

KABG300010862025



**IN THE COURT OF SENIOR CIVIL JUDGE,
BAILHONGAL, AT: BAILHONGAL**

PRESENT:

**Shri. Ravi Babu Chawan,
B.A.LL.B.
Senior Civil Judge, Bailhongal.**

R.A. No.29/2025

Dated this the 28th Day of March, 2026

1) Smt. Gangambik W/o Mahantappa Valasang
and others,

.....Appellants

(By Sri. S.S.A., Advocate)

-Vs.-

1) Shri. Prakash S/o Adiveppa Valasang
and others,

.....Respondents

(R2 (a & c), R4 & R5-Absent)

(By Sri. B.B.H., Advocate for R6)

(By Sri. S.M.M., Advocate for R8)

(For steps to R1, R2(b), R3 & R7)

PARTIES TO IA NO.I

1) Smt. Gangambika W/o Mahantappa Valasang,
Age: 82 years, Occ: Household work,

R/o: Gandhi Nagar, Dharwad,
Dist: Dharwad.

2) Shri. Vijay S/o Mahantappa Valasang,
Age: 57 years, Occ: Business & Agriculture,
R/o: Gandhi Nagar, Dharwad,
Dist: Dharwad.

2) Shri. Vikas S/o Mahantappa Valasang,
Age: 57 years, Occ: Service,
R/o: Gandhi Nagar, Dharwad,
Dist: Dharwad.

.....Applicants/Appellants

(By Sri. S.S.A., Advocate)

-Vs.-

1) Shri. Prakash S/o Adivappa Valasang,
Age: 75 years, Occ: Agriculture,
R/o: Plot No.320, Ramateertha Nagar,
Belagavi.

2) Shri. Rajendra S/o Adivappa Valasang,
Since dead by his LR's

2(a) Smt. Mangala W/o Rajendra Valasang,
Age: 67 years, Occ: Household work,
R/o: Guruvar Peth, Kittur, Dist: Belagvi.

2(b) Shri. Akshya S/o Rajendra Valasang,
Age: 45 years, Occ: Private service,
R/o: Guruvar Peth, Kittur, Dist: Belagvi.

2(c) Shri. Amruth S/o Rajendra Valasang,
Age: 43 years, Occ: Private service,
R/o: Guruvar Peth, Kittur, Dist: Belagvi.

3) Shri. Kiran S/o Dinakar Kamat,
Age: 60 years, Occ: Engineer & Agriculture,

R/o: Karant Building Near Basel Mission
High School, Dharwad, Dist: Dharwad.

4) Smt. Sukanya W/o Vishwanath Haveri,
Age: 85 years, Occ: Household work,
R/o: C/o: R.V. Haveri, House No.7,
Adveesh Krupa, Koppadakeri,
Dharwad.

5) Smt. Bharati W/o Rajendra Ijery,
Age: 70 years, Occ: Household work,
R/o: C/o: Rajendra Sangappa Ijery,
Station Road, Near Remand Home,
Vijayapur,

6) Smt. Kalavati W/o Adivappa Valasang,
Age: 75 years, Occ: Household work,
R/o: C/o: Rajendra Adivappa Valasang,
Guruvar Peth, Channamman Kittur,
Tq: Kittur, Dist: Belagavi.

7) Smt. Suvarna W/o Anand Prabhu Gadag,
Age: 62 years, Occ: Household work,
R/o: C/o: Plot No.125, Attikolla,
Dharwad.

8) Shri. Shabbir Ahamad Gous Saheb Bidi,
Age: 60 years, Occ: Agriculture,
R/o: Kittur Main Road, near KVG Bank,
Tq: Kittur, Dist: Belagavi.

.....Opponents/respondents

(R2 (a & c), R4 & R5-Absent)
(By Sri. B.B.H., Advocate for R6)
(By Sri. S.M.M., Advocate for R8)
(For steps to R1, R2(b), R3 & R7)

i	Provision under which the application is filed	U/o XXXIX Rule-1 and 2 R/w Sec.151 of CPC
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ii	Relief sought for	Restraining the respondent No.8 from alienating the suit property bearing Sy. No.55/1 of Kittur village, pending disposal of the appeal.
iii	The date on which the application is filed	19-12-2025
iv	Number of the application	IA No.I
v	The date on which the objections are filed by the opponent	14-01-2026
vi	The date on which the orders were passed on the said application	28-03-2026

ORDER ON IA No.I

The appellants have filed this application under Order XXXIX Rule 1 and 2 R/w Section 151 of CPC seeking temporary injunction restraining the respondent No.8 from alienating the suit property bearing Sy. No.55/1 of Kittur village, pending disposal of the appeal.

2. In the affidavit filed in support of the application, the appellant No.2 has stated that the contents of the appeal memo may be treated as part and parcel of the affidavit. It is specifically contended that the suit property was the subject matter of dispute in the original suit and during the pendency of the said suit, defendant No.1 is alleged to have alienated the property in favour of defendant No.3, and thereafter,

respondent No.8 claims to have derived title through defendant No.3. It is further contended that such transactions have taken place during pendency of the suit and at its fag end stage, with an intention to defeat the lawful rights of the appellants. According to the appellants, respondent No.8 his now attempting to further alienate suit property to third parties, it would seriously prejudice their rights and complicated subject matter of the appeal. It is further averred that the appellants have a strong case on merits and there is every likelihood of success in the appeal. If the respondent No.8 is not restrained from alienating the suit property, the very purpose of filing the appeal would be frustrated and the appellants would be put to irreparable loss and hardship. On the contrary, no prejudice would be caused to the respondent if the injunction is granted. Hence, they prays for allowing the application.

3. Respondent No.8 has filed detailed objections denying the averments made in the application, as well as affidavit filed in support of the application. It is contended that he his the lawful purchaser of the suit property, having purchased the same from defendant No.3 under a registered sale deed. It is further contended that defendant No.3 had earlier purchased the property from defendant No.1 under a registered

sale deed dated 15-07-2011. It is contended that the name of respondent No.8 has duly entered in the revenue records and the mutation entries have been certified, and he is in actual physical possession of the suit property. It is further contended that at the time of purchase by defendant No.3, there was no encumbrance reflected in the revenue records and no knowledge of pending litigation. It is further contended that the suit property was originally allotted to defendant No.1 under a registered partition deed of the year 1955, and no challenge was raised for several decades. The appellants have not produced any documents to show their possession, cultivation, or payment of land revenue. Their claim is based on alleged unregistered arrangements and is not supported by any credible evidence. It is also contended that the respondent No.8 is a bona fide purchaser for value and that any transfer during the pendency of litigation is protected under Section 52 of the Transfer of Property Act, and therefore the application is not maintainable. Hence, he prays for dismissal of the application.

4. Heard both sides and perused the material available on record.

5. In view of the above rival contentions and

submissions of both the parties, the following points arise for consideration:

POINTS

- 1) Whether the appellants have made out a prima facie case ?
 - 2) Whether the balance of convenience lies in favour of the appellants ?
 - 3) Whether the appellants would suffer irreparable injury if injunction is not granted ?
 - 4) What order?
6. My findings to the above points are as under:

Point No.1: In the Affirmative

Point No.2: In the Affirmative

Point No.3: In the Affirmative

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

REASONS

7. **Point Nos.1 to 3:-** This Court has carefully considered the rival contention and material available on record. The material available on record disclose that it is not in dispute the suit property is subject matter of litigation and that certain alienation have taken place

during the pendency of the suit. The specific allegation of the appellants is that defendant No.1 and thereafter defendant No.3 have transferred the property during the pendency of the proceedings, and now respondent No.8 is attempting further alienation.

8. At this interlocutory stage, the Court is not required to recalled a finding on title, however, the material placed on record indicates that the property Sy No.55/1 is in dispute and the rights of the parties are yet to be finally adjudicated in the appeal. The facts that successive transfer have taken place during the pendency of litigation prima facie creates a cloud over the title and necessitates protection of the property. Therefore, this Court is of the opinion that the appellants have made out a prima facie case requiring protection of the suit property.

9. The balance of convenience is concerned, if respondent No.8 is permitted to further alienate the property, it would lead to multiplicity of proceedings and creation of third party interests which would complicate the adjudication of the rights in the appeal. On the other hand, if an order of injunction is granted, respondent No.8 would only be temporarily restrained from alienating the property and no irreversible prejudice would be caused to him. Thus, the balance of

convenience lies in favour of preserving the property in its present form until disposal of the appeal.

10. As per as the irreparable injury is concerned if the property is alienated to third parties, appellants would be compelled to initiate further litigation and their rights, if ultimately established, would be seriously prejudiced. Such injury cannot be adequately compensated in terms of money. Though the doctrine of *lis pendens* applies, it does not prevent transfer but only makes it subject to the result of the litigation. However, to avoid multiplicity of proceedings and to safeguard the subject matter of the appeal, it is just and necessary to grant an order of injunction. In view of above discussion, this Court is of the considered opinion that the appellants have established a prima faice case, balance of convenience and likelihood of irreparable injury. Hence, the application deserves to be allowed. Accordingly, point Nos.1 to 3 are answered in the Affirmative.

11. **Point No.4:-** For the findings and discussion made on the above point Nos.1 to 3, this Court deems it fit to pass the following:

ORDER

IA.No.I filed by the appellants under Order XXXIX Rule 1 and 2 R/w Section 151 of C.P.C. is hereby Allowed.

The respondent No.8 is hereby restrained from alienating the suit property bearing Sy. No.55/1 of Kittur village, pending disposal of the appeal.

No order as to cost.

(Dictated to the stenographer, transcribed by him, corrected by me, signed and pronounced in the open Court on this 28th Day of March, 2026)

(Ravi Babu Chawan)
Senior Civil Judge, Bailhongal.

