



Order

IN THE COURT OF CIVIL JUDGE AND JMFC, LAXMESHWAR

Present: **Satisha M.**

B.A.L., L.L.B.

Civil Judge and JMFC, Laxmeshwar

Dated this the 05th day of August-2026

O.S.No.279/2025

Plaintiff:

Shri. Goutamraj S/o. Sonaraj @ Senaraj Gandimuta,
Age: 60 Yrs., Occ: Agriculture,
R/o. Kanchagar Street, Hubballi,
Tq: Hubballi, Dt: Dharwad.

(By Shri. V.R.P. Adv.)

Vs.

Defendants:

1. Shri. Parasuram S/o. Krishnappa Talawar,
Age: 42 Yrs., Occ: Agriculture,
R/o. Doddur, Tq: Laxmeshwar, Dt: Gadag
and 3 others.

(D1 & 2 By Shri. N.I.S. Adv.

D3 By Shri. N.M.G. Adv.

D4 By Shri. B.V.N. Adv.)

PARTIES TO THE I.A.NO.I

Applicant:

Shri. Goutamraj S/o. Sonaraj @ Senaraj
Gandimuta

// Vs //

Opponents:

Shri. Parasuram S/o. Krishnappa Talawar
and others.

**ORDERS ON IA NO.I FILED UNDER ORDER 39 RULE 1 AND 2
OF CPC FILED BY THE PLAINTIFF**

Stage of the suit at the time of filing of application: Filed along with suit

Nature of suit: Permanent Injunction

The instant suit is filed by the plaintiff seeking permanent injunction restrain the defendants not to interfere with the peaceful possession and enjoyment of the suit properties in any manner.

2. The plaintiff has filed instant application seeking temporary injunction against the defendants, restraining defendants not to interfere with his peaceful possession and enjoyment in respect of suit properties still pending disposal of above suit.

**3. DESCRIPTION OF THE SUIT SCHEDULE
PROPERTIES:-**

- a. Landed property bearing R.S.No.163/1 measuring 6 Acre 00 Guntas
- b. Landed property bearing R.S.No.163/4 measuring 3 Acre 25 Guntas
- c. Landed property bearing R.S.No.164/2 measuring 2 Acre 15 Guntas

- d. Landed property bearing R.S.No.164/5 measuring 2 Acre 13 Guntas
- e. Landed property bearing R.S.No.164/6 measuring 4 Acre 01 Guntas

all are the suit properties situated at Doddur Village, Laxmeshwar Taluk.

4. FACTS OF THE CASE OF THE PLAINTIFF:-

It is the case of the plaintiff that the suit properties originally belonged to Sannahanamappa S/o Bhimappa Talawar, who died issueless. After his death, his wife Puttavva succeeded to the properties and became their owner. As she had no children, she adopted Krishnappa as her son and got his name entered in the revenue records. Consequently, Krishnappa became the absolute owner of the suit properties. The plaintiff contends that, in the year 1981, a partition was effected between Puttavva, Krishnappa, and Krishnappa's sons, wherein Suit Schedule 'A' and 'B' properties fell to the share of Hanamantappa and Suit Schedule 'C' to 'E' properties fell to the share of Basappa. Thereafter, the plaintiff purchased various portions of the suit properties from Hanamantappa and Basappa under registered sale deeds executed between the

years 2012 and 2016. Pursuant to the said transactions, the plaintiff's name was entered in the revenue records and he has been in lawful possession and enjoyment of the suit properties.

5. It is further stated that defendants Nos.1 and 2 have filed O.S. No.77/2018 for partition against Krishnappa, the plaintiff and others, and defendant No.3 has filed O.S. No.43/2020 seeking partition in respect of certain suit properties. Both suits are pending consideration. According to the plaintiff, the suit properties were the separate properties of Krishnappa acquired through adoption and were not ancestral or joint family properties. Therefore, the legal heirs of Hanamantappa and Basappa have no right to challenge the sale deeds executed by them. It is further contended that the defendants were aware of the sale transactions from their inception, yet questioned them only after several years. The plaintiff asserts that the defendants have neither right, title, interest nor possession over the suit properties and that he alone is in lawful possession thereof. It is alleged that, taking

advantage of the pendency of the partition suits, the defendants attempted to interfere with his peaceful possession on 28.07.2025. Hence, the present suit has been filed seeking a decree of permanent injunction against the defendants. Along with suit IA No.1 is filed seeking TI order till pending disposal of above suit.

6. Per contra pursuant to summons defendants appeared through their respective advocates, and defendant No.1 and 2, 3 and 4 have filed their separate written statements, all defendants are taken same contentions by denying the plaint averments and also filed memo of adoption to adopt the contents of written statement as objections to IA No.I hence all the defendants written statements are taken as common objection to the I.A.No.1.

7. In the written statement, the defendants have denied the plaint averments and contended that the suit is not maintainable either in law or on facts. It is their specific case that the suit properties are Talawar Inam lands originally

granted to Sannahanamappa Bhimappa Talawar and, after his death, devolved upon his adopted son Krishnappa through Puttavva. Krishnappa, defendant No.2 Renavva, Hanamantappa, Basappa and defendant No.1 Parashuram constituted a Hindu joint family.

8. The defendants contend that the alleged partition dated 28.11.1981 is illegal and not binding, as it was effected when the family members were minors. According to them, the suit properties continued to remain joint family ancestral properties. Taking advantage of the revenue entries standing in the names of Krishnappa, Hanamantappa and Basappa, the plaintiff allegedly obtained the sale deeds between 2012 and 2016 without legal necessity and without the consent or knowledge of the other family members.

9. It is further contended that the suit properties were re-granted under the Karnataka Village Offices Abolition Act in the names of Krishnappa, Hanamantappa and Basappa as managers of the joint family and, therefore, retained the

character of joint family properties. Though admitting the execution of the sale deeds, the defendants contend that the vendors could convey only their respective shares and not the entire joint family properties. The defendants place reliance on the judgment and preliminary decree passed in O.S. No.77/2018, wherein defendants Nos.1 and 2 were declared entitled to 1/5th share each in the suit properties and it was held that the sale deeds in favour of the present plaintiff are binding only to the extent of the shares ultimately falling to the vendors. They further contend that the Court in the said suit held that the plaintiff failed to prove that the alienation were supported by legal necessity or family benefit. According to the defendants, the plaintiff has not acquired absolute title over the suit properties under the sale deeds and cannot claim exclusive possession. They assert that the suit properties continue to be in their possession and that defendant No.3 has also filed O.S. No.43/2020 seeking partition of the share of her deceased

husband, which is pending. Hence, they seek dismissal of the suit with costs as well as IA No.1.

10. Heard oral arguments both side. L/c for plaintiff has produced following judgments in support of the case.

- 1). 2026(2) KCCR 1224 Between Narayanaswamy and others V/s Smt. Ademma and others.
- 2). 2026 (3) KCCR 2170 Between K.M Rajendran and another V/s Smt. Saritha Mary Alexander and another.

11. Points that are arise for consideration -

P O I N T S

- 1. Whether plaintiff has made out prima-facie case for grant Temporary injunction?***
- 2. Whether the balance of convenience lies in favour of the plaintiff?***
- 3. Whether the plaintiff would suffer irreparable injury or loss if temporary injunction is not granted?***
- 4. What order?***

12. To the above points findings of this court is 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 the final order
for the following;**

REASONS

13. POINT NO.1 TO 3:- These points are interlinked, hence taken up for discussion at once to avoid duplication of facts. Before considering the material available on record, this court would rely on the following decision reported in **'AIR (2010) SC 296' Between 'Kashi Math Samsthan and another V/s Srimad Sudhindra Thirtha Swamy and another'** at paragraph No.16 Hon'ble court has observed as follows:-

"It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima-facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well settled that when a party fails to prove prima-facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be

material at all, that is to say, if that party fails to prove prima-facie case to go for trial, it is not open to the court to grant injunction in his favour even if, he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction order is granted.”

14. I have carefully considered the pleadings, affidavit filed in support of the application, objections filed by Defendants and the oral arguments addressed on both sides. The material placed on record is perused. The plaintiff seeks an order of temporary injunction restraining the defendants from interfering his peaceful possession over the suit schedule properties during the pendency of the suit.

15. It is a settled principle of law that for grant of temporary injunction, the plaintiff must cumulatively establish (i) existence of a prima-facie case, (ii) balance of convenience in their favour, and (iii) likelihood of irreparable injury if injunction is refused.

16. In the present case, the plaintiff claims possession over the suit properties on the strength of registered sale deeds

executed in his favour by Hanamantappa and Basappa between the years 2012 and 2016. The records produced by the plaintiff disclose that pursuant to the said transactions, his name has been entered in the revenue records. The registered sale deeds relied upon by the plaintiff specifically recite delivery of possession of the respective properties to the purchaser. At this interlocutory stage, the Court is not required to conduct a detailed enquiry into the validity of the sale transactions or finally adjudicate upon the title of the parties. Such issues are matters to be determined after full-fledged trial on the basis of evidence.

17. It is true that the defendants have seriously disputed the plaintiff's title and have contended that the suit properties are joint family properties. It is also not in dispute that O.S. No.77/2018 filed for partition has been decreed and a preliminary decree has been passed declaring the shares of the parties. The defendants have placed considerable reliance on the said judgment to contend that the plaintiff cannot claim

exclusive ownership or possession over the suit properties. However, the existence of a preliminary decree in a partition suit, by itself, does not conclusively determine the actual and physical possession of specific portions of the properties. A preliminary decree merely declares the shares of the parties. The rights declared therein attain practical effect only after a final decree proceeding is concluded, the properties are divided by metes and bounds, the respective shares are identified, and possession is delivered accordingly. Until such exercise is undertaken, each co-sharer is deemed to be in constructive possession of every inch of the joint family property.

18. Therefore, though this Court is bound to take note of the judgment and preliminary decree passed in O.S.No.77/2018, the same cannot be construed at this stage as conclusively establishing the exclusive possession of the defendants over the suit schedule properties. Admittedly, no material is placed before the Court to show that a final decree has been drawn, that the suit properties have been partitioned

by metes and bounds, or that the respective sharers have been put in separate possession of their allotted portions.

19. On the other hand, the plaintiff is holding registered sale deeds in respect of the suit properties. Under Section 17 of the Registration Act, a registered instrument carries a statutory presumption regarding the genuineness of the transaction and the recitals contained therein, subject of course to rebuttal by evidence at trial. The sale deeds relied upon by the plaintiff contain recitals regarding transfer of possession. Whether such transactions are ultimately binding on all the defendants and to what extent they affect the shares declared in the partition proceedings are questions which can be finally decided only after recording evidence. At this stage, the documents produced by the plaintiff are sufficient to constitute a prima-facie foundation for his claim of possession.

20. It is also relevant to note that the present suit is one for bare injunction. In a suit of this nature, the primary consideration of the Court is the question of possession as on

the date of institution of the suit and not the final adjudication of title. While title may incidentally arise for consideration, the Court, at the interlocutory stage, is concerned only with preserving the existing state of affairs until the rights of the parties are finally determined.

21. The material placed before the Court discloses that the plaintiff has been asserting possession on the basis of registered conveyances executed long prior to the institution of the suit. If the defendants are permitted to interfere with the suit properties during the pendency of the proceedings, the same is likely to result in multiplicity of litigation and disturbance of the existing status of the properties. On the contrary, grant of temporary injunction would merely preserve the subject matter of the suit until the rival claims are adjudicated finally. The balance of convenience also leans in favour of maintaining the existing state of affairs. If the injunction is refused and the plaintiff is subsequently able to establish his possession, the injury caused to him may not be

adequately compensated in terms of money. Conversely, if the injunction is granted, no irreparable prejudice would be caused to the defendants, as their rights declared under the preliminary decree and their contentions regarding title and shares remain open for adjudication in appropriate proceedings, including the final decree proceedings.

22. In view of the registered sale deeds standing in the name of the plaintiff, the revenue entries supporting his claim, the absence of any final decree effecting actual partition and delivery of separate possession, and having regard to the limited scope of enquiry in an application for temporary injunction, this Court is of the considered opinion that the plaintiff has succeeded in establishing a prima-facie case. The balance of convenience is also in his favour, and refusal of interim protection is likely to cause irreparable injury and lead to avoidable complications pending disposal of the suit.

Accordingly, Point Nos.1 to 3 are answered in the **Affirmative**.

23. POINT NO.4:- In view of the findings given supra this court proceed to pass following.....

ORDER

IA No.1 filed under order 39 rule 1 and 2 by the plaintiff is hereby allowed.

Consequently, pending disposal of the suit, the defendants, their agents, servants, henchmen, or anybody claiming through or under them are hereby temporarily restrained from interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule properties, except by due process of law.

The observation and findings given is only in respect of considering instant application and it will not come in the way of considering the case on merits.

(Dictated to the stenographer directly on computer typed by her, corrected, signed & then pronounced by me in open Court on this 05th day of August, 2026)

(SATISHA M.)
Civil Judge & JMFC, Laxmeshwar