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IN THE COURT OF THE CIVIL JUDGE & JMFC,
AT SIDDAPUR

PRESENT : Sri. UMESHA M.P., B.A.L., LL.B.
CIVIL JUDGE & JMFC,
SIDDAPUR

DATED ON THIS THE 12th DAY OF DECEMBER - 2025

O S No. 35 / 2025

PLAINTIFF : VEERABHADRA GANAPATHI NAIK,
Aged about 55 years, Occ:Agriculturist,
R/o Balikoppa,
Tq:Siddapura, Dist:Uttara Kannada,
(BY PLEADER Sri.NYA)

-V/s-

DEFENDANT : SURESH KRISHNA NAIK,
Aged about 45 years, Occ:Agriculturist,
R/o Balikoppa,
Tq:Siddapura, Dist:Uttara Kannada,
(BY PLEADERS Sri.MRP)

PARTIES TO I A No. II

APPLICANT/PLAINTIFF: VEERABHADRA GANAPATHI NAIK,
Aged about 55 years, Occ:Agriculturist,
R/o Balikoppa,
Tq:Siddapura, Dist:Uttara Kannada,
(BY PLEADER Sri.NYA)

-V/s-

OPPONENT/DEFENDANT : SURESH KRISHNA NAIK,
Aged about 45 years, Occ:Agriculturist,
R/o Balikoppa,
Tq:Siddapura, Dist:Uttara Kannada,
(BY PLEADERS Sri.MRP)

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2 ORDERS ON IA NO. II IN O.S.No. 35 / 2025

i.	Date of institution of suit	22.04.2025
ii.	Nature of suit	Suit for Declaration and Permanent injunction
iii.	Provision under which the application is filed	U/o 39 Rule 1 & 2 of CPC
iv.	Relief sought	Praying to grant Temporary Injunction Order against the defendant, his men, agents and workers etc., from interfering with the common enjoyment of the plaintiff's over the suit schedule betta land along with other Privilege holders over the suit schedule property, in any manner pending disposal of suit by allowing this application in the interest of justice.
v.	The date on which the application is filed	22.04.2025
vi.	Number of the application	IA No.2
vii.	The date on which the defendant / opponent is / was filed his objections to IA No.2	27.09.2025
viii.	The date on which both the parties have addressed their arguments on IA No.2	02.12.2025
ix.	The date on which the orders were passed on the said application	12.12.2025

ORDERS ON IA NO. II

The Applicant / plaintiff has filed IA No.2 under order XXXIX Rule 1 and 2 of Civil Procedure Code praying to grant Temporary Injunction Order against the defendant, his men, agents and workers etc., from interfering with the common enjoyment of the plaintiff's over the suit schedule betta land

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along with other Privilege holders over the suit schedule property, in any manner pending disposal of suit by allowing this application in the interest of justice.

2. According to the plaintiff, in the accompanying affidavit it is sworn that, he has filed this suit against the defendant for the relief of declaration and permanent injunction with respect to the suit property. It is further stated that, the plaintiff is in owner in possession of the suit land bearing Sy.No.299/2, measuring 0-29-8 guntas, situated at Balikoppa Village, Siddapura Tq. It is further stated that, the plaintiff is in joint possession of the suit Betta land bearing Sy.No.168, measuring 4-21-0 guntas, situated at Balikoppa Village, Siddapura Tq. It is further stated that, the plaintiff is in possession of the suit schedule properties. It is further stated that, the suit schedule properties are Betta privilege lands, which are left for the common enjoyment and benefit of several Bhagayat landholders. It is further stated that, the defendant has no lands for which the privilege is granted over the suit schedule Betta land. In this context, the plaintiff and other Bhagayat landowners have equal rights over the suit schedule Betta land. However, the defendant is interfering with the plaintiff's enjoyment of the suit schedule Betta land. Hence, this application.

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4 ORDERS ON IA NO. II IN O.S.No. 35 / 2025

3. Per contra, the defendant has opposed the same by filing objections to IA No.2 contending that, the present application is not maintainable in law and on facts and circumstances of the case. It is further contended that, the plaintiff has sworn false facts in his affidavit. In the written statement, the defendant has categorically denied all the averments made in the plaint. It is further contended that, the plaintiff has not made out prima-facie case and the balance of convenience not lies in his favour. It is further contended that, the plaintiff has not come to the court with clean hands. It is further contended that, he has no prima-facie case and no balance of convenience in his favour. Hence, if the application is allowed great loss and injustice will be caused to the defendant. Hence, he prayed to dismiss the IA No.2 with costs.

4. I have heard the arguments of learned counsel for the plaintiff and defendant on IA No.2. Perused the documents on record.

5. Upon hearing arguments and on perusal of materials placed on record the following points that would arises for my consideration:

1. *Whether the plaintiff has established prima-facie case?*
2. *Whether the balance of convenience lies in favour of plaintiff?*



3. Whether irreparable loss or hardship will be caused to the plaintiff if injunction is not granted?

5. What order?

6. My answer for the above points are as under because of my below-discussed reasons:

Point No.1 - In the AFFIRMATIVE.

Point No.2 - In the AFFIRMATIVE.

Point No.3 - In the AFFIRMATIVE.

Point No.4 - As per order for the following:-

REASONS

POINT NO.1:

7. The plaintiff has filed the suit against the defendant seeking relief of declaration and permanent injunction with respect to the suit property.

8. The Applicant / plaintiff has filed IA No.2 under order XXXIX Rule 1 and 2 of Civil Procedure Code praying to grant Temporary Injunction Order against the defendant, his men, agents and workers etc., from interfering with the common enjoyment of the plaintiff's over the suit schedule betta land along with other Privilege holders over the suit schedule properties, in any manner pending disposal of suit by allowing this application in the interest of justice.

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9. As per the provisions of Order 39 Rule 1 of CPC, where in any suit it is proved by affidavit or otherwise (a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in a execution of a decree, or (b) that the defendant threatens, or intends, to remove or dispose of his property with a view to defrauding his creditors, (c) that the defendant threatens to dispossess, the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute in the suit, the Court may be order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property or dispossession of the plaintiff, or otherwise causing injury to the plaintiff in relation to any property in dispute in the suit as the Court thinks fit, until the disposal of the suit or until further orders.

10. Admittedly, granting or refusing injunction is a discretionary in nature. It is well settled position of law that the following preposition are to be established in order to invoke the jurisdiction of the Court to get an order of injunction under the provisions of Order 39 Rule 1 and 2 of CPC. (1) the plaintiff has to establish the prima-facie case, (2) the balance of inconvenience

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is in favour of the plaintiff and (3) that the plaintiff will suffer irreparable loss and injury if injunction is refused.

11. Therefore the ingredients are to be established by the party who seeks injunction in his favour. The grant of injunction being a discretionary relief, the party should come with clean hands and place all the materials before the Court so that the Court will be satisfied about the prima-facie case in favour of the party seeking order. It is no part of Court's duty or function at this stage of litigation to try to resolve difficult questions of facts and law which require elaborate evaluation of the evidence to be recorded at the trial. Now keeping the above said provisions of law and also principles in mind, let us consider as to whether the plaintiff could able to establish prima-facie case for grant of temporary injunction.

12. It is specific case of the plaintiff that, he has filed this suit against the defendant for the relief of declaration and permanent injunction with respect to the suit properties. It is further stated that, the plaintiff is in owner in possession of the suit land bearing Sy.No.299/2, measuring 0-29-8 guntas, situated at Balikoppa Village, Siddapura Tq. It is further stated that, the plaintiff is in joint possession of the suit Betta land bearing Sy.No.168,

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measuring 4-21-0 guntas, situated at Balikoppa Village, Siddapura Tq. It is further stated that, the plaintiff is in possession of the suit schedule properties. It is further stated that, the suit schedule properties are Betta privilege lands, which are left for the common enjoyment and benefit of several Bhagayat landholders. It is further stated that, the defendant has no lands for which the privilege is granted over the suit schedule Betta land. In this context, the plaintiff and other Bhagayat landowners have equal rights over the suit schedule Betta land. However, the defendant is interfering with the plaintiff's enjoyment of the suit schedule Betta land. Hence, this application.

13. In the supporting affidavit, he has filed this suit against the defendant for the relief of declaration and permanent injunction with respect to the suit properties. It is further stated that, the plaintiff is in owner in possession of the suit land bearing Sy.No.299/2, measuring 0-29-8 guntas, situated at Balikoppa Village, Siddapura Tq. It is further stated that, the plaintiff is in joint possession of the suit Betta land bearing Sy.No.168, measuring 4-21-0 guntas, situated at Balikoppa Village, Siddapura Tq. It is further stated that, the plaintiff is in possession of the suit schedule properties. It is further stated that, the suit schedule properties are Betta privilege lands, which are left for the common enjoyment and benefit of several Bhagayat landholders. It is

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further stated that, the defendant has no lands for which the privilege is granted over the suit schedule Betta land. In this context, the plaintiff and other Bhagayat landowners have equal rights over the suit schedule Betta land. However, the defendant is interfering with the plaintiff's enjoyment of the suit schedule Betta land. Hence, this application.

14. The Plaintiff has placed the copy of RTC extract with respect to land bearing Sy.No.168 of Balikoppa Village, Siddapura Tq, for the year 2024-2025 which is standing in the name of Governament Betta, copy of RTC extract with respect to land bearing Sy.No.299/2 of Balikoppa Village, Siddapura Tq, for the year 2024-2025 which is standing in the name of father of the plaintiff, copy of RTC extract with respect to land bearing Sy.No.299/5 of Balikoppa Village, Siddapura Tq, for the year 2024-2025, copy of RTC extract with respect to land bearing Sy.No.299/4 of Balikoppa Village, Siddapura Tq, for the year 2024-2025, copy of RTC extract with respect to land bearing Sy.No.299/1 of Balikoppa Village, Siddapura Tq, for the year 2024-2025, copy of RTC extract with respect to land bearing Sy.No.299/3 of Balikoppa Village, Siddapura Tq, for the year 2024-2025, copy of RTC extract with respect to land bearing Sy.No.303/2 of Balikoppa Village, Siddapura Tq, for the year 2024-2025, copy of RTC extract with respect to

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land bearing Sy.No.298/2 of Balikoppa Village, Siddapura Tq, for the year 2024-2025, copy of RTC extract with respect to land bearing Sy.No.298/1 of Balikoppa Village, Siddapura Tq, for the year 2024-2025, copy of RTC extract with respect to land bearing Sy.No.293of Balikoppa Village, Siddapura Tq, for the year 2024-2025, attested copy of Village map.

15. It is specific case of the defendant that, the plaintiff has filed this false suit by suppressing true and material facts of this case. It is further contended that, the present application is not maintainable in law and on facts and circumstances of the case. It is further contended that, the plaintiff has sworn false facts in his affidavit. In the written statement, the defendant has categorically denied all the averments made in the plaint. It is further contended that, the plaintiff has not made out prima-facie case and the balance of convenience not lies in his favour. It is further contended that, the plaintiff has not come to the court with clean hands. It is further contended that, he has no prima-facie case and no balance of convenience in his favour. Hence, if the application is allowed great loss and injustice will be caused to the defendant. Hence, he prayed to dismiss the IA No.2 with costs.



16. *In this connection it is relevant to extract the provisions of Sec.41 of Specific Relief Act, 1963 – Injunction when refused:-*

“An injunction cannot be granted:-

- (a) to restrain any person from prosecuting a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;
- (b) to restrain any person from instituting or prosecuting any proceeding in a Court not sub-ordinate to that from which the injunction is sought;
- (c) to restrain any person from applying to any legislative body;
- (d) to restrain any person from instituting or prosecuting any proceeding in a criminal matter;
- (e) to prevent the breach of a contract the performance of which would not be specifically enforced;
- (f) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;
- (g) to prevent a continuing breach in which the plaintiff has acquiesced;
- (h) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding except in case of breach of trust;



- (ha) if it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related thereto or services being the subject matter of such project.
- (i) when the conduct of the plaintiff or his agent has been such as to dis-entitle him to be the assistance of the Court;
- (j) when the plaintiff has no personal interest in the matter.

17. Admittedly, the plaintiff has filed the suit against the defendant seeking relief of declaration and permanent injunction with respect to the suit properties.

18. It is to be noted that, the right of parties in suit properties is to be decided after conclusion of trial.

19. Admittedly, the person who sought the relief of permanent injunction has to prove the possession and enjoyment of the plaint schedule property on the date of filing of the suit with correct measurement, description including boundaries.

20. It is undisputed that the suit schedule properties are Betta lands, and that privilege over these lands is granted to various survey numbers, including those belonging to the plaintiffs and the defendant.

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21. Admittedly, the plaintiff is the owner in possession of the suit land bearing Sy.No.299/2, measuring 0-29-8 guntas, situated at Balikoppa Village, Siddapura Tq.

22. Admittedly, the plaintiff is in possession of the suit land.

23. It is not in dispute that the plaintiff is the owner of the property bearing Sy.No.299/2. It is also not in dispute that, in column No. 11 of the RTCs pertaining to the suit schedule Betta lands shows that, these lands are designated for the common enjoyment of the properties bearing Sy.Nos.30, 293, 298, 299, and 303/2.

24. It is not disputed that all documents indicate that Sy. No.299/2 is granted the privilege over the suit schedule Betta lands. As such, the Plaintiff, as the owner, has the right to utilize the benefits of the suit Betta lands. The Defendant is not the owner of the suit Betta land, nor is the Plaintiff; both are merely privilege holders. One privilege holder cannot prevent another from benefiting from the Betta land to develop their own lands. The primary objective of granting privilege is to allow landholders to develop their lands by obtaining benefits from the Betta lands. The Betta lands are typically extensive and provide ample opportunity for all privilege holders to reap the benefits,

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when used as intended, rather than claiming independent ownership over the land. The Betta lands are government properties, and no one else holds ownership over them.

25. Furthermore, as this is an interim application, the court will not make a final decision, but is confined to determining whether the plaintiffs have made a prima facie case. Based on the above discussions, it is clear that the plaintiff holds privilege over the suit Betta lands. Therefore, the Plaintiff has made out a prima facie case. If the application is not granted, the Plaintiff will be prevented from exercising his lawful right to obtain benefits from the suit Betta land, as he is also the privilege holders. As such, the balance of convenience favors the Plaintiff, and if the application is denied, he will suffer irreparable loss.

26. The defendant has not placed any materials at this stage of litigation to establish the title or possession over the plaint schedule property. The plaint averments, affidavit annexed to I.A.No.2 is very much consistent and in conformity with documents placed on record. There are no reasons to disbelieve or to doubt the documents produced by the plaintiff at this stage of litigation. Therefore based on these documents, it can be safely held that, the

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plaintiff has got prima-facie case for grant of temporary injunction. Hence I answer point No.1 in the affirmative.

POINTS NO.2 & 3:

27. These two points are taken up together for common discussion, for the sake of convenience, clarity and also to avoid repetition of facts. In considering the question of balance of convenience, the Court has to consider the comparative mischief or inconvenience of both the parties or otherwise it is necessary or proper to maintain the status quo until the disputes are finally decided. Further, in considering the question of irreparable loss and injury, the Court has to see that the plaintiff will sustain such injury which cannot possibly and adequately be remedied by way of damage and the damage would be inadequate in case of success of plaintiff.

28. The defendant has not placed any materials at this stage of litigations, to prove of his title or possession over the plaint schedule properties. Under these circumstance, the balance of convenience is lies in favour of the plaintiff and not in favour of the defendant. Under these circumstances, the very apprehension of plaintiff that, the defendant begun to cause obstruction to the plaintiff's peaceful possession and enjoyment of the

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suit property is quite probable and there are no reasons to disbelieve the apprehension of the plaintiff at this stage of the litigations. Under these circumstance, there is every likely would of causing injury to the plaintiff in relation to the properties in question. In weighing the risk of injustice which granting or refusing injunction would entitled there appearance to me that there is justification in granting order of temporary injunction now sought by the plaintiffs. Therefore if the injunction is refused, it is who the plaintiffs would be put to irreparable loss and injury and not the defendant. Therefore for the reasons discussed above, this Court is of the considered view that the balance of convenience also lies in favour of the plaintiff and irreparable loss and injury would be caused to the plaintiff if a temporary injunction is refused. Hence I answer points No.2 & 3 in the affirmative.

POINT NO. 4:

29. In view of my findings on Points No.1 to 3, I proceed to pass the following order:

ORDER

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17 ORDERS ON IA NO. II IN O.S.No. 35 / 2025

I.A.No.2 filed by the plaintiff under the provisions of Order 39 Rule 1 and 2 of CPC is hereby allowed.

The Defendant, his henchmen, assignees, agents or any persons claiming under him, are hereby temporarily restrained from interfering with the common enjoyment of the Plaintiff's over the suit schedule betta land along with other Privilege holders, till the pending disposal of the suit.

The cost of this application shall follow the result of the suit.

(Directly dictated to Stenographer on computer, typed by her, corrected by me, signed and then pronounced in open court on the 12th day of DECEMBER - 2025)

(UMESHA M.P)
Civil Judge,
Siddapur

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