



**IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.,
AT: MUNDGOD**

**PRESENT: Smt. Akshatha C.R.
B.B.A., L.L.B.(Hons.)
Civil Judge & J.M.F.C-Mundgod.**

ORIGINAL SUIT NO.33/2026

Dated: 18th Day of March 2026

Plaintiffs:

Tippayya Channyya Hiremath
@ Nelliharavi, Age: 58 years,
Occ: Agriculturist, R/o: Agadi post,
Hunagund, Mundgod and 4 others

(By Sri.V.T.B., Advocate)

V/s

Defendant:

Hammanna S/o Mahabal Nayak,
Age: 73 years, Occ: Agriculturist,
R/o: Agadi post, Hunagund, Mundgod.

(By Sri.R.S.H, Advocate for D-1 to 4)

I.A.No.I

Applicant:

4. Gurupadayya Channayya Hiremath
@ Nelliharavi, Age: 50 years,
Occ: Agriculturist, R/o: Agadi post,
Hunagund, Mundgod



V/s.

Opponents:

Hammanna S/o Mahabal Nayak,
Age: 73 years, Occ: Agriculturist,
R/o: Agadi post, Hunagund, Mundgod.

1	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC
2	Relief sought for	to interdict the defendant, his men, agents and servants from interfering with their peaceful possession and enjoyment of the suit schedule property by causing damage, till the disposal of the suit.
3	The date on which the applications filed	23-02-2026
4	Number of application	I.A No.I
5	The date on which the objection is filed by the opponent	05-03-2026
6	The date on which the order is passed on the applications	18-03-2026

ORDERS ON I.A.NO.I

1. The plaintiffs have filed this application under Order XXXIX Rule 1 and 2 r/w Section 151 of CPC seeking to interdict the defendant, his men, agents and servants from interfering with their peaceful possession and enjoyment of the suit schedule property by causing damage, till the disposal of the suit.



2. In the accompanying affidavit sworn to by the plaintiff No.4 it is stated that, they have sued the defendant for the relief of perpetual injunction. That the defendant is an adjacent land owner having separate land bearing Sy. No. 242/2 ad measuring 02 acres. The suit schedule property was granted in favour of their deceased father namely Sri. Chennayya Hiremath @ Nelliharavi in the year 1976 and since then they were possessing and enjoying it. He himself and his brothers have never disrupted the boundaries which were demarcated at the time of grant. That the original survey map explicitly reflects the discrete boundaries between the two properties. The defendant with an oblique intention of encroaching their land continuously altered the original boundary mark and got surveyed his land without their consent. He objected such one sided survey by filing objections on 04-08-2017. However, he realized that, the defendant by using his political influence got such survey map finalized without going through the original survey map and boundary lines. Being aggrieved by the same, they preferred an appeal before Director of Land Records, Karwar in Survey Appeal No. 108/2021-22. Nevertheless, the defendant



successfully managed the Survey Officials by politically influencing them and thereby obtained favourable Order on 07-03-2025. In this manner, the defendant has illegally fabricated the new survey map without considering the original map. It is further stated that, they being aggrieved by the Order passed by Director of Land Records, Karwar, have approached the Hon'ble High Court. In that regard Writ Petition No. 109506/2025 is still pending meanwhile the defendant on the strength of the fabricated survey map is consistently trying to encroach the suit land by disturbing their peaceful possession and enjoyment. Further the defendant and his henchmen trespassed Southern frontier and by encroaching he started fencing by erecting cement polls. It is also stated that, he has destroyed the grown up and standing maize crop worth Rs.4,00,000/- to erect the fence across the Southern boundary of the suit property. They objected the same and addressed a complaint to SP, Karwar and to his subordinate police officials on 08-12-2025. However, he neutralized the police to take any action on their complaint. It appears to them that, the defendant being close comrade of the ruling parties local politician, has been



neutralizing administrative missionary to take any legal action against him. Thus, pending adjudication of the aforesaid Writ Petition, it is stated that, it is very much necessary to prevent the defendant from further encroaching the suit land. It is also stated that, he has approached Mundgod Police and orally complained them to take immediate action against the defendant to prevent further encroachment by causing damage to the grown up crops. However, police refuted to take any action on the ground that, Civil dispute does not come under their jurisdiction, which has inevitably lead them to knock the doors of this Court. It is also stated that, they have got a prima facie case and balance of convenience in their favour and if the relief claimed is not granted it is they who would be put to great loss which cannot be compensated in terms of money.

3. Defendant vehemently protested the I.A. by filing objections. He disputed the boundaries of the suit property and contended that, the plaintiffs have created the description of the suit property as per their convenience to suit their case. It is



contended that, they have erroneously mentioned that, to the East of the suit schedule property its remaining portion is situated. However, to the East of the suit schedule property Sy. No. 236 is situated. It is further contended that, their lands are adjacent to each other and he has purchased the land from one Smt. Iramma Ramanagouda Patil of Hungund on 25-07-1998 and since then he has been cultivating his land. The plaintiffs who are dis-pleasured by the purchase have been raising objections regarding the boundaries as such he got the Hadbasth survey done through authorized Survey Officials and got specified the boundaries and boundary stones of his land. That apart for the purpose of securing the crops grown he has fenced across all the four boundaries by erecting the cement polls and thereby he has been cultivating his land without any obstruction since many years. Such being the case the question of encroaching plaintiffs' land or causing obstruction to their cultivation do not arise.

4. It is also contended that, as the difference arose in the extent of land comprised in Hissa numbers, as per the order of



DDLRL, UK, Karwar in Appeal No. 85/2015-16, the authorized Survey Officials have re-surveyed entire Sy. no.242 and specified the boundaries. Therefore, such a demarcation is lawful. That the plaintiffs were there for few years and thereafter they again preferred an appeal before DDLRL, UK, Karwar in Appeal No. 108/2020-21. However, the appeal was dismissed after conducting enquiry. Subsequently they have approached the Hon'ble High Court in WP No. 109506/2025 which is not yet admitted. The plaintiffs though aware of the aforesaid facts have unnecessarily sued him. It is further contended that, they have not approached the Court with clean hands and that balance of convenience leans in his favour. In case the relief claimed is granted there are chances that, plaintiffs may destroy the fence erected by him across the boundary of his land towards the southern portion of suit schedule property and thereby encroached certain portion of his land which will cause him undue loss and hardship. It is also avowed that, as the plaintiffs frequently disturbed him in cultivation of his land and consistently attempted to encroach by unfastening the boundary stone, he had filed a complaint before Mundgod police on 09-07-



2025. Pursuant to the same the police officials enquired into the issue by securing the presence of the plaintiffs and warned them not to destroy the boundary stone and to disturb him in cultivation of his land. Besides, they were also asked to execute the bond. Inter alia he sought to dismiss the I.A with costs.

5. Heard both the sides.

6. Anent to the assertions and contentions of the parties, the following points arise for the consideration of this court.

(1) Whether the plaintiffs have made out a prima facie case?

(2) Whether balance of convenience leans in favour of the plaintiffs?

(3) Whether dismissal of this application would cause irreparable loss to the plaintiffs?

(4) What order?

7. Answers to the above points are as follows:



- Point No.1 : In the Affirmative
- Point No.2 : Partly in the Affirmative
- Point No.3 : In the Affirmative
- Point No.4 : As per the final order
for the following.

REASONS

8. **POINT NO.1 TO 3:** These points are taken together for common discussion as they can be conveniently discussed at once. Outdooring the unnecessary details, this Court would like to directly delve into the discussion upon the issue involved. It is to be noted here that, the parties are at variance as regards the boundaries of their lands. If on one hand, the plaintiffs allege that defendant trespassed into the suit property and started to erect the cement pole fence in the suit land. On the other hand, defendant contend that, he has erected the fence across the boundaries of his land. He relied upon the Sy. Appeal No. 85/2015-16 and Sy. Appeal No. 108/2020-21. Given these facts both the parties have produced certain documents in support of their case. The documents placed by them are tabled here under for easy reference.



Sl. No.	Description of the documents brought by the plaintiffs on record
1	RTC relating to the suit schedule property
2	Copy of Hissa sheet pertaining to Sy. No.242
3	Photocopy of hissa sheet of Sy. No. 242 Hissa 1
4	Certified copy of the Writ Petition No. 109506/2025
5	Reply given by ADLR, Mundgod
6	Endorsement issued by ADLR dated 18-11-2025
7	Mutation Entry at M.R. No. T20/2017-18
8	Mutation Entry at M.R. No.H4/2016-17
9	Mutation Entry at M.R. No.141/2005-06
10	Copy of complaint addressed to SP, Karwar, dated 08-12-2025
11	Online Postal Consignment Tracking
12	3 Postal receipts and 2 Postal Acknowledgments
13	4 photographs of Sy. No. 242/1
14	RTC pertaining to the defendant's land

Sl. No.	Description of the documents brought by the defendant on record
1	RTC relating to his property
2	Photocopy of the Sale Deed dated 25-07-1998 executed by Smt. Iramma Ramanagouda Patil in his favour regarding Sy. No. 242 Hissa 2
3	Photocopy of hissa sheet pertaining to Sy. No. 242 Hissa 2
4	Photocopy of the Order passed by Technical Assistant and DDLR, UK, Karwar in Appeal No. 85/2015-16 dated



	03-11-2016
5	Photocopy of the Order passed by Technical Assistant and DDLR, UK, Karwar in Appeal No. 108/2020-21 dated 07-03-2025
6	Photocopy of the Acknowledgment and Endorsement issued by Mundgod police dated 09-07-2025 and 13-07-2025
7	2 photographs
8	Photocopy of Mutation Entry at M.E. No. 3079 of Hungund village
9	Photocopy of hissa sheet of Sy. No. 242

9. Counsel for the plaintiff has relied upon the following citations in support of his case:-

1	Anathula Sudhakar V/s P.Buchi Reddy (dead) by Lrs and others reported in AIR 2008 SC 2033.
2	Dalpat Kumar and another v/s Prahlad Singh and others reported in AIR 1993 SC 276B.
3	Prasanna Narayan Sarangi v/s State of Orissa and others reported in AIR 1996 ORI 211

10. Counsel for the defendant has relied upon the following citation in support of his case:-

1	Ashwath Reddy S/o Erappa v/s Munivenkatappa S/o Narayanappa reported in RSA No. 1014/2011.
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11. I have carefully gone through the materials brought by the parties on record. It is to be noted here that, the parties are not



at variance as regards the ownership of their lands. At the cost of repetition it is the plaintiffs' grievance that, defendant on the strength of the illegal survey sketch attempted to alter the physical boundaries and erected a fence by encroaching upon the Southern portion of the suit schedule property. However, the plaintiffs' can be seen acquiesced the survey made by the Survey Officials pursuant to the Order passed by Technical Assistant to DDLR, Karwar in Sy. Appeal No. 85/2015-16, dated 03-11-2016, for quite some period i.e., till 2020-21. It is only after lapse of 3 to 4 years, the plaintiffs' herein have preferred an appeal against the aforesaid Order in Sy. Appeal No. 108/2020-21. However, the learned Technical Assistant to DC and DDLR, Karwar was pleased to dismiss the Appeal so preferred by the plaintiffs. Upon filing of such appeal, during the period of enquiry the Spot Inspection Report was called for from ADLR, Mundgod. It is specifically mentioned in the Order dated 07-03-2025 that "ಮೇಲ್ಕನವಿ ಸಂಖ್ಯೆ 85/2015-16 ದಿನಾಂಕ 13-11-2016ರಂದು ಹೊರಡಿಸಿದ ಆದೇಶದ ಮೇರೆಗೆ ಪುನಃ ಅಳತೆಯಿಂದ ಪೋಡಿ ದುರಸ್ತಿ ಕ್ರಮ ಜರುಗಿಸಿ ಅಳತೆಯಿಂದ ನಕಾಶೆಯನ್ನು ತಯಾರಿಸಿರುತ್ತಾರೆ ಹಾಗೂ ಸ.ನಂ.242ರಲ್ಲಿ ಭೂ ದಾಖಲೆಗಳ ಸಹಾಯಕ ನಿರ್ದೇಶಕರು, ಮುಂಡಗೋಡರವರ ಕಚೇರಿಯ ಸ್ಥಳ ಪರಿಶೀಲನಾ ವರದಿಯಂತೆ



ಮೆಲ್ಮನವಿದಾರರ ಹಕ್ಕಿನ ವಿಸ್ತೀರ್ಣದಂತೆ ಇರುವ ಜಮೀನಿನಲ್ಲಿ ಒತ್ತವರಿಯಾಗಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ." However, it is not clear as to who has encroached whose land. For the reason of encroachment, the appeal preferred by the plaintiffs was dismissed. No doubt an observation is made as regards the encroachment of land in Sy. No. 242 Hissa 1. No doubt, it is not clear as to who has made such encroachment at the Eastern side of the suit schedule property. Is it the defendant or somebody else is not clear. Alongside it is also observed in the Order dated 07-03-2025 that, "ಭೂ ದಾಖಲೆಗಳ ಸಹಾಯಕ ನಿರ್ದೇಶಕರು, ಮುಷಗೊಡರವರ ಕಚೇರಿಯ ಸ್ಥಳ ಪರಿಶೀಲನ ವರದಿಯನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿ, ಸದರಿ ಸ.ನಂ.242/1ರಲ್ಲಿ ಮೆಲ್ಮನವಿದಾರರು ಹಕ್ಕುದಾರರು ಇದ್ದು, ಸ.ನಂ.242/1ರಲ್ಲಿ ಕಬ್ಬಿಯನ್ನು ಹೊಂದಿಕೊಂಡಂತೆ, ಸ.ನಂ.242/1 ಜಮೀನು ಪೂರ್ವ ದಿಕ್ಕಿನಲ್ಲಿ ಅತಿಕ್ರಮಣವಾಗಿರುವುದು ಕಂಡು ಬರುತ್ತದೆ." A common prudent man would be knowing the boundaries of his property. No doubt it is not specifically mentioned in the aforesaid Order that, such an encroachment is on the part of the defendant. Nevertheless, the plaintiffs have specifically averred in their complaint dated 08-12-2025 that, "ವಿಷಯ ಹೀಗಿದ್ದಾಗ ನಮ್ಮ ಕಬ್ಬಾ ವಹಿವಾಟಿನಲ್ಲಿರುವ ಜಮೀನನ್ನು ಹಮ್ಮಣ್ಣ ಮಹಾಬಲ ನಾಯ್ಕ ಇವರು ಅಕ್ರಮವಾಗಿ ಪ್ರವೇಶಿಸಿ ತಮ್ಮ ಜನರೊಂದಿಗೆ ಬಂದು ನಮ್ಮ ಜಮೀನಿನ ಪೂರ್ವ ಹಾಗೂ ಪಶ್ಚಿಮ ದಿಕ್ಕಿನ ಗಡಿಗಳನ್ನು



ಪ್ರವೇಶಿಸಿ ಬಲವಂತವಾಗಿ ಬೆಲೆ ಹಾಕಲು ಯತ್ನಿಸುತ್ತಾರೆ." No doubt the said complaint is not prior in time than the Order dated 07-03-2025. It duly corroborates the observation made in the aforesaid Order. As aforesaid owner of the land would be knowing the boundaries of his land. Besides, in case of any encroachment, he would also be knowing the person who is at fault or who has encroached his land. In the instant case, the plaintiffs are pointing out at the defendant and not at any other person. Within short period of lodging their complaint, the plaintiffs have approached this Court. On over all appreciation of the materials available on record it can be inferred that, plaintiffs are indirectly assailing the survey sketch prepared by the Competent Revenue Officials, pursuant to the Order passed in Sy. Appeal No. 85/2015-16. No doubt they have challenged such Order passed in Sy. Appeal No. 108/2020-21 dated 07-03-2025 before the Hon'ble High Court of Karnataka in W.P. No. 109506/2025 (KLR-REV) and the same is pending for consideration. Meanwhile, they have knocked the doors of this Court for the alleged interference. Although the counsel for defendant assailed that the boundaries of the suit schedule



property as depicted by the plaintiffs, do not match with the Revenue records, there is no dispute as regards the identification of the suit schedule property and both the parties have placed the same survey sketch, which leaves no room for doubt.

12. The Hon'ble High Court of Karnataka in **Bank of Baroda v. Dr. Bavaguthu Raghuram Shetty, & ORS.** in COMAP NOs. 27 OF 2020 AND 28 OF 2020 observed thus:

“28. Simultaneously if we consider the provisions contained in Order 39 Rule 1(b), of the Civil Procedure Code we find that while passing an order of injunction, the Court is not required to find out as to whether there is every possibility of passing a decree in favour of the plaintiff in the suit. While considering the application for temporary injunction, the Court is only required to ascertain as to whether a prima facie case has been made out by the plaintiff in the suit. Prima facie case means an arguable case meaning thereby that a reasonable dispute is raised before the Court which the Court is required to resolve ultimately in the suit. A prima facie case is distinguishable from a full-proof case.”

It appears that, plaintiffs have got a prima facie case, although balance of convenience leans partly in favour of both the parties. In so far as the aspect of irreparable damages is concerned, it lies well



in favour of the plaintiffs. Accordingly, Point No.1 to 3 are answered aforesaid.

13. **POINT No.4:** In light of answering point No.1 to 3 as aforesaid, this Court proceeds to pass the following.

ORDER

I.A. No.I filed by the plaintiffs under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC is hereby allowed.

Accordingly defendant, his men, agents and servants acting for or on his behalf are hereby interdicted by way of temporary injunction from interfering with the peaceful possession and enjoyment of the suit schedule property by the plaintiffs till the disposal of the suit.

Parties to maintain the status quo till further orders.

Costs are made easy.

*(Dictated to the Stenographer, directly on computer, corrected and then pronounced by me in the open Court on this **18th day of March, 2026.**)*

**Civil Judge and
JMFC, Mundgod.**