



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,
ARAKALAGUD.**

Present: Sri. Lokesha M.G., *B.A.L., LL.B.*,

O.S.No.20/2025

Dated this the 14th day of July, 2026.

PLAINTIFF: H.R. Parthasarathi
(By Advocate Sri. M.P.,)

V/s.

DEFENDANTS: Rangegowda and Others
(By Advocate Sri. P.S.P.,)

i.	Provision under which the application is filed	Order 39 Rule 1 and 2 of C.P.C.
ii.	Relief sought for	Temporary Injunction
iii.	The date on which the application is filed	23.01.2025
iv.	Number of the application	2
v.	The date on which the objections are filed by different opponents	01.08.2025
vi.	The date on which the orders were passed on the said application	14.07.2026





ORDER ON IA.NO.II

I.A.No.2 is filed by the plaintiff U/O XXXIX Rule 1 & 2 of C.P.C., seeking temporary injunction, restraining the defendants No.1, 2, 6 and 7 from alienating Item No.1 to 9 of suit schedule properties and from changing khatha in their names till disposal of the suit.

2. It is stated in the accompanying affidavit that, plaintiff and defendants No.1 to 5 are the joint family members and suit schedule properties are ancestral and joint family properties and there was no partition. They continued in joint family. Defendants No.6 and 7 are the purchasers of Item No.1 to 3 properties. Suit schedule properties were originally belonging to grand-father of plaintiff. Plaintiff has developed said properties as fertile land and enjoying the same. Plaintiff is also doing agriculture in the said property and in joint family. Defendant No.2 is residing separately, since there is no adjustment in the family. Defendant No.2 had no interest to give share to the plaintiff. Hence, defendant No.2 sold Item No.1 to 3 properties in favour of defendants No.6 and 7 on 07.01.2025. Defendant No.2 had no right to sell the



same. The said properties also came to defendant No.2 through ancestors. Defendants No.6 and 7 by getting khatha in their names are trying to alienate the said properties. If the same is done, irreparable loss will be caused to plaintiff. The khatha in respect of Item No.1 and 2 properties is standing in the names of defendants No.1 and 2 and they are trying to alienate the said properties in favour of third parties. Hence, restraint order is necessary. Accordingly, it is prayed to allow the application.

3. Defendants have contended that, suit is false. Plaintiff has created false story. The execution of sale deed is true and it has been taken place as per law. The properties sold in favour of defendants No.6 and 7 are the properties belonging to Rajamma, who is the mother of plaintiff and the said properties came to Rajamma as per Section 14 of Hindu Succession Act and hence they are her properties. Plaintiff has no right over the suit schedule properties. It is further stated that, Item No.1 to 5 properties originally belonged to father of defendant No.2 and he had got two wives namely Venkatamma and Thimmamma. Defendant No.2 is the only daughter of



Venkategowda, who died in the year 1993. Thimmamma also died in the year 2006. Venkatamma died issueless. After death of parents, Item No.1 to 5 of schedule properties were fallen to defendant No.2 as she is only legal heir. Hence, khatha has been mutated in her name. Accordingly, defendant No.2 sold Item No.1 to 3 properties in favour of defendants No.6 and 7, since she obtained loan from Karnataka Grameena Bank and for her health reason. Plaintiff is not related to Item No.1 to 5 properties. He has started to give trouble to the possession of defendant No.2. Hence, the suit for permanent injunction in O.S.No.550/2024 was filed by the defendant No.2 and interim injunction was granted in the said suit. Item No.6 to 10 of schedule properties were belonging to father of defendant No.1. There is dispute between brother of defendant No.1 and father. As such, there was no division. During life time of defendant No.1, the plaintiff is not having share in the said properties. Plaintiff has suppressed these facts and filed false suit. Accordingly, it is prayed to dismiss the application.

4. Heard the learned counsel appearing for the plaintiff and also the defendants. Perused the application,



affidavit, objection, pleadings and documents produced from the both sides.

5. Upon hearing arguments and on perusal of materials placed on record the following points that arise for my consideration are ;

1. Whether the plaintiff has established prima-facie case to grant temporary Injunction?
2. Whether the balance of convenience lies in favour of plaintiff?
3. Whether irreparable loss or hardship will be caused to the plaintiff if Injunction as prayed in I.A. No.II is not granted?
4. What order ?

6. My findings to the above points are as under:

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|------------|----|---------------------------------|
| Point No.1 | :- | In the Negative, |
| Point No.2 | :- | In the Negative, |
| Point No.3 | :- | In the Negative, |
| Point No.4 | :- | As per order for the following: |

REASONS



7. POINT NO.1: Plaintiff has filed the suit for the relief of Partition and Separate Possession in respect of suit schedule properties. It is also sought for declaration to declare sale deed dated: 07.01.2025 executed by defendant No.2 in favour of defendant No.6 and 7 in respect of Item No.1 to 3 properties is not binding on the share of the plaintiff. It is also stated that, plaintiff and defendants No.1 to 5 are the joint family members and suit schedule properties are ancestral and joint family properties and there was no partition. They continued in joint family. Defendants No.6 and 7 are the purchasers of Item No.1 to 3 properties. Suit schedule properties were originally belonging to grand-father of plaintiff. Plaintiff has developed said properties as fertile land and enjoying the same. Plaintiff is also doing agriculture in the said property and in joint family. Defendant No.2 is residing separately, since there is no adjustment in the family. Defendant No.2 had no interest to give share to the plaintiff. Hence, defendant No.2 sold Item No.1 to 3 properties in favour of defendants No.6 and 7 on 07.01.2025. Defendant No.2 had no right to sell the same.



8. The plaintiff has pleaded that with an intention to cheat the right of the plaintiff in respect of suit schedule properties, defendants No.6 and 7 have tried to interfere with the possession of Item No.1 to 3 of schedule properties illegally. When the partition is demanded, it has been refused. To deprive the right of the plaintiff, defendant No.2 has sold the said properties. Along with the plaint, documents are produced. Family Tree supports the relationship. RTCs, Mutation Register, Sale Deeds are produced. They show that, Item No.1 to 5 of schedule properties are standing in the name of defendant No.2, who is the wife of defendant No.1 and mother of plaintiff. They also show that, Item No.6 to 9 properties are standing in the name of defendant No.1. They also show that, father of defendant No.1 is having right over the said properties. Old Record of Rights show that, Item No.1 to 5 of suit schedule properties were standing in the name of Venkategowda and thereafter, they came to be mutated in the name of defendant No.2. In the M.R. also it is mentioned that, defendant No.2 is the only daughter to Venkategowda and hence she has got transferred her name in respect of those properties. Mutation Register also shows that, there was palupatti in the year 1998-99



in between defendant No.1 and his father and his brother. It is in respect of Item No.6 to 9 properties. In respect of Item No.10, document is not produced to show the nature of said property. Sale deed dated: 07.01.2025 shows that, defendant No.2 sold her property in favour of defendants No.6 and 7. They are in respect of Item No.1, to 3 of schedule properties. The advocate for defendants has also argued that, Item No.1 to 5 of schedule properties came to defendant No.2 as per Section 14 of Hindu Succession Act and hence the said properties are her absolute properties and in the said properties, plaintiff has no right. He has also produced family tree pertaining to Rajamma and her father and mother. He has also argued that, Item No.6 to 10 properties are belonging to father of defendants No.1 and there is dispute between them and there was no division between his family members till today. On perusal of RTCs it appears so. But, only on the basis of said fact, it cannot be stated that plaintiff has no right over the said properties. But, the plaintiff has not stated about the details of the said properties and the properties of defendant No.2 and their acquisition. On perusal of entire materials on record, I am of the opinion that, the plaintiff has suppressed material facts. Therefore, on



perusal of entire materials on record, I am of the opinion that, the plaintiff has not made out prima-facie case to grant temporary injunction order. To grant temporary injunction order the plaintiff has to approach the court with clean hands and he has to state all the relevant and material facts, in this case, there is no such occasion. Hence, plaintiff is not entitled to the relief. Accordingly, I answer **point no.1** in the **negative**.

9. POINT No.2 & 3: Apart from showing the prima facie case, it is duty of the plaintiff to show that balance of convenience lies in his favour and hardship and loss will be caused to him if the temporary Injunction order is not granted. But, on perusal of the records, I am of the opinion that balance of convenience lies in favour of the defendants more than the plaintiff. I am also of the opinion that if the temporary Injunction order is granted at this stage, defendants will be put to hardship and inconvenience will be caused to the defendants. Therefore, I am of the opinion that their right will not be extinguished at this stage. Hence, I am of the opinion that the plaintiff has not shown balance of convenience and hardship to be caused.



10. I have already answered Point No.1 in the negative holding that the plaintiff has failed to make out prima facie case. It is held in the reported decision in between Sri. Gowrishankara Swamigalu Versus Siddhaganga Mutt reported in ILR 1989 KAR 1701 that proving of prima facie case is necessary to consider the other aspects such as balance of convenience and irreparable loss. If the plaintiffs failed to make out the prima facie case, it is not necessary to consider the other aspects. Therefore, I answer **point no. 2 and 3** are in the **negative**.

11. POINT No.4: As per the above discussion, I pass the following :

ORDER

I.A. No.II filed by the plaintiff
Under Order 39 Rule 1 and 2 of CPC
is hereby dismissed.

*(Dictated to the Stenographer Grade - III, corrected and then pronounced by me, in the Open Court, on this the **14th** day of **July, 2026**).*

(Lokesha.M.G.)
Senior Civil Judge & JMFC.,
Arakalagud.