

**IN THE COURT OF THE ADDL. CIVIL JUDGE &
JMFC., AT: SRIRANGAPATNA**

DATED THIS THE 19th DAY OF DECEMBER, 2025

:PRESENT:

**SRI.HANUMANTHARAYAPPA.B.R., B.A., L.L.B.,
ADDL. CIVIL JUDGE & JMFC.,
SRIRANGAPATNA.**

O. S. No.338/2024

Plaintiff : Sri. P.Puttaswamy
S/o Late.A.S.Puttaswamy
Aged about 48 years,
R/at Behind PWD Office,
Arakere Village,
Arakere Hobli
Srirangapatna Taluk
(Rep/ by Sri.K.S.N-Adv.,)
V/s

Defendants : 1.Tahasildar
Srirangapatna,
Srirangapatna Taluk.
2.Deputy Commissioner
Mandya District, Mandya.
3.State by Chief Secretary
Vidhana Soudha
Dr.B.R.Ambedkar Veedhi,
Bengaluru.
(Rep/ by AGP)

PARTIES TO I.A.No.I.

Applicant/plaintiff : Sri. P.Puttaswamy

V/s

Opponents/Defendants: Tahasildar and others.

* * * * *

**ORDERS ON I.A. FILED UNDER ORDER 39 RULE
1 AND 2 OF CPC**

The plaintiff has filed this IA under order 39 rule 1 and 2 R/W/Sec/151 of CPC, for an order of temporary Injunction to restrain the defendants from not to interfering plaintiff's peaceful possession over the suit schedule property pending disposal of the suit in the interest of justice and equity.

2. In the affidavit annexed to the application, the suit schedule property originally belongs to one J.Patel Marigowda there was a division between Marigowda and his sons northern portion of properties situated at Arakere Village was purchased by his father through registered sale deed dated:15.10.1988 which included cowlge house measuring about 23 feet East to West 59 feet North to South out of total measurement of 60 feet East to west and 96 feet North to south. Subsequently about abutting this site his father purchased another site laying to western side of property purchase from J.Patel Marigowda from his son A.M.AnandaMurthy through a registered sale deed dated:19.08.1995 having common boundary the entire property is in Sy.No.1090 of Arakere Village, the entire property is housing site where in a portion is residing in the house and enjoyment remaining vacant site on which neither defendants nor anybody have any manner of right, title and interest much less possession any portion of suit property at any point of time.

3. It is further stated that, towards southern side there was vacant land in Sy.No.1089 reserved for construction of Government hostels which belongs to Government over which they have already put up construction of KEB office and transformer without retaining any land much less on the northern side 1st defendant on the advice of local MLA came near the suit property on 17.09.2024 and error marked boundaries on the suit schedule property to erect Krishi Godown and performed Pooja also when this act was questioned him they refused to give proper reply plaintiff property is personal property katha of which has been recognized by panchayath even prior to purchase of his father and he has absolute title over the suit property. The defendants are making hectic efforts to put up construction in compliance of 80(1) of Cr.P.C. would result in delay by that time the work complete construction the defendant are to be restrained from encroaching suit property without which justice suffers and there would be irreparable loss and injury his possession over suit property is lawful possession and has to be protected from illegal dispossession without proper acquisition defendants are not entitled to encroach upon his property with result in the event of they allowed to trespass irreparable loss would be case which cannot be compensated in any manner. Hence, prays to allow the application.

4. On the other hand, the defendant after service of suit summons appeared through AGP has filed the written statement and have filed objection to the present

application. He has resisted this application contending that the averments made in the plaint are totally false the interim application is not maintainable. Further defendant contented that the e land Bearing Sy No.1089/2 lands measuring 1.22.00 (one Acre Twenty Two guntas) Guntas out of which the KEB Office and transformer was installed in that Sy. No. and there was a huge of lands retained in the name of the State Government and Government Hostel was already Constructed in the Sy. No. 1050, hence in Sy. 1089/2 reserved the Government lands out of which defendant No.2 Granted the 0.04.12 Guntas land out of the Sy No. 1089/2 on extent of 1.22.00 Guntas on dated 13.07.2024 for the purpose of to Construction of "Raitha-Samparka Kendra" for the benefits of farmers and Bounded on East by Sy No.1089/4, and West by Sy No. 1089/2, and North Sy No. 1090 South by Sy. No 1089/2 and Rest of KPTCL branch. In this above Boundaries not touched the plaint Schedule property. On 17.09.2024 the Government officials performed the Pooja to construct the Raith Samparka Kendar in a 0.04.12 Guntas bearing Sy No. 1089/2 in the Hostel land, that land was granted by Defendant No.2 on dated 13.07.2024, but not in the suit property, at any point of the time this defendant not encroached the suit property but this defendants Constructed the Raitha Samparaka Kendra in their own lands belongs to the Government Bearing Sy.No.1089/2. On the date of suit plaintiff never in possession enjoyment of the suit schedule property because plaintiff given the wrong boundaries in order to get the interim relief from this

Hon'ble court. The prime facie case and balance of inconvenience is on our side and irreparable injury are also in our side, hence application filed by the plaintiff is not at all maintainable liable to dismissed. Hence prays to reject the application with exemplary cost.

5. Heard both side arguments, perused the plaint averments, as well as affidavit annexed to the IA and documents relied by the plaintiff and the defendant.

6. Now the points that would arise for my consideration are:-

1. Whether the plaintiff prove that, there is a prima-facie case to issue an order of Temporary Injunction against the defendants?
2. Whether the plaintiff further prove that, the balance of convenience lies in his favour?
3. Whether the plaintiff further prove that, if the order of Temporary Injunction is not granted, he will be put to irreparable loss and hardship, which cannot be compensated in terms of money?
4. What Order?

7. My findings to the above said points are as under;

- Point No.1 : In the Negative
- Point No.2 : In the Negative
- Point No.3 : In the Negative
- Point No.4 : As per final order below for the following:-

: R E A S O N S :

8. **Point No. 1 to 3** :- Since these three points are interconnected, to avoid repetition of facts, I would like to deal them together.

At this juncture it is very relevant rely on the decision of **Hon'ble Apex Court reported in AIR 1999 SC-3105 Colgate Palmolive (India) LTD., V/s Hindustan Lever limited**, it is held as under, "Civil P.C.(5 of 1908), 0.39, R.1:

Certain specific considerations to be noted in the matter of grant of interlocutory injunction, the basic being non-expression of opinion as to the merits of the matter by the court, since the issue of grant of injunction usually, is at the earliest possible stage so far as the time frame is concerned. The other considerations which ought to weigh with court hearing the application or petition for the grant of injunctions are as below:

(1) Extent of damages being an adequate remedy; (2) protect the plaintiffs interest for violation of his rights though however, having regard to the injury that may be suffered by the defendants by reason therefore (3) the court while dealing with the matter ought not to ignore the factum

of strength one party's case being stronger than the others; (4) No fixed rules or notions ought to be had in the matter of grant of injunction but on the facts and circumstances of each case, the relief being kept flexible (5) The issue is to be looked from the point of view whether on refusal of the injunction the plaintiff would suffer irreparable loss and injury keeping in view the strength of the parties case. (6) Balance of convenience or inconvenience ought to be considered as an important requirement even if there is a serious question or prima-facie case in support of the grant; (7) Whether the grant or refusal of injunction will adversely affect the interest of public which can or cannot be compensated otherwise."

9. on Keeping in view the principles laid down in supra decision, the plaintiff has filed suit for permanent injunction against the defendants and plaintiff has filed I.A.I under order XXXIX Rule 1 and 1 read with sec.151 of C.P.C. for the relief of temporary injunction restrain the defendants from interfering with the peaceful possession enjoyment of suit property by the plaintiff.

10. It is the case of the plaintiff that, suit schedule property originally belongs to J.Patel Marigowda the same was purchased by the plaintiff's father through registered

sale deed dated: 15.10.1988 which included cowlege house measuring East-West 59 feet North-South 59 feet total measuring 60 feet East-West and North-South 96 feet. Thereafter father of the plaintiff has purchased from the son of J.Patel.Marigowda western side property on 19.08.1995 having common boundary in Sy.No.1090 Arakere village. In the entire boundary he is having residential house in portion of the property and rest of the property is vacant site it is in possession and enjoyment of the plaintiff. Towards southern side there was a vacant land SY.No. 1089 wherein defendant starting put up construction Wrongly marked the boundary on the schedule property tried to encroached property of the plaintiff, hence sought for injunction order.

11. It is pertinent to note that, in order to prove prima facie of his case, the plaintiff has produced original sale deeds dated:15.10.1988. On perusal of the same S.S.Puttaswamy who is the father of the plaintiff was purchased an extent of site and house property East-West 23 feet and North-South 59 feet Mangalore Tiled house and produced another sale deed dated: 19.08.1995 produced on perusal of the same said S.S.Puttaswamy purchased Pandhayath kahtha No.1289 East-West 15 feet and North-South 26 feet. Further produced demand register extract in respect of Janjer No.690 site No.438 and produced photographs and CD.

12. Perused documents produced by the plaintiff in support of the application the, the plaintiff claims that the defendants have interfering to the possession of the plaintiff schedule property since from the starting up constitutions, plaintiff has produced photographs that to before that property in which putting construction is a vacant land it is admitted by the plaintiff in his application at the towards southern side there was vacant land SY.No.1089 reserve for constitution of Government Hostel in which already put up construction of KEB office and installed Transformer. Now the defendants marked the property of the plaintiff and put up construction Raith Samparka Kendra in Sy.No.1089/2. On perusal of the photographs produced by the plaintiff the property which started putting up construction by the defendant is at the back side of the plaintiff property nowhere encroached the plaintiff given sufficient set back adjacent to the wall of the plaintiff house. The plaintiff not produced any survey documents to show the vacant property adjacent to the property sy. no.1892/2. As per the sale deed dated:15.10.1988. At the southern side boundary clearly mention that hostel property. In another sale deed dated:19.08.1995 At the southern side boundary clearly mention that hostel property. In the demand register produced by the plaintiff also depicts that at the southern side boundary hostel property. It clearly goes to show that no vacant property at the southern side of the property of the plaintiff. As far as contention of the plaintiff there is no documentary evidence at this stage to show prima facie case.

13. On the other hand the defendants through the AGP produced RTC extract in SY.No.1089/2, officials memorandum dated:13.07.2024 issued by the Deputy commissioner, Letter address to the Tahasildar dated: 22.07.2024 issued by the Assistant Director of Agriculture, Srirangapatna, copy of MR T123/2024-25, Memorandum dated:30.07.2024 issued by the Tahasildar, Survey sketch and other supportive documents.

14. The defendants have produced supportive documents like RTC Sy.No,1089/2 on perusal of the same clearly goes to show that there is a land measuring an extent 1 acre 22 guntas, defendant no.2, in that regard 30.07.2024 Deputy Commissioner Mandya issued Official Memorandum to construct 0.4.12 guntas for the purpose of Raitha Samparka Kendra. On perusal of the boundary mentioned in the official memorandum it clearly goes to shows that at the northern side it depicts survey No.1090 at West-southern side 1089/2 at the eastern side 1089/4 the same boundary reflected in letter correspond to Tahasildar to the Assistant Directed of Agriculture of Sirangapatna dated:22.07.2024. Further as per the MRT 123/2024-25 in Sy.No.1089/2 an extent 1 acre 22 gunta existing Revenue land it is vest with Government reserved for construction of Government Hostel. On perusal of the survey sketch in SY.No.1089/2 measuring 0.04.12 extent demarcated by the survey officials. It is clearly goes to shows that the

defendant No.1 and 2 never encroached the property of the plaintiff.

15. It is pertinent to note here, the property of the plaintiff is residential status and property of the defendant is in agriculture status two different properties. It is clearly evident from the above discussion, that the plaintiff suppress material fact. which clearly shows that the defendants not at all interference to the plaintiff. he is not having prima facie case and balance of convenience. The above two ingredients have not been made out by the plaintiff then the question does not arise as he will put to irreparable loss and injury, if the temporary injunction is refused. On the face of the records produced by the parties, the court is feels that, there is no strong prima facie case and balance of convenience leans in favour of the plaintiff.

16. It is settled position of law that, if the parties not made out prima facie case and balance of convenience leans in their favour the party has not come to the court with clean hands under such situation party is not entitled any discretionary relief by the court. Herein this case, the documents produced by the plaintiff not supports the contention of the plaintiff, he has not produced any document at this stage to show that the defendants are interfering with their peaceful possession over the suit schedule property. When plaintiff is seeking temporary injunction against the defendants, he should show prima

facie that he is in factual durable absolute possession of the suit property. At this juncture, the court constrained to hold that having prima-facie, at this stage the plaintiff miserably failed to prove that, prima-facie case, balance of convenience lies in his favour and irreparable loss caused by the act of the defendants. At this stage injunction granted very much hardship caused to the defendants as compared to the plaintiff. Hence, **the Point No.1 to 3 are answered in the Negative.**

17. Point No.4:- Since the plaintiff has failed to place any material before the court, this court is constrained to hold that, at this stage there is no prima-facie case in favour of the plaintiff. With these discussions this court proceed to pass the following:

ORDER

The I.A.No.I filed by the plaintiff under order XXXIX Rule 1 and 2 read with sec.151 of CPC is hereby dismissed.

No order as to cost.

(Dictated to the stenographer directly over the computer, typed by her, corrected by me and pronounced in open court on this the **19th day of December 2025**)

(HANUMANTHARAYAPPA.B.R)
Addl. Civil Judge & JMFC.,
Srirangapatna.

