

**IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC
AT MALAVALLI.**

**Present:-
SMT. NAZIA KOUSER,
B.E., L.L.B.
Prl. Civil Judge & J.M.F.C., Malavalli
O.S. No.563/2024**

Date: on this the 30th day of April-2026

Plaintiff : Chandru D.N.

(By Sri.H.S.K., Advocate)

V/s

Defendants: Chief Secretary and others

**(D1 to 3 By AGP)
(D4 & 5 By Sri.H.L., Advocate)
(D6,7&8 By Sri. V.N. Advocate)**

I.A.No.II

Applicant : Chandru D.N.

.... Plaintiff

V/s.

Opponents: Chief Secretary and others

.... Defendants

ORDER ON IA.II UNDER O.39 R.1 AND 2 OF CPC

The plaintiff has filed above said IA.No.I praying to grant temporary injunction against the defendants, their agents, representatives, legal heirs, etc., from interfering in peaceful possession and enjoyment of plaintiff over the suit schedule property till disposal of the suit.

2. The contents of plaint and affidavit sworn to by the plaintiff accompanying the IA are that, the suit schedule property originally belonged to Mahesh D.H., and the same was purchased by the plaintiff under a registered sale deed dated 21.09.2016. Pursuant to the said purchase, the revenue records were mutated in the name of the plaintiff vide MR No.3/2016-17, and since then, the plaintiff has become the absolute owner and is paying land revenue to the concerned authorities.

3. It is further contended that after purchase, the plaintiff intended to carry on poultry farming along with agriculture and accordingly obtained financial assistance of about ₹10,00,000/- from friends and the Primary Cooperative Agriculture and Rural Development Bank, Malavalli. The plaintiff constructed poultry sheds, obtained necessary licenses, building permission, and approvals from the Panchayat authorities, and has been carrying on poultry farming in the suit property since 2017 without causing any nuisance or environmental pollution. The plaintiff has invested substantial amounts in developing the suit property and has been peacefully carrying on agricultural and poultry activities. The poultry sheds are maintained properly and do not cause any disturbance to the villagers.

4. It is further contended that defendant Nos.6 to 8, who are residents of a nearby village, have no manner of

right, title, or interest over the suit property. They are allegedly jealous of the plaintiff's progress and have been interfering with his peaceful possession and enjoyment. Initially, they obstructed the plaintiff from purchasing the property and subsequently started causing interference in his poultry farming activities. The said defendants have been creating obstructions and influencing other defendants, including government authorities, to prevent him from carrying on poultry farming. A notice dated 15.11.2024 issued by the 5th defendant is was issued under the influence of other defendants stating to relocate the poultry farm immediately after receipt of the notice. Hence this application.

5. The defendant No.4 and 5 filed memo consider written statement as objections to present application. In the written statement defendant No.4 and 5 have contended that under Section 81 of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993, if poultry is maintained in an unhygienic condition causing nuisance or spread of diseases, the Panchayat is empowered to evict such person. The defendants submit that the plaintiff's poultry farm falls within such category and is causing nuisance to the public. The notices were issued to the plaintiff directing him to vacate the poultry farm and to maintain hygiene within permissible limits. Despite service of such

notices, the plaintiff has continued the alleged illegal activities and has failed to comply with the directions.

6. It is further contended that the suit schedule property is agricultural in nature and the plaintiff has illegally constructed poultry sheds and commenced poultry farming without obtaining necessary permissions or no-objection certificates from the competent authorities. It is further alleged that the poultry farm is situated adjacent to the village and is causing foul smell, spreading insects such as lice and fleas, and resulting in villagers suffering from infectious diseases. The villagers, being affected by the nuisance, submitted representations to the concerned authorities seeking removal of the poultry farm. Acting upon such complaints, the authorities directed appropriate action, and the Panchayat issued notices in accordance with such directions.

7. It is further contended that upon inspection, the condition of the poultry farm was found to be unhygienic and causing nuisance, and accordingly notice dated 15.11.2024 was issued directing the plaintiff to relocate the poultry farm. However, the plaintiff failed to comply, leading to public protest and continued disturbance. The plaintiff has not obtained proper permission for poultry farming in an agricultural land. The license relied upon by the plaintiff was only for dairy purposes and had expired in the year 2019 and was not renewed thereafter.

The plaintiff has illegally constructed sheds and is conducting poultry farming in violation of law, thereby polluting the environment and causing public nuisance. On these grounds prayed to dismiss the application.

8. The defendants No.6 to 8 filed objections contending that the suit schedule property is an agricultural land and the plaintiff, after purchasing the same in the year 2016, has illegally constructed poultry sheds and commenced poultry farming without obtaining necessary permissions from the competent authorities and without adhering to statutory requirements relating to sanitation and public health. The poultry farm is situated adjacent to Bullikempanadoddi village, where about 250 to 300 families reside, and that the activities of the plaintiff have resulted in foul smell, infestation of flies, lice and insects, thereby causing serious health hazards to the villagers. Several villagers are suffering from diseases and that one Sidddegowda @ Somanna died due to meningitis allegedly caused by such conditions.

9. The defendants further state that the villagers submitted complaints before various authorities including the District Health Officer, Tahsildar, Executive Officer, Veterinary Officer and Gram Panchayat. Pursuant to such complaints, the concerned authorities inspected the spot, found the sanitation conditions to be unsatisfactory, and directed the plaintiff

to stop poultry farming and shift the activity to another place. The notices were issued to the plaintiff on different dates in November 2024 directing him to discontinue the activity. Despite such directions, the plaintiff has continued the poultry farming by using his influence and has failed to comply with the lawful orders of the authorities. On these grounds prayed to dismiss the application.

10. Heard and perused.

11. Now the points that arise for my consideration are:

POINTS

1. Whether the plaintiff has made out prima-facie case ?
2. Whether the balance of convenience lies in favour of the plaintiff ?
3. Whether plaintiff will be put to irreparable loss and injury if order of temporary injunction is not granted?
4. What Order?

12. My findings on the above points are:

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:

R E A S O N S

13. Point No.1 to 3 : These points are interconnected and are taken up together for common discussion.

14. Plaintiff has filed this suit against the defendant seeking for the relief of permanent injunction along with such other reliefs in respect of suit schedule property. The plaintiff claims ownership and lawful possession of the suit property and asserts that he is carrying on poultry farming with necessary permissions, alleging interference by the defendants.

15. Per contra, defendants contend that the plaintiff is illegally running a poultry farm in agricultural land without valid permission, causing public nuisance and health hazards, and despite official notices directing closure, he has continued the activity.

16. At this stage without going in to merits of the case and holding mini trial this court has to consider the aspect of prima-facie case. It is well settled principal of law that, at the time of the disposing the temporary injunction application the court cannot go into prima-facie title and only to consider whether the plaintiff has made out prima-facie case for granting of interim relief.

17. The first rule is that the applicant must make out prima-facie case in support of the right claimed by him. The court must be satisfied that there is bonafide dispute raised by the applicant, that there is strong case

for trial which needs investigation and decision on merits and on the facts before the court. There is probability of applicant being entitled to the relief claimed by him. The existence of prima-facie case of right and infraction of such right is condition precedent for grant of temporary injunction.

18. The counsel for plaintiff relied upon the following rulings:

1. K. Narasimhamurthy Vs Sondekoppa Grama Panchayath and another in writ petition no. 38871 OF 2016 (LB-TAX)
2. Achut D. Nayak vs the sub-divisional magistrate in Criminal Petition No. 100284 OF 2019 (482-)

19. In order to ascertain the prima-facie case, this court has carefully perused the materials available on record. Perused the documents produced by the plaintiff and defendants.

20. The plaintiff claims ownership and possession over the suit schedule property based on a registered sale deed dated 21.09.2016 and revenue records standing in his name. The documents such as RTC extracts, E-swathu, tax paid receipts and license prima facie establish that the plaintiff is in possession and enjoyment of the suit schedule property.

21. The contention of the defendants is that the plaintiff is carrying on poultry activity causing nuisance

and health hazards to the villagers. In this regard, the defendants have produced certain representations, photographs and communications. However, except these representations and photographs, materials such as inspection report by a competent authority, scientific or medical evidence, or any conclusive statutory action is placed before this Court to prima facie establish that the alleged nuisance or health hazard is directly attributable to the activity of the plaintiff.

22. The rulings relied upon by the counsel for plaintiff are not applicable to the facts of case on hand. At this stage, mere complaints or representations, without supporting material, cannot be treated as sufficient proof to deny interim protection, particularly when the plaintiff is in settled possession. Further, poultry farming, being allied to agricultural activity, cannot be termed as illegal per se in the absence of any established violation by a competent authority except the notice. Therefore, this Court is of the opinion that the plaintiff has made out a prima facie case.

23. With regard to the balance of convenience, the plaintiff is in settled possession and is carrying on agricultural and allied activities. If protection is not granted, there is every likelihood of disturbance to his possession and livelihood. On the other hand, restraining the defendants from interference would not

cause irreparable prejudice to them, as their grievances can be adjudicated in trial or before competent authorities.

24. With regard to irreparable loss, the plaintiff has invested substantial amounts and is dependent on the said activity for his livelihood. Any interference at this stage would cause hardship which cannot be adequately compensated in terms of money. Accordingly, the plaintiff has satisfied all the ingredients required for grant of temporary injunction.

25. However, it is made clear that the competent statutory authorities are at liberty to take action in accordance with law, if any violation of statutory provisions, environmental norms, or public health regulations is found. The plaintiff shall also ensure compliance with all applicable laws and regulations governing the activity carried on in the suit schedule property. Therefore, these points are answered in the Affirmative.

26. Point No.4:- In the light of above discussions on the points No.1 to 3, I proceed to pass the following:-

O R D E R

IA.No.II filed by the plaintiff U/o
XXXIX Rule 1 and 2 of C.P.C. is hereby
allowed.

The defendants, their agents, servants or anybody acting on their behalf are hereby restrained from interfering with the possession and enjoyment of plaintiff over suit property without due process until disposal of suit.

The competent statutory authorities are at liberty from taking action in accordance with law, if any violation of statutory provisions, environmental norms, or public health regulations is found.

The plaintiff shall comply with all applicable laws and regulations governing the activity carried on in the suit schedule property.

Under the circumstances of the case, no order as to costs.

(Dictated to the sound recorder, computerized by stenographer, script revised, corrected and then pronounced by me in the open Court on this the 30th day of April, 2026)

(NAZIA KOUSER)
PRL. CIVIL JUDGE & JMFC.,
MALAVALLI.