



**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 15th day of October 2025

O. S. No.105/2024

PLAINTIFF: : Sri.Subramanya
S/o Teekanaika,

(By Sri.VSK., Advocate for plaintiff)

Vs.

DEFENDANTS: : Sri.Purushothama
S/o Venkanaika and another

(By Sri.HPV.,Advocates for defendants)

I.A.No. I/2024

APPLICANT: : Sri.Subramanya
S/o Teekanaika,

Vs.

OPPONENTS : Sri.Purushothama
S/o Venkanaika and another

KASM200009982024



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OS 105/2024

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

Relief sought for : Restraining the defendants from
illegally entering and disturbing
into the suit schedule property

The date on which : 14.06.2025
application is filed

Number of application : 1

The date on which : 19.11.2024
objections are filed by
opponents

The date on which Orders : 15.10.2025
passed on the application

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

On 14.06.2025 I.A.No.I filed by the applicant/plaintiff
U/o. XXXIX Rule 1 and 2 of CPC for restraining the
defendants their, henchmen, agents subordinate officials or
any body claiming through them are hereby restrained from
illegally entering and disturbing into the suit schedule
property till disposal of the suit.



2. In the accompanying affidavit of the application the plaintiff/applicant submitted that the plaintiff and his family members are residing in the suit schedule property. The suit property is standing in the name of plaintiff. The plaintiff is an absolute owner and in peaceful possession of the suit schedule property. The plaintiff already has constructed the residential house and toilet and the bathrooms by spending the huge amount and in remaining of the property the plaintiff has grown the various crops like coconut, sagavani, mango and others crops in the suit schedule property. The plaintiff has put the stone fence around the suit schedule property.

3. The plaintiff further submitted that except the plaintiff nobody has right, title, interest over the suit schedule property. The defendant, without having the right, title and interest over the suit property, on 22.04.2024, the defendant illegally trying to trespass in the suit schedule property same has been detained by the plaintiff with the local people. The plaintiff has questioned the act of the defendant. But, the defendant did not heed the request of the plaintiff. Therefore, the plaintiff has lodged a complaint before Ripponpete police station. But, the police officer of the Representate has not taken the legal action against the defendant and issued the endorsement that it is a civil nature and approach the Court.



4. The plaintiff further submitted that on 15.04.2024 at 10.00 a.m. the defendant again towards southern side of the suit property tried to obstruct the peaceful and enjoyment of the plaintiff in the suit schedule property. The plaintiff has made out prima facie case and balance of convenience lies in the favour of the plaintiff. If the application is allowed, no hardship would be caused to the defendant. If the application is not allowed, the plaintiff would be put into irrevocable loss. Hence, present application.

5. On 19.01.2024, the defendants has filed memo, treating his written statement as an objection to IA No. 1. The defendant has filed written statement by refuting the averment made in the plaint. The defendant contended that there is no cause of action arose to the institution of the suit. The discretionary of the suit schedule property given by the plaintiff is not correct. Therefore, the suit of the plaintiff is not maintainable in eye of law.

6. The defendant further contended that the defendant is having the house No. 242 measuring 60X60 situated at property bearing survey No. 66 of the Amruth Village. During the lifetime of the defendant's father, he was in the possession of the same. After the demise of the defendant's father, the defendant's name entered in the record of the said property. The defendant has put the fence around his property. On 01.03.2024 at morning 11.30 am the



plaintiff and his supporters are trying to remove the stone fence of the defendants' property. Therefore, the defendant has lodged the complaint against the plaintiff before Ripponpete police station. But, the police officer washed their hands, stating that it is in civil nature. Hence, among all these grounds, prays to dismiss the application.

7. Heard the learned counsel appearing for the defendant on IA No. 1. The hearing from learned counsel appearing for plaintiff on IA No. 1 is taken as nil. In view of the materials placed before me and rival contents raised by the parties, the following points arose 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?



8. 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

9. **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 defendant argued that if the plaintiff is not in peaceful possession and enjoyment of the suit property, The plaintiff, without having the right title over the property of the defendant, trying to trespass in the property belongs to the defendant. The plaintiff has not given correct boundaries of suit schedule property. Therefore, the suit of the plaintiff is not maintainable in eye of law. The learned counsel appearing for defendant further argued that the plaintiff has not made out prima facie case and balance of convenience and irreparable loss. Among all these grounds, prays to dismiss the application.



10. This court gone through the records of the case. It reveals that the plaintiff has filed this present suit for the relief of permanent injunction against the defendant in respect of the suit schedule property.

11. This Court has gone through the documents produced by the plaintiff. Perused the demand extract in the year 2023-24 issued by the Amiruth Grama Panchayath. It indicates that the suit schedule property is standing in the plaintiffs name. Perused the photocopies, it appears that there is a house and open place.

12. The defendant has not placed the relevant documents in support of their case. The demand extract of the suit schedule property clearly indicates that the name of the plaintiff appeared in the demand extract of the suit property and same is the public documents and it got presumption under law. The defendant has not placed a single document to rebut the same. The plaintiff has made out prima facie case to go for trial and if the injunction is not granted to the plaintiff by this Court, the irreparable loss would be caused to the plaintiff rather than the defendant. The plaintiff has made out grounds to grant equitable relief by this Court for ends of the justice and in order to avoid multiple proceeding between the plaintiff and the



defendants. and in the light of above discussion, this Court answered Point No. 1 to 3. in the Affirmative

13. **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.

The defendants are hereby temporarily restraining from illegally entering and disturbing into 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 15th day of October 2025)

Prl.Civil Judge & JMFC,
Hosanagara.

KASM200009982024



Order pronounced in the open
court vide separate order sheet)

Call on 12.11.2025.