



**IN THE COURT OF THE II-ADDL. SENIOR CIVIL JUDGE AT :
BALLARI. SITTING AT SIRUGUPPA**

Present : **Smt. PRIYANKA. T. K.**
B.A. LLB. (Spl)
II Addl. Senior Civil Judge, Ballari.
Sitting at Siruguppa.

Original Suit No.79 of 2024

Dated this the 5th day of June, 2026

Plaintiff/Petitioner : S. Mallikarjuna Gouda.

Vs.

Defendants/Respondents : Mahanandi Gouda & Others.

**Order on I.A. No.2 filed under Order 39 Rule 1 & 2 R/w
Sections 94 & 151 of CPC**

The plaintiffs have filed application to grant an Ad interim order of temporary injunction restraining the defendant no.1 & 3, their men, agents, servants and all such other persons claiming interest through them from alienating the suit schedule properties to any third parties in any manner whatsoever till the disposal of the suit, which would metes and the ends of justice.

2. Along with the application, plaintiff has filed affidavit.
3. On the other hand, the learned counsel for defendants have adopted the written statement filed by them as objections to I.A.

4. Heard the arguments and perused materials available on record.

5. Points that would arise for final determination of this application are as follows.

1. *Whether the plaintiff has made out prima facie case ?*
2. *In whose favour balance of convenience lies ?*
3. *Whether the plaintiff proves that, irreparable loss and hardship to be caused to him if the temporary injunction order has not been granted ?*
4. *What Order ?*

6. On appreciation of the available materials placed by both the parties, at this premature stage, I answered the above points as follows.

- 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 No.1 to 3** :- These three points are taken together for common discussion in order to avoid repetition of similar aspects.

8. Along with the application, plaintiff has filed affidavit stating that, plaintiffs have filed suit against the defendants for declaration and injunction of suit schedule properties. He contended that, the suit properties and other properties are owned by his father during his life time by virtue of family partition and after demise of his father, himself, his mother and his brother defendant No.1 have

entered into partition deed on 27.07.2011 and accordingly the suit properties and a house property allotted to his share as 'B' schedule of the said partition deed and since then he is in peaceful possession and over the suit properties as absolute owner without anybody's obstruction or interference. Recently, he learnt that, the defendant No.1, who is his brother has got allotted 'C' schedule properties of the said partition deed, the defendant No.1 without having any right, title and interest in and over the suit properties, which are fallen to his share, behind his back and without his consent and knowledge, has made illegal transfer in favour of his 2nd wife defendant No.3 by way of two separate Registered Gift Deeds in respect of the item No.1 and 2 of the suit schedule properties, and thereafter on the basis of the said registered gift deeds and other revenue documents in the name of the defendant no.1 & 3, they have made illegal interference with my peaceful possession and enjoyment over the suit properties and in-spite of several requests made by him, the defendant No.1 & 3 have refused to cancel the said gift deeds towards the item No.1 and 2 of the suit properties which are belongs to him through the above said partition deed and with great difficulty he has resisted the illegal highhanded acts of the defendant No.1 & 3 in their illegal interference and due to apprehension of their illegal efforts, He has approached the jurisdictional police of Sirigeri Police Station to lodge complaint, but the said police have advised him to approach competent court as the matter is Civil in nature, hence he has filed the above suit against the defendants seeking declaration and permanent injunction. Since, the defendants No.1 & 3 taking the

advantage of the alleged gift deeds and other revenue documents, are making hectic efforts to alienate the suit properties to the third parties to create multiplicity of proceedings. Hence this application is filed.

9. On the other hand, the counsel for defendant No.1 & 3 has filed memo adopting the written statement of defendant no.1 & 3 as objection to said I.A. In the written statement he contended that, the plaintiff has filed the suit for the relief of declaration and injunction. The defendants have denied the entire plaint averments and contended that, the defendant No.1 and plaintiff are brothers and their parents by name Reddy Pompana Gouda and Smt. Gouramma having 7 children by names **1.** Mallikarjuna Gouda (Plaintiff), **2.** Vishalakshi, **3.** Parvathi, **4.** Siddamma, **5.** Nirmala, **6.** Rajeshwari and **7.** Mahanandi Gouda (defendant No.1). During the life time of said Pompanagouda was making partition through registered partition deed bearing Document No.2732/1972-73, dated 30.12.1972 in the said partition allotted 1/3rd share, i.e., one share got Pompanagouda, one share got plaintiff and one share got defendant No.1 since they are in peaceful possession and enjoyment till today. As per the family partition this defendant had totally got 56.71 acres on various Sy.Nos. As per the partition deed this defendant is in possession and enjoyment of the same. This defendant is having two wives **1.** Smt. Shanthala @ Siddalingamma (defendant No.2) and **3.** Smt. Sreedevi (defendant No.3), due to the differences of the defendant No.1 & 2, they are living separately and the defendant No.2 has filed CrI.M.C. No.70/2009-10 on the file the Civil Judge and JMFC, Siruguppa and she has filed partition suit

in O.S. No.61/2012 on the file of Civil Judge and JMFC, Siruguppa. Therefore, on the advise of the elders and well wishers compromise the above matter before the Lok Adalath Siruguppa vide dated 11.04.2015. As per the compromise decree the defendant has issued share of the defendant No.2 and her two daughters bearing Sy.No.68/2 measuring 3-00 each acres, out of 11-79 acres, they are mutated the said land in their names and they are in peaceful possession and enjoyment till today. Further submits that, the defendant No.2 has sold out the land bearing Sy.No.68/2, measuring 3-00 acres in favour of the defendant No.3, through registered sale deed bearing document No.2041/2020-21 till to this day the defendant No.3 is in possession and enjoyment of the same. This defendant No.1 has executed Gift Deed bearing Document No.SRG-1-07578/2018-19 dated 23.03.2014 to the defendant No.3, she got mutated the said property in her name bearing M.R.No.H-27/2018-19, dated 29-04-2019 and defendant No.3 is in possession and enjoyment of the same till today and her name has been forthcoming in the ROR. The plaintiff has no right, title and interest over the suit property, the said properties are allotted to this defendant only and this defendant has gifted to his wives, the plaintiff has only intention to grab suit schedule property and only with an intention to torture to the defendants and he is having money and muscles and political influence and threatened this defendant, but the plaintiff is no way connection to the said properties. The plaintiff is using money and muscle power to encroaching the defendants property. There is no question to encroaching the suit property by the defendants and there is no

quarrel between the plaintiff and defendants. Hence prayed to reject the said application.

11. By going through the plaint averments and affidavit, and documents on record, plaintiff avers that, the defendants have no any right, title and interest over the suit schedule properties they tried to alienate the same to the 3rd parties and interfering into the suit schedule property. On the other hand, the defendants have submits that the suit schedule properties are the ancestral properties, he is the Hindu joint family member, the plaintiff, defendant no.1 and their mother have got divided their family properties by way of unregistered partition deed dated 27.07.2011.

12. The documents relied by the plaintiffs are unregistered partition deed, RORs, mutations extracts, git deeds, sale deeds and Form No.5.

13. On the other hand, the defendants have not produced any documents on their behalf.

14. Even though the rights of the parties have to be adjudicated and still the rights are under the question. Hence the Court is of the opinion that if the injunction is granted no hardship will be caused to defendants, to avoid multiplicity of the proceedings injunction is necessary.

15. Hence at this juncture plaintiff have made out prima-facie ground to grant temporary injunction, balance of convenience lies with plaintiff, hence there is no irreparable loss cause to the defendant if temporary injunction is granted, at this juncture. Still the rights of the parties has to be adjudicated and still the rights are under the question and also evidence is necessary to know

about the rights of parties. When such is a circumstances if temporary injunction is granted no hardship will be caused to defendants.

16. Evidence is necessary to throw light in order to come to the fair conclusion for final determination of the case. Hence at this juncture, court is of the view that, it is necessary to check out further by the evidence and by further proceedings of the case. As such, prime-facie case has been made out. Automatically balance of convenience also lies in favour of the plaintiff.

17. With respect to the third factual aspect of irreparable loss and hardship is concerned, the plaintiff herein through this suit seeking declaration and permanent injunction against the defendant. As already discussed supra with respect to attempt to alienate the suit schedule property is crucial point to be tested after completion of the evidence of both the parties. Hence to avoid multiplicity of proceedings, it is apt herein to grant temporary injunction order. Though the relief of injunction is based on the exercise of the discretion by courts, which cannot be lightly inferred and the said discretion is to be reasonable and to do justice to the parties. Existence of prima-facie case alone is not the sole criteria for issuance of Temporary Injunction order. The facts of each case must be examined to decide whether an injunction order would be granted or not.

18. In the light of the aforesaid discussion, I am of the view that, the object of interim injunction is to be keep things in statuesque. So that, if at the hearing, when the plaintiff obtained judgment in his favor the defendants will be in the meanwhile have to be

prevented from dealing with the property in such way as to make that judgment in effectual. An order of Temporary Injunction has not to alienate the suit schedule property whenever the question of law or fact to be ultimately determined in a suit, is grave and different and the injury likely to be caused to the party moving for injunction will be imminent and certain and grant hardship will be caused, if relief is denied. The party seeking the aid of the Court must satisfy that, there is a serious question to be determined. By keeping in mind all these aspects, I am of the view that, on taking birds eye-view towards the entire facts and circumstances of the case, it is apt herein to direct both the parties not to alienate the suit schedule property as it leads to multiplicity of proceedings of the suit schedule property. **Accordingly, Point No.1 to 3 are answered in the Affirmative.**

19. Point No.4 :- In view of the discussions made above on Point No.1 to 3, I proceed to pass the following.

ORDER

I.A No.2 filed by the plaintiff under Order 39 Rule 1 and 2 R/w Section 151 of CPC, is hereby allowed.

Consequently, defendants are directed not to alienate the suit schedule properties to the third parties till the next order of the Court.

No order as to cost.

(Dictated to the stenographer directly on computer, corrected by me and signed and then pronounced in the open Court on 5th day of June, 2026)

PRIYANKA T. K.

II Addl. Sr. Civil Judge, Ballari.

Sitting at Siruguppa.