



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

MISCELLANEOUS FIRST APPEAL NO.1489 OF 2026 (CPC)

BETWEEN:

SRI G SRINIVAS,
S/O LATE G RAMAPPA,
AGED ABOUT 62 YEARS,
R/O. PLOT NO. 10, KOTTAL ROAD,
NEAR CHETHANA VIDYANIKETAN,
S.N. PET, KAMPLI POST, KAMPLI,
BELLARY-583132.

...APPELLANT

(BY SRI. K.N.PHANINDRA, SENIOR ADVOCATE,
SMT. VAISHALI HEGDE, ADVOCATE)

AND:

SMT. N BHARATHI,
W/O. NARAYANASWAMY B.N,
AGED 56 YEARS,
R/O. BAYAPALLI,
RONUTHIMMASANDRA POST,
SRINIVASPURA TALUK,
KOLAR DISTRICT,
KOLAR-563135.

...RESPONDENT

(BY SRI. B.G.NANJUNDARADHYA, ADVOCATE C/R)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
ORDER 43 RULE 1(r) OF THE CODE OF CIVIL PROCEDURE,
1908.





THIS MISCELLANEOUS FIRST APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.02.2026, THIS DAY, AN JUDGMENT IS PRONOUNCED AS UNDER:

CAV JUDGMENT

Sri.K.N.Phanindra, Senior counsel on behalf of Smt.Vaishali Hegde, for the appellant and Sri.B.G.Nanjundaradhya, counsel for caveator/ respondent, appeared in person.

2. The captioned appeal is filed to set aside the order dated 07.02.2026 passed by the Court of the I Additional City Civil and Sessions Judge (CCH-2) at Bengaluru on I.A.No.1 in O.S.No.2202/2025.

3. As this appeal is filed under Order 43, the scope of inquiry is limited only to the impugned order arising from the interlocutory application. It does not extend to the merits of the main suit.

4. For convenience, the parties shall be referred to as per their ranking and status before the Trial Court.



5. The plaintiff filed a suit for a permanent injunction. He also filed an application under Order XXXIX, Rules 1 and 2 of CPC for a temporary injunction. The Trial Court vide order dated 25.03.2025 granted an ad-interim *ex-parte* temporary injunction order. The Trial Court also issued TI Notice on I.A.No.1 and suit summons to the defendant, subject to compliance of Order XXXIX Rule 3A of CPC. The defendant entered an appearance and filed a written statement and notably adopted the contents of the written statement as objections to the temporary injunction application I.A.No.1. The Trial Court dismissed the application in I.A.No.1. Under these circumstances, the plaintiff has filed the appeal on several grounds as set out in the Memorandum of appeal.

6. Counsel for the respective parties presented several contentions.

Senior counsel Sri.K.N.Phanindra, while presenting his arguments, strenuously urged that the Trial Court had dismissed the application, holding that there was a discrepancy in the boundary described in the schedule to the I.A.No.1 at the time the suit was filed. He argued that the reason for the



amendment arose from an inadvertent bona fide typographical error, which had resulted in the mis-description of the property's southern boundary. It has been vehemently contended that once the amendment to the suit schedule property was carried out to reflect the correct boundaries, the prior discrepancies were rectified. Counsel, therefore, submitted that the impugned order may be set aside and the appeal may be allowed.

By way of reply to this contention, counsel Sri.B.G.Nanjundaradhya, by placing reliance on Buchhi Reddy's case, submitted that a suit for a bare injunction is not maintainable. He argued by saying that the plaintiff does not own the property, and he is not in possession, as is evident from the complaint. It has been contended on behalf of the defendant that the plaintiff has failed to carryout the amendment in the application for the temporary injunction. Urging other contentions on the merits of the case, lastly, he submitted that the Trial Court is justified in rejecting the application, and accordingly, he submitted that the appeal is devoid of merit and the same may be dismissed.



7. Heard the argument and perused the papers with care.

8. Bearing in mind that the scope of inquiry is restricted solely to the impugned interlocutory order, the issue for consideration is limited to whether the Trial Court was justified in concluding that, due to discrepancies in the southern boundary described in the schedule to the I.A.No.1, the plaintiff failed to establish a *prima facie* case, and was therefore not entitled to a temporary injunction.

9. The plaintiff filed a suit for a bare injunction. In the plaint schedule, the southern boundary was shown as a 'private property'. While the southern boundary of the suit schedule property was initially described as a private property; the plaintiff, having carried out an amendment, has corrected the description to reflect the same as 'road'. To be precise, the plaintiff amended the schedule of property to redefine the southern boundary from a 'private property' to 'road'. Notably, the amendment was allowed without objection from the defendant.



10. It is pertinent to note that the injunction was refused solely because of a clerical discrepancy in the application schedule. In my view, the Trial Court erred in dismissing the application solely based on a mis-description of southern boundary in the application schedule, rather than on the merits. The discrepancy in the boundary on the South side was an inadvertent clerical error arising from an accidental slip, and the same was amended in the plaint schedule.

Significantly, the defendant did not object to the amendment. The Trial Court permitted the plaintiff to carryout an amendment, and accordingly, the amendment was carried out without objection by the defendant. If an amendment to the plaint is allowed, it generally relates back to the date the suit was filed. If the amendment is allowed, the existing injunction application can be amended to reflect the changes. Furthermore, the Courts often view an amendment to the plaint schedule as impliedly covering the temporary injunction application, especially if the amendment was allowed without objection. Importantly, the defendant's non-opposition to the amendment signifies acceptance of the new facts.



The identity of the property is clearly established by the description of the suit schedule property. At best, it can be said that the error is a clerical, typographical, or accidental slip or omission in the boundary description rather than a dispute regarding the property's identity.

11. Counsel for the defendant strongly contended that the proposed boundary amendment was absent from the application. It is also contended that the Trial Court justifiably dismissed the application due to the absence of the proposed boundary amendment. The presented argument is noted, but I am not persuaded by it. This contention is viewed as a hyper-technicality rather than a substantive, prejudicial objection; therefore, I am not inclined to accept it.

The defendant has failed to prove that the lack of a formal amendment to the injunction application has caused severe prejudice or injustice. The Court has misdirected itself in law by failing to consider the foundational principles governing the issue. I may venture to say that the impugned order is vitiated by an error apparent on the face of the record, as the Trial Court failed to apply fundamental, well-settled legal



principles to the facts of the case. To conclude, I can say only this much that the impugned order is contrary to the settled principles of equity, as the balance of convenience heavily tilted in favor of the applicant/ plaintiff. Hence, plaintiff is entitled for an temporary injunction.

12. For the foregoing reasons, the impugned order is liable to be set aside, and accordingly it is set aside.

13. The order dated 07.02.2026 passed by the Court of the I Additional City Civil and Sessions Judge (CCH-2) at Bengaluru on I.A.No.1 in O.S.No.2202/2025 is set aside.

14. Resultantly, the appeal is ***allowed***.

SD/-
(JYOTI M)
JUDGE

MRP
List No.: 1 Sl No.: 1