

KAUP010001852026



**IN THE COURT OF THE II ADDITIONAL
DISTRICT/COMMERCIAL COURT JUDGE AT
UDUPI (Itinerary Sitting at Karkala)**

Present

Sri.A.SAMIULLA.

B.Sc, LL.B.,

**II Addl. District & Sessions Judge,
Udupi (Itinerary Sitting at Karkala).**

Dated: 3rd Day of August 2026

Com.OS.No.21 of 2026

*** * ***

PLAINTIFFS:

Sri.Sadashiva Shetty & Ors.

(By Sri.VVR)

Versus

DEFENDANTS:

Sri.Prism Johnson Ltd & Ors.

(By Sri.MKV)

IA.No.I

Applicants/Plaintiffs; Sri.Sadashiva Shetty & Ors.

Versus

Opponents/Defendants; Sri.Prism Johnson Ltd & Ors.



Provision under which IA is filed	Under Order XXXIX Rules 1 to 3 of CPC
Relief sought for	Temporary injunction
Date of filing of application	23.01.2026
Application No.	I
Date of filing objection	02.03.2026
Date of order	03.08.2026

The Plaintiffs have filed this application under Order XXXIX Rules 1 to 3 of CPC to grant a temporary injunction restraining the defendants and all other persons claiming under them from removing the boulders belonging to the plaintiffs existing in the quarry site bearing Sy.No.169 of Renjala Village, Karkala Taluk, till the disposal of the suit.

2. The defendants resisted the application



by filing a statement of objections.

3. Heard arguments; Perused records.
4. Following points arise for consideration:
 1. *Whether plaintiffs prove that they have got a prima facie case?*
 2. *In whose favour the balance of convenience lies?*
 3. *To whom the irreparable loss will be caused?*
 4. *What order?*
5. Findings to the above points are as under;
 - Point-1: Affirmative.***
 - Point-2: In favour of plaintiffs.***
 - Point-3: To the plaintiffs.***
 - Point-4: As per below for the following;***

REASONS

6. **Point-1:** At the outset; suit is filed for recovery of ₹17,46,400 by asserting that the defendants are owners of the quarry in Sy.No.169 of Renjala Village. They entrusted work of jack-hammer drilling operations of boulders at the said site to the plaintiffs



under an agreement reduced to writing. Initially, the work order dated 01.05.2023 was for a period of eleven months. Subsequently, the same was extended till 31.12.2024.

a) The work process agreed between the parties was that initially the defendants shall carry out the blasting operations of big rocks existing in the quarry site. After blasting, the plaintiffs shall drill the said rocks through jack-hammer and other machinery, and shall prepare boulders, which shall be taken by the defendants for crushing and preparing jellies & other materials. The defendants have agreed to



pay ₹35 per metric ton for the said boulders. In terms of work order, the defendants have paid the amount agreed by them to the plaintiffs up to August 2024.

b) The plaintiffs have individually collected the boulders which were not taken for crushing by the defendants after August 2024. In view of the same, the boulders prepared by the plaintiffs through drilling operations are stocked and are still existing in the above quarry site.

c) The plaintiffs-1 to 3 collected 20,000, 6,000 & 16,000 metric tons of boulders respectively. And same are lying at the quarry site since the past two years. The



defendants have not carried out any work in the quarry site since August 2024. Due to the same, the plaintiffs have suffered heavy loss.

d) The plaintiffs requested the defendants to resolve the issue and to allow them to carry out the work as per the work order, and to pay the amount due to them. They didn't respond. Resultantly, a legal notice dated 29.11.2024 was issued. They issued an untenable reply by claiming that the payments claimed by them are unaccounted. In the reply notice, defendants admitted the execution of the work order & the execution of the jack-hammer drilling



agreement.

e) The plaintiffs also filed a complaint against the defendants before the jurisdictional police. However, they fails to appear therein. Enraged by the issuance of the legal notice and the filing of the complaint, the defendants did not allow the plaintiffs to have access to the quarry site and were not permitted to enter near the area of the quarry.

f) Since the defendants were hurriedly making attempts to remove the boulders and to sell the same to third parties, and to sell the entire site along with the boulders, the plaintiffs filed suit No.48/2025 on the file of



learned Principal Civil Judge, Karkala. An exparte temporary injunction order was granted. Subsequently, it was vacated & same was impugned by preferring miscellaneous appeal. The defendants are liable to pay a total sum of ₹14,70,000 towards the value of the boulders prepared and collected by the plaintiffs during the subsistence of work order. Hence, the suit is filed.

7. Defendants resisted the suit by filing a written statement. Denying the plaintiffs allegations, they contended that the first defendant company had entered into separate agreements dated 01.05.2023 for



jack-hammer drilling operations with the plaintiffs for a period of eleven months, and subsequently extended the same till 31.12.2024 by mutual consent.

i) As per the said agreement, the company is liable to pay only after submission of tax invoices, and after the blasted boulders are weighed at the weighbridge installed at the quarry site. Without this formal process there is no verified basis for the quantities claimed.

ii) Clause 4 of the said agreements mandates verification via joint weight measurement sheets and weighbridge slips. Payments become due only against these



documents. The last invoice with supporting documents was submitted in August 2024, and no work has been recorded since.

iii) The company made payments based on verified weighbridge data in full compliance with the said agreements. The claim made by the plaintiffs is not supported by any document, data or material. The company doesn't have any liability towards the alleged payments demanded by the plaintiffs.

iv) The plaintiffs themselves had voluntarily removed all their plant and machinery from the quarry site. Hence, prayed to dismiss the suit.



8. The plaintiffs have filed the application at hand for the relief stated *supra*, setting out the facts as stated in the plaint, which are already stated above, and repetition is not warranted. The same are objected to by the defendants by filing a statement of objections, wherein they have reiterated the averments in the written statement which were already stated *supra*, and there is no need for repetition.

9. The settled position of law is that to seek the discretionary relief of temporary injunction, the plaintiffs must satisfy the Court with respect to the existence of a *prima facie* case, irreparable injury likely to



be suffered by them, and that the balance of convenience lies in their favour.

10. Before venturing into the merits of the rival contentions, it is imperative to highlight a few Clauses of the undisputed Jack-Hammer Drilling Operations Agreement.

Clauses-(i) to (iv) read as below (*verbatim*);

(i) Jack-Hammer Drilling Operation at our above-mentioned Quarry location.

(ii) In consideration of the above said job to be rendered by you under this work order, RMC has agreed to pay a sum of ₹35 per MT.

(iii) This work order shall be applicable for period of 11 months from 01st May, 2023 to 31st March, 2024.

iv) Payments shall be payable to you on or before the 10th day of every succeeding month after submission of the Tax Invoice by you on 2nd day of every succeeding month, Supporting



documents shall include but not be limited to the joint weight measurement sheet of boulders and weigh bridge slips approved by the authorized representative of RMC.

11. Upon careful analysis of facts asserted and facts denied by the parties, coupled with the undisputed Jack-Hammer Drilling Operations Agreement, it is clear that there is no dispute regarding the contractual relationship existed between the parties under agreement dated 01.05.2023 and extended up to 31.12.2024.

12. It is also undisputed that the plaintiffs carried out work up to August 2024 and all payments were made by the defendants till that period, and no amount was due for that



period.

13. The dispute is that plaintiffs claim to have carried out work post-August 2024 and stored boulders at the quarry site, whereas the defendants claim that post-August 2024 the plaintiffs have not carried out any work and no boulders are stored at the quarry site.

14. The core dispute regarding extraction of work post-August 2024 and currently lying of boulders at the site, or non-extraction of work post-August 2024 and non-availability of boulders at the site has to be resolved only after a full trial. At the moment, on the basis of the available materials on record,



the said dispute cannot be resolved. This *prima facie* shows that a trial is warranted and a triable issue is involved in the lis, which is to be adjudicated during final disposal.

15. The defendants have argued that no work was done post-August 2024. Without a verified physical count of the boulders on site right now, the Court cannot determine the same, which is also required to determine how much money the defendants should be ordered to deposit.

16. If there is a delay between the injunction order & the actual trial, there is a possibility that the defendant company may quietly



crush or move the boulders. The company may later argue that those boulders were never there in the first place. Once, the physical boulders are gone, the plaintiffs loses their only primary evidence of work done.

17. The Court notes that while a complete restrain on the defendants' quarry operations, or a blanket injunction over the commercial stocks, may cause disproportionate hardship to the defendants. *However*, if the defendants remove or crush the stock *in situ* before its volume is accounted for, the primary evidence of the plaintiffs' work will be permanently



obliterated, causing irreparable harm to the plaintiffs.

18. The disproportionate hardship that may be caused to the defendants and the irreparable harm that may be caused to the plaintiffs can be balanced by passing a conditional order that would meet the ends of justice.

19. To *prima facie* ascertain the primary fact of laying or non-laying of boulders at the site at the moment, a commission is necessitated.

20. Once the Commissioner confirms the metric tons of boulders exist, the Court can easily calculate. Even if the defendants later



permitted to crush the boulders the commissioner's report remain in the Court record as irrefutable proof of plaintiffs completed work when calculating final monetary recovery.

21. The defendants argued that as per Jack-Hammer Drilling Operations Agreement the plaintiffs were entrusted the work of drilling holes into rock or large boulders and no work of preparation of boulders was given to them.

22. On the contrary the plaintiffs argued that the contract specifies that payment is linked to tax invoices accompanied by joint weight measurement sheets and weigh



bridge slips.

23. Since, weigh bridge slips measure total tonnage of output (boulders dispatched), it strongly implies that the ultimate deliverable is sized/ prepared boulders ready for weight measurement. If plaintiffs were only providing drilling labour/footage (rate per meter/foot drilled), measurement would be based on drilling depth rather than a weigh bridge slip. If the weigh bridge slip is merely required as secondary proof to verify total yield, but the rate sheet specifies payment per meter drilled, then preparation is likely outside the plaintiffs primary scope.

24. If payment is strictly tied to weigh bridge



tonnage of boulders it can be infer that the agreement covers the end product (prepared/sized boulders) achieved through the jack-hammer drilling process. If payment is tied to drilling depth/footage, the agreement covers drilling services only. ***However,*** keeping open the dispute regarding the factum and nature of work to be adjudicated during the final disposal of the suit on merits, the point-1 is answered in the affirmative.

25. Points-2 & 3: These points are taken together for common discussion to avoid repetition of facts.

26. Temporary injunction is a preventive



relief and its purpose is to preserve status quo in respect of the subject matter of the suit.

27. The findings on point-1 manifest that a disproportionate hardship would be caused to the defendants if a blanket injunction order is passed. ***Per contra***, if no order is passed the plaintiffs, who have made out a *prima facie* case in their favour would be subjected to irreparable hardship. Under these circumstances a conditional order will serve the ends of justice, & accordingly, the above points are answered in favour of the plaintiffs.

28. Point-4: By virtue of above findings,



Court proceeds to pass the following;

ORDER

IA-1; under Order 39 Rules 1 to 3 r/w
Section 151 CPC filed by the plaintiffs is
allowed.

The defendants and anybody acting on
their behalf are hereby temporarily
restrained from removing the boulders lying
at the suit quarry site at Sy.No.169 of
Renjala Village, Karkala Taluk in any
manner till further orders, subject to the
fulfillment of conditions mentioned below;

i) Appointment of Court Commissioner
and joint inventory.

a) The Court Commissioner, in the
presence of representatives of both plaintiffs



and defendants, shall measure, photograph, video-graph, and prepare an inventory report of the total estimated volume/stock of boulders lying at the site.

b) The expenses of the Court Commissioner shall be borne by the plaintiffs.

ii) Upon filing of the Court Commissioner's Inventory Report, the defendants shall deposit the amount or submit an unconditional bank guarantee of equivalent value to the satisfaction of this Court within a month of the report.

a) This deposit shall stand as security towards the plaintiffs pending payment



claim until the final adjudication of the suit.

b) Upon the completion of the joint site measurement by the Court Commissioner **and** the deposit of security as stipulated in clause (ii) by the defendants, the temporary restrained order against the removal of the boulders shall automatically stand lifted.

c) Nothing herein stated shall be construed as an expression of opinion on the final merits of the main suit.

No order as to costs.

(Dictated to the stenographer, transcribed by her, corrected & signed by me & then pronounced in open court on this the **3rd day of August, 2026**).

(A.Samiulla)

II Addl. District Judge/PO,
Commercial Court, Udupi.
(Itinerary Sitting at Karkala).