



**IN THE COURT OF THE PRL CIVIL JUDGE & JMFC,
HOSANAGARA
AT: HOSANAGARA**

Present: Sri. MARUTI R SHINDHE

B.A.LL.B

Prl. Civil Judge & J.M.F.C.,
Hosanagara.

Dated: This the 06th day of November 2025

O. S. No.63/2024

PLAINTIFF: : Sri. Basavarajappa
S/o Lingappagowda
(By Sri.VSK., Advocate)

Vs.

DEFENDANTS: : Sri.Shankrappa
S/o Huchhanaika and another.

(By Sri.YPM., Advocate)

I.A.No. I/2024

APPLICANT: : Sri. Basavarajappa
plaintiff S/o Lingappagowda

Vs.

OPPONENTS : Sri.Shankrappa
Defendants S/o Huchhanaika and another.



The Provision under which : Order XXXIX Rule 1 and 2
application filed of CPC

Relief sought for : Restraining the defendants from
the interfering and disturbing the
possession of the suit schedule
property

The date on which : 02.04.2024
application is filed

Number of application : 1

The date on which : 02.06.2025
objections are filed by
opponents

The date on which Orders : 06.11.2025
passed on the application

Order on IA No.I under Order XXXIX
Rule 1 & 2 of CPC

On 02.04.2024 I.A.No.I filed by the applicant/plaintiff U/o. XXXIX Rule 1 and 2 of CPC for restraining the defendants, their henchman, agents supporters from the interfering disturbing the possession of the suit schedule property till disposal of the suit.

2. In the accompanying affidavit the applicant/plaintiff submitted that the plaintiff has purchased the suit property under the registered sale deed dated 15.02.1995.



The plaintiff became an absolute owner and in possession and enjoyment of the suit property from the date of sale deed the name of the plaintiff's entered in the record of right suit property as per MR.No.T17/2019-20.

3. The plaintiff further submitted that the second defendant is first defendant son. The first defendant having the property bearing survey no.27/3 towards northern side of the suit property. The defendants without having the right, title, interest on 24.03.2024 at afternoon 1.00 p.m trying to encroach the suit property measuring 6 gutana towards northern side of the suit property same was retained by the plaintiff and filed police complaint before the Ripponpete police station. But, the Ripponpete police has not taken the legal action against the defendants. The plaintiff has made out prima facie case and balance of convenience and irreparable loss. If an application is allowed no hardship would be caused to the defendants. If an application is not allowed the irreparable loss would be caused to the plaintiff. Hence, present application.



4. On 02.06.2025 the first defendant has filed memo treating their written statement as objection to IA.No.I. The first defendant has filed the written statement by refuting the averment made in the plaint and containing inter-alia that there is no cause action arose to institute the suit and description of the suit property not correct.

5. The first defendant further contended that the first defendant has purchase the property measuring 2 acres 26 guntas in the property bearing survey no.27/3 situated at Hosahalli village under the registered sale deed dated 14.05.2020. The plaintiff forcible in possession of the property measuring 241/2 guntas of the defendant's property. The defendants are requested the plaintiff to handed over the southern side property which is encroach the property belongs to the first defendant. But, the plaintiff postpone the same for one or other reasons. Therefore, the plaintiff has suppressed to true facts of the case . Among all these grounds prays to dismiss the application.

6. Heard the learned counsel appearing for the plaintiff and the learned counsel appearing for the defendants on IA.No.I.



In view of the materials placed before me and rival contention arise by the parties, the following points arisen for my consideration;

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 plaintiff?
 3. Whether the plaintiff will be put into irreparable loss and injury in the event of refusal of temporary injunction sought?
 4. What order?
7. My answers to the above points 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 the final order
for the following



REASONS

8. **Point No.1 to 3:** These points are taken together for the common discussion and to avoid the repetition of the facts. The learned counsel appearing for the plaintiff argued that the plaintiff has purchase the suit property under the registered sale deed dated 15.02.1995. The plaintiff is an absolute owner and in peaceful possession and enjoyment of the suit property. The defendants being neighbour of the suit property trying to encroach the suit property. The plaintiff has made out prima facie case to go for trail and the balance of convenience lies in the favour the plaintiff and irreparable loss would be cause to the plaintiff. Among all these grounds prays to allow the application.

9. Per contrary, the learned counsel for the defendants argued that the plaintiff not approach this court with clean hands. The plaintiff has encroach 22 guntas of the defendant's property. The plaintiff has suppressed the same. Among all these grounds prays to dismiss the application.



10. Perused the records of the case. The plaintiff has filed this suit for the relief of permanent injunction against the defendants in respect the suit property.

11. This court gone through the documents submitted by the plaintiff. Perused the record of right of the suit property in the year 2023-24 which reflect that the plaintiff's name appeared in the owner as well as in the possession column as per the MR.No.T7/2019-20. Perused the xerox copy of the sale dated 15.02.1995. It indicate that the plaintiff has purchased the suit property from K.H.Omkeshappa and his family members for valuable consideration amount of Rs.66,000/- under the registered sale deed. The recitals of the sale deed further found that the possession of the suit property handed over the property as on date of sale deed. Perused the police acknowledgment dated 27.03.2024 issued by the Ripponpete police station. The defendants are trying to encroach the suit property measuring 6 guntas.

12. The defendants have not placed any kind of documents in support their case. The sale deed dated 15.02.1995 prima facie indicate that the plaintiff has purchase the suit



property for the valuable consideration and the possession of the suit property delivered to the plaintiff as on date of sale deed. The plaintiff's name mutated in the record of right of the suit property. The documents produced by the plaintiff prima facie indicate that the plaintiff has made out prima facie case to go for trail. The suit property is an agricultural property. If the injunction is not granted by this court the plaintiff would be put into irreparable loss rather than the defendants. The balance of convenience lies in the favour of the plaintiff.

13. The pleadings of the plaintiff and the defendants indicate that the suit property and the first defendant property are situated adjoining each other. The plaintiff has full filled the elements of the order of temporary injunction. The granting temporary injunction is equatable relief. Hence, in the light above discussion this court answered in the points No.1 to 3 are answered in the Affirmative.

14. **Point No.4:** For above said reasons of point No.1 to 3, following:



ORDER

The IA-I filed U/o XXXIX Rule 1 and 2 of CPC is hereby allowed with cost.

The defendants are hereby temporary restraining from interfering disturbing the possession of the suit schedule property till disposal of the suit.

(Dictated to the Stenographer directly on computer, typed by her, revised by me and then pronounced in the open court, on this 06th day of November 2025)

Prl. Civil Judge & JMFC,
Hosanagara.