

KABK700001802025



O.S./51/2025

IN THE COURT OF PRL. SENIOR CIVIL JUDGE & JMFC, JAMKHANDI.

Present:

**Shri. Rajashekhar.S. Harsoor
B.A. LL.B.,**

Prl. Senior Civil Judge & JMFC, Jamkhandi.

O.S.No.51/2025

Dated the 30th day of October 2025.

Between:

1. Smt. Kusamawwa Parappa Yalagudri,
Age: 48 years, Occ: Household work,
R/o Jamkhandi, Tq: Jamkhandi.
2. Smt. Kusawwa Parappa Daigond,
Age: 44 years, Occ: Household work,
R/o Hirepadasalagi, Tq: Jamkhandi.
3. Shri. Mahaveer Paris Yalagudri,
Age: 38 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
4. Shri. Arihant Paris Yalagudri,
Age: 36 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
5. Shri. Ramu Paris Yalagudri,
Age: 34 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.

....Plaintiffs.

(Represented by Shri.B.R.D., Advocate)

And:

1. Smt. Gangawwa W/o. Madappa @ Madu Daigond,
Age: 67 years, Occ: Household work,
R/o: Hirepadasalagi, Tq: Jamkhandi.
2. Smt. Malawwa W/o. Holeppa Alagur,
Age: 51 years, Occ: Agriculture,
R/o Takkalaki, Tq: Jamkhandi.
3. Smt. Vatsalla W/o. Bujappa Yalagudri,
Age: 50 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
4. Smt. Savitri W/o. Rajendra Patil,
Age: 45 years, Occ: Agriculture,
R/o: Hirepadasalagi, Tq: Jamkhandi.
5. Pradeep S/o. Rajendra Patil,
Age: 21 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
6. Mahaveer S/o. Madappa @ Madu Daigond,
Age: 43 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
7. Rajeshri W/o. Mahaveer Daigond,
Age: 33 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
8. Smt. Muttulaxmi W/o. Bahubali Daigond,
Age: 35 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
9. Neminath S/o. Bahubali Daigond,
Age: 09 years, Occ: Student,
10. Mithalesh S/o. Bahubali Daigond,
Age: 07 years, Occ: Student,
Defendants No.9 & 10 are the minors
represented by their natural mother
i.e., defendant No.8
Both residents of Hirepadasalagi, Tq: Jamkhandi.

11. Smt. Padmawwa W/o. Dharmanna Daigond,
Age: 64 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
12. Smt. Jayashri @ Jakkawwa Mahaveer Kadum,
Age: 43 years, Occ: Agriculture,
R/o Inapur, Tq: Athani.
13. Shri. Mallappa S/o. Dharmanna Daigond,
Age: 48 years, Occ: Agriculture,
R/o Naganur, Tq: Jamkhandi.
14. Bharatesh S/o. Dharmanna Daigond,
Age: 38 years, Occ: Student,
R/o Hirepadasalagi, Tq: Jamkhandi.
15. Shri. Dhareppa S/o. Jinnappa Daigond,
Age: 66 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
16. Jayapal S/o. Dhareppa Daigond,
Age: 32 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
17. Shri. Dhareppa S/o. Paris Yalagudri,
Age: 58 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.
18. Bagavant S/o. Paris Yalagudri,
Age: 41 years, Occ: Agriculture,
R/o Hirepadasalagi, Tq: Jamkhandi.

....Defendants

**(Defendants No.2, 3, 8 to 11, 13 to 16 by Shri.P.P.N., Advocate)
(Defendants No.1, 4 to 7, 12, 17 & 18 are placed as ex-parte)**

: RANK OF PARTIES IN I.A No.II:

1. Smt. Kusamawwa Parappa Yalagudri,
Age: 48 years, Occ: Household work,
R/o Jamkhandi, Tq: Jamkhandi & others.

Applicants/plaintiffs.

- Vs -

1. Smt. Gangawwa W/o. Madappa @ Madu Daigond,
Age: 67 years, Occ: Household work,
R/o: Hirepadasalagi, Tq: Jamkhandi
& others.

...Opponents/Defendants No.1 to 16.

i.	Provision under which the application is filed	:	I.A.No.II filed U/o.XXXIX Rule 1 & 2 R/w Sec151 of CPC.
ii.	Relief sought for	:	I.A.No.II – To restrain the defendants No.1 to 16 from alienating the suit schedule properties till the disposal of this suit.
iii.	The date on which the application is filed	:	20.03.2025.
iv.	Number of the application	:	I.A.No.II
v.	The date on which the objection is filed by opponent	:	26.09.2025. Arguments concluded on 16.10.2025.
vi.	The date on which the order was passed on the said application	:	30.10.2025.

ORDER ON IA No.II

1. The plaintiffs have filed I.A.No.II U/o.XXXIX Rule 1 & 2 R/w Sec.151 of CPC, with a prayer to restrain the defendants No.1 to 16 from alienating, mortgaging and bequeathing the suit schedule properties till the disposal of suit.

2. In support above application, the plaintiff No.4 has sworn to an affidavit, wherein she stated that, the plaint averments be

read as part & parcel of her affidavit. She further stated that, the plaintiffs have filed this suit for declaration, partition & separate possession collectively seeking their 1/4th share in the suit schedule properties. As the defendants No.1 to 16 are illegally trying to dispose off the suit schedule properties, the plaintiffs have filed this suit along with this application. She further stated that, the plaintiffs have made out prima facie case and the balance of convenience lies in their favour. With this she has prayed to allow above application.

3. On the contrary, the defendants No.2, 3, 8 to 11, 13 to 16 have appeared through their counsel and filed their written statement along with a memo stating that, the contents of their written statement be treated as objection to I.A.No.II. The rest of defendants have remained absent despite service of summons and notice.

4. Heard both side. Perused application, memo, pleadings, documents and all other materials available on record. Upon going through the same, the following points arise for consideration:

POINTS

- 1. Whether the plaintiffs have made out prima facie case?**
- 2. Whether the balance of convenience tilts in favour of the plaintiffs ?**
- 3. Whether the plaintiffs will be put to loss & hardship if temporary injunction is not granted ?**
- 4. What order?**
- 5. This court answers to above points 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

6. Points No.1 to 3: These points are taken up together for common discussion to avoid repetition of facts. The plaintiffs have filed IA.No.II U/o.XXXIX Rule 1 & 2 R/w Sec.151 of CPC seeking to restrain the defendants No.1 to 16 from alienating, mortgaging and bequeathing the suit schedule properties until the disposal of the suit. As stated above, the plaintiff No.4 has sworn affidavit, wherein he has specifically stated that, the

plaint averments be read as part & parcel of his affidavit. The plaint reveals that, the plaintiffs have filed this suit for the relief of partition & separate possession claiming their 1/4th share in the suit schedule properties. It is averred in the plaint and schedule "A" of the plaint i.e., family genealogy that, one Jinappa died long back leaving behind his four children by name Madappa, Dharmanna (Defendant No.15), Dhareppa & Chandrawwa as his legal heirs. Said Madappa died leaving behind his wife i.e., defendant No.1 & five children viz., defendants No.2 to 4, 6 & one Bahubali as his legal heirs. The defendant No.5 is the son of defendant No.4. The defendant No.7 is the daughter of defendant No.6. The defendants No.8 to 10 are the spouse and children of said deceased Bahubali.

6.1 The said Dharmanna died leaving behind his wife i.e., defendant No.11 and three children viz., defendants No.12 to 14 as his legal heirs.

6.2 The defendant No.16 is son of defendant No.15. The said Chandrawwa died leaving behind her children namely Parappa & plaintiffs No.2 to 5, defendants No.16 & 17. The said Parappa

died leaving behind his spouse i.e., plaintiff No.1 as his only legal heir.

6.3 It is further averred in the plaint that, all the plaintiffs & defendants are the members of Hindu undivided family. The suit schedule properties are ancestral and joint family properties of the plaintiffs & defendants. Such being the state of affairs after the demise of said Chandrawwa the defendants No.1 to 16 have illegally got mutated the suit schedule properties in their names. Now they are denying the rights of the plaintiffs over the suit schedule properties. However the plaintiffs have challenged the mutation entries before the Assistant Commissioner Jamkhandi in R.A.No.131/2024, wherein said authority has directed them to approach the Civil court for their reliefs. Hence the plaintiffs have approached to this court.

7. On the contrary, the defendants No.2, 3, 8 to 11, 13 to 16 have denied the plaint averments except the relationship amongst parties to the suit. They have specifically contended that, the propositus Jinappa had allotted land bearing R.S No.204/2/2 measuring 3 acre 9 gunta situated at Hirepadasalagi village in favour of the husband of said

Chandrawwa namely Paris Mallappa Yalagudri in the year 1969. Accordingly his name has been incorporated in the records vide M.E.No.3286. Thereafter the said Chandrawwa deserted the joint family by receiving aforesaid land as her share. It is further contended by said defendants that, after the death of said Jinappa, said Chandrawwa had instituted O.S.No.50/2008 before this court for partition & separate possession at the instigation of ill-wishers of the defendants herein. After institution of the said suit, said Chandrawwa had agreed to withdraw the said suit and also relinquished her rights over the family properties in favour of her brothers, in the presence of elderly persons. Therefore she did not proceed with the said suit. Consequently said suit came to be dismissed on 04.07.2009. It is further contended that, the defendants No.1 to 16 have entered into registered partition deed on 03.06.2024 and accordingly got mutated the properties allotted to them in their names vide M.R.No.88/2023-24. Such being the state of affairs, the plaintiffs cannot file this suit by stepping into the shoes of deceased Chandrawwa. With these contentions, said defendants have prayed for dismissal of above application.

8. Perused the pleadings. Upon going through the rival pleadings of the parties, it appears that, the controversy between the plaintiffs & defendants needs trial.

9. The documents placed on record disclose that, as per RTC's for the year 2024-25 the suit schedule property bearing R.S No.236/4 measuring 15 gunta is standing in the name of defendant No.6, an extent of 15 gunta standing in the name of defendant No.8, an extent of 1 acre 1 gunta standing in the name of defendant No.16 and an extent of 1 acre 18 gunta is standing in the name of defendant No.14. The suit land bearing R.S No.104/3 totally measuring 3 acre 3 gunta out of which an extent of 38 gunta is standing in the name of defendant No.14, an extent of 38 gunta standing in the name of defendant No.16, an extent of 19 gunta jointly standing in the name of defendants No.8 to 10, an extent of 23 gunta is standing in the name of defendants No.6 & 7. The mutation extracts disclose that, the aforesaid suit schedule properties item No.1 & 2 were standing in the name of deceased Jinappa.

10. The certificates issued by the PDO Gram-Panchayat Hirepadasalagi the suit schedule properties item No.3 to 8 are

standing in the name of defendants No.12, 14, 15, 16 (Mahadev/Madappa) & defendant No.4 respectively.

11. Upon going through the pleadings and the documents, it appears that the plaintiffs have made out a prima facie case for trial. As per the pleadings on record both the plaintiffs & defendants legal heirs of the deceased Jinappa. Having regard to the rival pleadings & documents placed on record and more particularly the relief sought by the plaintiff, this court is of opinion that, the balance of convenience tilts in favour of plaintiffs rather than the defendants.

12. As the plaintiffs have alleged that, the defendants are trying to alienate or convey the suit schedule properties, it is just & necessary to keep intact all the suit schedule properties until determination of rights of the parties. Meanwhile if the defendants alienate or convey the suit schedule properties in any manner during the pendency of the suit, the plaintiffs would be put to hardship rather than the defendants. In view of above discussion & in the light of pleadings and the documents, points No.1 to 3 are answered in the affirmative.

13. Point No.4: In view of findings, the court proceeds to pass the following :

ORDER

I.A.No.II filed U/o.XXXIX Rule 1
& 2 R/w Sec.151 of CPC by plaintiffs
is hereby allowed.

Consequently the defendants No.1
to 16 or anybody claiming through
them are hereby temporarily
restrained from alienating,
mortgaging or conveying the suit
schedule properties in any manner
until the disposal of suit.

No order as to costs.

*(Dictated to the stenographer directly on computer, typed by her, corrected
then pronounced by me in the open Court on this the 30th day of October 2025)*

(Shri. Rajashekhar S. Harsoor)
Prl. Senior Civil Judge & JMFC,
Jamkhandi.