



IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C.,
DEVADURGA

Present:
Sri.Suresh Annappa Savadi., B.A., L.L.B, (Spl).,

Senior Civil Judge & JMFC, Devadurga.

O.S.No.117/2025

DATED : THIS THE 2nd DAY OF JUNE 2026

Plaintiff: Mahadevamma W/o. Jagadevappa
and others.

(By Sri.M.M., Advocate)

--V/s--

Defendants: Shivamma W/o. Basavarajappa
and others.

(D.1 to 4 by Sri.B.S.D.advocate)
(D.5 by Sri.S.G.Advocate)

Provision under which the application is filed	U/o.XXXIX rule 1 and 2 R/w.Sec.151 of C.P.C.
Relief sought for	Temporary injunction.
The date on which the application is filed	08.10.2025
Number of the application	IA.No.II
The date on which the objections are filed by different opponent	WS dated 25.02.2026
The date on which the orders were passed on the said application	02.06.2026



ORDER ON IA NO.II

The plaintiff filed this IA No.II U/o.39 Rule 1 and 2 R/w.Sec.151 of C.P.C., to restraining the defendant no.5 from alienating the suit schedule property till disposal of the suit.

2. In the affidavit plaintiff contended that she has filed this suit for partition, separate possession against the defendants in respect of suit schedule property. Further contended that the suit property and other family properties were previously standing in the name of common ancestor Bheemanna's 04 sons as jointly. The suit land was totally measuring 02 acres 29 guntas in Sy.No.19/3. After the death of late Mallanna and late Shivaraj in the year 2000 there was oral partition between the Basalingamma who is the wife of Mallanna, late Jagadevappa and late Basavarajappa and in the said partition land to the extent of 02 acres 10 guntas fallen to the share of Basalingamma and 19 guntas fallen to the share of late Basavarajappa. Accordingly as per mutation no.1 dated 28.08.2000 mutation was effected. Further as per mutation No.17 dated 06.07.2009 land to the extent of 24 guntas belongs to Basalingamma was acquired by the Government. The Basalingamma left the village about 20 years back without making any codicil or testamentary dispossession of the suit property and at present her whereabouts are not known and her only daughter Mahalaxmi was also died issue less. Hence the plaintiffs are entitled half share in the suit land. The late Basavarajappa behind the back of the plaintiffs got mutated



the suit land in his name as per mutation No.H2 dated 31.12.2018. After knowing the same the plaintiffs have approached late Basavarajappa and enquired about the said mutation and at that time Basavarajappa assured that he will give share in the suit property. Meanwhile he was died and suit property was mutated in the name of defendant no.1 as per MRH6 dated 10.01.2020. Now the defendant no.1 behind the back of the plaintiffs sold the suit land to defendant no.5 through sale deed dated 14.05.2020. Hence the plaintiff filed this suit along with present application. Hence prays to allow the application.

3. On the other hand the defendant no.5 appeared through counsel and filed written statement along with memo to considered the written statement as objection to IA No.II.

4. The defendant no.5 in the written statement denied that the where about of the Basalingamma not known by the plaintiffs. The defendant specifically pleaded that the Basalingamma is residing at Haraval village, Tq: Jewargi, Dist: Kalaburagi. Further denied that the plaintiffs are in joint possession and enjoyment of the suit property. Further contended that the defendant no.1 has sold the suit land to defendant no.5 and the defendant no.5 is in possession and enjoyment of the suit property she is the absolute owner of the suit property. The defendant no.1 also contended that the Basalingamma is residing at Haraval village, Tq: Jewargi, Dist:



Kalaburagi. Hence with these set of contentions prays to reject the application.

5. Heard both the sides.
6. The following points arises for my consideration;
 1. Whether the plaintiffs have made out the prima-facie case ?
 2. Whether the plaintiffs show that the balance of convenience lies in their favour?
 3. Whether the plaintiffs show that, if application is not allowed, the plaintiffs will put to irreparable injury ?
 4. What order ?
7. My answered to the aforesaid points are as under;
Point No.1 to 3 : In the negative;
Point No.4 : As per final order
for the following

R E A S O N S

8. **POINT NO.1 to 3:** These points are interlinked with each other and to avoid the repetition of facts and separate discussion taken together for common consideration.
9. The plaintiff contended that the plaintiff filed this suit for partition and separate possession in respect of suit property.



The plaintiffs have shown the family pedigree in the plaint contended that the plaintiff and defendant no.1 to 4 are the relatives to each other. In the family pedigree contended that the Basalingamma who is the W/o. Mallanna whereabouts are not known since 20 years and plaintiffs are entitled the half share in the property of Basalingamma. The defendants denied the said contents of the plaintiff and specifically contended that the Basalingamma is residing at Haraval village, Tq: Jewargi, Dist: Kalaburagi and produced documents show that through Basalingamma property was mutated in the name of Basavarajappa in the year 2018. As per the plaintiffs that was behind the back of the plaintiffs. The defendants also furnished the Xerox copy of voter list of the 2025 wherein the name of the Basalingamma W/o. Mallannagouda is appearing in the said list. Hence considering the entire material the plaintiffs are claiming the right over the property of Basalingamma as her whereabouts are not known but the defendant specifically contended that she is residing at Haraval village, Tq: Jewargi, Dist: Kalaburagi. The plaintiffs sought the relief to restraining the defendant no.5 from alienating the suit property. But as per the records the property belongs to Basalingamma and she is alive and residing at Haraval village, Tq: Jewargi, Dist: Kalaburagi. Hence under such circumstances the plaintiffs have no locus standi to file the suit. Hence considering the material this court is of the opinion that the plaintiffs have made out prima-facie case and balance of convenience does



not lies in favour of plaintiffs. Hence this court answered the Point No.1 to 3 in the “negative”.

10. **POINT NO.4:** For the reasons stated in the Point No.1 to 3, this court proceed to pass the following;

ORDER

The I.A.No.II filed U/o. XXXIX Rule 1
and 2 R/w.Sec.151 of CPC is hereby
rejected.

(Dictated to the stenographer directly on the computer,
typed by him, corrected by me and then pronounced in the
open court on this the 2nd day of June 2026)

(Sri.Suresh Annappa Savadi)
Senior Civil Judge & JMFC.,
Devadurga.