

ORDER BELOW EXH.15 IN R. C. S. No.42 /2026.

Plaintiff in present suit has placed this application, seeking direction against defendants to maintain *status quo*. Defendants have resisted the application by filing their say at Exh.19. Perused the application and say. Heard, Ld. advocates appearing for both the parties. Through present suit, plaintiff has sought perpetual injunction against defendants to restrain them from causing obstruction to his peaceful possession over the suit property. In suit, plaintiff has filed an application at Exh.5, seeking temporary injunction against defendants to restrain them from causing obstruction to his peaceful possession over the suit property, till final disposal of present suit. From the averment made in present application and documents tendered on record, it appears that by virtue of gift deed executed in favour of plaintiff by his mother, plaintiff became owner of the suit property. Even he seems to be in possession of said property. From the documents tendered on record, it appears that defendants are carrying construction of their house. The question into controversy between the parties is whether the defendants are carrying the construction in suit property or they are carrying the construction in 2 R land given by defendant no.2 to the defendant no.1. While deciding an application for temporary injunction, it would be ascertained as to whether defendants are carrying the construction in suit property or they are carrying construction in 2R land given by defendant no.2 to the defendant no.1. Defendants appeared in the suit and sought time to submit their written statement and say to application at Exh.5. However, once construction of defendants is completed, very the purpose of instituting the suit and filing of application of temporary injunction, would be defeated. Learned advocate appearing for defendants has placed reliance on the Judgment of Apex Court in case of ***Rame Gowda Vs. M. Varadappa Naidu, 2014 ALL SCR 257***, wherein Hon'ble Apex Court has observed that even trespasser is entitled for the injunction against true owner. In present case, defendants are not seeking injunction against plaintiff, therefore it seems

doubtful as to whether or not ratio and observation made in Judgment supra would get applicable. While deciding an application for temporary injunction, it would be ascertained on the basis of overall documents tendered on record as to which of the property is being possessed by the defendants and what is the nature of such possession. Therefore, ratio and observation made in Judgment supra can be taken into account while deciding the application for temporary injunction. However, as discussed earlier, if defendants succeeds in completing the construction, very purpose of plaintiff of instituting the suit and filing of an application for temporary injunction would be defeated. Therefore, it would be just and proper to direct the defendants to maintain *status quo*, till submission of written statement and say to application at Exh.5. Hence, I pass following order:-

:: ORDER ::

1. Application at Exh.15 is allowed.
2. Defendants are directed to maintain *status quo* by refraining themselves from carrying further construction of their house, till submission of their written statement and say to application at Exh.5.

Shrigonda
Date :-27/02/2026

(H. J. Pathan)
2nd Jt. Civil Judge, S.D.,
Shrigonda.