



**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC,  
CHINCHOLI**

**DATED THIS THE 06<sup>TH</sup> DAY OF MARCH-2026.**

**:-PRESENT:-**

**Anil Shekhanavar., B.Com., L.L.B.**  
**SENIOR CIVIL JUDGE & J.M.F.C**  
**CHINCHOLI.**

**O.S. No.37/2024**

**PLAINTIFFS:**

1. Usha W/o Dilip, Age: 40 years,  
Occ: Agriculture & Household
2. Kavita D/o Durgappa, Age: 32  
Years, Occ: Agriculture &  
Household

Both R/o Chincholi Village, Tq.  
Chincholi, Dist: Kalaburagi Now at  
Waddar Galli, Brahmapur,  
Kalaburagi.

**(By Sri. J.S.K., Advocate)**

**-VS-**

**DEFENDANTS:**

1. Gangamma W/o Veeralal, Age:40  
Years, Occ: Agriculture.
2. Uma D/o Durgappa, Age: 42 Years,  
Occ: Agriculture  
Both R/o Kalaburagi, Tq. & Dist:  
Kalaburagi.



3. Prashanth S/o Late Digambar, Age: 30 Years, Occ: Agriculture.
4. Sridevi W/o Raju (D/o Late. Digambar), Age: 40 Years, Occ: Agriculture.
5. Sujata D/o Late Digambar, Age: 37 Years, Occ: Agriculture.
6. Hanmakka W/o Late. Yankappa, Age: 65 Years, Occ: Agriculture.
7. Raju S/o Late. Yankappa, Age: 40 Years, Occ: Agriculture.
8. Timmanna S/o Late. Yankappa, Age: 35 Years, Occ: Agriculture.
9. Chandramma W/o Late. Yankappa, Age: 70 Years, Occ: Agriculture,  
All R/o Chincholi Village, Tq. Chincholi, Dist: Kalaburagi.

**(D-1, 2, 6 to 9 By Sri. S.B.H., Advocate)  
(D-3 to 5 By Sri. S.G.J., Advocate)**

**RANK OF THE PARTIES ON I.A-II**

Applicants/plaintiffs : Usha W/o Dilip and another

**-vs-**

Opponents/defendants No. 3 to 5 : Prashanth S/o Late Digambar and 2 others



i.	Provision under which the application is filed	U/O 39 Rule 1 and 2 CPC
ii.	Relief sought for	Temporary injunction
iii.	The date on which the application is filed	04-04-2024
iv.	Number of the application	I.A. No. II
v.	The date on which the objections are filed by the different opponents	16-07-2025
vi.	The date on which the orders were passed on the said application	06-03-2026

**ORDERS ON I.A. NO. II FILED U/O 39 RULE 1 AND 2  
R/w SECTION 151 OF C.P.C. BY PLAINTIFFS**

The learned counsel for the plaintiffs have filed I.A. No. II U/O. 39 Rule 1 and 2 R/w Sec.151 of C.P.C. seeking to restrain the defendant No. 3 to 5, from alienating application suit schedule properties in any manner till disposal of the suit.

**2.** The plaintiff No. 2 has sworn to an affidavit in support of the application. It is stated that, the plaintiffs and defendant No. 1 to 5 are joint owners and possessor of the suit properties. The plaintiffs and defendant No. 1 and 2 are together entitled to 1/2 share over the suit schedule



properties. The defendant No. 3 to 5 taking undue advantage of suit lands standing in their names are trying to alienate the suit schedule properties to deprive the rights of the plaintiffs. Hence, the plaintiffs prays to allow this application.

**3.** The defendant No. 3 and 5 filed written statement, same as adopted as objection to the IA No. I. Wherein they denied the contents of the affidavit sworn in support of the application as false, untenable, not maintainable either in law or on facts. It is stated that, the suit schedule property is not a joint family property of plaintiffs. The plaintiffs and defendant No. 1 and 2 and defendant No. 6 to 9 are noway concerned to the suit properties. The defendant No. 3 to 5 are the owner and in possession of the suit properties by way of succession. Hence, they prays to reject the I.A.

**4.** Heard the both sides arguments and perused the materials on record, the following points arise for consideration of this court are:-



**-: P O I N T S :-**

1. Whether plaintiffs have made-out a prima facie case for grant of direction as per sought for in IA?
  2. Whether the balance of convenience lies in favour of plaintiffs?
  3. Whether plaintiffs will be put irreparable loss and hardship if IA is not allowed?
  4. What order?
- 5.** My findings to the above said points are as follows:

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:

**R E A S O N S**

**6. POINT NO.1:-** The plaintiffs have filed this suit for the relief of partition and separate possession. The learned counsel for the plaintiffs argued that, the defendant No. 3 to 5 without having any right, title over the suit schedule property and got mutated their names by creating forged



documents and taking undue advantage of their names appeared in the ROR, they are trying to alienation of the suit schedule properties to third person. Hence the plaintiffs counsel prays to restrain the defendant No. 3 to 5 for alienation of the suit schedule properties by way of granting the order of interim injunction.

**7.** Per contra, the learned counsel for the defendant No. 3 to 5 vehemently argued that, the plaintiffs and defendant No. 1 and 2 and defendant No. 6 to 9 are not the joint family members of the defendant No. 3 to 5 and they are no way concerned to the suit properties neither with ownership nor with possession. The plaintiffs are filed the false sworn affidavit, they have not approached this Hon'ble Court with clean hands. The defendant No. 3 to 5 have succeeded the suit schedule properties through their predecessors as a owner with possessors. Hence, the defendant No. 3 to 5 counsel sought for rejection of the IA No.II.



- 8.** In the light of the arguments canvassed by the learned counsels for the parties, this court has carefully perused the list of documents produced by the parties. The list of documents of plaintiffs consists of copy of mutation entries and record of rights. The list of documents of defendant No. 3 and 5 consists of record of rights, genealogy tree issued by the Deputy Tahsildar, Chincholi.
- 9.** At this stage, without going in to the merits of the case and holding mini trial, this court has considered the aspect of prima-facie case, at this stage, this court makes it very clear that, this court is looking towards prima-facie case and not prima-facie right. It is well settled principles of law that, at the time of disposing the Temporary injunction application, the court cannot go into the prima-facie genuineness of the documents and only to consider whether the plaintiffs have made out a prima facie case for granting interim relief.
- 10.** The primary purpose for granting interim relief is the preservation of the things in dispute till legal rights and conflicting claims of the parties before the court are



adjudicated the power to grant a 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.

**11.** The first rule is that, the applicant must make out a prima-facie case in support of the right claimed by him. The court must be satisfied that, there is a bonafide dispute raised by the applicant, that there is a strong case for trial which needs investigation and a decision on merits and on the facts before the court, there is a probability of the applicant being entitled to the relief claimed by them. The existence of a prima facie right and infraction of such right is a condition precedent for grant of Temporary injunction.

**12.** The case of the plaintiffs is that, they are the joint owner with possession over the suit schedule properties. But the defendants taking undue advantage of suit lands standing in their names, they trying to alienation of the suit



schedule properties to deprive the rights of the plaintiffs. On the other hand the defendant No. 3 and 5 have denied it and contended that the plaintiffs and other defendants are not joint family members of the defendant No. 3 to 5 and the suit schedule properties are not joint family properties. The defendant No. 3 to 5 are the actual owner with possession over the suit schedule properties. At this stage, without going to the merits of the case, this court has perused the documents only in order to ascertain the prima-facie case. After perusal of the document of mutation entries and ROR produced by both parties, which prima-facie reveals that, the suit schedule Sy. No. 20/7 standing in the name of Parvati W/o Digambar who being a mother of defendant No. 3 to 5 and suit land Sy. No. 251/1 measuring 01 acre 22 guntas standing in the name of defendant No.3. At this stage, it is not feasible to this court to come to the conclusion that, whether the defendant No. 3 to 5 and their predecessor have illegally mutated their names colluding with revenue officials or whether the defendant No. 3 to 5 are exclusive owner with possession over the suit schedule property. It is left open



to the plaintiffs and defendant No. 3 to 5 to establish the said aspects, at the later stage of the suit. After considering all these circumstances, this court is of the opinion that, the plaintiffs have made out the prima-facie case for grant by equitable relief of Temporary injunction. Hence, this court has answered **Point No.1 in the affirmative.**

**13. POINT NO.2 & 3:** The second condition for granting interim injunction is that, the balance of convenience must be in favour of the applicant. In other words, the court must be satisfied that, the comparative mischief, hardship or inconvenience which is likely to be caused to the applicant by refusing the injunction will be greater than that, which is likely to be caused to the opposite party by granting it.

**14.** The existence of the prima-facie case alone does not entitle the applicant for a temporary injunction. The applicant must further satisfy the court about the third condition by showing that he will suffer irreparable injury



if the injunction as prayed is not granted and there is no other remedy open to him by which he can protect himself from the consequences of apprehended injury.

**15.** The learned counsel for the plaintiffs argued that, though the suit schedule properties are the joint family properties of the plaintiffs and defendants. The defendant No. 3 to 5 and their predecessor colluding with revenue officials mutated their names behind back of the plaintiffs and their predecessors and trying to alienation of the suit lands to third person based on the revenue records appeared in the name of the defendant No. 3 to 5. Hence, the defendant No. 3 to 5 have to be restrained by way of granting the equitable relief of temporary injunction. On the contrary the counsel for the defendant No. 3 and 5 argued that, the defendant No. 3 to 5 have succeeded the suit schedule properties through their predecessors. The plaintiffs and other defendants are not joint family members or joint possessors. Hence the plaintiffs have not entitled for equitable relief. After perusal of the materials available on record, at this stage it appears to this court



that, the suit schedule properties are standing in the name of defendant No. 3 and his mother. The specific contention of the plaintiffs are that, defendant No. 3 to 5 colluded with revenue officials got mutated the name of the defendant No. 3 to 5 and trying to alienation of the suit lands. Therefore, whether the suit schedule lands are the joint family properties of the plaintiffs and defendants or the defendant No. 3 to 5 are the exclusive owner with possession or not, are yet to be determine at the stage of trial. In the present record of rights, the name of the defendant No. 3 and his mother's name have been mutated. Therefore, if the Temporary injunction is not granted in favour of the plaintiffs more mischief and hardship will be caused to plaintiffs, when compared to defendant No. 3 to 5. Hence, to avoid the multiplicity of the proceedings, this court is of the opinion that, the balance of convenience lies in favour of the plaintiffs and if the temporary injunction is not granted to the plaintiffs, they will be put to irreparable loss and hardship which cannot be compensated in terms of money. Accordingly,



this court has **answered Point No.2 and 3 in the affirmative.**

**16. Point No.4:-** In view of the discussions made above, this court proceeds to pass the following:

**-: O R D E R :-**

The I.A. No.II filed by the plaintiffs U/o 39 Rule 1 and 2 R/w sec.151 of CPC is hereby allowed.

Consequently, the defendant No. 3 to 5 or anybody else claiming through them are hereby temporarily restrained from alienating the application suit properties in any manner till disposal of the suit.

No order as to cost.

(Dictated to Stenographer directly on the computer, typed by him, corrected by me and then pronounced it in open court this the 06<sup>th</sup> day of March -2026.)

**(ANIL SHEKHANAVAR)**  
**Senior Civil Judge & JMFC**  
**Chincholi**