

**IN THE COURT OF THE I-ADDITIONAL SENIOR CIVIL
JUDGE AND JMFC, MADDUR**

Present: **MOHANAKUMARI N.B., L.L.M.**
I-Additional Senior Civil Judge and JMFC,
Maddur, Mandya District

Dated: This, the 06th day of June 2026

MA No.2/2026

Appellants/ : defendants No.10 and 11/: (O.S.No.20/2024)	1.	Gowtham Chand, S/o Late. B. Manikchand Ranka, Aged about 70 years, Business and Agriculturist, R/o Bazaar street, Maddur Town, Mandya District.
	2	Prakash Chand, S/o Late. B. Manikchand Ranka, Aged about 67 years, Business and Agriculturist, R/o 2 nd Cross, Leelavathi extension, Maddur Town, Mandya District.
		(Represented by Sri. BAG, Advocate)
Respondent/s plaintiff /s: (O.S.No.20/2024)		Yashodamma, D/o Late. Manchaiah, Aged about 50 years, R/o Rudrakshipura Village, Athagur Hobli, Maddur Taluk.

		(Represented by Sri. MSM, Advocate)
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DATE OF PRESENTATION OF THE MISCELLANEOUS APPEAL :	23.01.2026
NATURE OF APPEAL :	Against Order dt: 03.01.2026 on I.A.No.II in O.S.No.20/2024 by IV Addl. Civil Judge & JMFC, Maddur.
NATURE OF SUIT BEFORE TRIAL COURT :	Permanent Injunction
JUDGMENT PRONOUNCED:	06.06.2026
DURATION OF MISCELLANEOUS APPEAL:	Year/s Month/s Day/s 00 04 14

ORDER

This Miscellaneous Appeal is preferred by the Appellants/defendants No.10 and 11 against the order passed by the Learned IV Addl. Civil Judge & JMFC, Maddur dated 03.01.2026 in O.S.No.20/2024 on I.A.No.II filed under Order 39 Rule 1 and 2 R/W/S 151 of CPC.

2. For the sake of convenience, the parties to the Appeal are referred in the same rank as before the Trial court in O.S.No:20/2024.

3. The Plaintiff has filed the suit before the Trial court for the relief of declaration, possession and Injunction. The defendants No.10 and 11 have contested the suit. They filed IA No.II under order 39 Rule 1 and 2 R/W/S 151 of CPC seeking order of temporary injunction against the plaintiff restraining her from interfering with their peaceful possession and enjoyment over the suit schedule item No.1 property. The plaintiff filed objection to the application. The Trial court through its order dated 03.01.2026 rejected IA No.II on merits.

4. The Appellants/defendants No.10 and 11 being aggrieved by the dismissal of IA No.II have preferred this Miscellaneous Appeal under section 104 CPC R/W Order 43 Rule 1 of C.P.C on the following grounds:

That the trial Court erred in rejecting IA No.II without considering the facts and circumstances of the case in detail. The Trial Court has not verified the pleadings and documents as per law. The Trial Court has not considered the established principles of Law. The trial court has dismissed the IA No. I filed by plaintiff and IA No.II filed by the Appellants. As observed by the Trial Court, the suit of the plaintiff itself is not

maintainable. The plaintiff is barred from claiming any right over the suit schedule properties as the Appellants purchased suit schedule item No.1 property before the commencement of the Hindu Succession (Amendment) Act, 2005. When the vendor did not deny the sale deed and admitted the possession of the purchasers, contrary cannot be presumed. The Trial Court has not considered the purpose and object of order 39 Rule 1 and 2 of CPC. The documents produced in the suit are 27 years old. There is no need to seek counter claim by the Appellants. The order passed by the Trial court is perverse and illegal. Therefore the Appellants have filed the present application to set aside the order passed by the Trial court and to grant temporary injunction in their favour by allowing IA No.II.

5. Perused the materials placed on record.

6. The following points arise for the considerations of this court are:

POINT No.1 : Whether the Order passed by the Learned Trial court on I.A.No.II in O.S.20/2024 dt: 03.01.2026 is not in

accordance with law and therefore it requires interference by this court?

POINT No.2: What Order?

7. The findings of this court on the above points are as under:

POINT No.1 : IN THE AFFIRMATIVE

POINT No.2 : AS PER THE FINAL ORDER, FOR THE FOLLOWING;

R E A S O N S

8. POINT No.1 The plaintiff filed suit before the Trial Court for the relief of declaration, possession and Injunction. The defendants No.10 and 11 filed IA No.II under order 39 Rule 1 and 2 R/W/S 151 of CPC seeking order of temporary injunction against the plaintiff to restrain her from interfering with their peaceful possession and enjoyment over the suit schedule item No.1 property. It is their case that the father of the plaintiff sold the suit schedule item No.1 property in favour of their father through registered sale deed dated 05.05.1998. The Appellants have produced copy of the sale deed executed by the father of the plaintiff in favour of their father.

9. On perusal of pleadings of both parties before the Trial court and on perusal of the entire materials available on record, it is forthcoming that revenue records in respect of suit schedule item No.1 property are standing in the name of defendant No.10 and 11 as on the date of suit. The plaintiff nowhere in the suit stated that she is in possession of the suit schedule item No.1 property. In fact, she has claimed the relief possession of the suit schedule properties from the defendant No.5 to 15. In the sale deed executed in favour of the father of the appellants, it is mentioned that possession of the property sold was handed over to the purchaser as on the date of sale deed. Therefore, prima facie it is clear that the possession of suit schedule item No.1 property is with the defendant No.10 and 11.

10. The Trial court declined to grant temporary injunction in favour of the defendant No.10 and 11 on the only reason that they have not sought counter claim in respect of their right and possession over the suit schedule item No.1 property. There is no requirement to seek counter claim for grant of temporary injunction in favour of the defendant No.10

and 11 as their possession is impliedly admitted by the plaintiff as she has sought for possession from the defendant No.5 to 15 in the suit. The Trial court in its order mentioned that the suit of the plaintiff itself is not maintainable as she cannot seek the relief of cancellation of sale deeds executed in favour of the defendant No.5 to 15 as she is not a party to the sale deeds. When such being the case, the Trial court ought to have granted temporary injunction in favour of the defendant No.10 and 11.

11. It is relevant here to note that the plaintiff in her objection filed to the IA No.II as mentioned that possession of the suit schedule properties was not handed over to the purchasers and she is in possession of the suit schedule properties as on the date of filing suit. But, such averments are not found in the plaint. Therefore, the defendant No.10 and 11 are having prima facie case in their favour and they are entitled to temporary injunction as sought for. If temporary injunction is not granted in their favour, the plaintiff may dispossess them and it cannot be compensated in terms of money. Hence, irreparable loss and injury will be

caused to the defendant No.10 and 11 if temporary injunction is not granted in their favour at this stage. On the other hand, if the plaintiff succeeds in proving her case that the sale deed executed in favour of the father of the defendant No.10 and 11 is by fraud and misrepresentation, she will get the reliefs claiming in the suit. Therefore, balance of convenience is not in existence in favour of the plaintiff, rather it is in existence in favour of the defendant No.10 and 11. Hence, the defendant No.10 and 11 are entitled to temporary injunction against the plaintiff as sought for. Therefore, the order passed by the Trial court declining to grant temporary injunction is not in accordance with law and it requires to be interfered by this court. **Accordingly, Point No.1 is answered in the Affirmative.**

12. POINT NO.2: For the aforesaid discussion on Point No.1, this court proceeds to pass the following;

ORDER

The Miscellaneous Appeal filed by the Appellant/defendants No.10 and 11 Under section 104 R/W Order 43 Rule 1 of Code of Civil Procedure is hereby Allowed.

The Order passed by the Learned IV Addl. Civil Judge and JMFC, Maddur on IA No.II filed Under Order 39 Rule 1 and 2 of CPC in OS No.20/2024 dated 03.01.2026 is hereby set aside.

The plaintiff is hereby restrained by way of temporary injunction from interfering with peaceful possession and enjoyment of the defendant No.10 and 11 over the suit schedule item No.1 property pending disposal of the suit.

(Dictated to the Stenographer and transcribed by her, Order corrected and signed by me, then pronounced by me in the Open Court on this the **6th day of June -2026**).

**(MOHANAKUMARI N.B.)
I-Addl. Senior Civil Judge and
JMFC, Maddur.**