

Judgment rendered August 26, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 57,017-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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JOHN WITHAM, SR., MADELINE WITHAM, CARRIE BEAZLEY AND JOHN WITHAM, JR.	Plaintiffs-Appellants
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versus

PAMELA MANGHAM COKE	Defendant-Appellee
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Appealed from the
Forty-Second Judicial District Court for the
Parish of DeSoto, Louisiana
Trial Court No. 86,548

Honorable Nicholas E. Gasper, Judge

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BETHARD & BETHARD, LLP By: Adam L. Massery	Counsel for Appellants
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WIENER, WEISS & MADISON By: John M. Madison Jr.	Counsel for Appellee
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Before PITMAN, STEPHENS, and ELLENDER, JJ.

PITMAN, C. J.

Plaintiffs-Appellants John Witham, Sr., Madeline Witham, Carrie Beazley and John Witham, Jr. appeal the trial court's denial of their petition for preliminary injunction in favor of Defendant Pamela Mangham Coke. For the following reasons, we affirm.

FACTS

On September 16, 2025, Plaintiffs filed a petition for preliminary injunction and permanent injunction, pursuant to La. C.C.P. arts. 3601 and 3663, against Defendant to protect their rights of ownership, possession and enjoyment and to prevent further breach of contract. They provided the following information regarding the parties, their properties and the servitude at issue. In 2002, Marie Brown sold a portion of her property to Plaintiffs John Witham, Sr. and Madeline Witham, and they entered into a Road Maintenance Agreement (the "Agreement"). In the Agreement, Brown granted (1) a servitude of passage for the purposes of ingress and egress over a private road on her property (the "Private Road"), and (2) a right of way and servitude of any land west of the Private Road (the "Servitude Strip") in order to connect to the Private Road for the purpose of ingress and egress (collectively, the "Servitude"). The Agreement stated that it was "binding on all parties signatory, their successors, heirs, and assigns." In 2020, Defendant became the owner of Brown's property through an act of donation, which stated that the property was subject to "[a]ny and all prior rights-of-way, easements . . . and servitudes which may appear in the chain of title." In 2024, Plaintiffs John Witham, Sr. and Madeline Witham donated a portion of their property to Plaintiffs Carrie Beazley and John Witham, Jr.

In their petition, Plaintiffs stated that in June and July 2025, Defendant contacted them about purchasing the land in the Servitude Strip, and they declined. They alleged that on or about September 4, 2025, Defendant placed several metal T-posts, orange tape and “no trespassing” signs on the boundary between her property and their properties. They argued that this obstructed their access to the Servitude and was done in retaliation and to create inconvenience. On September 12, 2025, Plaintiffs’ counsel sent a letter to Defendant, demanding that she remove the obstructions and cease all actions that interfere with Plaintiffs’ use of the Servitude. They stated that as of the filing their petition, Defendant had not complied. Plaintiffs requested injunctive relief ordering Defendant to remove the obstructions and to cease all interference, diminishment and acts of inconvenience to their use of the Servitude. They also requested damages caused by or resulting from Defendant’s breach of the Agreement, interference with the Servitude and the potential continuing trespass upon Plaintiffs’ properties.

On October 28, 2025, Defendant filed an opposition. She argued that the Agreement did not give Plaintiffs unfettered use of the Servitude Strip or the right to construct more than one route of passage from their properties to the Private Road. She stated that Plaintiffs had created two routes from their properties to the Private Road and that they are not entitled to any other route. She alleged that Plaintiff John Witham, Jr. built a driveway from his property across the Servitude Strip and that he uses it for purposes other than passage to and from the Private Road, including mowing and manicuring it, parking his vehicles on it and otherwise treating it as his own property. Defendant explained that she placed T-posts along the border to delineate

the area of the Servitude Strip and to emphasize the limitation on Plaintiffs' use of it. She emphasized that she did not and will not attempt to restrict Plaintiffs' use of the driveway constructed by Plaintiff John Witham, Jr. She argued that the preliminary injunction should be denied as Plaintiffs have not alleged and cannot prove irreparable injury.

A hearing was held on October 30, 2025. Plaintiff John Witham, Sr. testified that he and his wife purchased their property from Marie Brown in 2002 and at the same time executed the Agreement that granted the Servitude. He explained that the Servitude granted ingress and egress on any land west of the Private Road. He erected a fence around his property and accessed the Private Road through two gates. In 2024, he and his wife donated an acre of their property to their son and his wife, who built a house on the property and a driveway from the house to the Private Road. He recalled that Defendant requested that he purchase the Servitude Strip, and he told her that they were not interested. He stated that Defendant placed flags within the Servitude Strip and then placed T-posts, orange tape and a no trespassing sign near his son's house. He noted that these obstructions were still in place and inconvenienced their use of the Servitude. He requested that Defendant remove the obstructions and stop demanding that he purchase her property. On cross-examination, he testified that he believed he could create any number of access roads from his property to the Private Road.

Plaintiff Carrie Beazley testified that she and her husband Plaintiff John Witham, Jr. acquired their property in 2024 by donation from her in-laws. They built a house on the property and a driveway from their property to the Private Road. She stated that Defendant obstructed their access to the

Servitude by placing T-posts and string along the passage. She stated that they have only used the Servitude Strip to access their property and have mowed that area. She noted that they do not claim the Servitude Strip as their front yard. She requested that Defendant remove the T-posts so they can access their property and that she stop requesting that they purchase property from her. On cross-examination, she agreed that their driveway was at times unpassable because they parked a camper on it and noted that they tend to drive in the grass. She stated that Defendant had not blocked their driveway, but she blocked their ability to cross the Servitude Strip from any other point they want to use.

Defendant Pamela Coke testified that she placed the T-posts and orange tape within the Servitude Strip on her property to delineate Plaintiffs' properties from her property. She stated that she was careful in her placement so as not to put the tape across Plaintiffs' driveway. She noted that she did not do anything to prevent Plaintiffs from using their driveway to access the Private Road. On cross-examination, she stated that she offered Plaintiffs the opportunity to purchase the Servitude Strip. She noted that she was concerned Plaintiffs would claim ownership of her property as they use it as their front yard.

On December 22, 2025, the trial court filed a ruling denying the preliminary injunction. In its reasons for ruling, it stated that the Servitude was granted solely for the purpose of allowing Plaintiffs ingress and egress to their property and that the Agreement did not anticipate allowing ingress and egress along the entire Servitude Strip. It noted that although the T-posts prevent Plaintiffs from mowing or otherwise utilizing the portion of the Servitude Strip that borders their property, the T-posts have not blocked

their driveway or prevented them from accessing their properties. The court found that Plaintiffs' property rights had not been disturbed and, thus, that La. C.C.P. art. 3601 controls their request for an injunction. It stated that Plaintiffs presented no testimony or evidence that they are suffering or will suffer irreparable injury, loss or damage without an injunction and that without such a showing, a preliminary injunction is not warranted.

Plaintiffs appeal.

DISCUSSION

In their assignments of error, Plaintiffs argue that the trial court erred in denying their request for preliminary injunction. They contend that La. C.C.P. art. 3663, rather than La. C.C.P. art. 3601, applies to this case because it authorizes injunctive relief to protect or restore a real right in immovable property. They note that unlike La. C.C.P. art. 3601, La. C.C.P. art. 3663 does not require them to show irreparable injury, loss or damage. They state that, pursuant to La. C.C.P. art. 3663, they made a prima facie showing (1) that they possessed and enjoyed the Servitude for over a year, (2) that Defendant disturbed their possession and enjoyment by placing obstructions within and/or to the Servitude and (3) that the preliminary injunction would restore their possession and enjoyment and maintain the status quo of the Servitude pending final judgment. They argue that because they made this showing, the trial court should have awarded them injunctive relief.

Defendant argues that the trial court did not err in denying Plaintiffs' petition for preliminary injunction. She contends that she did not interfere with their use or enjoyment of any property right, so La. C.C.P. 3663 does not apply. She notes that the trial court found that Plaintiffs continue to use

three servitudes of passage to and from their properties onto the Private Road without any interference from her. She argues that the trial court correctly applied La. C.C.P. art. 3601 and determined that Plaintiffs presented no proof of irreparable injury.

A predial servitude is a charge on a servient estate for the benefit of a dominant estate. La. C.C. art. 646. It is a real right burdening an immovable. *Blanchard v. Rand*, 34,442 (La. App. 2 Cir. 3/2/01), 781 So. 2d 881, *writ denied*, 01-0897 (La. 6/1/01), 793 So. 2d 193, and *writ denied*, 01-0931 (La. 6/1/01), 793 So. 2d 194.

A preliminary injunction is an interlocutory procedural device designed to preserve the existing status pending a trial of the issues on the merits of the case. *Praeses, L.L.C. v. Bell*, 54,601 (La. App. 2 Cir. 6/29/22), 343 So. 3d 933. A preliminary injunction may be issued on merely a prima facie showing by the plaintiff that he is entitled to relief. *Id.*

An injunction shall be issued in cases where irreparable injury, loss or damage may otherwise result to the applicant, or in other cases specifically provided by law. La. C.C.P. art. 3601(A). “Irreparable harm” is defined as injury or loss for which damages cannot be measured by a pecuniary standard or which cannot be adequately compensated in money damages. *Terral v. AG Res. Holdings, LLC*, 54,156 (La. App. 2 Cir. 3/9/22), 335 So. 3d 1009.

An injunction to protect a servitude is authorized under La. C.C.P. art. 3663 and does not require a showing of irreparable harm. *Whitlock v. Fifth Louisiana Dist. Levee Bd.*, 49,667 (La. App. 2 Cir. 4/15/15), 164 So. 3d 310. La. C.C.P. art. 3663 states, in part, that:

Injunctive relief . . . to protect or restore possession of immovable property or of a real right therein, is available to:

(2) A person who is disturbed in the possession which he and his ancestors in title have had for more than a year of immovable property or of a real right therein of which he claims the ownership, the possession, or the enjoyment.

The trial court has great discretion in granting or denying a preliminary injunction. *Whitlock v. Fifth Louisiana Dist. Levee Bd., supra*. The grant or denial of preliminary injunction will not be disturbed except for a clear abuse of the trial court's discretion. *Praeses, L.L.C. v. Bell, supra*.

In this case, the trial court did not abuse its discretion in applying La. C.C.P. art. 3601 and denying the petition for preliminary injunction. As determined by the trial court, La. C.C.P. art. 3363 is inapplicable to the facts of this case because Plaintiffs did not show that Defendant's actions disturbed their property rights provided by the Servitude. Rather, the testimony presented at the hearing shows that Plaintiffs continue to access their properties and the Private Road across several routes they established through the Servitude Strip. At the hearing, Plaintiffs also failed to present evidence that, without an injunction, they would suffer irreparable injury, loss or damage as a result of Defendant's actions. Therefore, Plaintiffs did not show that they are entitled to injunctive relief.

Accordingly, these assignments of error lack merit.

CONCLUSION

For the foregoing reasons, we affirm the trial court's denial of the petition for preliminary injunction in favor of Defendant Pamela Mangham Coke. Costs of this appeal are assessed equally to Plaintiffs-Appellants John Witham, Sr., Madeline Witham, Carrie Beazley and John Witham, Jr.

AFFIRMED.