



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

Present: Sri. Sunil S. Talawar
B.A.LLB..., (Spl.)
Senior Civil Judge & J.M.F.C.,
Shiggaon

DATED THIS THE 15th DAY OF JUNE 2026

O.S. No.34/2025

Plaintiffs: Gurushiddanagouda
Shanmukhagouda Patil
and others.

Vs.

Defendants: Ansavva W/o Gurupadagouda
Patil and others.

I.A No. I

Applicants: Gurushiddanagouda
Shanmukhagouda Patil
and others.

(By Sri. DSA., Advocate)

Vs.

Opponents: Ansavva W/o Gurupadagouda
Patil and others.

(By Sri. SGA., Advocate)

ORDER ON I.A.No.I

The plaintiffs/applicants have filed **I.A.No.I U/O
XXXIX Rule 1 and 2 R/w Sec.151 of CPC** seeking



order to grant ad interim temporary injunction restraining the defendants and their henchmen, agents, servants, assigns and any one claiming through them in any manner from alienating or transferring or creating any kind of encumbrance/charges in any manner in respect of the suit schedule properties, till disposal of the suit.

2. The plaintiff No.1 has sworn to the affidavit and stated that, the suit properties are ancestral and joint family properties of plaintiffs and defendants. It is also sworn to the affidavit that the suit schedule properties at Sl No.1, 4 and 5 are standing in the name of defendant No.1 husband and father of defendants No.2 to 4 and after his death the said defendants entered their names only in the RTC of said properties. The plaintiffs are having 1/5th share each in the suit properties. The defendants are denying the legitimate share of plaintiffs. In order to engulf the suit properties, the defendants are in hurry to alienate the suit properties to the others. Therefore, the plaintiffs constrained to file this suit against defendants wherein by filing I.A.No.I they are seeking interim relief as sought for.

3. Per contra, The defendant No.1 to 4 have filed their written statement and also filed memo stating that the contents of the written statement be



treated as objections to the IA No. I. It is specifically contended by the defendants that the land Sy. No.69/1B measuring 5 acres 11 guntas has been purchased by Gurupadagouda S/o Shanmukhappa Patil on 11.05.1981 from its original owner and as per J Form the name of Gurupadappa came to be mutated as owner and cultivator of the said land. The suit property land Sy. No. 73/1 is the self acquired property of deceased Gurupadagouda. The said Gurupadagouda reported to have died on 01.09.2021 and as per MR No.H4/2021-22 the name of these defendants mutated in the revenue records. It is also contended that the said Gurushidanagouda Patil has transferred some of the properties in favour of others and the all alienated properties are to be joined as properties in the matter. Hence prayed to reject the application with cost.

4. Heard both side.
5. Perused the materials of this case.
6. The points that arose for the consideration of this court are as here under:-

1 Whether the plaintiffs / applicants have got prima-facie case for the grant of temporary injunction?

2 Whether the balance of convenience lies in



*favour of the
plaintiff/applicant?*

**3 Whether the plaintiff
will be put to
irreparable loss or
injury, if an order of
temporary injunction is
not granted?**

4 What order?

7. My answer to the above points are as here
under:-

Point No.1:- In the Affirmative

Point No.2:- In the Affirmative

Point No.3:- In the Affirmative

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

REASONS

8. **Point No.1 to 3:-** Point No.1 to 3 are inter linked with each other and based on same material facts those are made available in the form of plaint, affidavit and documents produced by the plaintiff and Written Statement, objection to the I A, documents produced thereon. Therefore, I have taken point No.1 to 3 for discussion jointly to avoid repetition.

9. Before entering into the heart of present application it is relevant here to discuss the fact that, the plaintiffs have filed the present suit seeking



partition and separate possession in respect of land Sy. No.131/1, 141/1B, 155/1+2+3A/1, 73/1 and 69/1B. It is stated by the plaintiffs that, one Shanmukhappa Patil is original propositus of the plaintiffs and defendants family. The deceased propositus Shanmukhappa died on 04.05.1986 and his wife by name Kantevva died on 25.02.1995 leaving behind his 5 children by name Gurupadappa, Gurushidappa, Ningavva, Mallikarjunagouda and Bapanagouda as their surviving legal heirs. The said Gurupadappa died on 01.09.2021 leaving behind his wife and his children and his surviving legal heirs. The item No.1 of suit schedule A property is the ancestral joint family properties of original propositus which was inherited through Apsat Vatni on 03.08.1978 between his brother by name Basanagouda and same is fallen to the share of Basanagouda and for which mutation certified vide Hosur Village as per DSJ No.1361. The item No.2 and 3 suit schedule A properties are re-granted to original propositus by Assistant Commissioner, Savanur dated 10.10.1976 and mutation certified vide Hosur Village as per DSJ No.1285. The propositus to look after his family has been registered the item No.5 of suit schedule A properties in the name of their 1st son by name Gurupadappaa. After his demise the said properties are standing in the name of defendants. The partition has



not been taken place between plaintiffs and defendants till today. When the plaintiffs demanded their share in the suit schedule A properties, the defendants refused to give the same.

10. As to substantiate their pleadings, the plaintiffs have filed RTC of suit lands wherein they all are standing in the name of defendants. The plaintiffs claims partition and separate possession by stating that these properties are ancestral and joint family properties. The revenue documents produced by the plaintiffs especially the D No.1285, 1361, 935 are disclosing the status of suit properties and flow of the suit properties. Further the hand written RTC of suit lands also disclosing that the suit properties earlier belongs to Shanmukhagouda Ningangaouda Patil. The certified copy of sale deed also disclosing that of accusation of properties by the Shanmukhagouda Ningangaouda Patil. The plaintiffs by way of pleadings and the documents wanted to prove that they are all having rights over the suit properties.

11. As to substantiate their pleadings the defendants have also produced in all 28 documents, wherein some of the documents are in respect of sale deeds. On the basis of material facts, the defendants claims that the land Sy. No.69/B measuring 5 acres 11 guntas and land Sy. No.73/1 measuring 1 acre 2



guntas are self acquired properties of Gurupadagouda and Shanmukhagouda Patil. The defendant No.1 to 4 claims absolute ownership over these properties. The material facts pertaining to this aspect need to prove by the defendant No.1 to 4.

12. The nature of suit is as such as per plaintiffs the suit properties are ancestral and joint family properties. However the defendant No.1 to 4 by filing written statement have taken contrary stand in respect of suit properties. There is apprehension in the mind of plaintiffs that the defendants by taking advantage of their names appearing in the revenue records may alienate the suit properties to the others. If the absolute right of defendants taken into consideration then also they have not at all stated anything about the fact that they are in need of money in order to make convenience for the domestic purpose wanted to sale these properties to the others. Apart from their independent right nothing has been placed in this regard. On the other hand if it is taken into consideration that any alienation taken place that to during the pendency of the suit it will warrant multiplicity of proceedings as against the purchaser. Therefore as to decide the real lis between the parties if the suit properties are preserved at atleast for a period of disposal of the suit then this court think it proper to



decide the real question in controversy between the parties. In this regard the relationship of plaintiffs with original propositus is not in dispute. The disputed aspect is in respect of status of the properties only. Under the circumstances as already discussed it is necessary to keep the suit properties intact atleast for a period of disposal of the matter. If any grievance is caused to the defendant No.1 to 4, then they may seek permission of this court pertaining to sale of property under which the plaintiffs can very well object the same and the court may decide the such grievance of defendants under order 39 Rule 4 of CPC. Therefore in the considered opinion of this court at this stage of proceedings the plaintiffs have got prima facie case to grant temporary injunction against the defendants and balance of convenience lies in their favour. If at all such workable order not passed by this court then the plaintiffs will suffer much more which cannot be compensated by money.

Therefore, considering all these aspects, I
answer **point No.1 to 3 are in the Affirmative.**

13. **Point No.4:-** In view of the above discussion, I proceed to pass the following:



ORDER

I.A.No.I filed by the plaintiff /applicant U/Order XXXIX Rule 1 and 2 of CPC is hereby allowed in the following manner.

The defendants and their henchmen, agents, servants, assigns and any one claiming through them are hereby restrained by way of temporary injunction from alienating or transferring or creating any kind of encumbrance/charges in any manner in respect of the suit schedule properties, till disposal of the suit.

Looking to the facts and circumstances of the case the parties shall bear their own cost.

(Dictated to the Stenographer, typed by him, revised and corrected by me and then pronounced in the open court on this the 15th day of June 2026)

**(Sunil.S. Talawar)
Senior Civil Judge and JMFC,
Shiggaon.**



14. one Shanmukhappa Patil is original propositus of the plaintiffs and defendants family. The deceased propositus Shankrappa died on 04.05.1986 and his wife by name Kantevva died on 25.02.1995 leaving behind his 5 children by name Gurupadappa, Gurushidappa, Ningavva, Mallikarjunagouda and



Bapanagouda as their surviving legal heirs. The said Gurupadappa died on 01.09.2021 leaving behind his wife and his children and his surviving legal heirs. The item No.1 of suit schedule A properties are ancestral joint family properties of original propositus which was inherited through Apsat Vatni on 03.08.1978 between his brother by name Basanagouda and same is granted by Hosur Village as per DSJ No.1361. The item No.2 and 3 suit schedule A properties are re-granted to original propositus by Assistant Commissioner, Savanur dated 10.10.1976 and the same is granted by Hosur Village as per DSJ No.1285. The propositus to look after his family has been registered the item No.5 of suit schedule A properties in the name of their 1st son by name Gurupappaa. After his demise the said properties are standing in the defendants. The partition has not been taken place between plaintiffs and defendants till today. When the plaintiffs demanded their share in the suit schedule A properties, the defendants refused to give.