



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 10th day of June - 2025

ORIGINAL SUIT NO.154/2023

1. Smt.Akkamma W/o Beerappa Goravar
R/o: Angaragatti, Tq: Byadgi, Dist: Haveri
and another one.

(By Sri.P.B.L., Advocate)

.....PLAINTIFFS:

V/S

1. Vinoda W/o Hanumantappa Uppunasi
R/o: Mattur, Tq: Byadgi, Dist: Haveri
and others.

(By Sri.B.G.H., Advocate for D1)
(By Sri.F.M.M.,Advocate for D-2 to 6)
(By Sri.D.S.U.,Advocate for Pro D-7)

.... DEFENDANTS:



PARTIES TO THE IA NO.I

1. Smt.Akkamma W/o Beerappa Goravar
2. Smt.Basavanneppa W/o Kenchappa Chigalikoppa.

....APPLICANTS/ PLAINTIFFS

V/S

1. Vinoda W/o Hanumantappa Uppunasi.
2. Siddappa S/o Irappa Uppunasi.
3. Santosh S/o Irappa Uppunasi.
4. Smt.Parvatevva W/o Shankrappa Uppunasi.
5. Beerappa S/o Shankrappa Uppunasi.
6. Shashidhar S/o Shankrappa Uppunasi.

....OPPONENTS/DEFENDANTS:

ORDER ON IA.NO.I

The plaintiffs have 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 defendants from alienating the suit schedule 'B' properties till the disposal of suit.



2. In the accompanying affidavit of the interim application, plaintiff No.1 has stated that the suit properties are the joint family properties of plaintiffs and defendants. There is no partition in between plaintiffs and defendants. The defendants have illegally mutated their names in the record of rights of suit properties. Taking undue advantage, the name of defendants entered in the record of rights, they have trying to alienate the suit properties. Hence, prays to allow the application.

3. Per contra the defendants have appeared through their counsel and filed written statement. Wherein the defendant No.1 contended that the IA affidavit are all false and same are not maintainable. The plaintiff has no right, title and share in the suit properties. The defendants have use and enjoyment over the suit properties. There is a suit pending in OS.No.174/2015 before Hon'ble Senior Civil Judge, Byadgi. Hence, prays to dismiss 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 applicants/plaintiffs have made out a prime facie case for the grant of the TI as prayed?
2. Whether the balance of convenience lies in favor of plaintiffs?
3. Whether irreparable loss would be caused to the applicants/plaintiffs. 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;

R E A S O N S

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 plaintiffs have alleged that, the suit properties are joint family properties of plaintiffs and defendants. There is no partition in between plaintiffs 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 plaintiffs have 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 defendants. Per contra, the defendants have not produced any valid documents to show the suit properties are self acquired properties of defendants. The plaintiffs have made out prima-facie case in their favour. The defendants have not produced any single documents to show there is suit pending before Hon'ble Senior Civil Judge, Byadgi. Therefore, the plaintiffs have rightly apprehension that, the suit properties are standing in the name of defendants and they have trying to alienate the suit properties. At this stage prima-facie shows that, the plaintiffs have 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 plaintiffs have made out prima-facie case to go for trial.

8. It is to be noted that, the plaintiffs have 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 plaintiffs. It is in the nature of protective relief granted infavour of the plaintiffs to prevent future possible injury. That apart if temporary injunction is not granted, the very purpose of the suit filed by the plaintiffs would be frustrated and every possibility of



causing damage to the suit way and due to which the plaintiffs would substance more hard ship 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 plaintiffs flopped to succeeds in the suit ultimately the defendants can deal with the properties as per his whims and dreams. The plaintiffs are under apprehension that, the defendants are trying to alienate the suit properties infavour of others. Therefore, I am of the opinion that, the plaintiffs have got sufficient grounds to allow the interim application.

9. From the above discussions, it is quite obvious that, the plaintiffs have 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 plaintiffs have made out a prima-facie case and plaintiffs are 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 plaintiffs U/O
XXXIX Rule 1 and 2, R/w Sec.151 of
Civil Procedure Code is hereby allowed.**

**The defendants are hereby restrained
by an order of temporary injunction
from alienating of the suit schedule
property till the 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 **10th day of June -2025**).

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