

IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC.,

HUNAGUND

Present:

Sri. Hanamantarao R.Kulkarni.,
B.Com., LL.B.,

Senior Civil Judge & JMFC., Hunagund.

O.S. No.647/2025

Dated this the 7th day of **March, 2026.**

1. Smt.Anila W/o Mahesh Math.

...Plaintiff

-Versus-

1. Smt.Girija W/o Sanganabasayya Mulimath and another.

... Defendants

I.A. No.II

1. Smt.Anila W/o Mahesh Math.

**...Applicant/
Plaintiff**

-Versus-

1. Smt.Girija W/o Sanganabasayya Mulimath and another.

**...Opponents/
Defendant no.1 and 2**

(By Sri.T.M.C., Advocate for the Plaintiff)

(By Sri.M.V.P., Advocate for the defendant no.1 and 2)

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ORDER ON I.A. NO. II

1. I.A.No.II is filed by the plaintiff under Order 39 Rules 1 and 2 of the Code of Civil Procedure, seeking to restrain the defendant no.1 and 2 or their men from alienating or transferring or creating any charge over the suit schedule B properties till the disposal of the suit.
2. The learned Counsel for the defendant no.1 and 2 has filed the written statement and he has filed memo that the contents of the written statement may be treated as statement of objections to I.A.No.II.
3. I have heard the learned Counsel for the plaintiff and the defendant no.1 and 2. The learned Counsel for the plaintiff has submitted written arguments. I have perused the same.
4. On perusal of the records of the case, the following points would emerge for my consideration:
 - 1) *Whether the plaintiff has made out a prima-facie case?*
 - 2) *Whether the balance of convenience tilts in favour of the plaintiff?*
 - 3) *Whether the plaintiff would be put to irreparable loss if the temporary injunction is not granted?*
 - 4) *To what order?*
5. My findings on the above points are as under:

1. in the affirmative.
2. in the affirmative.
3. in the affirmative.
4. As per final order for the following:

REASONS

6. **Point Nos.1 to 3:** I have taken these three points together for my common discussion as they are inter-linked with each other.
7. In an affidavit appended to I.A.No.II, it is stated by the plaintiff that the defendant no.1 and the defendant no.2 are the mother and daughter and the defendant no.1 is the wife of the plaintiff's brother. She has further stated that the suit schedule B properties are the joint family properties of the plaintiff and the defendants and there is no partition has taken place between the plaintiff and the defendants and now the defendant no.1 is in hurry to alienate the suit schedule B properties and if the defendant no.1 alienates the suit schedule B properties the plaintiff will be put to untold hardship which cannot be compensated in terms of money. Hence, the instant application.
8. The learned Counsel for the defendant no.1 and 2 has contended that the suit schedule B properties Sl.No.1 to 3 are the self acquired properties of the original propositus Basayya Shivasangayya Mulimath and the plaintiff and the defendants are not having any rights over these properties and she has further contended that the said propositus Basayya has executed a Will

deed in favour of the defendant no.2 through registered Will on 31/12/2024 and she has further contended that Sl.No.4 of the suit schedule B property is the joint family property and the plaintiff is having $\frac{1}{2}$ share in this property and accordingly, among other grounds prays to dismiss the application.

9. In view of the rival contentions put forth by both the parties, now, let me see as to whether the plaintiff has made out a prima facie case in her favour. It is pertinent to note that the defendant no.1 and 2 have contended that the suit schedule B properties Sl.No.1 to 3 properties are the self acquired properties of the propositus Basayya and he has executed a Will deed in favour of the defendant no.2. It is pertinent to note that whether the suit schedule B properties Sl.No.1 to 3 are the self acquired properties of the deceased Basayya or not is the question of trial and it cannot be said that the suit schedule B properties Sl.No.1 to 3 are the self acquired properties of the deceased Basayya. Further, the defendant no.1 and 2 have to prove that the propositus Basayya had a right to bequeath the properties to the defendant no.2 and the propositus Basayya has executed a Will deed in favour of the defendant no.2 beyond all the suspicious circumstances. Further, it is pertinent to note that at this stage if the defendant no.1 alienates the properties the plaintiff will be put to untold hardship which cannot be compensated in terms of money.

10. From the above discussion, it becomes clear that the plaintiff has established prima-facie case and the plaintiff is entitled to the equitable relief of temporary injunction and as such, the balance of convenience tilts in her favour in respect of the suit schedule B properties Sl.No.1 to 3 properties. Therefore, I have arrived at the conclusion of answering points No.1 to 3 in the affirmative.
11. **Point No.4:** In view of my discussion made supra, I proceed to pass the following:

ORDER

I.A.No.II filed by the plaintiff under Order 39 Rules 1 and 2 of the Code of Civil Procedure, is hereby allowed.

Consequently, issue temporary injunction restraining the defendant no.1 and 2 from alienating or transferring or creating any charge over the suit schedule B properties till the disposal of the suit.

Under the facts and circumstances of the case, no order as to costs.

(Directly I have typed on my laptop, corrected and then pronounced by me in the open Court on this the 7th day of **March, 2026**.)

(Hanamantarao R.Kulkarni)
Senior Civil Judge & JMFC,
Hunagund.