

KABD410051502022



IN THE COURT OF THE ADDL. CIVIL JUDGE &
JMFC, AT BHALKI

Dated this the 21st Day of February 2024

:PRESENT:

Sri Abhinay,

B.C.A., LL.B., L.L.M.

Addl. Civil Judge & JMFC,

Bhalki.

O.S.No.98/2022

Plaintiff:

Smt.Suryakala W/o Karabasappa

Managere (D/o Veersangappa)

Age:50 years, Occ: Agriculture & Household,

R/o:Kanakatta, Tq. Humnabad, Dist:Bidar.

(Plaintiff, By Sri.R.S.W. Advocate)

-V/s-

Defendants:

1. Inderraj S/o Late Veersangappa
Biradar, Age:72 years, Occ: Agriculture,
R/o:Bhatambra, Tq:Bhalki,
Dist:Bidar.
2. Basawaraj S/o Late Veersangappa
Biradar, Age:62 years, Occ:Agriculture,
R/o:Bhatambra, Tq:Bhalki, Dist:Bidar.
3. Smt.Chandrakala W/o Apparao Biradar
(D/o late Veersangappa Biradar)
Age:59 years, Occ: Household and Agriculture,
R/o:Wagalagaon, Tq:Bhalki, Dist:Bidar.
4. Ramesh S/o Late Veersangappa Biradar,
Age:58 years, Occ: Household,
R/o:Bhatambra, Tq:Bhalki, Dist:Bidar.
5. Rajshekhar S/o Late Veersangappa Biradar,
Age:54 years, Occ:Agriculture,
R/o:Bhatambra, Tq:Bhalki, Dist:Bidar.

6. Smt.Shashikala W/o Vijaykumar Hanjanale,
(D/O late Veersangappa Biradar),
Age: 52 years, Occu: Agriculture & Household,
R/o:Rachappa Goudgaon, Tq:Basavakalyan,
Dist:Bidar.

7. Premnath S/o Annarao Biradar,
Since deceased by Lrs.

a. Mallamma W/o Late Premnath Biradar
Age:60 years, Occu:Agriculture & Household.

b. Rajkumar S/o Late Premnath Biradar,
Age:44 years, Occu:Agriculture.

c. Suresh S/o Late Premnath Biradar,
Age:42 years, Occu:Agriculture.

d. Nagesh S/o Late Premnath Biradar,
Age:38 years, Occu:Agriculture.

e. Veeresh S/o Late Premnath Biradar,
Age:35 years, Occu:Agriculture,
All R/o:Village Bhatambra, Tq:Bhalki,
Dist:Bidar.

(Defendant No.1 to 6 By Sri.G.N.C., Advocate)

(Defendant No.7(b) By Sri.N.N.S., Advocate)

(Defendant No.7(a, c to e) Ex-parte)

PARTIES IN IA.NO.I

Plaintiff/Applicant: Smt.Suryakala W/o Karabasappa
Managere

-V/s-

Defendants/Opponents: Inderraj S/o Late
Veersangappa Biradar

ORDERS ON I.A.NO.I

I	Provision under which the application is filed	U/O.39 Rule 1 and 2 of C.P.C.
II	Relief sought for	Restraining the defendants from the alienating the suit property
III	The date on which the application is filed	01-09-2022

IV	Number of application	I.A. No.I
V	The date on which the objections are filed by different opponents.	25-05-2023
VI	The date on which the orders were passed on the said application	21-02-2024

2. Brief facts of the plaintiff's case are as under;

Plaintiff has filed I.A.No.I, U/o.39 Rule 1 and 2 of CPC restraining the defendants from alienating the suit property. Plaintiff has claim partition of 1/7th share in the suit schedule 'A' and 'B' properties. Suit schedule 'A' Sl.No.3 property and suit schedule 'B' property are situated at village Bhatambra. Defendant no.7 submits that suit of the plaintiff is not maintainable, as the father of plaintiff and defendant no.1 to 6 has executed a sale deed

infavour of defendant no.7 in the year 1982.

Hence sought rejection of I.A.

3. Heard the arguments canvassed by the learned counsel for plaintiff and defendant no.7.

4. The following points arise for my consideration:

1. Whether the Plaintiff has made out a prima-facie case?

2. Whether the balance of convenience lies in his favour?

3. Whether the Plaintiff proves that, she would be put to irreparable loss if an order of Temporary Injunction is not granted?

4. What order?

5. My findings to the above points in I.A.No.I are as follows:

Point No.1: In the Negative

Point No.2: In the Negative

Point No.3: In the Negative

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

R E A S O N S

6. Point No.1 to 3:- These points are taken up together for common discussion.

7. Plaintiff is claiming 1/7th share in the suit property and has also sought a prayer of injunction against defendant. On perusal of the sale deed produced by the plaintiff counsel, the said sale deed is of 4th January 1982 executed by Veersangappa, defendant no.1 and defendant no.2. Veersangappa is the father of plaintiff, defendant no.1 to 6. Veersangappa, Indaraj, Basawaraj have executed a sale deed infavour of defendant no.7, 42 years ago. Now the

plaintiff is challenging the sale deed executed in the year 1982 and also claiming a share. Veersangappa being the father and kartha of the family has sold 7-acre 13-guntas of land infavour of defendant no.7. Plaintiff has challenged the sale deed after a gap of 40 years.

8. The defendant no.7 has submitted that Veersangappa had filed a suit against him in O.S.No.90/1988, the suit is decided infavour of defendant no.7. Veersangappa preferred appeal the same came infavour of defendant no.7. The house property is standing in the name of defendant no.4. Plaintiff has not made out prima-facie ground for grant of order in her favour. With these observations I answer point No.1 to 3 are in the “**Negative**”.

9. **Point No.4:-** For the aforesaid reasons, I proceed to pass the following;

ORDER

IA No.I filed by the plaintiff under order 39 Rule 1 and 2 of Civil Procedure Code is rejected with cost of Rs.1,000/-.

(Dictated to Typist directly over computer typed by her, corrected, signed and then pronounced by me in the open court this the 21st day of February 2024)

**Addl. Civil Judge & JMFC.,
Bhalki.**