



**IN THE COURT ADDL. SENIOR CIVIL JUDGE & JMFC,
HAVERI.**

:: PRESENT ::

**SMT. SHOBHA, B.G., M.A., LL.B.,
ADDL. SENIOR CIVIL JUDGE & JMFC,
HAVERI.**

Dated this the 10th day of December-2025

O.S.No.105/2024

Plaintiff/s : Vardaman S/o Subhasha Baligar,
R/o:Kanavalli, Tq: & Dist:Haveri,
Now at:Ganapati Galli, Majagavi,
Near Ration Agandi, Belagavi,
Tq: & Dist:Belagavi.
(Rep. by Sri. M.S.P., Adv.,)

-V/s-

Defendant/s : Subhasha @ Subhashachandra
S/o Sankappa Baligar,
R/o:Kanavalli, Tq: & Dist:Haveri,
Now at:52, Kalmeshwar Nagar,
Anagola Road, Majagavi, Balagavi,
Tq: & Dist:Belagavi and others.

**(D.1 to 3 by Sri.P.M.D., Adv.,)
(D.4 by Sri.S.A.H., Adv.,)
(D.5 by Sri.I.S.N., Adv.,)
(D.17 by Sri.M.H.W., Adv.,)
(D.6, 12 TO 14, 16, 18, 19, 7 TO
11, 15 Exparte)**

I.A. No. I

Applicant/s: Vardaman S/o Subhasha Baligar,
(Plaintiff) R/o:Kanavalli, Tq: & Dist:Haveri,
Now at:Ganapati Galli, Majagavi,
Near Ration Agandi, Belagavi,
Tq: & Dist:Belagavi.



V/s.

Respondent/s: 1. Subhasha @ Subhashachandra
(Dft No.1, 3, 4) S/o Sankappa Baligar,
R/o:Kanavalli, Tq: & Dist:Haveri,
Now at:52, Kalmeshwar Nagar,
Anagola Road, Majagavi, Balagavi,
Tq: & Dist:Belagavi and others.

ORDERS ON I.A.NO.I U/O.XXXIX RULE 1 & 2 OF CPC

This is an application filed by the plaintiff U/O. 39 Rule 1 and 2 of CPC with a prayer to grant an ad-interim order of temporary injunction against defendants No.1, 3 and 4 restraining them from alienating or encumbering or creating any charge over items No.6 to 10 of A-suit schedule properties till pending disposal of the suit.

2. The said application is accompanied with an affidavit sworn by the plaintiff, wherein he states that he filed this suit seeking partition and separate possession with respect to the suit schedule properties. The children of the original propositus have partitioned their family properties and they have been enjoying the said properties. However item No. 4 and 5 of schedule A properties were not



partitioned. There was no partition with respect to item No.1 to 3 and 6 to 10 of A schedule properties between plaintiff and defendant No.1 to 5. The plaintiff and defendant No.1 to 4 went to Belagavi to earn a livelihood by doing massala business. Item No.1 of A-Schedule property is ancestral property, the defendant No.1 sold the said property to defendant No.17, even though there was no financial need for the family. The plaintiff and defendant No.1 to 4 have purchased items No.2 and 3 of A schedule property in the name of defendant No.3 and 4 from the income of their agricultural land and also from the business. The plaintiff and defendants No.1 to 5 have purchased item No.1 to 5 of A-schedule properties in the name of defendant No.4 from the income derived from the massala business. The plaintiff and defendant No.1 to 5 have purchased item No.6 of A-schedule property in the names of defendant No.3 and 4 from the income of their agricultural land and business. The defendants No.3 and 4 have sold item No.3 and 4 of the A-



schedule property to defendants No.18 and 19, even though there was no financial necessity for their family. The plaintiff and defendant No.1 to 5 are in joint possession and enjoyment of above properties. Hence the sale deed is not binding on the plaintiff. The defendants No.3 and 4 taking advantage of the fact that the suit properties are standing in their names by colluding with each other, are trying to alienate the suit schedule properties. If they have alienated, gifted or created charge over the suit schedule property, the plaintiff will be put to irreparable loss and injury. Hence prayed to allow the application.

3. The said application has been resisted by the defendant No.4 by filing objection, wherein he contended that the property item No.6 of schedule-A has been jointly purchased by defendants No: 3 and 4. Thereafter, it was mutually divided in between them. The said property is the self -acquired property of defendant No.4. Similarly item No.9 and 10 of the A-schedule properties have been



purchased by defendant No.4 by obtaining loans from the banks and financial institutions. He has established Massala factory on the said property, which is in his absolute ownership and in possession and it is his self-acquired property. He acquired said properties out of bank loans and has established machinery and constructed godowns etc, by investing huge amount. He is running massala factory in said properties independently without any help from others. He is responsible for discharging the loan and he is also paying heavy tax by way of GST and also paying income tax to the extent of about Rs.6,00,000/- per annum. The contents of the affidavit filed by the plaintiff in support of his I A No. 1 are all false and bald. The plaintiff has no prima facie case to seek temporary injunction with respect to item No.6, 9 and 10 of A-schedule properties. He has no balance of convenience and no hardship will be caused morethan defendant No.4. The Panchayat properties bearing No:747/2A and 747/2B are not at all the family



properties of plaintiff and defendants. They have been sold out before filing the suit O.S No:96/2014 to one Rajshekar Hanumangouda Sankanagoudar of Kanavalli. Hence the plaintiff has knowingly included the said property in this suit. The plaintiff has averred and contended large amount of false contentions in this plaint as well as in I A No.1. The defendant No.4 facing extreme hardship in running Massala business and meeting the salary expenses etc of the laborers and also facing problems in paying tax and loan. Hence prayed to dismissed the IA No.I with cost.

4. The defendant No.3 filed objection to IA No.I. The defendant No.1 and 2 filed a memo adopting the objections filed by the defendant No.3. The defendant No.3 in his objections contended that the property item No.6 of schedule-A has been jointly purchased by the defendant No: 3 and 4. Thereafter it was mutually divided between them. The said property is the self -acquired property of defendant No.4. Similarly item No.9 and 10 of the A-schedule



properties have been purchased by defendant No.4 by obtaining loans from banks and financial institutions. He has established Massala factory on the said property which is in his absolute ownership and possession and it is his self-acquired property. He acquired the said properties out of bank loans and he has established machinery and constructed godowns etc, by investing a huge amount. He is running massala factory in the said properties independently without any help from others. He is responsible for discharging the loan. The contents of the affidavit filed by the plaintiff in support of his I A No. 1 all are false and bald. The plaintiff has no prima facie case to seek a temporary injunction with respect to item No.6, 9 and 10 of A-schedule properties. He has no balance of convenience and no hardship will be caused more than to defendant No.3. The Panchayat properties bearing No:747/2A and 747/2B are not at all the family properties of the plaintiff and defendants. They have been sold out



before filing the suit O.S No:96/2014 to one Rajshekar Hanumangouda Sankanagoudar of Kanavalli. Hence the plaintiff has knowingly included the said property in this suit. The plaintiff has averred and contended large number of false contentions in this plaint as well as in I A No.1. The defendants No.1 to 3 will suffer irreparable loss and injury if the temporary injunction application is not rejected. The plaintiff filed this application in order to harass them. Hence it is prayed to dismiss the application with heavy costs.

5. Heard arguments and perused the records.

6. On perusal of the pleadings, documents and application, the points that arise for my determination are:

1. Whether the plaintiff has made out a prima facie case for the grant of a temporary injunction?
2. Whether the plaintiff proves that the balance of convenience lies more in his favour?
3. Whether the plaintiff proves that the irreparable loss will be caused to him, if temporary injunction is not granted?



4. What order?

7. My answer on the above points is as follows:

Point Nos.1 to 3 :	In the affirmative;
Point No.4 :	As per the final order, for the following;

REASONS

8. Point Nos.1 to 3:-On perusal of the contention urged by both parties it appears that the plaintiff has filed this suit for the relief of partition and separate possession with respect to the suit schedule properties. The present application is filed seeking temporary injunction against defendants No. 1 ,3 and 4. In order to prove the allegations of the plaintiff he has produced documents such as RTC extracts, mutation extracts, a certificate issued by PDO, Form No.2, Union Bank statements, photographs, etc. According to the plaintiff items No.1 to 3 and 6 to 10 of suit A-schedule properties are ancestral properties. Items No.2, 3, 6, 9, 10 of A-schedule properties have been purchased from the income of their family property and also from the income of masala business. The defendant No.2 and 3 by taking advantage their name entered in documents are trying



to alienate the suit properties. On perusal of the documents produced by the plaintiff it appears that item No.6 i.e., 2.1 acres in Sy No.821/8 situated at Motebennur village is standing in the name of Pradeep Subhaschandra and Praveen Subhaschandra Baligar. The certificate issued by the PDO Village Panchayat Kanavalli reveals that item No.7 of suit A-schedule property is standing in the name of Subhash Sankappa who is defendant No.1. Form No.2 issued by Asst.Commissioner (Revenue) Municipality Belagavi reveals that item No.9 and 10 of A-schedule properties are standing in the name of Praveen Subhaschandra and Sri.Padavamavatti Enterprises Praveen S Baligar who are defendants No.3 and 4.

9. According to the defendants No. 1 to 4 he has purchased item No.6, 9 and 10 of A-schedule properties by obtaining loan from banks and financial institutions. The said properties are his self-acquired properties. He has established masala factory in item No.9 and 10 of suit properties. In support of their contentions they have produced documents such as RTC extracts, sale deeds, Form No.2, Property register card, loan



agreement, encumbrance certificate etc. The sale deeds disclose that said sale deeds have been executed on 10.08.2021 and 29.12.2023 in the name of Praveen Subhaschandra Baligar who is defendant No.4 with respect to property bearing RS No.365/2/4 now corresponding CTS No.1276 i.e., items No.9 and 10 of A-schedule properties. Another one sale deed reveals that said sale deed executed on 29.05.2024 in the name of defendants No3 and 4 with respect to item No.6 of A-schedule property. The loan agreement disclose that the defendant No.4 availed property loan from banks in the name of Sri.Padamavati enterprises and he also availed home equity loan from Kotak Home Finance. The copy of judgment and decree passed in OS No.96/2014 reveals that one Namachnadrappa Sankappa Baligar and Subhasa Sankappa Baligar have filed suit against one Padmaraj and 7 others seeking partition of their family properties. According to defendant No.3 in said suit the Hon'ble Court ordered that 3.00 acres of land in Sy NO.19/1 of Kanavalli Village is the self acquired property of defendant No.3. However



the plaintiff is not seeking temporary injunction with respect to the said property.

10. On considering over all material placed before the court it discloses that there is dispute regarding ownership and possession of suit schedule properties. According to the plaintiff suit schedule properties are ancestral and joint family properties of himself and defendants No.1 to 5 and item No.6 to 10 of A-schedule properties have been purchased in the name of defendant No.3 and 4. Hence the said properties are joint family properties. According to the defendant No.1 to 4 item No.6 to 10 of suit A-schedule properties are self acquired properties of defendant No.4 and he is absolute owner in possession and enjoyment of said properties. However, whether item No.6 to 10 of suit schedule properties are joint family properties? or not? is to be looked into. At this stage it cannot be decided, it requires full-fledged trial. The prima facie disclose that item No.6 to 9 of A-schedule properties are standing in the name of defendant No.1, 3, and 4. When the katha of said properties is standing in the name defendant No.1, 3 and 4 there are chances for



alienating said properties to 3rd person. If they have alienated said property it will leads to multiplicity of proceedings. To avoid the same it is necessary to restrain them to alienate said property. The counsel for defendant No.4 relied upon decision of Hon'ble Supreme Court in the case **(2025) SCCR 543 (R.Himatlaljani Vs Jasbir Singh Vijayan and others)** wherein it is held that:

“Civil Procedure Code, 1908-Order 39 Rule 1 and 2 – Interim injunction-Grant of – Parameters- Before granting interim injunction, court must satisfy itself of three essential prerequisites:existence of a prima facie case in favour of applicant: balance of convenience lies in favour of granting injunctive relief and applicant would suffer irreparable injury or harm not adequately compensable in damages if injunction is refused-It is only when these three conditions are cumulatively fulfilled that interim injunction ought to be granted-Apellant is absolute owner of



property, with disputed area constituting merely a fraction of entire premises-Appellant has already entered into agreement to redevelop property- Restraint imposed by impugned injunction significantly circumscribes-Appellant's legal right to derive commercial benefit from his property- Appellant would suffer irreparable injury if injunction is allowed to operate, given that protracted delay is not only causing substantial financial losses but also affected-Appellant's contractual obligations, which cannot be adequately compensated at a belated stage- Impugned order of High Court set aside. An undeserving order of interim injunction which effectively appellant's contractual obligations, cannot be allowed to stand."

I have gone through aforesaid decision, the principle laid down in said decision is not applicable to the case on hand as in the instant suit the plaintiff seeking interim injunction



restraining the defendant No.1, 3 and 4 from alienating the item No.6 to 10 of suit schedule properties. The documents produced by the defendant No.4 discloses that he had availed loan from bank and financial institutions. However the plaintiff is not seeking interim injunction restraining the defendant No.4 from interfering with suit schedule properties. Under such circumstances the defendant No.4 can run the massala business in the factory existing in item No.9 and 10 of suit schedule properties.

11. It is principle of law that the party who approaches the court seeking temporary injunction he has to establish prima facie case. In the instant suit the plaintiff has to establish prima facie case. The documents produced by the plaintiff do not disclose prima facie case. Further it is settled principle of law that a party who approaches the Court has to establish prima facie case. Grant of interlocutory injunction is discretionary remedy and in exercise of judicial discretion granting or refusing to grant injunction, the Court will have to take following principles.



1. Whether a person seeking temporary injunction has made out prima facie case?
2. Whether balance of convenience lies in his favour i.e. whether it could cause greater inconvenience to him if injunction was not granted?
3. Whether a person seeking temporary injunction would suffer irreparable injury if injunction was not granted.

Among aforesaid conditions atleast two conditions should be satisfied by the party. Mere proof of one of the three conditions does not entitle for the party to obtain temporary injunction. In the instant suit the plaintiff has made out prima facie case. If the defendants No.1, 3 and 4 have sold item No.6 to 10 of suit schedule properties, certainly irreparable loss and injury will be caused to the plaintiff. If the temporary injunction is not granted the balance of convenience lies more in favour of plaintiff. In view of above discussion this court is of the opinion that the application filed by the plaintiff deserves to be allowed. Accordingly, point Nos.1 to 3 are answered in ***affirmative***.

12. Point No.4:- In view of the above discussion I proceed to pass the following;



ORDER

IA No.I filed by the plaintiff U/O.39 Rule 1
and 2 R/w Sec. 151 of CPC is hereby allowed.

The defendant No.1, 3 and 4 are temporarily
restrained from alienating for encumbering and
creating any charge over the suit schedule
property till disposal of the suit.

*(Directly typed by me, corrected and then pronounced by me in the
open Court on **10th day of December-2025**)*

(SMT.SHOBHA B.G.)

I ADDL. SENIOR CIVIL JUDGE AND
JMFC, HAVERI.