



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE &
JMFC AT GUBBI**

Dated this the 28th day of January 2026

:: PRESENT::

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

OS No. 437/2024

Plaintiff :- Sri. H.B. Girish

-V/s-

Defendants :- Sri. H.P. Ramesh and others

CAUSE TITLE ON IA No.I

Applicant: - Sri. H.B. Girish

(By Sri. D.M.N., Advocate)

-V/s-

Respondents: Sri. H.P. Ramesh and others

(Def. No.1 to 3 by Sri. K.R.P./H.G.S.
Advocate)

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

The plaintiff has filed I.A No.1 U/O 39 Rule 1 and 2 of CPC, seeking temporary injunction, restraining the defendants, or their agents, servants, or anybody acting on their behalf them from forming any road in the middle



of suit schedule property in any manner till disposal of suit.

02. In the accompanying affidavit, it is stated that plaintiff has filed this suit for permanent injunction. Plaintiff has also filed interim application for grant of temporary injunction against the defendants. Plaintiff is the absolute owner in possession and enjoyment of the suit schedule property. The suit schedule property was purchased by plaintiff under the registered sale deed dated:03-10-2018. The defendants are having no manner of right, title, interest or possession over the suit schedule property. The defendants land is situated in Varahasandra Survey number which is situated towards north of the water flowing Halla situated towards northern side of the suit schedule property. The defendant is having road to reach his land from Mysore-Tumkur Road. Even then the defendants are attempting to make a road in the middle of the suit schedule property to reach his land directly. Big water flowing Halla bifurcates the land of plaintiff and defendant. The defendants act is highly illegal and it is politically motivated in order to make wrongful loss to plaintiff. Hence plaintiff prays to allow the present application. If the present I.A. is not allowed, plaintiff will be put to great hard ship and irreparable loss and injury would be



cause to plaintiff which cannot be compensated by any means. No harm would be caused to defendants on allowing the present application. On these grounds he prays 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 there is a Road passing through the suit schedule property and other survey numbers. Said road runs from Chamaranahalli to Kallur. The defendants have to pass through this road only in order to reach their land bearing S.No.119/5 measuring 3-10 Acres situated at Varahasandra, Kadaba hobli, Gubbi taluk. All the people including defendants are using this road which runs in S.No. 267, 269/1, 269/10, 269/11. Through this road the defendant has to reach his land by passing over Halla. Water will be flow only two months during rainy season. In other time, all the people/farmers/villagers, cattle and etc. have using this Halla to cross the land in order to reach their lands through above said survey numbers. The plaintiff himself encroached the Halla alsoll property to an extent of 0-16 Guntas in the northern side. On compliant made by the villagers, Tahasildar, Gubbi and Assistant commissioner, Tumkur and DDLR, ADLR have come to



the spot and vacated the encroached portion by the plaintiff and Government Kharab road passing through the suit schedule property. IN fact, the plaintiff in order to close the Government Kharab road in order to enlarge the suit schedule property illegally. The plaintiff himself obstructing the defendants and other villagers to use the Kharab road passing in the suit schedule property. Except this Kharab Road existing in the suit schedule property, the defendants have no other alternative road to reach their land. Even after the Tahasildar and other officials visited the spot and vacated the Kharab road for the use of public, defendants and other villages, the plaintiff again obstructing the same and make quarrel in the spot and he assaulted the defendants for which the defendants have lodged the complaint with the C.S. Pura police and then criminal case was registered against the plaintiff in Cr. No.87/2024. By filing this false suit, the plaintiff has obtained exparte order of temporary injunction and obstructing the defendants and others to pass through the road existing in the middle of the suit schedule property in east-west direction. This Kharab road is in existence from times immemorial. By filing this false suit, the plaintiff is attempting to close the road existing the suit schedule property. On these grounds they pray to dismiss the application.



04. Heard both sides.

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

Point No.1: *Whether the Plaintiff has 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 Plaintiff?*

Point No.3: *Whether the Plaintiff 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:** The plaintiff has filed the present suit against the defendants for the relief of permanent injunction over the suit schedule property. It is the contention of the plaintiff that he is the absolute owner and in possession and enjoyment of the suit schedule property. In order to substantiate the said fact, the plaintiff relied on copy of sale deed dated 03.10.2018, RTC extract and mutation register extract. Said documents are substantiated the fact that the plaintiff is in possession and enjoyment of the suit schedule property. It is noticed that the defendants herein have file OS No. 401/2025 for the relief of declaration of right of easement of necessity over the existing road at ABCD portion as per the annexed rough sketch for the ingress and egress and to reach suit schedule properties therein. According to defendants, there is a Road passing through the suit schedule property and other survey numbers. Said road runs from Chamaranahalli to Kallur. The defendants have to pass through this road only in order to reach their land bearing S.No.119/5 measuring 3-10 Acres situated at Varahasandra, Kadaba hobli, Gubbi taluk. All the people including defendants are using this road which runs in S.No. 267, 269/1, 269/10, 269/11. Through this road the defendant has to



reach his land by passing over Halla. Water will be flow only two months during rainy season. In other time, all the people/farmers/villagers, cattle and etc. have using this Halla to cross the land in order to reach their lands through above said survey numbers. The plaintiff himself encroached the Halla alsoll property to an extent of 0-16 Guntas in the northern side. On compliant made by the villagers, Tahasildar, Gubbi and Assistant commissioner, Tumkur and DDLR, ADLR have come to the spot and vacated the encroached portion by the plaintiff and Government Kharab road passing through the suit schedule property. IN fact, the plaintiff in order to close the Government Kharab road in order to enlarge the suit schedule property illegally. The plaintiff himself obstructing the defendants and other villagers to use the Kharab road passing in the suit schedule property. Except this Kharab Road existing in the suit schedule property, the defendants have no other alternative road to reach their land.

08. The existence of pathway over the suit schedule property is denied by the plaintiffs. There is no available material in order prove the existence of pathway as claimed by the defendants. As per village map there is no path way as claimed by the defendants.



The apprehension of the plaintiffs is that the defendants are trying to form the road in middle of the suit schedule property. If the temporary injunction sought by the plaintiff is granted, no loss will be caused to the defendants. On the other hand if the application is not allowed, it will cause much inconvenience to the plaintiffs. By considering overall facts and circumstances of the case, the plaintiffs have established the prima facie case and the balance of convenience lies in his favour. Accordingly the point numbers 1 to 3 are answered in the **Affirmative**.

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

ORDER

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

The defendants, their agents,
servants, or anybody acting on
their behalf are hereby restrained
from forming any road in the middle
of suit schedule property 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 28th day of January 2026)

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