



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

Dated this the 28th day of March 2026

:: PRESENT::

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

OS No. 517/2025

Plaintiff :- Smt. Mahadevamma

-V/s-

Defendants :- Sri. H.R. Shivakumar and others

CAUSE TITLE ON IA No.I

Applicant :- Smt. Mahadevamma

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

-V/s-

Respondents :- Sri. H.R. Shivakumar and others

(By Sri. N.R.C., 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 from interfering with the possession and enjoyment of the suit schedule property by encroaching it from southern and northern side respectively till disposal of suit.



02. In the accompanying affidavit, it is stated that the absolute owner in peaceful possession and enjoyment of the suit schedule properties having acquired through purchase under separate Reg. sale deeds. The suit schedule properties are the three vacant site properties abutting to each other more fully described in the schedule. The plaintiff had purchased the suit schedule property item No.1 from one Ashoka S/o late Nanjappa under a Reg. sale deed dated: 16-02-2013 for a valuable consideration. The plaintiff also purchased the suit schedule property item No.2 abutting to the suit scheduled property item No.1 wards the northern side from one Prasanna kumar N. s/o anjegowda under a Reg. sale deed dated:20-03-2020 for a valuable consideration. Likewise the plaintiff had also purchased the suit schedule property item No.3 abutting to the suit schedule property item No.1 towards the southern side from one Chandrakala w/o Niranjanaswamy under a Reg. sale deed dated:23-06-2020 for a valuable consideration. Likewise the plaintiff had also purchased the suit schedule property item No.3 abutting to the suit schedule property item No.1 towards the southern side from one Chandrakala W/o Niranjanaswamy under a Reg. Sale deed dated:23.06.2020 for a valuable consideration. Thus the suit schedule properties are abutting to each other having a common boundary. The Khata of all the three



suit schedule properties were mutated in the name of plaintiff on the basis of three separate Reg. sale deeds and since from the date of purchase, the plaintiff is in peaceful possession and enjoyment of the suit schedule properties as an absolute owner having legal right and title over them. The plaintiff is also paying tax to the Government regularly. The plaintiff had put up the fence from the stone pillars around all the three suit schedule properties. The E-Khata of all the three suit schedule properties are also made out in the name of plaintiff. The defendant No.1 is the adjacent land owner of the suit schedule properties towards the southern side having his Hiduvali land. The defendant No.1 and 2 being the husband and wife are attempting to encroach the suit schedule property item No.3 from the southern side and also are interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule properties. The defendant No.3 is the adjacent land owner towards the suit schedule property item No.2 towards the Norther side having her site property. she is also attempting to encroach the suit schedule property item No.2 from the Northern side and is interfering with the plaintiff's peaceful possession and enjoyment over the suit schedule properties. The defendants have no any manner of right, title, interest over the suit schedule properties. But they are attempting to illegally trespass on the suit schedule properties by encroaching the suit



schedule properties from the southern and Northern side respectively and also have broke the stone pillars standing around the suit schedule properties. On 13-08-2025 and caused heavy loss to the plaintiff. The plaintiff had given complaint to the C.S.Pura police about the illegal act of the defendants on dated:14-08-2025 and the police have called both the parties and suggested to solve the dispute in court as it is a dispute regarding the land and also they have issued an acknowledgment on the same day. The defendants are the economically and politically influenced persons in the locality and on the other hand The plaintiff is the poor lady having no support in the locality couldn't able to curtail the illegal act of the defendants without the Aid of the Hon'ble court. On these grounds they pray to allow the application.

03. This application is resisted by the defendant No. 1 and 2 by filing memo to adopt their written statement as objections to IA No.1. It is the contention of the defendants that the land bearing Sy. No.16 of Lingammanahalli, Kadaba hobli, Gubbi taluk totally measuring 6-17 acres is property belonging to defendant No.1 and his brother. The defendant No.1 and his brother have partitioned this property under registered partition deed dated:21-4-2021. In partition 0-13.04 guntas fallen to the share of defendant No.1. There is Gomala land in Sy. No.9 measuring 12-16 acres. This



Gomala land is adjacent to Sy. No.16/7 i.e., the property of defendant No.1. This defendant is in unauthorized possession of 0-10 Guntas in Sy. No.9. The defendant No.1 and his brothers are using this Gomala land to access to their own properties. The plaintiff in order to dispossess the defendant No.1 and 2 from the Gomala land has filed this false suit. The plaintiff himself interfered with the possession and enjoyment of the defendant in respect of Sy. No.16. Therefore the defendant gave complaint to C.S. Pura police against plaintiff and others. The police advised the plaintiff to get measured the Sy. No.9 in order to identify the suit schedule properties. The plaintiff in order to give trouble to the defendants has filed this false suit. The plaintiff wants to dispossess the plaintiff from the Gomala land. The plaintiff is absentee land lord and she does not know about location of his property. Plaintiff is at liberty to search her property. The plaintiff is neither owner nor in possession of the suit schedule properties. The plaintiff's vendors have no right to sell the suit schedule properties to the plaintiff. The plaintiff's vendors have no documents with respect to suit schedule properties. The plaintiff's vendors were not in possession of the suit schedule properties. On these grounds they pray to dismiss 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 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 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 plaintiff has filed the suit for the relief of permanent injunction against the defendants over the suit schedule properties. It is the specific case of the plaintiff she has purchased the suit schedule item No. 1 from one Ashoka under a registered sale deed dated 16.02.2013, she has purchased the suit schedule item No. 2 from one Prasanna Kumar under a registered sale deed dated 20.03.2020 and she has purchased the suit schedule item No. 3 from one Chandrakala under a registered sale deed dated 23.06.2020 for valuable consideration and the suit schedule properties are abutting to each other. In order to substantiate her contention the plaintiff relied on three sale deeds. Said documents are substantiated the case of the plaintiff. It is noticed that the E- katha have been made out in the name of the plaintiff by virtue of aforesaid sale deeds pertaining to suit schedule properties.

08. On the other hand it is the contention of the defendant No. 1 and 2 the land bearing S.No.16 of Lingammanahalli, Kadaba hobli, Gubbi taluk totally measuring 6-17 Acres is property belonging to defendants 1 and his brother. The defendant No.1 and his brother have partitioned this property under registered partition deed dated 21-4-2021. In partition 0-



13.04 Guntas fallen to the share of defendant No.1. There is Gomala land in S.No.9 measuring 12-16 Acres. This Gomala land is adjacent to S.No.16/7 i.e. the property of defendant No.1. This defendant is in unauthorized possession of 0-10 Guntas in S.No.9. The defendant No.1 and his brothers are using this Gomala land to access to their own properties. The plaintiff in order to dispossess the defendant No.1 and 2 from the Gomala land has filed this false suit. In order to show that they are in unauthorized possession and enjoyment of Gomala land, there is no material available on record. If the temporary injunction is granted as claimed by the plaintiff, no hardship will be caused to the defendants and on the other hand if the temporary injunction is rejected, they will try to encroach the suit schedule properties; in such a circumstances, much inconvenience will be caused to the plaintiff. The plaintiff has make out prima facie case, balance of convenience lies in his favour. Accordingly the point No. 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 plaintiffs
U/O 39 Rule 1 and 2 of CPC is
hereby by allowed.



The defendants are hereby restrained from interfering with the possession and enjoyment of the suit schedule property by encroaching it from southern and northern side respectively 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 March 2026)

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