

KATK810019082025



IN THE COURT OF PRL. CIVIL JUDGE & JMFC., AT SIRA.

Dated this the 4th Day of August 2026

PRESENT: NARASIMHAMURTHY.A
B.A.,LL.B.,
Prl. Civil Judge & JMFC., Sira.

O.S. No.307/2025

PLAINTIFFS: 1. Shivanna S/o Late Maranna,
 Aged about 65 years,
 R/at Ganjalagunte village,
 Kallambella Hobli, Sira Taluk,
 Tumakuru District. And others.

 (By Sri. Y.R.R., Advocate)

/Vs/

DEFENDANTS: 1. G.C. Ramesh S/o Late Chandrappa,
 Aged about 40 years,
 P.R/o Ganjalagunte village,
 Kallambella Hobli, Sira Taluk,
 Tumakuru District. And others.

(By Sri. S.G.J, Advocate for D.1)
(By AGP for D.2 to 5)

:I.A.No.II/2025

APPLICANTS : Shivanna & Others

V/s

OPPONENTS : G. C. Ramesh & Others



: ORDER :

The plaintiffs have filed an application under Order XXXIX Rule 1 and 2 of CPC., praying to restrain defendants from ousting the plaintiffs from the house situated in suit property as well as cut and removing valuable trees in the suit schedule property by means and ways pending disposal of the suit.

2. In the accompanying affidavit of the interim application, plaintiffs submits that the suit schedule property is the ancestral and joint family property of plaintiffs, the same was acquired by the 1st plaintiff under registered sale deed for a valuable consideration accompanied by delivery of possession. The plaintiffs have constructed a house in the suit schedule property and they have also planted arecanut trees, coconut, jackfruit, sapodilla, Banana plants. The above said trees are yielding fruits and generating income for the livelihood of plaintiffs family. Thus the plaintiffs are the owners having right, title, interest, possession and enjoyment over the suit schedule property.

3. The plaintiffs further submitted that defendant No.1 is a stranger to the suit schedule property inspite of it, defendant No.1 had filed the petition before defendant No.2



in order to oust the plaintiffs from the suit schedule property. On the guise of defendant No.2, defendant No.3, 4 and 5 have inspect the suit schedule property and submits the report, thereby defendants have issued notice to the plaintiffs to vacate the suit schedule property within a week. The plaintiffs further submitted there is no usage or existence of road in land bearing Sy.No.15/2 of Hosaburju village which is called as suit schedule property. The above said act is well within the knowledge of defendant No.1. Inspite of it, defendant No.1 with malafide intention and to harass the plaintiffs is causing unnecessary interference with plaintiffs peaceful possession and enjoyment of the suit schedule property. The 1st defendant with a support of other defendants is trying to cut and remove the valuable trees situated in the suit schedule property. These act of the defendants can only be restrained with the help of this court. Hence, prayed to allow the application.

4. Per contra, defendant No.1 has filed memo to treat the written statement as objections to the present application. Wherein he has denied the plaint averments and further submitted that 1st defendant and his family members are jointly owned property bearing Sy.No.46 situated at Genjalugunte, Kallambella Hobli, Sira Taluk, Tumakur



District. The defendant No.1 and his family members are living in the above said survey number by raising crops in the same. The defendant No.1 and his family members are completely depending upon the above said land for their livelihood. The land of defendant No.1 is adjacent to the land of plaintiffs. The defendants are using the road which is situated in Sy.No.15/2 of suit property in order to reach the land of defendant No.1 from the time immemorial. Recently the plaintiffs are closed the above said road in order to obstruct defendant No.1 and his family members. Then defendant No.1 approached defendant No.2 and requested to provide the road to reach his land. The defendant No.1 has no other road to reach his land, except the road which is situated in the suit schedule property. In this regard defendant No.1 has filed an application before concerned authorities in order to resist the illegal act of the plaintiffs. The plaintiffs have not come to the court with clean hands. They have filed this false application in order to harass the defendant No.1. Hence, prayed to reject the application.

5. Heard and perused the materials placed before me.

6. The points that arise for my consideration are as follows;



1. Whether the applicants/plaintiffs have made out a prima-facie case for the grant of TI as prayed?
 2. Whether the balance of convenience lies in favour of Plaintiffs?
 3. Whether irreparable loss would be caused to the applicants/plaintiffs, if the instant interlocutory application is not allowed?
 4. What Order?
7. My findings to the above points are as follows;

POINTS No.1-3: In the Negative

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

REASONS

8. **POINTS No.1 TO 3:** These points are taken together for common discussions and to avoid the repetition of facts.

It is made clear that, at this stage only whatever observation made below and opinion expressed are only for the purpose of disposal of this I.A. These observations shall not carry any weigh in the final disposal of this case.

9. Having heard from both the counsels and perused available materials on record, it is clear that plaintiffs are the



absolute owners and in peaceful possession and enjoyment of the suit schedule property. Likewise defendant No.1 is also absolute owner and in possession and enjoyment of the land bearing Sy.No.46 of Genjalugunte village. The plaintiffs have alleged that defendant No.1 in active support of defendant No.2 to 5 is trying to cut and remove the valuable trees which are situated in the suit schedule property. In contrary to the pleadings of the plaintiffs, defendant No.1 has stated that he is using the suit schedule road to reach his land. Recently plaintiffs have objected defendant No.1 by using the road.

10. Plaintiffs have further stated that there is no road situated in the suit schedule property. The defendants are falsely claiming that there is road situated in the suit schedule property. In order to prove the contention of plaintiffs they have not produced any supportive documents to show that there is no road situated in the suit schedule property. Per contra, defendants have produced the document which is issued by the Tahasildar, Sira. On perusal of the above said document the contents of the same are as follows:

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಉಲ್ಲೇಖ (1) ಪತ್ರದಲ್ಲಿ ಜಿ.ಸಿ ರಮೇಶ್



ಬಿನ್ ಚಂದ್ರಪ್ಪ ರವರು ಮನವಿ ಸಲ್ಲಿಸಿ ಶಿರಾ ತಾಲ್ಲೂಕು, ಕಳ್ಳಂಬೆಳ್ಳಿ ಹೋಬಳಿ, ಹೊಸಬುರ್ಜಿ ಗ್ರಾಮದಿಂದ ಚನ್ನೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ.46 ರ ಜಮೀನಿಗೆ ಹೋಗಲು ದಾರಿ ಬಗ್ಗೆ ಕಂದಾಯ ತನಿಖಾಧಿಕಾರಿಗಳು ಮತ್ತು ತಾಲ್ಲೂಕು ಭೂಮಾಪಕರ ಸ್ಥಳ ತನಿಖಾ ವರದಿ ಮಾಡಿರುವಂತೆ ಶಿರಾ ತಾಲ್ಲೂಕು, ಕಳ್ಳಂಬೆಳ್ಳಿ ಹೋಬಳಿ ಚನ್ನೇನಹಳ್ಳಿ, ಗ್ರಾಮದ ಸ.ನಂ.7/6, 7/8 ಹೊಸಬುರ್ಜಿ ಗ್ರಾಮದ ಸ.ನಂ.15/2, 15/3, 15/7, ಒತ್ತುವರಿಯನ್ನು ತೆರವುಗೊಳಿಸಲು ವರದಿ ನೀಡಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಈ ಕಳಕಂಡ ಖಾತೆದಾರರು ಈ ತಿಳುವಳಿಕೆ ನೋಟಿಸ್ ತಲುಪಿದ 7 ದಿವಸದೊಳಗಾಗಿ ಒತ್ತುವರಿ ಕಾಲು ದಾರಿಯನ್ನು ತೆರವುಗೊಳಿಸಲು ತಿಳಿಸಿದೆ. ತಪ್ಪಿದ್ದಲ್ಲಿ ನಿಯಾಮಾನುಸಾರ ಕ್ರಮ ಕೈ ಗೊಳ್ಳಲಾಗುವುದು ಎಂಬುದಾಗಿ ಈ ಮೂಲಕ ತಿಳಿಸಿದೆ.

11. By plain reading of above said contents it is clear that there is a road situated in Sy.No.7/6, 7/8 of Channenahalli village and Sy.No.15/2, 15/3, 15/7 of Hosaburju village. The above said document it is clear that the plaintiffs have encroached the road which is situated in the suit schedule property. The act of the plaintiffs is causing unnecessary burden to defendant No.1 and public in locality. Accordingly, by perusing the above said document it is clear that plaintiffs have not come to the court with clean hands. Accordingly, plaintiffs have utterly failed to show prima facie in their favour.

12. In so far, as the hardship is concerned, from the facts and circumstances of the case on hand, it appears that defendant No.1 will be put to greater hardship, if the T.I. is



granted. Hence, looking into any angle the comparative hardship is more on defendant No.1 rather than the plaintiffs. Likewise the balance of convenience also lies in favour of defendant No.1.

13. From the above discussion, it is quite obvious that the plaintiffs have failed to make out prima-facie case for the grant of T.I. as prayed and also failed to prove other two statutory ingredients. Accordingly, this court answered **Points No.1 to 3 in the Negative.**

14. **POINT No.4:** Since the plaintiffs have failed to make out the prima-facie case and failed to prove hardship and balance of convenience, plaintiffs are not entitled to discretionary and equitable relief of T.I. as prayed. Hence, for the aforesaid reasons, I proceed to pass following:

ORDER

I.A No.II filed by the plaintiffs under
Order XXXIX Rule 1 and 2 of CPC., is
hereby rejected.

(On my dictation transcribed and typed by the stenographer printout taken by her, then corrected and pronounced by me in the open court on 4th Day of August 2026)

Sd/-

**(NARASIMHAMURTHY .A)
Prl. Civil Judge and J.M.F.C.,
Sira.**