

KABG700001792018



IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C., KHANAPUR

AT : KHANAPUR.

PRESENT

**Shri.Chandrashekhar Yallappa Talawar,
B.A.,LL.B.(Spl),
Senior Civil Judge and JMFC,
Khanapur.**

Original Suit No.39/2018

Dated this the 16th day of February, 2026

Plaintiff:-

1. Shri. Prakash S/o Ramchandra Babshet.

//V/s//

Defendants:-

1. Smt. Shobha Wd/o. Narayan Babshet.
and others.

I.A.No.V

Applicants/Defendants:-

D. 19. Shri. Rajendra s/o. Mahadev Babshet.

D. 20. Shri. Dilip S/o. Mahadev Babshet.

D. 21. Smt. Nuatn W/o. Praful Nakadi.

D. 22. Shri. Sanjay S/o. Mahadev Babshet.

(By Smt. RMH, Advocate)

//N/s//

Opponent/Plaintiff:-

1. Shri. Prakash S/o Ramchandra Babshet and others

(By Shri.VNP, Advocate)

ORDER ON I.A.No.V

The applicants/defendants No.19 to 22 have filed this I.A. U/O 39 Rules 1 and 2 R/w Section 151 of CPC praying to restrain the defendants No.2 to 17, their agents, servants, representatives or anybody acting on their behalf from alienating, transferring, encumbering, changing the records and disposing off the suit properties till disposal of the suit.

2) In the annexed affidavit, it has stated that, the defendants of the counter claim who are original plaintiff and remaining defendants in the suit are acting at the instigation of some of the ill-wishers of our family. To defeat the counter claim, they are trying to create transfer of valuable portions of the suit properties describe in the counter claim as well as shown in schedule A annexed to the suit plaint as suit properties, in

favour of third parties and also are trying to get the revenue and panchayat records of the suit properties changed and to encumber those suit properties so as to cause hurdles in smooth disposal of the suit and counter claim.

3) It is further stated that, when we learnt that they have indulged in such illegal acts, they have approached the concerned authorities with a request not to change the records and not to registered the transfer deeds. However, those authorities are not ready to entertain their claim saying that they have to obtain orders from competent court.

4) It is further states that, the defendants of the counter claim in order to frustrate the purpose of filing of the suit and to create multiplicity of litigation and complications and with the defendants of the counter claim create any transfer deeds or alienate or encumber the suit properties in any manner whatsoever during the pendency of the suit, the purpose of filing of the counter claim will be frustrated and they will be put

the heavy and irreparable loss and hardship which cannot be compensated hence prayed to allow the application.

5) The plaintiff has filed objection to IA No.V contending that, the plaintiff is making attempt to create transfer of the suit properties or portion of the suit properties and trying to change the revenue records and encumbrance etc., is all are false, frivolous and far away from truth. The plaintiff has filed this suit seeking his legitimate share in the suit schedule A properties only i.e., agricultural land bearing RS No.77, RS No.78, RS No.80 and RS No.106 situated at Golihalli and Beedi village. However, the properties which are described by the defendant No.19 to 22, in their counter claim are not the subject matter to claim a share by this plaintiff. Hence, question of the plaintiff transferring the property or changing the records does not arise at all. Since, this plaintiff a law abiding person even number of occasion made sincere efforts to settle the matter once for all but by one or other reason at the instance of defendant No.19 to 22, dragged on the matter till today. However, though the

defendant No.19 to 22 filed their counter claim, this plaintiff and other defendant No.2 to 17 are also made sincere efforts to settle the disputes. Hence, the question of alienating or transferring the properties with an intention to defeat the right of defendant No.19 to 22, does not arise at all. Since, there was no any financial difficulty to transfer the property as contended by the present counter claimer does not arise at all. Hence, the reasons assigned by the defendant No.19 to 22 is totally imaginary one and there is no iota of evidence is produced by these counter claimer in order to get a relief from this Hon'ble court.

6) Further, the plaintiff has contended that, the matter is coming up for evidence and settlement since 2018 i.e., after a period of 6 years neither plaintiff nor defendant No.2 to 17 threatened to alienate the property to a stranger or neither made any attempt to change the records. Hence, absolutely no cause of action as such arose to file such false and frivolous application which is totally frivolous one hence, the plaintiff has

not made a prima-facie case and the balance of convenience is not lies in favour of defendant No.19 to 22. hence, the plaintiff prayed for dismissal of the IA No.V with costs.

7) On the basis of the said rival contentions, the following points arise for consideration:-

- 1. Whether the defendant No.19 to 22 have made out a prima facie case ?**
- 2. Whether the balance of convenience lies in favour of the defendant No.19 to 22 ?**
- 3. Whether the defendant No.19 to 22 will be put to irreparable loss, if an order of temporary injunction is not granted in their favour ?**
- 4. What order ?**

8) Heard the arguments. Perused the entire materials placed on record.

9) The findings on 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

10) **Points No.1 to 3:-** All these points are interconnected with each other. So they are taken up together for common discussion to avoid repetition of facts.

11) The plaintiff has filed this suit for partition and separate possession against the defendants. The defendant No.19 to 22 have filed the present application along with counter claim and prays to pass an ad-interim ex-parte order of temporary injunction restraining the defendants No.2 to 17, their agents, servants, representatives or anybody acting on their behalf from alienating, transferring, encumbering, changing the records and disposing off the suit properties till disposal of the suit.

12) The counsel for the defendant No.19 to 22 put forth his argument that, to defeat the counter claim, the defendant No.2 to 17 are trying to create transfer of valuable portions of the suit properties described in the counter claim as well as shown in the schedule A annexed to the suit plaint in favour of third

parties. If the injunction is not granted as prayed, they will be put to irreparable loss, which cannot be compensated in terms of money.

13) The counsel for the plaintiff/opponent put forth his argument that the properties which are described by defendant No.19 to 22 in their counter claim are not the subject matter to claim a share by this plaintiff. Hence, question of the plaintiff transferring the suit property or changing records does not arise at all. Hence prayed to reject the application.

14) Looking to the facts and circumstances of the case, the main grievance of the defendant No.19 to 22 is that to defeat the counter claim the defendant No.2 to 17 they are trying to create transfer of valuable portions of the suit properties described in the counter claim as well as shown in schedule A annexed to the suit plaint as suit properties in favour of third parties and also are trying to get the revenue and Panchayat records of the suit properties changed and to encumber those suit properties, even though the suit properties are belong to

the family of the plaintiff and defendants. The main aim of a temporary injunction in a partition suit is to prevent any party from dispossessing of, transferring, or creating encumbrances on the joint family property while the legal proceedings are ongoing. This ensures that the final decision of the Court regarding the properties division is not rendered ineffective or prejudiced by any action taken by a party during the suit. The main contention of the plaintiff is that the suit properties are belongs to the family of the plaintiff and defendants and the defendants No.19 to 22 are having share in the suit properties. The main dispute between the parties can be looked into at the time of full dressed trial. In the instant case, the defendant No .2 to 17 also not undertaking that they will not transfer by way of sale, gift, mortgage, encumbrance of the property in question. Hence, the defendant No.19 to 22 have made out a prima facie case and the balance of convenience lies in favour of the defendant No.19 to 22. If the temporary injunction is not

granted, the defendant No.19 to 22 will be put to great loss and hardship rather than the defendant No.2 to 17.

15) It is pre-trial stage, it is unsafe to decide about the rights of the parties and moreover, after discussing elaborately the above Points No.1 to 3, this Court is of the opinion that the defendant No.19 to 22 have made out a prima facie case and the balance of convenience lies in favour of the defendant No.19 to 22. If the temporary injunction is not granted, the defendant No.19 to 22 will be put to great loss and hardship rather than the defendant No.2 to 17. Hence, I answer **Points No.1 to 3 in the affirmative.**

16) **Point No.4:-** In view of my findings on points No.1 to 3, I proceed to pass the following...

ORDER

**The I.A.No.V filed by the
plaintiff/applicant U/O 39 Rules 1 and 2
R/w Section 151 of CPC is hereby
allowed.**

**The defendant No.2 to 17 are hereby
restrained temporarily from alienating,
transferring, encumbering changing the
records and disposing of the suit
properties described in the counter claim
as well as shown in schedule-A annexed
to the suit plaint as suit properties in any
manner till disposal of the suit.**

Parties to bear their own costs.

*[Dictated to the Stenographer directly on Computer, the same is revised and corrected
by me and then pronounced in the Open Court on this the 16th day of February, 2026].*

**(Chandrashekhar Yallappa Talawar)
Senior Civil Judge & JMFC,
Khanapur.**