

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,
HOSAKOTE.**

PRESENT:

Sri.Mohamed Arifulla C.F. B.Sc., LL.B.
Senior Civil Judge & JMFC,
Hosakote.

Dated this the 12th day of August – 2026

O.S.No.2567/2022 (Old No.21/2015)

Plaintiff/s : Sri.Jayappa & Ors.

- V/s -

Defendant/s : Sri.Munisonnapa & Ors.

Applicant/s : Smt.Narayanamma & Ors.

i. Provision under which the application is filed.	U/o 39 Rule 1 and 2 R/w Section 151 of CPC.
ii. Relief sought for	Temporary injunction.
iii. The date on which the application is filed	4-5-2015
iv. Number of the application	IA No.1
v. The date on which the objections are filed by different opponents	14-6-2017
vi. The date on which the orders were passed on the said application.	12-08-2026

Orders on I.A.No.1

The plaintiffs have filed the above application under Order 39 Rule 1 and 2 R/w Section 151 of CPC seeking an

order of temporary injunction restraining the defendant No.1 to 6 from alienating the suit schedule property in favour of third parties till disposal of the suit.

2. In the annexed affidavit, it is stated that, the plaintiffs and defendants No.7 to 20 constitute a Hindu undivided joint family and the suit schedule property is the ancestral and joint family property of themselves having acquired the same through grant for the benefit of the joint family. One Munichennappa was the prepositus of the joint family and the suit schedule property was granted to him on 20-11-1963 by the order of the Special Deputy Commissioner, Inam Abolition, Kolar Circle. The said Munichennappa had two wives namely Ramakka and Lakshamma. The suit schedule lands have been alienated to the defendant No.1 to 6 by the children of the first wife of Late.Munichennappa. Under the personal service Inam Abolition Act such alienation's are illegal and are liable to be inoperative and the concerned lands are liable to be recovered from the defendant No.1 to 6 through the process of dispossession by the competent authority. There cannot be any alienation of the joint family property without their concurrence.

However, as the Thoti Service Inam Abolition Act provides for automatic cancellation of such alienation's in violation of the grant rules, the purported alienation made by some of the joint family members are not binding on the surviving joint family members and they are entitled for eviction of the defendant No.1 to 6 as trespassers in the schedule land under the law. The aforesaid alienation are hit by PTCL Act and that the said transactions are ab-initio void resulting into the eviction of such purchasers. Hence, prays to allow the application.

3. The defendant No.2 to 4 and 6 filed written statement and memo to treat the same as objections to the above application and contended that the land bearing old Sy.No.128, to an extent of 5 acres 3 guntas of Lokkandahalli Village was re-granted land in favour of Thoti Munichennappa and others. After the re-grant same was orally partitioned between the grantees. After the said partition, the grantees have executed different sale deeds in favour of different persons i.e., the family members of defendant No.2 to 6 and now they are in physical continues possession and enjoyment

of the said properties. Hence, prays to reject the application with costs.

4. Based upon the above contentions of the plaintiffs and defendants, following points arise for consideration of this court:

1. Whether the plaintiffs have made out prima facie case in their favour?
 2. Whether the balance of convenience lies in their favour?
 3. If temporary injunction is not granted who will suffer great hardship and injustice?
 4. What order?
5. Heard the arguments and perused the records, the court findings on the above points are as under:

Point No.1 to 3 : In the Negative,

Point No.4 : As per the final order
for the following;

REASONS

6. **Point No. 1 and 2:-** These points are inter-linked with each other. Therefore, in order to avoid the repetition of facts

and circumstances, they are taken together at one stretch for common discussion.

The plaintiffs have filed this suit against the defendants to declare that the sale deed dated 25-8-1970, 21-9-1971 and 2-6-1972 are illegal and not binding on the share of the plaintiffs.

7. According to the plaintiffs, the suit schedule property was granted to one Munichannappa under the service Inam Abolition Act in case No.3354/1963-64 dated 20-11-1963. The said Munichannappa was in possession and enjoyment of the suit property and revenue records were mutated into his name. The plaintiffs and defendant No.7 to 20 are the members of the joint family and the suit property is the joint family property. The plaintiffs came to know that the children of first wife of Late.Channappa have alienated the suit schedule property to the defendant No.1 to 6. Under the personal service Inam Abolition Act such alienation's are illegal and are liable to be inoperative and the concerned lands are liable to be recovered from the defendant No.1 to 6 through the process of dispossession by the competent authority.

8. The defendants have clearly stated that the father of the defendant No.2 by name Munisonnappa purchased the suit property to an extent of 2 acres 5 guntas in Sy.No.128 from the grantee through sale deed dated 25-8-1970 and now it is renumbered as Sy.No.128/1 to an extent of 29 guntas and Sy.NO.128/4 to an extent of 2 acres 13 guntas. Thereafter, the defendant No.2 acquired the property measuring 1 acre 15 ½ guntas through release deed dated 9-10-2002 and the revenue records have been changed into his name.

9. The defendant No.3 has stated that his brother Munibyrappa purchased 7 guntas in Sy.No.128 through registered sale deed dated 12-11-1969 and the said survey number was renumbered as Sy.No.128/2 and the said property was allotted to the defendant No.3 in the family partition.

10. The defendant No.4 has stated that his father Seethappa purchased the land to an extent of 1 acre 36 guntas in Sy.No.128 which is renumbered as Sy.No.128/3 through three different sale deeds dated 22-12-1972, 12-11-1969 and

13-6-1979 and the said property was allotted to the defendant No.4 in a family partition on 27-9-2009.

11. The defendant No.6 has stated that he purchased 37 guntas of land in Sy.No.128 which is renumbered as Sy.No.128/4 on 23-7-1969 and since then they have been in possession and enjoyment of the suit properties. The defendants have stated that the land bearing Sy.No.128 was re-granted land and therefore, the provisions of PTCL Act does not apply.

12. The available materials on record shows that the defendants have purchased the suit property long back and they have also stated that there were several transactions in respect of the suit properties after purchasing by them and their family members. The revenue records were also in the name of defendants. The plaintiffs have claimed that the grant was under Thoti Inam Abolition Act, there was no provision or permission to sell the suit schedule property and as far as this claim of the plaintiff is concerned it cannot be decided at this stage and it requires a full fledged trial.

13. The plaintiffs have also claimed that it attracts PTCL Act and however the defendants have stated that the said land was re-granted land and therefore, the PTCL Act does not applicable to the suit property. As far as this aspect is concerned, it also requires to be proved by the plaintiffs and it also requires a full fledged trial and at this stage, it is not possible to come to the conclusion that it attracts PTCL Act. On perusal of the case papers on record, it is found that the plaintiffs are not in possession over the suit property and revenue records are also not in the name of the plaintiffs. The materials produced by the plaintiffs does not disclose that they are having prima-facie case and the balance of convenience lies in their favour.

14. However, the defendants have produced the copies of sale deeds and partition deed and these documents are clearly discloses that the defendants and their elder family members purchased the suit property and the revenue records are also in their names and these documents clearly discloses that the plaintiffs are not in possession over the suit property. After considering all these facts and circumstances of the case, I have

come to the conclusion that the plaintiffs are failed to prove that they are having prima facie case and also failed to prove that they have got balance of convenience in their favour. Accordingly I answer point No.1 and 2 in “**Negative**”.

15. **Point No.3:-** As already discussed, the defendants have produced plenty of documents in support of their defense and those documents clearly disclose that the defendants and their elder members of the family purchased the suit schedule property from their vendors and revenue records produced by the defendants clearly discloses that they are in possession and enjoyment of the suit property. Moreover, the plaintiffs have not at all produced any materials before the court to say that they are in possession and enjoyment of the suit property and also they have not produced any materials before the court to say that the sale deeds produced by the defendants are illegal.

16. As already discussed whether the PTCL Act attracts or not is required to be proved by the plaintiffs and such being the case, the question of granting temporary injunction in respect of the suit property does not arise at all. After considering all these facts and circumstances of the case I have come to the

conclusion that the plaintiffs have failed to prove that they will be put to irreparable loss or injury if the temporary injunction is not granted and whereas the defendants have proved at this stage that they will be put to hardship if the temporary injunction is granted and accordingly, I answer point No.3 in **“Negative”**.

17. **Point No.4 :-** In view of the aforesaid findings on point No.1 to 3, I proceed to pass the following:

ORDER

I.A.No.1 filed by the plaintiffs under Order 39 Rule 1 and 2 R/w Section 151 of CPC is hereby rejected.

No order as to costs.

(Dictated to the stenographer, transcribed by her, corrected by me and then pronounced in the open court on this the 12th day of August 2026.)

(Mohamed Arifulla C.F.)
Senior Civil Judge & JMFC,
Hosakote.

