

KAKL600044082025



IN THE COURT OF PCJ AND JMFC, SRINIVASPUR

Presided by – KARN SINGH R U

Dated – 1st day of July 2026

O.S.No.433 of 2025

Plaintiff(s)

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M Narayanaswamy,
s/o Late Munivenkatappa
Aged about 53 years,
R/at Manjalahalli Village,
Yeldur Hobli, Srinivaspur Taluk,
Kolar District.

(Represented by Somashekar N,
Advocate)

v/s

Defendant(s)

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Muneppa,
s/o Late Munivenkatappa
Aged about 65 years,
R/at Manjalahalli Village,
Yeldur Hobli, Srinivaspur Taluk,
Kolar District.

(Represented by M Nagaraj,
Advocate)

I.A.No.1

Applicant/s M Narayanaswamy,
(Plaintiff)

v/s

Opponent/s Muneppa,
(Defendant)

INTERLOCUTORY ORDER

Suit for	Partition and separate possession
Provision under which the application is filed	Order XXXIX Rule 1 and 2 of CPC, 1908
Relief sought	Not to alienate suit schedule properties
The date on which the application is filed	08.10.2025
Number of the application	I.A.No.1
Application preferred by	Plaintiff
Date on which the objections were filed by the defendant/s	05.02.2026
Date of order	01.07.2026

1. An interim application is preferred by plaintiff, seeking temporary injunction to restrain defendant from alienating the suit schedule properties, until disposal of the suit. Applicant and opponent are plaintiff and defendants respectively and thus they are referred to in their original ranks.

Facts as per plaintiff and his contentions

2. Plaintiff and defendant are brothers born to one Munivenkatappa. Plaintiff claims that suit properties are joint family properties and were owned by his father Munivenkatappa. He states that defendant has got the Khata of suit properties mutated into his

name. He states that he demanded partition of suit properties, to which defendant refused. Thus, plaintiff has filed this suit seeking partition.

3. Plaintiff agitates that defendant is trying to alienate the suit schedule properties, and if not prevented, plaintiff's rights would be defeated. He filed the interim application restraining defendants from alienating the suit schedule properties until disposal of the suit.

Contentions of Defendant in written statement

4. Defendant denies the case of plaintiff. He states that family properties were divided between him and plaintiff long back and suit properties fell to his share. He states that plaintiff has sold properties which fell to his share and is now troubling him. He states that plaintiff has no cause of action against him. Defendant states that except Item No.2, rest suit properties stand in his name. He prays to dismiss the suit as well as interim application.

POINTS FOR CONSIDERATION

- I. **Whether the plaintiff has a prima-facie case?**
- II. **Whether balance of convenience is in favor of plaintiff?**
- III. **Will the plaintiff suffer irreparable loss and injury, if temporary injunction is refused?**

My findings are as below:

Point I to III: In affirmative

REASONING

On Point I:

5. Plaintiff and Defendant are brothers. Defendant doesn't claim suit properties to be self-acquired or separate properties. Therefore, as the suit properties were once owned by father of plaintiff and defendant, plaintiff being Class-I heir, has an equal right over properties which were owned by his father. Defendant pleads previous partition but no particulars of such partition is pleaded. Vaguely it is stated that long back there was partition. Which properties fell to share of plaintiff in such alleged partition, is not forthcoming. Plaintiff has a good case on merits. Thus there is strong prima-facie case for granting injunction. **I answer Point I in affirmative.**

On Point II:

6. When plaintiff has a good case on merits, allowing defendant to alienate the properties would certainly cause hardship on the plaintiff. On the other hand, defendants would not be put to any hardship if until disposal of suit, further alienation or creating third party rights is prevented. Therefore, balance of convenience lies in favor of plaintiff and not in favor of defendants. Thus, **Point II is answered in affirmative.**

On Point III:

7. If alienation is not prevented, adjudication of plaintiff's right would be become difficult. He will suffer irreparable loss if alienation is not prevented. Thus, **Point III is also answered in affirmative.**

8. However, Item No.5 property is wrongly described. As per RTC, the survey number is 31 but in plaint schedule it is mentioned as Survey No.24. If actually, it is Survey No.31, it is a 'neerganti inamti' land. Plaintiff or Defendant has no right as per RTC. Therefore no order can be passed against this property.
9. Hence, I proceed to pass following order.

OPERATIVE ORDER

Interim Application No.1 filed by plaintiff under Order XXXIX Rule 1 and 2 of CPC, 1908, is allowed.

Consequently, Defendant or any person claiming under him, is restrained from alienating or creating any third party rights in Item No.1 to 4 suit properties, until disposal of the suit.

(Pronounced in the open court on 1st day of July 2026)

KARN SINGH R U
PCJ and JMFC, Srinivasapur