

KAMS310005982017



**IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC,
HUNSUR**

:PRESENT:

**SMT. NAMRATA S HOSMATH, B.A., LL.B.,
I ADDL. CIVIL JUDGE & JMFC,
HUNSUR.**

DATED THIS THE 28TH DAY OF APRIL, 2026

O.S. No.198/2017

<u>PLAINTIFF:</u>	R. Ramesh S/o Late. Ramarao, Aged about 76 years R/at No.446, 12th Main, 24th Cross, 7th Sector, HSR Layout, Bangalore-560102, Presently Camped at Hunsur. (Rep. by Sri. C.R.R, Advocate)
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// Vs //

<u>DEFENDANTS:</u>	Mr. M.P. Nagaraj S/o M.G. Prakash, Aged about 43 years, R/at Gundurao Compound, Brahmins Valley, Madikerei, Kodagu District. (Rep., by Sri. M.R.L., Advocate)
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PARTIES TO I.A. NO.XXIII

APPLICANT /PLAINTIFF	:	R. Ramesh
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V/s

OPPONENT/ DEFENDANTS	:	Mr. M.P. Nagaraj
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i	Provisions under which the application is filed	U/o 39 Rule 1 and 2 of CPC R/W/Sec.151 CPC
ii	Reliefs Sought for	Temporary Injunction
iii	The date on which the IA No.XXIII is filed	16.03.2026
iv	Number of the application	XXIII
v	The date on which the objection is filed by opponent on IA No.XXIII	02.04.2026
vi	The date on which the order was passed on the said application	28.04.2026

ORDERS ON I.A. NO.XXIII

The plaintiff has instituted the present suit seeking the relief of declaration and permanent injunction. The plaintiff has filed an interlocutory application, numbered as I.A. No.XXIII, under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, seeking an ad-interim order of temporary injunction, restraining the defendant, his servants, agents, or any persons acting on his behalf, from meddling with the suit schedule properties(blocking the canal, or damaging the water canal or cutting trees planted about 12

to 13 years age in the suit schedule properties), until disposal of the suit.

2. The description of suit schedule properties are as follows;

ITEM NO.1

All the piece and parcel of Agricultural Land bearing Sy.No.1317 situated at Ashpathre Kawal Village, Kasaba Hobli, Hunsur Taluk, Mysuru District measuring to an extent of 3 acres 13 guntas.

East by : Block No.2

West by : Halla

North by : Sy.No.1290

South by : Sy.No.1318

ITEM NO.2

All the piece and parcel of Agricultural Land bearing Sy.No.82 situated at Ballenahalli Village, Kasaba Hobli, Hunsur Taluk, Mysuru District measuring to an extent of 9 guntas.

East by : Block No.1

West by : A.P. Kawal boundary

North by : L.No.83

South by : A.P. Kawal boundary

ITEM NO.3

All the piece and parcel of Agricultural Land bearing Sy.No.1318 situated at Ashpathre Kawal Village, Kasabe Hobli, Hunur Taluk, Mysuru District measuring to an extent of 5 acres 26 guntas.

East by : Sy.No.82 and Block No.2

West by : Halla

North by : Sy.No.1317

South by : Sy.No.1319

3. In the affidavit filed in support of the application, the plaintiff has averred that, the defendant is the son-in-law of plaintiff. It is further stated that, the plaintiff is the absolute owner of the suit schedule properties who has paid the entire sale consideration at the time of execution of the sale deeds. It is contended that, the sale agreement was entered in the name of plaintiff, but at the time of execution of sale deeds due to certain circumstances the sale deeds were executed in the name of defendant. It is alleged that, believing the defendant the plaintiff had got executed the sale deeds, however, the defendant is now claiming that the suit schedule properties belong to him and he has paid the sale consideration.

4. It is submitted that, at this stage the defendant has started meddling with the suit scheduled properties without their being any right. It is further stated that, defendant is also diverting the water channel with an intention to curtail the flow of water to the plants situated in schedule properties. It is alleged that, the defendant is also started cutting the trees in the suit schedule properties.

5. The plaintiff claims to have approached the jurisdictional police for assistance, however, he did not get any relief. Hence, the plaintiff was constrained to file the interlocutory application. The plaintiff submits that, a prima-facie case and balance of convenience lie in his favour, and if the application is not allowed, he will suffer great hardship and irreparable injury, which cannot be compensated. Therefore, the plaintiff prays to allow the application.

6. On the other hand, defendant has filed objections to I.A. No.XXIII. The defendant has contended that, present application is not maintainable and has to be dismissed at the threshold. It is stated that, the present application is only filed with an intention to drag the proceedings. It is contended that, a similar application was filed by the plaintiff seeking to not interfere into his peaceful possession and enjoyment, however, this court had passed an order 28.11.2017 dismissing the application. It is further contended that, plaintiff can not file similar application and this court also cannot pass order on

similar kinds of applications. The defendant contends that, the plaintiff has suppressed material facts and that the plaintiff has filed same application which was rejected earlier. On these grounds, the defendant has sought dismissal of I.A. No.XXIII.

7. Heard the arguments canvassed by both the counsels and perused the materials on record.

8. The following points arise for my consideration:-

1) Whether plaintiff has made out a prima-facie case in his favour?

2) Whether the balance of convenience is in favour of the plaintiff?

3) Whether the plaintiff would suffer irreparable injury, if the temporary injunction is not granted?

4) What order?

9. My findings on the above points are as under:-

Point No.1 : In the Negative

Point No.2 : Lies in favour of both parties

Point No.3 : Lies in favour of both parties

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

REASONS

10. **POINT NO.1 TO 3:-** These points are taken up together for common discussion to avoid repetition, as they involve common questions of facts and law, and are therefore interrelated.

11. This Court has carefully examined the pleadings, the affidavit filed in support of I.A. No.XXIII, the objections filed by the defendant, and the documents placed on record by both parties. The plaintiff has instituted the present suit seeking a decree of declaration and permanent injunction. The plaintiff has filed the present interlocutory application seeking a temporary injunction pending disposal of the main suit.

12. The plaintiff's case primarily rests on the assertion that, he is the absolute owner of the suit schedule properties, however, trusting upon defendant and due to certain circumstances the sale deeds are registered in the name of defendant. It is asserted that, the entire sale consideration is paid by the plaintiff. It is further asserted that, during the pendency of the suit the defendant is trying to meddle with the suit schedule properties by cutting the trees and diverting the water flow.

13. In support of his contentions, the plaintiff has produced the sale deeds, RTCs with respect to the suit schedule properties which is in the name of defendant. The

plaintiff has also produced certain receipts. He has produced complaints given to the police station and endorsements. The plaintiff has also produced photographs to show the nature of the suit schedule properties. Though the photographs cannot be believed as gospel of truth, however, this court can see that certain trees are cut.

14. On the other hand, the defendant has taken a categorical stand that the plaintiff had filed similar application which was considered and dismissed by this court. It is further asserted that, this court cannot entertained the similar application, when it has already been decided by the very same court. It is alleged that, the plaintiff has approached this court unclean hands without disclosing the earlier order passed this court.

15. It is to be noted that, IA No.III was filed by the plaintiff seeking the relief that defendant should not interfere with the peaceful possession and enjoyment of the suit schedule properties till the disposal of the suit. The said IA came to be dismissed. However, in the present interlocutory application plaintiff is not seeking the very same relief, he is seeking the relief restraining from meddling with the suit schedule properties. Hence, the present interlocutory application is different compared to earlier interlocutory application. Further, it is trite in law that when there is

change in circumstances a party can file very same application.

16. This court has gone through the materials on record. But at this stage while considering the order of temporary injunction the court has to look into prima-facie document, which is free from any irregularity. It is to be noted that, if temporary injunction is granted against the defendant, and if the possession was delivered to the defendant under registered sale deeds it would amount to injustice to the defendant. On the other hand, if the plaintiff is in possession of the suit schedule properties as per sale agreement, then it would be injustice to the plaintiff. With regard to the rival contentions made by both the parties with respect to ownership, it requires full fledged trial and it can not be decided at this stage.

17. The materials produced cumulatively indicate that the dispute between the parties is ongoing, contentious, and volatile in nature. In such circumstances, granting an absolute injunction in favour of either party may aggravate the situation and cause serious prejudice to the rights of the other side.

18. At this stage this court is of the opinion that, the balance of convenience and irreparable injury lied in favour of

both the parties. The relief of injunction being an equitable relief cannot be granted as per whims or fancies. It is a well-settled principle of law that *actus curiae neminem gravabit*. In granting interim relief, the Court must exercise care so that neither party suffers undue prejudice. Therefore, under these circumstances, it is just and proper to direct both parties to maintain status quo with respect to the maintenance, possession, cultivation and enjoyment of properties until disposal of the suit.

19. At this juncture, expressing any opinion on the merits of the case may prejudice the fair adjudication of the matter. Therefore, the rights of the parties cannot be concluded or determined at this interlocutory stage. Upon considering the pleadings, documents produced, and rival submissions, this Court is of the opinion that the plaintiff has not established a prima-facie case. However, the balance of convenience and irreparable injury appear to tilt in favour of both parties. Accordingly, **Point No.1** is answered in the **Negative**, and **Point No.2 and 3** are answered **in favour of both the parties**.

20. **Point No.4:-** In the light of the discussion, reasons and answers to points No.1 to 3, it is just and proper to pass the following;

ORDER

I.A. No. XXIII filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby allowed in following terms.

Both parties are hereby directed to maintain status-quo till disposal of suit.

No order as to cost.

(Dictated to the Stenographer Grade-III, directly on computer, typed by her, corrected, signed and then pronounced by me in the open Court on this the 28th day of April, 2026)

(NAMRATA S HOSMATH)
I Addl. Civil Judge & JMFC.,
Hunsur.