



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

PRESENT

Sri. Arun Chougule,

B.A.LL.B.[Hons.]

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

DATED THIS THE 06th DAY OF JUNE-2026

ORIGINAL SUIT NO.209/2025

<u>PLAINTIFF/S:-</u>	1.Smt. Sangamma W/o Mahakalappa, Age: 55 years, Occ: Agriculturist & Household, 2.Shri. Timmappa S/o Mahakalappa, Age: 23 years, Occ: Agriculturist, Both are R/o Madhwar village, Tq: Gurumitkal, Dist: Yadgiri.
	(By Sri.B.R.H Advocate)
-V/S-	
<u>DEFENDANT/S:-</u>	1. Mareppa S/o Narasappa, Age: 50 years, Occ: Agriculturist, 2. Bannappa S/o Sabanna, Age: 55 years, Occ: Agriculturist, 3. Sushilamma W/o Devindrappa, Age: 60 years, Occ: Agriculturist & Household,

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	4. Siddamma W/o Chandrappa, Age: 50 years, Occ: Agriculturist & Household, 5. Ravikiran S/o Hanmantharaya Kambar, Age: 50 years, Occ: Agriculturist, 6. Devappa S/o Bhadrappa, Age: 56 years, Occ: Agriculturist, 7. Raju S/o Somappa Kundukura, Age: 45 years, Occ: Private work, All are R/o Madhwar village, Tq: Gurumitkal, Dist: Yadgiri.
	(D-1 to 5 By Sri.N.B.A Advocate) (D-6 By Sri.K.M.A Advocate) (D-7 is placed ex parte)

ORDER ON I.A.No.1

Applicants/ plaintiff/s: Smt. Sangamma W/o Mahakalappa and Another

-V/S-

Opponents/ defendant/s: Mareppa S/o Narasappa and Others.

i.	<i>Provision under which the application is filed</i>	<i>Under Order 39 Rule 1 and 2 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>27.10.2025</i>

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iv.	<i>Number of the application</i>	<i>IA NO.I</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>06-06-2026</i>

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

The plaintiffs have filed the present application under Order 39 Rules 1 and 2 of the Code of Civil Procedure (CPC), seeking to restrain the defendants from carrying out further construction on the suit land until the disposal of the suit.

2. Plaintiff No. 1 has sworn to an affidavit in support of the application, stating that they have filed the suit seeking the relief of mandatory injunction. It is stated that the plaintiffs are the owners and in possession of the suit land bearing Sy. No. 385, measuring 26 guntas, situated at Madwara village, Gurumitkal Taluk of Yadgiri District. The suit property is the ancestral property of the plaintiffs and was earlier standing in the name of the husband of plaintiff No. 1 and father of plaintiff No. 2. After his demise, the khata of the suit property was transferred into the names of the plaintiffs. As such, the plaintiffs are the joint owners and are in possession of the suit

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land. It is further stated that the plaintiffs had moved to Bengaluru for their livelihood and have been residing there since 2023. Meanwhile, certain villagers informed the plaintiffs that some individuals had illegally constructed houses on the suit land. Upon visiting the suit land, the plaintiffs found that some of the defendants had already completed their construction work, while others were still laying foundations. It is alleged that the defendants, taking undue advantage of the plaintiffs' absence, encroached upon the suit land and erected separate houses measuring approximately 30x40 feet each in the year 2023. Although the plaintiffs requested the defendants to remove the said encroachments, the defendants refused to do so, constraining the plaintiffs to file the present suit.

3. On receipt of the suit summons, defendants No. 1 to 5 appeared through their learned counsel, Shri N.B.A., and filed their written statement along with a memo dated 25.02.2026, seeking to adopt the said written statement as their objections to the present application. Defendant No. 6 appeared through his learned counsel, Shri K.M.A., and filed his written statement along with a memo dated 24.04.2026, similarly seeking to adopt the written statement as his objections to the application.

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4. Defendant No. 7 has failed to appear and has been placed ex parte.

5. I have heard the arguments of the learned counsel for both parties and carefully perused the records.

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

- 1. Whether the plaintiffs have 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?**

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

Point No.1 : In the Negative.

Point No.2 : Does not survive for consideration.

Point No.3 : Does not survive for consideration.

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

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REASONS

8. **POINT NO.1** : The plaintiffs have filed the present suit seeking the relief of a mandatory injunction, directing the defendants to remove the encroachments allegedly made by them on the suit land.

9. The case of the plaintiffs is that they are the owners and in possession of agricultural land bearing Sy. No. 385, measuring 26 guntas, situated at Madwar village, Gurumitkal Taluk, Yadgiri District. The plaintiffs allege that they had relocated to Bengaluru to earn a livelihood. During their absence, some of the defendants erected structures over the suit land, while others laid foundations for the construction of houses thereon. The plaintiffs claim that they requested the defendants to remove the encroachments made on the suit land, but the defendants refused to comply. Consequently, the plaintiffs were constrained to file the present suit.

10. Defendants No. 1 to 5 have filed a joint written statement denying the entire case of the plaintiffs. They contend that the suit in its present form is not maintainable in law without seeking the reliefs of Declaration of Title and Recovery

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of Possession, as the plaintiffs themselves admit that they were not in possession of the suit property on the date of filing the suit. Hence, they argue that the suit is liable to be dismissed *in limine*.

10.1 Defendants No. 1 to 5 further submit that numerous houses surround their properties, including a Government Library constructed by the Grama Panchayat of Madhwar. They contend that no agricultural land belonging to the plaintiffs exists within the boundaries described in the plaint. They assert that these houses were constructed by the ancestors of defendants No. 1, 2, 4, and 5 more than 30 years ago, while defendant No. 3 constructed her house over 25 years ago. Specifically, defendant No. 1 claims ownership and possession of Written Statement (WS) Schedule 'A' property; defendant No. 2 of WS Schedule 'B' property; defendant No. 3 of WS Schedule 'C' property; defendant No. 4 of WS Schedule 'D' property; and defendant No. 5 of WS Schedule 'E' property.

10.2 The defendants contend that these WS schedule properties have been registered in their respective names in the Madhwar Grama Panchayat records as owners and occupiers

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for over 30 years, with individual house numbers assigned to them. The Grama Panchayat has issued khata extracts to defendants No. 1 to 5 for their respective properties, which are well-provided with civic amenities such as roads, electricity, drainage, and water supply lines.

10.3 Defendant No. 1 claims joint ownership of WS Schedule 'A' property with his brother, Shri Babu, s/o Narasappa Nilugurti. Their house was constructed 30 to 40 years ago and was recently reconstructed/renovated as the old structure had become unlivable. The khata for WS Schedule 'A' property has stood in the name of Shri Babu for more than 30 years in the Grama Panchayat records.

10.4 Similarly, the father of defendant No. 2, the late Shri Sabanna, s/o Lachamappa Marennor, was the owner and occupier of WS Schedule 'B' property. He had constructed the house during his lifetime, approximately 30 years ago. Following his recent demise, defendant No. 2 succeeded to the property and renovated the old structure. The property still stands in the name of defendant No. 2's father in the Grama Panchayat records.

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10.5 Likewise, the house of defendant No. 3, Smt. Sushilamma, w/o Devindrappa (WS Schedule 'C' property), was constructed more than 25 years ago, and her name has been recorded as the owner and occupier in the Grama Panchayat records since then.

10.6 The husband of defendant No. 4, the late Shri Chandrappa, s/o Yallappa Kavali, was the owner and occupier of WS Schedule 'D' property, having constructed the house nearly 30 years ago. Following his demise, defendant No. 4, along with her children, succeeded to the property. The property remains registered in the name of the late Chandrappa in the Panchayat records.

10.7 WS Schedule 'E' property was owned and possessed by the father of defendant No. 5, the late Shri Hanamantraya, s/o Bannappa Vishwakarma (Kambar), as evidenced by the khata extract. After his death, the property was mutated into the name of defendant No. 5, being his son. The house on WS Schedule 'E' property was constructed more than 35 years ago. Furthermore, an area measuring 1,200 square feet within this property has been leased to BSNL for the past 10 years, where a telecom tower and a tin-shed room have been erected.

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10.8 Defendants No. 1 to 5 assert that the Grama Panchayat records, tax paid receipts, and electricity bills confirm their long-standing ownership and possession spanning 35 to 40 years. They contend that the plaintiffs have no right, title, or interest in the WS Schedule 'A' to 'E' properties and were never in possession or cultivation of the same. They argue that there is no agricultural land matching the description or boundaries shown in the plaint, making the identification of the suit property vague, false, and incorrect. The defendants state that the plaintiffs have approached the court with unclean hands, suppressing material facts to wrongfully gain and harass the defendants. Therefore, they contend that the plaintiffs are not entitled to any of the reliefs sought.

11. Defendant No. 6 has filed a separate written statement denying the plaintiffs' case. He contends that various villagers have constructed residential houses and are residing in the area, which has completely lost its agricultural character. He explicitly states that his house, bearing Panchayat No. 2-53, is situated in land bearing Sy. No. 386 and not in the suit land (Sy. No. 385). He submits that his ancestors purchased an area measuring 5,052 square feet from the original owner of Sy. No.

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386, Shri Venkatarao Deshmukh, and have lived there ever since in a residential structure. Since his house does not encroach upon Sy. No. 385, he contends that the suit against him is entirely misdirected and not maintainable. It is further asserted that despite knowing the property is no longer agricultural land, the plaintiffs have filed this speculative suit based on outdated revenue records. On these grounds, the defendant No.6 sought to dismiss the suit with costs.

12. To substantiate their claims, the plaintiffs have produced the Record of Rights, Tenancy, and Crops (RTC) pertaining to the suit land, along with certain photographs. Conversely, defendants No. 1 to 5 have produced extracts from the Grama Panchayat Tax Demand Register concerning the properties bearing Panchayat Nos. 2-39, 2-40, 2-41, 2-43, and 2-44, alongside their own set of photographs. Defendant No. 6 has also produced an extract of the Panchayat Tax Demand Register for the property bearing Panchayat No. 2-53, the RTC pertaining to Sy. No. 386, electricity bill payment receipts, and a photograph.

13. The RTC produced by the plaintiffs indicates that the suit land, measuring 26 guntas, stands registered in their

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names. As noted above, the plaintiffs allege that some of the defendants have completed the construction of houses while others have laid foundations for new structures on the suit land. However, the plaint is completely silent and lacks specific averments as to which particular defendant is carrying out construction, or on which specific portion of the suit land the alleged encroachments have occurred. On the other hand, defendants No. 1 to 5 contend that their houses were constructed approximately 30 to 40 years ago, and that the Grama Panchayat has assigned distinct property numbers to them and provided civic amenities, including roads, electricity, and water supply connections.

13.1 Defendants No. 1 to 6 further contend that the very identification and description of the suit property are improper and incorrect, as the entire area is covered with residential structures and has completely lost its agricultural character. Notably, the photographs produced by both the plaintiffs and defendants No. 1 to 5 clearly suggest that the suit property is densely populated with residential houses, leaving no agricultural land available on the spot. Furthermore, the photographs and khata extracts produced by defendants No. 1

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to 5 prima facie indicate that these houses were constructed long ago, and not in the year 2023 as falsely alleged by the plaintiffs.

13.2 Therefore, having regard to the material available on record at this stage, this Court finds merit in the contention of defendant No. 6 that although the suit land is no longer agricultural, the plaintiffs have filed this speculative suit solely relying on the revenue entries in the RTC. There is absolute absence of material on record at this interlocutory stage to show that the defendants have commenced or carried out any construction after the year 2023. Consequently, this Court is of the considered opinion that the plaintiffs have failed to establish a prima facie case. Accordingly, Point No.1 is answered in the Negative.

14. **POINTS NO.2 AND 3:-** Since this Court has arrived at the conclusion that the plaintiffs have failed to establish a prima facie case in their favour, the subsequent questions regarding balance of convenience and irreparable injury do not survive for consideration. Hence, the points framed for consideration are answered accordingly.

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

ORDER

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

No order as to costs.

(Dictated to the stenographer, transcribed and typed by him and after
corrections, pronounced in the Open Court on this the **06th day of June-2026**)

(Arun Chougule)
Prl.Civil Judge and J.M.F.C,
Yadgiri.