



**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 10th day of June 2026

O. S. No.167/2024

PLAINTIFF:

Sri.T.G.Shivappa
S/o Gurappa Gowda

(By Sri.VSK., Advocate for plaintiff)

//and//

DEFENDANT:

Sri.Nataraja
S/o Eshwarappa Gowda

(By Sri.AJK., Advocate for defendants)

I.A.No. I/2024

APPLICANT:
plaintiff

: Sri.T.G.Shivappa
S/o Gurappa Gowda

Vs.

OPPONENT
Defendant

: Sri.Nataraja
S/o Eshwarappa Gowda



The Provision under which : application filed	:	Order XXXIX Rule 1 and 2 of CPC
Relief sought for	:	Restraining the defendant from interference and obstructing the peaceful possession of the plaintiff in the suit schedule property
The date on which : application is filed	:	27.09.2024
Number of application	:	1
The date on which : objections are filed by opponents	:	Objection filed on 15.07.2025 by way memo
The date on which Orders passed on the application	:	10.06.2026

Order on IA No.I under Order XXXIX

Rule 1 & 2 of CPC

On 27.09.2024 This I.A.No.I filed by the applicant/plaintiff U/o. XXXIX Rule 1 and 2 of CPC for restraining the defendant and his agents, officials, subordinates or any persons defendant from interference and obstructing in the peaceful possession of the plaintiff in the suit schedule property till disposal of the suit.



2. In the accompanying affidavit the applicant/plaintiff submitted that the plaintiff is an absolute owner and peaceful possession and enjoyment of the suit schedule property. The plaintiff has filed an application bearing no.2875/1991-92 before the Thasildar Hosangara for regularization of the suit schedule property. The Bagar Hukum committee has issued the saguvali certificate bearing no.319/1994-95 in respect of the suit schedule property and accordingly, the name of the plaintiff mutated in the record of right of the suit schedule property as pr MR.No.3/1995-96.

3. The plaintiff further submitted that the plaintiff has grown the crops like areca, coconut, Nilagiri tree, pepper, cashew and order to protect the suit schedule property the plaintiff has erected the stone fence around the suit schedule property. The defendant without having any right, interest and in possession over the suit schedule property on 23.09.2024 tried to remove the fence of the suit schedule property towards northern side, the act of the defendant questioned by the plaintiff. But, the defendant has assaulted the plaintiff and abused in filthy language. Therefore, the plaintiff has lodged the complaint against the



defendant in Hosangara police station. But, the police have not taken the legal action against the defendant.

4. The plaintiff further submitted that the plaintiff has made out prima facie case and balance of convenience. If the application is not allowed the plaintiff will be put to untold hardship and legal injury and whereas if this application is allowed no prejudice will be caused to the defendant. Hence, the present application.

5. Per contrary, on 15.07.2025 the defendant filed memo treating his written statement as an objection to the IA.No.I.

6. The defendant has filed his written statement by denying the entire averment made in the plaint and containing inter-alia that there is no cause of action arose to institution of the suit and the description of the suit schedule property furnished by the plaintiff is not correct. Hence, the suit of the plaintiff is not maintainable in eye of law.

7. The defendant further contended that the defendant has constructed the residential house in property bearing



survey no.5 of the Borikoppa village and he is having the road in the Government property bearing survey no. 168 of Sonale village to access to defendant's house. The defendant using the said road since immemorial time. The Sonale Grampanchayat has developed the road in the scheme of national ruler development. The plaintiff is not having any right and interest over the Government property bearing survey no.168. Hence,among all these ground prays to dismiss the application.

8. Heard the learned counsel appearing for the plaintiff and learned counsel appearing for the defendant 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 plaintiffs?



3. Whether the plaintiff will be put into irreparable loss and injury in the event of refusal of temporary injunction sought?

4. What order?

9. 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

10. **Point No.1 to 3:** These points are taken together for the common discussion and to avoid the repetition of the facts taken common discussion. The learned counsel appearing for the plaintiff argued that the plaintiff has filed this suit the relief of permanent injunction against the defendant. The plaintiff is an absolute owner and in possession of the suit schedule property. The plaintiff's name appeared in the record of right of the suit schedule property as per MR.No.H8/2017-18, as per the possession certificate in Form no.7. The defendant is not having any right, title interest over the same. The plaintiff has made out prima facie case to go for trial and balance of



convenience lies in the favour the plaintiff. Among all these grounds prays to allow the application.

11. Per contrary the learned counsel appearing for the defendant argued that the defendant is the permanent resident of the Borikoppa village. There is road situated in Government property bearing no.168 of the Sonale village. The defendant has using the said road to reach his house since immemorial time. The plaintiff is not having any interest and title over the same. But, the plaintiff has obstructed the defendant to use the road. Among all these grounds prays to dismiss the application.

12. This court gone through the record of the case. The plaintiff has filed the relief of permanent injunction against the defendant in respect of the suit property. The plaintiff in support of his pleadings placed the relevant documents, the record of right of the suit schedule property and the saguvali certificate and the sketch.

13. Per contrary, the defendant has not placed any kind of relevant documents in support their case. This court perused the record of right of the suit survey number in the year 2024-25 which reflects that the property bearing



survey no.168 is totally measuring 15 acres 23 gutnas out of which the plaintiff is having the property measuring 4 acres in his name (suit property) as per MR.No.H8/2017-18. Perused the possession certificate and the sketch which reflects that the Thasildar Hosangara has issued the saguvali certificate to the plaintiff in respect of the suit schedule property. The documents placed by the plaintiff are public documents and got presumption under law unless contrary is proved.

14. Accordingly, the documents produced by the plaintiff and the pleadings of the plaint clearly indicates that the plaintiff has made out prima facie case to go for trail. The suit schedule property is an agricultural land and the plaintiff pleaded that he has grown the various crops in the suit schedule property and the defendant is illegally tried to remove fence of the suit schedule property. Therefore, if the injunction is not granted by this court the irreparable loss would caused to the plaintiff rather than the defendant. The pleadings and the documents placed by the plaintiff clearly indicates that the balance of convenience lies in the favour of the plaintiff. The defendant has not placed any kind of



documents to show that in the suit survey number there is a road which is alleged to be using by the defendant.

15. The plaintiff has fill fulfilled the elements of the order of temporary injunction and other aspect. Therefore, the plaintiff is entitled the equitable relief of order temporary injunction by this Court. Hence, for ends of justice and equity and in the light of above discussion, this court answered in the points No.1 to 3 are answered in the Affirmative.

16. **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 here by allowed with cost.

The defendant is here by restraining temporary from interference and obstructing in the peaceful possession of the plaintiff in 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 10st day of June 2026)

Prl.Civil Judge & JMFC,
Hosanagara.

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For compliance of under section 89 of CPC. The plaintiff and the defendant are hereby directed to appear for settlement.

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OS.167/2024

Call on 13.07.2026