

KABR410011632022



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC, AT**

**DODDABALLAPURA.**

**Dated this the 15<sup>th</sup> day of April 2026.**

**PRESENT: SMT. SHILPA.H.A.**

**B.A.L., LL.B.,**

**Senior Civil Judge & J.M.F.C.**

**Doddaballapura.**

**O.S.No.867/2022**

**Plaintiffs:**

- 1. SRI. SIDDALINGAIAH. A.G**  
S/o Late Gangadharaiah,  
Aged about 80 years,  
R/at, Ambalagere Village,  
Doddabelavangala Hobli,  
Doddaballapura Taluk.

**(By Sri. C.V.K., Advocate for plaintiff)**

**-Vs-**

**Defendants:**

- 1. SMT. PUTTAGANGAMMA**  
W/o Late Shivagangaiah,  
Aged about 80 years,  
R/at, Ambalagere Village,

Doddabelavangala Hobli,  
Doddaballapura Taluk,  
And 3 others.

**(By Sri. H.A., Advocate for defendant No.1 to 4)**

\* \* \* \* \*

**ORDER ON I.A.No.I**

Plaintiff has filed this I.A.No.1 under order 39 Rule 1 and 2 R/w Sec.151 of CPC seeking an order of temporary injunction restraining the defendants from from alienating the suit schedule property to 3rd parties till the disposal of the suit.

**2. Description of suit schedule property**

<b>Sl.No.</b>	<b>Sy.No.</b>	<b>Acres-guntas</b>	<b>Situated at</b>
1.	Sy.No.89, New Sy.No. 125/4	0-35 guntas out of 1 acre 14 guntas	Ambalagere Village, Doddabelavangala Hobli, Doddaballapura Taluk.

**3. FACTS IN BRIEF:**

Plaintiff has sworn to an affidavit in support of this I.A and contended that he is the absolute owner in possession and enjoyment over the suit schedule property. Originally suit schedule property was the darkast land and the government has granted the same in favour of one Shivagangaiah under RD.No.2/47-48

dated:20.08.1948 and hence it is the Joint family property of Gangadharaiah and Shivagangaiah. Said Gangadharaiah and Shivagangaiah were jointly cultivating the suit schedule property and plaintiff is the son of said Gangadharaiah. In the Registered partition deed dated:14.08.1963 out of total extent of 5 acres an extent of 3 acres were allotted to the share of Gangadhaiah and remaining extent of 2 acres was allotted to the share of Shivagangaiah. After the death of Shivagangaiah, the khata of 2 acres was transferred in the name of defendant No.1. Thereafter, defendant No.1 has sold an extent of 1 acre 20 out of 2 acres in favour of plaintiffs brother and he has retained 20 guntas and therefore plaintiff and his brother were in possession and enjoy of land measuring 44 acre 35 guntas in suit Sy.No.125. In the month of August 2022 when the applicants approached the revenue officer to obtain Revenue documents to avail agricultural loan he came to know that old Sy.No.125 was renumbered as 125/4 measuring 1 acre 14 guntas in which plaintiff is having title to an extent of 35 guntas. Then he came to know about fraud played by the defendant. The defendant No.1 & 2 colluding

with defendant No.3 have created sale deed on 09.02.2022 with an intention to grab the suit schedule property. Thereafter, defendant No.3 has created sale agreement dated:12.10.2022 in favour of defendant No.4. The defendant No.1 is having right over the property measuring only 20 guntas but she has created Revenue documents by colluding with revenue officials in respect of 0.35 guntas out of 1 acre 14 guntas of the suit schedule property and trying to alienate the same in favour of 3<sup>rd</sup> parties. Plaintiff has made out prima-facie and balance of convenience lies in their favour. If this I.A is allowed no harm or prejudice would be caused to the defendants. At the same time of the T.I is not granted plaintiff will be put to untold hardship and irreparable injury. Hence, prays allow the I.A in the interest of justice and equity.

4. Defendant No.4 has filed written statement and memo adopting the written statement as objection to this I.A and denied entire I.A and affidavit averments as false and further contended that plaintiff has suppressed the material fact before the court. As per the revenue records 1 acre 20 guntas is standing in the name of plaintiff,

his brother is in possession of 1 acre 20 guntas acquired through partition and 1 acre 10 guntas was purchased by defendant No.1 and in total plaintiff and his brother are having right over total extent of 4 acre 20 guntas. The total extent of 5 acres was granted in favour of Shivagangaiah and the same was partitioned between himself and his brother on 14.08.1963 in which 3 acres was allotted to Gangadharaiah and 2 acres was allotted to Shivagangaiah and thereafter defendant No.1 has sold 1 acre 20 guntas to plaintiff's brother and retained 0.20 guntas. The defendant No.1 had filed appeal before Asst. Commissioner in RA.No.76/2020 to mutate her name in respect of Sy.No.125/4 measuring 0.34 guntas and 0.1 guntas karab. The Asst. Commissioner after hearing the matter has remanded back to the Tahasildar with a direction to measure Sy.No.125 and ascertain the possession of defendant No.1 in respect of excess land of 34 guntas apart from her existing land and enter her name in the RTC as per her enjoyment after tallying the extent with column No.3 & 9 of the RTC. The Tahasidar after obtaining the report from the survey authority has entered the name of defendant

No.1 in the RTC for the excess land of 34 guntas. Thus an extent o 1 acre 14 guntas is standing in the name of defendant No.1 and she is the absolute owner in possession and enjoyment over the same. Defendant No.1 & 2 have sold the suit schedule property in favour of defendant No.3 under Registered sale deed dated:09.02.2022 and inturn defendant No.3 has sold the said property in favour of defendant No.4 under Registered sale deed dated:04.11.2023 and accordingly the Revenue entries are standing in the name of defendant No.4 and he is in possession and enjoyment over the same. Hence, prays to dismiss the I.A with exemplary cost in the interest of justice and equity.

5. Heard the arguments and perused the materials placed before me.

**6. My points are arises for my consideration are:**

1. Whether the plaintiff has made out prima-facie case to grant temporary injunction in her favour?
2. Whether balance of convenience lies in favour of the plaintiff?

3. Whether the irreparable loss or hardship will be caused to the plaintiff, if injunction is not granted?
4. What order?

**7. My findings to the above points are as follows;**

- POINT No.1 : In the Negative**
- POINT No.2 & 3 : Does not arise for consideration**
- POINT No.4 : As per final order for the following;**

**REASONS**

**8. POINT NO.1:** Plaintiff has filed this suit for declaration and permanent injunction contending that he is the absolute owner in possession and enjoyment over the suit schedule properties. According to the plaintiff, he is in possession of the land measuring 5 acre 15 guntas in Sy.No.125 and he has further submitted that he and his brother are in possession of 4 acre 35 guntas.

9. In support of the contention of plaintiff, he has relied upon the order sheet of Darkast files and hand written RTCs from 1979 till 1992. As per these documents the total extent of 5 acres was granted

to Shivagangaiah i.e., the brother of plaintiff and husband of defendant No.1 which is admitted by the defendants. As per the MR.No.3/92-93 and per the Panchayath Parikath dated:14.08.1963 entered between plaintiff and his brother Shivagangaiah an extent of 3 acres was allotted to the share of plaintiff and remaining 2 extent was allotted to the share of Shivagangaiah. But khata was not transferred in their names and after the death of Shivagangaiah, the entire extent was transferred in the name of defendant No.1 and the same continued till mutation was accepted in the year 1992-93.

10. As per the recent RTCs and MR extract Sy.No.125 has been phoded as Sy.No.125/1, 2, 3 & 4. Accordingly khata of sy.No.125/1 stands in the name of plaintiff, khata of Sy.No.125/2 & 125/3 stands in the name of plaintiff's brother and khata of Sy.No.125/4 stands in the name of defendant No.1.

11. It is the case of the plaintiff that after partition, defendant No.1 has alienated 1 acre 20 guntas out of 2 acres allotted to her husband and she has retained only 20 guntas. Defendants have admitted above said partition and alienation of 1 acre 20 guntas.

According to the defendants plaintiff was allotted 3 acres and he has also purchased 1 acre 20 guntas and therefore they do not dispute plaintiff's right and possession in respect of 4 acre 20 guntas but according to defendant No.4, there was excess land in Sy.No.125 and in this regard the defendant No.1 had filed appeal before the Asst. Commissioner RA.No.76/2020 seeking to mutate her name pertaining the excess land measuring 0.34 guntas and 1 guntas karab and accordingly Assistant Commissioner has remanded the matter to the Tahasildar and after ascertaining that defendant No.1 is in possession of excess land of 34 guntas, her name was entered in RTC and hence the defendant No.1 being the absolute owner of 1 acre 14 guntas in Sy.No.125/4 had alienated the same in favour of defendant No.3 under Registered sale deed dated:09.02.2022 and inturn defendant No.3 has alienated the same in favour of defendant No.4 under Registered sale deed dated:04.11.2023.

12. In support of the contention of the defendant No.4 he has relied upon the orders passed by the Deputy Commissioner in Revision Petition No.101/2022 dated:22.09.2023. The said order

speaks that the brother of plaintiff had challenged the orders passed by the Assistant Commissioner in RA.No.76/2020 dated:05.03.2020 challenging the order passed by remanding the matter to the Tahasildar to consider possession and enter the names of the persons who are in possession of the disputed land. On perusal of the entire records of Tahasildar and Assistant Commissioner along with the report submitted by the ADLR the D.C has observed that the petitioner was present at the time of survey and drawing mahazar and he has also affixed his signature. It was also observed that since the petitioner and respondent No.3 are claiming right over excess 34 guntas of land which was enhanced during the phodi process stating that they are in possession of land in question, the Asst. Commissioner has rightly remanded the matter to the Tahasildar and the same does not call for any interference. The said order passed by the Deputy Commissioner has remained unchallenged by the plaintiff or his brother. Though plaintiff has filed this suit for declaration claiming his title over excess land of 34 guntas in Sy.No.125 he has not disclosed the proceedings held before the

revenue Court and orders passed by Tahasildar, Assistant Commissioner and D.C and therefore it clearly establishes that plaintiff has suppressed the material facts and not approached the court with clean hands. Apart from that he has not produced any single piece of paper to show that he has got any right over the excess land of 35 guntas in Sy.No.125 which is phoded as Sy.No.125/4. No doubt plaintiff and his brother are having right to an extent of 4 acre 20 guntas which are phoded as 125/1 to 3 but the plaintiff has utterly failed to place any single piece of paper to show that he has got any right over the excess land in the Sy.No.125. Apart from that he has suppressed the proceedings held by the revenue Court as well as orders passed by in it and obtained an order of Temporary Injunction by suppressing the material facts and therefore an order of Temporary Injunction granted in favour of plaintiff requires to be vacated in the interest of justice and equity. Hence, for the above said reasons plaintiff has not made out prima-facie case for grant of an Temporary Injunction in respect of suit schedule properties. Hence, I answer **Point No.1 in the Negative.**

**13. POINTS No.2 & 3:** Since both the points are inter-connected in order to avoid repetition of facts they are taken together for discussion. Since, plaintiff has failed to make out prima-facie the question of balance of convenience and irreparable loss and injury doesn't arise for consideration. Accordingly, I answer **Point No.2 and 3 does not arise for consideration.**

**12. POINT No.4:** For the aforesaid reasons, I proceed to pass the following;

**:ORDER:**

**I.A.No.I filed by the plaintiff under Order XXXIX Rule 1 and 2 of CPC is hereby dismissed.**

**The ex parte order of Temporary Injunction granted on 04.11.2022 is hereby vacated.**

**No order as to cost.**

(Dictated to the Stenographer transcribed, typed and printout taken by her, corrected by me and then pronounced in the open court on this the 15<sup>th</sup> day of April 2026)

**(SHILPA.H.A)**  
Senior Civil Judge & JMFC  
Doddaballapura.