



**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 16th day of March 2026

O. S. No.183/2024

PLAINTIFF: : Smt.Laxi Chatarji
W/o Chatarji

(By Sri.MGS., Advocate)

Vs.

DEFENDANT: : Sri. H.S.Shashikanth Pandith
S/o Sundar Rao

(By Sri.DNH., Advocate)

I.A.No. I/2024

APPLICANT: : Smt.Laxi Chatarji
plaintiff W/o Chatarji

Vs.



OPPONENT : Sri. H.S.Shashikanth Pandith
S/o Sundar Rao

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

Relief sought for : Restraining the defendant from
removing the fence towards
northern side of the suit schedule
property

The date on which : 23.11.2024
application is filed

Number of application : 1

The date on which : 03.11.20205
objections are filed by
opponents

The date on which Orders : 16.03.2025
passed on the application

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

On 23.11.2024 I.A.No.I filed by the applicant/plaintiff
U/o. XXXIX Rule 1 and 2 of CPC for restraining the
defendant, his agents, legal heirs, henchman, official or
anybody claiming though the defendant from removing the



fence towards northern side of the suit schedule property till disposal of the suit.

2. In the accompanying affidavit the applicant/ the plaintiff submitted that the plaintiff is an absolute owner and in peaceful possession and enjoyment of the suit schedule property. The plaintiff has purchased the suit schedule property under the registered sale deed dated 25.09.2023 from its earlier owner for the valuable consideration. The name of the plaintiff transferred in the record of right of the suit schedule property as per MR.No.T14/2023-24. The plaintiff is in peaceful possession and enjoyment of the suit schedule property without obstructing anybody. The plaintiff has spend the huge amount for grown the areca, paddy and sugarcane in the suit schedule property and the crops are yielding.

3. The plaintiff further submitted that the plaintiff has been paying the land revenue to the Government time to time except the plaintiff nobody has right, interest over the suit schedule property. The defendant without having and kind of right and interest over the suit schedule property on 20.11.2024 at evening 5.00 pm trying to remove fence



towards northern side of the suit property and trying in the possession of the suit schedule property same was resist by the plaintiff with his supporters, again on 21.11.2024 at morning 10.00 am the defendant is trying remove the fence of northern side of the suit schedule property. Therefore, the plaintiff has lodged the complaint before the Nagara police station. But, the police has washed their hand, stating that it is in civil nature. If the application is allowed no hardship would be caused to the defendant. If the application is not allowed the irreparable loss would be caused to the plaintiff. The plaintiff has made out prima faice case. Hence, present application.

4. On 03.11.2025 the defendant has filed the memo treating their written statement as objection to the IA.No.I.

5. The defendant has filed written statement by denying the entire averment made in the plaint and containing inter-alia that the description of the suit schedule property is not correct. It is imaginary one. The defendant's father namely H.Sundar rao died on 06.07.2005 and the defendant's mother namely Susheelamma died on 17.06.2025. The suit property bearing survey no.25/1 total



measuring 4 acres 30 guntas tari land and areca garden. The defendant's father has cultivated the same as tenant under its earlier owner, after coming the Land Reforms Act into force the defendant's father has filed Form no.7 in LRFT no.41/1974-75 for grant the said property. Accordingly, the land tribunal Hosangara has granted an occupancy right and issued the sagauvali certificate bearing no.2061/1990-91 and issued the Form no.10 on 17.01.1991.

6. The defendant further contended that after the demises of the defendant's father the record of right of the suit schedule property standing in the name of the defendant's mother namely Susheelamma. Now the defendant's mother no more. Therefore, the defendant is an absolute owner and in peaceful possession and enjoyment of the same. Except the defendant nobody has right, title and interest over the suit schedule property.

7. The defendant further contended that the defendant has grown areca, banana, pepper which are yielding crops since 40 years and the defendant has erected the stone fence around the same. The defendant's mother filed the original



suit no.177/2024 against the plaintiff. The plaintiff has suppressed the said facts and filed this suit and the plaintiff already filed appeal before the Assistant director of Land Records in respect of property bearing survey no.25 and same is pending for consideration. Among all these grounds prays to dismiss the application.

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



9. My answers to the above points are as under:

Point No.1 : In the Negative.

Point No.2 : In the Negative

Point No.3 : In the Negative

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. The learned counsel for the plaintiff argued that the plaintiff has purchase the suit schedule property under the registered sale deed dated 14.09.2023 from its earlier owner for the valuable consideration amount of Rs.6,60,000/- and the plaintiff is in peaceful possession and enjoyment of the suit schedule property.

11. The learned counsel appearing for the plaintiff further argued that the plaintiff's name appeared in the record of right of the suit property. The defendant without having right over the suit schedule property trying to disturb in the peaceful possession and enjoyment of the suit schedule



property. The plaintiff has made out prima faice case and balance of convenience and irreparable loss. Among all these grounds prays to allow the application.

12. Per contrary, the learned counsel for the defendant argued that the description of the suit schedule property furnished by the plaintiff is not correct. The name of the defendant's mother entered in the record of right of the property bearing survey no.25/1. The plaintiff has not approached with clean hands to this court. The plaintiff has suppressed the materials facts about the original suit no.177/2024 filed by the defendant against the plaintiff. Therefore, the plaintiff is not entitled the relief of temporary injunction.

13. The learned counsel appearing for the defendant further argued that the plaintiff and other have filed appeal no.152/2025-26 against the defendant and others before the deputy Director of Land Records Shivamogga challenging the phodi in respect of the suit bearing survey no.25 which came to be allowed on 26.11.2025 and set aside the phodi effected on 25.11.2014 in respect of the survey no.25 of Hosuru village.



14. This court gone through the entire of records of the case. The plaintiff has filed this suit for relief of permanent injunction against the defendant in respect of the agricultural land bearing survey no.25/8 measuring 16 guntas of Hosuru village.

15. This court gone through the documents placed by the plaintiff. Accordingly, the sale deed dated 14.09.2023 produced by the plaintiff. It reflects that the plaintiff has purchase the suit schedule property from one H.B. Sathish and others for the valuable consideration of Rs.6,60,000/- and the recitals of the sale deed further indicates that the possession of the suit schedule property delivered to the plaintiff.

16. Accordingly, the record of right of the suit schedule property in the year 2024-25 produced by the plaintiff which reflects that the name of the plaintiff came to appeared in the owner as well as in possession column as per MR.No.T14/2023-24. According, the atlas copy of the property bearing survey no.25/2 which reflects that there are eights phodies have effected in the property bearing survey no.25/2.



17. This court gone the documents placed by the defendant. Accordingly, the record of right of the property bearing survey no.25/1 in the year 2024-25 which reflects that the name of the defendant's mother namely Susheelamma came to be appeared in the owner as well as in the possession column as per MR.No.T9/2014-15. Accordingly, the document filed by the defendant which is the order dated 26.11.2025 in ತಾಂಸವಭೂಮಿನಿ ಅಫೀಲು 152/2025-26 passed by the Deputy Director of Land Records at Shivamoga.

18. The defendant has not placed relevant kind of the documents to show that the defendant's mother has filed original suit no.177/2024 against the plaintiff. Neither the plaintiff nor the defendant at this stage filed the document to show the total measurement of the property bearing survey no.25 of the Hosuru village.

19. Accordingly, the documents produced by the plaintiff (sale deed and record of rights) which clearly indicates that the plaintiff has purchase the suit schedule property and the plaintiff's name entered in the record of right of the suit schedule property. Accordingly, the document produced by



the defendant (record of right) of the property bearing survey no.25/1 which is standing in the name of the defendant's mother.

20. The learned counsel appearing for the defendant argued that the description of the suit schedule property not correct. The order of the Deputy Director of Land Record at Shivamogga clearly indicate that the phodi effected in the property bearing survey no. 25 of Hosuru village which has phoded as a 25/1 to 25/8 has set aside. Though the description of the suit schedule property furnished by the plaintiff and the survey number of the defendant's property are different. But, it is very difficult to identified the suit property. Because at this stage there is no phodi in the property bearing survey no.25/2. The pleadings of the plaintiff and the defendant which clearly indicates that the subject matter of the suit schedule property and property of the defendant are out of the property bearing survey no. 25 of Hosuru village. There is no boundaries fixed in the entire property bearing survey no.25.



21. The suit property and the property of the defendant are part partial of property bearing survey no.25 and both suit property are agricultural lands. The defendant has having large existent than the plaintiff in the property bearing survey no.25/2 and the plaintiff and the defendant pleaded that they are growing various crops in their respective properties. Therefore, the loss would be cause to the defendant rather than the plaintiff.

22. The plaintiff must prove not only the ingredients of temporary injunction. But, also other relevant facts conduct of the plaintiff and delay laches and other things. In case on hand, the plaintiff has suppressed the materials facts regarding appeal before the Deputy Director of the Land Records and the plaintiff has not approached this court with clean hands. The plaintiff has failed to made out the ingredients of order of temporary injunction. Hence, in the light of above discussion, this Court answered points no.1 to 3 in the Negative.

23. **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 dismissed with cost.

(Dictated to the Stenographer directly on computer, typed by her,
revised by me and then pronounced in the open court, on this 16th
day of March 2026)

Prl. Civil Judge & JMFC,
Hosanagara.

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