

**IN THE COURT OF THE CIVIL JUDGE AND JMFC,
SIRUGUPPA.**

Present: **Ashok R H**
Civil Judge & J.M.F.C.,
Siruguppa.

Dated this the 18th day of June, 2026

O.S.No.256/2024

PLAINTIFFS: B Peersab and others

//Vs//

DEFENDANTS: Shekanna and others

PARTIES TO I.A.NO.II

Petitioner/Ori.Plaintiff: B Peersab and others

V/s.

Respondents/Ori.Defendant: B Peersab and others

ORDERS ON I.A.NO.II

The Plaintiffs have filed this application under Order 39 Rules 1 and 2 R/w Section 151 of the Code of Civil Procedure, 1908 seeking an order of temporary injunction restraining the defendants from alienating the suit schedule properties, pending disposal of the suit.

2. The case of the plaintiff in brief is this:

One Hussain sab alias Sanna Hussain sab and Peeramma had 4 sons namely Saibanna, B. Peersab , Nabi sab and Sanna Peersab. The defendants no. 1 to 5 are the legal representatives of Saibanna. B Peersab is the plaintiff no. 1. Nabi Sab is the defendant no. 6. Plaintiff no. 2 to 6 are the legal representatives of Sanna Persab. Hussain Sab alias Sanna Hussain Sab died about 30 years ago and his wife Peeramma died 2 years earlier to Sanna Hussain Sab. The mother of the plaintiff no. 1 namely Peeramma had purchased plaint schedule A property bearing land Survey No. 401 Part measuring 6.94 acres under a registered sale deed dated 03.05.1954. She had also purchased plaint Schedule B property bearing Survey No. 402 part measuring 3.72 acres under the sale deed dated 03.05.1954. The possession of the said properties were delivered to the mother of the first plaintiff. After the death of the parents of the first plaintiff, the plaintiffs and defendants continued in possession and enjoyment of the plaint

schedule properties. The defendant no. 6 was managing the plaint schedule properties and the income of the properties were being divided equally in four parts. It is alleged that the defendant no. 6 and defendant no. 7 illegally got mutated the plaint schedule A property in their names and the defendant no. 6 has created an illegal partition deed in the names of his sons i.e. the defendant no. 8 and 9 on 29.09.2016. The defendant no. 6 and 7 and their children had no exclusive rights over the plaint schedule properties. It is further alleged that the defendant no. 6 and deceased Saibanna illegally got mutated their names in respect of plaint schedule B property behind the back of the plaintiffs. It is contented that admittedly, Peeramma had purchased plaint schedule A and B properties under the registered sale deeds. Inam Abolition Act was introduced in the year 1977 and its Rules in the year 1979 and provisions were amended in the year 1984. As such, one of the sons of Peeramma i.e. defendant no. 6 applied for abolition of

inam as he was managing the properties. Form No. II was issued in the name of Defendant no. 6. At the time of purchase of land by Peeramma in the year 1954, they were inam lands. The defendant no. 6 is not the absolute owner of the properties. There is no partition in between the children of Peeramma during her lifetime or after her death. All the children of Peeramma are entitled for 1/4th share each in the plaint schedule properties. The plaintiffs are not ready to continue with the joint possession and enjoyment of the properties and have demanded their share, which the defendants have refused. Earlier the plaintiffs had filed OS No. 159 /2017 seeking relief of partition and separate possession. Due to formal defect, the said suit was withdrawn with liberty to file fresh suit, which was allowed by the court. Now, it is alleged that the defendants are trying to innate the suit properties. Hence the plaintiffs have filed this suit and have sought for interim orders. The plaintiff No.5, in the accompanying affidavit to I.A.No.I, has stated that

there exists a prima-facie case and balance of convenience lies in their favour and further that the plaintiffs would be put to irreparable loss and injury, if temporary injunction is not granted. On these grounds it is prayed to allow the application.

3. The defendant No.1 to 5 have appeared before the court and have objected IA No.II, wherein they have denied all the plaint averments. It is specifically contended that the plaintiffs have no locus standi to file this suit. The suit properties are self-acquired properties of defendant no. 1 and that of defendant no. 6. The suit properties are not joint stock of the family of the plaintiffs and defendants. The land bearing Sy. No 402 measuring 3 acre 72 cents and land bearing Sy No. No. 401 measuring 6 acre 95 cents situated at Balkundi Village were inam lands. The father of defendant no. 1 by name Saibanna and his brother Nabisab were cultivating the said lands as inamdars. In view of Abolition of certain Inams Act, the Government of Karnataka through

Tahasildar Siruguppa has granted the said inam lands in favour of said Saibanna and his brother Nabisab ie the defendant no. 6 herein. Certificate of grant in Form No. 2 was granted on 08.12.1993. In pursuance of the said order, the revenue authorities have sanctioned the mutations in favour of the grantees. The said brothers have partitioned the said lands amongst themselves. Land bearing Survey No. 402/ C measuring 1 acre 86 cents and Land bearing Survey No. 401/2 measuring 1 acre 74 cents came to be allotted to the share of Saibanna and accordingly the name of Saibanna came to be legally notified in the subsequent record of rights as owner and possessor of the said extent of land. After the death of Saibanna, his children who are the defendants no. 1 to 5, as his legal heirs have succeeded to the said land. The plaintiffs have filed false objections for the mutation. With these pleadings it is sought to dismiss the suit and reject the application.

4. Heard the learned counsels for the plaintiffs and defendant No.1 to 5. Perused the materials on record.

5. Based on the above contentions, the below points arise for consideration of this Court:

POINTS

1. Whether the plaintiffs prove that there exists a prima-facie case?

2. Whether the plaintiffs establish that the balance of convenience lies in their favour?

3. Whether the plaintiffs would be put to irreparable loss and injury, if temporary injunction were not to be granted?

4. What order?

6. Based on the available materials on record at this stage and the facts and circumstances of the case, this Court answers 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 the final order for the following ;-

REASONS

7. Point No.1: The three ingredients that are to be considered while granting or rejection of injunction are a) prima facie b) balance of convenience and c) the party who will be put to irreparable loss and injury if temporary injunction is not granted. Prima facie case means that the plaintiff's case is such that it needs adjudication on merits and that there is a bonafide triable issue. Plaintiff's case should not be such that it is liable to be rejected summarily. Further prima facie case does not mean cent percent case. Suffice to satisfy the court the existence of a triable issue.

8. The plaintiffs have filed this suit seeking the relief of partition contending that they are the heir of Peeramma who has purchased the suit properties and thus the plaintiffs have share in the suit properties. The defendant No.1 to 5 have denied the claim of the plaintiffs contending that the defendant No.1's father and his brother ie defendant No.6 had applied for grant of

inam lands which was allowed and that in a partition between them, the suit properties were allotted to the father of defendant No.1.

9. Looking into the documents produced by the plaintiffs, the copy of the 03.05.1954 shows that Peeramma W/o Sanna Hussain Sab had purchased land measuring 6.94 acres under a registered sale deed. There are also revenue entries in the name of Peeramma in the RORs. The said documents are in consonance with the plaint pleadings.

10. Now that the defendants contend that the father of defendant No.1 was granted the land. However the execution of sale deed in favor of the Peeramma is not in dispute. Whether the subsequent grant of land under the Inam abolition Act was made exclusively to the defendant No.1's father and defendant No.6 or to the family, is a question that requires consideration. The same is a triable issue. The validity of the partition entered between the father of defendant No.1 and the defendant No.6 is

also under dispute. The instant suit is for partition and separate possession. The contentions raised by the defendants and the plaintiffs are to be determined after a full fledged trial. The plaintiffs have apprehended that the defendants are trying to alienate the suit properties. The names of the defendants are entered in the revenue records. Under the light of the relief sought in the plaint and also the facts and circumstances, this court is of the opinion that there exists a bonafide triable issue. Thus, at this stage, it appears that the plaintiffs' case is not such that it is liable to be rejected summarily. Hence, this Court holds that, on overall examination of the case, at this stage, it appears that the plaintiffs have made out a prima facie case. Therefore, this court has answered **Point No.1 in the Affirmative.**

11 . Points No.2 & 3:- Balance of convenience means the comparative hardship or inconvenience that is likely to be caused from withholding the order of temporary injunction or granting it. In other words, if it is the

plaintiff who will be put to greater inconvenience if temporary injunction is not granted, the balance of convenience lies in favour of the plaintiff. If greater inconvenience is caused to the defendant if temporary injunction is granted, then the balance of convenience lies in favour of not granting temporary injunction.

12. When the plaintiffs have alleged that they have share in the suit properties and the defendants deny it, the likelihood that the defendants may alienate the suit schedule properties cannot be ruled out. If the defendants succeed in doing so in the absence of temporary injunction, the plaintiffs would be put to greater inconvenience and irreparable injury and hardship. Therefore, this Court is of the opinion that the plaintiffs have established that they would be put to irreparable loss or injury if injunction is not granted. For these reasons, this Court has answered **point No 2 and 3 are in the Affirmative.**

13. Point No.4 : In view of answer to point No.1 to 3 and for the reasons stated above, this court proceeds to pass the following;

ORDER

I.A.No.II filed by the plaintiffs under Order 39 Rule 1 & 2 R/w Section 94 and 151 of C.P.C is hereby allowed as here under:

The defendants their agents, servants, attorneys or anybody claiming through them are hereby temporarily restrained by an order of temporary injunction from alienating the suit properties in any manner, till disposal of the case.

(Typed by me, script corrected and then pronounced by me in the Open Court on this 18th day of June -2026).

(Ashok R H)
Civil Judge and JMFC,
Siruguppa.

Pronounced vide seperate

ORDER

I.A.No.II filed by the plaintiffs under Order 39 Rule 1 & 2 R/w Section 94 and 151 of C.P.C is hereby allowed as here under:

The defendants their agents, servants, attorneys or anybody claiming through them are hereby temporarily restrained by an order of temporary injunction from alienating the suit properties in any manner, till disposal of the case.

Compliance of S 89 and
O 10 CPC by 11.07.2026

Civil Judge and JMFC,
Siruguppa.