

KAKL400028512025



IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,
AT MULBAGAL

: PRESENT :

Sri. HARISH G., M.B.A. LLB.,
Prl. Civil Judge & JMFC., Mulbagal.

DATED THIS THE 21st DAY OF NOVEMBER, 2025.

O.S.No.363/2025

Plaintiff/s : **Sri. M. Venkateshappa,**
S/o late Munishamappa,
Aged about 62 years,
R/a Virupakshi village,
Avani hobli,
Mulbagal taluk,
Kolar district.

Now residing at;
Muthyalapete,
Mulbagal town & taluk,
Kolar district.

(Reptd., by Sri.**M.R.P.**, Advocate)

-Vs.-

Defendant/s : Sri. **V.S. Krishnappa**,
S/o Seenappa,
Aged about 50 years,
R/a Virupakshi village,
Avani hobli,
Mulbagal taluk,
Kolar district.
(Reptd., by Sri.**K.V.S.**, Advocate)

IN IA No.I

Applicant/plaintiff : Sri. M. Venkateshappa.
-Vs-
Opponents/defendants : Sri. V.S. Krishnappa.

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ORDERS ON IA No.I

The plaintiff has filed IA No.I U/o XXXIX Rule 1 and 2 R/w Sec 151 of CPC., seeking temporary injunction restraining defendant, his agents, servants, coolies, PA holders or any persons acting on his behalf from alienating and creating encumbrance over the suit schedule property, pending disposal of the suit.

2. **In an accompanying affidavit, the plaintiff stated that,** the plaintiff stated that present suit filed for declaration of his title and injunction. Suit schedule property bearing Old

Sy.No.35/2 and New Sy.No.35/5 measuring 1 acres more-fully described in the plaint schedule is joint family property which was purchased by brother of the plaintiff vide sale deed dated 22.01.1973 from M. Marappa S/o Munishamappa out of joint family funds. After purchase, the plaintiff and his brother were in joint possession. Then by way of registered release deed dated 24.12.1979, suit schedule property fallen to the share of the plaintiff. Thus the plaintiff is an absolute owner in possession and enjoyment of suit schedule property. The defendant illegally changed katha of suit schedule property without any transaction and relationship with the plaintiffs by colluding with the revenue officials. Panchayath convened was not fruitful. Then an application was filed to Tahasildar to mutate the name of plaintiff and then Assistant commissioner directed to approach appropriate relief from the civil court. The Plaintiff is having prima-facie case and balance of convenience lies in his favour. If IA., is allowed, no prejudice will be caused to the defendant. All these factors constrained the plaintiff to file this suit and instant application.

3. The defendant appeared through his counsel in pursuance of suit summons and filed written statement and memo to treat contents of written statement as **objection to**

IA No.I. The defendant denied entire averments of the plaint except description of suit schedule property shown at para No.2 of the plaint. It is contended that One Muniswamy and his sons Marappa, Munigangappa and the plaintiff constituted joint Hindu Family and the plaintiff severed his relationship by way of registered relinquishment deed dated 24.12.1979 by obtaining Sy.No.35/2 measuring 1 acre bounded by East and North: Land of Narayanappa, West: Land of Munivenkatappa and South: Govt., Kharab land. The plaintiff being owner of said land has sold in favour of Narayanappa S/o Narasappa vide sale deed dated 22.10.1982 and has handed over possession in his favour. Except said sold out land, the plaintiff did not possess any other land either in Sy.No.35/2 or in Sy.No.35/5. The defendant is in possession of Sy.No.35/5 measuring 1 acre of V. Guttahalli which was purchased by his his grand father Narayanappa. On all these grounds prays to dismiss application with cost.

4. Heard the arguments of learned counsel for either side and perused the record of the case.

5. The points that arise for my consideration as under;

1. **Whether the plaintiff established his prima-facie case?**

2. **Whether the plaintiff prove that an irreparable loss or damage will be caused to him if temporary injunction is not granted?**
3. **Whether balance of convenience lies in favour of plaintiff?**
4. **What order?**

6. My answers to the above points are as under;

Point No.1 & 2 : In the **Affirmative**

Point No.3 : **Partly** in the **Affirmative**

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

REASONS

7. **Points No.1 to 3**: are interrelated to each other. Finding on point No.1 will have a bearing on others. Hence, to avoid repetition of facts, I have taken two points together for common consideration.

8. Perused the entire case file. The plaintiff has filed this suit for the relief of declaration of tile and permanent injunction restraining the defendant from alienating and crating charge over the suit schedule property.

9. During course of arguments, the learned counsel for defendant filed a memo of undertaking duly signed by the defendant stating the defendant will not alienate the suit schedule property till disposal of the suit. The learned counsel for the plaintiff submitted to pass necessary order on the same.

10. In this application, the plaintiff has sought not alienate and create encumbrance over the suit schedule property. Undertaking memo of the defendant will not *ipso facto* accept the case of the plaintiff. The rival contentions of either parties is to be decided by full fledged trial. without prejudice to the merits of the case, undertaking memo filed by the defendant is taken record. Accordingly, **points No.1 & 2** are answered in the **Affirmative & point No.3** is answered **partly in the Affirmative.**

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

ORDER

IA No.I filed by the plaintiff U/o XXXIX Rule 1 and 2 R/w Sec 151 of CPC., is hereby ***allowed in part.***

The defendant, his agents, PA holders or any persons claiming through him are hereby restrained from alienating the suit schedule property the suit schedule property, till further orders.

By taking into consideration of facts and circumstances of the case, there is no order as to costs.

(Dictated to the Stenographer Grade-III on line, typed by him, corrected by me and then pronounced in Open Court on this the **21st day of November, 2025**)

(Harish G.)
Prl. Civil Judge & JMFC.,
Mulbagal.