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**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT TARIKERE**

Present: Smt.Urmila.V. B.A.L., LL.B.,
I Addl. Civil Judge & JMFC, Tarikere.

Dated: 7th Day of March 2026

ORIGINAL SUIT NO.96/2025

PLAINTIFF/s :

- 1) Thammaiyappa S/o late Mariyappa, aged 63 years,
- 2) Murthappa S/o late Mariyappa, aged 59 years,
- 3) Shivappa S/o late Mariyappa, aged 58 years,
- 4) Chandrappa S/o late Mariyappa, aged 50 years,

All are Agriculturists, R/o Sunnadahalli village, Nandi Post, Lingadahalli Hobli, Tarikere Taluk.

(Reptd. By : Sri S.Sureshchandra, Advocate.)

Vs.

DEFENDANT/s:

- 1) Smt.Chandramma W/o late Veerappa, aged 55 years,
- 2) Adarsha S/o late Veerappa, aged 30 years,
- 3) Smt.Lakshamma W/o late Veerappa, aged 45 years,

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All are Agriculturists, R/o Sunnadahalli village, Nandi Post, Lingadahalli Hobli, Tarikere Taluk, Now R/o Nagasamudra Gollarahatti Village, Banavara Hobli, Arasikere Taluk, Hassan District.

(Reptd. By : Sri C.S.Shivaprsad, Advocate.)

PARTIES TO I.A.NO.III

Applicant : Thammaiahyaappa and others

Vs.

Opponent : Smt.Chandramma and others

i	Provision under which the application is filed	Order XXXIX Rule 1 and 2 of CPC
ii	Relief sought for	Temporary Injunction
iii	The date of which the application is filed	16.10.2025
iv	Number of application	I.A.No.III
v	The date on which the objection are filed by different opponents	18.12.2025
vi	The date on which the orders were passed on the said application	07.03.2026

ORDER ON I.A.NO.I

The applicants/plaintiffs have filed this interlocutory application under Order XXXIX Rule 1 and 2 of CPC for the

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relief of ad interim order of temporary injunction restraining the defendants, their representatives, agents or any other persons on behalf of defendants from alienating or mortgaging the suit schedule property to any bank in any manner pending disposal of this suit.

2. The I.A., is supported with the affidavit of the plaintiff No.1. In the affidavit he has stated that, he has filed this affidavit on behalf of other plaintiffs also and the averments of plaintiff can be read as part and parcel of affidavit. It is further stated that the khata of suit schedule property is standing in the name of defendants and taking advantage of the same, the defendants are trying to alienate and mortgage the suit schedule property to the bank and the suit schedule property is their ancestral property and the plaintiffs are also having equal share in the suit schedule property. It is further stated that if the defendants alienate or mortgage the suit schedule property to the bank, the plaintiffs will be put to irreparable

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loss and hardship and the very purpose of this suit will be defeated. If the present I.A., is allowed, no hardship or loss will be caused to the defendants and there is a prima facie case in favour of the plaintiffs. Therefore, the plaintiffs pray to allow the present I.A. Hence, this I.A.

3. After service of suit summons, the defendants have appeared through their counsel and defendant No.2 filed written statement and also filed objections to the present I.A. In the objection, it is contended that the averments of the plaintiff may be considered as part of this objections and denied that the defendants taking advantage of entries in the name of defendants, the defendants are trying to borrow loan and dispose the suit schedule property. It is further contended that when the plaintiffs have no locus to claim share and suit itself is not maintainable, the question of granting interim orders does not arise. It is further contended that the plaintiffs have no claim over the suit schedule property and

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as such, the defendants cannot be compelled or restrained by an order of temporary injunction and that if any order is going to be passed, more hardship will be caused to the defendants. It is further contended that the plaintiffs are guilty of suppressing material facts and as such, they are not entitle for any relief and further contended that the defendants have been unnecessarily harassed by application and suit. For all these grounds, the defendant No.2 prays for to reject I.A.No.III with cost.

4. Heard arguments on both sides.

5. Upon hearing arguments and on perusal of materials placed on record, the following points that would arise for my consideration are as under:

- 1) Whether the plaintiffs/applicants have made out a prima facie case?
- 2) Whether the balance of convenience lies in favour of the plaintiffs/applicants?
- 3) Whether the plaintiffs/applicants will be put to irreparable loss and injury, if the temporary injunction is not granted as prayed in the I.A.?

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4) What order?

6. My answer to the above points are 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 the Order,

for the following:

REASONS

7. **POINT NO.1 TO 3** : These points are inter related with each other. Hence, these points are taken up together for common discussion in order to avoid repetition of facts and findings. On perusal of the materials available on record, admittedly, the plaintiffs have filed this suit against the defendants for the relief of declaration to declare that the suit schedule property is the ancestral property of plaintiffs and defendants and also for the relief of partition and separate possession of their 1/5th share each in the suit schedule property.

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8. It is the urge of the plaintiffs that, the suit schedule property is their ancestral property and the defendants taking advantage of khata standing in their names, are trying to alienate or mortgage the suit schedule property and the plaintiffs are having share in the suit schedule property and if the defendants alienate or mortgage suit schedule property to the bank, the plaintiffs will be put to great hardship and loss.

9. On the other hand, the defendant No.2 in the objections denied the averments of the affidavit and contended that, plaintiffs are suppressing the material facts and the plaintiffs have no locus to claim the share and if the temporary injunction is granted, the defendants will be put to more hardship.

10. At this stage, without going through the merits of the case and conducting mini trial, the court has considering the aspect of prima facie, at this stage this court makes very clear that this court is looking towards prima facie case and

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not for the prima facie title. In order to prove the prima facie case, the plaintiffs have produced genealogical tree of the family of plaintiffs and defendants. The plaintiffs have also produced the RTC and mutation register extracts which at this stage discloses that the suit schedule property is standing in the name of defendants. It is to be noted that, the plaintiffs have produced the certified copy of order of the Assistant Commissioner, Tarikere dated 04.07.2024, which discloses that the khata of suit schedule property standing in the name of defendants has been cancelled and it is ordered to change the khata of the suit schedule property into the name of original grantee i.e., in the name of Veerappa S/o Mariyappa. Further the plaintiffshave produced the death certificate of Erappa S/o Mariyappa which discloses that said Erappa died on 02.12.2002 and on perusal of genealogical tree it discloses that he was the husband of defendant No.1.

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11. Admittedly it is a suit for partition and separate possession in respect of suit schedule property. At this stage the rights of the parties cannot be adjudicated, it needs full fledged trial. In order to avoid multiplicity of proceedings and also to keep the suit schedule property intact till disposal of suit, it is just and necessary to pass an order of temporary injunction to restrain the defendants from alienating or mortgaging the suit schedule property to anybody in any manner till disposal of the suit. Looking into the pleadings and documents produced by the plaintiffs, at this stage it appears that the plaintiffs have made out prima facie case and balance of convenience is also lies in favour of plaintiffs. If this I.A., is not allowed, the plaintiffs will be put to great hardship and injury, on the other hand, if this I.A., is allowed, there is no harm caused to the other side. For considering all these reasons, I answer Point No.1 to 3 in the Affirmative.

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12. **POINT NO.4** : In the light of the above discussion on Point No.1 to 3, I proceed the following :

ORDER

I.A.No.III filed by the plaintiffs/applicants under Order XXXIX Rule 1 and 2 of CPC is hereby allowed.

Consequently, the defendants are hereby temporarily restrained from alienating or mortgaging the suit schedule property in any manner till disposal of the suit.

No order as to cost.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the open Court, on this the 7th day of March 2026)

sd/-
(URMILA.V)
I ADDL.CIVIL JUDGE &
J.M.F.C., TARIKERE.