



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

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

O.S.No.247/2025

Dated this the 14th day of July, 2026.

PLAINTIFF: Vasantha

(By Advocate Sri. T.C.P.,)

V/s.

DEFENDANTS: Chaluvegowda and Others

(By Advocate Sri. S.H.M.K.,)

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	08.10.2025
iv.	Number of the application	2
v.	The date on which the objections are filed by different opponents	10.11.2025
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 from alienating the suit schedule properties till disposal of the suit.

2. It is stated in the accompanying affidavit that, plaintiff has filed the suit for partition. Defendant No.1 is father of plaintiff and defendant No.2 is the brother and defendant No.3 is the sister of plaintiff. Suit schedule properties are belonging to joint family and plaintiff and defendants are joint family members. Item No.1 property is also joint family property and it is standing in the name of his mother Puttamma. Said Puttamma died. Plaintiff and defendants are having equal right in the suit schedule properties. There is no partition between them. Defendant No.1 was looking after the joint family affairs and hence he neglected the plaintiff and without knowledge of the plaintiff, defendant No.1 along with defendants No.2 and 3 is trying to alienate suit schedule properties in favour of third parties with an intention to deprive the right of the plaintiff. When the partition is demanded it is refused. Hence, it is necessary to restrain



the defendants from alienating the suit schedule properties. Accordingly, it is prayed to allow the application.

3. Defendants have contended that, Item No.1 and 2 properties are standing in the name of wife of defendant No.1 and he made sale deed in the name of his wife. Item No.5 property is only ancestral property. Other properties are self acquired properties of defendant No.1. Application is not maintainable. The case of the plaintiff is false. Defendant No.1 is running provision store and earning lakhs together per year and hence during that time he made sale deed in respect of Item No.1 and 2 property in the name of his wife and they are in possession of the said properties. In Item No.5 Sy.No. 7½ guntas, he has not inserted in the suit and it is also ancestral property of plaintiff and defendants. Although there is no partition between plaintiff and defendants, they are separately doing business and they have constructed shed in Item No.3 out of joint family income. Recently, they have also purchased canter vehicle and lorry. Due to the act of plaintiff and his children, defendant No.1 and 2 left the house. There are also properties in the name of wife of



plaintiff purchased out of joint family income. Sy.No.18/13, 8/14 and 5/14 are not made in the schedule. The defendants are also having share in the said properties. The plaintiff has not given share in the said properties and said vehicles. With an intention to defraud the right of the defendants, he has filed false suit. Accordingly, it is prayed to allot share in the ancestral properties in favour of the plaintiff. Hence, it is prayed to dismiss the application.

4. Heard the learned counsel appearing for the plaintiff and also the defendants. Perused the applications, affidavits, objections, 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.2 is not granted?

4. What order ?

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

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

REASONS

7. **POINT NO.1:** Plaintiff has filed the suit for the relief of partition seeking share in the suit schedule properties. It is stated that Defendant No.1 is father of plaintiff and defendant No.2 is the brother and defendant No.3 is the sister of plaintiff. Suit schedule properties are belonging to joint family and plaintiff and defendants are joint family members. Item No.1 property is also joint family property and it is standing in the name of his mother Puttamma. Said Puttamma died. Plaintiff and defendants are having equal right in the suit schedule properties. There is no partition between them. Defendant No.1 was looking after the joint family affairs and hence he neglected the plaintiff and without knowledge of the plaintiff, defendant No.1 along with defendants No.2 and 3 is trying to alienate suit



schedule properties in favour of third parties with an intention to deprive the right of the plaintiff.

8. Along with the suit, documents are produced. They are standing in the name of defendant No.1 and his wife Puttamma. Death Certificate of Putamma is also produced. Family Tree shows the relationship. In fact, defendants have not denied the relationship. But contention of the defendants is that, item No.5 only is the ancestral property and other properties are self acquired properties of defendant No.1. At this time it cannot be stated about the nature of suit schedule properties. It requires trial. At this time only prima-facie case is to be considered. It is also stated that, in Sy.No.30/1 measuring 7½ guntas is not inserted in the suit schedule and it is standing in the name of defendant No.1.

9. It is also contended that, the said property is also ancestral property. There is Mutation Register to show the same. It supports version of defendants. Only on the basis of this fact, the relief cannot be denied to the plaintiff. Nature of suit schedule properties will be considered after trial and at the time of merits. The Record of Rights, Mutation Registers, Index of Land show



that, suit schedule properties are belonging to family of plaintiff and defendants. Hence, it is necessary to restrain the defendants from alienating the suit schedule properties during the pendency of suit. The materials on record are supporting the version of the plaintiff with respect to prima-facie case. It is also burden of the plaintiff to prove that, all the properties are the ancestral and joint family properties. To prevent further alienation, restraint order is necessary. In this case, the contentions of defendants can be considered at the time of trial and merits. Hence, On perusal of entire materials on record, I am of the opinion that, there is prima-facie case in favour of the plaintiff. Accordingly, I answer **Point No.1 in the Affirmative.**

10. POINT NO.2:- The plaintiff has made out prima-facie case in this case. To grant temporary Injunction in favour of the plaintiff, he has to show that there is balance of convenience in his favour more than the defendants. On perusal of materials on the record, the balance of convenience lies in favour of the plaintiff, when it is compared with the defendants case. *Because*, if the suit schedule properties are alienated by the defendants



during the pendency of suit, the plaintiff will have no other way to get the relief. Therefore, I am of the opinion that the plaintiff has also shown the balance of convenience to grant temporary Injunction. Accordingly, I answer the Point No. 2 in the **“AFFIRMATIVE”**.

11. POINT NO.3: The plaintiff has also to establish that if the temporary Injunction is not granted, he will be put to greater hardship. The defendants have also to show that they will be put to greater hardship, if the temporary Injunction is granted in favour of the plaintiff. But, there are materials to show that the greater hardship will be caused to the plaintiff if application is rejected. Therefore, the contentions of the defendants are to be considered at the time of trial. Hence, I am of the opinion that the plaintiff has also shown that he will be put to greater hardship, if the temporary Injunction is not granted. Accordingly, I answer the Point No.3 in the **“AFFIRMATIVE”**.

12. 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 C.P.C. is hereby allowed.

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

*(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.**