

KABK700006272024



O.S./143/2024

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.143/2024

Dated the 31st day of October 2025.

Between:

Smt. Sujatha W/o. Shivayya Hiremath,
Age: 45 years, Occ: Household work,
R/o Kunchanur Road, Danamma Badavane,
Jamkhandi, Dist: Bagalkot.

....Plaintiff.

(Represented by Miss.K.P.O., Advocate)

And:

- 1.** Shri. Shivashankar @ Prakash S/o. Gurasangayya Hiremath,
Age: 52 years, Occ: Agriculture,
R/o: Rajaji Nagar, Behand RTO Office,
Near Elu Makkal Tayi Temple, Vijayapur
Phone No.9902446847.
- 2.** Shri. Sanjay S/o. Gurasangayya Hiremath,
Age: 48 years, Occ: Private Service,
R/o Balappannavar Building
4th Cross Rameshwar Colony, Jamkhandi
Phone No.9535694646.

3. Smt. Vijayalaxmi W/o. Gurasangayya Hiremath,
Age: 75 years, Occ: Household work,
R/o Balappannavar Building
4th Cross Rameshwar Colony, Jamkhandi
Dist: Bagalkot.

....Defendants

(Defendant No.1 by Shri. A.P.K., Advocate)

(Defendant No.2 by Shri. G.K.M., Advocate)

(Defendant No.3 is placed as ex-parte)

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

1. Smt. Sujatha W/o. Shivayya Hiremath,
Age: 45 years, Occ: Household work,
R/o Kunchanur Road, Danamma Badavane,
Jamkhandi, Dist: Bagalkot.

Applicant/Ori. plaintiff.

- Vs -

1. Shri. Shivashankar @ Prakash S/o. Gurasangayya Hiremath,
Age: 52 years, Occ: Agriculture,
R/o: Rajaji Nagar, Behand RTO Office,
Near Elu Makkal Tayi Temple, Vijayapur
Phone No.9902446847 & others.

...Opponents/Ori. Defendants.



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|------|--|---|---|
| i. | Provision under which the application is filed | : | IA.No.I filed U/o. XXXIX Rule 1 & 2 R/w Sec151 of CPC. |
| ii. | Relief sought for | : | IA.No.I - To restrain the defendants 1 & 2 from alienating the suit schedule- A & B properties until the disposal of this suit. |
| iii. | The date on which the application is filed | : | IA.No.I is filed by plaintiff along with the plaint on 12.11.2024. |
| iv. | Number of the application | : | I.A.No.I |
| v. | The date on which the objection is filed by opponent | : | 23.10.2025. |
| vi. | The date on which the order was passed on the said application | : | 31.10.2025. |

ORDER ON IA No.I

1. The plaintiff has filed I.A.No.I U/o.XXXIX Rule 1 & 2 R/w Sec.151 of CPC, with a prayer to restrain the defendants No.1 & 2 from alienating the suit schedule - A & B properties until the disposal of the suit.

2. In support above application, the plaintiff has sworn to an affidavit, wherein she has mainly stated that, the plaint averments be read as part & parcel of her affidavit. She further stated that, she filed this suit for the relief of declaration, partition & separate possession claiming her right in the suit schedule properties. Herself and the defendants are the

members of Hindu undivided family. The suit schedule properties are joint family properties. She further stated that, her deceased father by name Shri.Gurasangayya was having the land bearing R.S No.55/1 measuring 6 acre 00 gunta. The defendants No.1 & 2 have purchased an extent of 3 acre 10 gunta in the same survey number on 06.11.2024 from her cousin's son by name Anand Hiremath for a consideration amount of Rs.4,29,000/- (Rupees Four Lakh Twenty Nine Thousand only) with the aid of joint nucleus. Thereafter they have clubbed said extent of land with aforesaid 6 acres land. It become total 9 acre 10 gunta land i.e., suit A schedule property item No.1. She further stated that, the suit B schedule property bearing VPC.No.396 is also ancestral & joint family property of herself and defendants. She further stated that, the defendants No.1 & 2 have clandestinely got mutated the suit A schedule property in their names vide M.E No.6507 of Todalabagi village. Now they are trying to alienate the suit schedule properties by declining her rights over the same. Hence she is constrained to file this suit along with above application.

3. On the contrary, defendant No.1 has filed a memo through his counsel stating that, he adopts the contents of his written statement as objection to I.A.No.I.

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 plaintiff has made out prima facie case?

2. Whether the balance of convenience tilts in favour of plaintiff ?

3. Whether the plaintiff 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 plaintiff has filed I.A.No.I U/o.XXXIX Rule 1 & 2 R/w Sec.151 of CPC seeking to restrain the defendants No.1 & 2 from alienating the suit schedule properties until the disposal of the suit. As stated above, the plaintiff has sworn affidavit, wherein she has specifically stated that, the plaint averments be read as part & parcel of her affidavit. The plaint reveals that, the plaintiff has filed this suit for the relief of partition & separate possession claiming her 1/4th share in the suit schedule properties and other equitable relief. It is specifically averred in the plaint that, one Gurasangayya died on 28.11.1995 leaving behind his wife-defendant No.3 & children – plaintiff and defendants No.1 and 2 as his legal heirs. He was having land bearing R.S No.55/1 measuring 6 acres. After his demise, the defendants No.1 & 2 have purchased an extent of 3 acre 10 gunta in the same remaining survey number from their cousin's son by name Anand Hiremath on 06.11.2024 for a consideration amount of Rs.4,29,000/- (Rupees Four Lakhs Twenty Nine Thousand only) out of joint nucleus. Thereafter both the extents have been

merged with each other. Therefore the said land become R.S No.55/1 measuring 9 acre 10 gunta i.e., suit A schedule property herein. Further the suit B schedule property bearing VPC.No.396 is also their joint family property. Such being the state of affairs the defendants No.1 & 2 have clandestinely got mutated the suit A schedule property in their names and declined the plaintiff's rights over both suit A & B schedule properties. Hence the plaintiff is constrained to file this suit.

7. On the contrary the defendant No.1 has specifically contended in his written statement that, himself & defendant No.2 have purchased aforesaid 3 acre 10 gunta land. It is their self-acquired property. He further contended that, after the death of his father, himself & defendant No.2 have got mutated said 6 acres of land in their names vide M.E No.6507 with the consent & knowledge of the plaintiff & defendant No.3. Such being the state of affairs the plaintiff has no any right, title & interest over the suit A schedule property. Further he has denied rest of the plaint averments and made counter claim with respect to other properties as shown in the schedule of the counter claim.

8. Perused the pleadings. On examination of rival pleadings, it appears that, the plaintiff has made out a prima facie case against the defendants for trial. The documents placed on record viz., the RTC of land R.S No.55/1 for the year 2024-25 discloses that, an extent of 6 acres is standing in the name of defendant No.1 and remaining 3 acre 10 gunta is jointly standing in the name of defendants No.1 & 2. The certified copy of mutation extract bearing M.E No.6507 discloses that, the land R.S No.55/1 measuring 6 acre 00 gunta was standing in the name of said deceased Gurasangayya who was the father of plaintiff, defendants No.1 & 2 and husband of defendant No.3. Further it discloses that, after demise of said Gurasangayya defendants No.1 & 2 herein have got mutated said extent of land in their names. The computerized mutation extract discloses that, the defendants No.1 & 2 herein have purchased land bearing R.S.No.55/1 measuring 3 acre 10 gunta from one Anand Hiremath under registered sale deed.

9. On the contrary, the defendant No.1 has produced the documents pertaining to the counter claim properties.

10. On careful examination of the pleadings and the documents, it prima facie appears that, the plaintiff & defendants No.1 to 3 have succeeded land R.S.No.55/1 measuring 6 acre 00 gunta situated at Hirepadasalagi village taluk Jamkhandi from the deceased Gurasangayya. The defendants No.1 & 2 have not produced any prima facie materials to show that, they have got said extent of land was allotted to them. Further they have not produced any such prima facie material to show that, they were having independent source of income to purchase the land R.S No.55/1 measuring 3 acre 10 gunta from its erstwhile owner. Further they have not pleaded in their written statement regarding their separate income or source of income to purchase the aforesaid extent of land. Further they have not produced any such prima facie material to show that, the suit B schedule property is their exclusive property. However upon going through the pleadings & the documents available on record, it appears that the balance of convenience tilts in favour of the plaintiff rather than the defendants No.1 & 2.

11. As stated above, the plaintiff alleged that, the defendants No.1 & 2 are trying to alienate the suit schedule properties with intent to cause loss to her. Having regard to the pleadings and

the documents on record and the plaintiff's apprehension as to alienation of the suit schedule properties, this court is of opinion that, it is just & necessary to keep intact the suit schedule properties until the determination of right of the parties to the suit. Meanwhile if the defendants No.1 & 2 convey the suit schedule properties in favour of third parties, it would cause hurdle to the plaintiff. In view above discussion, points No.1 to 3 are answered in the affirmative.

12. Point No.4: In view of findings, the following order is passed:

ORDER

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

Consequently the defendants No.1
& 2 or anybody claiming through
them are hereby temporarily
restrained from alienating the suit
schedule properties until 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 31st day of October 2025)*

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