

09-06-2026:

ORDERS ON IA NO.9

The defendant Nos.1, 3 and 4 have filed the present application under Order XXXIX Rule 4 of CPC seeking vacation of the temporary injunction order granted on IA No.1.

2. The case of the applicants as set out in the affidavit filed in support of the application is that, the plaintiff had preferred M.A. No.1/2024 before the learned Vacation District Judge, Belagavi, wherein an order came to be passed on 08-05-2024 directing disposal of the suit within 6 months and further observing that if the suit is not disposed of within the stipulated period, the order granted therein would stand vacated. It is contended that though more than 22 months have lapsed thereafter, the suit has not been disposed of. It is further contended that the DNA report produced before the Court discloses that the plaintiff is not the biological son of defendant No.1 and therefore the plaintiff has no manner of right over the suit property. According to the applicants, the plaintiff is intentionally protecting the proceedings and the continuance of the temporary injunction order is causing serious hardship to the defendants. Hence, they seek vacation of the injunction order.

3. The plaintiff has filed the objections resisting the application. It is contended that a

similar application seeking vacation of the injunction order was already considered and rejected by the Court and therefore the present application is not maintainable. It is further contended that the DNA report is disputed by the plaintiff and detailed objections have already been filed questioning the correctness and reliability of the report. It is contended that the doctor who conducted the DNA test is yet to be examined and the evidentiary value of the report can be assessed only after completion of the evidence and herein of the parties. The plaintiff further contends that the defendants are attempting to alienate the suit properties and if the injunction order is vacated, irreparable injury would be caused to the plaintiff. Hence, he seeks dismissal of the application.

4. Heard the learned counsel for both sides.
Perused records.

5. The point that arises for consideration is follows:

“Whether the applicants/defendant Nos.1, 3 and 4 have made out grounds for vacating the temporary injunction order granted on IA No.1 ?”

6. My finding on the above point is in the Negative, for the following:

REASONS

7. Order XXXIX Rule 4 of CPC empowers the Court to discharge, vary or set aside an injunction order if there is a material change in the circumstances or if the order was obtained by suppression of material facts. Therefore, the burden lies upon the applicants to establish the existence of circumstance warranting interference with the subsisting injunction order.

8. The principal ground urged by the applicants is that the DNA report indicates that the plaintiff is not the son of defendant No.1. However, the said report is a matter of evidence. The plaintiff has specifically disputed the correctness of the report and has filed objections. The doctor and other concerned

witness are yet to be examined. At this interlocutory stage, the court cannot record a final finding regarding the states of the plaintiff sourly on the basis of the DNA report. The evidentiary value, correctness and legal effect of the report can be appreciated only for the parties are afforded full opportunity to lead evidence and addressed arguments.

9. The second grounds urged by the applicants is regarding the observations made in M.A. No.1/2024. A careful consideration of the records discloses that the suit is still pending trial and evidence as not been concluded. Merely because the suit could not be disposed of within the time indicated by the Appellate Court, it cannot automatically lead to vacation of the injunction by this Court unless the conditions stipulated therein are clearly attracted and the applicants establish that the plaintiff alone is responsible for the delay. The records do not discloses any material sufficient to hold that the plaintiff has deliberately and solely prolonged

the proceeding with an intention to misuses the interim order.

10. It is also relevant to note that, suit involves rival claims over the suit property, question of paternity and the rights of the parties are yet to be finally adjudicated. The purpose of granting temporary injunction is to preserve the subject matter of the litigation pending adjudication. If the injunction is vacated at the stage and the suit properties are alienated or encumbered, complications may arise affecting the effective adjudication of the suit. On the other hand, the defendants have not placed any convincing material to show that continuance of the injunction order would cause such irreparable prejudice as would necessitate its vacation. Thus, this Court is of the considered opinion that grounds urged by the applicants are matters to be considered during the final adjudication of the suit and do not constitute sufficient grounds for vacating temporary injunction order at this stage. Accordingly, the point for consideration is answered in the Negative. In view of the above

findings and discussion made, I proceed to pass the following:

ORDER

IA No.9 filed by the defendant Nos.1, 3 and 4 under order XXXIX Rule 4 of CPC is hereby dismissed.

No order as to costs.

To here parties on DNA report.

Call on 10-06-2026.

(Dictated to the stenographer, transcribed by him and corrected, revised then signed by me and pronounced in the open Court on this the 9th Day of June, 2026)

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.

