

KABR610026632016



**IN THE COURT OF I ADDL. CIVIL JUDGE & JMFC.,
NELAMANGALA.**

Dated this the day 3rd day of June, 2026

**PRESENT: Sri. Manju.M, B.Sc., L.L.B.,
I Addl. Civil Judge & JMFC.,
Nelamangala.**

O.S.No.352/2016

- Plaintiffs:**
1. Syed Kareem S/o late Syed Pagha,
Aged about 47 years,
 2. Syed Ali S/o late Syed Pacha,
Aged about 45 years,
 3. Syed Raheem S/o late Syed Pacha,
Aged about 43 years,
 4. Syed Ahmed S/o late Syed Pacha,
Aged about 30 years,
 5. Syed Yarab S/o late Syed Pacha,
Aged about 29 years,
 6. Syed Mubarak S/o late Syed Pacha,
Aged about 27 years,

All are R/at No.266, Modi Road,
Tank Mohalla, DJ Halli,
Bengaluru North, Arabic College,
Bengaluru-045.

[By Sri. B.P.G., Advocate]

V/s

- Defendant:** 1. Chand Pasha S/o late Abdul Bashir,
Aged about 43 years,
2. Smt Thaseena Banu W/o Chand Pasha,
Aged about 35 years,
3. Smt Ayesha Bee W/o Abdul Raheem,
Aged about 40 years,

R/at No.1597, KEB Colony,
Solur Road, Kudur village,
Magadi Taluk, Ramanagara District.

4. Azgar Pasha W/o late Abdul Bashir,
Aged about 35 years,
5. Smt Asma W/o Asgar Pasha,
Aged about 28 years,
6. Smt Shaheeda W/o Abdul Basher,
Aged about 49 years,
7. Noor Pasha S/o late Abdul Bashir,
Aged about 37 years,
8. Smt ayesha W/o Noor Pasha,
Aged about 29 years,

D1,D2, D4 to D8 are
R/at Islampura village,
Kanegowdanahalli Dhakale,
Kasaba Hobli, Nelamangala Taluk,
Bengaluru Rural District.

9. Mahaboob Pasha S/o late Abdul Bashir,
Aged about 39 years,

10. Shahin Taz W/o Mahboob Pasha,
Aged about 39 years,

D9 and D10 are R/at No.530,
Jayadeva Hostel Road,
Nelamangala Taluk,
Bengaluru Rural District.

11. P. Sunil Kumar S/o late C.R. Prakash,
Aged about 30 years,
R/at No.44, 10th Cross,
K.R. Layout, JP Nagar 6th Stage,
Bengaluru-560 078.

[D1 to D11 By Sri.A.S., Advocate]

PARTIES IN IA NO.4

Applicant/Plaintiffs: Syed Kareem and others

V/s.

Opponent/Defendants: Chand Pasha and others.

**ORDERS ON I.A.NO.4 FILED BY PLAINTIFFS UNDER
ORDER 39 RULE 1 AND 2 OF CIVIL PROCEDURE
CODE.**

This is an application under Order 39 Rule 1 and 2 of CPC filed by the plaintiffs praying to pass an order to restraining the defendant No.11 from changing the nature of the suit schedule property in any manner whatsoever, till disposal of the suit.

2. This application is supported by an affidavit of the plaintiff No.3. In the said affidavit the Applicant has submitted that, the suit schedule property originally belongs to grandfather of applicant namely Aliesabi and he got the suit property through his father. After the demise of Aliesabi the grandmother and father of applicant namely Karim Bee and Siyad Pacha have got the suit property and after their demise the plaintiffs are the absolute owners in possession and enjoyment of the suit schedule property. Further, it is submitted that the defendant No.1 to 10 without having any right, title or possession over the suit schedule property have created the documents in their favour and alienated suit property to defendant No.11. Further, it is submitted that now the defendant No.11 tried to change the nature of the suit schedule property by forming a layout. Hence, prays to allow the application.

3. This application is opposed by the defendant No.11 by filing objection and denied the allegation of facts

made by the plaintiffs and contended that the suit schedule property was stands in the name of Aliesabi and he had acquired the said property under registered sale deed dated 27.10.1936 and after his demise the said property in question was inherited by his wife and son namely Kareem bee and Syed pacha and the said Kareem bee was decided to sell the suit property for the purpose of marrying her daughter and to benefit of her minor son namely Syed Pacha and they have executed a registered sale deed dated 01.06.1956 in favour of Mohammed Husain Saheb S/o Kasim Saheb and after his demise his children have got divided their family property and the suit property had been fallen to the share of Abdul Bashir and the katha had been mutated into his name vide MR No.45/1995-96. Further, it is contended that the children of Abdul Bashir were got divided the property in question and the defendant No.11 has purchased the respective shares of defendant No.11, 3, 4, 6, 7 and defendant No.9. Further, it is submitted that the katha of the property had been mutated into the

name of defendant No.11 and the plaintiffs have suppressed the true facts and filed this false suit. Further, it is contended that the said property got converted from agricultural to residential purpose. Further, it is contended that the plaintiffs have filed false suit by suppressing the true facts. Hence, prays to dismiss the application.

4. Heard arguments of both sides. Perused the documents on record.

5. Following points arise for my consideration.

1. Whether the plaintiffs have made out a prima facie case for grant of temporary injunction?
2. Whether the plaintiffs will be put to irreparable loss and hardship, if the injunction is not granted?
3. Whether the balance of convenience lies in favour of the plaintiffs?
4. What order?

6. My findings on the above points are as follows:-

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative
Point No.4 : As per final order
For the following:-

REASONS

7. **Point No.1 to 3:** Since these points are interlinked to each other, they are taken up together for common discussion in order to avoid repetition of facts and circumstances.

8. The law relating to grant of temporary injunction is well settled. The Plaintiffs who approaches the court has to prove three basic principles namely existence of prima facie case, balance of convenience and irreparable loss and injury. The court must be satisfied that there must be a prima facie case in favour of the Plaintiffs that there is balance of convenience in favour of the Plaintiffs and if the temporary injunction is refused the Plaintiffs would be put to irreparable loss and injury. Apart from this the conduct of the party approaching the court has also to be considered. Injunctive relief is a discretionary relief and an equitable relief. Thus being the case, the person who

seeks equity must do equity. In order to grant relief of temporary injunction the Plaintiffs have to establish that three vital aspects, i.e., prima facie case, balance of convenience lies in their favour and that they would be put to irreparable loss and injury in case injunction is not granted.

9. Having considered the arguments of both sides and materials available on record, it is relevant to note that the defendant No.11 has purchased the suit property under registered sale deed dated 11.03.2016 and the suit schedule property got converted from agriculture to non agricultural purpose. Further, the suit property has purchased by one Mohammed Husain saheb under registered sale deed dated 01.06.1956 from grand mother of the plaintiffs namely Kareem bee. Further, after the demise of Mohammed Husain Saheb, in family partition, the suit schedule property had been allotted to the share of father of defendant No.1 to 10 namely Abdul Basheer and after his demise, the defendant No.1 to 10

have divided the suit property and sold their shares to defendant No.11 herein. In order to consider the respective contentions of plaintiffs, a full pledged trial is required.

10. At this stage, the plaintiffs have not made out a prima facie case and balance of convenience also not lies in favour of the plaintiffs. Considering all these facts, this court is of the opinion that, the plaintiffs have failed to prove that the above said three mandatory components are in their favour at this stage. Accordingly, I proceed to answer **point No.1 to 3 in the Negative.**

11. Point No.4: In view of my findings on point No.1 to 3, I proceed to pass the following;

ORDER

I.A.No.4 filed by the Plaintiffs
under Order 39 Rule 1 and 2 of
CPC is hereby dismissed.

Under the circumstances parties
shall bear their own cost.

(Dictated to the Stenographer directly on computer, typed by him, corrected and signed by me and then pronounced in the open Court, on this **3rd day of June, 2026**)

Sd/-
ACJ & JMFC, Nelamangala.