



**IN THE COURT OF THE ADDL CIVIL JUDGE AND JMFC
AT GUBBI**

Present : **Kum. Medha P.M. B.A. LL.B.,(Hons.)**
Addl Civil Judge and J.M.F.C.,
Gubbi

Dated this 24th day of January 2025

O.S.No.626/2023

PLAINTIFF : Mahadevaiah S/o Puttaramaiah,
Aged about 55 years,
R/o Guddadahalli Hatti,
Chelur Hobli, Gubbi Taluk.

(By Sri. R.S. Rajendra prasad., Advocate)

V/s

DEFENDANTS: Krishnappa S/o Thimmaiah,
Aged about 40 years,
R/o Guddadahalli Hatti,
Chelur Hobli, Gubbi Taluk.

(By Sri. B.Shivakumar., Advocate)

Applicant : Mahadevaiah

V/s

Opponent : Krishnappa



Provision of Application	Order 39 Rules 1 & 2 CPC
Relief Sought	Order of ad-interim temporary injunction against the defendant restraining the defendant, his agents, servants or anybody acting on their behalf from interfering with plaintiff's peaceful possession and enjoyment of the suit schedule property pending disposal of this suit
Date of Application	29.11.2023
Number of the Application	1
Date of Objections	03.04.2024
Date of Orders	24.01.2025

ORDERS ON I.A. NO. 1 FILED UNDER ORDER 39 RULES

1 AND 2 CPC

1. The plaintiff has filed this application U/o XXXIX Rule 1 and 2 CPC seeking an order of ad-interim temporary injunction against the defendant restraining the defendant, his agents,



servants or anybody acting on their behalf from interfering with plaintiff's peaceful possession and enjoyment of the suit schedule property pending disposal of this suit.

The plaint schedule property is described as under:-

Vacant site bearing katha number 174 measuring east-west 50 feet, and North-South: 50 feet situated at Guddadahalli Hatti, Chelur Hobli, Gubbi Taluk, bounded by -

East	:	Road,
West	:	Kavalu daari,
North	:	Site No.83 belongs to plaintiff,
South	:	Site of Ramachandraiah.

The written statement schedule property is described as under:-

All that piece and parcel of the Sy.No.39 total measuring 8-09 guntas out of which East-West-50 feets and South-North 50 geets situated at Guddadahalli village, Chelur Hobli, Gubbi Taluk bounded by :

East by	:	Road,
West by	:	Remaining land of Sy.No.39,
North by	:	Land of Shylaja,



South by : Land of Gangamma.

2. The plaintiff's assert that he is the absolute owner in possession of suit schedule property is granted to him under grant made by Grama Panchayath Chelur. The plaintiff is in possession of suit schedule property and his paid tax regularly. The defendants who is a stranger to the property is attempting to dig the soil in the suit schedule property. Hence the suit.

3. After service of summons, the defendant has appeared through his counsel and has filed written statement and prayed to consider the same as objections to I.A.No.1. The defendant contends that Sy.No.39 measuring 8 acres 9 guntas of Guddadahalli village, Chelur hobli, Gubbi Taluk, belongs to Gollarahatti. The grandfather of defendant was in possession of the written statement schedule property till his death following which the defendant is in possession of the written statement schedule property and is levelling the land using mud. The plaintiff colluding with officers of Grama Panchayath as concocted documents to grab written statement schedule property. Hence the defendant prayed to dismiss the application with cost.



4. Heard the learned Counsel for the plaintiffs and the defendants. Perused the application, affidavit, objection, pleadings of the parties and documents produced by them.

5. The following points arise for this court's consideration.

- 1) Whether the plaintiffs have made out a prima facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiffs?
- 3) Whether the irreparable loss will be caused to the plaintiffs if temporary injunction is not granted?
- 4) What order?

6. This court answers the above aforesaid 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:



::R E A S O N S::

7. Point No.1 to 3: To substantiate his case the plaintiff has filed documents such as copy of demand register, tax paid receipts, endorsement Chelur Police Station. Whereas the defendants have produced endorsement of PDO Grama Panchayath Bidare, katha extract, order of Deputy Commissioner dated 24-11-2023, RTC and entire katha register of Guddadahalli Grama Panchayath.

8. The defendants dispute the identity of the suit property. Except khata extract the plaintiff has not produced any document to show his possession over the suit property. The suit property cannot be identified using the said revenue documents. The plaintiff has to establish his prima facie case, through his documents the plaintiff has failed to do so. The plaintiff also has not produced any grant certificate to show the suit property was granted to him and to show the boundaries of the suit property. Hence, this court cannot arrive at a conclusion at this stage without a full-fledged trial.



9. As per the above discussion, the plaintiff has not established a prima facie case, which is the harbinger to grant an order of temporary injunction. Balance of convenience does not lie in the favour of plaintiff and more loss will be caused to the defendant. The other contentions taken by both parties can be only decided upon a full-fledged trial. **Hence, this court answers point No.1 to 3 in the Negative.**

10. Point No.4: For the above reasons, this court proceeds to pass the following:

O R D E R

The IA No. 1 filed U/o XXXIX Rule 1 and 2 CPC filed by the plaintiff is hereby rejected on cost of Rs.400/-.

(Dictated to the Stenographer transcribed, typed and print out taken by her, corrected by me and then pronounced in the open court on this 24th day of January 2025.)

Sd/-

**Addl. Civil Judge and JMFC.,
Gubbi.**