



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. 128/2024

Dated this 23rd day of August 2025

PLAINTIFFS:

1. Sri. Tarasingh S/o Late Jagunu Pawar, Age: 55 Years, Occ: Agriculture, R/o Madiya Thanda, Tq. Aland, Dist: Kalaburagi.
2. Sri. Hirasingsh S/o Late Jagunu Pawar, Age: 50 Years, Occ: Agriculture, R/o Madiyal Thanda, Tq. Aland, Dist: Kalaburagi.
3. Sri. Khiru S/o Late Jagunu Pawar, Age: 47 Years, Occ: Agriculture, R/o Madiyal Thand, Tq. Aland, Dist: Kalaburagi.
4. Sri. Kantu S/o Late Jagunu Pawar, Age: 44 Years, Occ: Agriculture, R/o Madiyal Thanda, Tq. Aland, Dist: Kalaburagi.

5. Sri Vilas Pawar S/o Late Jagunu Pawar, Age: 36 Years, Occ: Agriculture, R/o Madiyal Thanda, Tq. Aland, Dist: Kalaburagi.

(By Shri. G.B.K. Adv.,)

//Versus//

DEFENDANT:

Smt. Rajshree W/o Ambaji Pandare, Age: 40 Years, Occ: Housewife, R/o H. No. 315, Madiyal, Tq. Aland, Dist: Kalaburagi.

**(By Shri. S.S.P. Adv., /
Shri V.S.M Adv.,)**

PARTIES TO I.A. No. I & II

**Applicants/
Plaintiffs:**

Sri. Tarasingh S/o Late Jagunu Pawar & Others

//Versus//

**Opponent/
Defendant:**

Smt. Rajshree W/o Ambaji Pandare

Provision under which instant applications are filed	U/Order XXXIX rule 1 and 2 of Code of Civil Procedure
Relief sought for	Temporary injunction
Date of applications	I.A. No. I – 30-09-2024 I.A. No. II – 30-09-2024
Number	I. A. No. I and II
Date on which the objections are filed	I.A. No. I- Objection filed by defendant on 03-02-2025. I.A. No. II – Objections filed by defendant on 03-02-2025
Date on which Order is pronounced	23-08-2025

COMMON ORDER ON I.A. NO. I & II

Plaintiffs filed I.A. No. I U/Order XXXIX rule 1 and 2 of the Code of Civil Procedure seeking for an order of temporary injunction to restrain defendant from causing interference to their possession over Suit Schedule Property pending disposal of this suit and also filed I.A. No. II U/Order XXXIX rule 1 and 2 of the Code of Civil Procedure seeking for an order of temporary injunction to restrain defendant from alienating or creating charge over Suit Schedule Property in favor of third parties pending disposal of this suit.

2. The averments made in the affidavits annexed to I.A. No. I and II in brief are as under:

The averments made out in the affidavits annexed to I.A. No. I and II are replica of each other as such, have been taken for common discussion to avoid repetition. It is averred that, the father of plaintiffs viz., Jaganu S/o Ramu Pawar was the owner of land bearing Sy. No. 273/1 measuring 08.26 acres, Situated at Madiyal Village, Aland taluka **(Hereinafter referred as Suit Schedule Property)**. He died on 28-05-2019 and his wife viz., Dhanabai died on 05-05-2019 leaving behind plaintiffs as their legal heirs. The plaintiffs inherited the Suit Schedule Property and have been in possession and enjoyment of the same. The Suit Schedule Property is rain fed or dry land as such, they could not derive sufficient income there from. During 2024, they entrusted the suit property to one Shankar S/o Balwanth Pandre to cultivate the same on crop sharing basis and went to Mumbai City to eke their livelihood. This being the case, during August – 2024, defendant tried to cause obstruction to cultivate the suit land. The said Shankar Pandre intimated the same to plaintiffs. On inquiry, defendant stated that, he purchased the Suit Schedule Property from their father vide, registered Sale Deed dated, 26-03-2016 for valuable consideration. Being shocked by the same, plaintiffs verified said sale deed and revenue records and came to know that, photographs and thumb impressions of vendor appearing on said Sale deed dated, 26-03-2016 do not pertain their father. Despite inquiry, they could not get details of person, whose photographs are appearing in said Sale deed dated, 26-03-2016. Thus, it is apparent that, defendant

fraudulently and impersonating their father got executed registered Sale deed dated, 26-03-2016. The consideration mentioned in said sale deed has not been paid to their father and possession of suit property has also not been handed over as such, defendant does not derive any right from said sale deed. The plaintiffs conveyed panchayath to get cancel said sale deed but defendant did not heed to their request as such, they are intending to initiate criminal proceedings against defendant. The defendant is hot hurry to alienate or to create charge over suit property in deprivation of rights of the plaintiffs. Thus, they left with no alternative filed instant suit and instant applications to restrain defendant from causing interference to their possession over Suit Schedule Property pending disposal of this suit and also to restrain defendant from alienating or creating charge over suit property pending disposal of this suit. There is prima facie case and balance of convenience lies in their favor. Thus, prayed to allow both applications.

3. The defendant filed separate objection to both applications but contentions raised therein are replica of each other as such, have been taken for common discussion to avoid repetition. It is contended that, instant applications are not maintainable either in law or on facts as such, liable to be rejected at the threshold. It is admitted that, the father of plaintiffs viz., Jaganu Pawar was the owner of the Suit Schedule Property. It is also admitted that, said Jaganu Pawar and his wife viz., Dhanabai died leaving behind plaintiffs as their legal heirs. It is denied that, defendant fraudulently and impersonating said Jaganu Pawar created registered Sale deed dated, 24-03-2016 without

payment of consideration mentioned therein and based thereon, got mutated Khata of the suit property in his favor. It is also denied that, defendant highhandedly tried to cause obstruction to carryout agricultural activities in the suit land. It is further denied that, on coming to know of said registered Sale deed dated, 24-03-2016, plaintiffs conveyed panchayath to convince defendant to cancel said sale deed but he did not budge to their request. It is flatly denied that, defendant is hot hurry to alienate or to create charge over suit property in deprivation of rights of the plaintiffs.

4. It is specifically contended that, the father of plaintiffs viz., Jaganu Pawar sold suit property in favor of defendant vide, registered Sale deed dated, 24-03-2016 for valuable consideration. Based thereon, Khata of the suit property has been mutated in his favor and he has been in possession and enjoyment of the same. The plaintiffs filed instant applications only with an oblique motive to harass defendant. There is no prima facie case and balance of convenience lies in their favor. Hence, prayed to reject both applications with costs.

5. On the basis of pleadings and documents produced, following points arise for my consideration.

- 1. Whether plaintiffs have made out prima facie case for grant of temporary injunction as prayed in I.A. No. I and II?.**
- 2. Whether the balance of convenience lies in favor of plaintiffs?.**
- 3. Whether plaintiffs will be put to irreparable injury, if order of temporary injunction is not granted?.**
- 4. What order?.**

6. Heard learned counsel for plaintiffs and defendant. Perused material placed on record. My answer to above points is as under:

Point No. 1: In the Partly Affirmative

Point No. 2: In the Partly Affirmative

Point No. 3: In the Partly Affirmative

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

:REASONS:

7. **Point No. 1 to 3:** These points are interconnected as such, are taken together for common discussion to avoid repetition. At the outset, plaintiffs filed instant suit for a relief of declaration to declare that, registered Sale deed dated, 24-03-2016 (registered on 26-03-2016) executed in favor of defendant with respect to suit property is null and void and does not bind them and also for perpetual injunction to restrain defendant from causing interference to their possession over Suit Schedule Property. In support of their case, plaintiffs produced Copies of Death Certificates, Copies of Adhaar Cards, RTC Extracts, Copy of registered Sale deed dated, 24-03-2016 and M.R. No. H56/2015-2016. Per contra, defendant produced Copy of Election Identity Card.

8. In view of above, this Court carefully perused material placed on record. It is undisputed fact that, originally Jaganu Pawar was the owner of the Suit Schedule Property. It is also undisputed fact that, said Jaganu Pawar and his wife viz., Dhanabai died leaving behind plaintiffs as their legal heirs. It is further undisputed fact that, Khata of the suit property is standing in the name of defendant. With these

admitted facts, this Court carefully perused RTC Extract for the year 2015-2016. Wherein it appears that, Khata of the suit property is standing in the name of said Jaganu S/o Ramu Pawar. This Court also perused copy of registered Sale Deed dated, 24-03-2016. Wherein it appears that, said Jaganu S/o Ramu Pawar sold suit property in favor of defendant for specific consideration. The said Sale deed is a registered instrument as such, carries initial presumption of valid execution. This Court further perused M.R. No. H56/2015-2016 and RTC Extract for the year 2024-2025. Wherein it appears that, based on said sale deed, Khata of the suit property has been mutated in favor of defendant. Furthermore, this Court perused Copies of Death Certificates. Wherein it appears that, said Jaganu Pawar and his wife viz., Dhanabai died. The material on record at this juncture shows that, the registered Sale deed dated, 24-03-2016 has been acted upon.

9. It is specific claim of plaintiffs that, the photographs and thumb impressions appearing on registered Sale deed dated, 24-03-2016 do not pertain to deceased Jaganu as such, said instrument is doctored one. In view of the same, this Court carefully perused registered Sale deed dated, 24-03-2016 and Copy of Adhaar Card pertaining to deceased Jaganu produced by plaintiffs. The same appears to be of same person with minor variations. This Court also perused Copy of Election Identity Card of said Jaganu produced by defendant. Wherein it appears that, photographs affixed on said sale deed and found in said election identity card appears to be of same person. At

this juncture, material placed on record shows that, the photographs found in said sale deed and in adhaar card and election identity card appears to be of same person. Thus, whether said sale deed has been executed impersonating said Jaganu Pawar or not is to be decided by taking evidence in this case. Furthermore, the thumb impressions found on said sale deed are of said Jaganu Pawar or not is also to be decided by taking evidence in this case. This Court carefully perused RTC Extract for the year 2024-2025. Wherein it appears that, Khata of the suit property is standing in the name of defendant. It is well settled law that, entries in revenue records carry presumption that, same are correct unless are rebutted. It is also well settled law that, entries in revenue records raise presumption of possession. The said preposition of law is supported by decision of Hon'ble Supreme Court reported in **(2007) 13 S.C.C. 565, (GURUNATH MANOHAR PAVASKAR AND OTHERS VS., NAGESH SIDDAPPA NAVALGUND AND OTHERS)**. Wherein at Paragraph No. 12 it is held as under:

12. A revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and / or continuity thereof both forward and backward can also be raised under Section 110 of the Indian Evidence Act. The Courts below, were, therefore, required to appreciate the evidence keeping in view the correct legal principle in mind.

It appears from sacred ratio laid down in above extracted decision that, entries in revenue records raise presumption of possession in favor of person, in whose name Khata of such land is stands for. In this case, RTC extract produced shows name of defendant as occupant

of the suit property. The plaintiffs though claimed possession over suit property as on date of suit but did not produce iota of material. In such eventuality, claim of defendant that, she is in possession of suit land appears to be probable. In such eventuality, if interim injunction as sought under I.A. No. I is granted, the rights of defendant would be prejudiced seriously. Whether registered Sale deed dated 24-03-2016 has been executed impersonating father of plaintiffs or not is to be decided by taking evidence in this case. Thus, there are several disputed facts 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 plaintiffs, who are initiators of suit succeed in the suit, they would not be put to irreparable loss. The said preposition 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, plaintiffs under I.A. No. II sought for a restraint order against defendant from alienating or creating charge over suit property. If injunction as prayed for under I.A. No. II is granted to preserve the suit property till determination of rights of parties to the suit, no harm or loss would be caused to parties to this suit. If ad-interim injunction as prayed for is not granted, defendant may alienate or may create charge over suit property, which may cause insurmountable loss and hardship to plaintiffs and may also lead to multiplicity of proceedings. Thus, prima facie case and balance of convenience with respect to I.A. No. II lies in favor of plaintiffs. Hence, plaintiffs have not made out any grounds to allow I.A. No. I but have made out sufficient grounds to allow I.A. No. II. The sacred ratio laid down in decisions cited by learned counsel for defendant is distinguishable to facts of this case. Considering facts of this case, it would not be just to impose cost on any of the parties to these applications. **Accordingly, I answer Point No. 1 to 3 in the Partly Affirmative.**

10. **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 plaintiffs U/Order XXXIX Rule 1 and 2 of the Code of Civil Procedure is hereby REJECTED.

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

Consequently, defendant is hereby restrained from alienating or creating charge over Suit Schedule Property in favor of third parties till disposal of this suit.

Parties to bear their own costs.

(Dictated to the Stenographer directly on laptop, corrected by me and then pronounced in Open Court on this the 23rd day of August 2025).

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