence he plaintiff not able to protect the suit schedule property without police protection and he intend to put fence around it. If the present application is not allowed, he will be put to great hardship, injury and loss, per contra no hardship will cause to the other side if the application is allowed. Hence it is prays to allow the application.

3. Per contra the counsel for defendant has filed detailed objection wherein she has denied the averments of the application and partly admits the aspect that it is suit for permanent injunction and also admits the rejection of application on 21.11.2023 and admits the allowing of MA.7/2024 dated 12.07.2024. Further denied that she has violated the Court order and contended that the defendant had put up a thatched house and she is in possession of the same on which the plaintiff is not having any right. Further the defendant has approached the jurisdictional police stating that the plaintiff is interfering her possession. Further contended that due to plaintiff act, said thatched house was burnt and it is now vacant site and defendant is in possession of the same. Further contended that in the interim order is in force which restrains the defendant from encroaching or trespassing into the suit-schedule property

and there is no permission to put up fencing as contended by the plaintiff. Hence on all these prays to reject the application.

4. Heard both sides and perused the materials on record. During the time of arguments both the counsels files memo with documents . Perused taken on record.

5. The following points arise for my consideration;

1. Whether the applicant has made out valid grounds to allow the application filed under Sec.151 of CPC seeking police protection at this stage as prayed for ?

2. What order?

6. My answer to the above points is as follows;

Point No.1 : In the Partly Affirmative,

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

-. R E A S O N S :-

7. **Point No.1:** Having heard and on perusal of the record it reveals that, the suit is one for permanent injunction with respect of Site No.28 measuring 45X30 ft situated at Oorguam village, KGF. When the matter was stood for cross of PW1, then the present application came to be filed by the plaintiff and opposed by the defendant.

8. The record reveals that the plaintiff has filed the present suit on 13.06.2022 and along with plaint the plaintiff has filed IA.No.I under Order 39 Rule 1 and 2 and same was not considered by my learned predecessor and issued emergent notice on said application and also issued suit summons to defendant. Meantime

defendant has appeared and filed his written-statement and after considering the contention my learned predecessor has rejected the IA.No.I on 21.11.2023 and proceeded with. By aggrieved the said order the plaintiff has preferred MA.7/2024 which came to be allowed on 12.07.2024 and the application filed by the plaintiff was considered. Later issues framed and plaintiff has led his evidence. Meantime the counsel for plaintiff has pressed the present application.

9. Further it is to be noted that the present application was filed by the GPA holder of plaintiff under Sec.151 of CPC which deals about saving of inherent powers of the Court which reads as follows: *“Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice, or to prevent abuse of the process of the Court”*. The above said section clearly shows the discretionary power of the Court to pass appropriate order in the interest of justice if there is no provision in the CPC.

10. In the application the plaintiff stated that eventhough there is interim order restraining the defendant, she is trying to build a structure in the suit-schedule property which belongs to plaintiff and there is violation of Court order. Per contra the contention of defendant is that there is no permission for the plaintiff to put fencing on suit-schedule property and the present application is not maintainable. On this background I have perused the record. Admittedly IA.No.I filed by the plaintiff was rejected on 21.11.2023 and in MA.7/2024 the said aspect in detail discussed by Hon'ble Appellate Court and opined that the plaintiff has

produced the documents which prima-facie supports his claim regarding it and also observed that the defendant not produced any documents. Further observed that the allegation of defendant that thatched house was burnt by plaintiff not established with supportive documents. Hence set-aside the order passed by this Court on 21.11.2023 and passed the following order ;

“Consequently, respondent / defendant, her agents, servants, followers, family members and any other persons on her behalf are hereby restrained by way of temporary injunctions from encroaching upon or trespassing into the suit property till disposal of the suit”.

11. As stated supra the said MA>7/2024 proceedings not disputed by defendant and the counsel for plaintiff in support of present application has furnished the copy of first information given by GPA holder of plaintiff to PSI of Robertsonpet police station on 01.08.2025 and also furnished the acknowledgment issued by concerned police on 10.08.2025. Further the copy of order passed in MA.7/2024 along with photographs furnished which shows that it was taken on 01.08.2025 at 9.33 am., which shows the preparation of building a structure and there is construction materials dumped in the site. In this regard the counsel for defendant submitted that there is no question of attempt of interference and produced the photographs. The above aspect shows that there is strong dispute between the parties with respect of possession of suit schedule property which is site measuring 45X30 ft.

12. The contention raised by the defendant that there is no permission for the plaintiff to put fencing in the suit-schedule property is considerable point as the above said order not say the same. Since the order passed in MA.No.7/2024 is still in force it is appropriate to consider the request of plaintiff in part. Further when the injunction order was granted is in force implementation of said order is duty of the Court. Further the Hon'ble High Court of Karnataka in **ILR 2001 KAR 462 – M.S.Mahadeva Prasad and others Vs. Mahadevaiah and others**, wherein it is held that “*When the Court has prima-facie considered the matter and granted temporary injunction in favour of the plaintiffs after hearing the defendants, the Court has the power to enforce the same and the contention of the defendants that he is in persona can't be accepted at this stage and the remedy under Order XXXIX Rule 2(A) of Code of Civil Procedure is not exhaustive, the Court can pass orders if necessary for police protection to enforce the orders of the Court.* The ratio held in the said decision is aptly applicable to the present case.

13. On considering all these aspects it is clear that the order of Hon'ble Appellate Court passed in MA.7/2024 has to be protected and it is still in force and the defendant has not challenged the same further. Hence the plaintiff has made out ground to consider the application in part by directing the jurisdictional police to give effect of the same. Further it is in evidence stage and Court yet to verify who is in possession of suit-schedule property as there is rival contention. Hence it is not proper to permit the plaintiff to put fencing in the suit-schedule property.

Further the contention of the defendant that there is no such preparation of construction is hereby rejected as the photographs furnished by the plaintiff corroborates the application averments. With these observations, I answer the **Point No.1 in the Partly Affirmative.**

14. Point No.2: Accordingly, I proceed to pass the following;

-:: ORDER ::-

I.A No.VI filed by the GPA holder of plaintiff under Sec.151 of CPC is hereby Partly allowed with a cost of Rs.200/-.

The concerned jurisdictional police is hereby directed to give police protection to the plaintiff to enforce the order passed by Hon'ble Appellate Court in MA.7/2024 dated 12.07.2024 with respect of suit-schedule property.

Office is hereby directed to intimate the same to the concerned police along with copy of order passed in MA.No.7/2024.

Further the prayer of counsel for plaintiff to put fencing on the suit-schedule property is hereby rejected.

(Dictated to the Stenographer directly on computer and revised and corrected by me then pronounced in the open court, this the **17th day of September, 2025**).

Sd/-

(SHEMIDA.K)

**I Addl. Civil Judge & JMFC
KGF**