

**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: THE 13TH DAY OF MARCH 2026
OS. NO.152 OF 2025

Plaintiff : Smt. Sumithra.,

V/s

Defendants: Smt. Jayamma & Others.,

ORDER ON IA-II3

Applicant : Sri. Siddappaji P.,

V/s

Opponent: Smt. Sumithra.,

ORDER ON IA NO.13

This application is filed by the defendant No.9 and 10 under Order 39 Rule 1 and 2 R/w section 151 of CPC seeking temporary injunction against the plaintiff and defendant No.1 to 3 restraining them from interfering with peaceful possession and enjoyment of suit schedule item No.4 property pending disposal of the suit.

2. In the affidavit filed to the present application, it is stated that, the defendant No.9 and 10 are in possession of suit schedule item No.4 property as per agreement of sale deed dated 02.08.2025 executed by the defendant No.8. It was originally sold by the defendant No.3 in favour of the defendant No.7 for his family legal necessity through registered sale deed dated 10.04.2006. As per the sale deed the defendant No.7 was in possession and enjoyment of the same. Thereafter, the defendant No.7 sold the same in favour of the defendant No.8 through registered sale deed dated 30.08.2010. The defendant No.8 was in possession and enjoyment of the said property as per the sale deed. The defendant No.8 executed agreement of sale dated 02.08.2025 agreeing to sell the said property in favour of the defendant No.9 and 10 for Rs.1,75,000/- and received advance sale consideration of Rs.1,50,000/-. Under the agreement of sale, the possession is handed over the defendant No.9 and 10. The defendant No.9 and 10 are growing crops from time to time. At present they have growing paddy. The defendant No.1 to 3 and plaintiff trespassed into the property and caused interference. The defendant No.9 and 10 lodged complaint at Koppa police station against the plaintiff and defendant No.1 to

3 on 15.02.2026. The Police have not helped the defendant No.9 and 10 by stating that the matter is of civil nature. The defendant No.9 and 10 have to transpalant paddy saplings. The plaintiff and defendant No.1 to 3 are causing interference for the same. Therefore, the present application is filed.

3. The plaintiff and defendant No.2 and 4 have objected that the present application by filing similar statement of objections. It is contended that the averments stated in the affidavit filed to the application are false. The defendant No.9 and 10 are in possession of suit schedule item No.4 property. The members of joint family of the plaintiff got dog borewell in the said property. The defendant No.9 and 10 are not cultivating the same. The plaintiff, defendant No.2 and 4 are possession of the same and they are cultivating the same. The defendant No.9 and 10 came near the said property and made an attempt to disturb the possession of the plaintiff defendant No.1 to 3. The defendant No.9 and 10 have proclaimed that they will take possession of the suit schedule item No.4 property on the basis of agreement of sale. Therefore, it is prayed to dismiss the present application.

4. Heard Perused.

5. The points that arise for consideration of this Court are :

- 1. Whether the plaintiffs have made out prima facie case in their favour?**
- 2. Whether irreparable loss or injury will be caused to the plaintiffs, if temporary injunction is not granted in their favour at this stage?**
- 3. Whether balance of convenience lies in favour of plaintiffs at this stage?**
- 4. What order?**

6. The findings of this Court 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

7. POINT NO.1:- The present suit is filed for partition and separate possession. In the suit, it is claimed that the suit schedule properties are ancestral and joint family properties of the plaintiff and defendant No.1 to 6. The plaintiff has challenged the alienation of suit schedule item No.4 property in favour of defendant No.7 by the defendant No.3 on the basis

that it was made without the consent of the plaintiff and other defendants. Further alienation by the defendant No.7 in favour of the defendant No.8 is also challenged as illegal. The agreement of sale executed by the defendant No.8 in favour of the defendant No.9 and 10 is also challenged as illegal. In the present application, the defendant No.9 and 10 have claimed that they are in possession of the suit schedule item No.4 property as per the agreement of sale executed by the defendant No.8 in their favour dated 02.08.2025. The alleged agreement of sale is disputed by the plaintiff as illegal. The plaintiff has claimed partition over the suit schedule properties by claiming that herself and defendant No.1 to 6 are in possession and enjoyment of the suit schedule properties. The defendant No.3 in his written statement has specifically contended that suit schedule item No.4 property was sold by him in favour of the defendant No.7 for family legal necessity through registered sale deed dated 10.04.2006. But it is not his contention that it was his absolute property. He has not denied the relationship between the plaintiff and defendant No.1 to 6 and the nature of suit schedule properties. The plaintiff challenged alienation made by the defendant No.3 by contending that it was alienated without her consent.

Admittedly, the plaintiff is a not party to the said alienation. The defendant No.9 and 10 are claiming that they are in possession of the suit schedule item No.4 property as per the agreement of sale executed by the defendant No.8 in their favour, who purchased the same from the defendant No.7. When the validity of original alienation between the defendant No.3 and 7 is under challenge, the defendant No.9 and 10 cannot claim injunction against the plaintiff and defendant No.1 to 3 who are admittedly members of joint family. Therefore, this court is of the considered view that *prima facie* case does exists in favour of the defendant No.9 and 10 to grant injunction at this stage against the plaintiff and defendant No.1 to 3 in respect of suit schedule item No.4 property. Accordingly, **Point No.1 is answered in the Negative.**

8. Point No.2 and 3:- When the defendant No.9 and 10 failed to establishe prima-facie case, the question of irreparable loss and hardship would not arise. Accordingly, **above Point No.2 and 3 are answered in the Negative.**

9. Point No.4:- For the reasons stated and findings given on the above Points, this court proceed to pass the following :

O R D E R

I.A.No.13 filed under Order 39 Rule 1 and 2 r/w Sec.151 of C.P.C is hereby dismissed.

For hearing on I.A. No.1 Call on 02.04.2026.

(Dictated to the Stenographer and transcribed by her and then typing corrected and pronounced by me in the open court on this the 13th day of March, 2026)

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