

**IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC,
KALAGHATAGI**

PRESENT

**SRI. R.L.HONOLE, B.A., LL.B. (Spl)
SENIOR CIVIL JUDGE AND JMFC, KALAGHATAGI**

**DATED THIS 06TH DAY OF APRIL 2026
O.S.No.12/2026**

PLAINTIFF:

Dyamappa @ Dyamanna s/o
Hanmanthappa Ayyappanavar @
Bistappanavar

(Sri. M.M. Chalawadi, Adv)

Vs.

DEFENDANTS:

Somavva w/o Ramappa @ Ramanna
Bistappanavar and others

**(D-1 to 3- Sri. N.F.Patil, Adv)
(D-4 & 5- Exparte)
(D-6 & 7- Sri. R.Y.Rolli, Adv)**

PARTIES TO IA I

APPLICANT:

Dyamappa @ Dyamanna s/o
Hanmanthappa Ayyappanavar @
Bistappanavar

Vs

OPPONENTS:

Somavva w/o Ramappa @ Ramanna
Bistappanavar and others

ORDERS ON I.A NO.I U/o 39 RULE 1 AND 2 OF CPC

Applicant/plaintiff has filed this application u/o 39
rule 1 and 2 of CPC for grant of temporary injunction

restraining the defendant No.1 to 3 from alienating, creating charge or selling the suit property till disposal of suit.

2. Application is supported by the affidavit sworn to by the plaintiff wherein it is contended that he filed suit for partition and separate possession of his legitimate share in the suit properties. The defendants No.1 to 3 behind the back of the plaintiff have entered into agreement of sale with defendant No.6 and 7 and trying to alienate the suit properties. The disposal of case will take time, if the defendants alienate the properties he will be put into untold hardship which cannot be compensated in terms of money. Therefore, it is necessary to restrain the defendant No.1 to 3 from an order of temporary injunction till disposal of suit from alienating, creating charge or transfer of properties. Hence, prays for allowing the application.

3. Defendant No.1 to 3 have filed objections denying the contents of application. It is contended that the plaintiff has not included all the family properties in the suit and not produced relevant documents. The plaintiff is the second son of propositus Hanmanthappa and after death of his father as per MR No.H 10 dated 07.08.2013

has included the suit property under which partition was taken place. Plaintiff taking advantage of absence of defendant No.1 to 3 in the village trying to grab the suit properties has filed the suit. For the purpose of marriage of defendant No.2 they have obtained loan from defendant No.6 and 7 and they have no intention to sell the suit properties. Hence, prays for dismissal of application with cost.

4. Heard the arguments.

5. The points arise for my consideration are:

1. Whether the plaintiff has made out prima-facie case?
2. Whether the balance of convenience lies in favour of the plaintiff?
3. Whether the plaintiff will be put into irreparable loss which cannot be compensated in terms of money, if the T.I., as prayed is not granted?
4. What order ?

6. My findings on the above points are:

POINT No.1 : In the affirmative

POINT No.2 : In the affirmative

POINT No.3 : In the affirmative

POINT No.4 : As per the final order
for the following:

REASONS

7. **POINTS No.1 TO 3** : In order to avoid repetition of facts I have taken up these points together for common discussion.

8. To get the temporary injunction the plaintiff has to show that the prima facie case is in his favour and balance of convenience lies in his favour more hardship than the defendants would be caused to him in case injunction is not granted in his favour. If the plaintiff was able to satisfy all the three ingredients then he is entitled for injunction order.

9. Keeping in mind the cardinal principles of law for grant of injunction, I have gone through the material documents placed on record. RTCs of suit properties jointly standing in the name of plaintiff and defendant No.1 to 5. The entries in the revenue records from the year 1982-83 are standing in the name of plaintiff and his brother deceased Ramappa and defendant No.4 as joint owners. The mutation entries shows that Sy.No.156 derived from the plaintiff and his brother to their father. The plaintiff has produced

online copy of agreement of sale dated 29.03.2025 executed by defendant No.1 to 3 in favour of defendant No.6 and 7 agreeing to sell the land bearing Sy.No.156/*/1 measuring 2 acre 27 guntas of Naganur village.

10. I have also gone through the documents produced by the defendant No.1 to 3 MR No.31 H 25 T 51 dated 28.09.2022 and RTC of Sy.No.157*/* measuring 2 acre 16 guntas standing in the name of defendant No.1 and defendant No.4.

11. The averments of plaint disclose that suit schedule properties are the joint family properties and there was no partition in the said properties. It is contended that suit properties are ancestral joint family properties belongs to himself and defendant No.1 to 5. This fact is supported with entries in the revenue records jointly standing in the name of plaintiff and defendant No.1 to 5. The contention taken by the defendant No.1 to 3 that the plaintiff has not included all the joint family properties in the suit can

be taken into consideration at the time of full pledged trial.

12. On going through the averments of plaint and documents it is clear that the suit schedule properties are the ancestral joint family properties and there was no partition. It is apprehension of plaintiff that in order to deprive his right defendant No.1 to 3 are trying to alienate the suit properties. If the defendants succeeds in their attempt in alienating the properties the plaintiff will be put into untold hardship and cause multiplicity of proceedings. On the other hand, no loss or injury would be caused to the defendants in case injunction order has been granted.

13. The material documents produced by the plaintiff and defendants discloses that suit schedule properties are the ancestral joint family properties. Therefore, it can be said that the prima facie case is in favour of plaintiff and he made out prima facie case for trial. Balance of convenience also lies in favour of plaintiff. If the temporary injunction order is granted in favour of plaintiff no hardship or loss or injury would

be caused to the defendants. Accordingly, I have answered point No.1 to 3 in the affirmative.

14. **POINT NO.4:** The plaintiff has made out prima facie, balance of convenience lies in his favour and more hardship than the defendants would be caused to the plaintiff in case injunction order is not granted. The disposal of case will take time meanwhile the properties are to be kept intact. Therefore, an injunction order is to be granted against the defendants from alienating or creating charge etc., over the suit schedule properties till disposal of suit. Hence, court proceed to pass the following...

ORDER

I.A.No.I filed by the plaintiff U/o. 39 Rule 1 and 2 R/w Sec.151 of CPC is hereby allowed.

The defendant No.1 to 3 are hereby restrained from an order to temporary injunction from alienating, transferring, creating charge or encumbrance over the suit schedule properties till disposal of suit.

No order as to cost.

(Dictated to stenographer directly on computer, computerized by him, printed, then corrected and pronounced by me in the open court on this **6th day of April, 2026**).

(R.L.HONOLE)
SR. CIVIL JUDGE AND JMFC,
KALAGHATAGI