

ORDER ON IA.NO.1

This is an application filed by the appellant U/order 41 Rule 5 R/W Section 151 of CPC., for staying the execution of the order passed by the trial court on IA.No.1 dated 09.12.2025.

The respondents No.1 and 2 herein have filed a suit bearing OS.No.8/2024 on the file of Civil Judge and JMFC, Court Hangal against the present respondent No.3 and appellant as defendants No.1 and 2 respectively in the said case. The said suit is filed by the respondents No.1 and 2 herein seeking permanent injunction against the present appellant and respondent No.3 restraining them from interfering with the peaceful possession and enjoyment over the suit schedule property by the plaintiffs.

The suit schedule property is the agricultural land bearing RS.No.4/3 measuring 2 acres 13 guntas situated at Yattinahalli M Tilavalli village Hangal Taluk, Haveri District, more fully described in schedule of the plaint.

It is the case of the plaintiffs that, the owner of the suit schedule property namely Sri.Mahabaleshwar S/o Gurumurthy Shastri Sindhogi agreed to sell the suit land in favour of the father of the plaintiffs for the

total sale consideration of Rs.45,000/- on 08.09.1995 and had also received earnest money and handed over the possession of the suit schedule property to the father of the plaintiffs. Thereafter, the said owner of the suit land had received further amount from the father of the plaintiffs and executed supplementary agreement of sale but, till date he did not execute the sale deed. It is alleged that, till the death of father of the plaintiffs, he was in possession of the suit land and subsequent to his death the plaintiffs continued to be in possession of the suit land and during the lifetime of the father of the plaintiffs he had effected the partition and the suit schedule property was fell to the share of the plaintiffs. It is alleged that, subsequent to the death of the father of the plaintiffs, the plaintiffs are in possession and enjoyment of the suit land and they are cultivating the same since last 29 years and despite it the defendants having no right, title or interest over the suit land have attempted to interfere with the possession of the plaintiffs over the suit land on 02.01.2024. Therefore, the plaintiffs have filed the suit before the trial court seeking permanent injunction and they also filed IA.no.1 before the trial court seeking temporary

injunction restraining the defendants from interfering with the possession of the suit land till the disposal of the suit before the trial court.

The trial court after considering the materials placed before it and after considering objections filed by the defendants and also taking into consideration the sale deed allegedly executed by the original owner in respect of the suit schedule property in favour of one Lakshmanacharya Puttappa Arkacharya of Tilavalli and also taking into consideration the orders passed by this court in OS.No.13/2004 in respect of the suit schedule property, has held that, the present respondents No.1 and 2/the plaintiffs in OS.No.8/2024 have made out prima-facie case to grant temporary injunction against them and by holding that, the balance of convenience is also lies in their favour, the trial court has restrained the present appellant and respondent No.3/defendants from interfering with the possession of the plaintiffs over the suit land till the disposal of the suit.

I have heard both side on IA.No.1 and gone through the materials placed on record. Taking into consideration the sale deed dated 07.06.2003 allegedly executed by the original owner

namely Sri.Mahabaleshwar S/o Gurumurthy Shastri Sindhogi in favour of Lakshmanacharya Puttappa Arkacharya of Tilavalli in respect of the suit schedule property and also taking into consideration the orders passed in OS.No.13/2004 by this court in respect of the suit schedule property. Hence, I am of the opinion that, at this stage there are no grounds to stay the execution of the impugned order passed on IA.No.1 dated 09.12.2025 passed by the trial court in OS.No.8/2024. Hence, IA.No.1 is rejected.

For arguments.

Call on 06.06.2026.

Sd/-

Prl.Senior Civil Judge and JMFC,
Hangal.