

**IN THE COURT OF I ADDITIONAL CIVIL JUDGE AND JMFC,
NAGAMANGALA**

Dated this 9th day of April 2026

**Present: SRI. K.P. SIDDAPPAJI. B.A., L.L.B.,
I Addl. Civil Judge and JMFC.,
Nagamangala.**

Original Suit No.80/2024

Plaintiff : Devaraju K.

- V/s -

Defendant : Hemalatha

RANK OF THE PARTIES ON I.A.No.V

**Applicant/
Defendant** : Hemalatha

(By Sri. J.K.R. Advocate)

- V/s -

**Opponent/
Plaintiff** : Devaraju K.

(By Sri.L.R.P. Advocate)

i	Provision under which application is filed	Order 39 Rule 1 (a) R/W/Sec.151 of CPC
ii	Relief which sought for	Temporary Injunction
iii	The date on which the application is filed	28-01-2026
iv	Number of the application	V
v	Date on which the objection is filed	04-03-2026
vi	Date on which the order is pronounced	09-04-2026

ORDERS ON I.A. No.V

I.A.No.V is filed by the defendant under Order 39 Rule 1 (a) R/W Sec.151 of the Code of Civil Procedure for seeking the relief of Temporary Injunction in favour of her and thereby restraining the plaintiff from alienating the suit "A" schedule property till the disposal of the suit.

2. The defendant sworn to an affidavit in support of the application wherein, she has submitted that, the plaintiff has filed this suit against her for declaration and mandatory injunction and other reliefs in respect of suit schedule property. Now, the suit is posted for carrying amendment of plaintiff and to file amended file. In fact, the plaintiff has contended that she encroached the suit "B" schedule property and as such the plaintiff has sought for relief of mandatory injunction in respect of the same. During the pendency of the suit, the plaintiff has trying to alienate the suit "A" schedule property including property in where she have constructed the residential house and the same is came to her knowledge very recently. If, the plaintiff is alienated the suit "A" schedule property, then it will create multiplicity of proceedings and it will detrimental to her right, interest and possession and hence, it has to be restrained by way of order of not to alienate by this court. If her application is not allowed, she will be put too much of hardship and great injustice. On the other hand there is no hardship will be caused to the other side if her application is allowed. **With these averments, she has sought for allowing I.A. No.V.**

3. The plaintiff has filed objection to I.A. wherein, he has denied the averments of the affidavit filed in support of the application as false, frivolous and vexatious one. The application filed by the defendant is not maintainable. Hence, he has sought to dismissal of the I.A. No.V.

4. Heard the arguments of the Learned Counsel appearing for the parties and perused the materials on record.

5. Now the following points arise for consideration of this Court are.

Point No.1: Whether the defendant has made out prima-facie case for grant of Temporary Injunction as sought for?

Point No.2: Whether the balance of convenience lies in favour of the defendant?

Point No.3: Whether the defendant will be put irreparable loss and hardship, if IA No.V is not allowed?

Point No.4 : What Order?

6. The findings of this Court on the 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 the final order for the following

REASONS

7. **Point No.1 to 3 :** Point No.1 to 3 are inter-connected; hence in order to avoid the repetition of facts, the above said points are taken up for common discussion.

8. Admittedly, the plaintiff has filed this suit against the defendant for declaration and mandatory injunction in respect of suit schedule property. The case of the plaintiff is that he is an absolute owner of the suit "A" schedule property in Sy.No.58/3 to an extent of 26 guntas. The defendant is the adjacent owner of the northern side of the suit "A" schedule property. The defendant has encroached to an extent of ½ guntas in suit "A" schedule property towards northern side and constructed a house in the encroached area i.e., suit "B" schedule property. Per contra in the written statement the defendant has contended that the property bearing Sy.No.58/1 ಪೈಕಿ to an extent of 0.66 acres, situated at Kallenahalli Village, Honakere Hobli, Nagamangala Taluk, belongs to one Basavegowda @ Karigowda (father of plaintiff) and the same was fallen to him through partition and he was in possession and enjoyment of the same as an absolute owner. The aforesaid Basavegowda @ Karigowda for his legal necessity, sold to an extent of 0.01¾ guntas out of 0.66 acres in the aforesaid Sy.No..58/1 ಪೈಕಿ bounded on east by site of Madahalli Thimmegowda, West by remaining land in the same survey number, North by K.R. Pete – Nagamangala roan and South by remaining land in the same survey number,

to the defendant through registered sale deed dated 17-01-1996. By virtue of sale deed, the revenue authorities have mutated the name of the defendant and ever since, she was/is in possession and enjoyment of the same as an absolute owner till today. Subsequently, the defendant got converted the same for non agricultural purpose i.e., to establish Oil Industry Unit, vide order No.ಅಕ್ರಾಂಸಿಆರ್ 184:99-2000 dated 23-10-1999. Subsequently, the defendant has constructed the oil unit and also constructed the house in the aforesaid property and the defendant and her family members are residing in the said house and she was running oil unit. But, recently, due to loss in the oil unit, the defendant has closed the said oil unit. In fact, the defendant was/is in possession and enjoyment of the property to an extent of 0.01¾ guntas, which was purchased by her from the father of plaintiff. Hence, the filed by the plaintiff is liable to be dismissed.

9. During the pendency of the suit the defendant has filed the I.A.No.V seeking an order of temporary injunction against the plaintiff by way of restraining him from alienating the suit schedule property till disposal of the suit as the plaintiff has trying to alienate the suit “A” schedule property including the property where she has constructed residential house.

10. This court has perused the material on record. In order to know whether defendant has encroached suit “B” schedule property and constructed house

illegally in the same, it is required full-fledge of trial. At this stage, if the plaintiff alienate the suit schedule property, then it will lead to multiplicity of proceedings and it will cause hardship to the parties. After considering all these aspects, this Court is of the opinion that the defendant have made out prima facie case for grant of temporary injunction. If the plaintiff alienate the suit "A" schedule property, then the defendant will be put to hardship and in turn it will leads to multiplicity of proceedings. If the plaintiff is temporarily restrained from alienating the suit "A" schedule property till the disposal of the suit, no loss or hardship will be caused to the plaintiff. The balance of convenience lies in favour of the defendant and if the temporary injunction is not granted in favour of the defendant, then the defendant will be put to irreparable loss and hardship and the same cannot be compensated in any way. **With these observations, this court has answered Point No.1 to 3 in the Affirmative.**

11. **Point No.4:** For the aforesaid discussion on Point No.1 to 3, this Court proceeds to pass the following:

ORDER

I.A.No.V filed by the defendant under Order 39 Rule 1 (a) R/W Sec.151 of CPC is hereby allowed.

By way of granting temporary injunction infavour of the defendant, plaintiff, his men, agent, servants or anybody

acting under him are temporarily restrained from alienating the suit "A" schedule property till the disposal of the suit.

No order as to cost.

(Dictated to the stenographer, Computerized by him, corrected and then pronounced by me in the open Court on this the 9th day of April 2026)

(KP SIDDAPPAJI)
I ADDL. CIVIL JUDGE AND J.M.F.C.
NAGAMANGALA.