



**IN THE COURT OF THE II ADDL. CIVIL JUDGE & JMFC., AT
KANAKAPURA**

Dated this 26th Day of March 2026

**Present: Sri.Vinay .V. Kundapur B.A.L., LL.B.,
II Addl. Civil Judge and JMFC.,
Kanakapura.**

O.S. No.352/2023

PLAINTIFF : Sri. M.G. Rajkumar

/Vs/

DEFENDANTS : Sri. Shivaraju and others.,

INTERLOCUTORY APPLICATION I.A No.I

APPLICANT : Sri. M.G. Rajkumar plaintiff

(By Sri.D.R., Advocate)

/Vs/

OPPONENTS : Sri. Shivaraju and others., defendants

(By Sri.N.M., Advocate)

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1	Provision under which the application is filed	:	U/O 39 Rule 1 and 2 of CPC
2	Relief Sought for	:	Permanent Injunction
3	The date on which the application is filed	:	31.10.2023
4	The date on which the objection is filed by opponents	:	20.04.2024
5	The date on which the order was passed on the said application	:	26.03.2026

**ORDER ON I.A No.I FILED UNDER Or. 39 R.1 & 2 OF CODE
OF CIVIL PROCEDURE, 1908**

This application is filed by the plaintiff seeking an ex-parte ad-interim order of temporary injunction restraining the defendants, his agents, men or anybody, under or through from interfering or interrupting with the plaintiff peaceful possession and enjoyment of the suit schedule property, pending disposal of the suit in the interest of justice and equity.

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2. In the accompanying affidavit plaintiff submits that, he has filed the above suit against the defendants for the relief of permanent injunction and other consequential reliefs. The plaintiff submits that, he is the absolute owner of the said property. The suit schedule property bearing Sy No.120 situated at Hosakote Village, Harohalli Hobli, Kanakapura Taluk, Ramanagara District. He is the absolute owner of land bearing Sy No.139 measuring 1 acre 20 guntas and land bearing Sy No.140 measuring 1 acre 15 guntas situated at Hosakote Village. He had entered into an agreement of sale dated 22.02.2016 with defendant No.1, 2 and 3 along with others.

The defendant No.1 is the owner of the property bearing Sy No.137 and defendant No.2 is the owner of the property bearing Sy No.138 and they are not related to the suit schedule property and stranger to the suit schedule property and trying to illegally trespass the suit schedule property. The

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plaintiff further submits, the defendant along with their henchmen threatened the plaintiff to dispossess her from the suit schedule property, they claims that suit schedule property is the part and parcel of Sy No.137 and 138. Plaintiff submits on 02.10.2023 the defendants along with henchmen illegally tress passed into the suit schedule property and trying to dispossess the plaintiff from the suit schedule property. Hence the present suit filed by the plaintiff before this court and the plaintiff prays before the court to restraining the defendants from interfere with the peaceful enjoyment of the suit schedule property.

3. After service of summons defendant appear through their counsel and filed written statement along with memo and prays to consider the written statement an objection to I.A. The defendant denied the averments made in the I.A and submits that, suit filed by the plaintiff is not maintainable in the eye of law. The identity of the property is in question the suit

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schedule property originally belongs to government land, which is called gomala land Sy No.34, defendant have not interfere with the possession of the plaintiff. The intention of the plaintiff to obtained to stay order, plaintiff trying to obstruct government of duty.

The defendant further submits they are owner of the Sy No.137 measuring 1 acre 25 guntas and Sy No.139 measuring 1 acre 20 guntas situated at Hosakote Village, Harohalli Hobli, Kanakapura Taluk. The defendants are totally depend on agriculture, the defendants are in peaceful possession of the suit schedule property and cultivating said land, revenue documents pertaining to the suit schedule property are stands in the name of defendants. Further defendants submits there is dispute with regard to the boundaries to the suit schedule property, when survey authorities conducted durasthi and phodi contrary to the rules provide and in the process of durasthi and phodi the

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revenue authority changed the location and topography of the defendant land, the revenue authority indicating land of the defendant No.1 is located in the outer border of land bearing Sy No.137. The defendant No.1 immediately filed and detailed filed objection objection to the survey and also brought to the notice of revenue authority with regard to durasthi and phodi conducted by the revenue authority.

The defendant No.1 and his family members have developed the land and has cultivated the said land and also borrowed agricultural land in the society. The defendant No.1 is the absolute owner and in possession of the agricultural land bearing Sy No. 137. The plaintiff suppress the true fact obtained stay order from the higher court and trying to stop the survey by the government officer and plaintiff encroached the property belongs to defendants, the plaintiff does not have any right and

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possession over the suit schedule property. Hence prays to dismiss the I.A with cost.

4. Heard and perused material available on record.
5. On perusal, following points arise for my consideration:
 - i: Whether the plaintiff have made out prima facie case ?
 - ii. Whether balance of convenience lies in favour of plaintiff ?
 - iii: Whether plaintiff would be put to irreparable loss and hardship if the injunction is not granted ?
 - iv: What order ?
6. My answers to the aforementioned points are as under:

Point No.i : Partly in the Affirmative,

Point No.ii : Partly in the Affirmative,

Point No.iii : Partly in the Affirmative,

Point No.iv: As per the final order

for the following;

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REASONS

7. Point No.i: The plaintiff filed the present suit against the defendants for permanent injunction and such other reliefs.

The main contention of the plaintiff is that, he is the absolute owner of the said property. The suit schedule property bearing Sy No.120 situated at Hosakote Village, Harohalli Hobli, Kanakapura Taluk, Ramanagara District. He is the absolute owner of land bearing Sy No.139 measuring 1 acre 20 guntas and land bearing Sy No.140 measuring 1 acre 15 guntas situated at Hosakote Village. He had entered into an agreement of sale dated 22.02.2016 with defendant No.1, 2 and 3 along with others.

The defendant No.1 is the owner of the property bearing Sy No.137 and defendant No.2 is the owner of the property bearing Sy No.138 and they are not related to the suit schedule property and stranger to the suit schedule property and trying to illegally trespass the suit schedule property. The

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plaintiff further submits, the defendant along with their henchmen threatened the plaintiff to dispossess her from the suit schedule property, they claims that suit schedule property is the part and parcel of Sy No.137 and 138. Plaintiff submits on 02.10.2023 the defendants along with henchmen illegally trespassed into the suit schedule property and trying to dispossess the plaintiff from the suit schedule property.

On the other side defendants denied the averment made in the application and submits before the court that, the identity of the property is in question the suit schedule property originally belongs to government land, which is called gomala land Sy No.34, defendant have not interfere with the possession of the plaintiff. The intention of the plaintiff to obtained to stay order, plaintiff trying to obstruct government of duty.

The defendant further submits they are owner of the Sy No.137 measuring 1 acre 25 guntas and Sy No.139 measuring

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1 acre 20 guntas situated at Hosakote Village, Harohalli Hobli, Kanakapura Taluk. The defendants are totally depend on agriculture, the defendants are in peaceful possession of the suit schedule property and cultivating said land, revenue documents pertaining to the suit schedule property are stands in the name of defendants. Further defendants submits there is dispute with regard to the boundaries to the suit schedule property, when survey authorities conducted durasthi and phodi contrary to the rules provide and in the process of durasthi and phodi the revenue authority changed the location and topography of the defendant land, the revenue authority indicating land of the defendant No.1 is located in the outer border of land bearing Sy No.137.

8. In support of application the plaintiff produced xerox copies of sale deeds, cheques, xerox copy of the cancellation of sale deed, xerox copy of G.P.A, xerox copy of agreement of sale deed,

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xerox copies of encumbrance certificate in respect of suit schedule properties, xerox copies of RTC extracts in respect of suit schedule properties, xerox copy mutation register in respect of suit schedule property, copies of NCR and survey notice and xerox copy of village map depicting the suit schedule property survey numbers.

9. On the other side in support of their contention, defendants produced xerox copy of grant certificates, sketch, MR copies pertaining to the suit schedule property, durasthi copy pertaining to the suit schedule property, RTC extracts pertaining to the suit schedule property, Akarband in respect of suit schedule property, EC, letter written by the defendants to the tahasildar, xerox plaint copy of O.S Nos.211/2021 & 212/2021.

10. Considering the submission made by the plaintiff also perusal of the documents produced by the defendants counsel

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this court come to the conclusion that for proper disposal of the main case the property should be protected. So the suit of the plaintiff and other allegations of the parties will be decided only on full fledged trial. Otherwise it leads to multiplicity of litigation's. Hence this Court is of the opinion that, both the parties have to maintain the status-quo till final disposal of suit on merits only on full fledged trial.

In this regard, this court relying on the decision of Hon'ble high court of Karnataka reported in ILR 2004 KAR Page 4076 (Fakirasab V/s. Syedusab and Others) in which it is held that:

(B) CIVIL PROCEDURE CODE, 1908- ORDER 39 RULES 1 And 2- OBJECT OF- While considering an application for grant of temporary injunction, the right and need of respective parties should be considered and the suit property also should be protected and preserved so that, if ultimately, the plaintiff who is

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the initiator of the suit, succeeds in the suit, he would not be put to irreparable and un compensable loss. The object is to keep the property in status-quo so that it would be available to the plaintiff if she ultimately succeeds in the suit.

11. In view of above said decision of Hon'ble High Court of Karnataka and upon hearing the arguments of both the sides of their respective counsels, at this juncture this Court is of the opinion that, the suit property has to be protected till final disposal of the suit and order to avoid further complications, plaintiff and defendant have to maintain status-quo of the suit property till final disposal of the suit. Hence this Court answers point No.i to iii partly in the affirmative.

12. Point No.iv : In view of findings on point No.i to iii, this courts proceed to pass the following:



ORDER

The IA No.I filed by the plaintiff U/o XXXIX Rules 1 & 2 of CPC are hereby partly allowed.

The plaintiff and defendants are hereby directed to maintain status-quo with respect to suit schedule property till final disposal of the suit.

No order as to cost.

*(Dictated to the stenographer directly on Computer, typed by her, corrected, signed and then pronounced by me in the open court on **26th Day of March 2026**).*

Sd/-
(VINAY .V. KUNDAPUR)
II Addl. Civil Judge & JMFC.,
Kanakapura

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For order
Call on: 26.03.2026

**II Addl. Civil Judge & JMFC.,
Kanakapura.**

(Order pronounced in open court



vide separate order)

The IA No.I filed by the plaintiff U/o XXXIX Rules 1 & 2 of CPC are hereby partly allowed.

The plaintiff and defendants are hereby directed to maintain status-quo with respect to suit schedule property till final disposal of the suit.

No order as to cost.

**II Addl. Civil Judge & JMFC.,
Kanakapura**

For P/E
call on 20.04.2026.

**II Addl. Civil Judge & JMFC.,
Kanakapura**