

**ORDER ON IA No.V & VI**

The present application is filed by the plaintiff U/o 39 rule 1 and 2 of CPC seeking exparte Temporary Injunction to restrain the defendant from alienating the suit schedule property and interfere with

the possession of the plaintiff over the suit properties.

**2.** The plaintiff has filed the present suit seeking relief of declaration that he is the owner of the suit property by virtue of sale deed date 21.06.1962 executed in favour of his father. The plaintiff contended that RS No.277 totally measuring 25 acres 23 guntas. The original owners of the said properties were Veerappa Gurappa Gotadaki, Mallappa Veerappa Gotadaki residents of Hanabaratti. The said person sold the suit survey number to different person through registered sale deed dated 29.04.1957. One Lakkappa Ningappa Inchal has purchased 4 acres through registered sale deed dated 29.04.1957 and his name has been mutated as per MR No.2062. Thereafter the said person has included his brother Yallappa Ningappa Inchal, his name also mutated as per MR No.2996. The said Lakkappa has sold 2 acres in favour of one Babu Bhimappa Govi, the same has entered as per mutation No.3138. Thereafter, deceased Lakkappa Ningappa Inchal and defendant

No.1 to 3 has created false document and by giving false information has filed application for temporary phody. The suit property is in possession of the plaintiff. One Doddayallappa Ramappa Jagad has sold the suit property i.e. 2 acre to the plaintiff father through registered sale deed dated 21.06.1962. The defendant No.1 to 3 by giving false information has got temporary phody and has obtained separate RTC, which is against law and the said act is not binding on the plaintiff. The plaintiff has sought exparte temporary injunction to restrain the defendant from alienating the suit property and interfere with the possession of the plaintiff over the suit properties.

**3.** The plaintiff in support of his contention relied on RTCs bearing No.277/1, 277/2, 277/3, mutation, sale deed dated 21.06.1962 and sale deeds dated 29.04.1957 and sale deed of the year 1961, mutation and survey sketch. According to plaintiff, the plaintiff is in possession of the suit schedule property and he is the owner of the said property by

virtue of the sale deed dated 21.06.1962. It is pertinent to note that according to the plaintiff, the total extent of RS No.277 is measuring 25 acres 23 guntas. There were many sale deeds executed on 29.04.1957 by the owners in respect of the suit survey number 277. The plaintiff father claim to have purchased the suit property in the year 1962 through registered sale deed. According to the plaintiff one Lakkappa Ningappa Inchal purchased the portion of property in RS No.277 on 29.04.1957. It appears that, the mutation detailed in the plaint shown of the year 1977, 2001, 2003, 1995. The name of the plaintiff has not been mutated in the RTC. Now after more than 40 years, the present suit is filed seeking declaration. The plaintiff relied on the sale deed of the year 1961 and 1962 to show that his father has purchased the property in the R.S.No.277 and he is in possession of the property mentioned in the said sale deed. The defendant has created RTC. The boundaries mentioned in the suit schedule is the same boundaries mentioned in the sale deed. Admittedly, the name has not mutated in the name of the

father of the plaintiff. Whether the suit property is the same property purchased through sale deed of the year 1962 is a matter of trial. At this stage the plaintiff only has made out grounds in respect of I.A.No.V to grant the relief of exparte temporary injunction restraining the defendant no.1 from alienating the suit schedule property. So far as I.A.No.VI is concerned regarding restraining the defendant No.1 to 6 from interfering with the possession is concerned, I am of the opinion that it is necessary to hear the other side before passing any order on I.A.No.VI. Hence, the following:

### **ORDER**

The IA No.V filed by the plaintiff U/o 39 rule 1 & 2 of CPC is hereby allowed.

The defendant No.1 is hereby restrained from alienating suit schedule property till next date of hearing

The Plaintiff is hereby directed to comply the provisions of Order 39 Rule 3 (a) and (b) of CPC.

Issue suit summons to defendant and emergent notice on IA No.V and VI to the Defendants.

R/by 04-06-2026

Sd/-

**I Addl. Civil Judge and JMFC  
Bailahongal.**