

KAUK910002822026



**IN THE COURT OF THE CIVIL JUDGE AND JMFC AT
SIDDAPUR.**

Dated this 2nd day of June, 2026.

**Present : SRI. HARISHKUMAR.M, B.Com., LL.B.,
Civil Judge and JMFC, Siddapur.**

O.S.No. 34 / 2026

PLAINTIFF:-

1. Sri. Chandrashekar Bangarya Naik,
Aged about 50 years,
Occ: Agriculturist,
R/at.Kondli, Kondli Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 2054 5268 6803,
2. Sri. Maruthi Bangarya Naik,
Aged about 65 years,
Occ: Agriculturist,
R/at.Kondli, Kondli Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 9633 0904 0551,
3. Sri. Shivanand Bangarya Naik,
Aged about 55 years,
Occ: Agriculturist,
R/at.Kondli, Kondli Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 3131 0249 8859,
4. Smt. Saraswathi Bangarya Naik,
Aged about 45 years,
Occ: Agriculturist,
R/at.Kondli, Kondli Village,



Siddapur Taluk.
Uttara Kananda District,
Adhar No: 5659 9302 9581,

5. Sri. Bhima Naik S/o Bangarya Naik,
Aged about 52 years,
Occ: Agriculturist,
R/at.Kondli, Kondli Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 2958 2064 2534,

6. Smt. Kusuma Hanumanth Naik,
Aged about 47 years,
Occ: Agriculturist,
R/at. Kondli, Kondli Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 9250 1928 0364,
(By Sri. S.M.N., Advocate)

V/s.

DEFENDANTS:-

Sri. S.B. Ravikumar
Aged about 50 years,
Occ: Agriculturist,
R/at. Kondli, Kondli Village,
Siddapur Taluk.
Uttara Kananda District,
(By Sri. S.K.G., Advocate)

IA.NO.1 CAUSE TITLE

Applicant/Plaintiff:-

Sri. Chandrashekar Bangarya Naik,
Aged about 50 years,
Occ: Agriculturist,
R/at.Kondli, Kondli Village,
Siddapur Taluk.
Uttara Kananda District,



Adhar No: 2054 5268 6803,

And others...**V/s.****Opponents/Defendant:-**

Sri. S.B. Ravikumar
 Aged about 50 years,
 Occ: Agriculturist,
 R/at. Kondli, Kondli Village,
 Siddapur Taluk.
 Uttara Kananda District,

1	Provision under which the application is filed	Under Order XXXIX Rule 1 and 2 of CPC.
2	Relief sought for	Seeking to grant temporary injunction against the defendant restraining him from interfering in the peaceful possession and enjoyment of the schedule property and further restraining the defendant from encroaching the portion of suit schedule property and further restraining the defendant from constructing the RCC pillar till the disposal of the suit.
3	The date on which the application is filed	09.04.2026
4	Number of the application	1
5	The date on which the objections are filed by	Statement of objections to IA No. 1 filed on 30.04.2026



	different opponents	
6	The date on which the orders were passed on the said application.	02.06.2026

ORDER ON INTERLOCUTORY APPLICATION NO.1 UNDER ORDER XXXIX RULE 1 AND 2 OF CODE OF CIVIL PROCEDURE FILED BY THE PLAINTIFFS.

1. The plaintiffs herein filed interlocutory application under Order XXXIX Rule 1 and 2 of Civil Procedure Code as per IA.No.1, seeking to grant temporary injunction against the defendant restraining him from interfering in the peaceful possession and enjoyment of the schedule property and further restraining the defendant from encroaching the portion of suit schedule property and further restraining the defendant from constructing the RCC pillar till the disposal of the suit.
2. The plaintiffs herein filed this suit for the relief of permanent injunction restraining the defendant from interfering in the peaceful possession and enjoyment of the suit schedule property and such other reliefs.
3. On the other hand, the defendant has appeared before the Court through his counsel and he has filed his written statement as well as statement of objections to IA No. 1.



4. Heard arguments of learned counsels appearing for the parties, and this Court perused the material available records.
5. This Court has framed the following points for consideration;
 1. **Whether plaintiffs have made out prima-facie case for grant of temporary injunction in their favour?**
 2. **Does the balance of convenience lies?**
 3. **Whether the plaintiffs would suffer irreparable loss or injury, if temporary injunction is refused?**
 4. **What order?**
6. Findings of this Court on these 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 the final order for the following;

REASONS

7. **POINT NO.1:-** It is a matter of record that the plaintiffs herein filed this suit for the relief of permanent injunction restraining the defendants from interfering in the peaceful possession and enjoyment of the suit schedule property and such other reliefs against the defendants based on the grounds that, the plaintiffs are the owners of the suit schedule property and they succeeded the same by way of



inheritance. The defendant is the adjacent owner of the suit schedule property towards Eastern side. The defendant herein trying to encroach the portion of the suit schedule property towards southern side and trying to construct RCC pillar in the suit schedule property. The plaintiff herein objected the same, but the defendant herein threatened the plaintiffs with dare consequences, hence the plaintiffs herein filed this suit.

8. The plaintiffs have also filed interlocutory application under Order XXXIX Rule 1 and 2 of Civil Procedure Code as per IA.No.1, seeking to grant temporary injunction against the defendant restraining him from interfering in the peaceful possession and enjoyment of the schedule property and further restraining the defendant from encroaching the portion of suit schedule property and further restraining the defendant from constructing the RCC pillar till the disposal of the suit.
9. On the other hand, the defendant herein denied the case of the plaintiffs and contended that, he is the owner of the property bearing Sy. No. 64 and the same has been acquired by him by way of registered sale deed dated 19.05.1999. thereafter the land measuring 00-10-00 guntas has been converted for the purpose of construction of Rice Mill on 19.05.2000 and he is running the Rice Mill and he has



obtained the permission from Pattana Panchayath, Siddapur and he has constructed a house and he is residing in the said house.

10. The defendant herein further contended that, due to rail fall inside of the house, he has removed the upper tiles to construct RCC terrace in the said house. But he has not encroached any portion of the suit schedule property as alleged in the plant. The Haddubastu has been done in respect of suit schedule property. These facts has been suppressed by the plaintiffs and they have filed this false suit. There is no cause of action to file this suit. Hence the suit is not maintainable. On these grounds the defendant herein prays to dismiss the suit with costs.
11. The defendant has also filed his statement of objections to IA No.1 and he has reiterated the written statement averments and prays to dismiss the IA No.1.
12. The plaintiffs have produced the RTC extracts, mutation register extract, survey sketch and Aadhar cards of the plaintiffs in support of their case. On the other hand, the defendant has produced RTC extracts, copy of sale deed, copy of conversion order, copy of license, copy of survey sketch, photographs and CD in support of his defense.



13. Both the counsels have addressed their respective arguments on IA.No.1 and they have reiterated the facts mentioned in their respective pleadings.
14. At this stage, it is pertinent to note that, to grant or not to grant the interim injunction has to be taken, a time when the existence of the legal right assailed by the plaintiff and its alleged violation are both contested and uncertain and remain uncertain till they are established at the trial on evidence. Relief by way of interim injunction is granted to mitigate the risk of injustice to the plaintiff during the period before the uncertainty could be resolved. The object of interim injunction is to protect plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial. The need for such protection has, however, to be weighted against the corresponding need of the defendant to be protected against injury resulting from preventing him exercising legal right for which he could not adequately be compensated.
15. The primary purpose of granting interim relief is the preservation of the property in dispute till legal rights and conflicting claims of the parties before the court are adjudicated.
16. At this stage, it is profitable to refer the provisions of order XXXIX Rule 1 of CPC as hereunder;



Rule 1. Cases in which temporary injunction may be granted.— 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 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 by 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.

An injunction is a judicial process whereby a party is required to do, or to refrain from doing, any particular act. It is a remedy in the form of an order of the court addressed to a particular person that either prohibits him from doing or continuing to do a particular act or orders him to carry out a certain act.

17. Order XXXIX Rule 1 of C.P.C., enumerates the circumstances in which temporary injunctions could be



granted. Where in any suit it is proved by affidavit or otherwise. A Plaintiff could seek an ex-parte temporary injunction where he is able to convince the court that one or the more of the circumstances enumerated in Order XXXIX Rule 1 of CPC exists and delay would defeat the claim. On being satisfied that the claim of the plaintiff is probable ex-parte injunction could be granted by the court after recording the existence of the circumstances referred to in Order XXXIX Rule 1 of CPC.

18. At this stage it is profitable to refer the provisions of Section 37 of Specific Relief Act as hereunder;

Section 37. Temporary and perpetual injunctions.—

(1) Temporary injunctions are such as are to continue until a specific time, or until the further order of the court, and they maybe granted at any stage of a suit, and are regulated by the Code of Civil Procedure, 1908 (5 of 1908).

(2) A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit; the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

19. By applying the above principles, in the instant case, the plaintiffs herein claiming temporary injunction against the defendants based on the fact that, the suit schedule property has been inherited by them and they are the owners of the suit schedule property, the defendant herein encroached the portion of the suit schedule property and he



is trying to construct a RCC pillar in the suit schedule property. In support of their case, they have produced the RTC extract and mutation register extract, the RTC extracts reveals that, the suit schedule property is standing in the joint names of plaintiffs.

20. On the other hand, the defendant herein denied the case of the plaintiff and he has denied the alleged interference as well as encroachment. In order to suffice his defence, the defendants herein produced the RTC extracts, copy of slae deed and other revenue records. The RTC extracts reveals that, the land bearing Sy. No. 64/4 is standing in the name of defendant and the construction license reveals that, he has obtained permission to construct a Rice Mill. The survey sketch produced by the defendant h9erein reveals that, there in no encroachment in Sy. No. 64/5 (suit schedule property). The photographs reveals that, the RCC pillars are appearing.
21. In the present case, the main issue is that, whether the plaintiffs are in possession and enjoyment of the suit schedule property and there is an alleged interference and encroachment by the defendant as alleged in the plaint? In order to suffice the alleged interference, the plaintiffs have not produced any documents. In the absence of such documents, the prim-facie cannot be ascertained at this stage. If the plaintiffs herein succeeded to prove their case,



obviously they are entitle for the relief as prayed for, if not the suit may be dismissed. Under such circumstances, the court has to apply judicious mind while adjudication of IA No. 1. It is the duty of the Court to protect the rights of both the parties. Furthermore, the plaintiffs have sought three prayers in single application, which is not permissible under Law.

22. Based on the above observation, the plaintiffs have not made out grounds to grant temporary injunction as prayed for and hence this Court answers this Point No.1 in the Negative.
23. **POINTS NO.2 AND 3:-** The second condition for granting interim injunction is that the balance of convenience must be in favour of the applicant. In other words, the Court must be satisfied that the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that which is likely to be caused to the opposite party by granting it.
24. The existence of the prima facie case alone does not entitle the applicant for a temporary injunction. The applicant must further satisfy the Court about the third condition by showing that he will suffer irreparable injury if the injunction as prayed is not granted and that there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury.



25. By applying the above principles, in order to ascertain the balance of convenience and irreparable loss and injury, this Court has carefully perused the materials on record. Based on the materials available on record and based on the above observations as well as observation made in point No. 1, this Court is of the opinion that if the temporary injunction is not granted, no hardship will be caused to the plaintiffs, but if the injunction is granted it would leads to multiplicity of proceedings and it is necessary to protect the rights of both parties to the suit, with these observations this Court answers Points No.2 and 3 in the Negative.
26. **POINT NO.4:-** For the aforesaid discussions as mentioned in the Points No.1 to 3, this Court proceed to pass the following order;

ORDER

Interlocutory Application No.1 filed by the plaintiffs under Order XXXIX Rules 1 and 2 of Code of Civil Procedure is hereby dismissed.

Considering the facts and circumstances of the case parties shall bear their own cost.

(Dictated to the stenographer directly on the computer, transcript corrected by me, initialed by me and then pronounced in the open Court on this 02nd day of June, 2026).

**Civil Judge & JMFC,
Siddapura.**



(Order pronounced in open Court vide separate order)

O R D E R

Interlocutory Application No.1 filed by the plaintiffs under Order XXXIX Rules 1 and 2 of Code of Civil Procedure is hereby dismissed.

Considering the facts and circumstances of the case parties shall bear their own cost.

**Civil Judge & JMFC,
Siddapura.**

In view of adjudication of IA No. 1, this case is posted for appearance of both parties and compliance under Section 89 of CPC and order X of CPC call on 29.06.2026.

**Civil Judge & JMFC,
Siddapura.**