

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

PRESENT

**SRI. G.R. SHETTAR., B.com. LL.B (Spl)
PRL.SENIOR CIVIL JUDGE AND CJM, GADAG
C/C ADDL. SENIOR CIVIL JUDGE AND JMFC, GADAG**

**DATED THIS 06TH DAY OF JANUARY, 2026
O.S.No.212/2025**

PLAINTIFFS:

1. Veeranagouda S/o Parvatagouda Patil,
Age: 40 years, Occ: Agriculture,
R/o Konnur village, Tq:Naragund, Dist:Gadag.
2. Aishwarya W/o Veeranagouda Patil,
Age: 30 years, Occ: Agriculture/Student,
R/o Konnur village, Tq:Naragund, Dist:Gadag.
3. Venkamma W/o Parvatagouda Patil,
Age: 40 years, Occ: Agriculture,
R/o Konnur village, Tq:Naragund, Dist:Gadag.

(R/by Sri. P.K.Udupi., Advocate)

Vs

DEFENDANTS:

1. Tammanagouda S/o Parvatagouda Patil,
Age: 62 years, Occ: Agriculture,
R/o Konnur village, Tq:Naragund,
Dist:Gadag.
2. Anusha S/o Ramanagouda Patil,
Age: 24 years, Occ: Student,
R/o Konnur village, Tq:Naragund, Dist:Gadag.

(Dfts.No.1& 2 R/by Sri S.B.G./S.M.H., Advocate)

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PARTIES To I.A. No.I**APPLICANTS/
PLAINTIFFS :**

Veeranagouda S/o Parvatagouda Patil
and others.

Vs

**OPPONENTS/
DEFENDANTS :**

Tammanagouda S/o Parvatagouda Patil
& another.

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PARTIES To I.A. No.II**APPLICANT/
DEFENDANT No.1:**

TammanagoudaS/o Parvatagouda Patil.

Vs

**OPPONENTS/
PLAINTIFFS :**

Veeranagouda S/o Parvatagouda Patil
and others.

i.	Provision under which the applications are filed	IA No.I U/o 39 rule 1 & 2 R/w of CPC IA No.II U/o 39 Rule 4 of CPC
ii.	Relief sought for	IA No.I-For restraining the defendants from alienating the suit property. IA No.II- To set aside the order passed on I.A.No.I
iii.	The date on which the applications are filed	IA No.I- 02/05/2025 IA No.II 15/12/2025
iv.	Number of applications	I.A.No.I & II (2 IAs)
v.	The date on which the	IA No.I- 17/11/2025

	objections is filed by different opponent/s	IA No.II- 17/11/2025
vi.	Date on which orders was passed on the applications	06/01/2026

COMMON ORDERS ON I.A.I U/O 39 RULE 1 & 2 OF CPC FILED BY THE PLAINTIFFS AND I.A.No.II U/O 39 RULE 4 OF CPC FILED By THE DEFENDANTS

Plaintiffs have filed I.A.No.I praying for restrain the defendants from alienating the suit properties in R.S.No.30/1 and R.S.No.31 till disposal of the suit.

2. Application is supported by the affidavit sworn to by the plaintiff No.1 wherein, it is contended that they have filed the present suit for partition claiming for legitimate share in the suit properties. It is contended that the suit properties are the ancestral and joint family properties, all are in joint possession, no partition is taken place, the defendant without any lawful excuse is ignoring the care of the plaintiff and intentionally causing hardship to the plaintiffs, the defendant even though having every knowledge that the plaintiffs are having share in the suit properties has without lawful reason did not come forward to divide the property to

give legitimate share to the plaintiffs and got entered his only sole name to the suit property and created false documents. When it is brought to the notice of the plaintiffs that the defendant is trying to alienate or lease out the suit properties for the purpose of mining activities, after that the plaintiffs have filed objection before the Tahasildar Gadag, but the defendant high handedly trying to dispose of the property. When the plaintiffs asked for their legitimate share the defendants are refused to effect partition. Hence, the plaintiffs constrained to file the suit and application.

3. The defendant No.1 has filed written statement with counter claim denying the plaint averments as false and memo adopting the written statement as objection to I.A.No.I. The defendant No.2 has adopted the written statement of the defendant No.1. The defendants have denied the contention of the plaintiffs that the suit properties are the ancestral properties and contended that, suit lands were originally belongs to the grandmother of defendant No.1 by name Basalingavva,

she acquired the property from her parents assistance as such it was herself acquired property, during her lifetime on 26.12.1978 the grandmother of defendant No.1 gave the suit land in favour of defendant No.1 by giving Vardi, accordingly M.E.No.8740 of Konnur village came to be certified on 16.02.1979. Since then till today the defendant No.1 is in possession and enjoyment of the suit properties and his name is appearing in the revenue records and he became the absolute owner of the suit property. Father of the defendant No.1 and his brothers have not questioned the M.E.No.8740. It is further contended that, father of the plaintiff No.1 and defendant No.1 and husband of plaintiff No.3 and grandfather of plaintiff No.2 by name Paravatagouda died on 08.03.1998, and another two sons by name Kristagouda and Govindagouda Patil are unheard for more than 20 years but the legal heirs of deceased Parvatagouda came to be entered as per M.R.No.28/2005 on 06.09.2005, and M.R.No.4/2010-11. This being the fact the plaintiffs without having any

right title over suit properties for filed suit, no cause of action arose to file the suit of non-inclusion of joint family properties and deliberately and intentionally just to harass the defendant No.1. Hence, prayed for dismissal of the suit and application.

4. The defendant No.1 has also filed I.A.No.II U/o.39 rule 4 of CPC praying for vacating or setting aside the Ex-parte TI order granted on 03.05.2025 and extended till disposal of I.A.No.I.

5. Application is supported by the affidavit sworn to by the defendant No.1 wherein, it is contended that contention of the written statement and counter claim are reiterated. It is contemplate that, suit properties is not at all ancestral properties of the father of Parvatagouda but it is absolute property of grandmother of Basalingavva, who give to the property to the defendant No.1 as per M.E.No.8740, name of the defendant No.1 is appearing in the revenue records of the suit properties and he is the absolute owner as such plaintiff is not locus-standy to file the suit and to get the

temporary injunction order against the defendant No.1, suit is not maintainable as such the temporary injunction order granted is required to be vacated. Hence, prayed for allowing the application.

6. Plaintiffs have opposed the I.A.No.II filed by the defendant No.1 and contended that, since the I.A.No.I is still pending for consideration as such application filed by the defendant No.1 is not maintainable. Hence, prayed for dismissal of the application.

7. Heard the arguments.

8. The points arise for my consideration are:

P O I N T S

- I. Whether the plaintiffs have made out prima-facie case?
- II. Whether the balance of convenience lies in favour of the plaintiffs?
- III. Whether the plaintiffs would be put to irreparable loss, if the T.I., as prayed in IA No.I is not granted?
- IV. Whether the applicant/defendant No.1 has made out sufficient grounds to allow the I.A.NoII U/o.39 Rule 4 of CPC and to effect the TI order as prayed for?
- V. What order ?

9. My findings on the above points are:

POINT No.I : In the Affirmative

POINT No.II : In the Affirmative

POINT No.III : In the Affirmative

POINT No.IV : In the Negative

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

REASONS

10. **POINTS No.I & II**: Plaintiffs have filed the present suit for partition and separate possession and claiming that they are having legitimate share in the suit properties. It is contended that, suit properties are the ancestral and joint family properties, all are in joint possession, the defendant No.1 has illegally got entered his sole name in the suit property and trying to alienate the lease out the suit properties with intentionally, when the plaintiffs asked for their legitimate share the defendants have refused to effect partition. Per contra, the defendant No.1 has contended that, suit properties are not the ancestral properties, some were belongs to grandmother Basalingavva, who acquired the said property from her parents, she gave the suit property to the defendant N.1 by giving Vardi as per M.E.No.8740,

since then the defendant No.1 has become the absolute owner and became suit property. The plaintiffs are not having share in the suit properties, but they have filed the suit to harass the defendant No.1. Hence, prayed for dismissal of the I.A.No.I.

11. I have gone through the entire material carefully. Plaintiffs have filed the suit for partition claiming that, suit properties are the joint family properties the defendant No.1 has claimed that the suit property was the self acquired property of his grandmother Basalingavva, who gave the property to him by giving Vardi and mutation has been effected in the name of defendant No.1. The defendants have not denied the relationship between them and plaintiffs but claimed title to the suit property based upon the revenue entries. To decide the real dispute between the parties, full-fledged trial is required. Present application has to be decided on the basis of the material available at this pre trial stage. Without going for full-pledged trial it is not possible at this pre trial stage to give any findings in

favour anybody. For granting the temporary injunction, prima facie is to be looked into, prima facie case includes maintainability of suit. On going through the material produced at this pre trial stage suit of the plaintiffs is absolutely maintainable and fit of trial. Therefore, I am of the opinion that the plaintiffs have made out prima facie case and balance of convenience is also in favour of plaintiffs. Hence, these Points No.I and II are answered in the Affirmative.

12. **POINT No.III:** As discussed above, suit of the plaintiffs is absolutely maintainable and fit for trial. After filing of the suit by the plaintiffs and after considering the prima facie case, this Court granted Ex-parte Temporary injunction and same has been extended further. Purpose granting interim relief of temporary injunction is to maintain the state of things as exists today till disposal of the matter. Admittedly, suit property is standing in the name of defendant No.1 and he has claimed that he is the absolute owner of the suit property. Under such circumstances, if, the defendant

No.1 alienates the suit properties, the situation will become irreversible as on the date of disposal of matter and it will lead to multiplicity of proceedings. Under such circumstances if the temporary injunction as prayed in I.A.No.I is not granted the plaintiffs will be put to irreparable loss than the defendants. Hence, this point No.III is answered in the Affirmative.

13. **POINT No.IV:** The defendants No1 and 2 have filed IA.No.II U/o 39 Rule 4 of CPC praying for vacating temporary injunction order issued on I.A.No.I dated:23.10.2025. I.A.No.I is still pending for consideration. As discussed above on other points for consideration, suit of the plaintiffs is maintainable and fit for trial, after considering the prima facie material Ex-parte temporary injunction has been granted and this Court formed opinion that, IA.No.I U/o 39 Rule 1 and 2 of CPC filed by the plaintiffs is to be allowed. Therefore, I am of the considered opinion that the applicant/ defendant No.1 has not made out sufficient grounds to allow the I.A.No.II U/o 39 Rule 4 of CPC. Hence, this point No.IV is answered in the Negative.

14. **POINT No.V**: As discussed above, I proceed to pass the following:

ORDER

I.A.No.I filed by the applicants/ plaintiffs U/o 39 Rule 1 and 2 of CPC is hereby allowed.

The defendants are hereby restrained from alienating the suit properties in any manner till disposal of the suit.

I.A.No.II filed by the defendants U/o 39 Rule 4 of CPC is hereby dismissed.

No order as to cost.

(Dictated to Stenographer, transcribed and typed by him, printed, then corrected and pronounced by me in the open court on this **06th day of January, 2026**)

(G.R.SHETTAR)
Prl. Sr.Civil Judge & CJM., GADAG
C/c Addl. Sr. Civil Judge & JMFC,
GADAG