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OS No.159/2023

**IN THE COURT OF CIVIL JUDGE AND J.M.F.C AT  
SHIGGAON**

**Present:** Ashwinichandrakanth  
B.Sc., LL.B.  
Civil Judge and J.M.F.C.,  
Shiggaon.

**DATED 05<sup>th</sup> DAY OF AUGUST, 2025**

**ORIGINAL SUIT NO.159/2023**

1. Prabhayya @ Prakashayya S/o. Tirthayya @ Tirakayya Chigarimath, Age: 66 years, Occ: Agriculture, R/o: Halebankapur, Tq.Shiggaon, Dist.Haveri.
2. Sujata W/o. Veeresh Reshmi, Age: 41 years, Occ: Household work, R/o: Holealur, Tq.Ron, Dist.Gadag.
3. Poornima @ Nandini W/o. Manjunath Hiremath, Age: 39 years, Occ: Household work, R/o: KPTCL Layout, Plot No.9, Sharavatinagar, Old Hubballi, Hubballi.
4. Rajeshwari @ Nirmala W/o. Mahantayya Hiremath, Age: 37 year, Occ: Household work, R/o: Hanumarahalli, Tq.Shiggaon, Dist.Haveri.

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5. Veena @ Kiran W/o. Shivanagouda Sannagoudra,  
Age: 35 years, Occ: Household work,  
R/o: Tavaramellihalli, Tq.Shiggaon, Dist.Haveri.

**(By Sri.K.C.P., Advocate)**

**.....PLAINTIFFS:**

**V/s.**

1. Pushpa W/o. Shivanandayya Chigarimath,  
Age: 42 years, Occ: Household work,  
R/o: Halebankapur, Tq.Shiggaon,  
Dist.Haveri.
2. Darshan S/o. Shivanandayya Chigarimath,  
Age: 21 years, Occ: Student,  
R/o: Halebankapur, Tq: Shiggaon,  
Dist: Haveri.
3. Rekha W/o. Somalingayya Chigarimath,  
Age: 51 years, Occ: Household work,  
R/o: Halebankapur, Tq: Shiggaon,  
Dist: Haveri.
4. Kumari Kavita D/o. Somalingayya Chigarimath,  
Age: 17 years, Occ: Student,  
R/o: Halebankapur, Tq: Shiggaon,  
Dist: Haveri.

(Since minor represent by her N/G i.e., mother  
Defendant No.3)

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5. Naveen S/o. Somalingayya Chigarimath,  
Age: 13 years, Occ: Student,  
R/o: Halebankapur, Tq: Shiggaon,  
Dist: Haveri.

(Since minor represent by her N/G i.e., mother  
Defendant No.3)

**(By Sri.S.R.H., Advocate)**

**.... DEFENDANTS:**

**PARTIES TO THE IA NO.II**

1. Prabhayya @ Prakashayya S/o. Tirthayya @  
Tirakayya Chigarimath and others.

**.... Applicants/Plaintiffs**

V/s.

1. Pushpa W/o. Shivanandayya Chigarimath  
and others.

**.... Opponents/Defendants**

**ORDER ON IA.NO.II**

The plaintiffs have filed application under Order  
XXXIX Rule 1 and 2, by seeking prayer to grant ad-

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interim injunction against the Defendants and persons claiming through them from interference and obstruction over the suit schedule properties till disposal of suit.

2. In support of the application Plaintiffs have duly sworn affidavit and annexed the same along with the application and stated that, the contents of the plaint averments may be treated as part and parcel of this affidavit. Further contended that, Defendants are influential people at any movement they may trespass the suit lands and make an obstruction for cultivation of the suit lands with an intention to cause loss to harass the Plaintiffs. If this application is not allowed Plaintiff will be put to great hardship. Hence, the Plaintiff prays to this court to allow this application.

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3. On service of summons Defendants appeared before this court and filed written-statement and filed memo stating that, the written-statement may be treated as objections to IA No.I. The Defendant has denied all the averments of the plaint. Further, submits that, the suit schedule properties are ancestral properties of Plaintiffs and Defendants, there is no partition and separate possession in between Plaintiffs and Defendants till today. The Plaintiffs and Defendants are in joint possession of suit schedule properties. Defendants further submitted that Plaintiff No.1 with collusion with other Plaintiffs filed OS No.3/2018 before Hon'ble Senior Civil Judge Shiggaon the partition and separate possession against Plaintiff No.1 and they entered into collusive compromise decree. When the said fact is known to the husband of Defendant No.1 by

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name Shivanandayya has filed OS No.107/2018 for partition and separate possession, even though said suit has decreed due to technical ground suit schedule properties were excluded from the decree. Against the said judgment and decree this Defendant and Defendant No.2 are preferred an appeal in RA No.18/2023 before Hon'ble District and Sessions Judge Haveri still the said appeal is pending. Defendants further submitted that they are coparceners/Co-owners of the suit schedule properties. Hence, prays to reject this application with costs.

4. Heard, the arguments adduced by the both counsels, during the course of arguments Defendants relied on the following decisions: 1) 2013(4) KCCR 2672 Sri.Somashekhar V/s. Srishail and another. 2) LC Prakash V/s. L.R.Yogisha and others. These decisions

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are not relevant to the present set of facts. In view of the material placed before me and the rival contention raised by the parties. The following points have arisen for my consideration;

**P O I N T S**

- 1.** Whether the prima-facie case lies infavour of Plaintiff?
- 2.** whether the balance of convenience lies infavor of Plaintiff?
- 3.** whether irreparable loss would be caused to the 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 Negative

Point No.2: In Negative

Point No.3: In Negative and

Point No.4 : As per final order  
for the following:



**REASONS**

6. **Point No.1:** The Plaintiffs seeking for relief of injunction against defendants not to interfere with the peaceful possession and enjoyment of the suit schedule properties.

7. At this stage without going to the merits of the case holding mini trial, this Court has considered the aspect of prima-facie case. At this stage this court makes it clear this court it looking forward prima-facie case not prima-facie title. It is settled principle of law that, at the time of disposing temporary injunction application the court cannot go into the prima-facie case title and only to consider whether the Plaintiff has made out prima-facie case for granting interim relief. The primary purpose of granting interim relief is preservation of things in dispute till legal rights and

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conflicting claims of the parties before the court are adjudicated. In other words the object of making order regarding interim relief is to evolve a workable formula to the extent called for the demands of situation, keeping in mind the pros and cons of the matter and striking a delicate balance between to conflicting interest i.e., injury and prejudice, likely to be caused to the Plaintiff if the relief is refused and injury and prejudice likely to be caused to the Defendants if relief is granted. The underlining object of granting Permanent Injunction is to maintain and preserve status-quo at the time of institution of proceedings and to prevent change in it until final determination of suit. It is in the nature of protective belief granted infavour of party to prevent future possible injuries.



8. The power to grant temporary injunction is at the discretion of the court. This discretion however should be exercised reasonably, judiciously and on sound legal principles. Injunction should not be lightly granted as it adversely affects the other side. The first rule is that application must make out prima-facie in support of right claimed by him. The court must be satisfied that there is a bona-fide dispute raised by the applicant, that there is a strong case for trial which needs to be investigation and a decision on merits and facts before the court there is a probability of the applicant being entitled to the relief claimed by the Plaintiff. The existence of prima-facie right and infraction of such right is a condition precedent for grant of temporary injunction.

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9. The Plaintiffs in support of the case has produced Judgment and decree of OS No.107/2018 and RTC's.

10. Plaintiffs seeking for injunction against Defendants and restrained them from obstruction of the peaceful possession and enjoyment of the Plaintiffs. On perusal of the pleadings of the both parties and documents placed before this court presently suit schedule properties stands in the name of Plaintiffs. Further Plaintiffs submitted that Defendants are obstructing for peaceful possession and enjoyment of the suit schedule properties and also causing obstruction for the cultivation.

11. Per contra, Defendants taken specific contention stating that, the suit schedule properties are ancestral properties of Plaintiffs and Defendants there

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is no partition and separate possession between them. Further submitted that, Plaintiff No.1 with an intention to engulf the suit schedule properties filed suit for partition and separate possession colluded with other Plaintiffs on the file of OS No.3/018. Then entered into an collusive compromise and obtained compromise decree. Thereafter, Shivanandayya husband of Defendant No.1 by knowing the said facts filed a suit for partition and separate possession on the file of OS No.107/2018. Due to technical error this suit schedule properties were excluded from the decree. Hence, Defendants preferred an appeal on the file of RA No.18/2023 before Hon'ble District and Sessions Court Haveri and the said appeal is still pending. During the arguments Defendants counsel along with memo filed certified copy of orders passed by Hon'ble High Court of

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Karnataka Dharwad Bench in RSA No.100881/2024, whereas Hon'ble High Court has passed an order to maintain status-quo of the suit schedule property. On perusal of the orders the suit properties of RSA No.100881/2024 and present suit properties are one and the same. The Defendants submits that the suit schedule properties are ancestral properties and they have specific share in the suit schedule properties. Further Defendants contended that, there is no partition between the Plaintiffs and Defendants. Even though Hon'ble High Court has given direction to maintain status-quo. At this juncture, Plaintiffs have not shown prime-facie reasons to allow this application. Under such a circumstances in order to ascertain whether the alleged interference by the Defendants requires full fledged trial. It is also pertinent to note

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that, Defendants also raised several contentions in respect of the suit property. Both parties are raised their rival contentions before this court as such to ascertain the interference of Defendants over the suit property detailed trial is required. Hence, Plaintiff has not made out prima-facie case. Hence, Plaintiff is not entitled for discretionary relief of temporary injunction. Accordingly, this court answered the **point No.1 is in the Negative.**

12. **Point No.2 and 3:** The second condition for granting interim injunction is that balance of convenience must be infavour of the Plaintiff in other words the court must be satisfied that, the comparative mischief, hardship or inconvenience which is likely to be caused to the Plaintiff by refusing the injunction will be grater than that which is likely to be caused to

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opposite party by granting it. On weighing the pleadings as well as documents of the Plaintiff and Defendants the balance of convenience does not lie in favour of Plaintiff. Accordingly, this court answered the **point No.2 and 3 are in the Negative.**

13. **Point No.4:** For the aforesaid discussion on Point No.1 to 3 this court proceeds to pass the following;

**ORDER**

IA No.II filed by the Plaintiff under Order XXXIX Rule 1 and 2 R/w Sec.151 of CPC., is hereby rejected.

No order as to costs.

(Dictated to the stenographer, directly typed by her, corrected, and then pronounced by me in the open court on this the **05<sup>th</sup> day of August 2025**).

**Sd/-**  
**(ASHWINICHANDRAKANTH)**  
Civil Judge & JMFC,  
Shiggaon.