

KASM310041122026



**IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT
BHADRAVATHI.**

Present: **Sri. RAVI KUMARA. V.** BA.L.,L.L.B.,
Prl. Civil Judge & JMFC.,
Bhadravathi.

DATED THIS THE 3rd DAY OF AUGUST-2026

O.S.No.245/2026

Plaintiff : Sri B.S.Ramesh Kumar

V/s

Defendant : Sri Dore G.

I.A.No.I

Applicant : Sri. B.S. Ramesh Kumar S/o late
Seetaram B.V., 48 years, R/o 7th
Cross, Vidya Nagar, Shivamogga.

(Rept. by V.Venkatesh, Adv.)

V/s

Opponent :

Sri Dore G. S/o Gopal, 53 years, R/o
Ward No.13, Near Muttumariyamma
temple, Keshavapura, Bhadravathi

(Rept. by Sri. Harish B.S. Adv.)

Provision Under which the application is filed	Order 39 Rule 1 and 2 R/w Sec. 151 of CPC
Relief sought for	Temporary injunction
Date of application	08.06.2026
Number of application	I.A.No.I
Date of objection	23.07.2026
Order date	03.08.2026

ORDER ON I.A.NO.I

The plaintiff filed this IA under Order 39 Rule 1 and 2 of CPC., praying to restrain the defendant, his men, agents, servants etc. from interfering with his peaceful possession and enjoyment over the plaint schedule property and from constructing any permanent structure therein, till pending disposal of the suit.

2. In his affidavit accompanying to the IA, the plaintiff has stated that he has purchased the plaint schedule property, measuring 01.08 guntas, under a registered sale deed dated 21.01.2020 from his vendor B.Basappa S/o Basavegowda. Ever since purchase, the plaintiff is in peaceful possession and enjoyment of the said property and all the revenue records mutated into his name. The defendant tried to encroach the said property towards its east and western side on 15.04.2026 without having no manner of right whatsoever. When the plaintiff resisted the said act of the defendant, he abused him in filthy language. The defendant also trying to construct a house by encroaching its western side and also without obtaining valid licence from the CMC,. The plaintiff also approached the concerned police on 02.04.2026. But, of no avail. Thus, the plaintiff claims to have filed this suit and the present I.A.

3. In pursuance to the notice, the defendant appeared through his counsel and filed his objection to this I.A.

4. Having denied the allegations made by the plaintiff, the defendant specifically contending that he is the absolute owner and lawful possession over a site property bearing site No. 21 measuring 69.677560 Sq.meter situated at Ward No.13, Keshavapura Extension, Bhadravathi. He acquired the said property by way of a registered sale deed dated 19.11.2025 executed by his vendor Anjanappa S/o Thimmappa. He constructing a residential house in his property and the plaintiff started to interfere with such construction without valid reasons. Hence, he filed a caveat petition before this Court. That, since the property of the defendant comes under B Khatha, no licence or approved plan issued in his favour by the CMC, Bhadravathi. However, all the revenue records of the aforesaid property stands in his name. The said documents does not reveal the existence of any property belongs to the plaintiff towards any of the boundaries of the property belongs to the defendant. That, the plaintiff has no manner of right whatsoever in the property belongs to the defendant. Hence, the plaintiff is

not entitled to the relief of temporary injunction. Accordingly, the defendant prays to dismiss the I.A.

5. In view of the rival contentions of both the parties, the following points are arise for my consideration;

1. **Whether the plaintiff establishes that, there exists a prima facie case in his favour ?**
2. **Whether plaintiff establishes that, the balance of convenience also exists in his favour?**
3. **Whether the plaintiff will be put to irreparable loss and injury if temporary injunction order is not granted ?**
4. **What order?**

6. I have heard both the sides on the I.A.

7. Carefully perused the entire materials available before this court.

8. My answers to the above points are as follows:

Point No.1 : **In the Negative**

Point No.2 : **In the Negative**

Point No.3 : **In the Negative**

Point No.4 : **As per final order,**
for the following;

REASONS

9. Point No.1 to 3 : These points are inter connected to each other and are based on common set of facts. Hence, they are taken together for my common consideration in order to avoid the repetition of facts and for the purpose of brevity.

10. Three ingredients that are to be considered while granting or rejecting the application for temporary injunction order are that:

- (1) Prima facie case
- (2) Balance of convenience
- (3) The party who will be put to irreparable loss and injury in the event of non granting of temporary injunction.

11. The Prima facie case means, a case of plaintiff is such that it needs adjudication on merits and that there is a

triable issue. Plaintiff's case should not be such that it is liable to be rejected summarily. However, prima facie case does not mean cent percent case. Suffice to satisfy the case about the existence of the triable issue.

12. The balance of convenience means a comparative hardship or inconvenience i.e. likely to be caused from withholding the order of temporary injunction or by granting it. In other words, if it is the plaintiff who will be put to greater inconvenience if temporary injunction is not granted, then the balance of convenience lies in her favour. If the greater inconvenience is caused to the defendant on granting such injunction, then the balance of convenience lies in favour of the defendant.

13. Admittedly, the plaintiff filed this suit seeking the mere relief of permanent injunction. According to him, he is in peaceful possession and enjoyment over the plaint schedule property by virtue of a registered sale deed dated 21.01.2020. At the same time, he alleged that, the defendant is trying to

encroach the said property towards its east and western side and further trying to put up a permanent structure therein without any right. Having regard to the nature of the suit and the relief sought in the present IA, it is the primary duty of the plaintiff prima facie to establish his possession over the entire plaint schedule property as on the date of filing this suit.

14. In doing so, the plaintiff, at this stage, produced the copy of the registered sale deed dated 21.01.2020 along with copy of complaint given to the Tahasildar, Bhadravathi, 11-E sketch, RTC pertains to the year 2025-26, mutation, acknowledgment and endorsement issued by the police, photographs and also E-property extract pertains to the property of the defendant. The above said documents would reveal that, the plaintiff purchased the plaint schedule property from his Vendor Basappa on 21.01.2020 under a registered sale deed and accordingly, his name was mutated in the revenue records. The RTC pertains to the current year reflects

the name of the plaintiff as the possessor of the entire plaint schedule property.

15. However, the complaint given by the plaintiff to the Tahasildar, Bhadravathi dated 05.07.2024 would clearly indicate that he complained against one Shanmuga that he had encroached the plaint schedule property to an extent of 15 guntas towards its east and western side. The E-property extract produced by the plaintiff pertains to the property of the defendant would show that the above said Shanmuga had purchased his property from the defendant. Similarly, the endorsement and acknowledgment issued by the SHO of Hosamane Police would reveal that the plaintiff approached the said police by alleging that the defendant already encroached upon his property and taking up the construction of his house.

16. The representation given by the plaintiff to the Tahasildar, Bhadravathi on 05.07.2024 along with the acknowledgment dated 02.04.2026 and endorsement dated

22.04.2026 issued by Hosamane Police would prima facie indicate that according to the plaintiff the defendant as well as his vendor Shanmuga have already encroached the plaintiff's schedule property to an extent of 15' towards its west and eastern side. The documents produced by the plaintiff himself would show that the defendant has already constructed his house in the alleged encroached area. The photographs furnished by the plaintiff would further prima facie show that the construction of the house has already reached up to roof level.

17. When the documents produced by the plaintiff at this stage of the suit would themselves reveal that the defendant and one Shanmuga have already encroached upon the plaintiff's property to an extent of 15 feet and the defendant constructed a permanent structure therein, the question of plaintiff remaining in possession over the entire extent of the suit property does not arise. The said fact also narrow down the chances of plaintiff succeeding in this suit. Because, as per the settled position of law, a mere suit for injunction cannot be maintained

when the plaintiff is not at all in possession of the entire plaint schedule property and when his property is already encroached. Such being the case, there is no prima facie case made out by the plaintiff to grant the relief of permanent injunction. Since the documents produced by the plaintiff would themselves speak that, the defendant already constructed a structure in the disputed area and the documents produced by the defendant would speak that, he has purchased the said property under a registered sale deed, granting temporary injunction would definitely put the defendant to irreparable injury. Hence, there is no balance of convenience exists in favour of the plaintiff. Under the above said circumstances, this is not a fit case to grant the relief of temporary injunction as sought for. Accordingly, **Point No.1 to 3** are answered in the **Negative**.

18. **Point No.4:** Resultantly, I proceed to pass the following;

ORDER

I.A. No.I filed by the plaintiff under Order 39
Rule 1 and 2 of CPC is dismissed.

No order as to cost.

(Dictated to the Stenographer, translated, computerized by her,
corrected and then pronounced by me in open court this 3rd
day of August-2026)

(Ravi Kumara V.)
Prl. Civil Judge & JMFC.,
Bhadravathi.