

KAMS310010892023



IN THE COURT OF THE PRL.CIVIL JUDGE. & JMFC., AT HUNSUR
PRESENT

Sri. Manu Patel B.Y., B.Com., LL.B.,
Prl.Civil Judge & JMFC.,
Hunsur.

Dated this the 23rd day of January, 2024

O.S. No.256/2023

PLAINTIFF/S : ***Sri. Anantharaj S/o M. Rajugowda***
Aged about 44 years,
Rep. by GPA holder Smt. Jayamma
W/o Sri. Rajugowda M.
Aged about 63 years,
R/at MIG 38, Bisilu Maramma Temple Road,
Gangothri Layout,,
Mysuru - 570009.
[Sri. B.L.G., advocate]

V/s

DEFENDANT/S : ***1. Smt. Jayamma W/o Sri. Rachegowda***
Aged about 58 years,

2. Sri. Ravikumar S/o Sri. Rachegowda
Aged about 40 years,
Both are R/at No.346, 6th Cross,
Bhogadi Village,
Kasaba Hobli,
Mysuru Taluk - 570026.
[Sri. C.H.E., Advocate]

I. A. NO.I

APPLICANT/S : ***Smt. Jayamma W/o M. Rajugowda***
(..... GPA Holder of Plaintiff)

V/s

**OPPONENT/S : Smt. Jayamma W/o Sri. Rachegowda
& Another
(.....Defendants)**

**ORDER ON IA NO.I U/O 39 RULE 1 & 2 OF CPC FILED BY
THE PLAINTIFF**

This application has been filed by the GPA Holder of plaintiff Under Order XXXIX Rule 1 & 2 R/w 151 of CPC. In this application the plaintiff has sought to pass an ad-interim temporary injunction to restraining the defendants and their agents, servants, henchmen and anybody acting on behalf of them from interfering with the schedule property till pending of the suit in the interest of justice and equity.

2. Along with the application the plaintiff has sworn an affidavit. It is the contention of the plaintiff that, the plaintiff being the absolute owner of the property in possession more fully described in the schedule below derived under:

3. The property measuring 1 Acre in Sy.No.66/1 has been allotted under the Grant Certificate dated 10.07.1978 by the Tahashildar, Hunsur Taluk, under LND CR No.99/1978-79 by handing over possession on 16.07.1978 for an upset price of Rs.265/- in favour of Sri Krishnegowda S/o Chikkegowda. The said property has been given re-survey new Number as 71.

4. The Tahashildar, Hunsur Taluk has issued a Revenue Sketch dated 10.07.1978 confirming the possession of

Sy.No.66/1 measuring 1 Acres of land in favour of Sri Krishnegowda. As per the said document Krishnegowda was enjoying the said property as its absolute owner

5. Towards the love and affection Krishnegowda has asked the Revenue Authorities to transfer the katha in the name of Smt. Jayamma D/o Venkategowda by effecting the Khatha in her name as per MR No.7 of 1991-92. The said Jayamma was in possession and personal cultivation of the said property.

6. As per the Resolution passed by Taluk Bhu Manjoorathi Samithi, under its Resolution dated 13.06.1994 has issued a Saguvali Chit in favour of Krishnegowda S/o Chikkegowda of Karimuddanahalli Village, by collecting the upset price in granting 0-30 Guntas of land in Sy.No.66.

7. As per the documents the property has been mutated in his name by the Revenue Authorities under MR No. 9/1997-98 dated 10.11.1997.

8. The said Krishnegowda has transferred said property in the name of Smt. Jayamma D/o Venkategowda the Khatha was effected as per MR No.15 of 1998-99 dated 13.04.1999. Jayamma was in possession and enjoyment of the same.

9. As per the documents referred to above, the RTCs were transferred into the name of Sm Jayamma D/o

Venkategowda. Sri Krishnegowda has executed a Registered Will dated 08.02.1999 bequeathing the above two properties in favour of Smt. Jayamma. The said documents have been registered before the Sub Registrar, Mysuru South on 09.02.1999. Sri Krishnegowda died on 11.06.2003 under the Death Certificate issued by the Tahashildar, H.D.Kote Taluk dated 15.06.2003. Smt. Jayamma became the absolute owner in possession of entire extent of 1 Acre 30 Guntas of land more fully described in the said Will.

10. Smt. Jayamma being the owner of the property has requested the Revenue Authorities to transfer the said properties including another property in the name of her son R. Anantharaju as per the oral partition held in the family for changing the Khatha, the name of said R. Anantharaju has been registered and mutated under MR No.3/1999-2000 dated 06.07.1999. Ever since then Sri. R. Anantharaju became the absolute owner in possession of entire 1 Acre 30 Guntas of land.

11. The wife of Krishnegowda by name Smt Rathnamma filed a suit in O.S.No.6/2012 on the file of Hon'ble Civil Judge (Jr.Dn) & JMFC at Hunsur for the relief of her imaginary 1/4th share in the schedule property. On contest the said suit came to be disposed under the compromise by filing application under Order 23 Rule 3 of CPC. Wherein Smt Rathnamma identified and acknowledged the genuineness of the Registered Will dated 08.02.1999 in favour of Smt. Jayamma and the entries made in

the name of Jayamma's son R.Anantharaju and were permitted to be continued.

12. As per the Orders passed, the mutation has been effected as per MR No.H 14 dated 28.04.2016 in the name of Sri. Ananatharaju. By putting up few sheds in Sy. No.71 by the Plaintiff the Secretary, Karimuddanahalli Halli Grama Panchayath has issued a Certificate dated 21.10.2016 for getting Power Supply.

13. All these documents were clearly discloses that the Plaintiff is in lawful possession and enjoyment of the entire 1 Acre 30 Guntas of land without any hindrance. As he was not in a position to take care of day to day affairs of the said property, The Plaintiff issued a Registered Power of Attorney dated 06.01.2023 in favour of his mother Smt. Jayamma to administer the property.

14. The Defendants who does not have right, title or interest over the Plaint Schedule Property and they are cultivating their property on the eastern side of Plaint Schedule Property. Both the properties were bifurcated in between the said properties there exists a Mysuru-Gaddige Main Road, connecting two big villages. The boundaries in their respective documents plays a vital role to decide the case on merits. Whenever any disputes arise between the parties with reference to Sy. Numbers, measurements only boundary prevails. This fact is not

understood to the Defendants who are in their rich imagination that this principles is not applicable to them. The Defendants along with their henchmen have started to interfere with the Plaintiff's peaceful possession over the Plaintiff Schedule Property during the last week of July 2023. When the GPA holder of Plaintiff has requested them not to venture into said illegal activities over the Plaintiff Schedule Property. But the persons claiming to be the supporters of the Defendants have started to quarreling and told that the Plaintiff is not entitled for anything and they got every right to interfere by threatening the plaintiff. The GPA Holder of the Plaintiff approached the jurisdictional police for lodging a complaint on 26.07.2023. But the said police authorities instead of receiving the complaint and taking necessary action of trespass and holding threat, asked the GPA Holder of the Plaintiff to approach the Civil Court for her redressal. Without alternative the plaintiff is before the court seeking the relief.

15. On the receipt of the application the defendants have filed objection. Wherein the defendants have contended that, the application filed by the plaintiff is not maintainable either in law or on facts and hence the same is liable to be dismissed in limine. The defendants have filed their written statement in detail and the averments made in the written statement may kindly be read as part and parcel of this objection statement in order to avoid the repetition of the facts.

16. The plaintiff has sworn to a false affidavit by suppressing the material facts. Further the plaintiff has not made out any prima facie case and the balance of convenience is not lies in favour of the plaintiff. On this said ground alone granting temporary injunction does not arise.

17. The land bearing survey No. 55 measuring 2 acres 18 guntas including 'A' karab 0.02 guntas and B' karab 0.21 guntas situated at Mudlapura village, Bilikere Hobli. Originally the above said landed property belongs to one Chairman Venkate Gowda S/o Honnegowda of Karimuddanahalli village. On 02.09.1983 the above said Chairman Venkategowda executed a registered sale deed in favour of K.Chinnaswamy Gounder S/o Karpane Gounder with respect to the land bearing survey No.55 measuring East to west on the southern side 1 acre 09 guntas out of 2 acres 18 guntas. After purchase of the same, the above said K.Chinnaswamy Gounder got changed all the revenue documents to his name and he was in peaceful possession and enjoyment of the same as its absolute owner. The said Chinnaswamy Gounder has gave a requisition to the concerned Deputy Commissioner for alienation from agricultural to residential purpose with respect to the land bearing survey No.55 measuring 0.10 guntas out of 1 acre 09 guntas. Accordingly on 28.04.1989 the Deputy Commissioner has passed an order in ALN.36/1988-89 by converting the said land from agriculture to residential purposes. After converting the same, the said K.Chinnaswamy Gounder and his family members have sold

0.10 guntas of alienated land and the remaining land of 0.27 guntas in survey No.55 to one Rachegowda S/o Kullegowda through a registered sale deed on 03.02.1993. After purchase of the same the said Rachegowda S/o Kullegowda by changing all the revenue records to his name is in peaceful possession and enjoyment of the same without any interruption from anybody as its absolute owner thereof.

18. The remaining land in survey No.55 measuring 1 acre 09 guntas out of 2 acres 18 guntas East to West on the Northern side has been sold by Chairman Venkategowda S/o Honnegowda in favour of C. Palaniswamy S/o K.Chinnaswamy Gounder through a registered sale deed dated 02.09.1983. After purchase of the said land, the said C. Palaniswamy got changed all the revenue records to his name and he is in peaceful possession and enjoyment of the same as its absolute owner thereof without any interruption from anybody.

19. After purchase of the said land, the said C. Palaniswamy gave a requisition to the Deputy Commissioner of Mysuru to alienation of the said land from agricultural to residential purpose with respect to the land bearing survey No.55 measuring 0.10 guntas out of 1 acre 09 guntas. After verifying all the revenue records, the Deputy Commissioner has passed an order in ALN 37/1988-89 on 28.04.1989. After obtaining the said alienation order, the above said C.Palani Swamy has sold the property to the first defendant (Jayamma) through a

registered sale deed dated 03.02.1993 including alienation property of 0.10 guntas and remaining landed property of 0.28 guntas in survey No.55. Hence the first defendant is the owner in possession and enjoyment of the above said properties as its absolute owner without any interruption from anybody. Further the first defendant sold 0.02 guntas of land in favour of one Papanna through a registered sale deed in the year 2001-02 with respect to the land bearing survey No.55. The remaining land of 0.26 guntas and alienation property of 0.10 guntas are in possession and enjoyment of the defendants and they are enjoying the same as its absolute owner. After purchase of the entire landed property of 2 acres 18 guntas including 'A' kharab 0.02 guntas and 'B' Kharab 0.21 guntas in land bearing survey No.55 which was purchased by Rachegowda and the first defendant who are the husband and wife. In the mean while the Government authority has acquired 0.21 guntas of 'B' Karab for the formation of road i.e., Gaddige - Mysuru Main Road in survey No.55.

20. The above said Rachegowda has executed a relinquishment deed in favour of his son i.e., the second defendant herein through a registered Relinquishment Deed on 09.10.2017 measuring to an extent of 0.27 guntas in survey No.55. After execution of the relinquishment deed, the second defendant has got changed all the revenue records to his name and hence the second defendant is in peaceful possession and enjoyment of the same as its absolute owner thereof.

21. Again the father of the second defendant has executed a registered Gift Deed in favour of the second defendant with respect to the remaining alienation property of 0.10 guntas i.e., 25.80×39.21 meters = 1011.61 square meters in survey No. 55 on 09.10.2017. As there was mistake in the measurement of the property, the said Rachegowda has executed a registered rectification deed on 05.12.2017 and there after the second defendant is in peaceful possession and enjoyment of the said property as its absolute owner thereof without any interruption from anybody.

22. The second defendant have given an application to the survey department on 20.02.2020 in order to measure the property and to fix the boundaries with respect to the survey No.55 totally measuring 1 acre 35 guntas which excludes 0.21 guntas of 'B' kharab as there is already a road in existence. When such being the case the ADLR of Hunsur has issued a notice to the defendants as well as to the plaintiff. But the plaintiff being a powerful person in the locality with the help of goonda aliments has stopped the measurement work with respect to the landed property. At that point of time the ADLR, Hunsur has issued a sketch in favour of the second defendant with respect to the above said landed property clearly stated that the plaintiff has encroached approximately 0.39 guntas of land in survey No.55.

23. In the meanwhile the plaintiff has filed a revision petition before the Deputy Commissioner of Mysuru against the ADLR, Hunsur, Rachegowda and defendants in R.P. No.10/2020 and after verifying the records, the Hon'ble Deputy Commissioner has stayed the operation of Thathkal podes conducted by ADLR, Hunsur. Later the said matter has been referred to J.D.L.R, Mysuru to conduct enquiry and pass necessary orders and the same has been re-numbered as JDRP No.422/2021-22. Later the JDLR has issued notice to both the parties and conducted the enquiry and after verifying the records and hearing the matter, the JDLR has dismissed the revision petition filed by the plaintiff on 15.12.2022. After dismissal of the revision petition, the second defendant herein gave a requisition on 09.02.2023 to the ADLR to re-conduct the Thathkal podes of sketch and to conduct the Mahazer with respect to the survey No.55. Later the Surveyor of Hunsur has conducted the survey with respect to the survey No.55, but the plaintiff illegally interfered and made galata with the above said Surveyor. The Surveyor has submitted his report to the ADLR on 07.06.2023 stating that the plaintiff is obstructing to conduct the survey of the said land.

24. After dismissal of the revision petition, again the plaintiff gave a requisition to the ADLR to stop the further proceedings in drawing the sketch of Thathkal podes on 26.05.2023. After receiving the requisition from the plaintiff, the ADLR, Hunsur has issued notice to both the parties on

17.07.2023 calling upon both the parties to appear before them on 27.07.2023 and to produce the documents with respect to the landed property bearing survey No.55. On that day the second defendant has appeared before the ADLR, Hunsur and submitted all the documents with respect to the land bearing survey No.55. After verifying the documents the ADLR, Hunsur has issued a notice to both the parties to present before the landed property on 09.08.2023 without fail and the ADLR, Hunsur has issued requisition letter to Sub-Inspector Police, Bilikere Police Station, on 08.08.2023 to be present on 09.08.2023 to give necessary protestation in conducting survey of Thathkal Poda with respect to the land bearing survey No.55 situated at Mudlapura village, Bilikere Hobli, Hunsur Taluk. That on 09.08.2023 the surveyor, ADLR of Hunsur, plaintiff and the defendants as well as the police officers of Bilikere police Station were present before the said land and the Surveyor has partly conducted the survey with respect to the survey No.55 and in the meanwhile the plaintiff and his henchmen, agents, servants, goonda ailments have threatened the officials in filthy language and also obstructed to conduct Thathkal phode with respect to the land bearing survey No.55.

25. When such being the case, the plaintiff by suppressing all these material facts since from 3-4 years has obstructing in conducting of Thathkal poda with respect to the survey No.55. This clearly goes to shows that the plaintiff has encroached some portion of the defendants property with respect

to the land bearing survey No.55. The only intention of the plaintiff is to drag the proceedings and to harass the defendants both mentally and physically, as the plaintiff has no manner of right, title or interest in conducting the Thathkal pade with respect to the land bearing survey No.55 of written statement schedule property. Therefore, prays to dismiss the application with cost.

26. Based upon the above said respective contentions of the plaintiff and defendants, the following points arose for consideration of the Court:

POINTS

- 1. Whether the plaintiff has made out a prima-facie case for grant of temporary injunction?**
- 2. Whether the balance of convenience lies in favour of the plaintiff?**
- 3. Whether the plaintiff will be put to irreparable injury, if an order of Temporary Injunction is not granted?**
- 4. If so, what order?**

27. I have heard and perused the application, objection and materials available on record. After hearing and on perusal of the records, the court proceeds to answer aforesaid points 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:

28. **POINT No.1:-** On perusal, the GPA Holder of the plaintiff has filed the suit for Permanent Injunction against the defendants. It is the case of the plaintiff that, the plaintiff being the absolute owner of the property in possession more fully described in the schedule below derived under:

29. The property measuring 1 Acre in Sy.No.66/1 has been allotted under the Grant Certificate dated 10.07.1978 by the Tahashildar, Hunsur Taluk, under LND CR No.99/1978-79 by handing over possession on 16.07.1978 for an upset price of Rs.265/- in favour of Sri Krishnegowda S/o Chikkegowda. The said property has been given re-survey new Number as 71.

30. The Tahashildar, Hunsur Taluk has issued a Revenue Sketch dated 10.07.1978 confirming the possession of Sy.No.66/1 measuring 1 Acres of land in favour of Sri Krishnegowda. As per the said document Krishnegowda was enjoying the said property as its absolute owner.

31. The said Krishnegowda out of love and affection has requested the Revenue Authorities to change the katha in the

name of Smt. Jayamma D/o Venkategowda by effecting the Khatha in her name as per MR No.7 of 1991-92. The said Jayamma was in possession, cultivation and enjoyment of the said property.

32. As per the Resolution passed by Taluk Bhu Manjoorathi Samithi, under its Resolution dated 13.06.1994 a Saguvalli Chit was issued in favour of Krishnegowda S/o Chikekgowda of Karimuddanahalli Village, by collecting the upset price and granted 0-30 Guntas of land in Sy.No.66. For having price the said Krishnegowda has produced the vouchers of Rs.425/- and was in possession as absolute owner of 30 guntas. The property has been mutated in his name as per MR No. 9/1997-98 dated 10.11.1997. Out of love and affection, the said Krishneowda has transferred said property in the name of Smt. Jayamma D/o Venkategowda the Khatha was effected as per MR No.15 of 1998-99 dated 13.04.1999. Jayamma was in possession and enjoyment of the same.

33. The RTCs were transferred into the name of Sm Jayamma D/o Venkategowda. Sri Krishnegowda has executing a Registered Will dated 08.02.1999 bequeathing the above two properties in favour of Smt.Jayamma. The said documents was registered before the Sub Registrar, Mysuru South on 09.02.1999. Sri Krishnegowda died on 11.06.2003 as per the death certificate issued by the Tahashildar, H.D.Kote Taluk dated 15.06.2003.

34. Smt.Jayamma being the owner of the property has requested the Revenue Authorities to transfer the said properties including another property in the name of her son R. Anantharaju as per the oral partition held in the family for changing the Khatha, accordingly, the said R. Anantharaju has been in possession of property as per MR No.3 of 1999-2000 dated 06.07.1999.

35. The wife of Krishnegowda by name Smt Rathnamma filed a suit in O.S.No.6/2012 against the Anantharaju for her 1/4th share in the schedule property. On contest the said suit came to be disposed under the compromise by filing application under Order 23 Rule 3 of CPC. Wherein Smt Rathnamma identified and acknowledged the genuineness of the Registered Will dated 08.02.1999 in favour of Smt.Jayamma and the entries made in the name of Jayamma's son R.Anantharaju. As per the compromised decree dated 16.04.2012, the katha was mutation as per MR No.H 14 dated 28.04.2016. The Secretary, Karimuddanahalli Halli Grama Panchayath has issued a Certificate dated 21.10.2016 to put up sheds in Sy. No.71 by by the plaintiff getting Power Supply after obtained by way of NOC.

36. It is clearly discloses that the Plaintiff is in lawful possession and enjoyment of the entire 1 Acre 30 Guntas of land without anybody interference. The plaintiff has issued a Registered Power of Attorney dated 06.01.2023 in favour of his

mother Smt. Jayamma to administer the property before the Sub-registrar, Mysuru West, Mysuru.

37. The defendants does not have right, title or interest over the Plaint Schedule Property and they are cultivating their property on the eastern side of Plaint Schedule Property. Both the properties were bifurcated in between the said properties there exists a Mysuru-Gaddige Main Road, connecting two big villages. The Plaintiff as well as the Defendants may rely, are enjoying their respective properties since decades. Nobody is having any right over other's property. The defendants in other words they are the unscrupulous, mischievous, troublesome people, causing more and more mental agony to the Plaintiff in one or the other pretext, though having no right to do so, either by themselves or through their followers, supporters and agents.

38. When this being the actual and factual position in and upon the Plaint schedule Property, the Defendants along with their henchmen started to interfere with the Plaintiff's peaceful possession over the Plaint Schedule Property during the last week of July 2023 for the reason best known to them. Immediately the GPA Holder of the Plaintiff requested them not to venture into said illegal activities over the Plaint Schedule Property. The defendants started quarreling and told that the Plaintiff is not entitled for anything and they got every right to interfere and threatened the plaintiff. That the GPA Holder has approached the jurisdictional police for lodging a complaint on

26.07.2023. The police have directed to approach the civil court for her redressal. Without alternative the plaintiff is before the court seeking the relief.

39. **REJOINDER FILED BY THE PLAINTIFF TO THE WRITTEN STATEMENT;**

The Plaintiff further contended that, by reiterating the pleas put forward in his Pleat with supporting documents, the Plaintiff categorically denying each and every averments made in the Written Statement as false, frivolous and motivated, made only to mislead the Hon'ble Court to get the sympathy and if possible to get some reliefs which amounts miscarriage of justice to which the Defendants are not entitled in Law. It is further stated that, except reiterating the pleas put forwarded in para Nos.2 to 6 word by word and concluding by calling it as a concocted and asking the Plaintiff to strict proof of the same and nothing has been contrary. That means a regular trial is required for the Hon'ble Court to come to the just conclusion with reference to the boundaries shown in their respective documents. But, now the Plaintiff is before the Hon'ble Court for its interference with passing an order of Temporary Injunction restraining the Defendants not to interfere with Plaintiff's peaceful possession and enjoyment of the Pleat Schedule Property since decades with supporting documents and those documents are beyond doubt. On the same lines the Defendants have filed their Statement of objections to I.A. No.1 by pumping

large scale of documents which are self explanatory and in fact supporting the case of the Plaintiff. Kind attention may kindly be drawn to revenue sketches produced by both the parties. The Plaintiff's document No.3 in the list was dated 10.02.1978 with that of page No.95 of the list of documents produced by the Defendants prepared on 07.8.2023 which is the replica. But, with a draconian observation made by the Surveyor by saying that the Plaintiff has encroached upon 0-30 Guntas of land without any basis. The million dollar question is whether the survey is allowed to say so without looking into the documents by ignoring the entries made in all the registered documents pertaining to Sy.No.55 where it was/is specifically mentioned the property measuring in all 2.18 Guntas is bounded on Mysuru-Gaddige Road on its western boundary. Is it not illegal and high handed act of the surveyor ? After all an agency has been established by the State Government to measure and identified the lands in possession of the persons who is interested in it based on registered documents and nothing more. How can he canvass contrary to it. This is nothing but an attempt to knock off the property by exerting the influence from all angles. That cannot be entertained at all. It is in the domain of the Civil Courts to decide the title and possession of landed properties based on registered documents and nothing else. It is earnestly prayed that the Hon'ble Court be pleased to draw its attention to page No.21 and 27 of the documents which reflects the true picture of the property held by the Defendnats and now they cannot go beyond it.

40. The entire truth has revealed from para No.9 of their Written Statement but falsely canvassing about the measurements and showing wrong western boundary in the Schedule shown in the Written Statement which is far away from truth. The Plaintiff is unable to understand why and how the ADLR caused Notices repeatedly to the Plaintiff whose property is situated at beyond the western boundary of the Defendant, i.e. Mysuru-Gaddige main road, to measure and to make Tatkal Phode to Sy.No.55. The admitted fact is that:

- a) Earlier the entire property belongs to Chairman Venkate gowda measuring 2-18 Guntas in Sy. No.55.
- b) He sold the property twice measuring 1 Acre 09 Guntas of each from North to South direction holding throughout the existing Mysuru-Gaddige Road on his western boundary.
- c) On two occasions the respective owners approached the Deputy Commissioner, Mysuru District for converting their lands measuring 0-10 Guntas each for non agricultural purpose, showing its western boundary as Mysuru-Gaddige road and obtained the permission with sketches under Orders dated 20.07.2017 PS Since then the Defendants are enjoying these 0-20 Guntas of land with remaining land as its owners beyond its western boundary till now.

- d) It is pulpably false that 0-21 Guntas of "B" Karab land has been acquired by the State as alleged in para No.9 "f" of Written Statement. The said Mysuru-Gaddige road was in existence long prior to 1983 and there is/was no question of State Government acquiring the said land. What are all property conveyed to the Defendant under the documents are beyond this Western road margin. The survey number 55 is nothing to do with the Plaintiff's property situated on the eastern side of the main road measuring 1 Acre 30 Gutnas bearing re-survey No.71 by way of Grant by the State Government for a price. Ever since then the Plaintiff is enjoying the same as its absolute owner in possession of by cultivating the same uninterruptedly and peacefully till date.
- e) This Plaintiff is not aware how, under what document Defendants became owner of Sy. No.55 and why they are interested in knocking Plaintiffs' property by exerting political influence with the connivance of revenue authorities. If at all the Defendants claims to be the owners of Sy No.55, situated beyond western Mysuru- Gaddige Road the Plaintiffs have no objection. But by taking the illegal course/help of ADLR claiming anything more in Plaintiff's Sy No.71 calling it as part of Sy.No.55 it is not only condemnable one but no Court will come for their illegal resque.
- f) As stated supra, the Defendants want to go for fixing boundary to their property bearing Sy No.55 and the Plaintiff

is not aware why ADLR has to issue cause notice to him, whose property is situated beyond their western boundary which is a big motorable road existing since decades to participate in taking measurements. How can he think of going beyond Defendants' boundary as reflected in the Registered documents as Mysuru-Gaddige Road on western side and tries to take measurements in and upon Sy No.71 situated beyond the main road on its Eastern boundary. It is too much for the Revenue Authorities to succumb to the political pressure to turn out the job illegally, illogically and unscientifically. Hence the Plaintiff is right in objecting the ADLR to enter into his Landed property at the best of the Defendants.

- g) Kind attention is drawn to the document Page No.118 to 128 produced by the Defendant himself and observed at page No.6 of the documents at Page NO.128 wherein the Authorities were clearly canvassing contrary to point j' at page No.10 of the Written Statement as: a3 ಸಂಬಂಧ ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಾವೆ ದಾಖಲಾಗಿದ್ದು, ಇತ್ಯರ್ಥಕ್ಕಾಗಿ ಬಾಕಿ ಇರುತ್ತದೆ ಹಾಗೂ ಸದರಿ ದಾವೆಯು ಹಕ್ಕಿನ ಸಂಬಂಧವಾಗಿ ದಾಖಲಾಗಿರುತ್ತದೆ. ಮತ್ತು ದಾವಾ ಕ್ರಯದ ವ್ಯವಹಾರಗಳ ನಡೆದಿರುವುದರಿಂದ ಕ್ರಯಪತ್ರದ ವಿಶ್ಲೇಷಣೆ ಮಾಡಲು ಈ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಅಧಿಕಾರ ವ್ಯಾಪ್ತಿ ಇರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಸದರಿ ವಿಷಯವು ಸಿವಿಲ್ ವ್ಯಾಪ್ತಿಗೆ ಬರುವುದರಿಂದ ಸಕ್ಷಮ ಸಿವಿಲ್ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಬಗೆಹರಿಸಿಕೊಳ್ಳುವಂತೆ ಉಭಯತ್ರರಿಗೂ ಸೂಚಿಸಿ ಈ

ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ. What more is required at this juncture to decide the case on hand.

- h) Relying upon the same read wrongly again using political connections with the connivance of revenue authorities who are working under the mercy of political bigwigs has to succumb to their illegal demand and go further in giving wrong picture to the Court gives raise for multiplicity of proceedings to waste the time of the Courts. This cannot be happened. This Court is not helpless in handling the case in a very judicious way by exercising its inherent powers by granting the relief claimed by the Plaintiff by rejecting the pleas put forwarded by the Defendants.
- i) The Hon'ble Court has to condemn the action of ADLR in taking the help of the Police to trying to enter into Plaintiff's Plaint Schedule Property illegally to do the illegal job by not giving any credentials to the quasi judicial orders passed on 15.12.2022 in Rev. Appeal NO.422/2021- 22 on the file of JDLR, Mysuru. By this the Hon'ble Court can conclude that the ADLR has to do the job by not verifying any documents produced by the parties.

41. Under the circumstances narrated above in detail, there is no question of ADLR may be permitted to take measurements of wrongly shown Written Statement Schedule by trespassing into Plaintiff Plaint Schedule Property, which is

situated beyond the mysuru gaddige main road measuring 1acre 30 guntas as allege.

42. To substantiate the contention of the plaintiff, the plaintiff has relied on the documents, Grant certificate dated 16.07.1978, copy of tax paid receipt, re-survey sketch of Sy.No.71 dated 29.12.1979, revenue sketch issued by Tahasildar dated 10.07.1978, copy of MR. No.7/91-92, Saguvali Chit dated 1306.1994, official memorandum, Check memo, Voucher of Rs.425/-, Copy of MR NO.9/1997-98- dated 10.11.1997, copy of MR. NO.15/1998-99 dated 13.04.1999, 2 RTCs for the year 1995-96 to 1999-2000, WILL dated 08.02.1999, death certificate of Krishnegowda, Mutation Register Extract No3/1999-2000, 2 RTCs in Sy.No.66, Copies of plaint, written statement , ordersheet in O.S. No.6/2012, copy of Mutation register extract No.H 14 dated 28.04.2016, NOC dated 21.10.2016, RTC in Sy.No.71, RTC in Sy.No.66, GPA dated 06.01.2023, Sage deed dated 02.09.1983, sale deed dated 03.02.1993, copy of alienation order, Tax paid Receipt, Form No.9, Form No.11A, MUDA Letter, Sketch, Letter of Tahasildar Office, Form No.9, Form, No.11A, Gift deed dated 09.10.2017, Tax paid Receipt, Amended Gift deed dated 05.12.2017, Form No.9, Form No.11, tax paid receipt – 2, Licence for construction, 4 tax paid receipt, 2 Official Memorandum, tax paid receipt, MUDA Letter, Form No.9, Form No.11, sketch, Akarbandh, Notice, 2 Tathkal phod application, Notice, sketch, enquiry notice dated 17.12.2020, Enquiry notice dated 20.06.2020, 08.07.2020, 07.12.2020, Objection to Tathkal application, documents with respect to appeal in

RP(Sy)/10/2020 filed before D.C., Mysuru, Order copy of D.C. Mysuru in RP No.ಭೂ.ಜಂ.ನಿ.ಡಿ.ಪಿ.422/21-22, Notice, tathkal application, endosement of Surveyor, Enquiry notice, Notice tathkal phod, seeking protection for conduct survey, RTC in Sy.No.55, 3 photos, survey sketch, Form No.9, Form No.11A, copy of Partition Deed, copy of Relinquishment deed, 7 photos, 1 C.D., Notice of Maraduru Grama Panchayath, Police Acknowledgment, documents with respect to appeal filed in RP No. /2023-24 before Joint director of land records, letter of Revenue Department, postal cover (all are certified copies.

43. On the service of the summons, the defendants have appeared through the counsel and filed their written statement denying the plaint averments. Wherein it is the contention of the defendant that, The land bearing survey No. 55 measuring 2 acres 18 guntas including 'A' karab 0.02 guntas and 'B' karab 0.21 guntas situated at Mudlapura village. Originally the above said landed property belongs to one Chairman Venkate Gowda S/o Honnegowda of Karimuddanahalli village. On 02.09.1983 the above said Chairman Venkategowda executed a registered sale deed in favour of K. Chinnaswamy Gounder S/o Karpane Gounder with respect to the land bearing survey No.55 measuring East to west on the southern side 1 acre 09 guntas out of 2 acres 18 guntas. After purchase of the same, the above said K.Chinnaswamy Gounder got changed all the revenue documents to his name and he was in peaceful possession and

enjoyment of the same as its absolute owner thereof without any interruption from anybody.

44. Further the above said Chinnaswamy Gounder has given a requisition to the concerned Deputy Commissioner for alienation from agricultural to residential purpose with respect to the land bearing survey No.55 measuring 0.10 guntas out of 1 acre 09 guntas. on 28.04.1989 the Deputy Commissioner has passed an order in ALN.36/1988-89 by converting the said land from agriculture to residential purposes. The said K.Chinnaswamy Gounder and his family members have sold 0.10 guntas of alienated land and the remaining land of 0.27 guntas in survey No.55 to one Rachegowda S/o Kullegowda through a registered sale deed on 03.02.1993. After purchase of the same the said Rachegowda S/o Kullegowda by changing all the revenue records to his name is in peaceful possession and enjoyment of the property.

45. The remaining land in survey No.55 measuring 1 acre 09 guntas out of 2 acres 18 guntas East to West on the Northern side has been sold by Chairman Venkategowd S/o Honnegowda in favour of C.Palaniswamy S/o K.Chinnaswamy Gounder through a registered sale deed dated 02.09.1983. After purchase, the said C.Palaniswamy got changed all the revenue records to his name and he is in peaceful possession and enjoyment of the same as its absolute owner thereof without any interruption from anybody.

46. After purchase of the said land, the said C.Palaniswamy gave a requisition to the Deputy Commissioner of Mysuru to alienation the said land from agricultural to residential purpose with respect to the land bearing survey No.55 measuring 0.10 guntas out of 1 acre 09 guntas. After verifying all the revenue records, the Deputy Commissioner has passed an order in ALN 37/1988-89 on 28.04.1989. The said C.Palani Swamy has sold the property to the first defendant -Jayamma through a registered sale deed dated 03.02.1993 including alienation property of 0.10 guntas and remaining landed property of 0.28 guntas in survey No.55. The first defendant is the owner in possession and enjoyment of the above said properties as its absolute owner thereof without any interruption from anybody. The first defendant sold 0.02 guntas of land in favour of one Papanna through a registered sale deed in the year 2001-02 with respect to the land bearing survey No.55. The remaining land of 0.26 guntas and alienation property of 0.10 guntas are in possession and enjoyment of the defendants

47. After purchase of the entire landed property of 2 acres 18 guntas including 'A' kharab 0.02 guntas and 'B' Kharab 0.21 guntas in survey No.55 which was purchased by Rachegowda and the first defendant who are the husband and wife. The Government authority has acquired 0.21 guntas of 'B' Karab for the formation of road i.e., Gaddige - Mysuru Main Road in survey No.55.

48. In the meanwhile the above said Rachegowda has executed a relinquishment deed in favour of his son i.e., the second defendant herein through a registered Relinquishment Deed on 09.10.2017 measuring to an extent of 0.27 guntas in survey No.55. After execution of the relinquishment deed, the second defendant has got changed all the revenue records to his name. As such second defendant is in peaceful possession and enjoyment of the same as its absolute owner thereof.

49. Again the father of the second defendant has executed a registered Gift Deed in favour of the second defendant with respect to the remaining alienation property of 0.10 guntas in survey No. 55 on 09.10.2017. As there was mistake in the measurement of the property, the said Rachegowda has executed a registered rectification deed on 05.12.2017. The 2nd defendant is in peaceful possession and enjoyment of the said property as its absolute owner.

50. The second defendant have given an application to the survey department on 20.02.2020 in order to measure the property and to fix the boundaries with respect to the survey No.55 totally measuring 1 acre 35 guntas which excludes 0.21 guntas of 'B' kharab as there is already a road in existence. When such being the case the ADLR of Hunsur has issued a notice to the defendants as well as to the plaintiff. But the plaintiff being a powerful person in the locality with the help of

goonda alimants has stopped the measurement work with respect to the landed property. At that point of time the ADLR, Hunsur has issued a sketch in favour of the second defendant with respect to the above said landed property clearly stated that the plaintiff has encroached approximately 0.39 guntas of land in survey No.55.

51. In the meanwhile the plaintiff has filed a revision petition before the Deputy Commissioner of Mysuru against the ADLR, Hunsur, Rachegowda and defendants in R.P. No.10/2020 and after verifying the records, the Deputy Commissioner has stayed the operation of Thathkal podes conducted by ADLR, Hunsur. Later the said matter has been referred to J.D.L.R, Mysuru to conduct enquiry and pass necessary orders and the same has been re-numbered as JDRP No.422/2021-22. Later the JDLR has issued notice to both the parties and conducted the enquiry and after verifying the records and hearing the matter, the JDLR has dismissed the revision petition filed by the plaintiff herein on 15.12.2022. After dismissal of the revision petition, the 2nd defendant herein gave a requisition on 09.02.2023 to the ADLR to re-conduct the Thathkal podes of sketch and to conduct the Mahazer with respect to the survey No.55. Later the Surveyor of Hunsur has conducted the survey with respect to the survey No.55, but the plaintiff illegally interfered and made galata. The Surveyor has submitted his report to the ADLR on 07.06.2023 stating that the plaintiff is obstructing to conduct the survey of the said land. After dismissal of the revision petition, again the

plaintiff gave a requisition to the ADLR to stop the further proceedings in drawing the sketch of Thathkal pade on 26.05.2023.

52. After receiving the requisition from the plaintiff, the ADLR, Hunsur has issued notice to both the parties on 17.07.2023 calling upon both the parties to appear before them on 27.07.2023 at about 11.00 AM and to produce the documents with respect to the landed property bearing survey No.55. On that day the second defendant has appeared before the ADLR, Hunsur and submitted all the documents with respect to the land bearing survey No.55. After verifying the documents the ADLR, Hunsur has issued a notice to both the parties to present before the landed property on 09.08.2023 without fail and the ADLR, Hunsur has issued requisition letter to Sub-Inspector Police, Bilikere Police Station, on 08.08.2023 to be present on 09.08.2023 to give necessary protestation in conducting survey of Thathkal Pade with respect to the land bearing survey No.55 situated at Mudlapura village, Bilikere Hobli, Hunsur Taluk. On 09.08.2023 the surveyor, ADLR of Hunsur, plaintiff and the defendants as well as the police officers of Bilikere police Station were present before the said land and the Surveyor has partly conducted the survey with respect to the survey No.55 and in the meanwhile the plaintiff and his henchmen, agents, servants, goonda ailments have threatened the officials in filthy language and also obstructed to conduct Thathkal phode with respect to the land bearing survey No.55. The plaintiff by suppressing all these material facts since from 3-4 years has obstructing in

conducting of Thathkal pode with respect to the survey No.55. This clearly goes to shows that the plaintiff has encroached some portion of the defendants property with respect to the land bearing survey No.55. The only intention of the plaintiff is to drag the proceedings and to harass the defendants both mentally and physically. Therefore, the defendants have prays to dismiss the suit of the plaintiff.

53. In support of the contention of the written statement the defendant has relied on xerox copies of Sketch – Dishaank, proceedings of & Order copy of Joint Director of Land Record, 3 thathkal notices, 3 enquiry notices, application for tathkal phod, 3 RTCs in Sy. No. 55

54. On perusal, the plaintiff has filed the suit for Permanent Injunction. The counsel for the plaintiff has argued in extenso The plaintiff has relied on the sale certificate, the receipt of payment of the kimath. At para No. 9(b) the genesis of the defendant has been stated. The R.P(a) 42/21-22 has been dismissed with a direction to approach the civil court. The schedule property consists of 10 sheds along with the agricultural land. There should be specific plea claiming the schedule property. As per the document No.1 page No.8 the boundary of defendant property is that of caveat. The defendant admit that the plaintiff has encroached the property of the defendant. No notice was issued by the ADLR. As per Sec 56 of Karnataka land revenue rules, appeal has been preferred. There is no pleadings as to disputing the

title of the plaintiff. The infringement of rules of grant the remedy lies before the state.

55. per contra the defendant counsel has argued vehemently. As per the grant tat para No4 and 7. The Sy.No 66/1 rephoeded as 71. the boundary hs to be as per the survey sketch. As per the sketch towards the east there is Sy.No.55. As per the boundary stated in O.S No.6/12. The sale deed dated 02.09.1983 west Mysr-Gadige road wrongly mentioned by father of Jayamma orally argued by the counsel. The plaintiff has filed the common boundaries in the G.P.A and will. As such sought to dismiss the application.

56. At first in order to grant Temporary injunction the first point to be proved by the plaintiff is, whether she has made out a prima facie case – Prima facie case means, the court must be satisfied that there is a bonafide dispute being raised by the applicant, that there is an arguable case for trial, which needs the decision on merits. The probability of the applicant being entitled to the claim. The existence of the prima facie case is the condition precedent in order to grant temporary injunction order.

57. on taking in to consideration of the pleadings of the parties and the documents relied by them, both the plaintiff and defendants have raised the contention that the property belongs to them. The plaintiff has based his claim in the Sy.No. 66 measuring 0-30gts and Sy.No. 66/1 new No. 71 measuring 1 acre in all 1-30 which has been acquired through the grant certificate issued by the LND CR 99/1978-79 by paying the upset price of 265 on 16-7-78. And also on the 13-06-1994 once again as per the resolution the

saguvali Chit was issued to the Krishnegowda to an extent of 0-30gts in Sy.No. 66 by paying upset price of Rs 425/-. The plaintiff contention, is that the application property being granted to the plaintiff as per the Krishnegowda certificate.

58. The plaintiff base her claim, over the Grant certificate dated 16-7-1978 and Resolution dtd 13-6-1994 by the Taluk Bhu Manjoorathi Samithi. The defendants on the contrary has also contended that the Chairman Venkategowa had executed the registered sale deed infavor of the K.Chinnaswamy Gounder S/o Karpane Gounder on 2-9-1983 in Sy.No. 55 measuring 1-09 gt out of 2-18gts. It is the contention of the parties they are in possession of their respective properties as per their title deed.

59. The plaintiff further state the Sy.No. 66/1 new No. 71 measuring 1-00 acres and Sy.No. 66 measuring 0-30gts was got effected in the name of Jayamma D/o Venkategowda as per M.R 7/91-92 and 15-1998-99 respectively. Later has also got executed a will on 8-2-1999. After death of Krishnegowda the property was mutated in the name of the plaintiff Jayamma. The plaintiff i.e., Jyamamma has also got effected the katha in the name of the G.P.A holder Anantharaju.

60. The defendant has contended that Chinnaswamy gounder has purchased Sy.No. 55 measuring 1-09gts out of 2-18gts. Out of which 0-10 gts has been converted for non-agricultural purpose as per ALN 36/1988-89. The alienated land of 0-10gts and 0-27gts was sold in favor of Rachegowda by registered sale deed dated 03-02-1993. The defendant in support of the contention has relied on the sale deed dated 02-09-1983, the

property being purchased by the K. Chinnaswamy where in the boundary of the sale deed East by Land of Ramachandregowda, West by Road, Sought by Hebballa and North by Land of Ekambaregowda.

61. The defendant have also relied on the sale deed dtd 3-2-1993, the boundary of the schedule sale deed East by Land of Ramachandregowda, West by Gaddige Main Road, South by Gaddige Hebballa, North by Property purchased by C. Palaniswamy.

62. It is also the contention the contention of the defendant that the Chinnaswamy gounder has also purchased the remaining 1-09 gts in Sy.No. 55 out of 2-18gts. The boundary of the said schedule property is East by Land of Ramachndregowda, West by Road, North by Land of Ekambaregowda, South by Hebballa.

63. The defendant have also relied on the sale deed dtd 3-2-1993, the boundary of the schedule sale deed East by Land of Ramachndregowda, West by Gaddige Main Road, North by House of Hanumegowda, South by property purchased by the Rajegowda from K. Chinnaswamy.

64. There is no dispute has to situation of the plaintiff and the defendant property. The defendant has also alienated a portion i.e. 0-10 gts of land in the Sy.NO. 188 and 55 which were formed and got alienated for non-agricultural purpose.

65. The defendant after purchasing the entire extent of 2-18gts in Sy.No. 55 including the karab land the government had acquired 0-21 gts of B karab for the formation of road i.e., Gaddige-Mysuru Road.

There is no dispute with respect to the Gaddige – Mysuru Road. The defendant has now making an claim, that there is remaining property of defendant towards the west of Mysuru-Gaddige Road and after the defendant property there is the property of the plaintiff. The defendant in support of the said contention has relied on the survey sketch of ADLR, mahzar, notice issued to both the parties for enquiry of the contention raised.

66. The defendant contended and relied on the village map in order to show the Mysuru-Gaddige road is situated in the Sy.No. 55. Not in between the Sy.No. 55 and 71. The village substantiate the contention of the defendant contention of the road being situated in the Sy.No.55.

67. Now it is the contention of the plaintiff that plaintiff property is situated towards the west of the Mysuru-Gadigge road. The sale deed executed in favor of Chinnaswamy gounder also show towards west of Sy.No.55 measuring 1-09 gts is road in both sale deeds dtd 2-9-1983. The sketch prepared by the ADLR also show the owner of the Sy.No. 71 has encroached 0-39 Gts in Sy.No. 55.

68. The defendants in the para (o) of the written statement has specifically stated “**This clearly goes to shows that, the plaintiff has encroached some portion of the defendants property with respect to the land bearing Sy. No. 55**”.

69. The suit is one for permanent injunction. Where in the plaintiff contended that he is in possession of Sy.No. 66 New NO. 71 measuring 1-30 gts, consists of 10 shuttered sheds of Mudlapura village, having specific boundaries.

East by - Gaddige – Mysuru Raod,
 West by - Hebballa river
 North by - property belongs to Venkatappa
 South by - Hebballa and road,

70. Towards the East of the plaitniff boudary it is mentioned Gaddige- Mysuru road. In a injunction suit the person who seek injunction has to show that he is in possession of the property as contended. The documents relied by both parties asserts with respect to Sy.No. 55 and Sy.No.71 of the plaintiff and defendants. The question of determining whether the plaintiff is in possession of the application schedule property has to be gone in to, in a full fledged trial. Thereby, as per the pleadings and the documents the plaintiffs at this juncture has made out prima-facie case against the defendants. Hence, I answer point No. 1 in Affirmative.

71. **POINT NO.2.** The plaintiff has to show that the balance of convenience should lie in her favor, in other words the comparative mischief, hardship or inconvenience likely to be caused on refusing the injunction.

72. The plaintiff suit is in one for injunction. In an injunction suit the plaintiff has to show she is in possession of the schedule/application property. The burden is always on the person who asserts injunction before the court. The plaintiff has specifically contended that she is in possession of the of the Sy.NO. 71 and boundary mentioned in the schedule of the plaint. The defendants have also based their claim on the sale deed dtd 2-9-

the plaintiff. In the case on hand even though the plaintiff has denied the plaintiff title and disputed the extent of the possession. As per the sketch relied by the defendant, the plaintiff are in possession of some portion of the written statement property. The suit is one for bare injunction. Whether the plaintiff possession is legal or illegal has to be determined in a full fledged trial. Thereby the ratio relied by the defendant would not apply to the case on hand. As such on apparent looking of the document, basing only upon the documents relied by the parties. It would be difficult to ascertain the extent of the plaintiff possession and right of the plaintiff. Therefore, on apparent look it appears that, the plaintiff will be put to in-justice if an injunction is not granted. Thereby, the balance of convenience does lie in favour of the plaintiff. Therefore, I answer point No.2 in affirmative.

76. **POINT NO.3:** The plaintiff has to prove that she would suffer irreparable loss and injury if order of T.I is not granted. On perusal of the plaintiff suit, it is one for permanent injunction against the defendants. It is specific contention that, the suit schedule property has been acquired by the plaintiff as per the grant certificate issued by the government in Sy.No. 66, new No. 71. It is also the contention that the property was also mutated in her name and katha being effected. It is also the contention of the plaintiff that the defendants inter se have interfered with the possession and enjoyment of the suit schedule property.

77. Per contra it is the contention of the defendants that the defendant the plaintiff has encroached the defendant property. The boundary of the sale deed of the defendant shows towards the west there is road. The defendant contended the plaintiff has no

title over the Sy.No.55. The said fact has to be ascertained in a full fledged trial.

78. on consideration the defendants are making claim in the respect to site No. 55. where as the plaintiff raise the contention as per the boundary the plaintiff is situated towards the East of the after the Mysuru – Gaddige road. Whereas the boudary of the defendant as per the sale deed shows the west of the defendant proeprty is road. But as per the sketch of ADLR the plaintiff is in possession of 0-39 encroached land in Sy.No.55. The fact is a triable fact. As such the question of the possession and enjoyment has to be determined in a full fledged trial. The documents relied by the parties itself would not apparently suffice with respect to interference.

79. Both the parties in the suit have relied on the photos, so as to substantiate the possession. At this juncture, the question encroachment cannot be determined.

80. The plaintiff claim, is that in the schedule property she is in possession of the property. On the contrary the defendant No.1 and 2 denied the contention and rely on the photo to show the situation of the properties and parties.

81. As such the defendants are not restrained as per the documents and contention relied by the defendant, the plaintiff would be put to irreparable loss and injury as the plaintiff has encroached 39 guntas of land in sy. No.55. Thus, the defendants has not filed any counter claim seeking mandatory injunction to deliver the encroached portion of the property. The plaintiff has made out the prima-facie case and irreparable loss or injury.

Thereby the possession has to be proved in a full-fledged trial. Thereby, the balance of convenience does lies in favour of the plaintiff. **Therefore, I answer point No.3 in partly Affirmative.**

82. **POINT No.4:** In view of my above discussion and conclusion arrived at point No.1 to 3, the application filed by the plaintiff deserves to be allowed. **Accordingly, I proceed to pass the following.**

-:: O R D E R ::-

I.A. No.I filed by the plaintiff Under Order 39 rule 1 and 2 r/w Sec. 151 of CPC, is hereby allowed.

The defendants are hereby restrained from interfering with the plaint schedule property for a period 15 months.

Either of the parties are directed to co-operate in disposing of the suit on merits within the time frame of 15 months from the date of this order.

(Dictated to the Stenographer directly on the computer, typed by her, corrected, signed and then pronounced by me in open court on 23rd day of January, 2024).

(Manu Patel B.Y.)
Prl. C J.& JMFC, Hunsur.

