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**IN THE COURT OF CIVIL JUDGE AND JMFC., AT YADGIRI****PRESENT**

Sri. Arun Chougule,
B.A.LL.B.[Hons.]
CIVIL JUDGE AND J.M.F.C, YADGIRI

DATED THIS THE 17TH DAY OF JULY-2025**ORIGINAL SUIT NO.79/2022**

<u>PLAINTIFF/S:-</u>	Shri.Pampanna Gowda S/o Late Rachan Gowda, aged about: 67 years, Occ: Agriculture, R/o: Ramasamudra village, Tq: & Dist: Yadgiri. Now R/o Yadgiri, Tq: & Dist: Yadgiri.
	(By Sri. M.B.P Advocate)
	-V/S-
<u>DEFENDANT/S:-</u>	1. Shri.Dodda Sabanna S/o Ashappa Bharmannore, aged about: 76 years, Occ: Agriculture, 2. Shri.Sanna Sabanna S/o Ashappa Bharmannore, age about 72 years, Occ: Agriculture, 3. Shri.Galeppa S/o Ashappa Bharmannore, aged about: 70 years, Occ: Agriculture, 4. Shri.Mallappa S/o Ashappa Bharmannore, aged about: 62 years, Occ: Agriculture,

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	<p>5. Shri.Sidlingappa S/o Bangareppa Bharmannore, aged about: 32 years, Occ: Agriculture,</p> <p>6. Shri.Chandappa S/o Mallappa Kuntimari, aged about: 60 years, Occ: Agriculture,</p> <p>7. Shri.Sidlingappa S/o Mallappa Kuntimari, aged about: 58 years, Occ: Agriculture,</p> <p>8. Shri.Sabanna S/o Mallappa Kuntimari, aged about: 56 years, Occ: Agriculture,</p> <p>All are R/o: Ramasamudra village, Tq: & Dist: Yadgiri.</p>
	<p>(D-1 By Sri.S.K. Advocate) (D-4 placed <i>ex parte</i>) (D-2, 3 and 5 to 8 By Sri.G.B.R. Advocate)</p>

ORDER ON I.A.No.2

Applicants/ plaintiff/s: Shri.Pampanna Gowda S/o Late Rachan
Gowda,

-V/S-

Opponents/ defendant/s: Shri.Dodda Sabanna S/o Ashappa
Bharmannore and others,

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i.	<i>Provision under which the application is filed</i>	<i>Under Order 39 Rule 1 and 2 R/w Sec.151 of CPC</i>
ii.	<i>Relief sought for</i>	<i>Temporary Injunction</i>
iii.	<i>The date on which the application is filed</i>	<i>15-07-2025</i>
iv.	<i>Number of the application</i>	<i>IA NO.II</i>
v.	<i>The date on which the objections are filed by different opponents</i>	
vi.	<i>The date on which the orders were passed on the said application.</i>	<i>17-07-2025</i>

**ORDER ON I.A.NO.II FILED BY THE PLAINTIFF
UNDER ORDER XXXIX RULE 1 AND 2 OF CPC**

The plaintiff has filed the present application under Order 39 Rule 1 and 2 of CPC seeking to restrain the defendant No.3 from making construction in the suit land, till disposal of the suit.

2. The plaintiff has sworn to an affidavit in support of the application stating that he has filed the suit seeking the relief of declaration of title, mandatory injunction and rectification of RTC of the suit land. That, the plaintiff is the owner of the suit land, which is standing in the name of his mother. It is alleged

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that, the defendant No.3 is making construction in the suit land without obtaining necessary permission from the competent authorities. The defendant No.3 without having any manner of right over the suit land has dug foundation and put up pillars in the northern portion of the suit land. Hence, the plaintiff prays to allow the application.

3. The defendant No.3, though represented by an advocate, has not filed objections to the present application.

4. I have heard arguments of learned counsel for the plaintiff and perused the records.

5. After hearing the arguments and perusal of pleading and records, the following points arise for my consideration;

- 1. Whether the plaintiff has made out a prima-facie case?**
- 2. Whether balance of convenience lies in favour of plaintiff?**
- 3. Whether irreparable loss will be caused to the plaintiff if the temporary injunction as prayed is not granted?**
- 4. What order?**

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6. My findings on the above points are as under;

Point No.1 : In the Affirmative.

Point No.2 : In the Affirmative

Point No.3: In the Affirmative.

Point No.4 : As per final order

for the following:-

REASONS

7. **POINTS NO.1 TO 3** : The plaintiff has filed the present suit seeking the relief of declaration of title and mandatory injunction directing the defendants to demolish the houses constructed in the suit land and to deliver vacant possession thereof to him and for mesne profit at the rate of 1,500/- per month from the date of suit till delivery of possession.

8. The case of the plaintiff is that, the suit 18 guntas of land in Sy.No.149/A renumbered as 149 situated at Ramasamudra village of Yadgiri Taluk belonged to his mother Eramma W/o Rachannagowda, who died on 27.12.2016 leaving behind the plaintiff as her legal heir. Accordingly, the plaintiff has become the owner and he is in possession of suit land. However, the suit land is standing in the name of his mother Eramma. The plaintiff alleges that, about a year back, the

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defendants No.1 to 8 have made illegal construction in the suit land. Since the plaintiff is not residing at Ramasamudra village and he is not having any support, he could not resist the illegal construction made by the defendants. However, thereafter, he got the land measured by a surveyor and requested the defendants to remove the illegal construction and to hand over vacant possession thereof. However, the defendants refused to remove the construction and denied the title of the plaintiff over the suit land. Hence, the plaintiff was constrained to file the present suit.

9. On receipt of suit summons, the defendant No.1 appeared through his counsel and filed written statement denying case of the plaintiff contending that he has purchased an area measuring 18 X 16 and 34 X 18 in the suit land from the plaintiff under unregistered document dated 26.07.2021 for consideration of Rs.1,00,000/-. Accordingly, the defendant No.1 is in possession of said property. On these grounds, the defendant No.1 sought to dismiss the suit. He has also filed counter claim seeking the relief of permanent injunction against the plaintiff.

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10. The defendant No.4 has remained *ex parte*. The defendants No.2, 3 and 5 to 8 though appeared through their counsel they did not file their written statement.

11. Having regard to pleadings on record, my learned predecessor-in-office framed necessary issues and posted the matter for evidence of the plaintiff. Accordingly, the plaintiff has got examined himself as Pw.1 and produced Ex.P-1 to Ex.P-22 documents. On 10.07.2025, learned counsel for the defendant No.1 partly cross-examined the Pw.1. On the request of advocate for defendant No.1, further cross-examination of Pw.1 was deferred to 21.08.2025. Meanwhile, on 15.07.2025, the plaintiff having got the matter advanced and filed the present application.

12. As already noted above, in the application, the plaintiff alleges that the defendant No.3 is making construction in the suit land without having any rights therein. The defendant No.3 has not chosen to contest the application. The RTCs produced by the plaintiff show that the suit land is standing in the name of his mother Eramma. Having regard to the revenue entries,

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this Court has no reasons to disbelieve the claim of the plaintiff that he having inherit the suit property has become the owner thereof. The plaintiff has produced 2 photographs under a memo dated 10.07.2025, which show that the defendant No.3 has put up pillars for the proposed construction. As such, this Court is of the opinion that, the plaintiff has got a prima facie case. Under such circumstances, refusal to grant temporary injunction would certainly cause inconvenience and irreparable loss to the plaintiff. Hence, points No.1 to 3 are answered in the Affirmative.

13. **POINT NO.4:** In view of the above discussion, the following:-

ORDER

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

The defendant No.3 is hereby restrained by way of temporary injunction

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from making further construction in the
suit land, till disposal of the suit.

No order as to costs.

For further cross-examination of
Pw.1.

Call on: 22.08.2025.

(Dictated to the stenographer, transcribed and typed by him and after
corrections, pronounced in the Open Court on this the **17th day of July-2025**)

**CIVIL JUDGE AND J.M.F.C,
YADGIRI.**