



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

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

O.S.No.328/2025

Dated this the 09th day of July, 2026.

PLAINTIFF: Paramesha

(By Advocate Sri. P.S.P.,)

V/s.

DEFENDANTS: K.V.Andanappa

(By Advocate Sri. C.V.N.,)

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	02.12.2025
iv.	Number of the application	2
v.	The date on which the objections are filed by different opponents	07.01.2026
vi.	The date on which the orders were passed on the said application	09.07.2026



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. It is also prayed to restrain the defendants from alienating the suit schedule properties. Suit schedule properties are ancestral properties of plaintiff and defendants. Defendants have no independent right over the suit schedule properties. The defendants are trying to create the third party interest over the suit schedule properties. Plaintiff has got prima-facie case, balance of convenience lies in favour of the plaintiff. To trouble the plaintiff, defendants are intending to create interest over the suit schedule properties. Plaintiff averments have to be considered as part and parcel of the affidavit. Hence, it is prayed to allow the application,



3. Objection is filed by the defendants stating that, application is not maintainable. Application averments are false. With malafide intention suit is filed in respect of properties of defendants. Plaintiff has no right, possession or interest over the suit schedule properties. By misusing the injunction order plaintiff has filed the suit to harass the defendants. If interim order is not granted no hardship will be caused to the plaintiff. Suit schedule properties are the self acquired properties of defendants No.1 and he was in possession and enjoyment of the same. There was partition on 12.09.2023 in the joint family of defendant No.1 in respect of ancestral and self acquired properties. Accordingly, suit schedule properties are allotted to defendant No.1. Item No.2 and 3 are gifted in favour of defendant No.3 and remaining properties are in possession and enjoyment of defendants No.1 and 2. The plaintiff has not stated about the properties allotted to his share. To gain wrongfully, suit is filed. 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:

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|------------|----|------------------------------------|
| 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 in respect of suit schedule properties. Suit



schedule properties are Sy.No.18/2 measuring 0.27 guntas, Sy.No.18/3 measuring 0.16 guntas, Sy.No.18/4 measuring 01 acre 21 guntas, Sy.No.18/5 measuring 0.7 guntas. It is pleaded that, suit schedule properties are ancestral and joint family properties. They are belonged to grand-father of plaintiff namely Veeranna, who is the father of defendant No.1. To show the relationship, family tree is produced. It is also stated that, there was partition on 12.09.2023. In the said partition, the suit schedule properties have been left for the maintenance of the father of plaintiff namely Andanappa. After his death, all the three sons have to divide the said properties equally. On perusal of records it came to the knowledge of the plaintiff that, item No.2 and 3 have been gifted in favour of defendant No.3 without giving any information to the plaintiff. Per contra, defendants have denied the case of the plaintiff and stated that, there are self acquired properties and ancestral properties and they have been divided. Plaintiff has not stated about the properties allotted to him. They have also taken other contentions. Along with suit, documents are produced. Family Tree supports the relationship. RTCs are standing in the names of defendants jointly in respect of suit schedule



properties. Partition deed dated: 12.09.2023 is also produced. It shows that, there was partition in the family of plaintiff and defendants. Plaintiff and defendants are allotted properties separately. Defendant No.1 is also allotted suit schedule properties. The plaintiff has filed the suit in respect of the properties allotted in favour of defendant No.1 and not in respect of other properties mentioned in the said partition. In the said partition, it is also mentioned that, properties of defendant No.1 have to be enjoyed during his life time and after death of defendants No.1 and 2 the said properties have to be equally divided in favour of plaintiff, defendants No.3 and 4. The advocate for plaintiff has stated the said averment in the partition. Thereafter, there was gift deed on 24.11.2025 in favour of defendant No.3 by defendants No.1 and 2. It is in respect of item No.2 and 3. The said properties have to be divided equally in favour of plaintiff and defendants No.3 and 4. But, there is gift deed in favour of defendant No.3. Therefore, the suit is filed for partition and application is also filed to restrain the defendants from alienating the suit schedule properties. The advocate for defendants has also produced various documents. But, Partition Deed and Gift Deed are



supporting the plaint averments. Hence, restraint order is necessary. The entire materials on record, show that, there is prima-facie case in favour of the plaintiff to grant the relief as prayed in the present application. Accordingly, I am of the opinion that, plaintiff has made out prima-facie case at this time. Accordingly, I answer **Point No.1 in the Affirmative.**

8. 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”**.



9. 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”**.

10. 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 **09th** day of **July, 2026**).*

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