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IN THE COURT OF THE CIVIL JUDGE & JMFC., JEWARGI

Present

Sri. Kashinath V. Uppar

B.Sc. LL.B.

Civil Judge & JMFC., Jewargi.

Dated on this the 25th day of April-2026

O.S. No. 188/2025

PLAINTIFFS: Renukamma W/o Prakash.

V/s.

DEFENDANT: Prakash S/o Mallappa,

PARTIES TO I.A. NO.I

APPLICANT/S : Renukamma W/o Prakash.
PLAINTIFF (By. Sri. B.N.K., Advocate)

V/S

OPPONENT/ : Prakash S/o Mallappa,
DEFENDANTS (By Sri. Y.G.P, Advocate)

1	Provision under which the application is filed	U/O.39 Rule 1 & 2 of CPC.
2	Relief sought for	Not to alienate
3	The date on which the application is filed	Along with suit.
4	Number of application	I.A.No.1
5	The date which the objection are filed by different opponents	23-01-2026
6	The date on which the orders were passed on the said application	25-04-2026

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**ORDER ON I.A No.I FILED BY PLAINTIFF
U/O 39 RULE 1 & 2 OF C.P.C.**

The plaintiff has filed I.A No.I under Order 39 Rule 1 & 2 of C.P.C., for the relief of temporary injunction against defendant, in favour of plaintiff and thereby restraining the defendant, from alienating/creating encumbrance over the suit schedule property till the disposal of the suit.

2. Plaintiff sworn to an affidavit in support of the application, she stated that, the plaint averments is treated as part and parcel of the this affidavit. Plaintiff filed this suit for maintenance. According to plaintiff defendant is the husband of the plaintiff and their marriage is solemnized as per family customs of the defendant. Thereafter, plaintiff went to defendant house to lead matrimonial life. The defendant was started to ill-treatment to the plaintiff and defendant is neglected by the plaintiff. Defendant was not properly maintain the basic needs of the plaintiffs. Defendant has good income and defendant have irrigated land i.e., land bearing Sy.No.84/7, measuring 08 acre 30 guntas, situated at Kanmeshwar village, the defendant are not trying to alienate the suit property. Hence, plaintiff constrained to file this suit. The plaintiff has made out a

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prima-facie case and balance lies in favour of the plaintiff. If injunction is not granted it cause irreparable loss to the plaintiff.

3. After issuance of summons defendant was appeared through his counsel and filed written statement and filed a memo that, praying to the contents of written statement is treated as part and parcel of this affidavit. The defendant is admitted that, plaintiff is the legally wedded wife of the defendant. The defendant is denied entire plaint averments in toto. It is the contention of the defendant plaintiff is an arrogant and adamant lady. After marriage of the plaintiff and defendant, the plaintiff was residing two days in the house of the plaintiff. Thereafter she went to her parental home. Despite of request of defendant, the plaintiff not come to lead matrimonial life and she intentionally not come to the defendant house. The plaintiff has no right to file this suit for maintenance. More over defendant has old age parents and the defendant did not have a sufficient income. Defendant further contended that, the land bearing Sy.No.84/7 measuring 08 acre 31 guntas, which is standing in the name of father of defendant. The father of defendant

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has four brothers. There is no partition between the father of defendant and his four brothers. The father of defendant has four sons and daughters. The suit property first divide among the father of defendant and his four brothers. Out of share of father of defendant, then the suit property divided among the sisters and brothers of the defendant. The suit property not yet at partition among the family members of the father of defendant, at this stage, the suit filed by the plaintiff is not maintainable. With these grounds defendant sought a rejection of I.A.No.1.

4. Heard the arguments on both side and perused the records.

5. On considering the I.A No.1, affidavit and objections/written statement to I.A No.1, the points that would arise for my consideration are as under:

P O I N T S

1. Whether the plaintiff/applicant has made out prima-facie case for grant of temporary injunction ?
2. Whether the balance of convenience is lies in favour of



plaintiff/applicant ?

3. Whether the irreparable loss and injury would be caused to the plaintiff /applicant if the temporary injunction is refused ?

4. What order?

6. The Learned Counsel for plaintiff has produced the record of rights of the suit property and argued that the plaintiff has made out prima-facie case and balance of convenience lies in favour of the plaintiff. If temporary injunction is not granted the plaintiff would be put to heavy and untold hardship. Therefore, the temporary injunction may be granted to the plaintiff.

7. On the other hand the defendant counsel has argued that, the plaintiff filed a false suit against him and prayed to reject the I.A.No.1.

8. My answer to the above points are as under:

Point No.1 : In the **Negative.**

Point No.2 : In the **Negative.**

Point No.3 : In the **Negative.**

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



REASONS

9. **Point No.1 to 3:-** Since these points are inter-linked and interconnected and finding on one point will have bearing on the other therefore all theses points are taken up together for common discussion to avoid repetition of facts.

10. It is well established and settled position of law that the following propositions are to be established in order to invoke the jurisdiction of the court to grant an interlocutory order of injunction U/O 39 Rule 1 and 2 of C.P.C. (1) plaintiff has to establish a prima facie case, (2) the balance of convenience is in favour of the party seeking the relief and (3) that the party seeking the relief will suffer irreparable injury if injunction is refused. The ingredients are to be established by the party who seeks injunction in his favour. The grant of injunction being a discretionary relief, the party should come to court with clean hands and place all the materials before the court so that, the court will be satisfied about the prima facie case in favour of the party seeking the order. At the same time the court cannot conduct a mini trial nor can court express its opinion regarding merits of the case while dealing with the applications of this nature. Only

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function of the court at this interlocutory stage is to see does the applicant has made out a prima-facie case and balance of convenience is in whose favour and in case of refusal of granting temporary injunction loss of hardship would be caused to which side. It is useful to refer decision of **Kashinath Sansthan V/s. Srimad Sudhindra Thirtha Swamy**, reported in **AIR 2010 SC 296** the court prescribed the criteria for temporary injunction as follows:

"In order to grant an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima-facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well-settled that when a party fails to prove prima-facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima-facie case to go for trial, it is not open to the court to grant injunction in his



favour even if he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction is granted.

11. It is also necessary to mention here that “Prima-facie case” not to be confused with “prima-facie title” which has to be established on evidence at the trial. Prima-facie case is a substantial question raises bonafide which needs investigation and a decision on merits.

12. Now keeping in mind the aforesaid aspects let us consider the present application in hand. Admittedly, plaintiff has filed this suit for maintenance. It is case of plaintiff that, defendant is husband of plaintiff and their marriage was solemnized as per the customs of the defendant family. After marriage plaintiff was ill-treated by the defendant. The defendant has neglected to the plaintiff without giving any basic necessities. The defendant has sufficient income to provide a maintenance to the plaintiff. The defendant family has irrigation land bearing Sy.No.84/7 measuring 08 acre 31 guntas, situated at Kanameshwar village. Per contra, defendant take a contention that, he denied the ill-

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treatment to the plaintiff and further stated that, the suit property was not divide among the family of the father of defendant and his brothers. The suit property have joint interest. If injunction is granted then it will be cause heavy loss to the father of defendants family. In order to substantiate to their contention plaintiff has produced the RTC of the land bearing Sy.No.84/7, out of the suit property jointly standing in the name of father of defendant by name Mallappa S/o Tippanna along with his brothers. At this stage, this court is opinion that, plaintiff is not made out a prima-facie case, because the suit property standing in the name of father of defendant and his brothers jointly. If injunction is granted it will cause heavy loss to the family of the father of defendant and his brothers. Moreover father of plaintiff not a party to this suit. Hence, the balance of convenience lies in favour of defendant and if injunction is granted it will heavy irreparable loss to the father of defendant family. Hence, I answer Point No.1 to 3 in the Negative.

13. **Point No.4** :- In view of my findings on above Points No.1 to 3, I proceed to pass the following:

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**ORDER**

I.A.No.I filed by the plaintiff U/O
39 Rule 1 & 2 of C.P.C. is hereby
dismissed.

(Directly dictated to the Stenographer, directly on Computer typed
by him, revised and corrected by me, then pronounced in the open
court on this the 25th day of April, 2026)

(Kashinath V. Uppar)
Civil Judge & JMFC,
Jewargi.

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