

IN THE COURT OF SENIOR CIVIL JUDGE & JMFC, BANAHATTI

**Present: Sri. ASHAPPA,
B.Com., LL.M.
Sr. Civil Judge & JMFC, Banahatti**

O.S No.127/2025

Dated this 06th day of March 2026

Plaintiffs:

Mallikarjun S/o Sogalappa Halli
and Others.

(By Sri. V.D.P. Adv)

// Vs //

Defendants:

Nagappa S/o: Gurupadappa Halli
and Others.

**(By Sri. B.M.A. Adv for D.2,
Sri. M.R.K. Adv for D.6 to D.8,
Sri. S.B.M. Adv for D.4 and D.1,
D.3 & D.5 placed ex-parte)**

I.A.No.I

Applicants/Plaintiffs:

Mallikarjun S/o: Sogalappa Halli
and Others.

//Vs//

Opponents/Defendants :

Nagappa S/o: Gurupadappa Halli
and Others.

Order on IA No.I

The plaintiffs have filed present IA, U/o-39 Rule 1 and 2 of CPC, with a prayer to grant of temporary injunction against defendant No.2, restraining him from alienating the suit land Sy.No.333/3 measuring 1 acres 04 guntas situated at Navalagi village, taluka Rabkavi-Banahatti.

2. IA supported with affidavit of plaintiff No.1, wherein it is stated that, they have filed suit for partition and separate possession. It is stated that, the defendant No.1 and 2 by suppressing the real facts illegally filed suit without impleading all necessary parties and compromised the case before Civil Judge and JMFC Banahatti, in OS No.6/2022. The said compromise decree is not binding on the rights of the plaintiffs.

3. It is stated that, on the strength of alleged compromise decree, the defendant No.2, illegally got entered his name in the records of rights of suit property and taking his name in the revenue records alienating the suit land to dupe the rights of the plaintiffs in the suit property. If the defendant No.2,

alienated the suit property, the purpose of filing of the suit will defeated and irreparable loss would be caused to the plaintiffs. The plaintiffs requested the defendants to allot their legitimate share in the suit land in presence of elders of the well wishers but the defendants denied the share of the plaintiffs in the suit land and therefore present suit along with IA No.I filed seeking interim order.

4. The defendant No.2 appeared through his counsel and filed written statement. Memo filed stating that, the contents of written statement are treated as objection to IA No.I. In the written statement, the averments of plaint are all categorically denied. It is stated that, the plaintiff has filed the suit without including all joint family properties of the parties to the suit. It is further stated there was oral partition has been taken place between the plaintiffs and defendants in the year 2000. It is stated, if the plaintiffs are not admitting the oral partition, then, they have to seek the partition in all family properties.

5. It is further stated that, as per ME No.5018, the suit property was standing in the name of one Gurulingappa and

others as joint family members and as per oral partition, the names of Gangappa Basappa Halli and others came to be entered in the records of rights. It is further stated that, the plaintiffs are also not impleaded all joint family members in the suit and suit is not maintainable in eye of law. Even, the plaintiffs are not pleaded the fact of acquisition of suit property. Except the branch of these defendants, the branch of plaintiffs and other defendants sold out some of the properties to one Muttappa Asangi and Siddappa Sadappa Asangi and others. They have also not made parties to the suit. There is no any cause of action to file this suit and suit of the plaintiff is not at all maintainable. On these and other grounds sought to reject the IA.

6. Heard both side and perused material.

7. The following points arises for my consideration which are as under;

POINTS

1. Whether the plaintiffs have made out prima facie case in their favour?

2. Whether the balance of convenience lies in favour of the plaintiffs?
 3. Whether plaintiffs will be put to hardship and injury, if order of Temporary injunction is not granted?
 4. What Order?
8. My answer to the above points are as under;

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 :

9. **Point No.1:** The plaintiffs have filed present suit seeking the relief of partition and separate possession in the land Sy.No.333/3 measuring 1 acres 04 guntas situated at Navalgi village, Tq: Rabkavi-Banahatti. Under IA.No.I, the plaintiffs sought the relief of temporary injunction restraining the defendant No.2, from alienating the suit property to others. The plaintiffs come up with present IA under discussion for grant of temporary injunction, they have to make out three golden principles for granting the temporary injunction i.e., plaintiffs are to make out a prima-facie case to go in to trial,

they are also make out balance of convenience lies in their favour and the plaintiffs are bound to establish the prima-facie i.e.,they are going to be irreparable loss or injury which cannot be compensated in terms of money if injunction is not granted.

10. The plaintiffs claimed that, themselves and defendants are joint family members and suit schedule property is their ancestral joint family property acquired through their propositus Gurulingappa Mallappa Halli. The plaintiffs further contended that, they are having share in the suit property. Materials averments of plaint are categorically denied by the defendants. It is denied that, the suit property is ancestral and joint family property and they are joint in possession. The defendants stated that, already partition has been taken place in between the parties to the suit and the branch of plaintiffs and branch of other defendants sold out their portion of lands. It is stated that, the suit of the plaintiff itself is not maintainable and therefore, considering IA.No.I has sought by the plaintiffs is not at all maintainable. Hence, sought to reject the IA.

11. The prima-facie case means, the court must be satisfy that, the applicants have raised bonafide dispute which needs to investigate and decide on merits by this court and there is a probability of applicants are entitled the relief as claimed. The burden is on the plaintiffs to prove and establish that, there is a prima-facie case in their favour.

12. Learned counsel for the defendant No.2 filed written arguments on the IA No.1, wherein it is contended that, the written statement filed by him are treated as part of the arguments. It is stated that, the plaintiffs are not produced any documents to show that, they are joint in possession over suit property. The plaintiff failed to establish prima facie case and therefore sought to reject the IA.

13. Keeping the arguments of both side and principles stated above in the mind, I have perused the material on record. The relationship between the parties to the suit is not in dispute. It is further not in denied that, previously the propositus namely Gurulingappa Halli was owner and possessor of all suit property and he died long back leaving

behind four sons namely Channabasappa, Siddalingappa, Basappa and Basaparappa. In support of contention of the plaintiffs case, produced copy of mutation order vide MR No.2222 reveals that, the said Gurulingappa Mallappa Halli was owner and possessors of land Sy.NO.333/1, 333/c, 333/8 and 333/7. After his death, the names of his four sons got mutated the said lands and their names appearing as joint owners and possessors. The plaintiffs are the branch of Channabasappa, Sidalingappa and Basappa. The defendants are the branch of Basaparappa. The certified copy of compromise decree passed in OS No.6/2022, reveals that, the defendant No.2 and 3 were filed suit and settled the same before Lok-Adalat held on 12.03.2022. The plaintiffs and other defendants were not made party to the said suit. On the basis of said compromise decree the name of defendant No.2 came to be entered in respect of suit land Sy.No.333/3 measuring 1 acres 04 guntas. So, the documents on record are goes to show that, the suit land acquired by the parties to the suit from their propositus.

14. It is specific defence of the defendants is that, there was partition has been taken place in between the branch of

plaintiffs and branch of defendants and the branch of plaintiffs and branch of other defendants sold out their portion of lands. In order to substantiate the same no such material has been produced. This defendant also produced records of rights and mutation extracts. The defendants relying upon the mutation extract MR No.5918. This document not reveals the effect of partition in between the plaintiffs and defendants, on the other hand it is reveals that, there was correction of Hissa Phodi etc was taken place in the land Sy.No.333. The other mutation extracts shows, some of the portion of lands are sold out. At para No.9 of written statement specifically stated that, the property No.110/B, 228 99/3, 97/1, 589 and 99/4, 99/1, 107 and 584, 99/2, 584/1A, 726/B and 584/1B are all joint family properties and they are not included in this suit. Though the defendants stated these properties are joint family properties of themselves and plaintiffs but no such counter claim has been claimed nor produced any of the documents. If at all these properties are joint family properties and the defendants are proved definitely they are entitled share in the said properties. As stated above acquisition of the property from

the propositus is not denied by the defendants. The non inclusion of all properties and partition taken place are all matter of trial and at this stage this court not going to touch the merits of the case. The material on record are sufficient that, there are serious dispute in between the parties and this court need to investigate the same. Hence, the plaintiffs have made out prima facie case, that they have good case to go for trial and to prove their contention. Hence, without much discussion I come to conclusion that, the plaintiffs have show the prima-facie case in their favour. Accordingly, I answered **point No.1 in the Affirmative.**

15. Points No.2 & 3: As these two points are interconnected, they are taken up for discussion together in order to avoid repetition of facts and circumstances of the case.

16. As discussed above, the plaintiffs showed a prima-facie case in their favour. Admittedly, the party is standing in the name of defendant No.2. If temporary injunction is not granted, definitely there is chance of alienating or creating third party interest over the suit property by the defendants

No.2, taking his name in the record of right. If the property alienated or created charge, it will effect on the rights of the plaintiffs, if they have succeeded the case. Therefore, I come to the conclusion that, the balance of convenience lies in favour of plaintiffs and they will sustain irreparable loss than the defendants, if injunction is not granted. Thus, the plaintiffs have shows even other two ingredients in their favour. Accordingly, I answered **point No.2 and 3 are in the Affirmative.**

17. Point No.4: In view of the above said discussions and reasoning, the following:-

ORDER

IA No.1 filed by the plaintiffs U/o- 39 Rule-1 & 2 of CPC is hereby allowed.

The defendant No.2, his agents or any other persons claiming through him are hereby restrained from alienating the suit land Sy.No.333/3 measuring 1 acres 04 guntas

situated at Navalgi village, Tq: Rabkavi-Banhatti,
till disposal of the suit.

(Typed to my dictation directly on computer to the stenographer,
corrected, signed by me, and then pronounced in the open Court on this
the 06th day of March 2026)

(Ashappa)
Senior Civil Judge & JMFC,
Banahatti.