



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

Dated this the 9th day of April 2026

:: PRESENT::

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

OS No.335/2025

Plaintiff :- Sri. Krishnamurthy

-V/s-

Defendants :- Sri. Gajendra & others

CAUSE TITLE ON IA No.1

Applicant :- Sri. Krishnamurthy

(By Sri. C.R.B., Advocate)

-V/s-

Respondents :- Sri. Gajendra & others

(Def. No.1 by Sri. B.V.R., Advocate)

(Def. No.3 by Sri. P.M.P., Advocate)

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

The plaintiff has filed IA No.1 U/O 39 Rule 1 and 2 of CPC, seeking temporary injunction, restraining the defendants from forming a road or passage on the suit schedule property during the pendency of the suit.



02. In the accompanying affidavit, it is stated that the plaintiff has filed the above suit for permanent injunction. The plaintiff is the owner in possession and enjoyment of the suit schedule property. The suit schedule property is the plaintiff's ancestral property. The khata of the schedule property is standing in his name. There is a dwelling house on the suit schedule property and towards the west of the said dwelling house a vacant site in suit schedule property is situated. Towards the west of the above said vacant site in the suit schedule property belongs to him, the properties of defendants are situated. There is no road or passage in between the suit schedule property and the properties of the defendants. The same is evident from the plaint filed in O.S.No.286/2000 on the files of this hon'ble court filed by me. The decree passed in R.A.No.27/2009 with respect to the present suit schedule property against the defendants of the said suit is in force. The present defendants are the relatives of the defendants in O.S.No.286/2009. As the said defendants in O.S.No.286/2009 are bound by the decree passed in the said suit, they have instigated their relatives, the present defendants to form a road on the suit schedule property. The defendants have got no manner of right or title to form a road on the suit schedule property. It is



just and necessary to allow the accompanying application to restrain the defendants from forming a road or passage on the suit schedule property illegally and to avoid the multiplicity of proceedings. No prejudice or hardship would be caused to the other side if the accompanying application is allowed or otherwise he would be put to great loss and trouble which could not be compensated in any manner. 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 defendant No.1 that the defendant No.1 respectfully submits that the defendant No.1 is the physically challenged person residing in the house of Vijayamma who is his mother. Vijayamma had purchased a site property bearing Kh. No.192 property number 116/2 measuring about east-west 15 yards north-south 7 yards bounded by a specific boundary towards East: House of Hucchappa and Mahadevaiah, West: Site of Kadaraiah and chittaiah North: Property of shambhulingappa, South: Hose of Mahadevaiah, under a registered sale deed dated:22.08.2000 from one S.K. Gopalaiah S/o late krishnappa for a valuable consideration. Since from the date of purchase the mother of the defendant No.1



is in possession and enjoyment of the above said property having legal right and title over it. The plaintiff is not having any right or title over the suit schedule property. The plaintiff without having any right or title had created and concocted false documents colluded with the panchayth officials for the more extent than he had right in the suit schedule Kh. No. Originally the father of the plaintiff had purchased a vacant site bearing Kh. No.173 measuring about east-west 20 yards north-south 11 yards (approximately 60X33 feet) bounded by East:Road, West:Site of siddalingappa, North:Govt. place, South Govt. school, from One Linganandaswamy under a registered sale deed dated:10.11.1955 and he was in possession and enjoyment of the same since from the date of purchase till his death. After the death of father of plaintiff this plaintiff had succeeded to the purchased property of his father as his legal heir and continued in possession and enjoyment of the same extent mentioned in the sale deed. The plaintiff with political and economic influence colluded with the panchayth officials had created some documents for the more extent than he was in the possession and also more than the extent that his father was purchased by giving false boundaries. The defendant No.1 is using the Govt. place which is situated towards the northern side



of purchased property by the father of plaintiff to reach his house from the mysore-chelur road situated towards the eastern side of the purchased property by the father of plaintiff. The concerned gram panchayth for the benefit and welfare of villagers and also as per the Govt. Order to keep villages clean and to provide all basic amenities to the villages has made drainage and also pakka road in the Govt. place situated towards the northern side of the purchased property by the father of plaintiff. The plaintiff without having any manner of right, title or interest in the road and drainage formed by the gram panchayath is interfering with the use of that road by the defendants to reach their houses. The plaintiff is having right only to an extent of east-west 20 yards north-south 11 yards(approximately 60X33 feet) which is purchased by his father. But basing on the concocted documents he is claiming his possession including the properties of defendants and Govt. property and plaintiff is putting up some garbage infront of the house of the defendant No.1 and obstructing them from ingress and outgress from the house. When the defendant No.1 and his mother are cleaning the garbage infront of their house the plaintiff had assaulted both the defendant No.1 and his mother and scolded in filthy languages and kicked the defendant No.1 and pushed the defendant



No.1 and his mother into the garbage. The defendant No.1 being physically challenged person could not able to stand up without support has suffered a lot and his condition becomes more miserable and also the mother of defendant No.1 sustained injuries from the above said. illegal act of the plaintiff. Then the mother of defendant No.1 had given the complaint to the concerned police on dated:22.10.2025 but due to the political and economical influence of plaintiff the police authority have closed the complaint by giving an endorsement stating that as the dispute is regarding the land the parties are directed to resolve the matter before the civil court. The plaintiff had concocted some documents by colluded with panchayth officials and filed this frivolous suit against the defendants to harass them and to cause wrongful loss to them. The plaintiff is a court bird and he goes on filing several suits against several persons including Govt. authorities with ill motivated and to harass people and to get wrongful gain. By knowing all these facts the Plaintiff has filed this suit against the defendants by concealing the true facts with a malafide intention to harass the defendant and to get wrongful gain through an unlawful act. On these grounds he prays to reject the application.



04. It is the contention of the defendant No. 3 that as the decree passed in R.A.No.27/2009 is binding on Vijayamma and S.M.Gangadhariah they have instigated the defendants to form a road on the vacant site situated towards the west of the house in the suit schedule property. Through the defendants gave got no manner of right, title, possession and enjoyment of the suit schedule property they have made attempts to a form a road on the suit schedule property by taking law in to their own hands. In spite of the request and repeated demands made by the plaintiff has the defendants have made attempts to form a road in the suit schedule property and there by interfered with the possession and enjoyment of the suit schedule property, without any alternative the plaintiff has the above suit for permanent injunction, hence the suit are all not within the knowledge of this defendant and the plaintiff is legally banded to prove the same before this Hon'ble court. The suit is not valued properly. The plaintiff is not entitled for any reliefs as prayed in the plaint. The plaintiff without disclosing the true fact has brought this untenable suit against the defendant. Originally the defendant No.3 is having a Site property bearing PID No.1525002011004720233, Assessment No.26/37, measuring Extant East West: 9.14 meters, North South:



7.62 meters, total extant: 69.67 Sq. Meters bounded by East: Charandi & Road, West: Murthaiah's Paalu, North Own house, South: Narasimhaiah's Paalu and with adjacent to the same he own another property pertaining PID No.152500201100400028, Assessment No.26/36, measuring Extant: East West: 12.19 meters, North South: 9.14 meters, total extant: 111.48 Sq. Meters of site property and total extant: 111.48 Sq. Meters of the house situated in the same site property bounded by East: Charandi & Road, West: Murthaiah's Paalu, North: Road, South: Own Paalu. The defendant No.3 is in peaceful possession over the same for the long period and the plaintiff is not having right, title, possession what so ever the same, in order to get unlawful gain and to harass this defendant making hectic attempts to give trouble to this defendant has filed this frivolous suit against this defendant and this defendant is no manner had interfered with his property if so exist. In his pleading he fails to prove the interference of this defendant with respect to the suit schedule property, that itself clearly goes to show that the plaintiff is having ill-will against this defendant and in order to harass this poor law abiding citizen he had filed this suit. Hence this suit is liable to be dismissed and this defendant is no way concerned with the suit schedule property either



directly or indirectly. Hence this suit is liable to be dismissed. The plaintiff has not come to the court with clean hand. On these grounds she prays to reject the application.

05. Heard both sides.

06. 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?

07. 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

08. **Point No.1:** The plaintiff has filed the present suit against the defendants for the relief of permanent injunction and such other reliefs with respect to suit schedule property. According to plaintiff he is the owner and in possession and enjoyment of the suit schedule property and the defendants are trying to form the road on the suit schedule property. The defendants have denied the case of the plaintiff.

09. The plaintiff relied on certified copy of Judgment passed in RA. 27/2009 on the file of Senior Civil Judge, Gubbi. It reveals that the plaintiff has filed a suit against mother of defendant No.1 by name Vijiyamma, husband of defendant No. 2 by name Gangadharaiah for the relief of Permanennt Injunction with respect to suit schedule property herein and said suit was dismissed; aggrieved by the judgment and decree passed in OS. 286/2000 the plaintiff herein has filed RA 27/2009 wherein Hon'ble appellate court has set aside the judgment and decree passed in OS



286/2000 and restrained the defendants therein from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule property. It is the contention of the plaintiff that the Vijiyamma and Gangadharaiah have instigated the defendants to form a road on the vacant site situated towards the west of the house in the suit schedule property. The defendants have denied the contention of the plaintiff.

10. The main object of the provision of order 39 rules 1 and 2 is to preserve the property as it is till the rights of all the parties to the suit are adjudicated in the final trial. While considering an application for grant of temporary injunction, the right and need of respective parties should be considered and the suit schedule property should also be protected and preserved so that if ultimately, the plaintiff who is the initiator of the suit; succeeds in the suit, she would not be put to irreparable and uncompensated loss. At this stage what the court is required to consider is whether the plaintiff has made out prima facie case to proceed with suit or not. The object is to keep the property in status quo that it would be available to the plaintiff if he ultimately succeeds in the suit. It is necessary to adjudicate after full pledged trial that whether the plaintiff is entitled for relief as



claimed for or not? At this stage, what is required to consider whether the plaintiff has made out prima facie case to proceed with the case. By considering the facts and circumstances of the case, the plaintiff has made out prima facie case. Accordingly point No. 1 is answered in the **Affirmative**.

11. **Point No.2 & 3:** These two points are interlinked each other. Hence they are taken together for common discussion in order to avoid repetition of facts and circumstances. The plaintiff has established prima facie case to proceed with the case. It is the apprehension of the plaintiff that the defendants are making attempts to form the road on the vacant site situated towards the west of the house in the suit schedule property. It is necessary to consider whether the plaintiff has got the relief as sought for. In such circumstances, if the defendants form the road on the vacant site of the suit schedule property, much inconvenience will be caused to the plaintiff in this case. In such circumstances, the purpose of filing the suit will be frustrated and the plaintiff will be put to heavy and irreparable loss. So, also it may leads to multiplicity of proceedings. By considering the facts and circumstances of the case, the plaintiff has established



that balance of convenience lies in her favour and he will be put to much hardship and loss, if the temporary injunction is not granted. Accordingly point No.2 and 3 are answered in the **Affirmative**.

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

ORDER

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

The defendants are hereby
restrained from forming a road or
passage on the 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 9th day of April 2026)

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