

**IN THE COURT OF THE ADDL SENIOR CIVIL JUDGE,  
GADAG.**

**Present:** Sri. Prakash Channappa Kurabett  
B.SC., L.L.B.(Spl.,)  
Addl. Senior Civil Judge, Gadag.

**O.S. No.92/2015**

Dated this the 23<sup>rd</sup> day of February 2024

**PLAINTIFFS:**

1. Smt. Manjula W/o Eshwarappa Badiger  
and others

**(By Sri. BVH Adv.,)**

**-Vs-**

**DEFENDANTS:**

1. Rajesab S/o Davalsab Beleri  
and others  
**(D1 to 6 by Sri. MBM Adv.,  
D1 dead  
D1(a to e) by Sri. MBM Adv.,  
D4 by Sri. SSP Adv.,  
P.D17 by Sri.SHP  
P.D18 by Sri.MBS)**

**Parties to I.A. No.24**

**APPLICANT/  
plaintiff :**

1. Smt. M.S. Badiger and others

**Vs.**

**OPPONENTS/  
defendants :**

1. Rajesab S/o Davalsab Beleri  
and others

|                                                                   |                                     |
|-------------------------------------------------------------------|-------------------------------------|
| Provision under which the application is filed                    | U/o 39 Rule 1 and 2 of CPC          |
| Relief sought for                                                 | Suit for declaration and injunction |
| The date on which the application is filed                        | 27.10.2023                          |
| Number of the application                                         | IA No.24                            |
| The date on which the objections are filed by different opponents | 01.02.2024                          |
| The date on which the orders were passed on the said application  | 23.02.2024                          |

### **ORDER ON I.A.No.24**

The I.A.No.24 filed by the applicant/plaintiff U/sec.39 Rule 1 and 2 R/w. Sec.151 of CPC prayed to not to alienate and not to create a charge over the suit schedule property i.e., RS No.105/5, 105/7, 105/8, 105/9, 105/10 until final disposal of the suit.

2. In the subjoined affidavit filed along with the application, the plaintiff has sworn in the affidavit and contended that, the plaintiffs have filed this suit against the defendants for declaration and injunction in respect of suit schedule properties are landed properties bearing RS No.105/5, 105/7, 105/8, 105/9, 105/10 the

defendants are alienating the suit schedule properties and defendants have intentionally selling the property to dupe the share of the plaintiff. So, plaintiff seeking the temporary injunction against the defendant not to alienate the suit properties till the disposal of the suit. Hence, pray to allow the application.

3. On the other hand, the plaintiff has filed objection to the above said application and contended that, the application filed by the defendant is not sustainable. Further contended that, the defendants are entered their name in the suit schedule properties as varasa and as per partition effected between themselves and suit schedule properties are ancestor name is entered the application filed by the plaintiff is false one the suit si filed by the plaintiff in the year 2015 plaintiffs are dragging the matter by filing the interim application. Hence, prayed to reject the application.
4. Heard the arguments.

5. Upon considering the application, affidavit filed along with application and objections, the following points arise for my consideration:

**P O I N T S**

1. Whether the I.A. No.24 filed U/s. 39 Rule 1 and 2 R/w. Sec.151 of CPC filed by the applicant/plaintiff is deserves to be allowed?
2. What Order?

6. My answer to the above points is as follows:

Point No.1 : In the affirmative

Point No.2 : As per the final order,  
for the following:

**R E A S O N S**

- 7. Point No.1:-** The I.A.No.24 filed by the applicant/plaintiff U/sec.39 Rule 1 and 2 R/w. Sec.151 of CPC prayed to not to alienate and not to create a charge over the suit schedule property until final disposal of the suit.
8. In the subjoined affidavit filed along with the application, the plaintiff has sworn in the affidavit and contended that, the plaintiffs have filed this suit against the defendants for declaration and injunction in respect of suit schedule

properties are landed properties bearing RS No.105/5, 105/7, 105/8, 105/9, 105/10 the defendants are alienating the suit schedule properties and defendants have intentionally selling the property to dupe the share of the plaintiff. So, plaintiff seeking the temporary injunction against the defendant not to alienate the suit properties till the disposal of the suit. Hence, pray to allow the application.

9. On the other hand, the plaintiff has filed objection to the above said application and contended that, the application filed by the defendant is not sustainable. Further contended that, the defendants are entered their name in the suit schedule properties as varasa and as per partition effected between themselves and suit schedule properties are ancestor name is entered the application filed by the plaintiff is false one the suit is filed by the plaintiff in the year 2015 plaintiffs are dragging the matter by filing the interim application. Hence, prayed to reject the application.

10. Upon considering the application and going through the pleadings of the parties it reveals that, the plaintiffs have filed this suit for declaration and injunction in respect of suit schedule properties. Such a being the case the defendants have sold out the suit schedule property. Now the plaintiff has come up with this application for grant of the TI order in the suit schedule property against the defendant not to alienate and not to raised loan on the suit schedule property until final disposal of the suit. If they have sold out the suit schedule property there will be chances of multiplicity of the proceeding. Hence, the plaintiff is having prima facie case. Herein this case, if the property is sold out irreparable injury is caused to the plaintiff and it can not be compensated in terms of money. Herein this case, defendants are the purchasers, if the IA is not allowed harm will be caused to the plaintiff and irreparable injury cause to the plaintiff and it can not be compensated in terms of money. Therefore, the plaintiff has shown sufficient reasons made out by the plaintiffs to grant temporary injunction against the defendant not to

alienate and not to raise the loan till the disposal of the suit. **In view of the above reasons, this Court hold the point No.1 in the affirmative.**

**11. Point No.2:-** In view of my findings on the above point, I proceed to pass the following:

**O R D E R**

I.A.No.24 filed by the applicant/plaintiff U/sec.39 Rule 1 and 2 R/w. Sec.151 of CPC hereby allowed.

The defendants are hereby restrain not to alienate in the suit schedule property and not to raise loan in the suit schedule properties until final disposal of the suit.

(Dictated to the stenographer, directly on computer, revised by me and then pronounced in the open court on this the 23<sup>rd</sup> day of February 2024)

**(PRAKASH C. KURABETT)**  
**Addl. Senior Civil Judge,**  
**Gadag.**