

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

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

Dated this the 20th day of September, 2025

O.S.No.300/2024

PLAINTIFF: Vali Sab

//Vs//

DEFENDANTS: Belagallu Mabusab

PARTIES TO I.A.NO.III

Petitioner/Ori.Plaintiff: Vali Sab

V/s.

Respondents/Ori.Defendant: Belagallu Mabusab

ORDERS ON I.A.NO.III

The Plaintiff has 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.1(a) to 1(d) from alienating the suit schedule property, pending disposal of the suit.

2. The case of the plaintiff in brief is this: The father of plaintiff and defendant by name Khaja Sab had

acquired the suit property. He was in possession of the same. He died leaving behind the plaintiff and the deceased defendant. It is alleged that the defendant had given false information before revenue authorities stating that he is the only son of Khaja Sab and had got the mutation. It is alleged that the plaintiff has got half share in the suit property. Hence the plaintiff has filed this suit and has sought for interim orders. The plaintiff, in the accompanying affidavit to I.A.No.III, has stated that there exists a prima-facie case and balance of convenience lies in his favour and further that he 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 has died. His LRs are brought on record and they have resisted the application. They have denied the case of the plaintiff. It is contended that originally land bearing Sy.No.20 measuring 7.56 acres belonged to one Reddy Veerabhadra Gouda. Subsequently, the surplus land ie., suit property was granted to Khaja Sab. Khaja Sab got mutated his name. Mabu Sab and Bibi are his children. BiBi has also died. The property was mutated in the name of Mabu Sab. After the death of Mabu Sab, the defendant No.1 (a) to 1(d) being his Lrs, have applied for mutation. The plaintiff had filed objections. The defendants are in

possession of the suit property. The plaintiff is making false claim. The plaintiff is not at all the son of Khaja Sab. On these grounds, it is prayed to dismiss the suit as well as IA No.I.

4. Heard the learned counsels for the plaintiff and defendants. Perused the materials on record.

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

POINTS

1. Whether the plaintiff proves that there exists a prima-facie case?
2. Whether the plaintiff establishes that the balance of convenience lies in his favour?
3. Whether the plaintiff 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:

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|------------|---|--|
| 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 plaintiff has filed this suit seeking the relief of partition. The defendants have denied the very relationship of the plaintiff with Khaja Sab.

9. Looking into the documents produced by the plaintiff, the RTC pertaining to the suit property is standing in the name of defendant No.1(a). The mutation has been effected recently. Earlier the property was standing in the name of Mabu Sab. Now that the plaintiff contends he is the son of Khaja Sab and that himself and Mabu Sab are brothers. The defendants contend that the plaintiff is a stranger.

10. Further, the plaintiff had opposed the mutation of

suit property in favor of the defendants. The plaintiff claims that he has share in the suit property. The same is a triable issue. The instant suit is for partition. The contentions raised by the plaintiff and defendants are to be determined after a full fledged trial. The plaintiff has also apprehended that the defendants are trying to alienate the suit property. 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 plaintiff's 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 plaintiff has 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 plaintiff has alleged that he has share in the suit property and the defendants deny the same, the likelihood that the defendant No.1(a) to (d) may alienate the suit schedule property cannot be ruled out. If the defendant No.1(a) in whose favour mutation is effected succeeds in doing so, in the absence of temporary injunction, the plaintiff would be put to greater inconvenience and irreparable injury and hardship. Therefore, this Court is of the opinion that the plaintiff has established that he 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.III filed by the plaintiff under Order 39 Rule 1 & 2 R/w Section 151 of C.P.C is hereby allowed as here under:

The defendant No.1(a) to (d) are 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 20th day of September -2025).

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