

KAMS410018122025



**IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC.,
KRISHNARAJANAGAR**

PRESENT

**Sri. Chandan S, B.Com., LL.B
Prl. Civil Judge & JMFC, Krishnarajanagara.**

DATED 17TH DAY OF DECEMBER 2025

O.S./397/2025

Plaintiffs : Smt. Gayithri Handi

-V/s-

Defendants : Smt. Pallavi and another

I.A. No.1

Applicant : Smt. Gayithri Handi

--- Plaintiff

-V/s-

Opponents : Smt. Pallavi and another

--- Defendants

Provision under which the applications are filed	U/o 39 R-1 and 2 of C.P.C.
Relief sought for	Injunction
The date on which the application are filed	28.07.2025
Number of the application	1
Date on which the objections are filed by the different opponents	11.12.2025
Date on which the order is passed	17.12.2025

**ORDER ON IA NO.1 FILED U/O 39 R-1 AND 2 R/W SEC. 151
OF C.P.C**

The present application is filed by the Plaintiff seeking an order of temporary injunction restraining the Defendants, their agents, servants, or any persons claiming through or under them, from putting up any further construction in the suit property, particularly in the setback area, in any manner, until the final disposal of the suit.

2. According to the Plaintiff, she is the absolute owner in lawful possession and enjoyment of the suit 'A' schedule property. She contends that, she and her family members are entitled to the natural and elementary right of free flow of air and light through the suit 'C' schedule setback area situated between her property and that of the Defendants. The Plaintiff alleges that, all of a sudden, from 25-07-2025 onwards, the Defendants began making illegal attempts to raise construction in the said setback portion of the suit 'C' schedule property.

3. It is further stated that, despite her objections and even after directions issued by the concerned Municipal Authority Krishnarajanagara Municipality, the Defendants continued their illegal act of putting up construction in the setback area. The Plaintiff submits that, if the Defendants succeed in raising such construction, her right to receive free flow of air and light from the suit 'C' schedule portion will be permanently obstructed, thereby causing immense hardship, inconvenience, and health-related difficulties to her and her family.

4. The Plaintiff further submits that, the Defendants are influential and financially powerful persons having the support of henchmen, whereas she is an aged and economically weak woman, incapable of resisting their illegal acts without the intervention of the Court. Hence, she has approached this Court seeking an order of temporary injunction to restrain the Defendants from putting up any further construction in the setback area situated between the properties of the Plaintiff and the Defendants.

5. On the contrary, the Defendants have opposed, disputed and denied the pleadings and allegations made by the Plaintiff. The Defendants have filed their statement of objections, wherein they admit that, the suit properties belong respectively to the Plaintiff and the Defendants, and that both parties are adjacent owners and neighbors in respect of the 'A' and 'B' Schedule properties. However all other allegations, propositions, assertions, and averments made by the Plaintiff are specifically denied.

6. According to the Defendants the suit is not maintainable either in law or on facts. Defendants No.1 and 2 are husband and wife and they are residing in the 'B' Schedule property. It is stated that earlier, one Smt.Lakshmidēvi was the absolute owner of the 'B' Schedule property. She had acquired the said property under a registered sale deed executed by Sri.Chandrashekar on 25.01.2002. Defendant No.1 thereafter purchased the 'B' Schedule property from the said Lakshmidēvi through a

registered sale deed dated 08-05-2025, for which purpose the Defendants had borrowed a housing loan of Rs.35,00,000/- from Navanagar Urban Co-operative Bank Ltd., K.R.Nagar.

7. The Defendants contend that, being the absolute owners of the 'B' Schedule property, they have been residing therein peacefully without causing any inconvenience to anyone. They assert that, the structure of the house on the southern as well as northern sides existed even prior to their purchase of the property. Further it is stated that, a space of three feet, described as the suit 'C' Schedule area, has been left open for the benefit and protection of the Plaintiff's house ever since the Defendants purchased the 'B' Schedule property.

8. The Defendants further allege that, immediately upon their entry into the 'B' Schedule property, the Plaintiff approached the local police and the municipal authorities and filed objections against them. They contend that the Plaintiff has intruded into their privacy and personal life by installing CCTV cameras pointed directly at the Defendants' residence, with the intention to harass them and subject them to unwanted surveillance.

9. The Defendants state that, the plaintiff having a legal background and being well aware of the facts, has misused her political and financial influence to suppress the truth and harass the innocent Defendants. According to them, the Plaintiff has suppressed material facts before the Court, misled the Court, and secured an ex-parte interim order on false grounds. They

further contend that the Plaintiff is now misusing the said interim order to continuously film and interfere with the Defendants' peaceful life.

10. The Defendants submit that, they are bona-fide purchasers for valuable consideration, having acquired the property by paying substantial amounts. Therefore, the Plaintiff's application is frivolous, vexatious, and devoid of merit, and hence, the Defendants pray that the application for temporary injunction be dismissed.

11. Thereafter both the counsels representing the rival parties addressed their arguments on the application and also this court perused and verified the pleadings stated in the plaint, application, objections and also the documents produced and placed before this court.

12. The following points arise for this court's consideration in the present application.

1) Whether the applicant/plaintiff made out that, she has got a prima-facie case on hand?

2) Whether the applicant further made out that, the balance of convenience lies in her favour?

3) Whether the applicant further made out that, it will cause untold hardship and irreparable damages to her, if the present application is not allowed?

4) What order?

13. This court findings on the above points for consideration in both applications 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 final order
for the following:

REASONS

14. POINT NO.1 TO 3:

For the facts and circumstance of the application are concern these three points are interlinked and to avoid the repetition of facts these points are taken up together for common discussion.

15. Upon appreciating the pleadings along with the materials placed before this court, while adjudicating and deciding the application which is filed U/o 39 R-1 and 2 of C.P.C., the relevant factors to be considered by the court is regarding existence of prima-facie factors and case which involves finding of facts as to whether a case for trial is made out and also whether other factors requisite for grant of injunction exists. Further, the court has to consider the balance of convenience in respect of the parties and irreparable injuries or loss if any, that may be suffered by the plaintiff in the case of refusal to grant injunction.

16. Further, admittedly there is no evidence on record to consider the applications on the basis of the evidence. Further,

the parties to the suit are yet to lead their evidence. Accordingly, in the absence of any evidence to discuss the applications, this court has to consider only the available materials which are presented before this court by the respective parties to the suit.

17. It is not in dispute that, the Plaintiff and Defendants are the respective owners of the Schedule 'A' and 'B' properties and are adjacent neighbors. Their ownership and the existence of a setback space between the houses stand admitted.

18. Further it is clear and undisputed between the parties that, the Plaintiff and the Defendants are the respective owners of the Schedule 'A' and 'B' properties and are adjacent neighbors. According to the Plaintiff, after purchasing the property, the Defendants have attempted to put up construction and erect a new structure in the Schedule 'C' setback area, thereby violating the building bye-laws and depriving her of the natural and elementary right to receive free flow of air and light from the said space.

19. The Defendants, while admitting their purchase and possession of the Schedule 'B' property contend that, they have left an open space of three feet in accordance with the municipal bye-laws and deny causing any obstruction to the Plaintiff's rights. They further state that, the structures on the northern and southern sides were constructed by the previous owner. However, from the documents and photographs placed before this Court, it is evident that, the Defendants have presently

undertaken construction abutting the common wall dividing the properties and such construction, if permitted to continue, is likely to materially affect the Plaintiff's rights. The above facts clearly disclose a serious and triable issue that requires adjudication. Thus, a prima-facie case is made out.

20. If the Defendants are permitted to continue construction in the setback area, any resulting obstruction to the Plaintiff's natural light and air cannot later be easily reversed. On the other hand, restraining the Defendants from further construction will not prejudice them because they themselves claim that no new construction has been undertaken. Therefore, the balance of convenience leans in favour of preserving the status quo.

21. Obstruction of natural light and air is a continuing civil injury that cannot be compensated by monetary damages. If the construction proceeds unchecked, the Plaintiff will suffer irreparable harm affecting her peaceful enjoyment of her home. All three requirements for grant of a temporary injunction, prima facie case, balance of convenience and irreparable injury are satisfied. Hence, this court without further discussion proceeds to answer **point No.1 to 3 in the Affirmative.**

22. POINT NO.4:

In view of the above discussions and the reasons mentioned therein this court proceeds to pass the following:-

ORDER

I.A No.I filed under Order 39 Rule 1 and 2 R/w Sec.151 of C.P.C is hereby allowed.

The Defendants their agents or anybody claiming under them are restrained from putting up any further construction in the Schedule 'C' setback area until the disposal of the suit.

However further it is made clear that, the view expressed by this court in adjudicating the application is only limited, confined and constrained only for the purpose of consideration of the application and it will not come in the way of adjudicating the suit on merit and mettle.

No orders as to cost.

[Dictated to the Steno, transcribed by her. Corrected and then pronounced by me in the Open Court on this the 17th day of December 2025]

(Chandan.S)
Prl. Civil Judge & JMFC.,
K.R.Nagar.