

KACM200000232025



IN THE COURT OF SENIOR CIVIL JUDGE,
AT: KADUR

Present:- Sri. IRFAN.

B.A., LL.B.,
Senior Civil Judge & JMFC,
Kadur, Chikkamagaluru District.

Dated: this the 17th day of June – 2026.

O.S. No.6/2025

Plaintiff:-

Sri. Prashanth S,
S/o late Somashekharappa,
Aged about 30 years,
R/o Behind Veena Sharada
School, 7th Cross,
Sharavathi Nagara,
Shivamogga.

(By: Sri. Darshan H.N., Advocate)

V/s

Defendants:-

1. Smt. Umamaheshwaramma,
D/o late Rudrappa,
W/o Thipperudrappa,
Aged about 76 years,



2. Smt. Sulochanamma,
D/o late Rudrappa,
W/o Eranna,
Aged about 74 years,

3. Sri. Vasanth Kumar,
S/o late Rudrappa,
Aged about 63 years,

All are residing at
Y. Mallapura Village,
Yagati Hobli, Kadur Taluk,
Chikkamagaluru District.

(Defendants No.1 and 2 – Exparte)

(Defendant No.3 by: Sri. M.O. Jagadeesh, Advocate)

RANK OF THE PARTIES ON I.A.NO.I

Applicant/
Plaintiff

: Sri. Prashanth S,

V/s

Opponents/
Defendants

: Smt. Umamaheshwaramma
and others.

i	<i>Provision under which the application is filed</i>	<i>U/O 39 Rule 1 and 2 R/w Sec.151 of CPC</i>
ii	<i>Relief sought for</i>	<i>Temporary Injunction.</i>
iii	<i>The date on which the application is filed</i>	<i>09.01.2025.</i>
iv	<i>Number of the application</i>	<i>I</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>17.09.2025 by the 3rd defendant.</i>



vi	<i>The date on which the orders were passed on the said application</i>	<i>17.06.2026.</i>
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At the time of institution of the suit, the plaintiff has filed this application.

ORDERS ON I.A.I

This interim application has been filed by the plaintiff, under Order XXXIX Rule 1 and 2 R/w Sec.151 of CPC seeking for an order of temporary injunction to restrain the defendants from alienating the suit schedule properties in any manner, till the final adjudication.

2. This application is accompanied by an affidavit filed by plaintiff. The gist of the application averment is that he is the son of late Pramila and Somashekharappa. Late Pramila and defendants are the children of late Rudrappa and Shanthamma. The mother of the plaintiff - Pramila died on 26.01.2023. The father of plaintiff - Somashekharappa died on 05.09.2020. The plaintiff and defendants are the joint



family members and the suit schedule properties are in joint their possession. The suit schedule properties were originally belongs to grand-father of plaintiff by name Rudrappa. After the death of said Rudrappa, the suit schedule properties have been mutated in the name of mother of plaintiff – Pramila and defendants jointly as Powthi katha. But now, the defendants have changed the katha of suit schedule properties in their names behind the back of plaintiff. The plaintiff has legitimate share in the suit schedule properties and hence, he has been demanding for his lawful share in the suit schedule properties continuously, though defendants agreed, but not effected partition. Till today no partition has been effected between the plaintiff and defendants. The defendants are not co-operating to effect the partition in the suit schedule properties and dragging the matter. The plaintiff demanded his legitimate share in the suit schedule property on



05.12.2024 to the defendants, but the defendants denied and stated that the suit schedule properties are in their names and they will sell the suit schedule properties. Therefore, it is sought to restrain the defendants from alienating the suit schedule properties pending disposal of the suit on hand. Accordingly, sought to allow the application.

3. The 3rd defendant has filed objections to this application, wherein by re-iterating his written statement averments, it is specifically asserted that the plaintiff has sworn to false affidavit by suppressing the real facts, with an intention to harass this defendant for one or other reasons. Hence, all the averments made in the affidavit are false and created. The plaintiff is the stranger to this defendant, even plaintiff is not blood-relative to this defendant including the deceased – Pramila and her husband. Such being the



circumstances, the plaintiff cannot be entitled for any relief. The alleged cause of action is created one. The plaintiff is stranger to these defendants and also suit schedule properties. Such being the circumstances, the very suit and application of the plaintiff is not maintainable under law. Although, the plaintiff without any right, filed the suit and application by creating the false story and false relationship, hence, the plaintiff is not approached the court with clean hand, in view of the same, the plaintiff is not entitled for any reliefs from the hands of this court. Even balance of convenience also is not lies in his favour. Accordingly, sought to dismiss the IA.

4. Heard Sri.DHN, Advocate for plaintiff and Sri. MOJ for 3rd defendant.

5. The points that arise for consideration are as follows:



1. Whether the applicant /
plaintiff has made out prima-
facie case in his favour ?

2. Whether the applicant /
plaintiff has made out balance
of convenience in his favour?

3. Whether the applicant /
plaintiff would suffer
irreparable loss and injuries, if
the injunction is not granted?

4. What order?

6. With reference to the material made available

on record the above points answered as follows:-

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;

R E A S O N S

7. **Point No.1 to 3:-** These points are taken up
together for common discussion.



The plaintiff has instituted this suit seeking for the relief of partition and separate possession with respect to the suit schedule properties. As per his contentions, he is the son of Pramila and Somashekharappa. Said Pramila and defendants are the children of late Rudrappa and Shanthamma. Said Pramila died on 26.01.2023 and her husband Somashekharappa died on 05.09.2020 leaving behind the plaintiff. It is contended that the suit schedule properties are the ancestral and joint family properties and the plaintiff being the son of Smt. Pramila is entitled to get her legitimate share. On the other hand, the defendants have specifically denied the very relationship of either plaintiff or his mother – Smt. Pramila with Rudrappa and Shanthamma and they have also denied any sort of rights of plaintiff or his mother Smt. Pramila in the suit schedule properties. The plaintiff in order to establish his relationship and



also that suit schedule properties are the ancestral and joint family properties has produced his birth certificate, death certificates of Pramila and Somashekharappa, Ration card and also the RTC extracts along with orders of Tahasildar in RRT (D) CR 61/2024-25, dated 25.09.2024. On a reference to the birth certificate, it is prima-facie noticed that the plaintiff is the son of Smt. Pramila and Somashekharappa. RTC extracts demonstrates that the suit schedule properties were mutated jointly in the names of defendants and Smt. Pramila under MR H 13/2016-17, dated 24.05.2017 based on inheritance. The death certificate of Pramila discloses that she demised on 26.01.2023. The order of Tahasildar referred above discloses that in view of death of Smt. Pramila, the mutations were ordered to be made out in the respective names of the defendants. There is also a reference that the plaintiff is not the biological son of



Smt. Pramila and in view of non-production of proper documents demonstrating the due adoption, the learned Tahasildar had ordered to mutate the revenue entries in the respective names of defendants only.

8. Under the present application, the plaintiff has apprehended that the defendants in order to defraud the legitimate right of the plaintiff are trying to alienate the suit schedule properties and if they proceed to do so, same would affect his lawful rights in the suit schedule properties. On reference to the rival pleadings, there is serious dispute about the relationship of plaintiff with Smt. Pramila and also his entitlement to seek for partition in the suit schedule properties and that aspect is required to be adjudicated after a full-fledged trial. In view of the fact that the revenue entries are existing in the joint names of defendants and also to avoid multiplicity of proceedings, it is just and essential to pass an order



restraining the defendants from alienating or creating any third party rights over the suit schedule properties, till the final adjudication. Thus, the balance of convenience lies in favour of plaintiff and it is the plaintiff who would be put into irreparable loss and injury, if an order of temporary injunction is not granted. Thus, the plaintiff has made out prima-facie case in his favour. Accordingly, **the points No.1 to 3 under consideration are answered in the Affirmative.**

9. **Point No.4** :- In view of the discussions in foregoing points, the following;

ORDER

IA No.I filed by the plaintiff,
under order XXXIX Rule 1 and 2
R/w Sec.151 of CPC is allowed.

No order as to costs.

The defendants or anybody else
acting on their behalf are



temporarily restrained from alienating or creating any third party rights over the suit schedule property, till final adjudication.

For compliance of U/S 89 of CPC: 11.07.2026.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 17th day of June, 2026)

(IRFAN)
Senior Civil Judge,
Kadur.