

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

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

Dated this the 14th day of October, 2025

O.S.No.223/2024

PLAINTIFFS: B.Rajeshwari and others

//Vs//

DEFENDANTS: B.Raghavendra and another

PARTIES TO I.A.NO.III

Petitioner/Ori.Plaintiffs: B.Rajeshwari and others

V/s.

Respondents/Defendants: B.Raghavendra and
another

ORDERS ON I.A.NO.I

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 defendant No.2 from alienating the suit schedule property, pending disposal of the suit.

2. The case of the plaintiffs in brief is this: The plaintiff No.1 is the wife, plaintiff No.2 and 3 are the

children of defendant No.1. They constitute Hindu Joint Family. The suit property is the ancestral joint family property of plaintiffs and defendant No.1. It is alleged that the defendant No.1 has illegally sold the suit property in favour of the defendant No.2 under the registered sale deed dated 06.06.2019. When the plaintiffs demanded the partition in the suit schedule property, the defendant No.1 proclaimed that he has sold the suit land without any necessity. Hence, the plaintiffs have filed this suit seeking the relief of partition and declaration that the sale deed executed by the defendant No.1 in favour of defendant No.2 is null and void. The plaintiff, in the accompanying affidavit to I.A.No.I, has stated that there exists a prima-facie case and balance of convenience lies in his favour and further that they 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.2 has resisted the suit as well as application. He has denied the entire case of the plaint. It is specifically contended that the valuation of the suit is not correct. The plaintiffs are aware of the execution of the sale deed dated 20.05.2019. The suit has been filed after the lapse of 5 years. The suit property is the absolute property of Bhatta Chandrashekar. He died

leaving behind the defendant No.1 and three others. The defendant No.1 has got mutated the suit property in his name. The suit property is not a joint family property. The daughters of the deceased Bhatta Chandrashekar have also signed the sale deed executed by defendant No.1 in favour of defendant No.2. The defendant No.2 has lawfully purchased the suit property. The suit is bad for partial partition. The defendant is a bonafide purchaser. On these grounds, it is prayed to reject the IA No.I.

4. Heard the learned counsels for the plaintiffs and defendant No.2. 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. In support of the plaintiff's case, the plaintiffs have produced the copy of the sale-deed dated 07.09.2007, sale-deed dated 20.05.2019, MR and RTCs.

9. The plaintiffs have specifically contended that the suit property is a joint family property. The defendant No.2 has contended that he has purchased the suit property. On perusal of the documents, it is seen that originally the suit property was purchased by defendant No.1's father. Subsequently, the defendant No.1 has sold the suit property in favour of defendant No.2 under the registered sale deed. Mutation has also been effected. Under such circumstances, the questions regarding the nature of the suit property, the absolute rights of the defendant No.1 over the suit property to execute the sale-deed, the legal necessity, the binding nature of the sale deed on the plaintiffs and such other questions are to be decided after full fledged trial. All the contentions raised by the defendants are also to be tried. At this stage, it appears that the plaintiffs case is not such fact that it is liable to be rejected summarily. 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. Hence, this Court holds that, the plaintiff has establish that on overall examination of the case, at this stage, it appears that the plaintiff has made out a prima facie case. Therefore, this court has answered **Point No.1 in the Affirmative.**

10. **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.

11. When the plaintiffs have filed this suit seeking the relief of partition and admittedly the defendant No.2 claims his exclusive rights over the suit property, the likelihood that the defendant No.2 may alienate the suit property cannot be over ruled. The defendant No.2 if succeeds in doing so, there would be multiplicity of proceedings and it is the plaintiffs who 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.**

12. 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.I filed by the plaintiffs under Order 39 Rule 1 & 2 R/w Section 151 of C.P.C is hereby allowed as here under:

The defendant No.2 is hereby temporarily restrained by an order of temporary injunction from alienating the suit property in any manner, till further orders.

(Dictated to the stenographer, transcribed and typed by him, script corrected and then pronounced by me in the Open Court on this 14th day of October -2025).

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