



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.165/2024

1. Kavana D/o Rajashekhar Shingri
R/o: Muttur, Tq: Byadgi and others.

(By Sri.S.N.B., Advocate)

.....PLAINTIFFS:

V/S

1. Sri.Rajashekhar S/o Basavantappa Shingri
R/o: Muttur, Tq: Byadgi and others.

(By Sri.B.M.G., Advocate for D1)

(By Sri.M.M.P., Advocate for D-2)

.... DEFENDANTS:

PARTIES TO THE IA NO.I

1. Kavana D/o Rajashekhar Shingri



R/o: Muttur, Tq: Byadgi, Dist: Haveri.

2. Kirtana D/o Rajashekhar Shingri
Since minor M/G R/by her natural mother
plaintiff No.4 Smt.Manjula W/o Rajashekhar Shingri.
3. Lokesh S/o Rajashekhar Shingri
Since minor M/G R/by his natural mother
plaintiff No.4 Smt.Manjula W/o Rajashekhar Shingri.
4. Smt Manjula W/o Rajashekhar Shingri
R/o: Muttur, Tq: Byadgi, Dist: Haveri.

.....APPLICANTS/ PLAINTIFFS

V/S

1. Sri.Rajashekhar S/o Basavantappa Shingri
R/o: Muttur, T: Byadgi, Dist: Haveri.
2. Smt.Netravati W/o Raju Naik
R/o: Kummur, Tq: Byadgi, Dist: Haveri.

....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 defendant No.1 and 2 from alienating, mortgage and sell the



suit schedule 'A' properties till the disposal of suit.

2. In the accompanying affidavit of the interim application, plaintiff No.4 has stated that on 06.11.2023 there was a partition in the family of plaintiffs and defendant No.1. The suit properties are fallen to the share of plaintiffs and defendant No.1. There is no partition in between plaintiffs and defendant No.1. This being the fact, on 25.02.2024 the defendant No.1 illegally sold the suit schedule property No.2 infavour of defendant No.2. The plaintiffs right, title and share on the suit properties. The defendant No.1 and 2 are trying to alienating the suit properties infavour of strangers. Hence, the IA.

3. Per contra the defendants have appeared through their counsel and filed written statement. Wherein the defendants contended that the IA affidavit are all false and same are not maintainable. The suit schedule properties are not the ancestral properties of plaintiffs and defendant No.1. The suit schedule properties are the self acquired properties of defendant No.1. On 22.05.2024 the defendant No.1 had executed the registered Sale Deed infavour of defendant No.2 for valuable consideration amount of Rs.2,80,000/-.



The defendant No.2 is in possession, use and enjoyment over the suit schedule property RS.No.91/7. The defendant No.2 is the bona fide purchaser of suit schedule property No.2. The plaintiffs have not included all family 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 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;

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 plaintiffs have alleged that, the suit properties are joint family properties of plaintiffs and defendant No.1. There is no partition in between plaintiffs and defendant No.1. 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. 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 their 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 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 plaintiffs flopped to succeeds in the suit ultimately the defendants can deal with the properties as per their 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, mortgage and sell of the
suit schedule properties till the disposal
of suit.**

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OS.No.165/2024

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.