



IN THE COURT OF THE CIVIL JUDGE AND
JMFC, AT: BYADGI

Present: **Sri. Suresh Wagganavar, MA. LL.B., (Spl)**
Civil Judge & JMFC, Byadgi.

Dated this the 08th day of October - 2025

ORIGINAL SUIT NO.139/2024

Abidulla S/o Basirsab @ Abdulbashir Pattegoudra
Age: 38 years, Occ: Business,
R/o: Hirehalli, Tq: Byadgi, Dist: Haveri,
Now residing at: House No:C/181/3,
Ground Floor, Chinchavada Chimbali & Marses
Panjim Goa-403202.

(By Sri.M.C.H., Advocate)

.....PLAINTIFF:

V/S

1. Shabbirahammad S/o Basirsab @ Abdulbashir
Pattegoudra, Age: 50 years, Occ: Business,
R/o: Hirehalli, Tq: Byadgi, Dist: Haveri
and others.

(Defendant No.1 placed exparte)
(By Sri.C.C.D.,Advocate for D-2 to 6)
(By Sri.S.G.H.,Advocate for D-7)

.... DEFENDANTS:



PARTIES TO THE IA NO.I

Abidulla S/o Basirsab @ Abdulbashir Pattegoudra
Age: 38 years, Occ: Business,
R/o: Hirehalli, Tq: Byadgi, Dist: Haveri,
Now residing at: House No:C/181/3,
Ground Floor, Chinchavada Chimbali & Marses
Panjim Goa-403202.

.....APPLICANT/ PLAINTIFF

V/S

1. Shabbirahammad S/o Basirsab @ Abdulbashir Pattegoudra, Age: 50 years, Occ: Business, R/o: Hirehalli, Tq: Byadgi, Dist: Haveri and others.

....OPPONENTS/DEFENDANTS:

ORDER ON IA.NO.I

The plaintiff has filed interim application U/O XXXIX Rule 1 and 2, R/w Sec.151 of Civil Procedure Code, seeking prayer to grant Temporary Injunction restraining the defendant No.1, 4, 5 and 7 from alienating, mortgage and sell the suit schedule 'A.B.C.D.E.F' properties till disposal of suit.

2. In the accompanying affidavit of the interim



application, plaintiff has stated that the propositus by name Basirsab @ Abdulbashir and his wife by name Shahajadabi have got begotten children by name 1) Shabbirahammad, 2) Mumtaj, 3) Jaibunnisa, 4) Jabeerahammad, 5) Sikandar, 6) Rahim, 7) Abidulla and 8) Nasarulla and they are the legal heirs of propositus and they are jointly cultivating the suit properties. The propositus died leaving behind above said persons. At the time of marriage of defendant No.2, 3, 6, the propositus was gave sufficient amount and they have no right, title and share in the suit properties and they are formal parties in this suit. The suit schedule 'A.B.C.D.E.F' properties are the ancestral properties and plaintiff and defendants are the jointly cultivating the suit properties. There is no partition between plaintiff and defendants till today. On 20.05.2024 the defendants have refused to partition and separate possession. Hence, the IA.

3. Per contra the defendant No.2 and 7 have filed written statement. Wherein the defendant No.2 contended that the IA affidavit are all false and same are not maintainable. The suit property 'A(B)' to 'A(F)' are the self acquired property of defendant No.7. The above said property was purchased by defendant No.7 by his own income. The plaintiffs and other



defendants have no right over the above said properties. The suit of the plaintiff is bad for non-joinder of necessary properties. Hence, prays to reject the application.

4. Heard arguments from both side, in view of the material placed before me and the contention raised by the parties. The following points have arisen for my consideration;-

P O I N T S

1. Whether the applicant/plaintiff has made out a prime facie case for the grant of the TI as prayed?
 2. Whether the balance of convenience lies in favor of plaintiff?
 3. Whether irreparable loss would be caused to the applicant/plaintiff. If the instant interlocutory application is not allowed?
 4. What order?
5. My answer to the above points are as under;

Point No1	:	In the Affirmative,
Point No.2	:	In the Affirmative,
Point No.3	:	In the Affirmative and
Point No.4	:	As per final order, for the



following;

REASONS

6. Point No.1 to 3: These points are taken together for common discussions and to avoid the repetition of facts.

The whole facts of the interim application is already narrated at the inception of this order. Therefore, repetition of the same avoided here.

7. So the plaintiff has alleged that, the suit properties are joint family properties of plaintiff and defendants. There is no partition in between plaintiff and defendants. Taking undue advantage, the defendants name entered in the record of rights, they have trying to alienate the suit properties. To prove the prima facie case, the plaintiff has produced record of right of suit properties. On perusal of above said documents, it prima facie shows that the suit properties are standing in the name of plaintiff and defendants. Per contra, the defendants have not produced any valid documents to show the suit properties are self acquired properties of defendant No.7. The plaintiff has made out prima-facie case in his favour. Therefore, the



plaintiff has rightly apprehension that, the suit properties are standing in the name of plaintiff and defendants and they have trying to alienate the suit properties. At this stage prima-facie shows that, the plaintiff has made out ground to allow the IA. If the defendants have succeeded to alienate the suit properties, the matter unnecessary interruption. Looking to the plaint, IA affidavit, documents the prima-facie shows that, the defendants have trying to alienate the suit properties. The first and foremost requirements of the person, who seeks the reliefs should be prima-facie made out in his favour. Hence, I conclude that the plaintiff has made out prima-facie case to go for trial.

8. It is to be noted that, the plaintiff has sought for temporary injunction against defendants from not to alienate the suit properties. Therefore, the possibility of alienating the suit properties by the defendants cannot ruled out. The primary purpose of granting interim relief is the preservation of property in this suit till legal rights and conflicting claims of the parties before the court or adjudicated in other words the object of making an order regarding interim relief is to evolve a workable formula to the extent called for by the demands of situation, keeping in



mind the pros and cons of the matter and striking a delicate balance between two conflicting interest that is injury prejudices likely to be caused to the plaintiff. It is in the nature of protective relief granted infavour of the plaintiff to prevent future possible injury. That apart if temporary injunction is not granted, the very purpose of the suit filed by the plaintiff would be frustrated and every possibility of causing damage to the suit way and due to which the plaintiff would substance more hardship and loss, per contra by granted temporary injunction no hardship or injury would be caused to the defendants. If the defendants succeeds to alienate the suit properties, it will lead to multiplicity of proceedings. If the plaintiff flopped to succeeds in the suit ultimately the defendants can deal with the properties as per his whims and dreams. The plaintiff is under apprehension that, the defendants are trying to alienate the suit properties infavour of others. Therefore, I am of the opinion that, the plaintiff has got sufficient grounds to allow the interim application.

9. From the above discussions, it is quite obvious that, the plaintiff has made out prima-facie case for the grant of temporary injunction as prayed. Accordingly, this court



answered the **Point Nos.1 to 3 in the Affirmative.**

10. Point No.4:- The plaintiff has made out a prima-facie case and plaintiff is entitled to discretionary and equitable relief of temporary injunction as prayed. Hence, for the aforesaid reasons, I proceed to pass the following;

ORDER

**I.A.No.I filed by the plaintiff U/O
XXXIX Rule 1 and 2, R/w Sec.151 of
Civil Procedure Code is hereby allowed.**

**The defendant No.1, 4, 5 and 7 are
hereby restrained by an order of
temporary injunction from alienating,
mortgage and sell of the suit schedule
properties till disposal of suit.**

No order as to cost.

(Dictated to the Stenographer directly on computer, after typed by her, corrected and then pronounced by me in the open court on this the **08th day of October - 2025**).

Sd/-
(Suresh Wagganavar)
Civil Judge & JMFC,
Byadgi.