



**IN THE COURT OF SENIOR CIVIL JUDGE & JMFC., AT: ALAND**

Present: Shri. **Abdul Rahaman Pathan**,  
B.A. LL.M.,  
II Additional Senior Civil Judge & JMFC.,  
Kalaburagi

**C/c Senior Civil Judge & JMFC., Aland**

**O. S. No. 74/2025**

Dated this the 13<sup>th</sup> day of February 2026

**PLAINTIFF:** Kasturbai W/o Basavaraj  
Kawalagi, Age: 56 years, Occ:  
Agriculture, R/o Ladchincholi,  
Tq: Aland, Dist: Kalaburagi.

**(By Shri. B.A.D. Adv.,)**

**//Versus//**

**DEFENDANTS:** 1. Siddamma W/o Manikrao  
Muddane, Age: 50 years, Occ:  
Agriculture,  
2. Balappa S/o Guruningappa  
Muddane, Age: 48 years, Occ:  
Agriculture,

Both are R/o Bangaraga, Tq:  
Aland, Dist: Kalaburgi.

**(By Shri. S.S.C. Adv.,)**

**PARTIES TO I.A. No. I****Applicant/  
Plaintiff:**

Kasturbai W/o Basavaraj Kawalagi

**//Versus//****Opponents/  
Defendants:**Siddamma W/o Manikrao Muddane  
& Another.

Provision under which instant application is filed	U/Order XXXIX Rule 1 and 2 of Code of Civil Procedure.
Relief sought for	Temporary injunction
Date of application	13.06.2025
Number	I. A. No. I
Date on which the objections are filed	12.01.2026
Date on which Order is pronounced	12-02-2026

**ORDER ON I.A. NO. I**

The plaintiff filed instant application U/Order XXXIX Rule 1 and 2 of Code of Civil Procedure seeking for an order of temporary injunction to restrain defendants from alienating or creating charge over Suit Schedule Properties pending disposal of the suit.

**2. The averments made in the affidavit annexed to the application in brief are as under:**

It is averred in the affidavit annexed to the application that, one Gurulingappa Hanamantha Muddane was the owner of land bearing Sy. No. 30/7 measuring 9.10 acres and Sy. No. 31/1 measuring 2.35

acres both are Situated at Bangaraga Village, Aland taluka. **(Hereinafter referred as Suit Schedule Properties)**. He acquired the same through his ancestors. The said Gurulingappa had two wives viz, Draupadi and Vithabai. The plaintiff is the daughter of said Draupadi. The said Draupadi did not give birth to any male child as such Guralingappa married said Vithabai. Due to said marriage, said Vithabai gave birth to one Manikrao and one Balappa i.e. defendant No. 2. The said Manikrao died leaving behind his wife i.e, defendant No. 1 as sole legal heir. The Suit Schedule Properties are ancestral and joint family properties of plaintiff and defendants and they have been in joint possession and enjoyment of the same. This being the case, said Gurulingappa died leaving behind plaintiff and defendants as his legal heirs. After his demise, Khata of the suit properties has been mutated in the name of defendant No. 1. This being the state of affairs, difference of opinion arose among plaintiff and defendants as such, plaintiff approached defendants for bifurcation of her share in the Suit Schedule Properties but they refused to budge their request. The defendants are hot hurry to alienate or to create charge over Suit Schedule Properties in deprivation of her rights. Thus, she constrained to file instant suit and instant application to restrain defendants from alienating or creating charge over Suit Schedule Properties pending disposal of the suit. There is prima facie case and balance of convenience lies in her favor. Hence, prayed to allow this application.

3. Pursuant to suit summons, defendant No. 1 and 2 appeared through their counsel. It appears from Order Sheet dated 29.11.2025 that, despite sufficient time, defendant No. 1 and 2 have not filed objection to instant application as such, objection on their behalf is taken as nil.

4. On the basis of plaint averments and documents produced, following points arise for my consideration:

- 1. Whether plaintiff has made out prima facie case for grant of temporary injunction as prayed?.**
- 2. Whether the balance of convenience lies in favor of plaintiff?.**
- 3. Whether plaintiff will be put to irreparable injury, if order of temporary injunction is not granted?.**
- 4. What order?.**

5. Heard learned counsel for plaintiff. Despite sufficient time, defendants did not argue as such, argument on their behalf is taken as nil. Perused material placed on record. My answer to above points is as 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:**

6. **Point No. 1 to 3:** These points are interconnected as such, are taken together for common discussion to avoid repetition. At the outset, plaintiff filed instant suit for a relief of Partition and Separate Possession of her 2/3<sup>rd</sup> share in the Suit Schedule Properties and also for Perpetual Injunction restraining defendants from alienating or creating charge over Suit Schedule Properties. In support of his case, plaintiff produced RTC Extracts. Per contra, defendants did not produce any documents.

7. In view of above, this Court carefully perused RTC Extract for the year 1988-89. Wherein it appears that, Khata of the suit lands stands in the name of deceased Guralingappa. This Court also perused RTC Extracts for the year 2014-2015 and 2024-2025. Wherein it appears that, after demise of said Guralingappa, Khata of the Suit Schedule Properties has been mutated in the name of Manikrao and after his demise in the name of defendant No. 1 and 2. The material on record at this juncture shows that, Suit Schedule Properties originally belonged to deceased Guralingappa and plaintiff is his daughter through his first wife viz, Draupadi. Whether the Suit Schedule Properties are ancestral and joint family properties of plaintiff and defendants or not is to be decided by taking evidence in this case. Thus, there are several disputed facts which needs to be decided by taking evidence in this case. It is well settled law that, while considering an application for grant of temporary injunction rights and needs of respective parties to the suit should be considered and suit properties should also be protected and preserved so that, if ultimately plaintiff, who is initiator of suit succeeds in the suit, she

would not be put to irreparable loss. The said proposition of law is supported by decision of Hon'ble High Court of Karnataka reported in **I.L.R 2004 KARNATAKA 4076, (FAKIRSAB V/s SYEDUSAB AND OTHERS)**. Wherein it is held as under:

**HEAD NOTE (B) – CIVIL PROCEDURE CODE, 1908 – ORDER 39 RULES 1 AND 2 – OBJECT OF – While considering an application for grant of temporary injunction, the right and need of respective parties should be considered and the schedule property should be also protected and preserved so that if ultimately, the plaintiff who is the initiator of the suit, succeeds in the suit, he would not be put to irreparable and uncompensatable loss. The object is to keep the property in status quo so that it would be available to the plaintiff if he ultimately succeeds in the suit.**

In this case also, plaintiff sought for restraint order against defendants from alienating or creating charge over suit properties. If injunction as prayed for is granted to preserve the Suit Schedule Property till determination of rights of parties to the suit, no harm or loss would be cause to parties to this suit. If ad-interim injunction as prayed for is not granted, defendants may alienate or may create charge over suit properties, which may cause insurmountable loss and hardship to plaintiff. Thus, prima-facie case and balance of convenience lies in favor of plaintiff. **Accordingly, I answer Point No. 1 to 3 in the Affirmative.**

8. **POINT No. 4:** In view of discussion and conclusion arrived at Point No. 1 to 3, this Court proceeds to pass following:

**ORDER**

**I.A. No. I filed by plaintiff U/Order XXXIX Rule 1 and 2 of Code of Civil Procedure is hereby ALLOWED.**

**Consequently, defendants are hereby restrained from alienating or creating charge over Suit Schedule Properties till disposal of this suit.**

**No order as to cost.**

(Dictated to the Stenographer directly on laptop, corrected by me and then pronounced in Open Court on this the 13<sup>th</sup> day of February 2026).

Date: 13-02-2026  
Place: Kalaburagi

**(Abdul Rahaman Pathan)**  
II Additional Senior Civil Judge & JMFC.,  
Kalaburagi  
**C/c Senior Civil Judge & JMFC.,**  
**ALAND**