

KADG320055662024



**IN THE COURT OF
PRL. CIVIL JUDGE AND JMFC HARIHAR,
AT HARIHAR**

**Presided Over by SMT. JYOTI ASHOK PATTAR
(B.E., LL.B.)**

O.S. No.186/2024

Dated this the 28th day of March, 2026

Rudramma and others.

....PLAINTIFFS

Vs.

Ningappa and others.

....DEFENDANTS

PARTIES TO I.A.No.IV

Ningappa

**....APPLICANT/
DEFENDANT NO.1**

Vs.

Rudramma and others.

**....OPPONENTS/
PLAINTIFF**

i	Provision under which the application is filed	U/O XXXIX Rule 1 and 2 of CPC
ii	Relief sought for	Temporary Injunction
iii	The date on which the application is filed	17.12.2024
iv	Number of the application	04
v	The date on which the objections are filed by the defendants opponents	24.01.2025
vi	The date on which the orders passed on the said application.	28.03.2026

ORDER ON I.A.No.IV

The present application is filed by the defendant No.1 U/o. XXXIX Rule 1 and 2 of CPC seeking an order of temporary injunction restraining plaintiffs and other defendants from interfering in peaceful possession and enjoyment of application schedule property by the defendant No.1 to 3.

2. It is stated in the accompanying affidavit that the defendants No.1 to 3 got property from their father under MR.No.46/1987-88 and till today they are having possession of the application schedule property. The plaintiffs have filed case against these defendants in the Tahsildar Court Harihar, Assistant Commissioner Court Davangere and District Commissioner Davanagere, wherein all the Courts dismissed the case of plaintiffs,

finally they filed a case before Hon'ble Principal Senior Civil Judge at Harihar and its O.S. No.99/2004, the said case was also dismissed. And without cause of action the plaintiffs now filed this suit after the laps of 20 years and the suit is barred by law of limitation. It is specifically contended that the defendants have obtained loan by mortgaging the application schedule property and the same is in possession enjoyment of the defendant No.1 to 3. The plaintiffs having no right, title and interest over the application schedule property, but came up with this false suit by colluding with other defendants. Hence, prays to allow the application.

3. Per contra, the plaintiffs filed objection and contended that the plaintiffs and defendants are the joint family members and the suit schedule properties are ancestral joint family properties of the plaintiffs and defendants. The defendant No.1 and 2 changed the katha of suit schedule property in their name behind the back of plaintiffs in order to grab the share of plaintiffs over the suit schedule property. It is specifically contended that the plaintiffs and defendants are in joint possession of the application schedule property and the present case is filed by the plaintiffs for partition and separate possession, therefore the defendant No.1 to 3 having no absolute right over the application schedule property. Hence, prays to reject the application.

4. Heard both side.
5. The following points arise for this Court determination;
 - 1) Whether the applicant has made out prima-facie case?
 - 2) Whether applicant has made out the balance of convenience in their favour?
 - 3) Whether the applicant will be put to irreparable injury, if the temporary injunction as claimed by him is refused?
 - 4) What Order?
6. This Court findings on 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 final order,
for the following;

REASONS

7. Point No.1 to 3 : In order to get the order of temporary injunction applicant has to show that, prima facie case is in his favour and balance of convenience lies in his favour. Further he has have to show that in case of temporary injunction order as sought by is not granted, he will be put to heavy and irreparable loss, which cannot be compensated in terms of money.
8. Per contra the plaintiffs contended that the suit schedule property is ancestral joint family property of

plaintiffs and defendants and they are entitled to share in the suit schedule property and relied on the following documents i.e., RTC of Sy. No.28, Encumbrance certificate, Sketch dated: 13.06.2024, Hand written RTC of Sy.No.28 for the year 1967-1970, Documents of rights, Handwritten RTC of Sy. No.28 for the year 1978 -2000, certified copy of plaint of O.S. No.99/2004, certified copy of written statement of O.S. No.99/2004, entire Order sheet of O.S. No.99/2004, Xerox copy of katha hissa of suit schedule property. Per contra defendant No.1 to 3 relied on following documents i.e., Mutation Register M.R. No.46/87-88, RTC dated: 20.09.2024, RTC dated: 21.09.2024, Xerox copy of order copy dated: 24.02.2003, Xerox copy of order dated: 18.02.2003, Encumbrance certificate dated: 11.09.2024, Genealogy tree dated: 21.09.2024, Death certificate of Mallappa, Death certificate of Hanumakka, Death certificate of Hanumanthappa, Tax paid receipt, Crop Conformation letter dated: 21.09.2024, certificate dated: 09.09.2024 and certified copy of chakkubandi dated: 21.09.2024.

9. It is pertinent to note that the documents relied by the defendants i.e., RTC's, Mutations and the EC i.e., Form No.15 reveals that the application schedule property standing in the joint name of defendant No.1 and 2. That even though suit is filed by the plaintiffs for partition and separate possession, the defendants denied the existence

of joint family and specifically denied that the plaintiffs and defendants are joint family members. And the plaintiffs have not produced any documents to show the common propositus of the plaintiffs and defendants. Moreover the documents in respect of suit schedule properties are standing in the joint name of defendant No.1 and 2. Under such circumstances the prima-facie case is lies in favour of defendants and the documents relied by the defendants also establishes the prima-facie case in favour of the defendants/applicants. Hence the defendants/applicants entitled to relief sought in the application.

10. At this juncture, any opinion on merits of the case will prejudice the mind of the parties. Therefore, without going to the merits of the case. As stated above there is no clarity regarding existence joint family. Hence, considering the material placed on record, it can be said that, the defendant No.1 has not made out prima-facie case.

11. That based on the averments made in the application as well as the documents produced by the defendants it can be said the defendants have made out prima-facie case. Mere prima-facie case itself is not a ground to grant injunction. The applicant has to show that, the balance of convenience is also lies in his favour and in case the plaintiffs succeeded in their illegal act, he

will be put into heavy and irreparable loss, which cannot be compensated in terms of money. However at this juncture, any opinion on merits of the case will prejudice the minds of the parties. But at this stage if the temporary injunction is not granted, the applicant will be put more hardship rather than the plaintiffs. Therefore, considering the facts as discussed herein above, at this juncture, the balance of convenience lies in favour of the applicant. Further in case if temporary injunction is not granted, the applicant will be put to heavy and irreparable loss rather than the plaintiffs. Therefore, this Court is of the opinion that, it is just and proper to grant temporary injunction order as sought for in favour of the applicants. Accordingly, the point No.1 to 3 are answered in the Affirmative.

12. Point No.4: In view of the above discussion, this Court proceed to pass the following:

ORDER

I.A.No.IV filed by the applicants
U/o XXXIX Rule 1 & 2 R/w Sec. 151 of CPC.,
is hereby allowed.

The plaintiffs, their followers, henchmen
and who acts on behalf of them are hereby
restrained by way of temporary injunction
from interfering in peaceful possession and

enjoyment of application schedule property by the defendant No.1 to 3 till next date of hearing.

No order as to costs.

(Dictated to the Stenographer directly on computer, typed by her, revised and corrected by me and then pronounced in the open Court on this the 28th day of March, 2026).

(Jyoti Ashok Pattar)
Pri. Civil Judge & JMFC.,
Harihar.