

The plaintiffs have filed this suit for declaration to declare that the plaintiffs Right of way over suit road and to restrained the defendants form interference from that use of Right of way over suit road for permanent injunction restraining the defendants No. 1 to 4 from interfering with plaintiffs making use of or supply of water from the well exist in S.No. 314/8 through PVC pipe line installed their to the residential house of the plaintiffs.

2. The plaintiffs have also filed I A No. III under order 39 rule 1 and 2 CPC seeking an order of ad interim injunction restraining the defendants from interfering with their making use of suit road to reach their Bagayat land from their respective house till the disposal of the suit

3. The plaintiffs have the filed one more application(i.e.) I A No IV under order 39 rule 1 and 2 CPC restraining the defendants No 1 to 4 from cutting off or destroying the PVC pipe line installed by the plaintiffs in S.No. 314/4 and suit road so as to supply water from the well dug in S.No. 314/8 of plaintiff No 1 to their residential houses.

4. It is submitted by the plaintiffs that they and defendants No 1 to 4 originally are from one family. The defendant No 5 is the purchaser of S.No. 349/1. The property

bearing S.No. 316/3, 314/1, 314/4, 314/8, 313/2, 313/4, 313/3, 372/7, 372/8 and 372/9 originally the family properties of the plaintiffs and defendants 1 to 4. They are Bagayat lands. In order to have access to the said lands from the house of plaintiffs, they are making use of 3 feet width pathway from the time immemorial openly and continuously without any interruption from any one. The house of the plaintiff exist in S.No. 316/3. Since there is scarcity of water during summer season in the well exist in S.No. 316/3, the plaintiffs have made arrangement to supply water to the residential house from the well exist in the bagayath land of plaintiff No. 1 by installing PVC pipe line to 3 feet depth canal dug in the suit road. While making such arrangement, the defendants No 1 to 4 have given their oral consult. The plaintiffs are exercising their right of way and right of water way through the suit road for all these years without any interruption or objection from any one and defendants have no manner of right to object or interfere with their use of suit road. It is submitted by the plaintiff that except the suit road they have no other alternative road either to supply water from the canal through PVC pipe line to the residential houses from the well exist in Bhagayat land of Plaintiff No. 1 or no other way to reach their Bagayath land form their house.

5. Now the defendant No 1 to 4 at the advise of defendant No. 5 who has lost his case in O.S.No. 20/2009

having ill will against plaintiff No. 1 herein, now giving threat to the plaintiffs that they will close the suit road and close the arrangement made by the plaintiff for supply of water to their residential house. It is submitted by the plaintiff that if the defendants execute their threat in to action they will be put to irreparable injury and hardship. Hence submitted to allow the Interim applications. The plaintiffs at this stage have produced the hand sketch which depicts the topography of the suit schedule property so also the RTC extracts relating to S.No. upon which the suit road passes and also the photographs relating to the suit property.

6. When it is submitted that the suit road is the only road to reach their Bhagayath land from their houses and that it is only through the suit road water can be supplied from the well or through the PVC pipe line installed therein to the residential house the plaintiffs, if ad interim injunction is not granted infavour of plaintiffs, then defiantly, the plaintiffs are to suffer and put to misery and hardship. The plaintiffs by placing all those material at this stage have made out prima-facie case. Even balance of convenience is also tilts infavour of the plaintiff. Hence to meet the ends of justices, it is just and proper to pass the necessary order infavour of the plaintiffs. Hence the following

ORDER

The defendant are restrained from interfering with plaintiffs making use of suit road more fully described in hand sketch to reach their Bagayat land from their house.

The defendant No 1 to 4 are restrained from cutting of or destroying the PVC pipe line installed by the plaintiffs in suit land and thereby restrain the defendants No 1 to 4 from interfering in smooth supply of water from the well dug in S.No. 314/8 to the house of plaintiffs.

The order shall remain in force till the next hearing date.

The plaintiffs shall comply³⁹ rule 3 A C.P.C. Issue notices on I A No. III and IV, injunction order and S S to defendants if PF paid r/by :

**(Roopashri)
Prl. Civil Judge, Kumta.**

