

KAUK910011922025



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

Dated this 21st day of April, 2026.

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

O.S.No. 75 / 2025

PLAINTIFF:-

1. Sri. Manjunath Dyava Naik,
Aged about 69 years,
Occ: Agriculturist,
R/at. Suragala, Kounsle Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 8137 5663 8964,
2. Sri. Krishnamurthy Venkatesh Naik,
Aged about 40 years,
Occ: Agriculturist,
R/at. Suragala,
Kounsle Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 3774 7445 4029,
3. Smt. Susheela W/o Marya Naik,
Aged about 55 years,
Occ: Agriculturist,
R/at. Suragala,
Kounsle Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 2791 4690 5041,
(By Sri.R.K.N., Advocate)



V/s.

DEFENDANTS:-

1. Sri. Ganapati Nagu Naik,
Aged about 53 years,
Occ: Agriculturist,
R/at. Kodigadde,
Kodigadde Village,
Siddapur Taluk,
Uttara Kannada District,
2. Smt. Jyothi W/o Shivaraj Naik,
Aged about 30 years,
Occ: Agriculturist,
R/at. Kodigadde,
Kodigadde Village,
Siddapur Taluk,
Uttara Kannada District,
(By Sri. M.G.H., Advocate)

IA.NO.1 CAUSE TITLE

Applicant/Plaintiff:-

Sri. Manjunath Dyava Naik,
Aged about 69 years,
Occ: Agriculturist,
R/at. Suragala,
Kounsle Village,
Siddapur Taluk.
Uttara Kananda District,
Adhar No: 8137 5663 8964,

And others...

V/s.

Opponents/Defendants:-

Sri. Ganapati Nagu Naik,
Aged about 53 years,
Occ: Agriculturist,
R/at. Kodigadde,
Kodigadde Village,
Siddapur Taluk,



Uttara Kannada District,

And another...

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 defendants restraining them from interfering in the peaceful possession and enjoyment of the schedule property till the disposal of the suit.
3	The date on which the application is filed	08.12.2025
4	Number of the application	1
5	The date on which the objections are filed by different opponents	Statement of objections to IA No. 1 filed on 25.03.2026
6	The date on which the orders were passed on the said application.	21.04.2026

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

1. The plaintiff 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 defendants restraining them from interfering in the peaceful



possession and enjoyment of the schedule property till the disposal of the suit.

2. 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.
3. On the other hand, the defendants have appeared before the Court through their counsel and they have common 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 related to each other and the land bearing Sy. No. 68/2 belongs to the plaintiffs and they are in possession and enjoyment of the same.
8. The plaintiffs herein further averred that, the suit schedule property is government hill and it was left by the government for the purpose of development of Sy. No. 68/2, which belongs to plaintiffs and the plaintiffs herein utilizing the soil and other things in the suit schedule property for development of their property. The defendants have no right over the suit schedule property, but they are interfering in getting the soil and thing in the suit schedule property and they are trying to construct a house in the suit schedule property and trying to store the construction material illegally. Panchayth held in this regard, but there is no fruitful results. Hence the plaintiffs herein filed this suit.



9. 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 restraining the defendants from interfering in the peaceful possession and enjoyment of the schedule property till the disposal of the suit.
10. On the other hand, the defendants herein denied the case o the plaintiffs and contended that, there is no cause of action to file this suit. The defendants herein admitted the existence of the suit schedule property and its measurement. They contended that, the plaintiffs and the possessors of the land bearing sy. No. 65/1,2,3 and Sy. No. 68/2 are joint enjoyment of the suit schedule property till date. The defendant No. 1 has on form house in the suit schedule property from the time immemorial and there is a house belongs to defendants from the time immemorial and no body has interfered for their peaceful possession till date.
11. The defendants herein further contended that, Government Hill bearing Sy. No. 89 is belongs to the family of defendant and it was allotted to other defendant's family and the defendants herein enjoyment of the said Hill. The Government has given enjoyment right to the plaintiffs, hence the plaintiffs have not arrayed the Government and other enjoyment holders in the suit, hence the suit is not maintainable. On these grounds the defendants herein prays to dismiss the suit with costs.



12. The defendants have also filed their statement of objections to IA No.1 and contended that, there is no prima-facie case and there is no balance of convenience and they prays to dismiss the IA No.1.
13. The plaintiff has produced the RTC extracts and Aadhar cards of the plaintiffs in support of their case. On the other hand, the defendants have produced RTC extracts, affidavit sworn by Smt. Gowri and Aadhar card in support of their defense.
14. Both the counsels have addressed their respective arguments on IA.No.1 and they have reiterated the facts mentioned in their respective pleadings.
15. 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.

16. 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.
17. 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.

18. 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.
19. 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.

20. By applying the above principles, in the instant case, the plaintiffs herein claiming temporary injunction against the defendants based on the fact that, the plaintiffs herein enjoying the Government Hill land and they are utilizing the things from the suit schedule property for development of their lands, but the defendants herein interfering in the peaceful enjoyment of the suit schedule property. The plaintiff herein averred in para 4 of the plaint that, the suit schedule property is jointly enjoyed by the plaintiffs and they are having a collective right over the suit schedule property. In support of their case, they have produced the RTC extracts, the RTC extracts reveals that, the suit schedule property is Government Hill and it is standing in the name of Sarakari Betta, the said fact has been admitted the defendants. Further the property bearing Sy.No.68/2 is standing in the name of plaintiffs and others persons.
21. On the other hand, the defendants herein denied the case of the plaintiff and they have denied the alleged interference and they contended that, the suit schedule property is



belongs to defendants, hence the plaintiffs have no right over the suit schedule property. In order to suffice their defence the defendants herein produced the RTC extracts. The RTC extracts reveals that, the land bearing Sy. No. 68/1 and 2 is standing in the name of Smt. Gowri and others she has filed her affidavit stating that, the land bearing Sy. No. 68/1 and 2 belongs to joint family.

22. In the present case, the main issue is that, whether the plaintiffs are in possession of the property bearing Sy. No 68/2 and there is an alleged interference by the defendants in respect of suit schedule property as alleged in the plaint? In order to suffice the same, the plaintiffs have produced the RTC extracts, admittedly, the plaintiffs herein averred that, the plaintiffs and others have collective right over the suit schedule property. 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.
23. 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.

24. **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.
25. 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.
26. 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.

27. **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 21st day of April, 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 02.05.2026.

**Civil Judge & JMFC,
Siddapura.**