



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

Dated this the 26th day of March 2026

:Present:

**Sri. KIRAN S.P., B.B.M., LL.B.,
Prl. Civil Judge & JMFC, Gubbi**

OS No.205/2025

Plaintiff :- Smt. Chikkamma & another

-V/s-

Defendants :- Sri. S. Kumar & another

CAUSE TITLE ON IA No.I

Applicant: - Smt. Chikkamma & another

(By Sri. P.M.P.,, Advocate)

-V/s-

Respondents: Sri. S. Kumar & another

(Def. No.1 & 2 by Sri. N.R.C., Advocate)

**ORDER ON IA No.I FILED BY THE PLAINTIFFS UNDER ORDER
39 RULE 1 AND 2 of CPC :**

The plaintiffs have filed I.A. No.1 U/O 39 Rule 1 and 2 of CPC, seeking temporary injunction, restraining the defendants, their agents, or any other persons acting on their behalves from encroaching the suit schedule



property from northern side by trespassing in any till disposal of suit.

02. In the accompanying affidavit, it is stated that Plaintiff are the absolute owner and in joint possession and enjoyment over the suit schedule property having legal right, title and interest over it. The suit schedule property is the vacant site situated at Badenahalli village, Kadaba Hobli, Gubbi taluk. The government has granted vacant site bearing site No.4 measuring about 60 X 40 feet situated at Badenahalli Village, Kadaba Hobli, Gubbi taluk to my father and Hakku patra was also issued in the name of my father with respect to the above said site on dated:17.03.1989. From that date my father was in Continuous and peaceful possession and enjoyment over the suit schedule property. The Khata was also made out in the name of my father and he was in continuous and peaceful possession and enjoyment along with his family members over the suit schedule property having legal, right and title over it and he is paying kandhayam to the government regularly. After the death of the father of plaintiffs, they have succeeded to the suit schedule property and continued in the possession and enjoyment of the suit schedule property having legal right and title over it. The khata was also mutated in the name of the mother of plaintiffs on the basis of pouthi varas. Later E-Khata was also made out



in the name of the mother of plaintiffs by concerned gram panchayath and she is paying kandayam regularly to the Government. The defendants are utter strangers to the suit schedule property. The defendants have their site bearing site No.6 granted to his family from the government situated towards northern side after the site No.5 which is abutting to the northern side of the suit schedule property. There is a vacant site situated in between the suit schedule property and the site of the defendants. The defendants colluding with each other have illegally trespassed on the site No.5 and encroached that site in full and now they are attempting to encroach and trespass the suit schedule property from the northern side. The defendants without having any manner of right, title, interest and much less possession and enjoyment over the suit schedule property are attempting to encroach and trespass from the northern side of the suit schedule property and they are interfering with our peaceful and continuous possession and enjoyment over the suit schedule property. That the plaintiffs are not having any support in the locality. But the defendants being the politically and economically influential persons, the plaintiffs could not able to curtail the ill-legal act of the defendants without the aid of this Hon'ble Court. If the present application is not allowed the plaintiffs will be put into



great loss and much hardship which cannot be compensated by any means. On these grounds they pray to allow the application.

03. This application is resisted by the defendants by filing memo to adopt their written statement as objections to IA No.1. It is the contention of the defendants that the defendant No.1 is the absolute owner in possession and enjoyment of his property site bearing K. No.158/108 property No. 152500201500620009 vacant site (site No.6) measuring 18.288 X 12.192 meters which is described as WS schedule property. The E-Katha of the WS schedule property stands in the name of defendant No.1. Originally the WS schedule site was granted to defendant's father Srinivasamurthy in the year 1989 and Hakkupatra was issued to defendant's father on 17-3-1989 by the Doddaguni Mandal Panchayathi. As per the grant, the father of the defendant was in possession and enjoyment of the WS schedule property. Subsequently, the father Srinivasa murthy, his wife Shanthamma and daughter Padama and Son Raghuveer together gifted the property to the D-1 under the registered gift deed dated:15-1-2021. As per registered Gift deed, E-Katha was made out in the name of D-1 by the PDO Grama Panchayathi, Marashettihalli, Kadaba hobli, Gubbi taluk. The D-1 is paying tax to Grama Panchayathi, in respect



of suit schedule property. In fact, the plaintiff himself attempting to interfere with the first defendant's peaceful possession and enjoyment of his WS schedule property for which, this defendant No.1 has filed a suit for permanent injunction in O.S. No.166/2023 against this plaintiff No.2 and another. In said suit, T.I. was granted and police Thereafter the protection was also given by this Hon'ble court. plaintiff has filed this counter suit without having any title or possession over the suit schedule property. The son of the plaintiff No.1 by name Raghavendra B.N. has filed another suit in O.S. No.346/2024 against defendant No.1 which is suit for permanent injunction on the file of Additional Civil Judge, Gubbi. The plaintiffs and her sons are giving trouble and harassment to the defendant No.1 by filing false suits. On these grounds they pray to reject the application.

04. Heard both side.

05. Points that would arise for final determination of this application are as follows;

Point No.1: Whether the Plaintiffs have made out prima-facie case for grant of temporary Injunction as sought in IA no.1?



Point No.2: *Whether the balance of convenience lies in favour of the Plaintiffs?*

Point No.3: *Whether the Plaintiffs will be put to irreparable loss and hardship, if IA No. 1 is not allowed?*

Point No.4 : *What Order?*

06. The findings on the above points are as follows;

Point No.1: In the Affirmative

Point No.2: In the Affirmative

Point No.3: In the Affirmative

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

R E A S O N S

07. **Point No. 1 to 3:** These three points are interlinked each other. Hence they are taken together in order to avoid repetition of facts and circumstances. As could be seen from the materials available on record reveals that the plaintiffs have filed the suit for the relief of permanent injunction against the defendants over the suit schedule property. It is the specific case of the plaintiffs that the government has granted site bearing No. 4 measuring about 60X40 feet situated at



Badenahalli village i.e suit schedule property to the husband of plaintiff No. 1 and father of plaintiff No. 2 on 17.03.1989. In order to substantiate their contention the plaintiffs relied on Hakkupathra along with sketch. Said documents are substantiated the case of the plaintiffs. It is noticed that the E- katha has been made out in the name of the plaintiff No. 1. The documents produced by the defendants show that the defendant No. 1 has filed another suit bearing No. 166/2023 against the plaintiffs herein with respect to site bearing number 6. It is noticed that the defendants have obtained temporary injunction order against the plaintiffs herein pertaining to written statement schedule property. As per sketch produced by the plaintiffs reveals that towards north of suit schedule property the site No. 5 is situated and the written statement schedule property is situated towards north of site No. 5. As already stated above the defendants herein have obtained temporary injunction order, by taking advantage of that order, the defendants may trying to encroach the suit schedule property towards north of the suit schedule property. in such circumstances the purpose of filing the present suit will be frustrated. If the temporary injunction is granted as claimed by the plaintiffs, no hardship will be caused to the defendants and on the other hand if the temporary injunction is rejected, much inconvenience will be



caused to the plaintiffs. The plaintiffs have make out prima facie case, balance of convenience lies in his favour. Accordingly the point No. 1 to 3 are answered in the **affirmative**.

08. **Point No.4:** For the foregoing reasons, this court proceeds to pass the following;

ORDER

IA No.1 filed by the plaintiffs
U/O 39 Rule 1 and 2 of CPC is
hereby by allowed.

The defendants, their agents,
or any other persons acting on their
behalfes are hereby restrained
from encroaching the suit schedule
property towards northern side in
any manner till disposal of suit

No order as to costs.

(Dictated to the stenographer, transcribed by her, corrected and then pronounced
in the open Court on this the 26th day of March 2026)

Sd/-
(KIRAN S.P.)
Prl. Civil Judge & JMFC,
Gubbi.