



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

DATED THIS THE 07TH DAY OF MARCH-2026.

:-PRESENT:-

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

O.S. No.40/2025

PLAINTIFF:

Iramma D/o Shankarayya W/o
Shantayya Hiremath, Age: 46
Years, Occ: Agriculture, R/o
Yadaga, Tq. Sedam, Dist:
Kalaburagi.

(By Sri. H.V.S., Advocate)

-VS-

DEFENDANTS:

1. Mahadevi W/o Shankarayya
Sthavarmath, Age: 75 Years, Occ:
Agriculture, R/o Rustampur, Tq.
Chincholi, Dist: Kalaburagi
2. Subbayya S/o Shankarayya
Sthavarmath, Age: 50 Years, Occ:
Agriculture, R/o Rustampur, Tq.
Chincholi, Dist: Kalaburagi.
3. Chandrashekhar S/o Shankarayya
Sthavarmath, Age: 48 Years, Occ:
Agriculture, R/o Yalagapalli, Tq.
Chincholi, Dist: Kalaburagi.



4. Nagayya S/o Shankarayya
Sthavarmath, Age: 43 Years, Occ:
Agriculture, R/o Rustampur, Tq.
Chincholi, Dist: Kalaburagi

(By Sri. N.C.H., Advocate)

RANK OF THE PARTIES ON I.A-I

Applicants/plaintiff : Iramma D/o Shankarayya
W/o Shantayya Hiremath

-vs-

Opponents/defendants : Mahadevi W/o Shantarayya
Sthavarmath & 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	16-04-2025
iv.	Number of the application	I.A. No. I
v.	The date on which the objections are filed by the different opponents	07-03-2026
vi.	The date on which the orders were passed on the said application	07-03-2026



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

The learned counsel for the plaintiff has filed I.A. No. I U/O. 39 Rule 1 and 2 R/w Sec.151 of C.P.C. seeking to restrain the defendants, from alienating suit schedule properties in any manner till disposal of the suit.

2. The plaintiff has sworn to an affidavit in support of the application. It is stated that, the plaintiff and defendants are the joint owners and possessor of the suit properties. After death of the predecessors of the plaintiff and defendants, the defendants have mutated their names behind back of the plaintiff and trying to alienation of the suit schedule properties. The plaintiff has got her legitimate share over the suit schedule properties. The defendants taking undue advantage of suit lands standing in their names are trying to alienate the suit schedule properties to deprive the rights of the plaintiff. Hence, the plaintiff prays to allow this application.



3. The defendants 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 properties are belongs to the predecessors by name Shankarayya. The plaintiff is not joint family members. The suit schedule properties are already divided through Palu Vibhaga Nenapina Patra and same has been notarized in presence of witnesses. The plaintiff herself signed as consent by taking Rs.10,00,000/- cash and relinquished her rights over the suit schedule properties. Accordingly, the defendants have mutated their names over the suit schedule properties. Again the plaintiff has filed the present suit and seeking partition over the suit schedule properties is not maintainable. She filed the present suit to harass the defendants. 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 plaintiff has 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 plaintiff?
 3. Whether plaintiff 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 plaintiff has filed this suit for the relief of partition and separate possession. The learned counsel for the plaintiff argued that, the plaintiff and defendants are the joint family members and they have succeeded ancestral properties and cultivated jointly. After demise of



their predecessors, the defendants have mutated their names behind back of the plaintiff and trying to alienation of the suit schedule properties. The plaintiff has legitimate share over the suit schedule properties. Hence the plaintiff counsel prays to restrain the defendants for alienation of the suit schedule properties by way of granting the order of interim injunction.

7. Per contra, the learned counsel for the defendants vehemently argued that, the plaintiff and defendants are not the joint family members and they are no way concerned to the suit properties neither with ownership nor with possession. The plaintiff is filed the false sworn affidavit, she has not approached this Hon'ble Court with clean hands. The defendants have succeeded the suit schedule properties through partition. The plaintiff has relinquished her rights over the suit schedule properties during the partition by taking Rs. 10,00,000/- cash. Hence, the defendants counsel sought for rejection of the IA No.I.



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 plaintiff consists of copy of mutation entries and record of rights. The defendants have not produced any documents.

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 plaintiff is that, the suit schedule properties are the ancestral and joint family properties. She has having her legitimate share over the suit properties. After death of their predecessors, the defendants colluding with revenue officials mutated their names behind and back of the plaintiff and trying to



alienation of the suit schedule properties to deprive the rights of the plaintiff. On the other hand the defendants have denied it and contended that already partition has been effected and plaintiff has relinquished her share by taking cash of Rs. 10,00,000/-. The defendants 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, some suit schedule properties are standing in the name of predecessor i.e., Shankarayya S/o Veerbhadrayya and some suit properties are standing in the name of defendants. At this stage, it is not feasible to this court to come to the conclusion that, whether the plaintiff has relinquished her right over the suit schedule properties by taking cash of Rs. 10,00,000/- or whether the partition has been effected in between the parties. It is left open to the plaintiff and defendants 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



plaintiff has 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 plaintiff argued that, though the suit schedule properties are the joint family properties of the plaintiffs and defendants. The defendants colluding with revenue officials mutated their names behind back of the plaintiff and trying to alienation of the suit lands to third person based on the revenue records appeared in the name of the defendants. Hence, the defendants have to be restrained by way of granting the equitable relief of temporary injunction. On the contrary the counsel for the defendants argued that, the defendants have succeeded the suit schedule properties through partition. The plaintiff is not joint family members or joint possessors. Hence the plaintiff has not entitled for equitable relief. After perusal of the materials available on record, at this stage it appears to this court that, the defendants themselves admitted that the suit schedule properties are the ancestral properties and partition was effected in between plaintiff and defendants. The plaintiff relinquished her share by taking cash of Rs. 10,00,000/-. The specific contention of the plaintiff is that, defendants colluded with revenue officials got mutated their names behind back of the plaintiff and trying to alienation of the



suit lands to deprive the rights of the plaintiff. Therefore, whether the suit schedule properties are already partitioned in between the parties or plaintiff has relinquished her right over the suit properties by taking cash of Rs. 10,00,000/- or not, are yet to be determine at the stage of trial. Therefore, if the Temporary injunction is not granted in favour of the plaintiff more mischief and hardship will be caused to plaintiff, when compared to defendants. Hence, to avoid the multiplicity of the proceedings, this court is of the opinion that, the balance of convenience lies in favour of the plaintiff and if the temporary injunction is not granted to the plaintiff, she 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.I filed by the plaintiff
U/o 39 Rule 1 and 2 R/w sec.151 of
CPC is hereby allowed.



Consequently, the defendants 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 07th day of March -2026.)

(ANIL SHEKHANAVAR)
Senior Civil Judge & JMFC
Chincholi